



Department of Environmental Protection Office of Inspector General

December 20, 2023

Report A-2223DEP-016

Performance Audit of Contract GC895 with Orange County for Petroleum Cleanup Site Management Activities

INTRODUCTION

The Florida Department of Environmental Protection (Department) Office of Inspector General (OIG) conducted an audit of Contract GC895 (Contract) with Orange County (County) for petroleum contaminated cleanup site management activities. This audit was initiated as a result of the OIG Annual Audit Plan for Fiscal Year 2022-2023.

AUDIT SCOPE, OBJECTIVES, AND METHODOLOGY

This performance audit included a review of the Department's Contract with the County for petroleum contaminated cleanup site management activities. The scope of this audit included overall contract compliance and activities funded under Task Assignment 7 from July 1, 2022, through January 31, 2023.

The objectives of the audit were to:

- Determine whether the task assignment amount and approved invoice payments were based on an accurate calculation and supported by documentation, and
- Evaluate management oversight of the County's compliance with the Contract and Task Assignment 7.

To achieve our audit objectives, our methodology included:

- Reviewing the Contract, Task Assignment 7, invoice packages for July 2022 through January 2023, and supporting documentation.
- Conducting selected testing which included recalculating the task assignment and change order amounts, comparing the amount to the amounts invoiced; verifying performance as reported in the invoice package to include premium payments¹ and confirmed inspections, and verifying the upload of documents to both the Department's Electronic Document Management System (OCULUS) and the Storage Tank Contamination and Monitoring (STCM) database.
- Interviewing Department and County staff, as necessary.

BACKGROUND

The Inland Protection Trust Fund (IPTF) was created under Section 376.3071, Florida Statutes (F.S.), to provide funding for the Department to respond to incidents of inland contamination

¹ A performance incentive to encourage more efficient site cleanup.

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related to the storage of petroleum and petroleum products. The Petroleum Restoration Program (PRP) manages activities necessary to prioritize, assess, and cleanup facilities contaminated by discharges of petroleum and petroleum-based products from stationary petroleum storage systems. In accordance with Section 376.3071, F.S., the Department has implemented rules and procedures to administer the PRP through Agency Term Contractors and other contracted professional services. The PRP oversees environmental remediation cleanup programs and initiatives. These facilities are assigned Site Managers to manage all aspects of oversight for work performed. The Division utilizes Site Manager Standard Operating Procedures (SOP) guides to assist Site Managers and other program staff with navigating PRP sites through the cleanup and closure process. The Division uses the STCM and OCULUS databases to help manage and document the cleanup efforts. The STCM database is used to maintain data associated with the registration of petroleum facilities, data associated with petroleum cleanup; and track historical compliance information. The OCULUS database is PRP's electronic document management system for site files.

Florida Statutes direct the Department to contract with local governments to provide for the administration of departmental responsibilities through locally administered petroleum cleanup programs. The contract shall provide reasonable costs of administration, investigation, rehabilitation, and other related activities be paid to the local government from the IPTF created under Section 376.3071, F.S. The Department entered into the Contract with the County for a five-year period beginning on July 1, 2016; and Amendment 1 renewed the Contract for an additional five years. The Amendment increased the total amount of the Contract to \$10,120,053.88 and extended the end date to June 30, 2026. Under the Contract, the County is issued task assignments with specific assigned facilities, annually. Task Assignment 7 was issued for \$1,214,208.00 for July 1, 2022, through June 30, 2023. The Task Assignment assigned 442 sites for the County to manage. One task assignment change order was issued that increased the Task Assignment 7 amount by \$48,937.50 and added 29 sites. The invoiced amount for the first seven payments was \$716,464.50. The seven payments were as follows:

Payment	Payment Date	Amount
1	August 4, 2022	\$95,732.00
2	September 7, 2022	\$99,200.00
3	October 5, 2022	\$101,200.00
4	November 7, 2022	\$104,920.00
5	December 6, 2022	\$105,137.50
6	January 5, 2023	\$105,137.50
7	February 5, 2023	\$105,137.50
Total		\$716,464.50

