

**Review of Agency Term Contractor
Advanced Environmental Technologies, LLC.**

Division of Waste Management

Report: A-1617DEP-018

Office of Inspector General

Internal Audit Section

Florida Department of Environmental Protection

August 31, 2017

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Tallahassee, Florida 32399-3000
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Review of Agency Term Contractor
Advanced Environmental Technologies, LLC
Division of Waste Management



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The Office of the Inspector General (OIG) conducted a Review of Agency Term Contracts¹ (Contract) GC785, GC728, and GC833 between Advanced Environmental Technologies, LLC (Contractor) and Florida Department of Environmental Protection (Department) Division of Waste Management (Division) Petroleum Restoration Program (PRP). This review was part of the Fiscal Year (FY) 2016-2017 Annual Audit Plan.

Scope & Objectives

The scope of this review included Contract activities between July 1, 2015 and June 30, 2016. The objectives were to:

- evaluate the Contractor performance evaluation, and management oversight in accordance with the Contract
- determine whether approved Purchase Order invoices were allowable and supported in accordance with the Contract and required Purchase Order activities

Methodology

This review was conducted under the authority of Section 20.055, Florida Statutes (F.S.), and in conformance with the current *International Standards for the Professional Practice of Internal Auditing*, published by the Institute of Internal Auditors. Our procedures included review of Contracts, Purchase Orders and Contractor documentation, and interviews with PRP staff.

¹ Agency Term Contracts GC785, GC728, and GC833 differ by geographical Regions: North, Central, and South.

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Background

PRP manages activities necessary to prioritize, assess, and cleanup sites contaminated by discharges of petroleum and petroleum products from stationary petroleum storage systems. In accordance with Section 376.3071, F.S., the Department has implemented rules and procedures to administer the program through contracted professional services.

Competitive procurement of professional services for site rehabilitation activities is specified in Chapter 287, F.S. Under the former Petroleum Cleanup Preapproval Program prior to 2013, Department contractors were designated for Department funded site remediation services primarily by site owners/responsible parties. In 2013, PRP entered into Agency Term Contracts and began transitioning to competitive processes for assigning sites to Agency Term Contractors. For efficiency and cost effectiveness through this transition, PRP allowed Agency Term Contractors to retain sites that had been previously assigned and were undergoing remediation activities.

Chapter 62-772.401, Florida Administrative Code (F.A.C.) *Alternative Contractor Selection and Assignment*, provides circumstances where site owners/responsible parties may continue to designate or recommend an Agency Term Contractor. These include participants in the Low Score Site Initiative (LSSI), Advance Cleanup agreements, and Conditional Closure agreements.

For sites considered for competitive assignment, PRP initially applied a Relative Capacity Index (RCI) formula that ranked Agency Term Contractors. The RCI incorporated factors including financial guarantees, encumbrances, pay schedule rankings, and initial Agency Term Contractor evaluations. Assignment using the RCI was used until January 2016. In January

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2016, PRP began transitioning to a Contractor Selection Formula to improve competitive assignment and incorporate Contractor performance as a component in the assignment process. While not fully implemented at the time of this review, the Contractor Selection Formula factors incorporate performance, site owner/responsible party recommendation, and pay schedule or rate quotes.

Agency Term Contractors are currently awarded sites through the Contractor Selection Formula unless they were already designated and under a continuing scope of work or if one of the Alternative Contractor Selection and Assignment circumstances defined under Chapter 62-772.401, F.A.C. applies. According to the Contractor Assignment Run Report for FY 2015-2016, 2,421 sites were assigned to 72 Agency Term Contractors as follows.

PRP Sites Assigned during FY 2015-2016	
Assignment Type	Number of Sites
Advanced Clean-up (Performance Based Clean-up Bundle Sites)	42
Advanced Clean-up (Cost Share)	124
Direct Assign for Continuing Scope	1,411
Contractor Selection Formula	766
Assignment through E-Quote	8
Other ²	70
Total	2,421

Competitive assignment processes were used in the assignment of 774³ (32%) sites. Of the total, 1,577⁴ (65%) sites were assigned through former or current provisions for site owner/responsible party designation.

² Site assignment included replacement for previous assignment changes, and Homeland or Transportation Security site assignments.

³ Sites assigned through Contractor Selection Formula and E-Quote.

