



## Department of Environmental Protection Office of Inspector General

September 15, 2025

Report A-2425DEP-014

### ***Audit of Agreement MR8320 with MIMS-ALAFIA, LLC***

#### **INTRODUCTION**

The Florida Department of Environmental Protection (Department) Office of Inspector General (OIG) conducted an audit of Agreement MR8320 (Agreement) with MIMS-ALAFIA, LLC (Landowner). This audit was initiated as a result of the OIG Annual Audit Plan for Fiscal Year 2024-2025.

#### **AUDIT SCOPE, OBJECTIVES, AND METHODOLOGY**

The scope of the audit included the deliverables, reimbursements, and other requirements defined in the Agreement for reclamation construction activities between the Department and the Landowner from February 21, 2005, to present. The objectives of the audit were to:

1. Determine whether the Landowner complied with the terms of the Agreement, including the deliverables, reimbursements, and other requirements.
2. Evaluate Department Management oversight and controls over the Landowner's compliance with the Agreement.

To achieve our audit objectives, our methodology included:

- Reviewing applicable statutes, regulations, Department procedures, and other authoritative documents.
- Reviewing the requirements of the Agreement, attachments, and amendments.
- Reviewing appropriate documentation relating to deliverables, invoices, communications, and other supporting documentation.
- Conducting analyses of Landowner activities related to the Agreement.
- Interviewing appropriate Department employees and management regarding the processes and controls used in the duration of the Agreement.

#### **BACKGROUND**

The Department's Division of Water Resource Management (Division) oversees the Nonmandatory Land Reclamation Program. This program was created to provide cost reimbursement grants to landowners for reclamation to eliminate health, safety, and environmental issues existing on abandoned mine sites. These grants are for reclamation of property mined for phosphate prior to 1975, when regulatory requirements for reclamation were introduced. Funding for the Nonmandatory Land Reclamation Program is appropriated from the Nonmandatory Land Reclamation Trust Fund.

The Division entered into the Agreement with the Landowner on May 5, 2009. The Agreement was amended four times. Amendment 1 and Amendment 2 provided additional funding until the Agreement was funded at the maximum funding amount of \$2,781,456.40. Amendment 3 and Amendment 4 changed the Agreement's beginning date and added additional requirements. As of Amendment 4, the Agreement began on February 21, 2005, and expires on May 5, 2026. Per the Agreement, the Landowner selected percentage of completion as the method of reimbursement. To date, the Landowner has received seven payments totaling \$704,406.44.

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## **RESULTS OF AUDIT**

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During the audit, we reviewed the Landowner's compliance with the requirements of the Agreement, including deliverables, reimbursements, and the Division's oversight and internal controls. A summary of our review is below.

### **Required Documentation**

The Agreement states, *The LANDOWNER agrees to submit the plans, specifications and estimated costs, hereinafter referred to as the PLANS AND SPECIFICATIONS to the DEPARTMENT for approval and to execute an AMENDMENT to this Contract authorizing eligible activities.* Our review found the Plans and Specifications have not been completed to date. The work completed thus far includes the Landowner's dewatering of the reclamation program. The Agreement also states, *Any changes to the initiation date, earthmoving stage, revegetation stage, establishment stage, program agent, reimbursement method, or request for approval of surety documents or the procurement of services or commodities under this Contract shall be approved by the DEPARTMENT in writing upon receipt and approval of the Request for Approval form, incorporated herein as Attachment B.* Our review found the Department generally approved changes using Attachment B as required by the Agreement, with some exceptions to the Earthmoving Stage, as noted below.

### **Initiation Date**

The Agreement states, *The LANDOWNER agrees to initiate reclamation activities on the program site within 6 months from the EFFECTIVE DATE of this Contract.* The Agreement's effective date was May 5, 2009, and six months afterwards was November 5, 2009. Our review determined the Landowner received an extension of the initiation of reclamation activity until June 1, 2017. All extensions approved by the Department were completed using Attachment B, as required by the Agreement. The Landowner initiated reclamation activity on January 9, 2017, within the approved extended timeframe.

