



# Department of Environmental Protection Office of Inspector General

July 23, 2024

Report A-2324DEP-008

## ***Audit of Petroleum Restoration Program Agency Term Contract Purchase Order C03BCC for Source Removal Activities with Advanced Environmental Technologies, 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 GC785 (ATC) and Purchase Order C03BCC (Purchase Order) for Source Removal Activities with Advanced Environmental Technologies, 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 the audit included activities and financial records associated with the Purchase Order for source removal at Whitfield's Grocery (Facility 8734874). The Purchase Order was assigned to the Contractor. The scope also 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

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376.3071, F.S., the Department has implemented rules and procedures to administer the PRP through Agency Term Contractors and other contracted professional services. The 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 and 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 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 the 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; data associated with petroleum cleanup efforts; state funds spent on cleanup; and, to track historical compliance information. The OCULUS database is an electronic document management system used by PRP to store site files.

Petroleum pollution was identified at Whitfield's Grocery on August 12, 1987, and the initial site assessment began in 2002. In June 2019, after additional site assessment verified the historical soil data, the Contractor prepared a Limited Scope Remedial Action Plan (LSRAP), dated August 18, 2020. The LSRAP proposed remediation of the soil and groundwater contamination at the site via Large Diameter Auger (LDA) and PetroFix Injections.<sup>1</sup> The Purchase Order start date was July 5, 2022, and the end date was April 3, 2023. The Purchase Order was issued to perform source removal at Whitfield's Grocery. A summary of the tasks, deliverables, due dates, and totals that were examined during this audit is as follows:

Task	Deliverable	Due Date	Cost
1	Updated Health and Safety Plan (HASP)	August 5, 2022	\$0.00
2	Source Removal Report	November 3, 2022	\$300,930.32
3	Pre-Drill Teleconference Notes and Letter Report	February 1, 2023	\$24,013.20
		Total:	\$324,943.52

Five Change Orders occurred in the performance of this Purchase Order as follows:

Change Order	Description	Task	Cost
1	Costs to remove an additional Underground Storage Tank (UST)	2	(\$0.00) <sup>2</sup>
2	Costs to remove an additional UST	2	\$4,541.99
3	Labor rate change from Program Manager (20-1) to Engineer (20-3)	2	(\$56.40)
4	Additional flowable fill and transportation and disposal (T&D)	2	\$10,017.00
5	Additional T&D of Impacted Soil	2	(\$0.16) <sup>3</sup>
		Total:	\$14,502.43

The remedial option selected was LDA excavation which incorporated the removal of the most contaminated portion of the smear/saturated zone. The plan included source removal by the completion of thirty-nine, five foot in diameter LDA boreholes; nineteen boreholes to a depth of 30 feet below level surface (bls); and twenty boreholes to a depth of 26 feet bls with a surface casing utilized during excavation to prevent cave-ins. The total volume of soil being removed was

<sup>1</sup> PetroFix uses a proprietary formula of activated carbon to absorb total petroleum hydrocarbons. It then adds electron acceptors to stimulate hydrocarbon biodegradation. This process allows petroleum hydrocarbons to be removed from soil and water in a fast, cost-efficient, environmentally friendly way.

<sup>2</sup> Denotes that the cost was offset by Contingent Funding (23-1).

<sup>3</sup> Denotes that the cost was offset by items (3-19 & 20-3) being reduced to offset an increase in cost.

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estimated at 794 cubic yards (1,223 tons). However, during the first seven boreholes, the Contractor could not advance to 30 feet bls due to significant sloughing.<sup>4</sup> Once the Contractor advanced to depths ranging from 19-feet to 25-feet bls in the excavation area, significant sloughing was observed which caused a larger volume of soil to be generated for disposal and in turn increased the amount flowable fill needed. On September 15, 2022, the Contractor and PRP conducted a meeting and agreed to terminate the boreholes once significant sloughing was observed. The agreement was based on safety concerns (i.e., removal of sloughed soils could create an underground void or sinkhole). After the meeting, the Contractor terminated boreholes. The Contractor conducted 44 LDA drillings with a total volume of soil removed of 1,369.18 tons.

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## **RESULTS OF AUDIT**

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

### **eQuote**

Rule 62-772.400(3), Florida Administrative Code (F.A.C.), states that if the total cost of the 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 Scope of Work is \$325,000 or greater (not including the contingent funding allowance). The Purchase Order was issued for \$324,943.52, with a contingent funding allowance of \$7,000. As such, it was not procured via eQuote.