⁴ Sites assigned through Advanced Cleanup agreements or Direct Assign for Continuing Scope.

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Chapter 62-772.300 F.A.C. *Contractor Qualification and Performance Reviews*, revised April 2016, provides for Contractor performance evaluation after each task assignment or Purchase Order. Contractor performance is to be considered prior to assignment of rehabilitation tasks, authorizing Contract renewals, and determining retainage. The PRP Contractor Performance Evaluation Form includes rating in the categories of *Project Timeliness, Invoicing, Reports, Communication, Cost Control, Quality and Technical Competence* as well as *Owner/Responsible Party Input*. An overall score is calculated, ranging between 0 and 2, with an overall score of 1.5 and above being a Top Performer.

The Department entered into Contracts GC785, GC728, and GC833 with the Contractor on February 27, 2014 for a five-year period. An amended and restated Contract was issued September 30, 2015. During FY 2015-2016, the Contractor was assigned 95 sites. Of these, 77 (81%) were assigned through former or current provisions for site owner or responsible party designation per the table below.

Contractor Sites Assigned during FY 2015-2016	
Assignment Type	Number of Sites
Advanced Clean-up (Cost Share)	3
Direct Assign for Continuing Scope	74
Contractor Selection Formula	16
Other	2
Total	95

During this period, 108 Purchase Orders⁵ were issued to the Contractor for the assigned sites. Contractor payments totaled \$4,403,023.73.

⁵ The number of assigned sites differs from Purchase Orders due to sites with multiple Purchase Orders, sites without open Purchase Orders, or previously assigned sites with open Purchase Orders.

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Results & Conclusions

Contractor Performance and Evaluation

To incorporate the use of the Contractor Performance Evaluation Forms, we reviewed sites assigned to the Contractor with completed and invoiced Purchase Orders after April 2016. Of the 108 Purchase Orders issued during FY 2015-2016, 27 were completed and invoiced in or after April 2016. At the time of our review, performance evaluations were not uploaded to STCM⁶ for 13 of the 27 Purchase Orders. After discussion with PRP staff, all but one were uploaded.

From the 27 Purchase Orders completed after April 2016, we reviewed a sample of 14 Contractor performance evaluations. The overall performance evaluation scores of the sample ranged from 1.61 to 2, ranking the Contractor as a Top Performer. We reviewed category evaluation scores given in comparison to site documentation and interviews with site managers.

Invoice Timeliness

According to Section 7.D. of the Contract, the *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.* Of the 70 invoices submitted in the sample of

⁶ The Storage Tank Contamination Monitoring (STCM) is the Division's application for management of all storage tank activities.

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Purchase Orders, 65 (93%) were submitted on time. Of the five late invoices, three Purchase Orders each included one invoice submitted late, and one Purchase Order included two invoices submitted late. The performance evaluation for the Purchase Order with two late invoices reflected a score of 1 on the invoice timeliness⁷ portion of the evaluation, while the remaining three received a score of 2. Of the three evaluations with an invoice timeliness score of 2, one represented an invoice submitted one day late. Based on our discussion with the Site Manager, this was considered timely. The remaining Purchase Order invoices were submitted between 6 and 19 days late. Approval for invoice time extensions was not documented in OCULUS⁸. The associated Site Managers indicated that the few late invoices did not warrant a lower score, and there was no documentation of forfeited retainage.

Deliverable Timeliness

According to Section 8.J. iii a. of the Contract, for deliverables (reports and response to comments) submitted one (1) to seven (7) calendar days past the required due date, retainage will be forfeited on the amount of the deliverable (report) pay item. According to Section 15, if a satisfactory deliverable is not submitted within the specific timeframe, the Department may, in its sole discretion, either: 1) terminate the Work Assignment for failure to perform, or 2) request that a proposed Corrective Action Plan (CAP) be submitted by the Contractor to the Department.

For the 70 invoices submitted in the sample of Purchase Orders, we reviewed deliverable timeliness by comparing the Scope of Work due date to the documented date

⁷ According to the Contractor Performance Evaluation Form, Invoicing category, a score of “2” = *Consistently*, “1” = *Within < 2 weeks*, and “0” = *Within >= 2 weeks*.

⁸ OCULUS is the Department’s web-based document management system.

