

# **Audit of Collier County Compliance Contract GC690**

## **Division of Waste Management**

### **Report: A-1617DEP-023**

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

#### **Internal Audit Section**

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

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The Office of Inspector General (OIG) conducted an audit of Contract GC690 (Contract) between the Department of Environmental Protection (Department) Division of Waste Management (Division) Permitting and Compliance Assurance Program (Program) and Collier County Board of County Commissioners Collier County Pollution Control and Prevention Department (County). This audit was initiated as a result of the Fiscal Year (FY) 2016-2017 Annual Audit Plan.

## **Scope and Objectives**

The scope of this audit included Task Assignment 9 for the period July 1, 2015 through June 30, 2016 and selected activities through December 2016. The Contract covers compliance inspection services in Collier County. The objectives were to evaluate the:

- County's compliance performance to the Task Assignment
- 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. Our procedures include review of Task Assignment documentation and interviews with Division, South District, and County staff.

## **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.* According to Section 376.3073(3), F.S., indicates that eligible local governments are entitled, through written contract

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with the Department, to receive funds sufficient to administer the local program from the Inland Protection Trust Fund (IPTF).

The Department entered in Contract GC690 with the County for a 10-year period beginning on July 1, 2007. Compensation for services changed in 2012 from a lump sum payment per task assignment to payment for specific inspections. Under this compensation agreement, the County is paid based on the number and type of inspections performed.

Task Assignments include assigned compliance inspections and estimated variable inspections. The County performs compliance inspections from the facility listing provided in the Task Assignment. The County performed variable inspections in response to non-routine events such as: discharges, violation follow-ups, installations, and tank closures. All inspection activities are recorded in the Florida Inspection Reporting for Storage Tanks (FIRST) database. Funding allocated for Task Assignment 9 was \$101,945.44.

Inspection planning and scheduling varies based on the type of tanks and date of last inspection. Title XV, Section B of the Energy Policy Act of 2005 requires an on-site inspection at facilities with underground storage tanks regulated under Subtitle I at least once every three years. Program Management considers the type of tanks, date of last inspection, and conflicts of interest facilities to identify the priority facilities for annual compliance inspection. The Program Contract Manager provides the list of facilities for inspection to the District and County. In the event of facility inspection changes, the County notifies the Program. Program management approves or alters the change and notifies the County and District by e-mail. The District Task Manager monitors County performance and conducts the Storage Tank System Compliance Verification Program Review.

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The County was originally tasked \$101,945.44 for Task Assignment 9 and received compensation of \$112,362.24 for the inspections completed. A change order was issued May 23, 2016, to increase the Task Assignment by \$12,000.00 due to additional variable inspections. The number of variable inspections performed and completed by the end of the Task Assignment exceed the change order estimates and the Program executed a settlement agreement to pay the amount of the June invoice.

<b>Contract GC690 July 1, 2015 through June 30, 2016</b>	
<b>Task Assignment</b>	<b>Amount</b>
9	\$101,945.44
Change Order	\$12,000.00
Settlement Agreement	\$3,778.60
<b>Total</b>	<b>\$117,724.04</b>

## **Results and Conclusions**

The County was assigned and completed 173 compliance inspections in Task Assignment 9. The County also completed 124 variable inspections during the Task Assignment. We selected a sample of 57 completed compliance inspection reports and reviewed the FIRST database. The 57 reports contained documentation that the results were communicated to the facility representative. We also selected a sample of 38 compliance inspections performed between July 1, 2016 and September 30, 2016, and contacted facility owners/operators to confirm the compliance inspections were performed. For 38 facilities inspected during the period, all confirmed the inspection occurred and indicated that a copy of the inspection report was received.

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The Contract requires the County to inspect 33%, 66%, and 100% of the assigned inspections through the fourth, eighth, and twelfth months of the fiscal year. The performance metrics were met in Task Assignment 9 as outlined in the following table.

<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>Percentage</b>	<b>Inspections Completed</b>	<b>Percentage</b>	<b>Inspections Completed</b>	<b>Percentage</b>	<b>Variable</b>	<b>Total</b>
9	173	67	39%	129	75%	173	100%	124	297

In addition, we reviewed the variable inspection reports and selected a sample of 20 non-compliance reports. These non-compliance reports included violations which required re-inspection. Of the 20 non-compliance reports that lead to re-inspection, 19 resolved at least one non-compliance violation. The remaining report documented that the violation had not been corrected.

