

**Audit of Contract GC915 with Hillsborough County
for Compliance Inspections**

Division of Waste Management

Report: A-1819DEP-016

Office of Inspector General

Internal Audit Section

Florida Department of Environmental Protection

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<https://floridadep.gov/>





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The Office of Inspector General (OIG) conducted an audit of Contract GC915 (Contract) for Storage Tank System Compliance Inspections between the Department of Environmental Protection (Department), Division of Waste Management (Division) Permitting and Compliance Assurance Program (Program) and the Hillsborough County Environmental Protection Commission Office (County). This audit was initiated as a result of the Fiscal Year (FY) 2018-2019 Annual Audit Plan.

Scope and Objectives

The scope of this audit included Task Assignment 1 for the period of July 1, 2017, through June 30, 2018. Compliance inspection services under the Contract were performed in Hillsborough and Manatee Counties. The objectives were to:

- Determine whether payments were supported as required under Task Assignment 1
- Evaluate the County's compliance and Department's oversight of the Contract, Task Assignment 1 and inspections performed

Methodology

This audit was conducted 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 included review of Task Assignment documentation and interviews with Division, Southwest District (District), and County staff.

Background

According to Section 376.3073(1), F.S., *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),

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F.S., indicated that eligible local governments, through written contract with the Department, shall receive funds for the implementation of a compliance verification program for the Inland Protection Trust Fund (IPTF).

The Department entered into the Contract with the County for a 10-year period beginning July 1, 2017. In 2018, the Division amended the Contract to remove guidance documents and increase compensation for services from \$5,116,584.00 to \$5,424,709.00. Under the Contract, the County is paid based on the number and type of inspections performed.

Task Assignment 1 included 761 assigned annual compliance inspections and allowable payments for estimated variable inspections. The County performs annual compliance inspections from the facility listings provided in each Task Assignment. The County performed variable inspections in response to non-routine events such as complaints, discharges, violation follow-ups, installations, and tank closures. All inspection activities are to be recorded in the Florida Inspection Reporting of Storage Tanks (FIRST) database¹.

Title XV, Section B of the Energy Policy Act of 2005 requires that underground storage tanks (UST) regulated under Subtitle I be inspected at least once every three years. Division management considers the type of tanks, date of last inspection, and conflicts of interest facilities to identify the priority facilities for annual compliance inspections. 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. In the event of facility inspection changes, the County

¹ FIRST is the database application utilized by inspectors in the field to input data on the conditions of inspected facilities statewide.

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notifies the Division about facility replacement. The Division identifies the replacement facility and notifies the County and District. The District Task Manager monitors County performance and conducts the Storage Tank System Compliance Verification Program Review.

On September 26, 2017, the County and Manatee County entered into an Amended and Restated Interlocal Agreement for a Storage Tank System Compliance Verification Program. Through this agreement, inspections in Manatee County would be conducted by Manatee County.

In accordance with Paragraph 21 of the Contract, *the Department reserves the right to establish the amount and application of retainage on the Compliance Routine Inspection (CRI) Work to a maximum of 10%*. During the task period, the Department withheld 10% retainage of the monthly invoice for a total of \$39,156.11 in Task Assignment 1. Initial funding, change orders and final compensation for Task Assignment 1 was as follows.

Hillsborough County Contract GC915— July 1, 2017 through June 30, 2018 Task Assignment 1				
	Routine Inspections Assigned	Date Issued	Description	Amount
Task Assignment 1	761	07/01/17	Original task amount	\$493,286.29
Change Order 1	761	08/02/17	Increased cost of routine inspections	\$4,929
Change Order 2	761	05/10/18	Increased variable inspection funding	\$25,000
Total Task Amount				\$523,215.29
Total Compensated to County (including retainage returned)				\$509,641.65

Results

Task Assignment Payments

To determine whether payments were supported as required under Task Assignment 1, we verified activities reported and included with monthly invoice packages during FY 2017-2018. As required, the County submitted monthly invoices that contained a Contractual Service Invoice, Verified Payment Calculation Sheet, a FIRST Reports with compliance activity by date,

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and reported cumulative routine inspections completed. All monthly invoices were submitted by the 15th day of the prior month's activity.

According to the Scope of Work, (Attachment A) Section 5 of the Contract, the County *shall assess performance levels monthly to determine its progress towards completion of each Task Assignment.* Under Task Assignment performance measures, the County was required to complete 33% of inspections after four months, 66% of inspections after eight months and 100% after twelve months of the fiscal year. The County's performance was as follows.

Task Assignment 1 Inspections by Required Periods as a percentage of Total Inspections								
Assigned Facilities	October		February		June		Inspections	
	Routine Inspections Completed	Percentage	Routine Inspections Completed	Percentage	Routine Inspections Completed	Percentage	Variable Inspections	Total
761	275	36%	523	69%	761	100%	445	1206

For Task Assignment 1, these performance measures were met at the end of the task period. According to the Task Assignment, at the end of the task period, the return of half of the retainage was subject to the County's performance for the average days cited violations returned to compliance. Return of the remaining half was subject to the average rate facilities with violations returned to compliance. The County's average number of days to return cited violations to compliance for Task Assignment 1 was 39.34, resulting in a 50% retainage return. The County's average return to compliance rate was 80.31, resulting in a 20% retainage return.

