



Department of Environmental Protection

Office of Inspector General

December 13, 2024

Report A-2324DEP-036

Audit of Purchase Order C1C14D with WES Environmental, LLC.

INTRODUCTION

The Florida Department of Environmental Protection (Department) Office of Inspector General (OIG) conducted an audit of the Division of Waste Management (Division) Petroleum Restoration Program (PRP) Agency Term Contract GC832 (ATC) Purchase Order C1C14D (Purchase Order) with WES Environmental, LLC. (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 this audit included activities and financial records associated with the Purchase Order issued to the Contractor for Quote Performance Based Cleanup (QPBC) at the United 500 #510, Facility ID# 33/8520107 (Facility). The scope also included related purchase orders and activities for the Facility.

The objectives of the audit were to:

1. Determine whether the Contractor complied with the requirements of the Purchase Order, ATC, and Department policies and guidelines, including deliverables and disbursements.
2. Evaluate management oversight of the Purchase Order and Contractor.

To achieve our audit objectives, our methodology included:

- Reviewing applicable statutes, regulations, and internal operating procedures
- Reviewing the ATC and the Purchase Orders, including deliverables, invoices, and supporting documentation
- Interviewing the Site Manager and appropriate Division staff regarding the processes and controls used in the procurement and contracting process

BACKGROUND

The Inland Protection Trust Fund 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. In order to facilitate this, PRP was implemented to oversee state-funded environmental remediation cleanup activities for petroleum-based contamination that poses a threat to the public health, safety and welfare, water resources, and the environment, caused by petroleum storage systems. PRP manages activities and contracts professional services necessary to prioritize, assess, and clean up contaminated facilities in accordance with Section 376.3071, F.S. These facilities are assigned Site Managers to manage and provide oversight for work performed. The Division utilizes Site Manager Standard Operating

**Department of Environmental Protection
Office of Inspector General
Audit of Purchase Order C1C14D with WES Environmental, LLC.**

Procedures (SOPs) to assist Site Managers and other program staff with navigating PRP sites through the cleanup and closure process.

The Purchase Order was issued on May 25, 2023, as a QPBC. A QPBC is a Pay for Performance purchase order in which payments are made to the Contractor based on a negotiated schedule of cleanup progress, and these negotiations determine the goals, target levels, and milestones to be achieved. The remediation goal of this Purchase Order was to remediate the contaminated saturated soils to a maximum depth of 50 ft. within the area of the vadose zone soil contamination. This remediation was required to achieve a reduction to the Soil Contamination Target Levels (SCTLs) per Chapter 62-777, Florida Administrative Code (F.A.C.). The Scope of Work (SOW) outlined three milestones, reflected in the below table.

Milestone	Description	Deliverable
1	Prepare and submit a site-specific Health and Safety Plan (HASP)	HASP
2	Prepare and submit an Interim Remediation Plan which will support the estimation timeline and develop an exclusion zone.	Interim Remediation Plan
3	Achieve a 100% reduction in vadose soil contamination to SCTLs. Remediate all contaminated saturated soils to a max depth of 50 ft. within the footprint of the vadose zone. Prepare and submit an Interim Remediation Report which includes a summary of field activities, field notes, weight tickets and waste manifests, updated tables and figures, logs, and lab reports.	Interim Remediation Report

The Contractor remediated the vadose zone soil contamination by removing the contaminated soil using a Large Diameter Auger (LDA). In Milestone 2, they determined the depth and extent of the LDA excavation through soil boring and analysis, and the LDA borehole location points were located using GPS. During Milestone 3, a total of 7,361.27 tons of petroleum contaminated soil was excavated from 192 LDA boreholes. These LDA boreholes were backfilled with flowable fill.

The total cost of the Purchase Order was \$1,459,650. One Change Order was issued, extending the Milestone 3 deliverable due date. Three payments, corresponding to each Milestone, were made to the Contractor, reflected in the below table.

Milestone Invoiced	Date Paid	Amount
1	June 6, 2023	\$14,596.50
2	August 8, 2023	\$218,947.50
3	December 5, 2023	\$1,226,106.00
	Total	\$1,459,650.00

RESULTS OF AUDIT

During the audit, we reviewed documentation and records related to the Contractor's completion of the deliverables, subsequent invoices, payment disbursements, ATC and Purchase Order requirements, Division SOPs, and any applicable laws and statutes. Based on our review we found the following:

Field Work Notifications

The PRP Field Work Notification and Communication Guidance states, *The Contractor shall contact in writing the Site Manager and all applicable persons...a minimum of seven (7) calendars*