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RESULTS OF AUDIT

During the audit, we reviewed the Contract, Task Assignment 7, approved invoice payments, and supporting documentation for the period beginning July 1, 2022, through January 31, 2023. Based on our review, we found the following:

Task Assignment Calculation

In accordance with the Contract, the Task Assignment 7 amount was developed by using the Monthly Site Management Rate Calculation Spreadsheet (Attachment W). The County provided a list of eligible (Program) sites and a list of Non-Program and voluntary sites by sub phases (e.g., Site Assessment (SA), Remedial Action Plan (RAP), Remedial Action Construction (RAC), Operation and Maintenance (O&M), Source Removal (SR), Post Active Remediation Monitoring (PARM), Natural Attenuation Monitoring (NAM), Long Term Natural Attenuation Monitoring (LTNAM), Well Abandonment for Site Closure (WASC), and Low Score Assessment (LSA)). The County lists were reviewed by PRP management to determine whether the sub phases identified were appropriate. PRP management also compared the site phases to documents in the OCULUS database and discussed with Site Managers and other PRP personnel.

Program and Non-Program sites were separately grouped by sub phases. The totals in each sub phase were then multiplied by both an estimated percentage of effort and the baseline cost amount. The percentages of effort for Program sites range from 60% to 200% and Non-Program sites range from 45% to 150%. The percentages of effort were based on accumulated experience of working remedial sites. The baseline cost amount is derived from the Local Programs' costs, experience, and is unique to the Local Program. When summed, the amount is the cumulative total. The cumulative total is increased by an incentives amount. The incentive amount is an estimate of additional target payments of \$500, when performance incentives are met. This total does not necessarily become the task assignment amount. Until the task assignment is executed, the amount can be increased by adding additional sites. In addition, another 29 sites were added by change order on October 3, 2022. The additions increased the cumulative total by the number of additional sites times the baseline costs. The main reason for the additional sites was the funding site score was lowered making additional sites available for funding.

Task Assignment: Invoice Payments

We recalculated the Task Assignment 7 amount and divided the total by 12 and matched the amount to the invoice's monthly base-line level of effort amount. We also recalculated the amount, adjusting for the change order issued October 3, 2022. Further, we verified the sites added with the change order were included on the Monthly Invoice Site Report Table.² In addition, we verified the premium payments were documented in the OCULUS database. The Task Assignment 7 amount and approved invoice payments were based on an accurate calculation and supported by documentation.

Site Management: Site Assignment

In accordance with the Contract, Attachment A, Scope of Work, paragraph A.1.d., no site manager shall be assigned more than fifty (50) petroleum cleanup source properties. In addition, a full-time Professional Engineer (P.E.) and Professional Geologist (P.G.), whose primary job is to review technical reports, shall be assigned no more than twenty-five (25) petroleum cleanup source

² Monthly Invoice Site Report Table is a required document included in the monthly invoice packages which identifies the status and activity which occurred during the month.

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properties in their capacity as a PRP site manager. Our review found that staff were assigned more sites than the Contract allows. A review of invoice packages for the first seven months identified one staff member who had over 50 sites assigned for three months; the P.G. had over 25 sites assigned for six months; and, the P.E. had over 25 sites assigned for one month. County management indicated that the assignments were the result of the unexpected retirement of the County Contract Manager at the beginning of the task assignment, who was also the (County) P.G.

