

Review of Agency Term Contractor

Enviro-Pro-Tech, Inc.

Division of Waste Management

Report: A-1617DEP-031

Office of Inspector General

Internal Audit Section

Florida Department of Environmental Protection

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Report: A-1617DEP-031

Table of Contents

Scope & Objectives	1
Methodology	1
Background	2
Results & Conclusions	4
Findings & Recommendations.....	13
Division Response	24
Contractor Response	27
OIG Comment Regarding Contractor's Response	32

Review of Agency Term Contractor
Enviro-Pro-Tech, Inc.
Division of Waste Management

Report: A-1617DEP-031

The Office of Inspector General (OIG) conducted a Review of Agency Term Contract¹ (Contract) GC803 between Enviro-Pro-Tech, Inc. (Contractor) and Florida Department of Environmental Protection (Department) Division of Waste Management (Division) Petroleum Restoration Program (PRP).

Scope & Objectives

The scope of this review included Contract activities from July 1, 2014 to present. 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 Contract GC803 is for the North geographical region.

Report: A-1617DEP-031

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

Review of Agency Term Contractor
Enviro-Pro-Tech, Inc.
Division of Waste Management

Report: A-1617DEP-031

2016, PRP began transitioning to a Contractor Selection Formula to improve competitive assignment and incorporate Contractor performance as a component in the assignment process.

The current 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 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 from October 2014 to January 2017, 3,787 sites were assigned to 72 Agency Term Contractors as follows.

PRP Sites Assigned from October 2014 – January 2017	
Assignment Type	Number of Sites
Advanced Clean-up (Performance Based Clean-up Bundle Sites)	89
Advanced Clean-up (Cost Share)	223
Direct Assign for Continuing Scope	2,136
Contractor Selection Formula	1,109
Assignment through E-Quote	62
Other ²	168
Total	3,787

Competitive assignment processes were used in the assignment of 1,171³ (31%) sites. Of the total, 2,448⁴ (65%) sites were assigned through former or current provisions for site owner/responsible party designation.

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

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.

Review of Agency Term Contractor
Enviro-Pro-Tech, Inc.
Division of Waste Management

Report: A-1617DEP-031

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 being considered a Top Performer.

The Department entered into the Contract on February 27, 2014 for a five-year period. An amended and restated Contract was issued September 30, 2015. From July 2014 to present, the Contractor was assigned 30 sites. Of these, 26 (87%) were assigned through former or current provisions for site owner or responsible party designation per the table below.

Contractor Sites Assigned from October 2014 – January 2017	
Assignment Type	Number of Sites
Direct Assign for Continuing Scope	26
Contractor Selection Formula	3
Replacement by PRP Management	1
Total	30

During this period, 80 Purchase Orders⁵ were issued to the Contractor for the assigned sites. Contractor payments totaled \$4,138,436.07.

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.

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.

Review of Agency Term Contractor
Enviro-Pro-Tech, Inc.
Division of Waste Management

Report: A-1617DEP-031

Of the 80 Purchase Orders issued during the period, 30 were completed and invoiced in or after April 2016. We reviewed 16 Purchase Orders assigned to the Contractor since 2014⁶. Out of the 16 Purchase Orders, eight (50%) were completed and invoiced in or after April 2016. At the time of our review, performance evaluations were not uploaded to Storage Tank Contamination Monitoring (STCM)⁷ for two of the eight Purchase Orders. After discussion with PRP staff, all evaluations have since been uploaded. For the eight performance evaluations reviewed, overall scores ranged from 1.87 to 2, ranking the Contractor as a Top Performer.

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 67 invoices submitted in the sample of Purchase Orders, 66 (99%) were submitted within timeframes outlined in the Contract. One Purchase Order was submitted four days late. This Purchase Order did not include a completed performance evaluation.

From our review of Purchase Order documents, we noted that review letters from the Site Managers and Scopes of Work may include invoice due dates that are different from due

⁶ This sample varies from our overall sample in this review because Purchase Order AF9532 is still open.

⁷ The Storage Tank Contamination Monitoring (STCM) is the Division's application for management of all storage tank activities.

Review of Agency Term Contractor
Enviro-Pro-Tech, Inc.
Division of Waste Management

Report: A-1617DEP-031

dates specified in the Contract. Based on due dates documented in review letters, 66 of the 67 invoices (99%) were submitted on time. However, based on due dates documented in scopes of work, 61 (91%) were submitted on time.

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 Contract 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 75 deliverables submitted in the sample of Purchase Orders, we reviewed timeliness by comparing the Scope of Work due date to the documented date received. Of the 75 deliverables, 71 (95%) were submitted on time. The remaining four were submitted between two and 28 days late. The invoice for one reflected forfeited retainage. Performance evaluations were not completed on the Purchase Orders associated with two of the four. For the remaining two, the Contractor received a score of 1 on the Project Timeliness⁸ portion of the related performance evaluation, while the other received a score of 2. Justification of the score was documented by the Site Manager in the deliverable review letter.

Quality Assurance, Quality Control, and Contractor Qualifications

⁸ According to the Contractor Performance Evaluation Form, Project Timeliness category, a score of “2” = *Always*, “1” = *< 3 weeks late*, and “0” = *>/= 3 weeks*.

Review of Agency Term Contractor
Enviro-Pro-Tech, Inc.
Division of Waste Management

Report: A-1617DEP-031

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 OCULUS⁹, 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.*

For the Purchase Orders in our sample, we requested ADaPT documentation of errors encountered. Of the nine Purchase Orders with ADaPT documentation, 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 1 in the Reports category specifying ADaPT data submission.