**Department of Environmental Protection
Office of Inspector General
Audit of Purchase Order C1C14D with WES Environmental, LLC.**

days prior to the proposed field activities, to ensure that field work is coordinated. This guidance further requires that *if date(s) or ETA [Estimated Time of Arrival] change, the field notification must be resubmitted with the revised information.* Our review noted one field work notification that was sent timely, stated that equipment mobilization (delivery of drill rig, mobile mixer, and cement transfer trailer) would take place on July 6-7, 2023. However, we found no field notes for that time period to verify the delivery took place, and the Contractor stated they were not on site and no field notes were completed. A subsequent field work notification stated that LDA Source Removal Activities were to take place from July 17, 2023, through September 15, 2023; however, work continued through October 6, 2023. While the Contractor communicated delays via emails to the site manager, they did not submit a revised field work notification, as required.

Field Inspections

Field Inspections guidance is covered in SOP-12, and states that PRP utilizes dedicated inspectors to monitor work performed at state-funded sites. This SOP states that *Field Inspections provide documentation of site conditions and the field work performed by state contractors...Field inspectors provide several important benefits to the petroleum program, including:*

- *Confirmation that the scope of work is completed as required in the PO [Purchase Order].*
- *Confirmation of field methods used and contractor's conformance with established SOPs and guidelines.*
- *Provide real-time feedback of work progress to the site managers and technical reviewers, and confirm logistical problems and necessary changes in SOW.*
- *Document personnel, equipment, and subcontractors mobilized to a site for approval of payment.*
- *Provide photographic documentation of baseline site conditions, site restoration and work in progress.*
- *Document that contractors have a HASP available for viewing when work is performed. Emergency contact information, route to hospital and sign-in sheet must be onsite in paper format.*

The SOP directs that the inspectors should contact Site Managers regarding any important information and facilitate coordination and communication between the Site Managers and the Contractor's field supervisor if problems occur. It also instructs that Site Managers should review the inspection reports and encourages them to contact the inspector with any questions.

Thirty Field Inspection Summary Forms from three different inspectors were completed during this Purchase Order and uploaded to OCULUS.¹ In addition to the information listed above, these Field Inspection Summary Forms provide an area for the inspector to comment on and describe the observed activities. During our review of the Field Inspection Summary Forms, we noted that they contained inconsistencies and inaccuracies, including:

- **Inconsistencies in the LDA boreholes recorded:** The Field Inspection Summary Forms did not always record the same LDA borehole numbers as listed in the field notes.
- **Duplicate photos:** Several Field Inspection Summary Forms contained the exact same photos, despite the Forms reporting different inspection dates.
- **Time reporting inaccuracies:** One inspector recorded activities that appear to have occurred after he had left the site, based on comparisons between the inspector's recorded offsite time and activity times recorded in the field notes.
- **Inaccurate Inspection Date:** The Field Inspection Summary Form dated July 17, 2023, contains notes dated June 21, 2023. Because of this, the exact date of the inspection could not be determined.

¹ OCULUS is the Department's electronic document management system.

**Department of Environmental Protection
Office of Inspector General
Audit of Purchase Order C1C14D with WES Environmental, LLC.**

- **Omission of Subcontractors:** Only one Field Inspection Summary Form reported the use of subcontractors despite a subcontractor conducting the soil disposal on multiple days in which an inspector was on site.

Use of Unapproved Subcontractors

Regarding the use of subcontractors, the ATC states, in part, that the *Contractor shall not sell, assign or transfer any of its rights, duties or obligations under this Contract, or under any Work Assignment issued pursuant to this Restated Contract (Rights and Duties), without the prior written consent of Department... 1. Contractor shall not subcontract any work under this Contract, with the exception of those subcontractors authorized by the Department, without the prior written consent of Department's Contract Manager.* The Purchase Order also requires that the *Contractor must include Subcontractor Utilization Report form, included as a tab on Attachment B, with each invoice.* The Contractor complied with this requirement.

The approval status of the subcontractors reported on the Subcontractor Utilization Form in this Purchase Order was determined using the Department's Approved Subcontractor lists from April 11 and May 30, 2023. Based on this comparison, six of the eleven reported subcontractors were approved to work with the Contractor. The remaining five subcontractors were not approved. As a result of a previous audit finding² regarding the 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.

Deliverables, Invoices, and Retainage

Deliverables

As stated in the SOW, three deliverables were due during the Purchase Order, each due upon the completion of a milestone. Each deliverable was submitted by the required due date and the Site Manager reviewed each deliverable within the appropriate turnaround time. Following his review of the Milestone 3 deliverable, the Site Manager requested a Response to Comments with required changes and an updated due date. The Contractor made the requested changes before the updated due date.

