

Audit of Collier County Compliance Contract GC690

Division of Waste Management

Report: A-1415DEP-045

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 between the Division of Waste Management (Division) Permitting and Compliance Assistance Program (Program) and the Collier County Board of County Commissioners (County), Collier County Pollution Control and Prevention Department. This audit was part of the Fiscal Year (FY) 2014-2015 Annual Audit Plan.

Scope & Objectives

The scope of this audit included an examination of Contract GC690 and its corresponding Task Assignments issued between July 2013 and June 2015. The audit included Task Assignment 7 from July 1, 2013, to June 30, 2014, and Task Assignment 8 selected events from July 1, 2014, to June 2, 2015. We reviewed activities related to the compliance inspection services in the County. The objectives were to evaluate the:

1. County's compliance inspection performance to the Task Assignments
2. Program'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.), according to 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, South District (District), and County staff provided information through interviews and documentation requests. Our procedures included interviews with Program staff, County Staff, and a review of the following:

- Contract GC690 and amendments

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- Sections 376.3071 and 376.3073, F.S.
- Chapter 62-761 Florida Administrative Code (FAC), Underground Storage Tank System, and chapter 62-762 FAC Aboveground Storage Tank System
- The Energy Policy Act of 2005 and the Environmental Protection Agency (EPA)/ Department of Environment Protection (Department) Grant Work Plan
- Task Assignment and invoices for Task Assignments 7 and 8
- Florida Inspection Reporting for Storage Tanks (FIRST) downloads, documentation, and program guidance

Background

Section 376.3073(1) F.S. indicates 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, *upon approval of its application an eligible local government, 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 Contract GC690 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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A previous audit of Contract GC690 in November 2010 found that the County had overstated expenditures on their annual financial statements for salaries and benefits. Since the Division has changed county compliance contract compensation methodology, salaries are no longer a factor in determining payment.

The total amount allocated for Task Assignment 7 and Task Assignment 8 was \$201,743.79.

Contract GC690 Task Assignments		
Task Assignment	Period	Amount
7	July 1, 2013 through June 30, 2014	\$100,764.16
8	July 1, 2014 through June 30, 2015	\$100,979.63
	Total	\$201,743.79

Inspection planning and scheduling varies based on type of tanks and the 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. In addition, the Department's goal is to have an on-site inspection of aboveground storage tanks (AST) at least once every five years. The Department Contract Manager considers the type of tanks, date of last inspection, and previous inspections to identify the priority facilities for annual inspection. The 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 Contract Manager and

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County Inspector. In the event of facility inspection changes, the County notifies the District with possible facility replacements. The District reviews the facility replacements and notifies the Program with its recommendation for approval. The District also performs the Storage Tank System Compliance Verification Program Review. Collier County achieved a score of 100 out of 100 on the Program Review for Task Assignment 7.

Inspections are either routine or variable. The County performs routine inspection on facilities from the facility listing. This list comprises facilities that the County did not inspect during the previous Task Assignment and facilities that have noted compliance issues. The County performs variable inspections in response to non-routine events such as discharges, installations, and tank removals. The FIRST database is used to document inspection activities, in accordance with the minimum standards referenced in Contract GC690.

For County owned facilities, District Compliance Inspectors perform the inspections to avoid a possible conflict of interest.

Inspections				
Task Assignment	Routine Assigned	Routine Completed	Variable	Amount
7	195	195	99	\$97,502.67
(Task Assignment 8 Beginning July 2014 through the end of February 2015)				
8	226	124	53	\$60,853.00

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Results & Conclusions

Performance

The Contract requires the County to inspect 33%, 66%, and 100% of the facilities assigned after fourth, eighth, and twelfth months, respectively. In Task Assignment 7, the Program assigned 195 routine annual compliance inspections to the County. During Task Assignment 7, the County did not meet the fourth and eighth month inspection percentages, but completed the 195 assigned inspections by the end of the Task Assignment. The County also completed 99 variable inspections in Task Assignment 7. In Task Assignment 8, the Program assigned 226 routine annual compliance inspections. The County made the fourth month inspection percentage, but did not meet the eighth month inspection percentage. The County performed 124 of 226 (55%) tasked inspections. Consequently, the County did not receive payment until the County had achieved the required 66% inspection rate of the assigned facilities.

The District reviews the County's invoices and monitors the County's performance. This review includes the comparison of annual compliance inspections performed each month to the assigned facilities from the Task Assignment facility list. The District Task Manager also compares the total number of routine annual inspections performed in the fourth, eighth, and twelfth months to the total number tasked to determine if the County met the metrics of 33%,

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66%, and 100%. The District Task Manager requested¹ a corrective action plan in both Task Assignments 7 and 8, when the County did not meet the eighth month of 66% metric.

