

Audit of Sarasota County Compliance Contract GC693

Division of Waste Management

Report: A-1617DEP-010

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 GC693 (Contract) between the Department of Environmental Protection (Department) Division of Waste Management (Division) Permitting and Compliance Assurance Program (Program) and Sarasota County Board of County Commissioners' Sarasota County Natural Resources Department (County). This audit was initiated as a result of the Fiscal Year (FY) 2016-2017 Annual Audit Plan.

Scope and Objectives

The scope of this audit included Task Assignment 10 for the period July 1, 2015 through June 30, 2016 and selected activities through September 2016. The Contract covers compliance inspection services in Sarasota County. The objectives were to evaluate the:

- County's compliance performance to the Task Assignment
- 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*. Our procedures include review of Task Assignment documentation and interviews with Division, South District, and County staff.

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., indicates that eligible local governments, through written contract with the Department,

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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 10, 2007. In 2012, the Division amended compensation for services from a lump sum payment per Task Assignment to payment for inspections.

Task Assignments include assigned annual compliance inspections and estimated variable inspections. The County performs annual compliance inspections 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. All inspection activities are recorded in the Florida Inspection Reporting for Storage Tanks (FIRST) database. Funding allocated for Task Assignment 10 was \$92,516.96.

Inspection planning and scheduling varies based on the type of tanks 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 (UST) regulated under Subtitle I at least once every three years. Program Management considers the type of tanks, date of last inspection, and conflicts of interest facilities 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 facility replacement. The District Task Manager monitors County performance and conducts the Storage Tank System Compliance Verification Program Review.

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The County was originally tasked \$92,516.96 for Task Assignment 10 and received compensation of \$96,992.28 for the inspections completed. A change order was issued May 9, 2016 to increase the Task Assignment by \$6,000 due to additional variable inspections. The Program estimated \$19,668.96 for variable inspections in Task Assignment 10. The amount was an increase of 7.4% over the amount estimated for Task Assignment 9. The actual amount paid for variable inspections was \$24,185.01 in Task Assignment 9 and \$24,144.28 in Task Assignment 10. The Program estimated for Task Assignment 11 variable inspections was \$26,938.91.

Task Assignment Inspections and Payments				
Task Assignment		Inspections		
	Annual Compliance Assigned	Annual Compliance Invoiced	Variable	Amount
10	157	157	67	\$96,992.28

Results and Conclusions

County Performance

The County was assigned and completed 157 compliance inspections in Task Assignment 10. The County also completed 67 variable inspections in Task Assignment 10.

We sampled 92 completed inspections and reviewed documentation in the FIRST database. Of the 92, 87 contained documents indicating the results were communicated to the facility owner/operator. The remaining five inspections were signed by a facility representative.

In addition, we selected a sample of 42 compliance inspections performed between January and July 2016 and contacted facility owners/operators to confirm the compliance inspections were performed. For 42 facilities inspected during the period, all confirmed the

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inspections occurred, and 40 indicated that a copy of the inspection report was received. FIRST records indicate the remaining two reports were sent to the facility owners/operators.

The Contract requires the County to inspect 33%, 66%, and 100% of the assigned inspections for the fourth, eighth, and twelfth months of the fiscal year. The performance metrics were met in Task Assignment 10 as outlined in the following table.

Task Assignment Inspections by Required Periods as a Percentage of Total Inspections									
Task Assignment	Assigned Facilities	October		February		June		Inspections	
		Inspections Completed	Percentages	Inspections Completed	Percentages	Inspections Completed	Percentages	Variable	Total
10	157	78	49.7%	127	80.9%	157	100%	67	224

Contract Guidance Document F, Level of Effort Guidance indicates 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 10, the compliance rate was 76% (119/157). For the 38 facilities with non-compliance violations, 95% (36/38) of the non-compliance letters were issued within 10 working days. County management indicated that the two non-compliance letters were held to allow the facility owner/operator time to provide documentation to resolve the violations. The facility owner/operator provided documentation after the non-compliance letters were issued.

The County cited and closed 104 violations at 43 facilities during the Task Assignment. As of June 30, 2016, there were 39 open violations at 17 facilities.

