



Department of Environmental Protection Office of Inspector General

October 29, 2024

Report A-2324DEP-028

Audit of Petroleum Restoration Program Agency Term Contract Purchase Order C0DF23 with TERRA-COM Environmental Consulting, Inc.

INTRODUCTION

The Florida Department of Environmental Protection (Department) Office of Inspector General (OIG) conducted an audit of Division of Waste Management (Division) Petroleum Restoration Program (PRP) Agency Term Contract GC824 (ATC) and Purchase Order C0DF23 (Purchase Order) for Source Removal Activities with Terra-Com Environmental Consulting, Inc. (Contractor). This audit was initiated as a result of the OIG Annual Audit Plan for Fiscal Year 2023-2024.

AUDIT SCOPE, OBJECTIVES, AND METHODOLOGY

The scope of the audit included activities and financial records associated with the Purchase Order for source removal at Former Circle K 2726169 (Facility 8507061). The Purchase Order was assigned to the Contractor. The scope included related purchase orders and activities for the facility. The objectives of the audit were to:

1. Determine whether the approved payments were supported by documentation as required by the Schedule of Pay Items (SPI) and deliverable completion;
2. Determine whether the Contractor complied with the requirements of the Purchase Order and the ATC; and
3. Evaluate management oversight of the Purchase Order, Facility, and Contractor.

To achieve our audit objectives, our methodology included:

- Reviewing applicable statutes, regulations, and internal operating procedures.
- Reviewing the ATC and Purchase Order, including invoices, deliverables, and supporting documentation.
- Interviewing Division Staff and management regarding the processes and controls used in the procurement and contracting process.

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 related to the storage of petroleum and petroleum products. 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 ATCs and other contracted professional services. PRP oversees environmental remediation cleanup activities from petroleum-based contamination on State-funded facilities under several cleanup programs and initiatives. PRP utilizes a site priority score order to focus available funding on sites with potential threat to human health, public welfare and the environment. These facilities are assigned Site Managers to manage all aspects of oversight for work performed. The Division utilizes the 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. In addition, PRP requires the use of Storage Tank Contamination Monitoring (STCM) and OCULUS databases to store and allow access to both Department and contractor personnel. The STCM database is used to maintain data associated with the registration of petroleum facilities, the petroleum cleanup efforts and state funds spent on cleanup; and track historical compliance information. The OCULUS database is PRP's electronic document management system for site files.

The Facility was found to have petroleum contamination, and the Department determined that the Facility was eligible for State-funded remediation assistance, under the Florida Petroleum Liability and Restoration Insurance Program (FPLRIP) on May 31, 1995. Under FPLRIP, facilities have a deductible and cap limit on the amount of money the State can spend on the cleanup (Subsection 376.3072(2)(d), F.S.). Then on December 9, 2020, a discharge of petroleum products was discovered that was not eligible for State funded cleanup.

Purchase Order C0DF23 was issued on November 15, 2022, for \$191,861.37, to perform a source removal at the Facility in Duval County, Florida. The Purchase Order had two tasks and the final invoice was paid on April 18, 2023, with payments for the Purchase Order totaling \$161, 914.64.

RESULTS OF AUDIT

During the audit, we reviewed documentation and records related to the Contractor's completion of the Purchase Order's tasks, deliverables, and payments. Based on our review we found the following:

Change Orders

Two Change Orders were approved for the Purchase Order. Change Order 1 was for funds to abandon wells that were damaged during demolition activities. Change Order 2 requested additional funds for generator fuel to run the de-watering system. The original fuel quote was based on a 1.5 gallon per hour (gph) generator fuel burn rate; however, a generator with a burn rate of 2.5 gph was issued. Both Change Orders were funded by contingent funding and issued prior to work being performed. Neither Change Order adjusted task deliverable due dates.

Contractor Performance Evaluation (CPE)

Site Manager's Guide, paragraph 19.1, *CPEs should be completed by the Site Manager at the end of each PO. This includes contracting the Owner/Responsible Party to complete a Contractor Performance Survey Form.* Our review found the CPE was

completed within 30 days of the final invoice being paid, and documentation regarding soliciting input from the Owner/Responsible Party was included. The CPE referenced the Owner/Responsible Party being provided the survey on April 14, 2023. The CPE evaluation date was April 24, 2023.

Deliverables and Schedule of Pay Items (SPI)

Deliverables - Using the Purchase Order's Statement of Work (SOW), we identified two deliverables and their due dates. We reviewed the OCULUS database for the deliverables, approval letters, responses, and other supporting documentation to determine when the documents were received, reviewed, and approved. Both deliverables were received, reviewed, and approved within the SOW's timeframes.

