

**Audit of Contract GC918 with Alachua County
for Compliance Inspections**

Division of Waste Management

Report: A-1819DEP-022

Office of Inspector General

Internal Audit Section

Florida Department of Environmental Protection

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Tallahassee, Florida 32399-3000

<https://floridadep.gov/>





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The Office of Inspector General (OIG) conducted an audit of Contract GC918 (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 Alachua County Board of Commissioners (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 and Task Assignment 2 for the period of July 1, 2017, through June 30, 2018. Compliance inspection services under the Contract were performed in Alachua, Bradford, Clay, Columbia, Dixie, Flagler, Gilchrist, Hamilton, Lafayette, Levy, Madison, Marion, Putnam, Suwannee, Taylor and Union Counties.

The objectives were to:

- Determine whether payments were supported as required under the Task Assignments
- Evaluate the County's compliance and Department's oversight of the Contract, Task Assignments 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 the Division, Northeast and Central Districts, and County staff.

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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), 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 Contract was amended to remove guidance documents and increase compensation for services from \$4,577,091.00 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 533 assigned annual compliance inspections and allowable payments for estimated variable inspections. The County also received Task Assignment 2 which included 191 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.

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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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. District Task Managers monitor the County's monthly performance and provide technical advice to the Division Contract Manager and County. In the event of facility inspection changes, the County 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.

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 \$26,077.20 in Task Assignment 1 and \$8,750.75 in Task Assignment 2. Initial funding, change orders, and final compensation was as follows.

Alachua County Contract GC918— July 1, 2017 through June 30, 2018 Task Assignment 1				
	Routine Inspections Assigned	Date Issued	Description	Amount
Task Assignment 1	533	07/01/17	Original task amount	\$345,494.86
Change Order 1	533	08/02/17	Increased cost of routine inspections	\$3,452.25
Change Order 2	533	04/19/18	Reduced variable inspection funding	(\$16,000.00)
Change Order 3	509	05/05/18	Reduction of 24 routine inspections	(\$12,372.00)
Change Order 4	508	06/12/18	Reduction of one routine inspection	(\$515.50)
Total Task Amount				\$320,059.61
Total Compensated to County (including retainage returned)				\$295,635.28

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Alachua County Contract GC918— July 1, 2017 through June 30, 2018 Task Assignment 2				
	Routine Inspections Assigned	Date Issued	Description	Amount
Task Assignment 2	191	07/01/17	Original task amount	\$123,807.73
Change Order 1	191	08/02/17	Increased cost of routine inspections	\$1,237.11
Change Order 2	191	10/26/18	Reduced 4-month performance level	\$0.00
Change Order 3	191	04/19/18	Reduced variable inspection funding	(\$8,000.00)
Change Order 4	189	05/31/18	Reduction of two routine inspections	(\$1,031.00)
Total Task Amount				\$116,013.84
Total Compensated to County (including retainage returned)				\$100,756.66

Results

Task Assignment Payments

To determine whether payments were supported as required under the Task Assignments, 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, FIRST Reports with compliance activity by date, and a reported cumulative routine inspection completed. All monthly invoices were submitted by the 15th day of the prior month's activity. However, the Division did not process the County's Task Assignment 2 May 2018 invoice when it was originally submitted by the County on June 12, 2018. According to Section 10(b) of the Contract, *if a warrant in payment of an invoice is not issued within forty (40) business days after receipt of a correct invoice and receipt, inspection, and approval of the goods and services, the Department shall pay the Contractor interest at a rate as established by Section 55.03(1), F.S., on the unpaid balance of the payment.* The Division Contract Manager approved the original May invoice on June 14, 2018, but the approved invoice was not submitted for payment. Based on the County's subsequent inquiry, the Division submitted an updated Contractual Services Agreement form with an invoice approval date of August 31, 2018. The payment was processed on September 5, 2018. Since the invoice approval

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date was changed, there was no calculation or compensation made to the County for interest on the late payment. In addition, since there was no request to certify the FY 2017-2018 funds forward, payment of the May invoice was made with FY 2018-2019 funds.

According to the Scope of Work (Attachment A) Section 5 of the Contract, the County *shall assess performance levels monthly to determine progress towards completion of each Task Assignment*. Under the Task Assignments 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 Inspections by Required Periods as a Percentage of Total Inspections									
Task Assignment	Assigned Facilities	October		February		June		Inspections	
		Routine Inspections Completed	Percentage	Routine Inspections Completed	Percentage	Routine Inspections Completed	Percentage	Variable Inspections	Total
1	508	211	41.5%	376	74.0%	507	99.8%	168	675
2	189	57	30%	120	63%	185	98%	46	231

For Task Assignment 1, these performance measures were met with a minor difference at the end of the task period. For Task Assignment 2, the County partially met these performance measures. A Corrective Action Plan (CAP) was issued after the sixth-month measure was not met, which suspended the payment of the February 2018 invoice. Once the performance measure of 66% was met, the February 2018 invoice was paid along with the March 2018 invoice. A Change Order was executed in May 2018 that reduced facilities from 191 to 189. The County later determined that four additional facilities were unable to be inspected due to their closed status but did not request a facility exchange in time to inspect four supplementary facilities.

