

# **Audit of Citrus County Compliance Contract GC712**

## **Division of Waste Management**

### **Report: A-1516DEP-012**

#### **Office of Inspector General**

#### **Internal Audit Section**

#### **Florida Department of Environmental Protection**

**June 8, 2016**

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The Office of Inspector General (OIG) conducted an audit of Contract GC712 (Contract) between the Division of Waste Management (Division) Permitting and Compliance Assurance Program (Program) and the Department of Health, Citrus County Health Department (County). This audit was initiated as a result of the Fiscal Year (FY) 2015-2016 Annual Audit Plan.

## **Scope & Objectives**

The scope of this audit included an examination of the Contract and its corresponding Task Assignments issued between July 1, 2013 and June 30, 2015 and selected events through October 31, 2015. The audit included Task Assignments 9, 10, 11, and 12. The Contract covers the compliance inspection services in Citrus, Hernando, and Sumter Counties. The objectives were to evaluate the:

- County's compliance performance to the Task Assignments
- Department's oversight of the compliance inspection Contract and inspections performed

## **Methodology**

We conducted this audit under the authority of Section 20.055, Florida Statutes (F.S.), and in accordance with the Institute of Internal Auditors' International Standards for the Professional Practice of Internal Auditing. This audit included assessment and testing of internal and external records and procedures. Division, Central District, Southwest District, and County Staff provided information through interviews and documentation requests. Our procedures included a review of the following:

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- Contract, amendments, and guidance documents
- Section 376.3071 and 376.3073, F.S.
- Chapter 62-761 Florida Administrative Code (F.A.C.), Underground Storage Tank System, and Chapter 62-762 F.A.C. Aboveground Storage Tank System
- The Energy Policy Act 2005 and the Environmental Protection Agency (EPA)/Department of Environmental Protection (Department) Grant Work Plan
- Task Assignment and invoices for Task Assignments 9, 10, 11, and 12
- Florida Inspection Reporting for Storage Tanks (FIRST) documentation
- OCULUS documentation

## **Background**

Section 376.3073(1), F.S., states, *the Department shall, to the greatest extent possible and cost-effective, contract with local governments to provide for the administration of its Departmental responsibilities through locally administered programs.* Section 376.3073(3), F.S., indicates that, eligible local governments, through written contract with the Department, shall receive funds for the implementation of a compliance verification program from the Inland Protection Trust Fund (IPTF).

The Department entered into the Contract with the County for a 10-year period beginning July 1, 2007. In 2012, the Division amended compensation for services from a lump sum payment per Task Assignment to payment for specific inspections. Under this compensation agreement, the type of inspections determines the amount the Division pays the County.

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Task Assignments include assigned annual compliance inspections and estimated variable inspections. The County performs annual compliance inspections on facilities from the facility listing provided in the Task Assignment. The County performed variable inspections in response to non-routine events such as discharges, installations, and tank closures. The total amount allocated for Task Assignments 9, 10, 11, and 12 was \$224,365.40.

<b>Contract GC712 Task Assignments</b>		
<b>Task Assignment</b>	<b>Period</b>	<b>Amount</b>
9	July 1, 2013 through June 30, 2014	\$80,159.36
10	July 1, 2013 through June 30, 2014	\$24,907.10
11	July 1, 2014 through June 30, 2015	\$85,788.00
12	July 1, 2014 through June 30, 2015	\$33,510.94
	<b>Total</b>	\$224,365.40

Inspection planning and scheduling varies based on the type of tanks, results of last inspection, and date of last inspection. Title XV, Section B of the Energy Policy Act of 2005 requires facilities to have an on-site inspection of underground storage tanks (UST) regulated under Subtitle I at least once every three years. The Division Contract Manager considers the type of tanks, previous inspections, and date of last inspection to identify the priority facilities for annual compliance inspection. The Division Contract Manager provides the list of facilities for inspection to the District and County. The District Task Manager monitors the County's monthly performance and provides technical advice to the Division Contract Manager and County Inspector. In the event of facility inspection changes, the County notifies

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the Division with possible facility replacements<sup>1</sup>. The District Task Managers perform the Storage Tank System Compliance Verification Program Review. Since the Contract included counties in two Districts, the County received two Task Assignments each fiscal year along with separate program reviews. The Southwest District monitored Task Assignment 9 and Task Assignment 11. The Central District monitored Task Assignment 10 and Task Assignment 12.

The County received compensation of \$211,530.22 for the inspections completed in Task Assignments 9, 10, 11, and 12.