### **Change Orders**

Five Change Orders were approved prior to the Purchase Order Task 2 completion. Change Orders 1 and 2 adjusted funding to pay to remove and dispose of discovered USTs. Change Order 3 was attributed to a pay item incorrectly entered during the transition to the new Ariba On Demand (AOD) application.<sup>5</sup> Change Orders 4 and 5 added funding to pay for additional T&D costs due to the significant sloughing. None of the change orders adjusted any of the task deliverable due dates.

### **Invoices**

#### **Schedule of Pay Items (SPI) and Allowed Rates**

The Contractor's Scope of Work was supported by detailed SPI that included project specific pay items, number of units, and negotiated item rates. SPI negotiated rates are based on the fixed rate schedule in Attachment D of the ATC and are updated throughout the course of the ATC via Amendments. We reviewed paid invoices for each task to identify SPI and amounts paid. We compared the amounts paid to the negotiated item price from Amendment 9 of the ATC to determine whether the amounts paid were allowable. Based on our review, sixteen SPI amounts were under Amendment 9 item price. However, PRP SOP 24 also states, *If the contract assignment type (in STCM) is SCOPE (Direct Assign for Continuing Scope), the current ATC may negotiate and reduce their ATC rates for specific pay items in order to reduce the total SOW cost to below the \$325,000 threshold.* The Site Manager indicated the rates were negotiated to remain under the \$325,000 eQuote threshold.

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<sup>4</sup> Excavation sloughing means a slip or downward movement of an extended layer of soil resulting from the undermining action of water or the earth-disturbing activity of man.

<sup>5</sup> AOD application replaced the MyFloridaMarketPlace (MFMP) application as a tool for managing purchase orders.

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Retainage

The Purchase Order's Scope of Work 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.

Invoicing

The Contractor requested partial payments. Five invoices were paid for the work performed.

Invoice	Deliverable	Received	Approved
1	Partial Source Removal Report #1, 53 pages	September 28, 2022	October 6, 2022
2	Partial Source Removal Report #2, 220 pages	October 20, 2022	November 3, 2022
3	Revised Source Removal Report, 298 pages	November 9, 2022	November 11, 2022
4	Interim Deliverable, 13 pages	January 27, 2023	February 1, 2023
5	Supplemental Information 1&2, 3&15 pages	February 1, 2023	February 9, 2023

Required Documentation for SPI Invoicing

The Contractor is required to submit specific supporting documentation to justify the payment for each SPI invoiced. The Division included the required documents for invoicing as part of the Purchase Order. We compared each invoiced item to the SPI required documents under the Purchase Order. Based on our review, we identified some SPIs that were included on the invoice, but not supported by the required documentation to demonstrate that the invoiced work had been completed (see table below).

Task	Pay Item	Description	Required Documentation	Units	Total Costs
2	8-11	Electronic Data Deliverables (EDD)	Electronic Data Deliverables (EDD)	1	\$121.37
2	11-1	Remove and Dispose Petroleum Storage Tank -≤ 1,000 gal. capacity.	Field notes and photos show the tanks, the SPI requirements include storage system closure form, <u>disposal manifest</u> or documentation and recycling credits if applicable.	3	\$13,625.97
2	10-15	Clean Overburden Used As Backfill, Compaction and testing ≤ 300 cubic yards	Field notes, backfill lab report, <u>compaction test results</u> , transport load tickets/ supplier load documentation	168	\$1,412.88

1. *Pay item 8-11: Electronic Data Deliverables (EDD)* was not found in the OCULUS database. The Site Manager contacted the Contractor and the EDD (ADaPT)<sup>6</sup> file was sent to PRP and has since been uploaded to the OCULUS database. The pay item was invoiced in the first invoice and paid on November 2, 2022. The pay item was received and uploaded to the OCULUS database on February 8, 2024.
2. *Pay item 11-1: Remove and Dispose Petroleum Storage Tank -≤ 1,000 gal. capacity.* There were three tanks found (closed in place) and the required documents included: field notes, photos, storage system closure form, disposal manifest or documentation and recycling credits if applicable.<sup>7</sup> There were field notes and photos of the tanks being found, dug-up, and placed in roll-off dumpsters. The field notes did not reference the roll-off

<sup>6</sup> ADaPT is a Microsoft Access application used by the Division of Waste Management (DWM) to evaluate analytical chemistry data from water, soil, and air samples. It checks for the completeness of data using method specific Quality Control (QC) elements specified in the DWM library, and then further evaluates the data.

