



Department of Environmental Protection Office of Inspector General

July 6, 2023

Report A-2223DEP-008

Audit of Petroleum Restoration Program Agency Term Contract Purchase Order B54CE6 for Remedial Action Construction and Post Active Remedial Monitoring Activities with Jim Stidham & Associates

INTRODUCTION

The Department of Environmental Protection (Department) Office of Inspector General (OIG) conducted an audit of Division of Waste Management (Division) Petroleum Restoration Program (PRP) Agency Term Contract GC818 (ATC) and Purchase Order B54CE6 (Purchase Order) for Remedial Action Construction and Post Active Remedial Monitoring Activities with Jim Stidham & Associates (Contractor). This audit was initiated as a result of the OIG Annual Audit Plan for Fiscal Year 2022-2023.

AUDIT SCOPE, OBJECTIVES, AND METHODOLOGY

This audit includes a review of the Purchase Order for Facility ID #8631117, S&S #332 (Facility), for Remediation Activities. The scope of this review included activities and financial records associated with the Purchase Order, related Purchase Orders, and activities for the facility.

The objectives of the audit were to:

- Determine whether the Contractor complied with the requirements of the Purchase Order and ATC;
- Determine whether approved payments were supported by documentation as required by the Schedule of Pay Items (SPIs) and deliverable completion; and
- 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 the Purchase Order; including deliverables, invoices, supporting documentation, and Remedial Action Plan.
- Interviewing appropriate 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. The PRP manages activities

**Department of Environmental Protection
Office of Inspector General
Audit of Petroleum Restoration Program Agency Term Contract Purchase Order B54CE6
for Remedial Action Construction and Post Active Remedial Monitoring Activities with
Jim Stidham & Associates**

necessary to prioritize, assess, and clean up facilities contaminated by discharges of petroleum and petroleum-based products from stationary petroleum storage systems. In accordance with Section 376.3071, F.S., the Department has implemented rules and procedures to administer the PRP through Agency Term Contractors and other contracted professional services. The PRP oversees environmental remediation cleanup activities for State-funded facilities under several cleanup programs and initiatives. These facilities are assigned Site Managers to manage all aspects of oversight for work performed. The Division utilizes Site Manager Standard Operating Procedure (SOP) guides to assist Site Managers and other Program staff with navigating the PRP facilities through the cleanup and closure process.

Per Purchase Order B54CE6, the Contractor was selected to perform a Remedial Action Construction and Post Active Remediation Monitoring (RAC/PARM) at the Facility, located at 12498 Roberts Street, White Springs, Florida. The Facility was determined to be eligible for the Petroleum Liability and Restoration Insurance Program in September 1992. The Purchase Order was issued on June 13, 2019, and included seven tasks as summarized in the table below:

| Task | Deliverable Description | Total |
|--------------|--|---------------------|
| 1 | Updated Health and Safety Plan. | \$0 |
| 2 | Collect groundwater samples per the Water Sampling Table. Upon completion, prepare a Remedial Action Interim Report. | \$6,247.10 |
| 3 | Conduct a Pre-Drilling Site Meeting and submit field notes. Perform construction of the remedial system and conduct the injection event per the Remedial Action Plan. The injection event entails 8 treatment points over 4 days and prepare the Remedial Action General Report. | \$69,003.51 |
| 4 | Perform quarterly groundwater sampling per Water Sampling Table and prepare Quarterly PARM Report. | \$4,579.64 |
| 5 | Perform quarterly groundwater sampling per Water Sampling Table and prepare Quarterly PARM Report. | \$4,579.64 |
| 6 | Perform quarterly groundwater sampling per Water Sampling Table and prepare Quarterly PARM Report. | \$4,579.64 |
| 7 | Perform quarterly groundwater sampling per Water Sampling Table and prepare Annual PARM Report. | \$14,199.17 |
| Total | | \$103,188.70 |

There were four change orders issued during the Purchase Order. Additionally, there were a total of six payments, as shown in the table below:

| Payment | Date Paid | Amount |
|--------------|-------------------|--------------------|
| 1 | October 21, 2019 | \$5,539.98 |
| 2 | June 3, 2020 | \$62,866.56 |
| 3 | January 28, 2021 | \$4,350.66 |
| 4 | February 3, 2021 | \$3,392.92 |
| 5 | February 12, 2021 | \$4,350.66 |
| 6 | May 24, 2022 | \$11,400.43 |
| Total | | \$91,901.21 |

**Department of Environmental Protection
Office of Inspector General
Audit of Petroleum Restoration Program Agency Term Contract Purchase Order B54CE6
for Remedial Action Construction and Post Active Remedial Monitoring Activities with
Jim Stidham & Associates**

RESULTS OF AUDIT

Based on our review we noted the following:

Invoices

SPIs and Allowed Rates

The Contractor's Scope of Work is supported by detailed SPIs that include the 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 the SPI and amounts paid. We compared the amounts paid to the negotiated item price from Amendment number 5 of the ATC to determine whether the amounts paid were allowable. Based on our review, the SPI amounts within the Purchase Order were consistent with the ATC rates.

