

Audit of Palm Beach County Compliance Contract GC680

Division of Waste Management

Report: A-1516DEP-035

Office of Inspector General

Internal Audit Section

Florida Department of Environmental Protection

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The Office of Inspector General (OIG) conducted an audit of Contract GC680 (Contract) between the Department of Environmental Protection (Department) Division of Waste Management (Division) Permitting and Compliance Assurance Program (Program) and Palm Beach County (County). This audit was initiated as a result of the Fiscal Year (FY) 2015-2016 Annual Audit Plan.

Scope and Objectives

The scope of this audit included Task Assignments 07 and 08 issued between July 1, 2013 and June 30, 2015, and selected events through October 31, 2015. The Contract covers the compliance inspection services in Palm Beach, Martin, and St. Lucie Counties. The objectives were to evaluate the:

- County's compliance performance to the Task Assignments
- Department's oversight of the compliance inspection Contract and inspections performed

Methodology

We conducted this audit 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*. This audit included an assessment and testing of internal and external records and procedures, as well as, Task Assignment invoices. Division, Central District, Southwest District, and County Staff provided information through interviews and documentation requests.

Background

Section 376.3073(1), F.S., states, *the Department shall, to the greatest extent possible and cost-effective, contract with local governments to provide for the administration of its*

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Departmental responsibilities through locally administered programs. Section 376.3073(3), F.S., indicates that, eligible local governments, through written contract with the Department, shall receive funds for the implementation of a compliance verification program from the Inland Protection Trust Fund (IPTF).

The Department entered into the Contract with the County for a 10-year period beginning July 1, 2007. In 2012, the Division amended compensation for services from a lump sum payment per Task Assignment to payment for specific inspections. Under this compensation agreement, the type of inspections determines the amount the Division pays the County.

Task Assignments include assigned annual compliance inspections and estimated variable inspections. The County performs annual compliance inspections on facilities from the facility listing provided in the Task Assignment. The County performed variable inspections in response to non-routine events such as discharges, violation follow-ups, installations, and tank closures. Funding allocated for Task Assignment 07 was \$428,731.24 and Task Assignment 08 was \$485,685.19.

Contract GC680 Task Assignments		
Task Assignment	Period	Amount
07	July 1, 2013 through June 30, 2014	\$428,731.24
08	July 1, 2014 through June 30, 2015	\$485,685.19

Inspection planning and scheduling varies based on the type of tanks, results of last inspection, and date of last inspection. Title XV, Section B of the Energy Policy Act of 2005 requires facilities to have an on-site inspection of underground storage tanks regulated under Subtitle I at least once every three years. The Program Contract Manager considers the type of

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tanks, previous inspections, and date of last inspection to identify the priority facilities for annual compliance inspection. The Program 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 Program Contract Manager and County. In the event of facility inspection changes, the County notifies the Division with possible facility replacements to the list. The District Task Manager¹ monitors County performance and performs the Storage Tank System Compliance Verification Program Review (Program Review).

The County received compensation of \$428,932.63 for the inspections completed in Task Assignment 07 and compensation of \$493,504.72 for the inspections completed in Task Assignment 08. During these Task Assignments, the County received \$8,020.92 more than the amount tasked because more variable inspections were completed than estimated.

Task Assignment Inspections and Payments				
Task Assignment	Inspections			
	Annual Compliance Assigned	Annual Compliance Invoiced	Variable	Amount
07	946	946	238	\$428,932.63
08	1,087	1,089	369	\$493,504.72

Results and Conclusions

County Performance

The County was assigned 946 compliance inspections in Task Assignment 07 and 1,087 compliance inspections in Task Assignment 08. The County performed and invoiced 946

¹ The Task Manager is located in the Southeast District.

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compliance inspections in Task Assignment 07. In Task Assignment 08, the County performed and invoiced 1,089 compliance inspections. The County also completed 238 variable inspections in Task Assignment 07 and 369 variable inspections in Task Assignment 08. The variable inspections increased by 131 inspections from Task Assignment 07 to Task Assignment 08.

We sampled 100 completed inspections documented in the FIRST database². Of the 100 completed inspections, 98 contained documentation that the results were communicated³ to the facility representative. In addition, we sampled inspections performed in October 2015 to confirm with the owner/operator that the inspections occurred. Of those sampled, 54 owners/operators responded that the inspections occurred and 52 indicated that they had received a copy of the inspection report. The other two owners/operators responded that they could not confirm receipt of the inspection report. Both facility inspection reports noted that the report was e-mailed to the owner/operator.