As part of this review, we also verified whether 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. In January 2017, the Contractor's Professional

⁹ OCULUS is the Department's web-based document management system.

Review of Agency Term Contractor
 Enviro-Pro-Tech, Inc.
 Division of Waste Management

Report: A-1617DEP-031

Engineer (P.E.) separated from the company. As a result, the Contractor did not possess the required P.E. certificate. A new P.E. certificate was established for the Contractor in April 2017.

Purchase Order Invoice Accuracy

From the 80 Purchase Orders opened between June 2014 and January 2017, we reviewed the assignment of 17. For the 17 sampled Purchase Orders, six were associated with sites designated by the site owner/responsible party prior to 2013. Of the nine sites assigned since 2013, one was assigned through the e-quote process and seven were assigned through the RCI Formula. Two sites were assigned by the Department, one prior to the RCI formula becoming effective, and one for a re-assignment to the Contractor.

Contractor Assignment				
Order ID	Facility ID	Purchase Order Date	Site Assigned	Assignment Process
ACCAA6	9100145	6/4/2015	12/29/1998	Contractor Designation Form/Continuing Scope
AAB0BD	8629937	7/21/2014	7/31/2000	Contractor Designation Form/Continuing Scope
AA1D1B	8841853	4/25/2014	9/12/2000	Contractor Designation Form/Continuing Scope
ACDAD8		6/10/2015		
ADAA78	8512233	10/20/2015	1/24/2001	Contractor Designation Form/Continuing Scope
AA91CB	8626783	6/27/2014	8/2/2001	Contractor Designation Form/Continuing Scope
AE6579	9808056	2/9/2016	3/25/2014	PRP Direct Assign
A9EBE6		3/28/2014		
AA3A66	8506814	5/12/2014	4/28/2014	(Former) RCI Formula
AA284F	9503044	4/30/2014	4/28/2014	(Former) RCI Formula
AA3690	8512373	5/13/2014	5/6/2014	E-Quote
AA6EFA	8517923	6/2/2014	5/20/2014	(Former) RCI Formula
AEE930		5/6/2016		
AEA9D0	8517992	3/30/2016	6/27/2014	(Former) RCI Formula
AA4AD5	9807239	5/19/2014	3/19/2015	(Former) RCI Formula
AF9532		8/9/2016		
AEE1B4	9202406	4/27/2016	5/7/2015	PRP Direct Assign

Review of Agency Term Contractor
Enviro-Pro-Tech, Inc.
Division of Waste Management

Report: A-1617DEP-031

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. Of the 17 Purchase Orders listed above, 75 deliverables were submitted to the Department. Review letters were sent to the Contractor within required deliverable timeframes for 73 (97%). The two late review letters were in the same Purchase Order, where 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, or invoices supported the work performed and invoiced for 13 of the 17 purchase orders. The remaining four purchase orders lacked required supporting documentation for a portion of the pay items approved for payment. For the Purchase Orders reviewed, an evaluation had not been uploaded in OCULUS or STCM for two. Of the completed evaluations, the Contractor received an overall rating as a Top Performer.

Subcontractor Payment

Contractors are required to list the names, addresses, and amounts paid to each Subcontractor utilized in the invoice period on Attachment E of the Contract. Section 9 of the Contract 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. Penalties for non-compliance and provisions for legal assistance for subcontractors are included in Subsection 287.0585(1), F.S.*

Review of Agency Term Contractor
 Enviro-Pro-Tech, Inc.
 Division of Waste Management

Report: A-1617DEP-031

Of the 17 Purchase Orders included in our sample, we reviewed 16 invoices containing 54 subcontractor payments for verification of timely payment. We requested invoices and copies of checks or payment verification from Subcontractors and the Contractor. Of the total, the information provided for Subcontractor payment indicated late payment for the following.

Subcontractor Late Payments

Purchase Order	Invoice	Subcontractor	Subcontractor Amount	DEP Payment Date	Payment Date ¹⁰	Payment Source ¹¹	Amount Paid
A9EBE6	3	Environmental Testing Laboratories, Inc.	\$1,512.00	10/14/2015	3/3/2016	Check Date/ Subcontractor Confirmation	\$1,512.00
AA284F	2	Wombat Environmental, LLC	\$1,950.00	6/15/2015	6/30/2015	Subcontractor Pay-stub	\$1,950.00
		ALS Group USA	\$2,066.00		7/27/2015 & 8/17/2015	Posted Date	\$2,066.00
		Horizon Environmental Services, LLC	\$300.00		9/8/2016	Subcontractor Confirmation	\$300.00
AA3690	4	Environmental Testing Laboratories, Inc.	\$1,624.20	11/25/2015	3/3/2016	Subcontractor Confirmation	\$1,624.20
		Ground Water Treatment and Technology, LLC	\$13,200.00		3/14/2016	Invoice and Check Dates	\$13,200.00
	5	Environmental Testing Laboratories, Inc.	\$750.60	2/17/2016	9/22/2016	Subcontractor Confirmation	\$750.60
		Ground Water Treatment and Technology, LLC	\$13,200.00		9/20/2016	Invoice and Check Dates	\$13,200.00
	6	Environmental Testing Laboratories, Inc.	\$927.90	5/18/2016	11/4/2016	Subcontractor Confirmation	\$927.90
		First United Environmental, LLC	\$100.00		6/20/2016	Payment Date	\$100.00
		Ground Water Treatment and Technology, LLC	\$13,200.00		11/3/2016	Invoice and Check Cleared Date	\$13,200.00
	7	Environmental Testing Laboratories, Inc.	\$1,374.30	9/21/2016	1/9/2017	Subcontractor Confirmation	\$1,374.30
		First United Environmental, LLC	\$100.00		10/4/2016	Subcontractor Confirmation	\$100.00
	7	Ground Water Treatment and Technology, LLC	\$17,600.00	9/21/2016	11/3/2016	Invoice and Check Cleared Date	\$17,600.00

¹⁰ For multiple payments to a Subcontractor for an invoice service period, the payment date reflects the last payment

¹¹ Payment Source: Check dates were used where cleared date was not available.