Required Documentation for SPI invoicing

For each invoiced pay item, the Contractor is required to submit specific supporting documents (deliverables) as outlined in the SPI. The basis for establishing what documents are required comes from the list of required documents per each pay item provided in Attachment B – SPIs and Other Related Documents. We compared each invoiced item to the SPI required documents under the Contract. 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. Specifically, we noted the following:

- **Task 7, Pay Item 19-8:** Pay Item 19-8 was for an Annual Post Remedial Action Monitoring Report (Annual Report). The report submitted, approved, and invoiced for Task 7 was a Quarterly Post Remedial Action Monitoring Report (Quarterly Report). Pursuant to the ATC, the Annual Report must include a conclusions and recommendations section and be signed and sealed by a registered Professional Geologist (P.G.) or registered Professional Engineer (P.E.), which was not included with the Quarterly Report submitted. As a result, the Contractor was paid \$1,514.39 for the cost of an Annual Report; however, the rate of a Quarterly Report is \$712.66.
- **Task 7, Pay Item 21-36:** The Contractor submitted an invoice for pay Item 21-36 which is a P.E. Review, Evaluation, and Certification of Annual Post Remedial Action Monitoring Report. As noted in pay item 19-8, this certification is a component of the Annual Report. Because of the incorrect submission of a Quarterly Report instead of an Annual Report, pay item 21-36 was never submitted, but was included in the Task 7 invoice in the amount of \$492.38.

Retainage - Deliverables

The Purchase Order's Scope of Work established a retainage amount of 5%, which is withheld from each invoice payment until the completion and approval of all tasks. The Contractor submitted six invoices for payment under the Purchase Order and we verified that 5% retainage was withheld as required. Regarding the withholding of payment of retainage, the ATC states the following: *"Department reserves the right to withhold payment of retainage for Contractor's failure to respond to or correct identified deficiencies within the timeframe stipulated in the task assignment. Department shall provide written notification to Contractor of identified deficiencies and Department's intent to withhold retainage on the task assignment. Contractor's failure to rectify the identified deficiency within the timeframe stated in Department's notice will result in*

**Department of Environmental Protection
Office of Inspector General
Audit of Petroleum Restoration Program Agency Term Contract Purchase Order B54CE6
for Remedial Action Construction and Post Active Remedial Monitoring Activities with
Jim Stidham & Associates**

forfeiture of retainage by Contractor.” Furthermore, the ATC specifies, “For deliverables (reports and response to comments) submitted one more than seven (7) calendar days past the required due date, retainage will be forfeited on the amount of the entire task associated with the deliverable.”

Our review noted the revised deliverables for Tasks 4 and 5, both Quarterly Reports, were not submitted to the Department timely. For both Tasks, the Contractor was notified the deliverables needed corrective action and was given a date to submit revised deliverables; however, the Department did not appear to provide written notification of its *intent to withhold* retainage, as required by the ATC. For Task 4, the revised deliverables were submitted eight days past the due date, and the Department subsequently notified the Contractor of the retainage being forfeited. The retainage forfeited from Task 4 totaled 5% (\$35.63) of the cost of the deliverable that was submitted late. However, according to the ATC, the entire amount of the retainage for Task 4 should have been forfeited, which would have totaled \$228.98. For Task 5, the revised deliverables were also submitted late, but no retainage was forfeited. Based on our review, it appears the retainage may not have been forfeited due to communication issues surrounding staffing changes with the Contractor and with the Department during the same time as the Task 5 submission of revised deliverables.