Contract Guidance Document F Level of Effort Guidance on Significant Non-Compliance-B (SNC-B) violations at the County states, *if after 90 days the violation remains*

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unresolved, the local program shall refer the violation to the DEP district office. The 90 day clock begins upon issuance of the NCL¹. If the violation is in the process of resolution, and is being accomplished in a manner that is acceptable to both the local program and DEP, then the DEP may waive the 90-day referral. Three facilities² of the 17 facilities with open violations had SNC-B violations open over 90 days without documentation in FIRST of an agreement between the County and Department on the process to violation resolution.

According to Contract Guidance Document F Level of Effort Guidance, if after 180 days a minor violation remains unresolved, the local program shall contact the District to discuss. Once the local program and District decide on an appropriate course of action, the local program will have met the level of effort requirement. According to violation reports, 12 facilities, including 27 violations were open in excess of 180 days as of the end of the Task Assignment. Follow-up activity with the owner/operator or a course of action for these 12 facilities was not documented³ in FIRST.

The Contract requires the County to submit invoices for the prior month by the fifteenth day of the following month. Once invoices are received, the Program has ten working days to review. The County submitted the invoices by the fifteenth day of the following month. The Program completed their review of the monthly invoices within the required 10 days for 11 of 12 invoices. Review of the final invoice for June was completed in excess of ten days.

¹ Non Compliance Letter

² Facilities 9807803, 9812588, and 9814804

³ Facility 9807803 FIRST record indicated receipt of operational testing documentation on March 1, 2016 which could resolve one open violation.

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Department Oversight

District Task Managers are responsible for review of the County's performance. The District Task Manager reviews the Payment Calculation sheet from the County's monthly invoice to determine if the inspections claimed by the County were performed. Specifically, the District Task Manager ensures each routine compliance inspection on the County's monthly invoice payment calculation sheet is on the Task Assignment Exhibit. The District Task Manager also reviews variable inspections on the Contractual Services Invoice⁴ Payment Calculation sheet were performed and appropriately documented in FIRST.

In addition, the District Task Manager monitors the County's performance by reviewing the total number of routine annual inspections performed in the fourth, eighth, and twelfth months to total number tasked to determine if the County met the required metrics. The District Task Manager monitors reported violations and communicates with the County to determine an appropriate process of resolution. The District Task Manager also conducted five Quality Assurance/Quality Control Inspections during the Task Assignment to support the program reviews. The Quality Assurance/Quality Control Inspections found that the County inspector performed thorough inspections of the storage tank components including the release detection systems.

According to the Contract, the Department will conduct a Program Review annually to evaluate County contract performance. The Contract states, *the DEP Task Manager may forgo a Program Review for the next Task Assignment for a Contractor that receives a score of 95 or greater on the Program Review during the current Task Assignment.* The County received a

⁴ County submits to support monthly invoices.

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Program Review score of 100 out of 100 for Task Assignment 8, 99 out of 100 for Task Assignment 9, and 99 out of 100 for Task Assignment 10.

District Oversight			
Task Assignment	Fiscal Year	Quality Assurance/ Quality Control Inspections	Program Review Scores
10	2015-2016	5	99

Finding and Recommendation

Finding: Contract Compliance

According to Contract Guidance Document F, Level of Effort, for (SNC-B) violations, *the owner/operator is given 90 days to resolve the violation at the local program level. If after 90 days the violation remains unresolved, the local program shall refer the violation to the DEP district office. The 90 day clock begins upon issuance of the NCL. If the violation is in the process of resolution, and is being accomplished in a manner that is acceptable to both the local program and DEP, then the DEP may waive the 90-day referral. The local program may continue the resolution process with DEP oversight.* At the time of our review, three facilities out of 17 facilities with open violations had SNC-B violations open over 90 days without a documented agreed upon a process for resolution or referral to the District.

According to Contract Guidance Document F Level of Effort for minor violations, *if after 180 days a minor violation remains unresolved, the local program shall contact the District Task Manager to discuss. Once the local program and district decide on the appropriate course of action needed, the local program will have met the level of effort requirement.* At the time of our review, 12 facilities out of 17 facilities with open violations had 27 minor violations open over 180 days without a documented agreed upon process for resolution or referral to the District.

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The 30 total violations were for 12 facilities and the violations were cited during the Task Assignment. The County Contract Manager indicated that the oversight was the result of recent program staffing changes⁵ in the County. Also, the District experienced staffing turnover during the Task Assignment period.