Review of Agency Term Contractor
 Enviro-Pro-Tech, Inc.
 Division of Waste Management

Report: A-1617DEP-031

Subcontractor Late Payments (Continued)

Purchase Order	Invoice	Subcontractor	Subcontractor Amount	DEP Payment Date	Payment Date ¹²	Payment Source ¹³	Amount Paid
AA4AD5	2	Horizon Environmental Services, LLC	\$700.00	9/30/2015	1/28/2016	Subcontractor Confirmation	\$700.00
	3	Gulf Coast Environmental, LLC	\$4,500.00	3/1/2016	3/21/2016	Subcontractor Confirmation	\$4,500.00
		Environmental Testing Laboratories, Inc.	\$5,448.60		10/7/2016	Subcontractor Confirmation	\$5,448.60
		Horizon Environmental Services, LLC	\$3,000.00		10/4/2016	Subcontractor Confirmation	\$3,000.00
		First United Environmental, LLC	\$250.00		6/1/2016	Subcontractor Confirmation	\$300.00
		Transamerican Drilling and Testing	\$17,683.00		9/23/2016	Check Date	\$17,683.00
ACDAD8	4 and 6	Environmental Testing Laboratories, Inc.	\$1,739.70	5/31/2016	12/27/2016	Subcontractor Confirmation	\$1,739.70
		First United Environmental, LLC	\$100.00		6/20/2016	Subcontractor Confirmation	\$100.00
		Carbonair Environmental Systems	\$4,149.99		10/5/2016	Subcontractor Confirmation	\$4,149.99
ADAA78	2.1	Horizon Environmental Services, LLC	\$5,840.00	4/22/2016	10/4/2016	Subcontractor Confirmation	\$5,840.00
		Gulf Coast Environmental Services, LLC	\$3,300.00		6/13/2016	Check Cleared Date	\$3,300.00
		Environmental Testing Laboratories, Inc.	\$16,843.50		12/5/2016	Subcontractor Confirmation	\$16,829.10
AE6579	2	Horizon Environmental Services, LLC	\$2,320.00	8/31/2016	1/18/2017	Subcontractor Confirmation	\$659.00
		Environmental Testing Laboratories, Inc.	\$2,949.30		1/25/2017	Subcontractor Confirmation	\$2,564.10
AEA9D0	1 and 2	Environmental Testing Laboratories, Inc.	\$1,082.80	8/16/2016	1/9/2017	Subcontractor Confirmation	\$1,082.80
		Horizon Environmental Services, LLC	\$891.25		10/4/2016	Subcontractor Confirmation	\$891.25
AEE930	1 and 2	Environmental Testing Laboratories, Inc.	\$626.40	9/27/2016	12/5/2016	Subcontractor Confirmation	\$626.40
		Gulf Coast Environmental, LLC	\$1,750.00		10/7/2016	Subcontractor Confirmation	\$1,750.00
AF9532	2	First United Environmental, LLC	\$75.00	11/2/2016	1/10/2017	Check Date	\$75.00
		Gulf Coast Environmental, LLC	\$163,313.20		11/17/2016	Check Date	\$80,000
		Environmental Testing Laboratories, Inc.	\$2,012.40		2/23/2017	Subcontractor Confirmation	\$2,012.40

¹² For multiple payments to a Subcontractor for an invoice service period, the payment date reflects the last payment

¹³ Payment Source: Check dates were used where cleared date was not available.

Review of Agency Term Contractor
 Enviro-Pro-Tech, Inc.
 Division of Waste Management

Report: A-1617DEP-031

Due to limited available documentation, the 35 Subcontractor payments that appeared to be paid past the required seven working day timeframe were based on varying sources, including Subcontractor confirmation and partial check documentation.

According to Section 19 of the Contract, *the Contractor shall not subcontract any work under this Contract, with the exception of those Subcontractors authorized by the Department, without the prior written consent of Department's Contract Manager.* Of the 21 Subcontractors included in the sampled Purchase Orders, four were not on the Authorized Subcontractor List.

Subcontractor Payment Discrepancies

During our review, discrepancies related to Subcontractor payments came to our attention for the Purchase Orders below.

Subcontractor Payment Discrepancies				
Purchase Order	Invoice	Subcontractor	Subcontractor Payment Discrepancy	Payment per Subcontractor Utilization Form
AA3690	3,2	Ground Water Treatment and Technology, LLC	Subcontractor notified PRP they not been paid for work completed under the Purchase Order. Payments were subsequently made.	\$3,580.00
	4			\$13,200.00
	5			\$13,200.00
	6			\$13,200.00
	7			\$17,600.00
AE6579	2	Horizon Environmental Services, LLC	Contractor withheld \$1,661 from invoiced amount for Insurance Carriers Worker's Compensation Insurance audit assessment.	\$2,320.00
AEE930	1 and 2	Gulf Coast Environmental, LLC	In addition to the \$1,750.00 payment listed, the Subcontractor notified PRP they were due \$10,000 for work completed under the Purchase Order.	\$1,750.00
AF9532	2		Of the total invoice, the Subcontractor notified PRP a balance of \$73,569.28 had not been paid.	\$163,313.20
AEE930	1 and 2	Hammack Contracting	The Subcontractor notified PRP that the Contractor had not paid an additional amount of \$18,028.44 for invoices due to Waste Management.	\$120,000.00
AEE930	1 and 2	Advanced Environmental Technologies, LLC	The Subcontractor advised PRP that payment had not been made for work totaling \$34,200. Subsequent legal actions were being taken regarding to disputed amount.	Not Included

Report: A-1617DEP-031

Due to the lack of required Subcontractor documentation under the Contract, and the verbal nature of agreed upon work between parties, we were unable to determine specific amounts owed by the Contractor in the majority of these disputes. Our findings and recommendations are included in the remainder of this report.