Retainage - Invoices

According to the ATC, *“Contractor shall submit invoices to Department within thirty (30) days after the date of Department’s written approval of each interim deliverable or the final deliverable specified in each Work Assignment. Contractor’s failure to submit interim invoices within this timeframe may result in forfeiture of retainage and its failure to submit the final invoice within the timeframe may result in automatic cancellation, termination or suspension of the Work Assignment and Contractor’s forfeiture of any unpaid balance for such deliverables.”* During our review, we noted four invoices were submitted late, beyond the thirty-day requirement in the ATC, specifically for Tasks 4, 5, 6, and 7. As seen in the chart below, the Contractor surpassed the thirty-day requirement for the last four invoices; however, payment of retainage was not withheld for late submissions and the Contractor received payment.

| Task | Date Deliverable Approved by the Division | Date Contractor Submitted Invoice | Difference |
|-------------|--|--|-------------------|
| 1 | 6/28/2019 | N/A; no invoice needed | N/A |
| 2 | 10/11/2019 | 10/15/2019 | 4 days |
| 3 | 5/20/2020 | 5/28/2020 | 8 days |
| 4 | 6/18/2020 | 1/20/2021 | 216 days |
| 5 | 10/28/2020 | 1/25/2021 | 89 days |
| 6 | 11/3/2020 | 2/8/2021 | 97 days |
| 7 | 2/26/2021 | 5/10/2022 | 438 days |

Subcontracted Work

Under the Purchase Order, the Contractor relied on four subcontractors that provided services/commodities for Remediation and Monitoring Activities. Based on our review, three of four subcontractors were authorized to perform work with the Contractor, and one was not. Pursuant to SOP 10. – Subcontracted Procedures, *“Sub-contractors and vendors providing goods or services using the contract fixed price schedule in the 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*

**Department of Environmental Protection
Office of Inspector General
Audit of Petroleum Restoration Program Agency Term Contract Purchase Order B54CE6
for Remedial Action Construction and Post Active Remedial Monitoring Activities with
Jim Stidham & Associates**

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.”

The one subcontractor that was not authorized, provided injection services for the Facility and provided an invoice to the Contractor for \$13,500; however, this subcontractor did not solicit a quote during the beginning of the Purchase Order nor were they on the PRP ATC Subcontractor Master List. The use of unapproved subcontractors was addressed in a previous OIG audit¹ finding. In response to the audit finding, PRP provided training to 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. The training was held on May 26, 2022, and PRP provided a written reminder to all Agency Term Contractors on June 27, 2022.

Oversight of Deliverables

We reviewed the deliverables for each task as identified in the Purchase Order and Change Orders. The deliverable due dates were compared to the dates submitted. The submission dates of the deliverables were also compared to the dates in which the Site Manager approved them using the PRP Staff Deliverable Review Turnaround Time (TAT) table. Based on our review, deliverables for Tasks 4 and 5 were submitted late (as noted above). However, the Site Manager reviewed and approved the deliverables within the times outlined in the TAT.

Contractor Performance Evaluation

In accordance with Chapter 62-772.300(6), Florida Administrative Code, Contractor performance on state-funded petroleum cleanup projects shall be evaluated, monitored, and documented after each task assignment or purchase order. The Contractor Performance Evaluation (CPE) must be completed by the Site Manager after the final invoice has been submitted for each Work Order or Purchase Order. According to Section 19.1 of the PRP SOP Site Manager Guide, Contractor Performance Evaluations should be completed within 30 days of the final Purchase Order invoice payment. The final invoice for the Purchase Order was paid on May 24, 2022.

We verified the Site Manager completed the CPE on June 15, 2022, which was within the required completion timeframe. The Site Manager documented the Contractor’s performance as a Top Performer. Based on a review of the CPE document, it was noted that owner input was requested, and no response was received. According to the CPE Guidance provided on the PRP website, *“If no response has been received from the Owner/RP, then a Communication Log should be completed and routed per the Communication Plan to demonstrate that the Site Manager attempted the survey.”* Based on our review, the request for owner input was not documented in the Communication Log, nor was there any documentation that the owner/operator was given the opportunity to comment on the contractor’s performance.

Site Visits

According to the PRP SOP 12, site visits are conducted so that a Site Manager can gain an understanding of facility-specific conditions and are ideally performed while a contractor is performing work on a facility. Site visits may include inspections carried out by an inspector who completes a Field Inspection Summary Form to inform the Site Manager of important observations. Based on our review, we noted that a Field Inspection Summary Form was completed on February 19, 2020.

¹ OIG Audit Report A-2122DEP-011, issued July 2022.

CONCLUSION

Based on our review of documentation, discussions with PRP staff, and the activities and financial records associated with the Purchase Order, it appears the Contractor generally completed the scope of work in the Purchase Order. However, our review revealed management oversight of the Purchase Order could be improved. Our findings and recommendations are listed below.