The Contract requires the County to inspect 33%, 66%, and 100% of the assigned inspections by the fourth, eighth, and twelfth months of the fiscal year. The performance metrics were met in both Task Assignments 07 and 08.

² Florida Inspection Reporting of Storage Tanks (FIRST) is an information gathering application utilized by inspectors in the field to input data on the conditions of any facility statewide.

³ The inspection comment field indicated that the report was either mailed, e-mailed, or the report was signed by a facility representative.

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Task Assignment Inspections by Required Periods as a Percentage of Total Inspections												
Task Assignment	Assigned Facilities	October			February			June			Inspections	
		Inspections Completed	Percentage		Inspections Completed	Percentage		Inspections Completed	Percentage		Variable	Total
07	946	308	33%		648	69%		946	100%		238	1,184
08	1,087	396	36%		778	72%		1,089	100%		369	1,458

According to Contract Guidance Document A, Storage Tank System Program Violation List has violations designated type as “I” violations require the inspector to *conduct a follow-up re-inspection to determine owner/operator’s return to compliance*. In Task Assignment 07, the County conducted 95 non-compliance inspections⁴. During Task Assignment 08, the County conducted 219 non-compliance inspections.

We sampled 49 non-compliance inspections⁵ and found the facilities had violations that required re-inspection. The County Inspector Supervisor indicated that the increase in non-compliance inspections in Task Assignment 08 was due to the increase in number of inspections performed and the Program’s emphasis on reducing open minor violations.

Contract Guidance Document F, Level of Effort Guidance, states, *the local program shall issue a Non-Compliance Letter within ten working days to the facility owner/operator upon discovery of a non-compliance violation*. During Task Assignment 07, the compliance rate was 65% (615/946) with 35% (116/331) of the Non-Compliance Letters taking more than 10 working

⁴ Non-Compliance Inspection is a re-inspection of a violation.

⁵ Facility 8516204 non-compliance inspection was not found in FIRST. The Non-Compliance Letter was located in OCULUS database and the report was attached.

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days. In Task Assignment 08, the compliance rate lowered to 63% (688/1,087), but the percentage of Non-Compliance Letters sent after 10 working days decreased to 19% (74/399).

Working Days before Non-Compliance Letters (NCLs) were Issued									
Task Assignment	Annual Compliance Inspections	Inspections with NCLs	Working Days		Working Days > 10				
			=<10	>10	11-19	20-29	30-39	40-49	> 50
07	946	331	215	116	78	27	7	2	3
08	1,087	399	325	74	56	15	3	0	0
Total	2,033	730	540	190					

Additionally, Contract Guidance Document F, Level of Effort Guidance, states, *if after 180 days a minor violation remains unresolved, the local program shall contact the District Task Manager to discuss. Once local program and District decide on the appropriate course of action needed, the local program will have met the level of effort requirement.* The Violation Reports recorded 76 facilities with 144 open violations. Two facilities were open over 180 days and had been referred to the District during the Task Assignments.

The Contract requires the County to submit invoices for the prior month by the fifteenth day of the following month. Once the invoices are received, the District has ten working days to review. In Task Assignment 07, the County submitted two invoices after the fifteenth day of the following month. Both invoices were revised invoices of previously submitted invoices where the District Task Manager questioned inspections. In Task Assignment 07, the District Task Manager reviewed the invoices within ten working days. In Task Assignment 08, the invoices

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were submitted by the fifteenth of the following month. The District Task Manager completed his review within 10 days for 11 of 12 invoices. The January invoice exceeded⁶ the 10 day review period.

Department Oversight

The District Task Manager is responsible for review of the County's invoices monthly. This review includes the comparison of annual compliance inspections performed each month to the number of assigned facilities from the Task Assignment. The District Task Manager documented the review by including the schedule with the invoices in Task Assignment 08.