Findings & Recommendations

Finding 1: Invoice Requirements

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.* Also, according to Section 376.3071(6)(F), F.S., *the contractor shall submit an invoice to the department within 30 days after the date of the department's written acceptance of each interim deliverable or written approval of the final deliverable specified in the approved contract.* Out of the 17 purchase orders in our sample, 5 (29%) contained Review Letters or Scope of Work that stated a due date for the invoice that was less than the 30-day Contract requirement.

Recommendation

We recommend the Division ensure that invoice requirements specified in Site Manager Review Letters are consistent with Contract requirements.

Report: A-1617DEP-031

Finding 2: Purchase Order Schedule of Pay Item Support

During our review, we noted that required support documentation had not been obtained prior to invoice payment of certain Purchase Orders. For Purchase Order AA1D1B, Pay Item 4-1 *Per Diem* included billing for four travel Per Diem units at a cost of \$80 per unit for a total of \$320. The two associated travel vouchers documented two Contract staff travel for two days at a per diem cost of \$60 per day, which totaled \$240. The site manager indicated that final invoice payment at the higher rate was an oversight.

For the Purchase Order AA284F, Mobilization Pay Item 3-1 *Mobilization, Light Duty Vehicle (≤ 100 miles)* at a cost of \$220.00 was billed without field note support documentation. The current Site Manager confirmed that additional mobilization cost was not supported.

For Purchase Order AA3690, the following invoice Pay Items did not include required supporting documentation.

- Pay Item 1-1 *File Review*: \$575.00 - Required Historical Summary Worksheet
- Pay Item 5-2 *Hand Auger Boring (≤ 10 foot total depth)*, Pay Item 5-9 *HSA or MR Boring (> 6 to 10 inch diameter) (< 50 foot total depth)*, and Pay Item 5-12 *HSA or MR Boring (> 10 to 14 inch diameter) (< 50 foot total depth)*: \$13,430.00 – Required boring logs
- Pay Item 6-1 *Well Installation (1 inch diameter)* and Pay Item 6-3 *Well Installation (4 inch diameter)*: \$12,997.80 – Required well construction and development logs
- Pay Item 12-1 *Removal and Loading of Asphalt and/or Concrete (up to 4 inch thickness)*, Pay Item 13-3 *Concrete Paving (4 inch thickness)*, Pay Item 13-4 *Concrete*

Report: A-1617DEP-031

Paving (additional 1 inch thickness), Pay Item 15-1 Trenching and Installation of Plumbing (and Electrical) lines in trench (up to 8 plumbing lines), and Pay Item 15-2 Trenching and Installation (Additional 2 plumbing lines): \$67,250.00 – Required load tickets and materials documentation

Documentation of these items were included in the Contractor's field notes.

For Purchase Order AF9532, Mobilization Pay Item 3-2 *Drum Compactor Mobilization > 100 miles each way* at a cost of \$495.00, field notes did not include support for the mobilization as required.

The unsupported items noted in Purchase Orders AA3690 and AF9532 were related to payment disputes with Subcontractors as discussed in Finding 4.

Recommendation

We recommend the Division clarify these discrepancies with Site Managers and ensure required documentation is reviewed, verified, and uploaded to Oculus prior to invoice approval and payment. By ensuring the required support is consistently obtained, potential payment disputes such as the ones noted in Finding 4 can be mitigated. Once payment disputes are resolved, PRP should recover payments made for remaining unsupported costs regarding:

- Purchase Order AA1D1B Task 3.2 unsupported Per Diem: \$80.00
- Purchase Order AA284F Task 4.1 unsupported Mobilizations: \$220.00
- Purchase Order AA3690 Task 1 File Review: \$575.00 for Historical Summary Worksheet not provided
- Purchase Order AA3690 Task 3.1 Hand Auger Boring: \$13,430.00 for unsupported boring logs

Report: A-1617DEP-031

- Purchase Order AA3690 Task 3.1 Well Installation: \$12,997.80 for unsupported well construction and installation
- Purchase Order AA3690 Task 3.2 Removal and Loading of Asphalt and/or Concrete: \$67,250.00 for unsupported removal and loading of asphalt and/or concrete
- Purchase Order AF9532 Task 2 Mobilization: \$495.00 for unsupported mobilizations

Finding 3: Subcontractor Payments

Section 9 of the Contract 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*. Late payments are subject to penalties specified under Section 287.0585(1), F.S. Based on review of payment documentation for 54 Subcontractor payments, 35 appeared to be paid past the required time frame.

Upon request for final payment of a Purchase Order, the Contractor must submit a MFMP Purchase Order Affidavit/Release of Claims Form with the final invoice. Section C of the form states that *all subcontractors and suppliers have been paid in full*. Several of the late payments to Subcontractors were made after the Release of Claims form and final invoice was submitted.

Recommendation

We recommend PRP direct the Contractor to make timely payments as required 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. Given the indicated historic payment delays, going forward, PRP should request support

Report: A-1617DEP-031

documentation necessary for Contractor to demonstrate Subcontractor payment as stated in the MFMP Purchase Order Affidavit/Release of Claims form prior to the final Purchase Order invoice payment and issuance of subsequent Purchase Orders.