FINDINGS AND RECOMMENDATIONS

Finding 1: Retainage – The Department did not withhold payment of the correct amount of retainage or provide written notification to the Contractor of their intent to withhold retainage, as required by the ATC.

Our review noted that the revised deliverables for Tasks 4 and 5, both Quarterly Reports, were not submitted to the Department timely. Regarding the withholding of payment of retainage, the ATC states, the following: *“Department reserves the right to withhold payment of retainage for Contractor’s failure to respond to or correct identified deficiencies within the timeframe stipulated in the task assignment. Department shall provide written notification to Contractor of identified deficiencies and Department’s intent to withhold retainage on the task assignment. Contractor’s failure to rectify the identified deficiency within the timeframe stated in Department’s notice will result in forfeiture of retainage by Contractor.”* For Tasks 4 and 5, the Department communicated deficiencies to the Contractor but did not appear to provide written notification of its *intent to withhold* retainage for failure to rectify the deficiencies timely, as required by the ATC.

Furthermore, the ATC specifies that, *“For deliverables (reports and response to comments) submitted more than seven (7) calendar days past the required due date, retainage will be forfeited on the amount of the entire task associated with the deliverable.”* For Task 4, the Contractor submitted revised deliverables on June 12, 2020, which was eight days past the resubmission due date. The letter from the Department stated, *“In accordance with the terms of the PO [Purchase Order] the retainage for the Quarterly PARM Report must be forfeited.”* The retainage forfeited from Task 4 totaled 5% (\$35.63) of the cost of the deliverable that was submitted late. However, according to the ATC, the entire amount of the retainage for Task 4 should have been forfeited, which would have totaled \$228.98.

Recommendation:

- 1.1 We recommend the Division work with PRP Site Managers to ensure Contractors are notified in writing of the Department’s intent to withhold retainage as required by the ATC, and to ensure retainage amounts forfeited are calculated correctly.

Management Response:

Per the OIG’s recommendation, PRP provided training on retainage in the January 12, 2023, Program Teleconference and followed up with notes from the teleconference which were distributed to all site managers. In addition, reimbursement of the \$193.35 associated with the retainage difference was requested from the Contractor on June 8, 2023.

**Department of Environmental Protection
Office of Inspector General
Audit of Petroleum Restoration Program Agency Term Contract Purchase Order B54CE6
for Remedial Action Construction and Post Active Remedial Monitoring Activities with
Jim Stidham & Associates**

Finding 2: Documentation for SPIs – The Contractor invoiced and received payment for some deliverables that were incorrect or never submitted.

Based on our review, we identified some SPIs that were invoiced but did not have the required documentation submitted. Specifically, within Task 7 a Quarterly Report was submitted when an Annual Report was required. Additionally, a P.E. Review, Evaluation, and Certification of Annual Post Remedial Action Monitoring Report was never submitted. These omissions resulted in the Contractor being paid for deliverables that were not submitted. Specifically, we noted the following:

- Task 7, Pay Item 19-8: Pay Item 19-8 was for an Annual Report. The report submitted, approved, and invoiced for Task 7 was a Quarterly Report. Pursuant to the ATC, the Annual Report must include a conclusions and recommendations section and be signed and sealed by a registered P.G. or registered P.E., which was not included with the Quarterly Report submitted. As a result, the Contractor was paid \$1,514.39 for the cost of an Annual Report; however, the rate of a Quarterly Report is \$712.66.
- Task 7, Pay Item 21-36: The Contractor submitted an invoice for pay item 21-36 which is a P.E. Review, Evaluation, and Certification of Annual Post Remedial Action Monitoring Report. As noted in pay item 19-8, this certification is a component of the Annual Report. Because of the incorrect submission of a Quarterly Report instead of an Annual Report, pay item 21-36 was never submitted, but was included in the Task 7 invoice in the amount of \$492.38.

Recommendation:

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

Management Response:

Per the OIG's recommendation, in response to this finding in a previous audit, PRP provided training after this instance on the evaluation of required items for Invoicing in the November 15, 2022, Program Teleconference and followed up with notes from the teleconference which were distributed to all site managers. In addition, reimbursement of the \$1,294.11 associated with these items was requested from the Contractor on June 8, 2023.

**Department of Environmental Protection
Office of Inspector General
Audit of Petroleum Restoration Program Agency Term Contract Purchase Order B54CE6
for Remedial Action Construction and Post Active Remedial Monitoring Activities with
Jim Stidham & Associates**

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