The District Task Manager also monitors the County's performance by comparing the total number of routine annual inspections performed in the fourth, eighth, and twelfth months to the total number tasked to determine if the County met the required metrics. The District Task Manager reviews variable inspections and ensures each routine compliance inspection on the Payment Calculation Sheet is on the Task Assignment Exhibit. The District Task Manager also conducts Quality Assurance/Quality Control Inspections to support the Program Reviews. The District Task Manager completes a Program Review for each Task Assignment to evaluate County Contract performance. During the Task Assignments, Program Review scores increased from a score of 93.83 for Task Assignment 07 to 97.40 for Task Assignment 08. In paragraph 42, the Contract indicates the District Task Manager may forgo a Program Review for the next Task Assignment if the County receives a score of 95 or greater on the Program Review during the current Task Assignment.

⁶ The invoice included 48 variable inspections, which the Contract Task Manager had to review each inspection in FIRST to ensure it was correctly invoiced.

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District Oversight			
Task Assignment	Fiscal Year	Quality Assurance/ Quality Control	Program Review
		Inspections	Scores
07	2013-2014	6	93.83
08	2014-2015	7	97.40

Findings and Recommendations

Finding 1: Assigned Compliance Inspections

Processes in place regarding Task Assignment planning for routine inspections did not include sufficient review to ensure the Exhibit included an appropriate listing of necessary facility inspections. Additionally, communications between the Program, District, and County lacked consistency, and task related documents were difficult to obtain. Task Assignment processes have been evolving since the Program has adopted pay for specific inspections.

Exhibit 1

Exhibit 1 is a listing of assigned facilities for annual compliance inspections. The Program Contract Manager compiles the listing by prioritizing the County facilities using last inspection date, type of tank, and previous inspection results. The Task Assignment states the number of assigned compliance inspections and the Exhibit lists the facilities that the Program will pay to have the compliance inspection performed. The District Task Manager compares the Exhibit's assigned facilities to the facilities inspected during the review of the County's invoice to approve the services.

The Exhibit in Task Assignment 08 was reissued because the Exhibit included facilities that the County owned or did not require an inspection. The Program revised and reissued the

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Exhibit in August 2014; however, the inspections performed in July were replaced with facilities that had older last inspection dates. Our review identified fifty-two facilities on the original listing, which were invoiced, but were not included on the revised listing. Consequently, more facilities were assigned than tasked on the Task Assignment.

Documentation

The Program could not provide original Task Assignment Exhibit documentation and task related documents were not located in the Petroleum OCULUS database.

For Task Assignment 08 Exhibit, the Program provided the revised Exhibit when asked for the Task Assignment Exhibit. The Revised Exhibit, when compared to the inspections performed, included 36 assigned facilities not inspected and 71 facilities not assigned that were inspected. After several requests for the “original” Exhibit from the Program, the Exhibit was obtained from the County. The Exhibit was required to clarify the variances between the assigned inspections and e-mails requesting substitutions. Fifty-two of the 71 inspections performed were on the original Exhibit and invoiced in July 2014.

The substitution requests were provided by the County to explain justification of payment for inspections. The requests for payment were e-mails to the District providing the invoice for review. The approvals of substitutions were not provided, but invoices included the substituted facilities and were paid. Starting July 1, 2015, the substitution process has changed with the Program creating an e-mail repository to capture the requests and approvals. `

The Task Assignments 07 and 08 Program Reviews were not provided and were not located in the Petroleum OCULUS database. The oversight documentation was discussed with the current District Task Manager, who indicated that the reviews were completed and

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maintained by the previous District Task Manager; however, their computer had been cleared of all files. The District was able to recover the District Task Manager's e-mails and the Program Reviews were located. Based on our review of Petroleum OCULUS database files, Task Assignment related documents had not been uploaded since 2013.

Oversight

Invoice review procedures provided by the District Task Manager, will ensure that each routine compliance inspection on the Payment Calculation Sheet is on the Task Assignment facilities list (Exhibit). The current District Task Manager started in November 2015 and requested⁷ copies of the Palm Beach County's invoices previously submitted and paid by the Program. The District Task Manager indicated that she was not provided the invoices. Without copies of the invoice packages, the District Task Manager cannot assess whether the County was invoicing assigned facilities or determine whether the percentage metric was met. As the Program goes through the process of Program and guidance changes, funding reductions, and personnel turnovers, access to all Contract and task related documents is essential for effective and consistent oversight.

Recommendation:

We recommend the Division address the following areas regarding management oversight:

1. Refine processes to develop an appropriate listing of necessary facility inspections for inclusion in the Exhibit prior to the issuance of the Task Assignment. Specifically, at the time the Program develops Task Assignments, management should review the proposed Exhibit with the District and County to exclude facilities belonging to the

⁷ The auditor provided copies of the requested invoices.