Invoices

Per the Purchase Order, *Milestone Payments are negotiated fixed prices to be based on Milestone Completion.* Following the Site Manager's review and approval of the deliverables, and thus the milestone completion, the Contractor submitted the invoices within the allotted 30-day timeframe. Based on the information available in the Florida Accountability and Contract Tracking System (FACTS), these invoices were paid timely.

Retainage

Per the SOW, as a PBC [Performance Based Cleanup], *no retainage is withheld.* As such, no retainage analysis was required.

Field Notes

PRP's Field Notes Guidance states, *All field activities must be properly documented in field books in a manner that is detailed, legible, and coherent.* This Guidance contains a detailed list of the components required to be included in the field notes, and our review noted that the field notes in

² The finding was previously addressed by the Division in the OIG Audit Report A-2324DEP-008.

**Department of Environmental Protection
Office of Inspector General
Audit of Purchase Order C1C14D with WES Environmental, LLC.**

the Purchase Order did not always contain these components. Our review found the following components missing from some field notes:

- Missing the Facility ID #
- Did not specify EST (Eastern Standard Time) or CST (Central Standard Time)
- Corrections were made without being identified or initialed
- Weather conditions not recorded
- Purpose of the field activity not provided
- Reference to the Work Order/Task Assignment not included

Our review also noted that in some of the Contractor's field notes, the inspector's arrival and departure times are not recorded chronologically, and instead both times were added on one line at the bottom of the field notes. This stands out from the rest of the information recorded in the field notes, which was recorded as it occurred.

The Field Notes Guidance further states that *For State-funded work, the abbreviation of the applicable labor category (based on qualifications) should be listed behind the name of each field person.* No labor category was recorded in any field notes. Despite the field notes not containing all required components, field notes spanning from July 17 through October 5, 2023, were provided, and these field notes document the LDA source removal work completed during Milestone 3, as required in the SOW.

In response to a previous audit finding³ regarding field notes, PRP provided training for Site Managers and sent correspondence to all Agency Term Contractors instructing them to ensure compliance with PRP's Field Notes Guidance. The OIG Audit Report containing this finding was issued in October 2023, after most of this Purchase Order had been completed. When discussing this matter with the Site Manager, he stated that he has been diligent about reviewing field notes following the previous audit finding.⁴

Contractor Performance Evaluation (CPE)

In accordance with Rule 62-772.300(6), F.A.C., Contractor performance on state-funded petroleum cleanup projects shall be evaluated, monitored, and documented after each Task Assignment or Purchase Order. The CPE must be completed by the Site Manager after the final invoice has been submitted. The CPE for this Purchase Order complied with this requirement.

In accordance with SOP-11, Contractor Performance, *the Site Owner/Responsible Party Contractor Performance Survey Form should be solicited from the Owner/RP...Such requests may be conducted by email, telephone, mail or in person and must be documented in a Communication Log at the completion of each PO [Purchase Order].* While the Site Manager emailed the Site Owner/Responsible Party Contractor Performance Survey Form to the Site Owner/Responsible Party and uploaded a copy of this email to OCULUS, a Communication Log documenting this email was not completed.

Timeliness

The Site Manager Guide states that *The PO end date should always be at least 60 days past the final deliverable due date. If deliverable due dates are extended, the PO end date should be extended accordingly.* This Purchase Order was issued with a 30-day timespan between the final deliverable due date and the Purchase Order end date instead of the required 60 days.

³ The finding was previously addressed by the Division in the OIG Audit Report A-2223DEP-018.

⁴ The Site Manager of Purchase Order C1C14D was the also the Site Manager of the purchase order which was the subject of OIG Audit Report A-2223DEP-018.

Purchase Order - Contract Management

Section 287.057(15)(a), F.S. governs the procurement of commodities or contractual services and states, *For each contractual services contract, the agency shall designate an employee to function as contract manager who is responsible for enforcing performance of the contract terms and conditions and serves as a liaison between the contractor and the agency....* Section 287.057, F.S. further stipulates that, *Each contract manager who is responsible for contracts in excess of \$100,000 annually must, in addition to the accountability in contracts and grant management training required in paragraph (b) and within 6 months after being assigned responsibility for such contracts, complete training in contract management and become a certified contract manager [FCCM].* The Site Manager Guide instructs that the Site Manager should enter the below statement into MyFloridaMarketPlace once they have reviewed the invoice; however, following the transition to Ariba on Demand, Site Managers now input the statement into the deliverable review letters. For this Purchase Order, the Site Manager entered the required statement on every deliverable review letter:

I, [Site Manager's Name], certify that I am the Contract Manager and the provided information is true and correct; the goods and services have been satisfactorily received and payment is now due. I understand that the office of the State Chief Financial Officer reserves the right to require additional documentation and/or to conduct periodic post-audits of any agreements.