### **Earthmoving Stage**

Rule 62C-17.002(9), Florida Administrative Code (F.A.C.), defines the Earthmoving Stage to mean, *that period of time which extends from initiation of reclamation activity to and including final contouring of the landform to the point at which the Bureau certifies the earthmoving complete and at which point revegetation would normally occur.* The Agreement states, *the Earthmoving, Revegetation and Establishment Stages of Construction shall be completed in accordance with Rule 62C-17.007, F.A.C. and paragraph 5.* Rule 62C-17.007, F.A.C., states, *Landowners are encouraged to complete reclamation programs in the most timely manner consistent with good quality work, and*

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also allows the following maximum allowed durations for those programs not using sand tailings fill:

<i>Acres In Program</i>	<i>Earthmoving Stage</i>	<i>Revegetation Stage</i>	<i>Establishment Stage</i>	<i>Total Program</i>
<i>20 or less</i>	<i>6 months</i>	<i>1 year</i>	<i>1 year</i>	<i>30 months</i>
<i>21-100</i>	<i>1 year</i>	<i>1 year</i>	<i>1 year</i>	<i>3 years</i>
<i>101-200</i>	<i>2 years</i>	<i>1 year</i>	<i>1 year</i>	<i>4 years</i>
<i>201-400</i>	<i>3 years</i>	<i>1 year</i>	<i>1 year</i>	<i>5 years</i>
<i>401 or more</i>	<i>4 years</i>	<i>1 year</i>	<i>1 year</i>	<i>6 years</i>

According to the Agreement, the Landowner's property is 547.1 acres. As mentioned previously, the Landowner initiated reclamation activity on January 9, 2017. The Contract Manager confirmed the reclamation program was not using sand tailings fill. Based on the table above, the maximum allowed duration of the reclamation program's Earthmoving Stage was 4 years. The Earthmoving Stage should have been completed by January 2021, unless an extension was approved by the Department. According to Rule 62C-17.007(7)(a), F.A.C., *The Department may approve the extension of any stage for good cause. The Landowner shall provide a detailed explanation of the good cause in any request for extension of any stage.* Our review determined an extension of the Earthmoving Stage was not requested or approved by the Department. Thus, the Landowner did not complete the Earthmoving Stage timely as required by the Agreement and Rule 62C-17.007, F.A.C.

#### Surety Documents

The Agreement states, *The LANDOWNER acknowledges that the first request for reimbursement will not be paid until the LANDOWNER has initiated reclamation activities and provided the DEPARTMENT with an acceptable method of Surety as required by Rule 69I-44.007(3), F.A.C.* Rule 69I-44.007(3), F.A.C. required the Landowner to provide a documented first mortgage, good and sufficient surety bond, or an irrevocable letter of credit. Our review found the Landowner provided a first mortgage and title opinion to the Department. The Department approved the surety document using Attachment B, as required by the Agreement.

#### Procurement of Services

According to the Agreement, procurement of services should be submitted on Attachment B for approval. Our review determined Attachment B was generally completed for the Landowner's procurement of services, as required by the Agreement.

#### Cost Reimbursement

The Agreement states, *The LANDOWNER shall submit requests for reimbursement of eligible activity costs on such forms as provided by the DEPARTMENT as referenced in Chapter 62C-17.013(3), F.A.C. The LANDOWNER shall, in submitting reimbursement requests, comply with all the requirements of Chapter 69I-44.007, Part I and Chapter 62C-17, F.A.C.* Our review determined the Landowner received payment prior to providing all documentation required by the Agreement and applicable rules. Additionally, some documentation provided did not support the costs submitted by the Landowner for reimbursement. A summary of our review is below.

#### Financial Disclosure Affidavit

Rule 69I-44.007(5)(a), F.A.C., requires the Landowner to provide a financial disclosure affidavit to the Department prior to reimbursement. The purpose of the affidavit is for the Landowner to make a full and fair disclosure to the Department of any financial, familial, or other beneficial relationship between the Landowner and any subcontractors used by the Landowner. One affidavit provided for a subcontractor was dated September 7, 2017, and the Landowner received payment 1 on June 6, 2018. While the Landowner provided an affidavit prior to the first payment, it did not include all the subcontractors for which the Landowner requested reimbursement and was paid. A second affidavit was received with the second payment request, on March 26, 2019, which did include all the subcontractors reimbursed in the first payment; however, this was almost a year past the reimbursement date of June 6, 2018.