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County and not needing an inspection. Based on County input, Program management should exclude facility inspections expected to be completed by the fiscal year end.

2. Take steps to ensure that Program and District management upload the Contract Task Assignments, Exhibits, Invoice Packages, Program Reviews, approvals for facility substitutions, and other supporting documents to the Petroleum OCULUS database.

Finding 2: Contract Compliance

Contract Guidance Document F, Level of Effort, states, *the local program shall issue a Non-Compliance Letter within ten working days to the facility owner/operator upon discovery of a non-compliance violation.* One hundred and ninety of 540 (35%) facilities with violations did not have a Non-Compliance Letter issued within 10 days as required.

The Non-Compliance Letters serve as documentation of the facility's violation notification and begins the process to bring the facility back into compliance.

Recommendation:

We recommend the Division take steps to ensure the County documents and takes appropriate courses of action needed regarding the issuance of Non-Compliance Letters as stated in the Contract Guidance Document F Level of Effort.

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 Randal C. Stewart 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 <http://www.dep.state.fl.us/ig/reports.htm>. 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: Wayne Kiger on behalf of F. Joseph Ullo, Jr., P.E., Director
Division of Waste Management 

SUBJECT: Response to Preliminary Audit Report A-1516DEP-035
Palm Beach County Compliance Contract GC680

DATE: June 28, 2016

The Division of Waste Management has reviewed the Audit of Palm Beach County Compliance Contract GC680, Report A-1516DEP-035. The Division concurs with the Findings and Recommendations presented in the preliminary report with regard to storage tank compliance services provided by Palm Beach County Environmental Resources Management.

Office of Inspector General Findings and Recommendations:

Finding 1: Assigned Compliance Inspections

Processes in place regarding Task Assignment planning for routine inspections did not include sufficient review to ensure the Exhibit included an appropriate listing of necessary facility inspections. Additionally, communications between the Program, District, and County lacked consistency, and task related documents were difficult to obtain. Task Assignment processes have been evolving since the Program has adopted pay for specific inspections.

Recommendation:

We recommend the Division address the following areas regarding management oversight:

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to exclude facilities belonging to the County and not needing an inspection. Based on County input, Program management should exclude facility inspections expected to be completed by the fiscal year end.

2. Take steps to ensure that Program and District management upload the Contract Task Assignments, Exhibits, Invoice Packages, Program Reviews, approvals for facility substitutions, and other supporting documents to the Petroleum OCULUS database.

Finding 2: Contract Compliance

Contract Guidance Document F, Level of Effort, states, *the local program shall issue a Non-Compliance Letter within ten working days to the facility owner/operator upon discovery of a non-compliance violation*. One hundred and ninety of 540 (35%) facilities with violations did not have a Non-Compliance Letter issued within 10 days as required.

The Non-Compliance Letters serve as documentation of the facility's violation notification and begins the process to bring the facility back into compliance.

Recommendation:

We recommend the Division take steps to ensure the County documents and takes appropriate courses of action needed regarding the issuance of Non-Compliance Letters as stated in the Contract Guidance Document F Level of Effort.

Response from the Division of Waste Management:

The Compliance Assistance Program is addressing the findings and recommendations detailed in the Draft Audit Report.

Concerning the tasking of routine inspections; the facility list for the next task assignment (fiscal year 16-17) was created after the contracted counties had completed all routine inspections for the current year task assignment. The next task assignment list will be sent to the respective counties for verification prior to the beginning of task period. This process change should eliminate errors and the need for modification of the assignments.

Concerning uploading of appropriate contract documents into the Oculus system; the Program will be utilizing Oculus for storage of Contracts, Task Assignments, Invoices and Contractor Performance Reviews contemporaneously to the document being generated going forward. As discussed during our recent meeting, historical documents from the current fiscal year (Contracts and Contract Reviews) that are filed in personal hard drives, common drives, and in paper form will be loaded on to Oculus as time permits. This will be an agenda item on the next District Teleconference.

Concerning issuance of Non-Compliance Letters by the county in accordance with Contract Guidance Document F Level of Effort; this will be addressed in the next District

Teleconference and the following County Teleconference. Further, the Program will be developing a tool to query the database and provide a report that will monitor the county's performance.