<sup>7</sup> Closed in place refers to the tanks being filled with concrete and abandon where the tank was located.

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dumpsters being removed from the site. The pay item was invoiced in the first invoice and paid on November 2, 2022. The roll-off dumpster receipts were received in the Revised Source Removal Report sent November 9, 2022. The two roll-off dumpster receipts referred to the contents as construction debris.

3. *Pay item 10-15: Clean Overburden Used As Backfill, Compaction and testing ≤ 300 cubic yards* had been uploaded to the OCULUS database. The required documents included: Field notes, backfill lab report, compaction test results, transport load tickets/ supplier load documentation. Consequently, transport load tickets/supplier load documentation were not generated. The deliverable included field notes which identified the use of backfill. In addition, PRP Section 5 field inspectors observed, reported, and photographed the backfill. The top four (4) feet of soil from borings was removed and staged separately to be utilized as backfill. However, the compaction test results were not included with the deliverable. The pay item was paid in the third invoice, received by the Department on December 1, 2022, paid December 27, 2022, and the compaction test results dated October 14, 2022, were uploaded to OCULUS database on February 2, 2024.

### **Site Visits**

SOP Chapter 12 states in part, *Site Managers shall complete a Site Inspection form for every site visit they make.* Several site visits were documented (conducted) during the performance of the Purchase Order. A dedicated inspector from an ATC performed the inspections. The site visits documented the site remediation problems.

### **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. Section 19 of the ATC contract sets forth the process for a Contractor to request changes to the subcontractor list.* Paragraph 7.A. of the ATC requires the Contractor to complete and submit a Subcontractor Utilization Report Form with each invoice. Based on our review of the five invoices, each submitted a Subcontractor Utilization Report Form.

Pursuant to SOP 10. – Subcontractor Procedures, *Further, the Contractor shall not subcontract any work under the contract, with the exception of those subcontractors authorized by the department, without the prior written consent of the department’s contract manager.* Under the Purchase Order, twenty-one subcontractors provided services/commodities and were reported on the ATC Payment of Subcontractors Summary Form. Based on our review of the PRP ATC Authorized Subcontractor List, twelve of the subcontractors identified in the Purchase Order were authorized subcontractors of the Contractor. The other nine subcontractors were not approved to work as subcontractors for the Contractor. In addition, there was no documentation provided showing the Contractor had requested to add the nine subcontractors to the PRP ATC Authorized Subcontractor List or that the Contractor had obtained and submitted quotes for the nine subcontractors.



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**CONCLUSION**

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Based on our review, internal controls and management oversight of the Purchase Order could be improved. Our review noted some areas where controls could be strengthened. Our findings and recommendations are listed below.

**FINDINGS AND RECOMMENDATIONS**

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**Finding 1: SPI Documentation – The Contractor received payment for some pay items that were not supported by the required documentation.**

For each Schedule of Pay Item, the Contractor is required to submit specific supporting documents as listed in the Required Documents for Invoicing schedule included with the purchase order. We compared each invoice item's required documents to the documents included with the related deliverable. Based on the comparison, pay item requirements and the deliverables submitted, payments were approved for several pay items without adequate documentation (see table below).

<b>Pay Item</b>	<b>Description</b>	<b>Units</b>	<b>Unit Cost</b>	<b>Total Costs</b>
8-11	Electronic Data Deliverables (EDD)	1	\$121.27	\$121.27
11-1	Remove and Dispose Petroleum Storage Tank - ≤1,000 gal. capacity	3	\$4,541.99	\$13,625.97
10-15	Clean Overburden Used as Backfill, Compaction and testing ≤ 300 cubic yards	168	\$8.41	\$1,412.88
<b>Total</b>				<b>\$14,160.12</b>

Two of the three pay items missing documents were uploaded to OCULUS during the audit.

1. Pay item 8-11: The EDD was not sent or uploaded to OCULUS database before the pay item was invoiced and paid. The pay item was paid in the Invoice 1 payment on October 6, 2022. The EDD file was uploaded February 8, 2024.
2. Pay item 11-1: Remove and Dispose Petroleum Storage Tank - ≤ 1,000 gallon capacity did not have a disposal manifest.
3. Pay item 10-15: Clean Overburden Used as Backfill, Compaction and testing ≤ 300 cubic yards required compaction test results. The pay item was paid in Invoice 2 payment on October 6, 2022. The compaction test results were not received and uploaded to OCULUS database until February 2, 2024.