Finding 4: Subcontractor Payment Disputes

Contractors are required to list the amount paid to each Subcontractor in the Subcontractor Utilization Report Form. Several Purchase Orders in this review included payment disputes with Subcontractors that resulted, in part, from internal disagreements with the Contractor's P.E., who coordinated much of the Subcontracted work through the P.E.'s separate company. These included the following.

Purchase Order AA3690 (Gulf Coast Petroleum 118, Facility ID 8512373)

According to PRP management, Subcontractor Ground Water Treatment and Technology, LLC had not been paid for invoices under Purchase Order AA3690. Based on discussions with Contractor, this was due to miscommunication regarding an address change. The Contractor paid the outstanding balance, and provided check documentation of the final payment in November 2016.

Purchase Order AE6579 (Barnett Lawn Equipment, Facility ID 9808056)

Under Purchase Order AE6579 invoice 2, the Subcontractor Utilization Report Form listed a payment of \$2,320 to Subcontractor Horizon Environmental Services, LLC (Horizon). Based on correspondence received by PRP, the Contractor deducted \$1,661 from this amount for the cost of a Workers' Compensation audit coverage determination by their insurance carrier during the activity period. Based on discussions with the insurance carrier, additional coverage assessment was added due to lack of proof for Workers' Compensation insurance on individuals

Review of Agency Term Contractor
Enviro-Pro-Tech, Inc.
Division of Waste Management

Report: A-1617DEP-031

working on behalf of Horizon. According to Section 17 of the Contract, *the Contractor shall require any and all subcontractors to provide Workers' Compensation Insurance for all employees unless such employees are covered by the protection afforded by the Contractor.* A letter from Horizon to the Contractor stated that *Horizon Environmental Services, LLC is an employer of less than three (3) employees and elects not to be covered under the provisions of the Georgia Workers' Compensation Law.* Horizon obtained necessary personnel externally on an as-needed basis and did not provide sufficient documentation of worker's compensation insurance on the additional personnel. The Contractor passed the insurance carrier's extended coverage cost to Horizon.

Purchase Order AF9532 (Andrews Property, Facility ID 9807239)

Under Purchase Order AF9532, the invoice Subcontractor Utilization Report Form listed a payment of \$163,313.20 to Gulf Coast Environmental, LLC (GCE). The invoice service dates were between August 17, 2016 and October 12, 2016.

Subcontractors Listed on the Subcontractor Utilization Report Form	Subcontractor Utilization Form Amount Listed	Verified Subcontractor Payment
Gulf Coast Environmental, LLC	\$163,313.20	\$80,000

The Contractor submitted the invoice on October 24, 2016 and was paid by the Department on November 2, 2016. The listed amount was supported by a proposal dated June 24, 2016 to the Contractor's P.E. under a separate company for work that totaled \$163,803.00. GCE's invoice for the work totaled \$153,569.28. The Contractor paid GCE \$80,000 of the total on November 17, 2016. We verified the work itemized in GCE's invoice agreed to the items included in the Contractor's paid invoice from the Department. The Contractor indicated that several entities that had been coordinated for work separately by the Contractor's P.E. had

Review of Agency Term Contractor
 Enviro-Pro-Tech, Inc.
 Division of Waste Management

Report: A-1617DEP-031

contacted the Contractor for payment. Due to uncertainties regarding responsible parties, the remaining payment had been withheld. However, the Contractor acknowledged that the remaining amount of \$73,569 was still owed to GCE for work on this facility.

Purchase Order AEE930 (Seagrove Village Market, Facility ID 8517923)

Under Purchase Order AEE930, the Contractor was paid \$303,587.32 on September 27, 2016. For this invoice, Subcontractors and payments listed in the Subcontractor Utilization Report Form differed from payments and related invoices as follows.

Subcontractors Listed on the Subcontractor Utilization Report Form	Subcontractor Utilization Form Amount Listed	Verified Subcontractor Payment	Additional Subcontractor Invoice
Environmental Testing Laboratories, Inc.	\$626.40	\$626.40	
Gulf Coast Environmental, LLC	\$1,750.00	\$1,750.00	\$10,000.00
Waste Management	\$36,754.00		
Anderson Materials	\$113,920.00		
Hammack Contracting, Inc.	\$120,000.00	\$194,000.00	\$18,826.83
Total Subcontractor Cost Listed	\$273,050.40		
Subcontractor Not Listed on the Subcontractor Utilization Report Form			
Advanced Environmental Technologies, LLC			\$34,200.00
Contractor's Invoice Total Payment	\$303,587.32	\$196,376.40	
Subcontractor Additional Invoice Total			\$63,026.83

The Subcontractor Utilization Report Form listed a payment of \$1,750 to GCE. This amount was supported by a proposal dated May 2, 2016 for system piping and well materials to the Contractor. The amount was also supported by an invoice dated June 24, 2016 and a check to GCE from the Contractor for the same amount. GCE also provided an invoice of \$10,000 dated September 13, 2016 for LDA labor, and oversight services and additional materials. This amount was not supported by a proposal to the Contractor. Upon request of for the dated submittal of the proposal and invoice to the Contractor, GCE stated, *I do not have a proposal for*

Review of Agency Term Contractor
Enviro-Pro-Tech, Inc.
Division of Waste Management

Report: A-1617DEP-031

EPT for this job. My original contract was with RNA Consulting Group [RNA] and I had a verbal contract in place with them. Once it came time for EPT to pay RNA, EPT decided they wanted to pay all subcontractors directly and cut RNA out of it. At that time, the owner of RNA instructed me to revise my invoice from RNA to EPT and submit to [Business Manager] with EPT. According to the Contractor, the invoice for \$10,000 was not received until November 17, 2016 after the Purchase Order was completed. It had not been paid due to the uncertainty of the work provided and the nature of the separate agreement with the Contractor's P.E.