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received. Within these 70 invoices, 66 (94%) included deliverables that were submitted on time. Of the four invoices with deliverables submitted late, two reflected forfeited retainages.

For the four performance evaluations associated with late deliverables, one received a score of 1 on the Project Timeliness⁹ portion of the evaluation. The remaining three were submitted between two and nine days, but received a score of 2⁷ on the deliverable portion of the evaluation.

Quality Assurance, Quality Control, and Contractor Qualifications

According to Attachment A, section IV of the Contract, the *Contractor is required to process and submit the Automated Data Processing Tool (ADaPT) Electronic Data Deliverables (EDD) for laboratory, error logs and field data.* The Contract requires all sampling and analyses performed to conform to the requirements set forth in Chapter 62-160 F.A.C. The Field EDD is the deliverable submitted to the Site Manager, and the Lab EDD is the laboratory tests that are sent with the deliverable. The Error Log includes any errors found when the Site Manager submits the deliverable. If an error is found, the Site Manager is notified of the needed correction. Upon receipt of a correct ADaPT submission, the file of results is uploaded to OCULUS, and the Contractor can invoice for payment. The Contractor Evaluation Form Reporting section includes a rating category to address whether *the contractor correctly submitted required ADaPT laboratory and field data QA reports in accordance with program guidance.*

⁹ According to the Contractor Performance Evaluation Form, Project Timeliness category, a score of “2” = *Always*, “1” = *< 3 weeks late*, and “0” = *>/= 3 weeks*.

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We selected a separate sample of ten Purchase Orders¹⁰ completed after April 2016 for review of ADaPT documentation accuracy. For these Purchase Orders, we requested ADaPT documentation of errors encountered. Of the ten Purchase Orders, one included a deliverable with noted errors in the initial ADaPT upload. The documents were corrected and uploaded to OCULUS prior to payment.

For the Purchase Order with the initial ADaPT error, the Contractor was given a performance evaluation score of 2¹¹ in the Reports category specifying ADaPT data submission. According to the Site Manager, the ADaPT process was a recent addition at the time of the performance evaluation, and has since developed a process for evaluating the Contractor given the criteria.

As part of this review, we also verified the Contractor met certifications and license requirements under Section 376.3071 F.S. The Contractor's insurance and OSHA certifications were on file and up to date. Based on interviews with Site Managers, the Contractor performs well overall and is responsive to requests and problem resolution.

Purchase Order Invoice Accuracy

From the 108 Purchase Orders opened during FY 2015-2016, we reviewed 11 for invoice accuracy. For the sampled Purchase Orders, one was designated through an Advance Cleanup cost share agreement and seven were designated by the site owner/responsible party prior to

¹⁰ The sample included completed Purchase Orders with available information through ADaPT.

¹¹ According to the Contractor Performance Evaluation Form, Submitting ADaPT and field data reports, "Consistently = 2, Limited ADaPT errors or delays resolved = 1, Repeated ADaPT errors or delays impacted invoicing or site rehabilitating progress = 0".

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2013. Of the three sites assigned since 2013, two were assigned through the e-quote process and one was designated through an Advanced Cleanup cost share agreement.

Site Assignment of Sampled Purchase Orders				
Purchase Order	Facility ID	Purchase Order Date	Site Assigned	Assignment
ADACC8	8733797	10/21/2015	2/28/2000	Contractor Designation Form/ Continuing Scope
AB0875	8509103	9/10/2014	6/20/2000	Contractor Designation Form/ Continuing Scope
AABE3A	9100162	7/25/2014	2/25/2002	Contractor Designation Form/ Continuing Scope
AAF092	8944849	9/2/2014	11/15/2005	Advance Cleanup Cost Share Agreement
AC629E	8512320	4/21/2015	2/28/2008	Contractor Designation Form/ Continuing Scope
AABF4E	8501323	8/4/2014	6/11/2008	Contractor Designation Form/ Continuing Scope
AB323D	8840133	9/24/2014	7/28/2011	Contractor Designation Form/ Continuing Scope
AB7BFC	8509052	11/12/2014	12/8/2011	Contractor Designation Form/ Continuing Scope
AB7D01	8519296	11/18/2014	12/16/2013	E-Quote
AB85C9	8514416	11/19/2014	11/4/2014	E-Quote
AD5B8D	8630546	8/31/2015	7/30/2015	Advance Cleanup Cost Share Agreement

Each Purchase Order scope of work specifies the Department's required timeframes for deliverable review, comment, and approval. For each deliverable, a review letter is provided to the Contractor from the Site Manager. In the 11 Purchase Orders listed above, 54 deliverables were submitted to the Department. Review letters were sent to the Contractor within required timeframes for 48 (89%). For the six review letters sent past the required timeframe, deliverables were submitted on time by the Contractor.