#### Supporting Documentation

Rule 69I-44.007(5)(c), F.A.C., states, *Copies of cancelled checks paid to contractors, vendors, employees, etc., for which reimbursement is being requested. In lieu of such cancelled checks, the Department may accept an affidavit from the landowner listing all payments made by payee, date of payment, check number, and certifying that such checks have been issued, delivered and paid for all items for which reimbursement is being requested.* With each payment request, the Landowner submitted an affidavit listing all payments made to subcontractors and included the required information. However, the affidavits also listed work completed by the Landowner but did not include a listing of all payments made by payee (Landowner), date of payment, or check number. In addition, there was no supporting documentation to verify the amount of reimbursement requested.

Pursuant to Rule 62C-17.012(2)(b), F.A.C., *For all programs involving the use of the Landowner's employees, equipment, or inventorial materials and supplies to perform approved reclamation activities, the Landowner shall provide the Department, prior to submitting the first reimbursement request, detailed information to verify the reimbursable cost for labor, equipment and/or inventorial materials and supplies and to ensure compliance with "Reclamation Work Performed By Landowner" section of Chapter 69I-44, F.A.C.* Our review determined detailed information to verify the reimbursable cost for labor, equipment and/or inventorial materials and supplies was not provided by the Landowner.

The Landowner is also required to submit the following forms: Landowner's Labor and Travel Cost Schedule, Direct Material Purchases Schedule, and Landowner's Equipment Cost. The Landowner provided Landowner's Equipment Cost forms, but no invoices or other supporting documentation were provided to verify the cost of equipment used or purchased by the Landowner. Moreover, the forms provided include a certification that states the Landowner's personnel were used in completing the work. However, the Landowner did not provide a Landowner's Labor and Travel Cost Schedule or other supporting documentation to verify the cost of personnel used, as required by the Agreement.

#### Subcontractors

In accordance with Rule 69I-44.007(5)(d), F.A.C., the Landowner is required to submit the following to the Department prior to reimbursement, *Copies of all contracts between the landowner and contractors and copies of bid tabulations and bid specifications when*

*applicable*. The Landowner provided proposals and a purchase order for each subcontractor. The purchase order was a one-page document which generally contained a brief description of the work, quantity, and the total price.

The Agreement requires the Landowner to include certain provisions in all subcontracts. Specifically, *The LANDOWNER shall comply with all applicable federal, state, and local laws, ordinances, rules and regulations in discharging its obligations hereunder...The LANDOWNER further agrees to include this provision in all subcontracts issued as a result of this Contract*. The Agreement also states, *The employment of unauthorized aliens by any LANDOWNER is considered a violation of Section 274A(e) of the Immigration and Nationality Act...The LANDOWNER shall be responsible for including this provision in all subcontracts with private organizations issued as a result of this Contract*. Based on our review, neither the purchase orders or proposals provided for each subcontractor include the provisions relating to compliance with applicable federal, state, and local laws, or employment of unauthorized aliens, as required by the Agreement. Additionally, our review noted six out of eight subcontractor purchase orders noted the wrong contract number.

### **Additional Agreement Requirements**

#### **Property Instrument**

The Agreement states, *The LANDOWNER agrees to grant the DEPARTMENT an easement, or other comparable property instrument acceptable to the DEPARTMENT, over the entire real property described in **Attachment A***. Our review found the Landowner granted the Department a Deed of Conservation Easement, as required by the Agreement.

#### **Insurance**

The Agreement states, *The LANDOWNER shall secure and maintain or cause its subcontractors to secure and maintain Commercial General Liability (CGL) insurance including bodily injury and property damage...Proof of such insurance shall be provided to the DEPARTMENT before commencing work under this Contract*. Our review found the Landowner maintained insurance coverage, as required by the Agreement.