Guidance Document F states, *Once the local program and District decide on the appropriate course of action needed, the local program will have met its level of effort requirement.* The Contract paragraph 5.E. states, *All inspection activities shall use the Florida Inspection Reporting and Storage Tanks (FIRST) database and FIRST equipment in accordance with the minimum standards referenced in the "FIRST User's Guide" (Guidance Document B).*

During Task Assignment 10, several inspection activities were not documented in FIRST.

According to FIRST records, three facilities⁶ received two non-compliance inspections. The first non-compliance inspection did not close the violations. The violations for the three facilities were closed with the second non-compliance inspection. The reasons for multiple non-compliance inspections were not documented in FIRST. The County Contract Manager stated that the facilities' owners/operators had indicated that the violation had been corrected, but during the non-compliance inspection, the inspector found the violation had not been corrected.

Another Facility 8520657 received a non-compliance inspection even though the facility was not cited with a violation requiring non-compliance inspection. The County Contract Manager stated that the facility owner/operator did not provide access to the tank sumps during the initial compliance inspection, so a non-compliance inspection was necessary to inspect the tank sumps.

⁵ The primary County inspector retired January 2016.

⁶ Facilities 8520879, 8628642, and 9046898.

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These variable inspections were invoiced and the District Task Manager did not question the inspections and the invoice was paid.

Recommendation:

We recommend the Division direct the County to ensure review of required activities are conducted and are sufficiently tracked and documented in FIRST. Further, the District should monitor⁷ unresolved violations and work with the County to determine a process for resolution of the violation within Level of Effort timeframes. The resolution decisions should also be documented in FIRST in accordance with the minimum standards as referenced in the “FIRST User’s Guide”.

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,
Director of Auditing*

*Candie M. Fuller,
Inspector General*

⁷ Beginning with Task Assignment 11 (2016-2017), the District has begun issuing a monthly review of County performance highlighting open violations.



Florida Department of Environmental Protection

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Rick Scott
Governor

Carlos Lopez-Cantera
Lt. Governor

Ryan E. Matthews
Interim Secretary

Memorandum

TO: Valerie J. Peacock, Director of Auditing
Office of Inspector General

FROM: F. Joseph Ullo, Jr., P.E., Director 
Division of Waste Management

SUBJECT: Response to Preliminary Audit Report A-1617DEP-010
Sarasota County Compliance Contract GC693

DATE: January 26, 2017

The Division of Waste Management has reviewed the Audit of Sarasota County Compliance Contract GC693, Report A-1617DEP-010. The Division concurs with the Findings and Recommendations presented in the preliminary report with regard to storage tank compliance services provided by the Sarasota County Air and Water Quality (Sarasota County).

Office of Inspector General Findings and Recommendations:

Finding 1: Contract Compliance

1. According to Contract Guidance F, Level of Effort, for (SNC-B) violations, *the owner/operator is given 90 days to resolve the violation at the local program level. If after 90 days the violation remains unresolved, the local program shall refer the violation to the DEP district office. The 90-day clock begins upon issuance of the NCL. If the violation is in the process of resolution, and is being accomplished in a manner that is acceptable to both the local program and DEP, then DEP may waive the 90-day referral. The local program may continue the resolution process with DEP oversight.* At the time of our review, three facilities out of 17 facilities with open violations had SNC-B violations open over 90 days without a documented agreed upon a process for resolution or referral to the District.
2. According to Contract Guidance Document F Level of Effort for minor violations, *if after 180 days a minor violation remains unresolved, the local program shall contact the District Task Manager to discuss. Once the local program and district decide on the appropriate course of action needed, the local program will have met the level of effort requirement.* At the time of the review, 12 facilities out of 17 facilities with open violations had 27 minor violations open over 180 days without a documented agreed upon process for resolution or referral to the District.

Recommendation:

We recommend the Division direct the County to ensure review of required activities are conducted and are sufficiently tracked and documented in FIRST. Further, the District should monitor unresolved violations and work with the County to determine a process for resolution of the violation within Level of Effort timeframes. The resolution decisions should also be documented in FIRST in accordance with the minimum standards as referenced in the "FIRST User's Guide".

Response from the Division of Waste Management:

The Compliance Assistance Program has addressed the Finding concerning the tracking and documentation of activities in FIRST. For the current Fiscal Year 16-17, the District has been conducting a monthly review of County performance. The monthly review is shared with the County and open violations are highlighted and discussed. Any resolution decisions are documented in FIRST by the inspector.