We reviewed FIRST documentation to verify the inspections were performed. We sampled 35 of 319 annual inspection reports for Task Assignments 7 and 8. Of those 35 reports, all contained documentation supporting the validity of the inspection. Pictures supported 32 of the 35 reports. Communication of inspection results were supported by facility representatives' signatures on 23 reports and file notes that 13 reports were mailed. However, four reports were neither signed nor contained a note in the file indicating the report was mailed. These reports were connected to incidents or investigations that the County performed where the communication was documented. Based on our test sample, the reports demonstrated the County performed under the Task Assignments.

Guidance Document F, Level of Effort Guidance, states *the local program shall issue a Non-Compliance Letter (NCL) within 10 working days to the facility owner/operator upon discovery of a non-compliance violation*. In Task Assignment 7, 79 of 195 annual compliance inspections had non-compliance violations. Of the 79 non-compliance violations, 47 (59%) had a NCL issued within 10 working days.

¹ According to the County Contract Manager, a corrective action plan was not requested during Task Assignment 7 when the County did not meet the 4th month metric of 33% of inspections.

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Task Assignment 7							
Working Days	0-10	11-20	21-30	31-40	41-50	51 & Over	Totals
Major Non-Compliance Letters Issued	21	3	4	4	0	0	32
Minor Non-Compliance Letters Issued	26	7	8	0	1	5	47
Total Non-Compliance Letters Issued	47	10	12	4	1	5	79

During the first 8 months of Task Assignment 8, 66 of 124 annual compliance inspections had non-compliance violations. Of the 66 non-compliance violations, 51 (77%) had a NCL issued within 10 working days.

Task Assignment 8							
Working Days	0-10	11-20	21-30	31-40	41-50	51 & Over	Totals
Major Non-Compliance Letters Issued	22	3	1	0	1	0	27
Minor Non-Compliance Letters Issued	29	8	1	0	0	1	39
Total Non-Compliance Letters Issued	49	11	2	0	1	1	66

Over the review period of Task Assignments 7 and 8, the County exceeded 10 working days on 47 of 145 (32%) NCLs based on a facility file review and inspector interviews. County Management stated the NCLs were issued late to allow the responsible party to correct the non-compliance issues and bring the facility into compliance. Examples included the following from Task Assignment 7:

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- A compliance inspection of Facility 8518306 was opened on December 19, 2013 and closed February 14, 2014. The report remained open 57 days to allow the contractor to take action so the tank would be considered unregulated and potential violations would not need to be corrected.
- A compliance inspection of Facility 9102016 opened on December 18, 2013 and closed February 13, 2014. The report remained open 57 days to allow the owner to provide a copy of the annual operability testing paperwork.
- An installation inspection of Facility 9813292 opened on December 19, 2013 and closed August 31, 2014. The report remained open 255 days. The facility installed a tank with no notification and had several issues that required correction. The Inspector confirmed corrective action was taken prior to the closing of the report. The report included the finding of non-notification of tank installation².

Contract GC690, Attachment A, page 2 of 5, defines Discharge Inspection as *An inspection performed by the contractor as a result of a notification of a discharge from a regulated facility or a potentially regulated facility. A compliance inspection where a discharge is initially noted will only be counted as a compliance inspection and a Discharge Report Form inspection would not be required. A discharge discovered at any other time would require a separate inspection within ten (10) working days of reporting.* We reviewed 17 discharge inspections in Task Assignment 7 and 6 discharge inspections in Task Assignment 8. All of 23 discharge inspections were conducted within the 10 working days of discharge identification.

² FAC 62-762.451(1)(a)3.c. states 48-hour notification before installation or closure activity.

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Oversight

The Program identifies facilities for routine annual compliance inspections to include in the County's annual Task Assignment. Based on our review of the FIRST database, 598 open facilities with registered tanks were in the County. After removing the facilities inspected in Task Assignment 7 and assigned in Task Assignment 8, we identified 222 facilities for review to determine whether the facility had a current inspection. Of the 222 facilities reviewed, three required inspection.

Facility 9814384, Race Track #2358, had not received an installation inspection. Contract GC690 4.d. requires the County to perform all installation inspections of known new installations to ensure that the system or system component is properly constructed and installed in accordance with chapters 62-761 and 62-762, FAC. The facility had installed a UST of unleaded gas on September 1, 2014. The County Contract Manager stated they were unaware of the installation. FAC 62-761 requires the owner operator to contact the County before installation. The County opened an installation inspection on June 2, 2015.