Work Order Completion

Reviewed Purchase Order pay item rates were consistent with the Contractor's negotiated rates. Documented deliverables, review letters, and invoices supported the work performed and invoiced for ten of the 11 Purchase Orders. For Purchase Order AB323D, the Mobilization Pay Item 3-3 *Heavy Duty/Stakebed Truck (3/4 ton +) - ≤ 100 miles each way* at a cost of \$611.05 was not supported by field notes as required for the Pay Item. According to

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the Site Manager, there was no indication in the Contractor's report that the Heavy Duty/Stakebed Truck was used. As a result, the mobilization was paid without required supporting documentation.

Of the 11 Purchase Orders, an evaluation had not been uploaded in OCULUS or STCM for two. The performance evaluation for the Purchase Order with unsupported documentation did not contain noted issues. The Contractor was rated as a Top Performer overall according to the nine uploaded evaluations.

Subcontractor Payment

According to Section 8.A. of the Contract, *reimbursement requests for payments to subcontractors associated with activities not included in Attachment D [Rate Schedule] must be substantiated by copies of invoices with backup documentation identical to that required from the Contractor.* Contractors are required to list the amount paid to each subcontractor in the invoice on the Contract Attachment E *Subcontractor Utilization Report Form for Commodities/Services.*

According to Section 9 of the Contract, the *Contractor shall pay all subcontractors and vendors under this Restated Contract within seven (7) working days from the date of receipt of payment from Department.* Of the sample Purchase Orders, we reviewed the following subcontractor payments included in Contractor invoices.

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Subcontractor Payment Verification					
Purchase Order	Invoice	Subcontractor	Subcontractor Listed Invoice Amount	Date Invoice Paid by Department	Check Posted Date
AB323D	2	Environmental Testing Laboratories, Inc.	\$1,606.78	8/20/2015	9/8/2015
	2	Huss Drilling	\$1,500.00	8/20/2015	8/27/2015
AB7D01	4.2	Horizon Environmental Services	\$2,640.00	7/11/2016	7/15/2016
	4.2	Environmental Testing Laboratories, Inc.	\$1,281.00	7/11/2016	7/19/2016
AABF4E	3	Environmental Testing Laboratories, Inc.	\$562.00	9/8/2015	9/23/2015
AB85C9	2	Environmental Testing Laboratories, Inc.	\$1,072.00	10/5/2015	10/20/2015
AC629E	2	TerraSonic International	\$5,515.00	10/14/2015	10/15/2015

Based on review of payment documentation for seven subcontractor payments, the Contractor paid subcontractors within the required timeframe, with the exception of three payments to Environmental Testing Laboratories, Inc. The check was posted by Environmental Testing Laboratories between six and eight days past the required payment date. We verified that the above subcontractors were on the Contractor's Authorized Subcontractor List.

Cost Share Sites

The following Purchase Orders included in our sample were issued for sites under Site Rehabilitation Funding Allocation and Petroleum Cleanup Participation Program (PCPP) agreements.

Purchase Orders Under Site Rehabilitation Funding Allocation Agreements							
Purchase Order	Facility ID	Agreement Type	Site	Tasks	Total Due for Purchase Order	Percentage Cost Share	Site Owner/ Responsible Party Obligation
AD5B8D	80/8630546	Site Rehabilitation Funding Allocation	Sunoco-Courtney	1,2	\$ 7,723.09	50%	\$3,861.54
AAF092	10/8944849	Petroleum Cleanup Participation Program	Snack & Gas #5	2,3	\$ 8,305.37	25%	\$2,076.34

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According to Section 24 of the Site Rehabilitation Funding Allocation Agreement, and Section 10 of the PCPP agreement, *within 40 days of payment to the Designated Contractor, the Applicant¹² shall provide to the Department proof of such payment.* Proof of payment includes a copy of the Applicant's paid and canceled check to the Contractor, or a certification by the Contractor that the invoice amount was paid.