Task Assignment Inspections and Payment				
Task Assignment	Inspections			
	Annual Compliance Assigned	Annual Compliance Completed	Variable	Amount
9	148	148	44	\$ 65,393.84
10	57	55 <sup>2</sup>	17	\$ 24,472.40
11	192	192	58	\$ 82,732.78
12	75	75	30	\$ 38,931.20
<b>Total</b>	472	470	149	\$211,530.22

The County received \$12,835.18 less than the tasked amount because the number of variable inspections completed was less than the number and type of inspections estimated.

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<sup>1</sup> Beginning July 1, 2015, the County began submitting substitution requests directly to the Division's Contract Manager for review and approval.

<sup>2</sup> Two facilities (9700098 and 9807291) assigned did not receive inspections because the tanks were closed.

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## **Results & Conclusions**

### County Performance

The County completed 470 of the 472 assigned annual compliance inspections in Task Assignments 9, 10, 11, and 12. The two inspections that were not completed were for tanks that had closed. The County also completed 149 variable inspections.

We sampled 80 completed inspections documented in the FIRST database. Of the 80 completed inspections, 76 contained documentation that the results were communicated<sup>3</sup> to the facility representative. In addition, we communicated with the facilities representatives for a sample of 19 inspections performed between January 1 and June 30 of 2015. The facility representatives confirmed the inspection occurred and they received a copy of the inspection report<sup>4</sup>.

The Contract requires the County to inspect 33%, 66%, and 100% of the assigned inspections after the fourth, eighth, and twelfth months, respectively. In FY 2013-2014, the County missed two performance goals in Task Assignment 9 and one performance goal in Task Assignment 10. At the end of Task Assignment 9, the County inspected 100% of the assigned inspections. In Task Assignment 10, the County missed the final metric and lost the associated inspection funding because two facilities were closed and substitute inspections could not be made before the end of Task Assignment 10.

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<sup>3</sup> Comment revealed the report was mailed, e-mailed, or the report was signed by a facility representative.

<sup>4</sup> One facility representative recalled the inspection and was aware of the results, but did not recall receiving the report.

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<b>Task Assignment Inspections by Required Periods as a Percentage of Total Inspections</b>									
<b>Task Assignment</b>	<b>Assigned Facilities</b>	<b>October</b>		<b>February</b>		<b>June</b>		<b>Inspections</b>	
		<b>Inspections Completed</b>	<b>Percentages</b>	<b>Inspections Completed</b>	<b>Percentages</b>	<b>Inspections Completed</b>	<b>Percentages</b>	<b>Variable</b>	<b>Total<sup>5</sup></b>
9	148	41	28%	93	63%	148	100%	44	192
10	57	24	42%	45	79%	55	96%	17	72
11	192	75	39%	142	74%	192	100%	58	250
12	75	28	37%	54	72%	75	100%	30	105

The Contract requires the County to submit the invoice for the prior month by the fifteenth day of the following month and gives the District ten working days to review. Both the Southwest District and Central District used a Contract Form to monitor the receipt and service approval of County's invoices. During the four Task Assignments, the invoices were submitted and services were reviewed and approved as required.

#### Department Oversight

Districts' Task Managers review the County's invoices and monitor the County's performance monthly. This review includes comparison of annual compliance inspections performed each month to the assigned facilities from the Task Assignment Facility list. The

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<sup>5</sup> Inspection total equals completed annual compliance and variable inspections.



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Districts did not approve payment for annual compliance inspections that were not on the priority annual compliance inspections list<sup>6</sup>.

The Districts' Task Managers also compare the total number of annual compliance inspections performed up to the fourth, eighth, and twelfth months to the total number tasked to determine if the County has met performance goals. The Districts' Task Managers include comparison documentation with the related invoices. The Division delays payments of invoices until the performance goal has been met.

The Southwest District Task Manager's Storage Tank System Compliance Verification Program Review for Task Assignment 9 and Task Assignment 11 were 93.96 and 90.61 out of 100, respectively. The Central District Task Manager did not issue Storage Tank System Compliance Verification Program Reviews for Task Assignment 10 and Task Assignment 12.

Contract Guidance Document F, Level of Effort Guidance states, *the local program shall issue a Non-Compliance Letter within ten working days to the facility owner/operator upon discovery of a non-compliance violation*. During the four Task Assignments, the compliance rate was 40% (189/470)<sup>7</sup>. Of the required Non-Compliance Letter for Task Assignments 9, 10, 11, and 12; 79% (223/284) were issued within ten working days.

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<sup>6</sup> Includes approved substitutions.

<sup>7</sup> The number of annual compliance inspections without violations divided by the total number of annual compliance inspections performed.

