

# **Audit of Madison County Compliance Contract GC704**

## **Division of Waste Management**

### **Report: A-1516DEP-002**

#### **Office of Inspector General**

#### **Internal Audit Section**

#### **Florida Department of Environmental Protection**

**February 16, 2016**

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The Office of Inspector General (OIG) conducted an audit of Contract GC704 (Contract) between the Division of Waste Management (Division) Permitting and Compliance Assurance Program (Program) and the Department of Health, Madison County Health Department (County.) This audit was initiated as a result of the Fiscal Year (FY) 2015-2016 Annual Audit Plan.

## **Scope & Objectives**

The scope of this audit included an examination of the Contract and its corresponding Task Assignments issued between July 1, 2013 and June 30, 2015. The audit included Task Assignments 9, 10, 11, and 12. The Contract covers the compliance inspection services in Madison, Dixie, Jefferson, Lafayette, Suwannee, and Taylor Counties. The objectives were to evaluate the:

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

## **Methodology**

We conducted this audit under the authority of Section 20.055, Florida Statutes (F.S.), and in accordance with the Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing*. This audit included assessment and testing of internal and external records and procedures. Division, Northeast District (NED), Northwest District (NWD), and County Staff provided information through interviews and documentation requests. Our procedures included a review of the following:

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- Contract, amendments, and guidance documents
- Section 376.3071 and 376.3073, F.S.
- Chapter 62-761 Florida Administrative Code (F.A.C.), Underground Storage Tank System, and Chapter 62-762 F.A.C. Aboveground Storage Tank System
- The Energy Policy Act of 2005 and the Environmental Protection Agency (EPA)/ Department of Environmental Protection (Department) Grant Work Plan
- Task Assignment and invoices for Task Assignments 9, 10, 11, and 12
- Florida Inspection Reporting for Storage Tanks (FIRST) downloads, documentation, and program guidance

## **Background**

Section 376.3073(1) F.S. indicates 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, upon approval of its application an eligible local government, through written contract with the Department, shall receive funds for the implementation of a compliance verification program from the Inland Protection Trust Fund (IPTF).

The Department entered into the Contract with the County for a 10-year period beginning July 1, 2007. In 2012, the Contract was expanded to include Jefferson County. In addition, the Division amended compensation for services from a lump sum payment per Task

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Assignment to payment for specific inspections. Under this compensation agreement, the type of inspections determines the amount the Division pays the County.

Task Assignments include assigned annual inspections and estimated variable inspections. The total amount allocated for Task Assignments 9, 10, 11, and 12 was \$137,814.93.

<b>Contract GC704 Task Assignments</b>		
<b>Task Assignment</b>	<b>Period</b>	<b>Amount</b>
9	July 1, 2013 through June 30, 2014	\$ 9,264.54
10	July 1, 2013 through June 30, 2014	\$53,039.08
11	July 1, 2014 through June 30, 2015	\$14,744.81
12	July 1, 2014 through June 30, 2015	\$60,766.50
	<b>Total</b>	\$137,814.93

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. In addition, the Department's goal is to have an on-site inspection of aboveground storage tanks (AST) at least once every five years. The Department Contract Manager considers the type of tanks, date of last inspection, and previous inspections to identify the priority facilities for annual inspection. The 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 Contract Manager and

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County Inspector. In the event of facility inspection changes, the County notifies the Division with possible facility replacements<sup>1</sup>. The District Task Managers perform the Storage Tank System Compliance Verification Program Review. Since the Contract included counties in two Districts, the County received two Task Assignments each fiscal year along with separate program reviews. The NWD monitored Task Assignment 9 and Task Assignment 11. The NED monitored Task Assignment 10 and Task Assignment 12.

Inspections are either routine or variable. The County performs routine inspections on facilities from the facility listing. The County performs variable inspections in response to non-routine events such as discharges, installations, and tank closures.

The County received compensation of \$128,487.15 for the inspections completed in Task Assignments 9, 10, 11, and 12.

<b>Task Assignment Inspections and Payment</b>				
<b>Task Assignment</b>	<b>Inspections</b>			<b>Amount</b>
	<b>Routine Assigned</b>	<b>Routine Completed</b>	<b>Variable</b>	
9	23	23	3	\$ 9,264.54
10	112	112	33	\$49,228.16
11	33	33	6	\$14,102.85
12	136	136	23	\$55,891.60
<b>Total</b>		304		\$128,487.15

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<sup>1</sup> Beginning July 1, 2015, the County began submitting substitution requests directly to the Division's Contract Manager for review and approval.