For the sampled Purchase Orders, we verified that the Applicant/Participant received an invoice that accurately calculated required funding obligation for the approved work completed within the required timeframe. We also verified Contractor's certifications and documentation of payment received under Purchase Order AD5B8D, demonstrating the Applicant paid the Contractor as required, as outlined in the table below.

Purchase Orders Under Cost Share Agreements								
Purchase Order	Site	Total Due for Task		Percentage Cost Share	Site Owner/ Responsible Party Funding Obligation	Invoice Date	Amount Paid to Contractor	Check Date
AD5B8D	Sunoco-Courtney	1	\$708.31	50%	\$354.16	9/22/2015	\$354.15	9/23/2015
		2	\$7,014.78	50%	\$3,507.39	2/29/2016	\$3,507.39	3/10/2016
AAF092	Snack & Gas #5	1	\$0	-	-	-	-	-
		2	\$2,116.18	25%	\$ 529.05	11/25/2014	-	-
		3	\$6,189.19	25%	\$ 1,547.30	12/31/2015	-	-

According to PRP management, Applicant/Participant required payments under cost share agreements are not verified. For Purchase Order AD5B8D, we obtained payment documentation from the Contractor for the cost share commitment portion by the Site

¹² Applicant is defined in the Site Rehabilitation Funding Allocation Agreement as the entity that has assumed responsibility for the costs to remediate the non-program eligible contamination that is subject to the agreement. The Applicant is referred to as the Participant in the PCPP Agreement.

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Rehabilitation Funding Allocation Applicant. Payment was made for invoice one in two days, and invoice two in nine days. The Department did not receive documentation from the Applicant verifying the payment.

According to the Contractor, the Participant did not pay their committed cost share for the site rehabilitation activities under Purchase Order AAF092. Based on discussion with the Contractor and Site Manager, attempts had been made to contact the Participant, with no response. Purchase Order AAF092 was issued for remediation activity of a site under a PCPP agreement, originally executed in November 2005. The agreement total estimated cost was \$13,298.98, with the Participant's cost share \$3,324.75. The agreement was amended in November 2012 to increase the funding total to \$130,132.53. According to the Contractor, only one payment of \$1,750 had been received from the Participant in 2009 for an invoice dated in 2005. According to STCM, the Department has made a total of \$25,100.80 in payments for work at the site since the agreement was executed in 2005.

Paragraph 10 of the PCPP agreement states *Failure of the Participant to timely and adequately pay the Designated Contractor shall be considered a material breach of this Agreement pursuant to paragraph 13¹³*. According to Paragraph 13, the *Agreement may be terminated for material breach of obligations by either Party. Material breach means substantial failure to comply with the terms and conditions of this Agreement*. As of March 2017, management has contacted the Responsible Party with a written notice of non-payment.

¹³ Paragraph 13 states *This Agreement may be terminated for material breach of obligations by either Party. Material Break means substantial failure to comply with the terms and conditions of this agreement*.

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Currently, no work can be performed on the site until the invoices have been paid in full by the Responsible Party.

Our Findings and Recommendations are included in the remainder of this report.

Findings & Recommendations

Finding 1: Performance Evaluation Accuracy

In January 2016, PRP began transitioning the site assignment process by using a Contractor Selection Formula to improve competitive assignment and incorporate Contractor performance as a component in the assignment process. This includes the use of prior performance evaluation scores as a component in assignment of new sites. Based on our review of Purchase Orders, the Contractor had met requirements for invoice and deliverable timeliness, as well as deliverables with no errors in over 90% of all instances. As such, the Contractor was rated overall as a top performer. However, for the few late invoices and deliverables, and errors in ADaPT, some of the associated performance evaluations did not reflect a lower score. By not documenting evaluation criteria scores consistently with the rating description, the effective use of performance evaluations as a measurement of quality in the Contractor Selection Formula is diminished.

Recommendation

To effectively incorporate Contractor past performance in future site awards, we recommend PRP work with management and site managers to emphasize the accurate and consistent documentation of Contractor performance in each evaluation criteria as specifically defined.