The Subcontractor Utilization Report Form also listed a payment of \$120,000 to Hammack Contracting, LLC (Hammack). For the work on this facility, Hammack provided a proposal for the work on this site to the Contractor's P.E. with the P.E.'s separate company. The proposal included mobilization, concrete and sand LDA excavation, stone, well installation, soil transport, soil disposal, and labor for flowable fill production for a total cost of \$195,000. These activities were consistent with the work listed in the Contractor's invoice to the Department. Hammack provided the Contractor an invoice for \$144,000, which represented their invoiced cost of \$194,000, less \$50,000 that had been paid for the work in advance. This amount was paid by the Contractor to Hammack on September 27, 2016.

The invoice Subcontractor Utilization Report Form also listed Waste Management at a cost of \$36,754 and Anderson Materials at a cost of \$113,920 as Subcontractors. Waste Management had been used by Hammack for soil disposal. Anderson Materials had been used to supply concrete. Per the Contractor's internal correspondence dated September 13, 2016, the P.E. communicated *my costs are going to cover all of the labor, soil transportation and disposal, equipment, flowable fill, etc. I filled in the subcontractor form on the SPI with other people since*

Review of Agency Term Contractor
Enviro-Pro-Tech, Inc.
Division of Waste Management

Report: A-1617DEP-031

they did the work, but they won't be invoicing you. The Contractor did not receive an invoice from Waste Management or Anderson Materials. According to the Contractor, since Hammack's proposal included soil transport and disposal, and Waste Management's invoices were addressed to Hammack, the financial obligation for the disposal had been met. Waste Management invoices to Hammack totaled \$18,028.44.

An additional invoice dated June 30, 2016 from Advanced Environmental Technologies, LLC (AET) was provided for work on this site. The invoice was for *Concrete Plant Truck & Equipment* at a cost of \$34,200. Per correspondence dated September 30, 2016 between the Contractor and AET, the Contractor did not receive an invoice from AET and was not aware of their involvement in the work. Since this time, AET has taken legal measures to address payment against the Contractor. According to the Contractor's P.E., the work provided by AET had been coordinated by the P.E. separately.

Section 24 A of the Contract states, *in the event of any dispute, claim, question, or disagreement arising from or relating to this Contract, Work assigned hereunder, or the breach thereof, the parties hereto shall use their best efforts to settle the dispute, claim, question, or disagreement.* The discrepancies noted above resulted due to the nature of Subcontracting provisions under the current Contract structure. In several instances, Subcontractor involvement in work under the Purchase Orders was based on verbal agreements with the Contractor's P.E., and lacked written documentation that would support agreed upon activities, costs, and participants. With the exception of the unpaid invoice balance of \$73,569 to GCE under Purchase Order AF9532, the unresolved disputes remain a matter of verbal disagreements between parties.

Report: A-1617DEP-031

Section 19 A.4. of the Contract states, *regardless of authorization to retain subcontractors or assign work, Contractor remains responsible for all Work Assignments under this Contract.* Based on our review of these subcontractor payment disputes, the Contractor did not accurately represent subcontractor information in the Subcontractor Utilization Form as required under the Contract. Given that the Department paid the Contractor's invoiced cost, the Contractor has an obligation to work with related providers and provide just compensation for completion of the work, regardless of the inaccuracy of submitted subcontract information and lapse in communication between internal and external parties.

Recommendation

We recommend PRP takes necessary steps to ensure the Contractor makes the appropriate payment plus applicable interest payment on the GCE invoice of \$73,569. In addition, PRP should direct the Contractor to provide documented follow-up and resolution of payment disputes with providers involved in the completed work noted in this finding. Given the general disagreements and lack of documented agreed-upon costs, provider compensation should be consistent with historic Subcontractor payments associated with the type of work reimbursed to the Contractor by the Department under the Purchase Orders. PRP should obtain this documented resolution prior to moving forward with future Purchase Orders. Going forward, PRP should establish processes for additional monitoring, verification, and other necessary steps, as provided under the Contract to ensure Contractor compliance regarding areas of identified risk.

Review of Agency Term Contractor
Enviro-Pro-Tech, Inc.
Division of Waste Management

Report: A-1617DEP-031

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 Cassandra Ray 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
2600 Blair Stone Road
Tallahassee, Florida 32399-2400


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-031
Review of Agency Term Contractor Enviro-Pro-Tech, Inc.

DATE: August 14, 2017

The following is in response to the review of Agency Term Contractor Enviro-Pro-Tech, Inc. (EPT) conducted by the Office of Inspector General (OIG).

Finding 1: Invoice Requirements

Recommendation:

We recommend that Division ensure the invoice requirements specified in Site Manager Review Letters are consistent with Contract Requirements.

PRP Response:

Site Managers and Reviewers will be reminded a monthly PRP Teleconference that the ATC contract and 376.307(6)(F), F.S. requires that interim and final invoices shall be submitted within 30 days after the date of the Department's written approval.