SPI – Using the invoiced list of pay items, we verified the required supporting documentation was included in the deliverable documentation uploaded to the OCULUS database. We identified two where the pay items were not adequately supported. Specifically,

1. Off-Site Property Access Agreement (SPI 1-5). The required document for invoicing was an executed Off-Site Property Access Agreement. The deliverable documentation did not include a copy of the executed Off-Site Property Access Agreement.
2. Additional Laboratory % Surcharge (SPI 9-77). The surcharge is calculated by summing the standard costs for analysis receiving "One Day Turnaround" in each task and multiplying the total by 110% to obtain the extended price. Using the rushed laboratory tests, we recalculated the unit total and multiplied the total by 110% to determine the extended price. We found that the total price was miscalculated allowing the surcharge amount to be overstated by \$211.79.

eQuote

Chapter 62-772.400(3), Florida Administrative Code (F.A.C.), states that if the total cost of a purchase order exceeds \$325,000, the Department will request quotes from agency term contractors for the work. According to PRP SOP 24, in accordance with the Contractor Assignment Process, eQuotes are required when the purchase order cost for the next SOW is \$325,000 or greater (not including the contingent funding allowance). The Purchase Order was issued for \$191,861.37 with a contingent funding allowance of \$7,000. As such, it was not procured via eQuote.

Retainage

The Purchase Order's SOW established the retainage amount at 5% of each invoice amount. We verified the 5% retainage was withheld from each invoice as required. Retainage was paid to the Contractor in the final invoice.

Site Inspection

SOP Chapter 12 states in part, *Site Managers shall complete site inspection for every site visit they make.* The Site Manager conducted a site inspection on January 18, 2023, and

the report was filed in the OCULUS database. The contractor's field notes confirmed the Site Manager's presence on site.

SubContracted Work

The Contract, paragraph 19.B. states in part, *Contractor shall not subcontract any work under this Contract, with the exception of those subcontractors identified on page 1 of this Contract.* Pursuant to SOP 10. – Subcontracted Procedures, *Sub-contractors and vendors providing goods and services using the contract fixed price Schedule of Pay Item (SPI) were initially identified by the Contractor as part of their "Team" in the original Agency Term Contract (ATC). The ATC Subcontractor List is posted and updated with subsequent approved changes on the Petroleum Restoration Program (PRP) Agency Term Contracts webpage.*

Under this Purchase Order, fourteen (14) subcontractors provided services/commodities for remediation activities and were reported on the Revised Subcontractor Utilization Report Form for Commodities/Services (Subcontractor Utilization Report). A comparison of the reported subcontractors to the Contractor's Authorized Subcontractor listing found seven subcontractors were approved. Four other subcontractors were approved based on quotes. The remaining three subcontractors were not approved.

As a result of a previous audit finding¹ regarding use of unapproved subcontractors, PRP provided additional training for Site Managers on the requirements for all subcontractors to be listed on the Contractor's approved subcontractor list or included on the subcontractor quote form. Further, PRP agreed that internal controls should be strengthened and will include specific consequences for the use of unapproved subcontractors in any future contracts.

Proof of Payment of Agreed Cost Apportionment

On March 18, 2022, an Agreement² was entered into to apportion site rehabilitation costs to effect site rehabilitation. The cost apportionment agreed to was 26% for the Facility and 74% for the Department. The Agreement was included in the Purchase Order issued on November 15, 2023. Paragraph 21 of the SRFA, states in part, *The Department will request confirmation of the applicant's portion of the costs during the cleanup of the site pursuant to paragraph 23.* Paragraph 23, states in part, *Within 21 days of payment to the Agency Term Contractor, the Applicant shall provide to the Department proof of such payment, which shall include a copy of the Applicant's paid and canceled check to the Agency Term Contractor. Alternatively, a certification by the Agency Term Contractor that the invoice amount specified in the certification was paid and indicating the date such payment from the Applicant was received by the Agency Term Contractor.* Pursuant to Section 376.30711(6), F.S., *it is unlawful for the Applicant to receive any remuneration, in cash or kind, from the Designated Contractor performing site rehabilitation activities that are subject to this Agreement.*

¹ The finding was previously addressed by the Division in the OIG Audit Report A-2324DEP-008.

² Site Rehabilitation Funding Allocation Agreement (SRFA).