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Finding 2: Purchase Order Schedule of Pay Item Support

We reviewed Purchase Order Schedule of Pay Items invoices for required support documents. The Scope of Work for Purchase Order AB323D included remediation system operation and maintenance. During Task 2, the Contractor invoiced for 1 unit of Pay Item 3-3 (Heavy Duty/Stakebed Truck (3/4 ton +) - ≤ 100 miles each way) at a cost of \$611.05 per round trip. According to the required documents tab of the Schedule of Pay Items spreadsheet, payment under this pay item must be supported by field notes documenting vehicle ownership and the origin of mobilization. The Contractor did not provide field notes documenting the use of a Heavy-Duty Truck in the Task 2 deliverable. Based on our request for supporting field notes, the Site Manager was not aware that a Heavy-Duty truck was used. However, since the time this invoice was paid, the Site Manager indicated that recent processes include verification of field notes.

Recommendation

We recommend PRP clarify these discrepancies with PRP program management and ensure required documentation is reviewed and verified prior to invoice approval and payment. PRP program management should recover payment of \$611.05 for the unsupported mobilization of the Heavy Duty/Stakebed Truck.

Finding 3: Subcontractor Payments

According to Section 8.A. of the Contract, *reimbursement requests for payments to subcontractors associated with activities not included in Attachment D [Rate Schedule] must be substantiated by copies of invoices with backup documentation identical to that required from the Contractor.* Contractors are required to list the amount paid to each subcontractor in the

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invoice on the Contract Attachment E *Subcontractor Utilization Report Form for Commodities/Services*. Contract Section 9 Subcontractor Payments states that the *Contractor shall pay all subcontractors and vendors under this Restated Contract within seven (7) working days from the date of receipt of payment from Department.*

Section 2.H. of the Contract states that *any terms and conditions proposed by or agreed to by or between Contractor and any subcontractors or suppliers that supplement, or in conflict with, the ATC, will not amend or modify Contractor and DEP's obligations under the ATC.* Additionally, Section 376.3071(6)(i), F.S. states *the exemption under s. 287.0585(2) does not apply to payments associated with an approved contract.*

Per the following table, of the seven Subcontractor payments, we verified that three were made within seven working days.

Subcontractor Payment Verification					
Purchase Order	Invoice	Subcontractor	Subcontractor Listed Invoice Amount	Date Invoice Paid by Department	Check Posted Date
AB323D	2	Environmental Testing Laboratories, Inc.	\$1,606.78	8/20/2015	9/8/2015
	2	Huss Drilling	\$1,500.00	8/20/2015	8/27/2015
AB7D01	4.2	Horizon Environmental Services	\$2,640.00	7/11/2016	7/15/2016
	4.2	Environmental Testing Laboratories, Inc.	\$1,281.00	7/11/2016	7/19/2016
AABF4E	3	Environmental Testing Laboratories, Inc.	\$562.00	9/8/2015	9/23/2015
AB85C9	2	Environmental Testing Laboratories, Inc.	\$1,072.00	10/5/2015	10/20/2015
AC629E	2	TerraSonic International	\$5,515.00	10/14/2015	10/15/2015

While it is understood that recent changes to Section 376 F.S. have extended the timeframe for required Subcontractor payments, the late payments made at the time in this review were not made as required.

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Recommendation

We recommend PRP direct the Contractor to make timely payments as required. PRP should direct the Contractor to correct any terms or conditions agreed between Contractor and any Subcontractors that conflict with their obligations under the Contract. In addition, PRP should obtain sufficient documentation from the Contractor to demonstrate resolution of applicable penalties as specified under Section 287.0585(1), F.S.

Finding 4: Cost Share Agreement – Participant Payment

Section 376.30713, F.S. provides for site rehabilitation to be conducted on sites in advance of the site's priority ranking, through cost sharing agreements. This provision facilitates the opportunity for advance cleanup through applicants cost sharing for the economic and environmental benefits to the state. If the terms of the agreement are not fulfilled, the applicant forfeits rights to future payment for any site rehabilitation work conducted under the agreement.