#### **E-Verify Program for Employment Verification**

Amendment 3 states, *The LANDOWNER agrees that it will enroll and participate in the federal E-Verify Program for Employment Verification under the terms provided in the "Memorandum of Understanding" governing the program*. The Landowner was required to provide documentation of such enrollment to the Department within 30 days of the Amendment 3 effective date, which was May 5, 2014. Our review found the Landowner did not provide documentation of enrollment to the Department within 30 days of the effective date, as required by Amendment 3, or during the audit period.

#### **Quarterly Planned and Expenditure Report**

Rule 62C-17.012(2)(a), F.A.C. states, *The Landowner shall provide the Department with a certified report of program incurred costs and progress, on forms provided by the Department, made during each calendar quarter of a reclamation contract beginning three (3) calendar months after the effective date of the reclamation contract. Each quarterly report shall be due within thirty (30) days following the last day of each quarter. Form DEP 53-001(16) "Quarterly Planned and Expenditure Report" is incorporated by reference into*



*this rule.* Our review found the Landowner did not provide Quarterly Planned and Expenditure Reports to the Department. During the audit, the Contract Manager explained that these reports were not required anymore because of the duplication of information provided in cost reimbursement documents. However, our review noted no amendment to the Agreement, nor changes to Rule 62C-17, F.A.C., were completed to reflect this practice.

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## CONCLUSION

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During the audit, we reviewed the Landowner's compliance with the requirements of the Agreement, including deliverables, reimbursements, and the Division's oversight and internal controls. Based on our review, we determined the Landowner did not comply with all requirements of the Agreement, did not timely complete the Earthmoving stage, and received payment prior to providing all required documentation. Our findings and recommendations are listed below.

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## FINDINGS AND RECOMMENDATIONS

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**Finding 1: Duration of Reclamation Program – The Earthmoving Stage was not completed timely, and no extension was requested or approved by the Department, as required by the Agreement and Rule 62C-17.007, F.A.C.**

The Agreement states, *The LANDOWNER agrees to initiate reclamation activities on the program site within 6 months from the EFFECTIVE DATE of this Contract, and that the Earthmoving, Revegetation and Establishment Stages of Construction shall be completed in accordance with Rule 62C-17.007, F.A.C.* Rule 62C-17.007, F.A.C., specifies the following maximum allowed durations:

<i>Acres In Program</i>	<i>Earthmoving Stage</i>	<i>Revegetation Stage</i>	<i>Establishment Stage</i>	<i>Total Program</i>
<i>20 or less</i>	<i>6 months</i>	<i>1 year</i>	<i>1 year</i>	<i>30 months</i>
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**Recommendation:**

We recommend the Division implement internal controls to ensure the Landowner completes reclamation activities within the timeframes specified in Rule 62C-17.007, F.A.C., or requests an extension, providing a detailed explanation of the good cause for the extension, and obtaining Department approval.

**Management's Response:**

The Division agrees with this straightforward interpretation of the rule as written, and plans to review and revise the rule to better account for the reality of the timing, where dewatering is necessary, before the actual design of the earthwork can be completed by the Landowner. This effort will help address the aspects that were discussed in conjunction with audit where, for practical aspects, dewatering works often have to precede any final design and implementation of earthmoving activities. The Division has submitted its five-year plan for reviewing all rules as required under Chapter 2025-189, Laws of Florida (i.e., SB 108), and Chapter 62C-17, F.A.C., was previously identified for year one of that required five-year review and rule update plan.

**Finding 2: Cost Reimbursement – The Landowner received payment prior to providing all documentation required by the Agreement and applicable Florida Rules.**

The Agreement states, *The LANDOWNER shall submit requests for reimbursement of eligible activity costs on such forms as provided by the DEPARTMENT as referenced in Chapter 62C-17.013(3), F.A.C. The LANDOWNER shall, in submitting reimbursement requests, comply with all the requirements of Chapter 69I-44.007, Part I and Chapter 62C-17, F.A.C.* Our review determined the Landowner received payment prior to providing all documentation required by the Agreement and applicable rules. Additionally, some documentation provided did not support the costs submitted by the Landowner for reimbursement. A summary of our review is below.