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Additionally, Contract Guidance Document F Level of Effort Guidance states, *if after 180 days a minor violation remains unresolved, the local program shall contact the District Task Manager to discuss. Once the local program and District decide on the appropriate course of action needed, the local program will have met the level of effort requirement.* In District Storage Tank System Compliance Verification Program Reviews for Task Assignments 9 and 11, the Southwest District indicated that violations were not resolved within the allotted timeframe. Violation Reports recorded 32 facilities with 67 violations that were open in excess of 180 days. Six of the 32 facilities did not have documented follow-up activity with the facility representative in over 180 days. The six facilities included 15 violations.

## **Finding and Recommendation**

### **Finding: Contract Compliance**

1. Contract Guidance Document F, Level of Effort states, *the local program shall issue a Non-Compliance Letter within ten working days to the facility owner/operator upon discovery of a non-compliance violation.* Sixty-one of 284 (21%) facilities with violations did not have a Non-Compliance Letter issued within ten working days as required.

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Working Days before Non Compliance Letters (NCLs) were Issued									
Task Assignment	Annual Compliance Inspections	Inspections with NCLs	Working Days			Working Days > 10			
			=<10	>10		11-19	20-29	30-39	40-49
9	148	105	90	15		14	1	0	0
10	55	37	25	12		12	0	0	0
11	192	100	73	27		19	7	0	1
12	75	42	35	7		3	3	1	0
Totals	470	284	223	61		48	11	1	1

The Non-Compliance Letters serve as documentation of the facility's violation notification and begins the process to bring the facility back into compliance.

2. Contract Guidance Document F Level of Effort states, *if after 180 days a minor violation remains unresolved, the local program shall contact the District Task Manager to discuss. Once the local program and District decided on the appropriate course of action needed, the local program will have met the level of effort requirement.* Contract GC712, Amendment No. 2, paragraph 5.E. states, *all inspection activities shall use the Florida Inspection Reporting for Storage Tanks (FIRST) database and FIRST equipment in accordance with the minimum standards referenced in the "FIRST User's Guide."*

Six facilities with 15 violations did not include documented follow-up activity in FIRST within the required timeframe of 180 days from the date of the last documented activity. Of the six facilities, two included six violations that were referred to the District for

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enforcement. The last recorded activity for facility 8503062 was the issuance of a “Pre-enforcement letter” in OCULUS dated July 18, 2012, and a telephone memo, dated July 30, 2012, acknowledging receipt of the letter. The last recorded activity for facility 8503072 was a Non-Compliance Letter dated October 27, 2014. The remaining four facilities that included nine violations had the last recorded activity as Non-Compliance Letters dated between February and September 2014. The violations were considered minor<sup>8</sup> and paid re-inspections generally are not required. However, to meet the County’s level of effort requirement, there should have been a documented course of action decision between the County Inspector and District Task Manager.

### **Recommendation:**

We recommend the Division take steps to ensure the County documents and takes appropriate courses of action needed regarding the issuance of Non-Compliance Letters and follow-up on violations, as stated in Contract Guidance Document F Level of Effort.

### **Management Comment**

#### **Annual Program Review Requirement**

Contract GC712, paragraph 42 states in part, *at least once annually, the DEP shall perform a Program Review using the “Compliance Verification Program Local Program Review Form” (Guidance Document D), and provide a copy of the Program Review findings to the CONTRACTOR upon completion of the Program Review.* It further states, *the DEP*

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<sup>8</sup> Propose Rule changes may affect the current violations.

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*Task Manager may perform additional program reviews, as deemed necessary, to insure the required performance of the CONTRACTOR.*

The Division Program Manager indicated during a Petroleum Tanks Teleconference that each District should complete a Program Review for each Task Assignment managed by the District. The Southwest District Task Manager conducted Program Reviews for Task Assignments 9 and 11 activities during FY 2013-2014 and 2014-2015. The Central District Task Manager indicated that Program Reviews had not been conducted for Task Assignments 10 and 12 during the same period. The Contract requires one review to be conducted annually by the Department and the Southwest District had completed a review.

Without clarification regarding the necessity of a separate annual Program Review for each Task Assignment, the Department lacks a complete assessment of the County's performance associated with the Task Assignments not reviewed.

**Recommendation:**

We recommend the Division provide clarification to District Task Managers regarding Program Reviews. If the Division determines that a separate Program Review is needed for each Task Assignment, this decision should be clearly communicated in writing to District Task Managers in order to provide clear expectations.