Statutorily, a Contract Manager's responsibility is to monitor and ensure the Contractor's progress and performance conform to the Contract when providing products and services. The total amount for this Purchase Order was \$1,459,650. Based on statutory requirements, the Site Manager (Contract Manager) should have been a certified contract manager. The Contract Manager did not have an FCCM designation due to Chapter 60A-1.041, F.A.C., which states FCCM certifications shall only be offered to employees of Florida Governmental Entities. This Contract Manager is an employee of a company contracted by PRP to perform Site Management duties, and therefore not an employee of the Department and ineligible to participate in FCCM training.

CONCLUSION

During the audit, we reviewed documentation and records related to the Contractor's completion of the deliverables, the subsequent invoices, payment disbursement, ATC and Purchase Order requirements, Division SOPs, and applicable laws and statutes. Based on our review of documentation, discussions with PRP staff, and the activities and financial records associated with the Purchase Order, it appears that the Contractor generally completed the Scope of Work in the Purchase Order. However, our review noted some areas where internal controls and oversight could be strengthened. Our findings and recommendations are listed below.

FINDINGS AND RECOMMENDATIONS

Finding 1: Field Inspections – The Field Inspection Summary Forms completed during this Purchase Order contained inconsistencies and inaccuracies.

Field Inspections guidance is covered in SOP-12, and states that PRP utilizes dedicated inspectors to monitor work performed at state-funded sites. This SOP states that *Field Inspections provide documentation of site conditions and the field work performed by state contractors...Field inspectors provide several important benefits to the petroleum program, including:*

- *Confirmation that the scope of work is completed as required in the PO [Purchase Order]...*

**Department of Environmental Protection
Office of Inspector General
Audit of Purchase Order C1C14D with WES Environmental, LLC.**

- *Confirmation of field methods used and contractor's conformance with established SOPs and guidelines.*
- *Provide real-time feedback of work progress to the site managers and technical reviewers, and confirm logistical problems and necessary changes in SOW.*
- *Document personnel, equipment, and subcontractors mobilized to a site for approval of payment.*
- *Provide photographic documentation of baseline site conditions, site restoration and work in progress.*
- *Document that contractors have a HASP available for viewing when work is performed. Emergency contact information, route to hospital and sign-in sheet must be onsite in paper format.*

The SOP directs that the inspectors should contact Site Managers regarding any important information and facilitate coordination and communication between the Site Managers and the Contractor's field supervisor if problems occur. It also instructs that Site Managers should review the inspection reports and encourages them to contact the inspector with any questions.

Thirty Field Inspection Summary Forms from three different inspectors were completed during this Purchase Order and uploaded to OCULUS. In addition to the information listed above, these Field Inspection Summary Forms provide an area for the inspector to comment on and describe the observed activities. During our review of the Field Inspection Summary Forms, we noted that they contained inconsistencies and inaccuracies, including:

- Inconsistencies in the LDA boreholes recorded: The Field Inspection Summary Forms did not always record the same LDA borehole numbers as listed in the field notes.
- Duplicate photos: Several Field Inspection Summary Forms contained the exact same photos, despite the Forms reporting different inspection dates.
- Time reporting inaccuracies: One inspector recorded activities that appear to have occurred after he had left the site, based on comparisons between the inspector's recorded offsite time and activity times recorded in the field notes.
- Inaccurate Inspection Date: The Field Inspection Summary Form dated July 17, 2023, contains notes dated June 21, 2023. Because of this, the exact date of the inspection could not be determined.
- Omission of Subcontractors: Only one Field Inspection Summary Form reported the use of subcontractors despite a subcontractor conducting the soil disposal on multiple days in which an inspector was on site.

Recommendations:

We recommend the Division and PRP work with inspectors and Site Managers to ensure field inspections are completed in compliance with PRP requirements and Field Inspection Summary Forms contain accurate information.

Management Response:

The site management team (Team 6) conducted inspector training on December 10, 2024, with Team 6 inspectors, the inspection coordinator, and site managers to remind staff of PRP site inspection procedures and required documentation. In addition, PRP will include an Inspector Roundtable meeting in the PRP Annual Meeting scheduled to occur on April 15-17, 2025. This meeting will allow Inspectors from across the state to discuss procedures, concerns and share information.

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 Shelby Bremigan 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