The other two facilities exceeded the Department goal of inspecting ASTs at least every five years. One facility, 8504344, Miami Dade Training and Transition, was last inspected November 9, 2009. The facility was located in Collier County but had not been included in the County's Task Assignments. We could not determine why the facility was over looked and not assigned to the County for inspection. The other facility (9602492) was the Collier County Emergency Management Medical Flight Headquarters and last inspected on February 8, 2007. The County owns the facility, so the Department should conduct the inspection. The reason the

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facility did not receive an inspection was unknown. Program Management stated the new computer report should identify facilities needing an inspection.

Our finding and recommendation are included in the remainder of the report.

Finding & Recommendation

Program Guidance

Contract GC690, Attachment A, page 2 of 5, defines Discharge Inspection, *A compliance inspection where a discharge is initially noted will only be counted as a compliance inspection and a Discharge Report Form inspection would not be required.* Two facilities had annual inspections that lead to discharge inspections. The Program paid for both inspections. For facility 8518194, Circle K #7424, during the annual compliance inspection, the County found petroleum contact water in the premium unleaded spill bucket and interstice³. For facility 8837692, Speedway #6580, during the annual compliance inspection, the County found product in the north regular unleaded spill bucket. Both facilities had annual compliance and discharge inspections initiated the same day.

According to County Management, the inspections were different. The annual compliance inspections cited the facilities for non-compliance issues. The discharge inspection efforts were required because the issue could not be resolved while the Inspector was onsite. According to County Management, if verification of the potential discharge was needed, then

³ The gap between spill bucket and outer containment.

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repairs and testing could be done. Another site visit would be required to verify that the equipment was operating correctly and the discharge issues were resolved.

The Program was unaware the discharges were identified during the annual compliance inspections and paid for both inspections. The compliance contract was originally written when the County previously received a negotiated amount to inspect facilities annually. The contract payment structure has since been altered such that the County is reimbursed for inspections completed. According to Program Management, if a discharge was discovered during the routine inspection, only a routine inspection should have been invoiced.

Recommendation

We recommend the Program either recover the cost of the two discharge inspections or work with the District and County personnel to revise contract guidance documents to reflect the current program inspection practices.

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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Memorandum

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

FROM: Jorge R. Caspary, Director  for
Division of Waste Management

SUBJECT: Audit of Collier County Compliance Contract GC690
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DATE: September 22, 2015

The Division of Waste Management has reviewed the Audit of Collier Compliance Contract GC689, Report A-1415DEP-045. The Division concurs with the Findings and Recommendations presented in the report.

Office of Inspector General Findings and Recommendations:

Finding: Program Guidance

Contract GC690 defines Discharge Inspection as “A compliance inspection where a discharge is initially noted will only be counted as a compliance inspection and a Discharge Report Form inspection would not be required.” Two facilities had annual inspections that lead to discharge inspections. The Program paid for both inspections. For facility 8518194, Circle K #7424, during the annual compliance inspection, the County found petroleum contact water in the premium unleaded spill bucket and interstice. For facility 8837692, Speedway #6580, during the annual compliance inspection, the County found product in the north regular unleaded spill bucket. Both facilities had annual compliance and discharge inspections initiated the same day.

According to County Management, the inspections were different. The annual compliance inspections cited the facilities for non-compliance issues. The discharge inspection efforts were required because the issue could not be resolved while the Inspector was onsite. According to County Management, if verification of the potential discharge was needed, then repairs and testing could be done. Another site visit would be

required to verify that the equipment was operating correctly and the discharge issues were resolved.

The Program was unaware the discharges were identified during the annual compliance inspections and paid for both inspections. The compliance contract was originally written when the County previously received a negotiated amount to inspect facilities annually. The contract payment structure has since been altered such that the County is reimbursed for inspections completed. According to Program Management, if a discharge was discovered during the routine inspection, only a routine inspection should have been invoiced.

Recommendation:

We recommend the Program either recover the cost of the two discharge inspections or work with the District and County personnel to revise contract guidance documents to reflect the current program inspection practices.

Response:

The Division has developed an application to retrieve real time data from FIRST and STCM databases to identify, assign and track routine inspections that are assigned to the Contracted Inspection Programs and Districts. This application is designed to be able to identify and track inspection and enforcement status of routine inspections in order to meet the Department's commitments to the U.S. EPA as required by the Energy Policy Act of 2005, and the EPA/FDEP Grant Work Plan.

The Division acknowledges that current guidance was interpreted by the county to allow charging for a discharge inspection concurrently with routine inspection. The Division will revise the contract guidance and the instructions to clarify this issue to prevent future occurrences. The guidance will be published no later than October 9, 2015, followed by training conducted by the Division for the Contracted Inspection Program and District staff.

Thank you for your continuing efforts to help the Division improve its programs and processes through quality audits.

JRC/wk