Site Management: Subcontracted Work

The Contract, Attachment A, Scope of Work, paragraph A.2. Site Management Responsibilities states, “The Local Program shall perform petroleum contamination site cleanup management and oversight services to bring a site assigned to Local Program by the Department to a cleanup end point authorized pursuant to Chapter 62-780, F.A.C. and Section 376.3071, F.S. within the most timely and cost efficient manner possible. Such management shall be in accordance with all State laws, Department rules and guidance (Attachment V), and PRP operating procedures.” According to the Site Manager SOP Chapter 10, “the Contractor shall not sub-contract any work under the contract, with the exception of those subcontractors authorized by the Department, without the prior written consent of the Department Contract Manager.” Twenty-seven (27) of 30 Purchase Orders (POs) reviewed had subcontractors. The 27 POs reviewed listed 62 subcontractors. Seventeen (27%) of the 62 subcontractors identified were not listed on the Agency Term Contractor’s approved subcontractor listings. Our review of the invoices and change orders identified one instance where the subcontractor was approved using the quote criteria. The quote was documented in a change order.

The use of unapproved subcontractors was addressed in a previous OIG audit³ finding. In response to the audit finding, PRP provided training to Site Managers on the requirements for all subcontractors to be listed on the Contractors’ approved subcontractor listings or included on the subcontractor quote form. The training was held on May 26, 2022, and PRP provided a written reminder to all Agency Term Contractors on June 27, 2022. The reviewed POs were issued prior to these dates.

Site Management: Contractor Performance Evaluation (CPE)

The Contract, Attachment A, Scope of Work, paragraph A.2.k. states, “Complete contractor performance evaluations per Department rule and correctly insert into OCULUS within thirty (30) calendar days of final invoice certification by the site manager.” In addition, paragraph A.2.b. states, “The site manager shall contact O/RP [Owner/Responsible Party] per Communication Plan guidance. Document any communication using the Owner/RP [Owner/Responsible Party] Communication Log (Attachment O) within two (2) business days of the conversation. Correctly insert all documentation of O/RP [Owner/Responsible Party] contact into OCULUS within thirty (30) calendar days of such contact.”

We found that thirty (30) of 30 (100%) CPEs were uploaded to both the OCULUS and STCM databases as required. However, only eight (8) of the 30 CPEs reviewed had documentation in OCULUS that indicated the Owner/Responsible Party had been given the opportunity to comment on the work performed for the PO.⁴

³ OIG Audit Report A-2122DEP-011, issued July 2022.

⁴ PRP trained on the requirement during a January 12, 2023, PRP Teleconference.

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Site Management: Inspections

The Contract, Attachment A Scope of Work paragraph g.i., states, “The Local Program shall perform field visits and O&M [Operation and Maintenance] inspections as necessary, but at least one field visit per fiscal year per assigned source property. Source properties that have a remediation system in O&M shall have quarterly O&M inspections.” We selected 25 sites with reported inspections and verified the inspections were filed in the OCULUS database as required. In addition, we researched 25 sites identified as being in O&M status during the seven-month period. Our review found seventeen (17) of 25 sites had multiple inspections filed in OCULUS. The remaining eight sites had one inspection and did not require multiple inspections. The documents indicated that the sites either did not have a remediation system, were moved to PARM, or had an Episodic Remediation (ER) event⁵.

CONCLUSION

Based on our review, the County complied with the Contract with several noted exceptions. Our review noted where controls could be strengthened. Our finding and recommendation are listed below.

FINDING AND RECOMMENDATION

Finding 1: Contract Compliance – The County did not comply with Contract requirements.

The Contract was entered into between the Department and the County to provide petroleum contamination cleanup site management activities on behalf of the Department. Such management shall be in accordance with all State laws, Department rules and guidance (Attachment V), and PRP operating procedures. Our review found some instances of non-compliance regarding use of non-approved subcontractors, site assignments that exceed Contract requirements, and communication with the Owner/Responsible Party.

Use of Unapproved Subcontractors

According to the Site Manager SOP Chapter 10, “the Contractor shall not sub-contract any work under the contract, with the exception of those subcontractors authorized by the Department, without the prior written consent of the Department Contract Manager.” Our review found twenty-seven (27) of 30 POs reviewed utilized subcontractors. Within the 27 POs reviewed, there were 62 listed subcontractors. Our review found that 17 of the 62 (27%) subcontractors identified were not on the Agency Term Contractor’s approved subcontractor listing.