The Site Manager requested proof of the payment in a letter to the Applicant, dated March 31, 2023. However, we found no record of the proof of payment filed in the OCULUS database and the Site Manager indicated that the Applicant had not provided the proof of payment information that he had requested. During the audit, on August 7, 2024, the ATC provided the Site Manager with certification of payment.

CONCLUSION

During the audit, we reviewed documentation and records related to the Contractor's completion of the Purchase Order's tasks, deliverables, and payments. Based on our review, the Contractor generally complied with the Purchase Order. However, our review noted some areas where management oversight could be improved. Our findings and recommendations are listed below.

FINDINGS AND RECOMMENDATIONS

Finding 1: Proof of Payment of Agreed Cost Apportionment

On March 18, 2022, an Agreement³ was entered into to apportion site rehabilitation costs to effect site rehabilitation. The cost apportionment agreed to was 26% for the Facility and 74% for the Department. The Agreement was included in the Purchase Order issued on November 15, 2023. Paragraph 21 of the SRFA, states in part, *The Department will request confirmation of the applicant's portion of the costs during the cleanup of the site pursuant to paragraph 23.* Paragraph 23, states in part, *Within 21 days of payment to the Agency Term Contractor, the Applicant shall provide to the Department proof of such payment, which shall include a copy of the Applicant's paid and canceled check to the Agency Term Contractor. Alternatively, a certification by the Agency Term Contractor that the invoice amount specified in the certification was paid and indicating the date such payment from the Applicant was received by the Agency Term Contractor.* Pursuant to Section 376.30711(6), F.S., *it is unlawful for the Applicant to receive any remuneration, in cash or kind, from the Designated Contractor performing site rehabilitation activities that are subject to this Agreement.*

The Site Manager requested proof of the payment in a letter to the Applicant, dated March 31, 2023. However, we found no record of the proof of payment filed in the OCULUS database and the Site Manager indicated that the Applicant had not provided the proof of payment information that he had requested. During the audit, the ATC provided the Site Manager with certification of payment on August 7, 2024.

Recommendations:

We recommend the Division work with PRP to provide training to the Site Managers on SRFA payment requirements and follow-up procedures.

³ Site Rehabilitation Funding Allocation Agreement (SRFA).

Management's Response:

PRP trained on SRFA payment requirements and follow-up procedures in the October 17, 2024, Program Teleconference. PRP followed up with notes from the teleconference which were distributed to all site managers. PRP also reminded contractors of these requirements in the October 2024 PRP Post.

Finding 2: Documentation for Schedule of Pay Items (SPI)

For each invoiced pay item, the contractor is required to submit specific supporting documentation in the deliverables as outlined in the SPI. Two SPI items were not adequately supported. Specifically,

1. Off-Site Property Access Agreement (SPI 1-5). The required document for invoicing was an executed Off-Site Property Access Agreement. The deliverable did not include a copy of the executed Off-Site Property Access Agreement.
2. Additional Laboratory % Surcharge (SPI 9-77). The surcharge is calculated by summing the standard costs for analysis receiving "One Day Turnaround" in each task and multiplying the total by 110% to obtain the extended price. Using the rushed laboratory tests, we recalculated the unit total and multiplied the total by 110% to determine the extended price. We found that the total price was miscalculated allowing the surcharge amount to be overstated by \$211.79. It appears that the unit price was multiplied by 110% before being entered into the invoice spreadsheet, where the spreadsheet multiplied the unit price by 110% to determine the extended price charged.

Recommendations:

We recommend the Division work with PRP and the Site Manager to review the questioned SPI and request reimbursement for the SPI costs where required documentation was not provided.

Management's Response:

PRP agrees and reimbursement was requested. On October 3, 2024, the Department received a check for the \$211.79 associated with the miscalculation for line item SPI 9-77 (Additional Laboratory % Surcharge). In addition, PRP provided training on the calculation of SPI line item 9-77 in the October 17, 2024, Program Teleconference and followed up with distributing meeting notes to all site managers.

The Off-Site Property Access Agreement (SPI 1-5) line item was to obtain a Florida Department of Transportation (FDOT) general use permit to acquire off-site access to the FDOT Right of Way (ROW). The contractor provided a copy of the approved FDOT permit as Appendix F to the Summary Report for Interim Source Removal dated March 10, 2023. Pursuant to SOP – 9. Site Access, for property owned by FDOT, the FDOT General Use Permit is used as a substitute for the Site Access Agreement.

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 Susan Cureton.

This report and other reports prepared by the OIG can be obtained through the Department's website at <https://floridadep.gov/oig> or by contacting:

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

Candie M. Fuller,
Inspector General