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**Supporting Documentation**

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Pursuant to Rule 62C-17.012(2)(b), F.A.C., *For all programs involving the use of the Landowner's employees, equipment, or inventorial materials and supplies to perform approved reclamation activities, the Landowner shall provide the Department, prior to submitting the first reimbursement request, detailed information to verify the reimbursable cost for labor, equipment and/or inventorial materials and supplies and to ensure compliance with "Reclamation Work Performed By Landowner" section of Chapter 69I-44, F.A.C.* Our review determined detailed information to verify the reimbursable cost for labor, equipment and/or inventorial materials and supplies was not provided by the Landowner.

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**Recommendation:**

We recommend the Division strengthen internal controls to ensure required documentation is received, reviewed, and complete prior to approving reimbursement. We also recommend the Division review payments made to the Landowner to determine if additional documentation is needed to verify work performed by the Landowner.

**Management's Response:**

DWRM personnel will work to ensure that internal controls are strengthened (e.g. checklist, document management) so that all required documentation is received and verified through a secondary reviewer before a Request for Reimbursement is processed for payment.

**Finding 3: Subcontracts – The Landowner's subcontracts did not include provisions relating to the compliance with applicable federal, state, and local laws, or employment of unauthorized aliens, as required by the Agreement.**

In accordance with Rule 69I-44.007(5)(d), F.A.C., the Landowner is required to submit the following to the Department prior to reimbursement, *Copies of all contracts between the landowner and contractors and copies of bid tabulations and bid specifications when applicable.* The Landowner provided subcontractor proposals and purchase orders issued to each subcontractor. The purchase order was a one-page document which generally contained a brief description of the work, quantity, and the total price.



The Agreement requires the Landowner to include certain provisions in all subcontracts. Specifically, *The LANDOWNER shall comply with all applicable federal, state, and local laws, ordinances, rules and regulations in discharging its obligations hereunder...The LANDOWNER further agrees to include this provision in all subcontracts issued as a result of this Contract.* The Agreement also states, *The employment of unauthorized aliens by any LANDOWNER is considered a violation of Section 274A(e) of the Immigration and Nationality Act...The LANDOWNER shall be responsible for including this provision in all subcontracts with private organizations issued as a result of this Contract.* Based on our review, neither the purchase orders or proposals provided for each subcontractor include the provisions relating to compliance with applicable federal, state, and local laws, or employment of unauthorized aliens, as required by the Agreement. Additionally, our review noted six out of eight subcontractor purchase orders noted the wrong contract number.

**Recommendation:**

We recommend the Division implement internal controls and work with the Landowner to ensure their subcontracts include the provisions required by the Agreement.

**Management's Response:**

DWRM personnel will seek input from Office of General Counsel to determine how the additional provisions should be required for the Landowners' subcontracts. For example, it may be appropriate to develop a Contract amendment to include an attachment to the contract that specifies those exact provisions that are required for subcontractors, as is done under some other Department contracts. DWRM will continue to work to ensure that internal controls are strengthened and implemented sufficiently, and that the Landowner has direction to incorporate appropriate provisions for its subcontractors.

**Finding 4: E-Verify Program – The Landowner did not provide documentation of enrollment to the Department within 30 days of the effective date, as required by Amendment 3, or during the audit period.**

Amendment 3 states, *The LANDOWNER agrees that it will enroll and participate in the federal E-Verify Program for Employment Verification under the terms provided in the "Memorandum of Understanding" governing the program.* The Landowner was required to provide documentation of such enrollment to the Department within 30 days of the Amendment 3 effective date, which was May 5, 2014. Our review found the Landowner did not provide documentation of enrollment to the Department within 30 days of the effective date, as required by Amendment 3, or during the audit period.

**Recommendation:**

We recommend the Division work with the Landowner to ensure their enrollment and participation in the E-Verify Program for Employment Verification and ensure documentation of such is provided to the Department and maintained, as required by the Agreement.

**Management's Response:**

DWRM personnel will advise the Landowner of the requirements to enroll and participate in the federal E-Verify program under the terms of the MOU, as was incorporated in the contract by Amendment #3 in 2014. DWRM is requesting that the Landowner provide a

copy of the “E-Verify Company Profile” screen as proof of enrollment pursuant to amended paragraph 46 of the Contract and will review the Landowner’s documentation to ensure that the enrollment has been satisfactorily completed.

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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 Section 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 Melanie Prescott 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:

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