Number of Site Manager Assignments

In accordance with the Contract, Attachment A, Scope of Work, paragraph A.1.d., no site manager shall be assigned more than fifty (50) petroleum cleanup source properties. In addition, a full-time P.E. and P.G., whose primary job is to review technical reports, shall be assigned no more than twenty-five (25) petroleum cleanup source properties in their capacity as a PRP site manager. We found staff were assigned more sites than the Contract allows. Specifically, one staff member had over 50 sites assigned for three of the first seven months of Task Assignment 7. Additionally, one P.G. had over 25 sites assigned for six of the first seven months of Task Assignment 7, and a P.E. had over 25 sites assigned for one of the first seven months. Management stated that

⁵ An episodic event is any activity, either planned or unplanned, that does not normally occur. With ER, the remediation system is not continuously running.

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assignments were the result of the unexpected retirement of the County P.G. at the beginning of the Task Assignment in July 2022. The County personnel shifted assignments to cover the open position, as hiring efforts proceeded.

Use of Owner/Responsible Party Communication Log

In accordance with the Contract, Attachment A, Scope of Work, paragraph A.2.k. states, "Complete contractor performance evaluations per Department rule and guidance and correctly insert into OCULUS within thirty (30) calendar days of final invoice certification by the site manager." In addition, paragraph A.2.b. states, "The site manager shall contact O/RP [Owner/Responsible Party] per Communication Plan guidance. Document any communication using the Owner/RP [Owner/Responsible Party] Communication Log (Attachment O) within two (2) business days of the conversation. Correctly insert all documentation of O/RP [Owner/Responsible Party] contact into OCULUS within thirty (30) calendar days of such contact." Our review of 30 CPEs found that 100% of CPEs were uploaded to both the OCULUS and STCM, as required. However, only eight (8) of the 30 CPEs reviewed had documentation in OCULUS that indicated the Owner/Responsible Party had been given the opportunity to comment on the work performed for the PO.

Recommendation:

- 1.1 We recommend the Division work with PRP to train Local Program Site Managers on contractual requirements to include assignment of sites, documentation using the Communication Log, and Agency Term Contractors subcontracting requirements and procedure.

Management Response:

Per the OIG's recommendation, in response to this finding PRP provided training on the evaluation of required items for invoicing and subcontractor evaluation in the December 14, 2023, Program Teleconference. PRP followed up with notes from the teleconference which were distributed to all site managers. PRP also met with the Local Program Managers on December 14, 2023, and reminded them of the contractual requirements regarding the number of sites assigned to staff for management.

In addition, in response to this finding in a previous audit, PRP provided training on Contractor Performance Evaluations & Owner Survey in the January 12, 2023, Program Teleconference and regarding Site Manager Communication in the February 9, 2023, Program Teleconference and the Communication Plan in the April 20, 2023, Program Teleconference. PRP revisited subcontracting requirements and documenting steps taken to obtain owner surveys in the December 14, 2023, Program Teleconference. In each instance PRP followed up with notes from the teleconference which were distributed to all site managers. PRP reminded contractors of the subcontracting procedures in the December 2023 PRP Post.

STATEMENT OF ACCORDANCE

Statement of Accordance

The Mission of the OIG is to promote accountability, integrity, and efficiency by providing quality audits, investigations, management reviews, and technical assistance.

This work product was prepared pursuant to § 20.055, Florida Statutes, in accordance with the *Principles and Standards for Offices of Inspectors General* as published by the Association of Inspectors General and the *International Standards for the Professional Practice of Internal Auditing*, as published by the Institute of Internal Auditors, Inc. The audit was conducted by Randal C. Stewart and supervised by Candie M. Fuller.

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Office of Ombudsman and Public Services
public.services@floridadep.gov
(850) 245-2118

Candie M. Fuller,
Inspector General