According to Section 24 of the Site Rehabilitation Funding Allocation Agreement, and Section 10 of the PCPP agreement, *within 40 days of payment to the Designated Contractor, the Applicant¹⁴ shall provide to the Department proof of such payment, which shall include a copy of the Applicant's paid and canceled check to the Designated Contractor or a certification by the Designated Contractor that the invoice amount specified in the certification was paid and indicating the date such payment from the Applicant was received by the Designated Contractor.*

¹⁴ Applicant is defined in the Site Rehabilitation Funding Allocation Agreement as the entity that has assumed responsibility for the costs to remediate the non-program eligible contamination that is subject to the agreement. The Applicant is referred to as the Participant in the PCPP Agreement.

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For the two Purchase Orders included in our review that were awarded through cost share agreements, PRP had not obtained documentation of the Applicant/Participant's proof of payment for their committed cost share. Based on management interviews, PRP does not verify proof of these payments.

Under Purchase Order AAF092, the Contractor indicated that the Participant had not made the required cost share payment. Purchase Order AAF092 was issued for remediation activity of a site under a PCPP agreement, originally executed in November 2005. According to the Contractor, only one payment of \$1,750 had been received from the Participant, which was in 2009 for an invoice dated in 2005. According to site records in STCM, the Department has made a total of \$25,100.80 in payments for work at the site since the agreement was executed. Currently, there is no work being done on the site.

Since PRP does not verify Applicant/Participant payments under the specific terms outlined in cost share agreements, the program has no assurance that funding commitments under established agreements are met. This increases risk of circumvention of program processes for site award and priority funding without demonstrated economic and environmental benefit to the state.

Recommendation

Under established cost share agreements, we recommend PRP obtain required proof of payment as required under the agreement terms. If this proof is not provided, PRP should document and take appropriate measures for breach as provided within the agreement.

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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 review was conducted by Christine Cullen 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*



Florida Department of Environmental Protection

Bob Martinez Center
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Rick Scott
Governor

Carlos Lopez-Cantera
Lt. Governor

Noah Valenstein
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 Audit Report A-1617DEP-018
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Technologies, LLC.

DATE: August 14, 2017

The following is in response to the review of Agency Term Contractor Advance Environmental Technologies, LLC (AET) conducted by the Office of Inspector General (OIG).

Finding 1: Performance Evaluation Accuracy

Recommendation:

To effectively incorporate Contractor past performance in future site awards, we recommend PRP work with management and site managers to emphasize the accurate and consistent documentation of Contractor performance in each evaluation criteria as specifically defined.

PRP Response:

Correct and accurate completion of Contractor Performance Evaluations (CPEs) is a priority for PRP. CPE reviews were covered during training of various topics in the March 28-30, 2017 PRP Workshop attended by PRP, local programs and Teams 5 and 6. Training will continue via the monthly PRP Teleconference.

Finding 2: Purchase Order Schedule of Pay Item Support

Recommendation:

We recommend PRP clarify these discrepancies with PRP program management and ensure required documentation is reviewed and verified prior to invoice approval and payment. PRP

program management should recover payment of \$611.05 for the unsupported mobilization of the Heavy Duty/Stakebed Truck (PO AB323D, Task 2, 1 unit of Pay Item 3-3),

PRP Response:

The Contractor is being contacted by the assigned site manager regarding these overpayments and is being requested to supply the necessary documentation to support Contractor activity related to the pay item, or to reimburse PRP for the pay item.

Site Managers and Reviewers were reminded during the July 13, 2017 PRP Teleconference of the importance of ensuring that the required documentation is reviewed and verified prior to invoice approval and payment.

Finding 3: Subcontractor Payments

Recommendation:

We recommend PRP direct the Contractor to make timely payments as required. PRP should direct the Contractor to correct any terms or conditions agreed between Contractor and any Subcontractors that conflict with their obligations under the Contract. In addition, PRP should obtain sufficient documentation from the Contractor to demonstrate resolution of applicable penalties as specified under Section 287.0585(1), F.S.

PRP Response:

PRP has directed the contractor as recommended on August 10, 2017.

Finding 4: Cost Share Agreement – Participation Payment

Recommendation:

Under establish cost share agreement, we recommend PRP obtain required proof of payments as required under the agreement terms. If this proof is not provided, PRP should document and take appropriate measures for breach as provided within the agreement.

RPP Response:

Site Managers and Reviewers were reminded in July 13, 2017 PRP Teleconference that they are to request confirmation of cost share payments using a templated letter developed by PRP.