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*To promote accountability, integrity, and efficiency in state government, the OIG completes audits and reviews of agency programs, activities, and functions. Our audit was conducted under the authority of Section 20.055, F.S., and in conformance with the International Standards for the Professional Practice of Internal Auditing, published by the Institute of Internal Auditors, and Principles and Standards for Offices of Inspector General, published by the Association of Inspectors General. The audit was conducted by Randal C. Stewart and supervised by Valerie J. Peacock.*

*Please address inquiries regarding this report to the OIG's Audit Director by telephone at (850) 245-3151. Copies of final reports may be viewed and downloaded via the internet at <http://www.dep.state.fl.us/ig/reports.htm>. Copies may also be obtained by telephone (850) 245-3151, by fax (850)245-2994, in person or by mail at Department of Environmental Protection, Office of Inspector General, 3900 Commonwealth Boulevard, Mail Station #41, Tallahassee, FL 32399.*


*Valerie J. Peacock,  
Director of Auditing*

*Candie M. Fuller,  
Inspector General*

# FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

## MEMORANDUM

**TO:** Valerie J. Peacock, Director of Auditing  
Office of Inspector General

**FROM:** F. Joseph Ullo, Jr., P.E., Director   
Division of Waste Management

**SUBJECT:** Response to Preliminary Audit Report A-1516DEP-012  
Citrus County Compliance Contract GC704

**DATE:** June 1, 2016

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The Division of Waste Management has reviewed the Audit of Citrus County Compliance Contract GC712, Report A-1516DEP-012. The Division concurs with the Findings and Recommendations presented in the preliminary report with regard to storage tank compliance services provided by the Florida Department of Health in Citrus County (Citrus County).

### Office of Inspector General Findings and Recommendations:

#### Finding 1: Contract Compliance

1. Contract Guidance Document F, Level of Efforts states, *the local program shall issue a Non-Compliance Letter within ten working days to the facility owner/operator upon discovery of non-compliance violation. Sixty-one of 284 (21%) facilities with violations did not have a Non-Compliance Letter issued within ten working days as required.*
2. Contract Guidance Document F level of Effort states, *if after 180 days a minor violation remains unresolved, the local program shall contact the District Task Manager to discuss. Once the local program and District decided on the appropriate course of action needed, the local program will have met the level of effort requirement. Six facilities with 15 violations did not include documented follow-up activity in FIRST within the required timeframe of 180 days from the date last documented activity. The remaining four facilities that included nine violations had the last recorded activity as Non-Compliance Letters dated between February and September 2014. The violations were considered minor and paid re-inspections generally are not required. However, to meet the County's level of effort requirement, there should have been a documented cause of action decision between the County Inspector and District Manager.*

#### Recommendation:

*We recommend the Division take steps to ensure the County documents and takes appropriate courses of action needed regarding the issuance of Non-Compliance*



*Letters and follow up on violations, as stated in Contract Guidance Document F Level of Effort.*

**Finding 2: Management Comment – Annual Program Review Requirement**

*Contract GC712, paragraph 42 states in part, at least once annually, the Department shall perform a Program Review using the “Compliance Verification Program Local Program Review form” (Guidance Document D), and provide a copy of the Program Review findings to the CONTRACTOR upon completion of the Program Review. It further states, the Department Task Manager may perform additional program reviews, as deemed necessary, to insure the required performance of the CONTRACTOR.*

*The Division Program Manager indicated during a Petroleum Tanks Teleconference that each District should complete a Program Review for each Task Assignment managed by the District. The Southwest District Task Manager conducted Program Reviews for Task 9 and 11 activities FY13-14 and FY 14-15. The Central District Task Manager indicated that Program Reviews had not been conducted for Task Assignments 10 and 12 during the same period. The Contract requires one review to be conducted annually by the Department and the Southwest District had completed a review.*

*Without clarification regarding the necessity of a separate annual Program Review for each Task Assignment, the Department lacks a complete assessment of the County’s performance associated with the Task assignments not reviewed.*

**Recommendation:**

*We recommend the Division provide clarification to District Task Managers regarding Program Reviews. If the Division determines that a separate Program Review is needed for each Task Assignment, this decision should be clearly communicated in writing to District task Managers in order to provide clear expectations.*

**Response from the Division of Waste Management:**

The Compliance Assistance Program will be addressing the Finding concerning the failure of contractor to consistently issue a Non-Compliance Letter within ten working days by notifying the county of this failure in writing. This communication will reinforce the department’s expectation. All future task assignments, including the Contract Guidance Documents will be reissued to reemphasize the importance of compliance by the county contractors. To monitor performance in meeting this requirement specifically, an electronic tool to monitor all contractor performance will be developed. It is anticipated that this tool will be operational by July 31, 2016.



Concerning Program Reviews, the Compliance Assistance Program will be issuing, by June 30, 2016, a guidance document to the Districts concerning responsibility of conducting Program Reviews and Quality Assurance Inspections in conjunction with Fiscal Year 2016-2017 Task Assignments.