The site had a significant altering event (sloughing) that changed the remediation plan. The Purchase Order had five change orders that added effort. The remediation contractor submitted five partial payments and invoices with deliverables for processing. Yet, the remediation contractor did not request the task deliverable due dates be extended.

**Recommendations:**

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

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**Management's Response:**

The contractor submitted field notes, photos, and receipts from the landfill to document disposal of tanks as required under Pay Item 11-1 (Remove and Dispose Petroleum Storage Tank -≤ 1,000 gal. capacity). The documentation submitted satisfies the documentation part of the required "disposal manifest or documentation" under Pay Item 11-1 and a disposal manifest is not needed in the specific instance due to the tank being previously properly abandoned.

Reimbursement of \$121.37 associated with the required documentation under pay item 8-11 and \$70.64 for reimbursement of retainage under pay item 10-15 was requested from the Contractor on July 8, 2024.

PRP provided training on the evaluation of required items for invoicing in the December 14, 2023, Program Teleconference and followed up with distributing meeting notes to all site managers. Local Program Managers were reminded during the February 21, 2024, PRP Managers Meeting of the importance of ensuring that the required documentation is reviewed and verified prior to invoice approval and payment.

**Finding 2: Unapproved Subcontractors – The Contractor utilized subcontractors that were not listed on the approved subcontractor listing.**

Pursuant to SOP 10. – Subcontractor Procedures, *Further, the Contractor shall not subcontract any work under the contract, with the exception of those subcontractors authorized by the department, without the prior written consent of the department's contract manager.* Under the Purchase Order, twenty-one subcontractors provided services/commodities and were reported on the ATC Payment of Subcontractors Summary Form. Based on our review of the PRP ATC Authorized Subcontractor List, twelve of the subcontractors identified in the Purchase Order were authorized subcontractors of the Contractor. The other nine subcontractors were not approved to work as subcontractors for the Contractor. In addition, there was no documentation provided showing the Contractor had requested to add the nine subcontractors to the PRP ATC Authorized Subcontractor List or that the Contractor had obtained and submitted quotes for the nine subcontractors. The Site Manager indicated that the only time that they needed to verify a subcontractor was if there was a quote associated with the work which is based on the schedule of pay rate sheet.

Use of unapproved subcontractors has been included on five prior OIG audit reports:

- A-2122DEP-011, *Audit of B7AFC4, issued July 12, 2022.* In response to the finding in the report, the Division stated, "...PRP trained all teams including local programs on the requirements for all subcontractors to be listed on the ATCs approved subcontractor list or included on the subcontractor quote form in the program video conference held on May 26, 2022. In addition, PRP provided a written reminder to ATCs on June 27, 2022 via the PRP Post."
- A-2122DEP-020, *Audit of PO B8F79C, issued November 17, 2022.*
- A-2223DEP-008, *Audit of PO B54CE6, issued July 6, 2023.*
- A-2223DEP-016, *Audit of Contract GC894, issued December 20, 2023.* In response to the finding in the report, the Division provided training on December 14, 2023, followed-up with notes distributed to all site managers, and reminded contractors of the subcontracting procedures.
- A-2324DEP-003, *Audit of C03AF5/BB0B67, issued March 13, 2024.* In response to the finding in this report, the Division stated, "PRP trained on subcontracting requirements in the December 14, 2023, Program Teleconference. PRP followed up with notes from the teleconference which were distributed to all site managers. PRP reminded contractors of the subcontracting procedures in the December 2023 PRP Post."

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Based on our review, training on the use of unapproved subcontractors had been provided to appropriate staff and Contractors in May and June of 2022, which predates the issuance of the Purchase Order on July 5, 2022.

**Recommendations:**

We recommend the Division strengthen internal controls and work with PRP to ensure the Department's Contract Managers review the subcontractors used by Contractors, and ensure the Contractor is not reimbursed for work conducted by unapproved subcontractors. We also recommend the Division review the amount paid for work conducted under this Purchase Order and consider seeking reimbursement from the Contractor for work performed by unapproved subcontractors.

**Management's Response:**

PRP agrees that internal controls should be strengthened and will include specific consequences for the use of unapproved subcontractors in any future contracts. In addition, PRP trained on subcontracting requirements in the December 14, 2023, Program Teleconference. PRP followed up with notes from the teleconference which were distributed to all site managers. PRP reminded contractors of the subcontracting procedures in the December 2023 PRP Post.

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**STATEMENT OF ACCORDANCE**

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**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.

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