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The County received \$9,327.78 less than the tasked amount because the number of variable inspections completed was less than the number and type of inspections estimated.

## **Results & Conclusions**

### County Performance

The County completed 304 assigned annual routine inspections in Task Assignments 9, 10, 11, and 12. Over the four Task Assignments, fourteen facilities were substituted and the substitutions were approved prior to the substituted facility's inspection. The County also completed 65 variable inspections. The County Inspection Compliance Rate<sup>2</sup> was 48% for the four Task Assignments.

Our sample of 68 completed inspections were documented in the FIRST database. Of the 68 completed inspections, 63 indicated that the results were communicated<sup>3</sup> to the facility representative.

The Contract requires the County to inspect 33%, 66%, and 100% of the facilities assigned after the fourth, eighth, and twelfth months, respectively. The County did not meet one or more required inspection percentages in three of the four Task Assignments and did not receive payment until the County had achieved the related percentage rate<sup>4</sup> of the assigned inspections.

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<sup>2</sup> Compliance rate means that there were no violations cited in 48% of the routine inspections.

<sup>3</sup> Comment that the report was mailed, e-mailed, or the report was signed by a facility representative.

<sup>4</sup> In Task Assignment 11, the County's October 2014 invoice had an adjusted service period from October 1, 2014 through November 17, 2014.

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Task Assignment Inspections by Required Periods as a Percentage of Total Inspections												
Task Assignment	Assigned Facilities	October			February			June			Inspections	
		Inspections Completed	Percentage		Inspections Completed	Percentage		Inspections Completed	Percentage		Variable	Total
9	23	7	30%		14	61%		23	100%		3	26
10	112	37	33%		71	63%		112	100%		33	145
11	33	11	33%		22	67%		33	100%		6	39
12	136	0	0%		65	48%		136	100%		23	159

*\*highlighted percentage indicates the County did not meet the percentage metric*

The Contract requires the County to submit the invoice for the prior month by the fifteenth day of the following month and gives the District ten working days to review. In Task Assignments 9 and 10, invoices were submitted and reviewed as required. However, in Task Assignment 11, the service period was extended to reach the Contract metric for the October payment. In Task Assignment 12, eight of twelve invoices had delayed payments by the Task Manager due to performance issues. The performance issues included not meeting the performance timing metrics and the Inspector not providing a status on open violations to the Task Manager. The status of violations is required to determine follow-up action, such as, closing the violation, re-inspection of the facility, issuance of a second non-compliance letter, and referral of the facility to the District for enforcement.



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Department Oversight

The Districts' Task Managers review the County's invoices and monitor the County's performance monthly. This review includes the comparison of annual compliance inspections performed each month to the assigned facilities from the Task Assignment facility list. The NED Contract Task Manager documented the reviews by memo with the County.

The District' Task Managers also compare the total number of routine annual inspections performed in the fourth, eighth, and twelfth months to the total number tasked to determine if the County met the required metrics. The Districts' Task Managers review variable inspections and a sample of annual inspections, as well as, conducting Quality Assurance/Quality Control Inspections to support the program reviews. Program reviews are used to evaluate County contract performance. During the Task Assignments, program review scores went from a score of 96.94 out of 100 points during FY 2013-2014 to 75 out of 100 points in FY 2014-2015. The program review scores highlight a decline in County inspection performance between the Fiscal Years as measured by the Districts<sup>5</sup>.

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<sup>5</sup> Northeast and Northwest Districts

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<b>District Oversight</b>			
<b>Task Assignment</b>	<b>Fiscal Year</b>	<b>Quality Assurance / Quality Control Inspections</b>	<b>Program Review Scores</b>
9	2013-2014	3	96.94
10	2013-2014	3	93.00
11	2014-2015	4	77.08
12	2014-2015	2	75.00

Guidance Document F, Level of Effort Guidance states, the local program shall issue a Non-Compliance letter within ten working days to the facility owner/operator upon discovery of a non-compliance violation. During the four Task Assignments, the compliance inspections, 22.5% (36/160) were closed within ten net working days. Of the required Non-Compliance Letters for Task Assignments 9, 10, 11, and 12, 77.5% (124/160) were issued over ten working days of the violation. The percentage rates issued over ten working days were 65% and 97% for Task Assignment 11 and Task Assignment 12, respectively.