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According to the Task Assignments, 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. The 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 70, resulting in a 30% retainage return, and for Task Assignment 2 was 36.00, resulting in a 50% retainage return. The County’s average return to compliance rate in Task Assignment 1 was 74.63, resulting in a 0% retainage return and for Task Assignment 2 was 81.82, resulting in a 20% retainage return.

GC918 Task Assignments Retainage and County Compensation FY 2017-2018						
Task Assignment	Total 10% Retainage Withheld	Average Days Return to Compliance	Retainage Returned	Average Return to Compliance Rate	Retainage Returned	Total Retainage Returned
1	\$26,077.20	30%	\$7,826.16	0%	\$0.00	\$7,823.16
2	\$8,750.75	50%	\$4,375.38	20%	\$1,750.15	\$6,125.53

We verified the Division correctly calculated the retainage return for Task Assignment 1. However, because the Division did not process the payment for the County’s Task Assignment 2 May 2018 invoice until September 2018, the County did not receive the retainage return of \$541.27 applicable to the May 2018 invoice.

County Compliance

The County was initially assigned 533 routine inspections in Task Assignment 1, of which 22 were duplicates. The County was initially assigned 191 routine inspections in Task Assignment 2. Subsequent to Task Assignment Change Orders, the County was required to conduct 508 routine inspections in Task Assignment 1 and 189 in Task Assignment 2. We verified the County completed 507 in Task Assignment 1 and 185 in Task Assignment 2. Several

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changes in facility sites were requested and approved due to timing, duplicating and activity limitations. We verified that no routine compliance inspections were performed prior to the execution of the Task Assignments.

According to Task Assignment 1 and 2, the County was required to conduct routine inspections in order as listed in the task exhibits. Based on our review of the monthly invoice activity reports, the County did not conduct the inspections in order of the exhibits. Of the assigned UST facilities, ten were not inspected within three years, as required under Title XV, Section B of the Energy Policy Act. This was due, in part, to inspections not being conducted in order. According to the District Task Manager, the County also assumed inspection responsibilities for facilities that were previously managed under a contract that was canceled with a separate county.

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 43 inspections from the Task Assignments. This included 31 routine compliance inspections in Task Assignment 1 and 12 routine compliance inspections in Task Assignment 2. These facilities were listed in the monthly invoice activity reports for the months of September 2017 and March 2018.

Of the 43 inspections reviewed, we verified the County met scheduling and notification requirements. However, 13 of the 43 inspection reports were not completed within 14 days as required. Of the 43 inspections included in our sample, 28 were cited out of compliance. Of the 28, the County did not send a Compliance Assistance Offer (CAO) letter within 14 calendar days to the owner/operator as required, per the Level of Effort Guidance Document F, for four inspections. Based on discussions with County management and review of inspection reports,

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CAO letters were not sent and inspection reports were not completed within the required time frame due to efforts to work with facilities in obtaining documentation as well as impacts from the September 2017 hurricane.

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

Department Oversight

At the beginning of each Task Assignment, the Division provides the County with an exhibit that list annual routine compliance inspections. The Division is responsible for managing this exhibit and approving any request to exchange facilities. Of the 533 facilities included on the original exhibit for Task Assignment 1, 22 were duplicates. Several duplicates² were exchanged at the end of the task period. However, the assignment of duplicate facilities contributed to the need for Change Orders to reduce the number of routine inspections assigned. At the end of the task period, the adjusted assignment included 508 routine inspections.

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 Northeast District provided the FY 2017-2018 Program Review for Task Assignment 1 to the County on July 24, 2018. The County received a score of 90 out of 100. We also verified the Central District provided the FY 2017-2018 Program Review for Task Assignment 2 to the County on December 18, 2018. The County received a score of 88.75 out of 100. We verified the

²The net reduction of 25 facilities exceeded the number of duplicates due to several approved exchanges.

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results of the District Task Managers' Program Review for a sample of seven facilities. The County responded to findings noted in the Program Review within 45 days as required in the Contract Scope of Work.

Conclusion

Based on our review, approved payments were supported by the required invoice documents. However, the Department processed the payment for one monthly invoice over 40 days after it was received. In general, the County demonstrated compliance with the Contract and Task Assignments with the exception of inspection scheduling order. The Districts conducted the required annual Program Reviews and documented required oversight of monthly invoices.