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. By ensuring the required support is consistently obtained, potential payment disputes such as the ones noted in Finding 4 can be mitigated. Once payment disputes are resolved, PRP should recover payments made for remaining unsupported costs regarding:

- Purchase Order AA11D1B Task 3.2 unsupported per diem \$80.00
- Purchase Order AA284F Task 4.1 unsupported Mobilizations \$220.00
- Purchase Order AA3690 Task 1 File Review: \$575 for Historical Summary Worksheet not provided
- Purchase Order AA3690 Task 3.1 Hand Auger Boring: \$13,430.00 for unsupported boring logs
- Purchase Order AA3690 Task 3.1 Well Installation \$12,997.80 for unsupported construction and installation
- Purchase order AA3690 Task 3.2 Removal and Loading of Asphalt and/or Concrete \$67,250.00 for unsupported removal and loading
- Purchase Order AF9532 Task 2 Mobilization: \$495.00 for unsupported mobilizations

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 17, 2017 PRP Teleconference of the importance of ensuring that the required documentation is reviewed and verified prior to invoice approval and payment (see Attachment A). [The Division provided a copy of the July 17, 2017 PRP Teleconference notes]

Finding 3: Subcontractor Payments

Recommendation:

We recommend PRP direct the Contractor to make timely payments as required 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. Given the indicated historic payment delays, going forward, PRP should request support documentation necessary for Contractor to demonstrate Subcontractor payment as stated in the MFMP Purchase Order Affidavit/Release of Claims form prior to the final Purchase Order invoice payment and issuance of subsequent Purchase Orders.

PRP Response:

Pursuant to this review and Paragraph 22 of the Amended and Restated Contract GC803, no new work will be offered, no new projects will be assigned and no new purchase orders will be issued under the contract until such time as adequate documentation has been submitted that all subcontractor payment has occurred in accordance with the contract and issues identified in the audit are addressed to the Department's satisfaction.

Finding 4: Subcontractor Payment Disputes**Recommendation:**

We recommend PRP takes necessary steps to ensure the Contractor makes the appropriate payment plus applicable interest payment on the GCE invoice of \$73,569. In addition, PRP should direct the Contractor to provide documented follow-up and resolution of payment disputes with providers involved in the completed work noted in this finding. Given the general disagreements and lack of documented agreed-upon costs, provider compensation should be consistent with historic Subcontractor payments associated with the type of work reimbursed to the Contractor by the Department under the Purchase Orders. PRP should obtain this documented resolution prior to moving forward with future Purchase Orders. Going forward, PRP should establish processes for additional monitoring, verification, and other necessary steps, as provided under the Contract to ensure Contractor compliance regarding areas of identified risk.

RPP Response:

Pursuant to the Preliminary Report A-1617DEP-031 and Paragraph 22 of the Amended and Restated Contract GC803, no new work will be offered, no new projects will be assigned and no new purchase orders will be issued under the contract until such time as adequate documentation has been submitted that all subcontractor payment has occurred in accordance with the contract and issues identified in the audit are addressed to the Department's satisfaction.

Review of Agency Term Contractor
Enviro-Pro-Tech, Inc.
Division of Waste Management

Report: A-1617DEP-031

Response from Enviro-Pro-Tech, Inc.

Enviro-Pro-Tech, Inc. (Contractor) provided three e-mail correspondences in response to the review. The Contractor indicated that these serve as the Contractor's response to the review.

Correspondence 1

Subject: FDEP: OIG Report Response, ATC Contractor Findings Detail

Date: August 15, 2017

In the above referenced OIG audit report for Enviro Pro Tech, Inc. several project sites were identified and findings were noted where proper documentation was not provided either during the invoicing cycle as required or during the audit itself. We are taking each project PO line by line and addressing them as we are able.

Attached please find documentation related to the Gulf Coast Petroleum site PO# AA3690. Page 14 of 23 half way down identifies the PO#AA3690 with several pay items listed. Pay item 12-1 Removal and Loading and/or Concrete(up to 4 in thickness), Pay item 13-3 Concrete Paving (4 in thickness), Pay Item 13-4 Concrete Paving (additional 1 in thickness), Pay Item 15-1 Trenching and Installation of Plumbing (and Electrical) lines in trench (up to 8 plumbing lines) and Pay Item 15-2 Trenching and Installation (additional 2 plumbing lines) \$67,250.00 – Required Load Tickets and Materials Documentation.

Attached please find the estimate from Tricon Environmental dated 4/30/2014, Estimate #14-1103, Invoice 4402701-1 and Invoice 4402701-2 for the above referenced work. Also please find 5 color photos of the trenching, plumbing materials and concrete as well as field notes referencing all work that took place. A C&D Landfill in Campbellton, Springhill Landfill took the concrete and asphalt debris. Also included is the check where the subcontractor was paid in

Review of Agency Term Contractor
Enviro-Pro-Tech, Inc.
Division of Waste Management

Report: A-1617DEP-031

full. [The Contractor provided an estimate and invoices from one of their Subcontractors, photographs, field notes, and a copy of a check for the Subcontractor.]

Correspondence 2

Subject: FDEP: OIG Report Response, ATC Contractor Findings Detail

Date: August 16, 2017

In the above referenced OIG audit report for Enviro Pro Tech, Inc. several project sites were identified and findings were noted where proper documentation was not provided either during the invoicing cycle as required or during the audit itself. We are taking each project PO line by line and addressing them as we are able.

Attached please find documentation related to the Gulf Coast Petroleum site PO#AA3690. Page 14 of 23 half way down identifies the PO#AA3690 with Pay Item 1-1 File Review: \$575.00 - Required Historical Summary Worksheet. [The Contractor provided a copy of the Scope of Work for Purchase Order AA3690.]