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<b>Working Days before Non Compliance Letters (NCLs) were Issued</b>										
<b>Task Assignment</b>	<b>Annual Inspections</b>	<b>Inspections with NCLs</b>	<b>Working Days</b>							
			<b>=&lt;10</b>	<b>&gt;10</b>	<b>11-19</b>	<b>20-29</b>	<b>30-39</b>	<b>40-49</b>	<b>&gt;50</b>	<b>%&gt;10</b>
9	23	11	1	10	5	3	2	0	0	91%
10	116	56	24	32	23	4	4	0	1	57%
11	33	26	9	17	8	2	2	3	2	65%
12	136	67	2	65	20	21	11	2	11	97%
<b>Total</b>	308	160	36	124						78%

Contract GC704, Attachment A, Discharge Inspection states, in part, that a discharge requires a separate inspection within ten working days of reporting. The District requested discharge inspections from the County at two facilities on February 19, 2015. The County opened in FIRST a discharge inspection 11 working days later on March 5, 2015. The County Inspector performed the on-site inspection on March 6, 2015.

Guidance Document F states, 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. The Violation Reports recorded 190 violations at 85 facilities. Twenty-one violations had exceeded 180 days, as of June 30, 2015, and had not been referred to the Districts. During the monthly invoice reviews, the NED identified where follow-up actions were required before the facility inspection could be closed or referred. The NED withheld payment of County invoices because of non-performance.

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Our findings and recommendations are included in the remainder of this report.

## Findings & Recommendations

### Finding 1: County Inspection Performance

The Task Assignments included a percentage of assigned annual inspections that the County must achieve each four-month period. The County did not meet all of the performance percentages for Task Assignment 11 and Task Assignment 12. A contributing factor to the County not meeting the metrics was that the County opened the first priority annual inspections in late August as opposed to early July. We compared the number of annual compliance inspections opened and closed by month.

Task Assignment 11 metrics were met. However, the County met the performance metric for the month of October because the service period was extended to October 1, 2014 through November 17, 2014.

<b>Task Assignment 11 Comparison of the Number of Annual Compliance Inspections</b>													
<b>Open and Closed by Month</b>													
<b>Month</b>	<b>Jul</b>	<b>Aug</b>	<b>Sep</b>	<b>Oct</b>	<b>Nov</b>	<b>Dec</b>	<b>Jan</b>	<b>Feb</b>	<b>Mar</b>	<b>Apr</b>	<b>May</b>	<b>Jun</b>	<b>Total</b>
<b>Open</b>	0	3	0	9	1	4	1	7	1	0	1	6	33
<b>Closed</b>	0	0	0	7	4	2	2	7	3	0	0	8	33
<b>Cumulative</b>	0	0	0	7	11	13	15	22	25	25	25	33	
<b>Metric</b>				11				22				33	

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In Task Assignment 12, the County Inspector had completed none of the priority annual compliance inspections by the end of October. The metric required forty-five inspections to be completed. According to our interview with the County Inspector, there was no specific reason provided for the delay in beginning the inspections. However, the Program reissued the Task Assignment listings of assigned annual compliance inspections.

<b>Task Assignment 12 Comparison of the Number of Annual Compliance Inspections</b>													
<b>Open and Closed by Month</b>													
<b>Month</b>	<b>Jul</b>	<b>Aug</b>	<b>Sep</b>	<b>Oct</b>	<b>Nov</b>	<b>Dec</b>	<b>Jan</b>	<b>Feb</b>	<b>Mar</b>	<b>Apr</b>	<b>May</b>	<b>Jun</b>	<b>Total</b>
<b>Open</b>	0	4	0	32	10	9	15	14	26	9	0	17	136
<b>Closed</b>	0	0	0	0	17	28	4	16	38	0	1	32	136
<b>Cumulative</b>	0	0	0	0	17	45	49	65	103	103	104	136	
<b>Metric</b>				45				91				136	

*\*highlighted percentage indicates the County did not meet the percentage metric*

On November 17, 2014, the Program notified the County that further payments would be withheld until the County meets the contracted performance metric. Payments were withheld in Task Assignment 12 for eight of the twelve invoices.

In response to the Program Performance Review for Task Assignment 12, the Department of Health<sup>6</sup> initiated a corrective action plan that created a tracking system for compliance inspection time frames, level of effort, closure letters, and performance deficiencies. As of November 12, 2015, the County had not achieved the goals of the corrective action plan.

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<sup>6</sup> Madison County Health Department

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The NED had not recommended payment of the three invoices (July through September<sup>7</sup>) received. The County has completed the 33% metric of routine compliance inspections as of the end of October 2015.

### **Recommendation**

Although the Districts have demonstrated active measures to work with the County to achieve adequate performance under the Contract, we recommend the Program continue to work closely with the County to ensure the task assignment required inspections are conducted. If the County cannot meet EPA and Department inspection requirements despite the corrective action plan, the Division should consider remedies provided under the Contract to include termination of the Contract.