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GC915 Task Assignment 1 Retainage and County Reimbursement, FY 2017-2018					
Total 10% Retainage Withheld	Average Days Return to Compliance	Retainage Returned	Average Return to Compliance Rate	Retainage Returned	Total Retainage Returned
\$39,156.11	50%	\$19,578.06	20%	\$7,831.22	\$27,409.28

We verified the Division correctly calculated retainage for Task Assignment 1.

County Compliance

The County was assigned 761 routine inspections in Task Assignment 1. We verified the County conducted the inspections assigned or approved as exchanges. Several changes in facilities were requested and approved due to tanks no longer active and one exempt facility. We verified that no routine compliance inspections were performed prior to the execution of the Task Assignment.

According to Task Assignment 1, the County was required to conduct routine inspections in order as listed on the task exhibit. Based on our review of the monthly invoice activity reports, the County did not conduct the inspections in the order of the exhibit. However, all assigned inspections for UST facilities listed in the exhibit were completed within three years, as required under Title XV, Section B of the Energy Policy Act.

To determine whether compliance inspections were performed as required by the Contract's Scope of Work and Guidance Document B, we reviewed a sample of 19 inspections from Task Assignment 1. These facilities were listed in the monthly invoice activity reports for the months of September 2017 and March 2018.

Of the 19 inspections reviewed, we verified the County met scheduling and notification requirements with exception of one. All 19 inspection reports were completed within 14 calendar

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days as required. Based on our review, the County performed and documented the inspections as required by the Contract's Scope of Work and Guidance Document B, with one minor document omission in FIRST. Of the 19 inspections, 12 were cited out of compliance. We verified that the County notified the facilities with violations within 72 hours and sent Compliance Assistance Offer letters (CAO) within 14 calendar days as required per the Level of Effort Guidance Document F.

We reviewed the County's efforts in resolving violations within the 90-calendar day time frame locally and District referrals for Manatee County. Based on this review, the County and District demonstrated collaboration regarding the facilities cited with noncompliance and proactive efforts to work with the facilities consistent with the required Level of Effort Guidance Document F.

Department Oversight

According to the Scope of Work, the Department is required to perform a Program Review at least once annually and provide the Program Review findings to the County. We verified the District provided the FY 2017-2018 Program Review to the County August 31, 2018. The County received a score of 92.14 out of 100 for Task Assignment 1.

According to the Scope of Work Section 32, *the County shall provide a written response within 45 days to the Program Review findings and at a minimum, provide details on any corrective actions that will be implemented.* The County responded to the noted areas of concern within 45 days as required. From the Program Review, we verified the results of the District Task Manager from a sample of three facilities. Our review results of the three sampled facilities were consistent with the District Task Manager's Program Review results.

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Conclusion

Based on our review, approved payments were supported by required invoice documents. The County demonstrated compliance with the Contract and Task Assignment 1 with the exception of the inspection scheduling order. The District conducted the required annual Program Review and documented required oversight of monthly invoices.

Findings and Recommendations

Finding 1: Order of Inspection

According to Task Assignment 1, the County was required to conduct routine inspections in order from the exhibit of 761 facilities. Based on our review of monthly invoice activity reports, the County did not conduct inspections in the listed order. While none of the County's assigned facilities with USTs exceeded the three-year inspection requirement under Title XV, Section B of the Energy Policy Act of 2005, the order in which inspections should be conducted is a requirement under the Task Assignment for consistency with the Division's ongoing schedule and annual assignment of facility inspections.

Recommendation:

We recommend the Division work with the County to ensure routine compliance inspections are being conducted in the order listed on the exhibit as required under the Task Assignments.

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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 Linda Powell 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 <https://floridadep.gov/oig/internal-audit/content/final-audit-reports>. 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,
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Memorandum

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

FROM: Tim Bahr, P.G., Director *B*
Division of Waste Management

SUBJECT: Response to Audit Report A-1819DEP-016
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DATE: May 10, 2019

The following is in response to the review of Contract GC915 with Hillsborough County conducted by the Office of Inspector General (OIG).

FINDING AND RECOMMENDATIONS

Finding 1: Order of Inspection

Recommendation:

We recommend the Division work with the County to ensure routine compliance inspections are being conducted in the order listed on the exhibits as required under the Task Assignments.

Division Response:

Corrective Action Plan: The Division will revise Task Assignment to replace the words "in order" with the words "the facilities". This action reflects the Division's intent to allow contractors to make the most efficient use of their resources when scheduling inspections to minimize travel costs and time. Future exhibits will contain information about priority of inspections as needed. These efforts will help ensure underground storage tank facilities are inspected within the time period required under Title XV, Section B of the federal Energy Policy Act of 2005.