Attached is the Attachment A SCOPE OF WORK for Gulf Coast Petroleum #118 which was assigned to Enviro Pro Tech, Inc. This scope is identified as Version 4/16/2014. This project was assigned to EPT in the infancy of the preapproval process. Page 1 of 22, 2 of 22 and 3 of 22 outline what is required of the initial tasks of this project. Page 2 of 22 lists at the top of the page a list of requirements for completing Task 1, They are listed as follows: Affidavits, Site Access and Health and Safety. Paragraph 3.0 identifies each item individually: 3.1 Affidavits, 3.2 Site Access Agreement, and 3.3 Health and Safety. There is not another item listed for Historical Summary Worksheet. In the task break out this is not listed as a requirement either. Please find the attached. During this time, in the infancy of the preapproval program the Scope was followed

Review of Agency Term Contractor
Enviro-Pro-Tech, Inc.
Division of Waste Management

Report: A-1617DEP-031

very carefully as no not miss any detail required to be able to close out one task and move successfully to another task.

Correspondence 3

Subject: FDEP: OIG Report Response, ATC Contractor Findings Detail

Date: August 18, 2017

In the above referenced OIG audit report for Enviro Pro Tech, Inc. several project sites were identified and findings were noted where proper documentation was not provided either during the invoicing cycle as required or during the audit itself. We are taking each project PO line by line and addressing them as we are able.

In the OIG Report page 14 of 23, bottom third of the page, PO#AA3690 is referenced: Pay Item 5-2 Hand Auger Boring (<10 foot total depth), Pay Item 5-9 HSA or MR Boring (>6 to 10 in diameter)(<50 foot total depth), and Pay Item 5-12 HSA or MR Boring (>10 to 14 inch diameter)(<50 foot total depth): \$13,430 – Required Boring Logs. Pay Item 6-1 Well Installation(1 inch diameter)and Pay Item 6-3 Well Installation (4 inch diameter): \$12,997.80 – Required well construction and development logs.

This Pay Item 5-2 was included on the SPI for the collection of soil analysis related to Items 9-2, 9-7, 9-8 and 9-10 for Task 2 pf the SPI from a roll-off container for pre-disposal analysis to obtain for disposal from the landfill. These samples were collected from the interior of a roll –off container used for the temporary storage of Investigation Derived Waste (IDW) generated during the installation of the air-sparge and vapor extraction wells. Since the hand auger boring allowance was for the collection of the IDW soil samples from a roll off container the completion of soil boring logs in this circumstance purposes.

Review of Agency Term Contractor
Enviro-Pro-Tech, Inc.
Division of Waste Management

Report: A-1617DEP-031

Pay Item 5-9 HSA or MR Boring (>6 to 10 inch diameter) and Pay Item 5-12 HSA or MR Boring (>10 to 14 inch diameter) – these boring represent the installation of boreholes per the placement of the air sparge and vapor extraction well materials in SPI line items 6-1 and 6-3 for Task 2 of the referenced PO. Boring logs are bot typically generated or required during the remediation phase of work but rather apply to assessment phase. Boring logs are generated when boring samples are collected in the case of HA or MR borings under SPI Pay Item 5-1A thru 5-1B. The absence of these pay items in the SPI for the referenced PO is evidence that boring logs were not required since boring samples via split spoon samples collection was not included in the work scope. Since pay items allowance for the collection of soil boring samples was not included for the subject SOW, appropriate soil boring logs could not be generated. The absence of boring logs for these pay items should not be considered an affirmation that the work was not performed. These borings and associated remediation well materials were installed as outlined in the approved remedial action plan (RAP) and SOW for the subject site.

Pay Item 6-1 Represents the cost of materials for the installation and construction of the air sparge wells within the boreholes installed under Pay Item 5-9 above. The well types are designed for the injection of pressurized air for sparging within the contaminated zone and not for obtaining groundwater samples. These types of wells are not typically developed. The development of this well type could negatively affect the performance of such wells by the introduction of fine sediment particles into the surrounding screen interval sand packs and compression of the sand pack causing reduced efficiency of air flow through the well screen and surrounding sand pack. In addition, since these wells were not required to be permitted through the North West Florida Water Management District, the certified well driller was not required to

Review of Agency Term Contractor
Enviro-Pro-Tech, Inc.
Division of Waste Management

Report: A-1617DEP-031

generate and submit well completion reports. These wells were constructed per the approved RAP, signed and sealed by a professional engineer. Copies of well construction details were included and submitted to FDEP under Task 3 of PO# AA1D1B in the final construction drawings signed and sealed by project professional engineer on August 19, 2014 and can be found on the FDEP OCULUS database.

Pay Item 6-3 represents the cost of materials for the installation and construction of vapor extraction (VE) wells within the borehole instructed under Pay Item 5-12 above. These types of wells are designed for the recovery of soil vapors via vacuum extraction. These wells are typically installed above the water table and cannot be developed due to the absence of waters. Development of these wells are not typically necessary even if partially submerged since the remediation system used to extract the soil vapors at the site is fitted with an air/water separator bag filters to capture and separate entrained waters and particles from the vapor stream. Construction details for these wells are also included in the as-built drawings submitted for the site and are included on the FDEP OCULUS database.

The AS and VE wells were all installed per the approved RAP for the subject site as evidenced through the field notes, photographs and the successful operation of the remedial system.

Report: A-1617DEP-031

OIG Comment Regarding Contractor's Response

The Contractor's responses cited specific circumstances and support for Purchase Orders included in Finding 2. Our recommendation was for the Division to clarify these discrepancies with Site Managers and ensure required documentation is reviewed, verified, and uploaded to Oculus prior to invoice approval and payment. Once payment disputes are resolved, PRP should recover payments made for remaining unsupported costs. The support provided by the Contractor did not change the information in the finding. This documentation was provided to PRP for resolution.