### **Finding 2: Open (Variable) Inspections Activities**

The County had 14 variable inspections listed in the FIRST database as open on June 30, 2015, at the end of Task Assignments 11 and 12. Two of the fourteen inspections were installation inspections and were opened in September 2013. The Contract does not specify the number of days variable inspections can remain open, but it requires that all inspections be documented in the FIRST database. The County Inspector indicated that the installation inspections had been completed although the completion was not documented in the FIRST database.

Facility 8516980 installation inspection was opened September 13, 2013. The FIRST journal entry on September 13, 2013, stated the inspection was scheduled for September 17,

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<sup>7</sup> October 2015 invoice had not been received as of November 12, 2015.

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2013. There was no entry on September 17, 2013 and the next entry was an annual compliance inspection on March 4, 2014. We found no other installation inspection entries.

Facility 9813620 installation inspection was opened September 16, 2013 and the FIRST recorded entry was on February 24, 2014. However, an e-mail in OCULUS from the County Inspector dated September 23, 2014 to Tank Registration stated that the tanks were installed in March 2014 and requested the tanks be registered. The facility was listed as a priority inspection on Task Assignment exhibit starting in July 1, 2015.

Without an installation inspection documentation in FIRST, the Department has no assurance that the storage systems were installed in accordance with Department rules.

**Recommendation**

We recommend the Division take active steps to work with the County to ensure all open inspection activities are updated in FIRST and completed in a timely manner.

*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*

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# Florida Department of Environmental Protection

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## Memorandum

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

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

**SUBJECT:** Response to Preliminary Audit Report A-1516DEP-002  
Madison County Compliance Contract GC704

**DATE:** February 15, 2016

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The Division of Waste Management has reviewed the Audit of Madison County Compliance Contract GC704, Report A-1516DEP-002. The Division concurs with the Findings and Recommendations presented in the preliminary report with regard to storage tank compliance services provided by the Florida Department of Health in Madison County (Madison County).

### **Office of Inspector General Findings and Recommendations:**

#### Finding 1: County Inspection Program

The Task Assignments included a percentage of assigned annual inspections that the County must achieve each four-month period. The County did not meet all of the performance percentages for Task Assignments 11 and 12. For Task Assignment 11 the metrics were met. However, the County met the metrics because the service period was extended. For Task Assignment 12, the County had completed none of the priority annual compliance inspections. The metric required 45 inspections to be completed.

#### Recommendation:

Although the Districts have demonstrated active measures to work with the County to achieve adequate performance under the Contract, we recommend the Program continue to work closely with the County to ensure the task assignment required inspections are conducted. If the County cannot meet U.S. EPA and Department inspection requirements despite the corrective action plan, the Division should consider remedies provided under the Contract to include termination of the Contract.



## Finding 2: Open (Variable) Inspections Activities

The County had 14 variable inspections listed in the FIRST database as open on June 30, 2015, at the end of Task Assignments 11 and 12. Two of the 14 inspections were installation inspections and were opened in September, 2013. The Contract does not specify the number of day's variable inspections can remain open, but it requires that all inspections be documented in the FIRST database. The County indicated that the installation inspections had been completed although the completion was not documented in the FIRST database.

### Recommendation:

We recommend the Division take active steps to work with the County to ensure all open inspection activities are updated in FIRST and completed in a timely manner.

### **Response from the Division of Waste Management:**

The Permitting and Compliance Assistance Program (Program) along with the Northwest and Northeast Districts have been closely monitoring the performance of Madison County over the last several months. For Fiscal Year 15-16, the Program and the Districts stopped payment of invoices until performance deficiencies were corrected. Deficiencies on the contract were identified in the Northeast District memorandum sent to Madison County on September 22, 2015. On September 30, 2015, Madison County provided a Corrective Action Plan (CAP). The CAP proposed that the contractor would assure compliance with the contract going forward and provided a time frame for bringing deficiencies into compliance. Certain deficiencies were to be corrected by October 15, 2015, and the remaining deficiencies by December 31, 2015. All deficient tasks were completed by the above dates as stated in the CAP. Based on this completion of the tasks, the Program approved payment up to Invoice No. 3. The Program will not approve payment for Invoices 4 through 6 until obligations in the contract are met.

The Program and the Districts will continue to monitor Madison County performance, and respond accordingly, for both annual compliance inspections and the proper completion and documentation of variable inspections in the FIRST database system for the remainder of the Task Assignment.

Thank you for your continuing efforts to help the Division improve its programs and processes through quality audits.