Findings and Recommendations

Finding 1: Invoice Processing

The County submits approved monthly invoice packages to the Division Contract Manager for processing during the task period. According to Section 10 of the Contract, the *Department's Contract Manager shall have five (5) business days, unless a greater period is specified herein, to inspect and approve an invoice. The Department shall submit a request for payment to DFS within twenty (20) business days; and DFS shall issue a warrant within ten (10) business days. If a warrant in payment of an invoice is not issued within forty (40) business days after receipt of a correct invoice and receipt, inspection and approval of the goods and services, the Department shall pay the Contractor interest at a rate as established by Section 55.031(1), F.S. on the unpaid balance of the invoice.* In Task Assignment 2, the May 2018 invoice was originally submitted by the County on June 12, 2018 and was approved by the Division Contract Manager on June 14, 2018. The approved June 14, 2018,

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invoice was not submitted for payment. As a result of the County's inquiry, the Division submitted an updated Contractual Services Agreement form with an invoice approval date of August 31, 2018. The invoice was then subsequently paid on September 5, 2018. Payment of the invoice on September 5, 2018, did not include calculated interest as required under the Contract due to the altered approval date on the May 2018 Contractual Services Agreement submitted on August 31, 2018. In addition, since there was no request to certify the FY 2017-2018 funds forward, the payment of the May invoice was made with FY 2018-2019 funds. Also, due to the late payment, the County did not receive retainage reimbursement for the May 2018 invoice.

Recommendation:

Going forward, we recommend the Division ensure monthly invoices are processed in a timely manner and the Division does not alter approval dates on Contractual Services Agreements. We also recommend the Division reimburse the County retainage due for the May 2018 invoice along with applicable interest as required under the Contract.

Finding 2: Order of Inspection

According to the Task Assignments, the County was required to conduct routine inspections in order from the exhibit of 533 facilities in Task Assignment 1 and 191 facilities in Task Assignment 2. Based on our review of the monthly invoice activity reports, the County did not conduct inspections listed in order. Of the assigned UST facilities, ten were not inspected within the three-years as required under Title XV, Section B of the Energy Policy Act of 2005.

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While a portion of these were facilities adopted from a prior Division contract, they were not given scheduling priority order consistent with the order listed in the Task Assignment exhibits.

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.

Management Comments

Management Comment 1: Exhibit Oversight

The Division is responsible for ensuring that Task Assignment exhibits provided to the County contain facilities which require routine inspections. For Task Assignment 1, the exhibit provided to the County included 22 duplicate facilities. Change Orders issued during the task period were necessary to correct the actual number assigned. The Division would benefit from an increased review of facilities included in task exhibits prior to assignment to avoid unnecessary Change Orders and facility exchanges.

Management Comment 2: District Program Review

Although the Scope of Work does not include a required completion date for the annual Program Review, Task Assignment 2's Program Review was completed by the Central District on December 18, 2018, six months after the end of the Task Assignment. Delayed completion of the County's Program Review is not an effective use of the review as a tool for measuring and monitoring Contract performance. The Division would benefit from setting a required completion date for timely feedback of the County's performance.

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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 Courtney Lewis 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,
Director of Auditing*

*Candie M. Fuller,
Inspector General*



FLORIDA DEPARTMENT OF Environmental Protection

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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-022
Audit of Contract GC918 with Alachua County

DATE: May 10, 2019

The following is in response to the review of Contract GC918 with Alachua County conducted by the Office of Inspector General (OIG).

FINDINGS AND RECOMMENDATIONS

Finding 1: Invoice Processing

Recommendation:

Going forward, we recommend the Division ensure monthly invoices are processed in a timely manner and the Division does not alter approval dates on Contractual Services Agreements. We also recommend the Division reimburse the County retainage due for the May 2018 invoice along with applicable interest as required under the Contract.

Division Response:

Corrective Action Taken: The County was contacted about possible payment of interest and penalties and declined pursuing payment of interest and penalties.

Corrective Action Plan: Division Program Administrator created oversight monitoring scorecard identifying date invoice received in Outlook and date submitted in Lifecycle beginning with tenth invoice of 2018-19 task period.

Finding 2: 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.

Finding 2: Order of Inspection (con't)

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 also 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. The Division looks forward to working with the OIG in identifying the ten facilities that were described as not being inspected within the three-year requirement. The Division and District Task manager will direct the County to inspect those ten facilities first in the next task period ensuring the federal requirements are met.

MANAGEMENT COMMENTS

Management Comment 1: Exhibit Oversight

The Division is responsible for ensuring that Task Assignment exhibits provided to the County contain facilities which require routine inspections. For Task Assignment 1, the exhibit provided to the County included 22 duplicate facilities. Change Orders issued during the task period were necessary to correct the actual number assigned. The Division would benefit from an increased review of facilities included in task exhibits prior to assignment to avoid unnecessary Change Orders and facility exchanges.

Division Response:

Corrective Action Taken: The duplicate facilities were identified early in the task period and replacements were identified by midyear.

Corrective Action Plan: The Division will modify review procedures of the Task Assignment exhibits for duplicates and ensure facilities nearing their three-year term are on the exhibit to be inspected during the task period.

Management Comment 2: District Program Review

Although the Scope of Work does not include a required completion date for the annual Program Review, Task Assignment 2's Program Review was completed by the Central District on December 18, 2018, six months after the end of the Task Assignment. Delayed completion of the County's Program Review is not an effective use of the review as a tool for measuring and monitoring Contract performance. The Division would benefit from setting a required completion date for timely feedback of the County's performance.

Division Response:

Corrective Action Plan: The Division will more closely monitor efforts to ensure annual program reviews are completed by August 31.