Contract Guidance Document F, *Level of Effort Guidance*, indicates that 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 Task Assignment 9, the compliance rate was 47% (81/173). For the 92 facilities with non-compliance violations, 45 (49%) of the non-compliance letters were issued within 10 working days. Similar results were reported in the annual program review dated July 18, 2016.

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The County cited 231 violations during Task Assignment 9. The County closed 75 of the 231 violations, as well as, 94 violations opened in previous task assignments. As of September 30, 2016, the County had 190 violations open at 101 facilities.

According to Contract Guidance Document F, *Level of Effort Guidance*, for Significant Non-Compliance-B (SNC-B) violations, *if after 90 days the violation remains unresolved, the local program shall refer the violation to the DEP district office. The 90-day clock begins upon issuance of the NCL<sup>1</sup>. If the violation is in the process of resolution, and is being accomplished in a manner that is acceptable to both the local program and DEP, then the DEP may waive the 90-day referral.* As of June 30, 2016, 21 of 39 (54%) open violations had exceeded the 90-day referral without documented review in FIRST.

Per Contract Guidance Document F, *Level of Effort Guidance*, for Minor Violations, *if after 180 days a minor violation remains unresolved, the local program shall contact the District to discuss. Once the local program and District decide on an appropriate course of action, the local program will have met the level of effort requirement.* As of June 30, 2016, 73 of 153 (48%) minor violations exceeded the 180-day referral without review documented in FIRST.

The 2016 Program Review reported similar results on violations exceeding the level of effort timeframe. The concerns about the level of effort documented in FIRST were addressed by the Program. From July 1, 2016 through September 30, 2016, the County cited 40 violations and closed 41 violations.

The Contract requires the County to submit invoices for the prior month by the fifteenth day of the following month. The County submits the invoices concurrently to both the District

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<sup>1</sup> Non-Compliance Letter

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and the Program. The District reviews the inspections claimed on the invoice for completeness and documentation in FIRST. The District sends approval of the inspections to the Program. The Program acknowledged receipt of three of twelve invoices after the fifteenth day of the following month.

### Department Oversight

District Task Managers are responsible for review of the County's performance. The District Task Manager reviews the Payment Calculation sheet from the County's monthly invoice to determine if the inspections claimed by the County were performed and documented in FIRST. Specifically, the District Task Manager ensures each routine compliance inspection on the County's monthly invoice payment calculation sheet is on the Task Assignment Exhibit or an approved substitution. The District Task Manager also monitors the total number of assigned compliance inspections performed in the fourth, eighth, and twelfth months to the total number tasked to determine if the County met the required metrics. The District Task Manager also monitors reported violations and communicates with the County to determine an appropriate process of resolution.

To address local program adherence to established guidance, District Task Managers began conducting and documenting monthly reviews of the County performance and open violations during FY 2016-2017. During these reviews, open violations are highlighted and discussed with County. Through these reviews, we noted improved performance in issuing non-compliance letters and open violations. We tested 4 months of the current Task Assignment for issuance of non-compliance letters. The issuance of non-compliance letters within 10 days increased from 49% to 87%. In addition, the number of open significant non-compliance



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violations decreased from 21 to 13 violations. In a sample of 34 open violations, 21 violations had follow-up activity documented in FIRST between July 1, 2016 and December 31, 2016. In addition, from July 1, 2016 through October 31, 2016, the compliance rate had increased from 47% to 54% (36/67).

The District also conducted two Quality Assurance/Quality Control Inspections during the Task Assignment to support the program review. Based on the Quality Assurance/Quality Control Inspection results, the County conducted a thorough inspection of all storage tank components including release detection systems. The County also reviewed facility records and took pictures to document violations cited.

According to the Contract, the Department will conduct a Program Review annually to evaluate County Contract performance. The Contract states, *the DEP Task Manager may forgo a Program Review for the next Task Assignment for a Contractor that receives a score of 95 or greater on the Program Review during the current Task Assignment.* The County received a Program Review score of 97 out of 100 for Task Assignment 9.

<b>District Oversight</b>			
<b>Task Assignment</b>	<b>Fiscal Year</b>	<b>Quality Assurance/ Quality Control Inspections</b>	<b>Program Review Score</b>
9	2015-2016	2	97

Although County performance during the Task Assignment exceeded timely correspondence and follow-up under Contract guidance, the increased review efforts established by the District during FY 2015-2016 have resulted in recent improved performance. Accordingly, these positive steps demonstrate that the performance concerns were being addressed by the Department.

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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.*

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