

**Review of Emergency Response Services Contract LE680 with
SWS Environmental Services**

Office of Emergency Response

Report: A-1516DEP-031

Office of Inspector General

Internal Audit Section

Florida Department of Environmental Protection

August 18, 2016

3900 Commonwealth Boulevard, MS 40
Tallahassee, Florida 32399-3000
www.dep.state.fl.us





Review of Emergency Response Services Contract LE680
with SWS Environmental Services
Office of Emergency Response



Report: A-1516DEP-031

Table of Contents

Scope and Objectives	1
Methodology	1
Background	1
Results and Conclusions	2
Findings and Recommendations.....	4
Management Comments.....	6
Division Response.....	9

Report: A-1516DEP-031

The Office of Inspector General (OIG) conducted a review of Contract LE680 (Contract) with SWS Environmental Services (Contractor). This review was initiated as a result of the Fiscal Year 2015-2016 Annual Audit Plan.

Scope and Objectives

The scope of this review included selected Contractor invoices during the period July 1, 2014 through December 31, 2015. The objectives were to:

- determine the Contractor's compliance with the Contract
- evaluate the Office of Emergency Response (OER) management oversight of the Contractor's activities
- determine the accuracy of the Contractor's billing submittals

Methodology

This review was conducted under the authority of Section 20.055, Florida Statutes, and in conformance with the *International Standards for the Professional Practice of Internal Auditing*, published by the Institute of Internal Auditors. Our procedures included interviews with OER management and review of OER and Contractor records.

Background

In August 2009, the Florida Department of Environmental Protection (Department) entered into the Contract with the Contractor to provide statewide emergency response services for incidents that pose an environmental or public health threat when the responsible party is unknown or fails to act in a timely and appropriate manner. The Contract became effective on August 24, 2009 and, pursuant to Amendment 3, has a completion date of August 23, 2019.

Report: A-1516DEP-031

The Department pays the Contractor on a combination fixed price/cost reimbursement/fee schedule basis as specified in each Work Authorization Form. According to the master listing of work performed under the Contract, invoices processed during the period July 1, 2014 through December 31, 2015 totaled \$346,045.27. We selected incidents 2014-3I-52115 (Collier), 2014-5I-51064 (Santa Rosa), and 2015-2I-52549 (Okeechobee) for testing. Invoices related to the selected incidents totaled \$147,345.54.

Results and Conclusions

Contract Compliance

Section 5(B) of the Contract requires the Contractor to submit executed Work Authorization Forms, Subcontractor Utilization Report Forms, Contractual Services Invoice Forms, and invoices itemized in accordance with the authorized budget categories of the Contract's Revised Fee Schedule upon the completion of each assigned task. These items were obtained and reviewed for each incident selected for testing with no exceptions noted. Section 5(B) further requires invoices to be submitted within sixty days of task completion. Invoices for the Okeechobee and Santa Rosa incidents were received more than sixty days after the final Daily Reports¹.

Based on review of provided documentation, Work Authorization Forms were executed by appropriate personnel, the Contractor and subcontractors did not commence work until Work Authorization Forms had been fully executed, and activities performed were consistent with services specified in each Work Authorization Form. Based on interviews with OER personnel,

¹ Form completed daily by OER staff to report on the general progress made by the Contractor and to record their equipment, labor, and subcontractor usage.

Report: A-1516DEP-031

the Contractor arrived at incident sites within 4 hours of notification by the OER when required and provided all items necessary to complete assigned tasks. As required by Attachment B of the Contract, the Contractor maintained and monitored a twenty-four hour telephone for notification purposes. Contract activities were not performed by persons or entities convicted of a public entity crime, and all subcontractors were properly approved prior to performing work under the Contract as required by Sections 14 and 30 of the Contract.

The Contractor maintained required general, automobile, pollution, and worker's compensation insurance coverage meeting the minimum liability requirements, and the certificates of insurance contained the required cancellation provision and Contract reference. As required by Attachment F of the Contract, all laboratories utilized in the incidents selected for testing were certified by the Department of Health Environmental Laboratory Certification Program and provided performance reports detailing their work.

Management Oversight

Based on review of documentation and interviews with OER personnel, an OER staff member was present each day that work was performed under the Contract. OER staff verified equipment and labor usage, monitored Contractor activities, and approved additional work as necessary. OER staff also completed Daily Reports, provided guidance when necessary, and ensured that only authorized work was performed.

Accuracy of Billing Submittals

Based on review of documentation, the Contractor's invoices were consistent with OER Daily Reports regarding the Contractor's daily labor, equipment, and subcontractor usage for each of the incidents selected for testing. The Contractor also utilized the Contract's Revised Fee

Report: A-1516DEP-031

Schedule for associated billing rates with no exceptions noted for the Okeechobee and Santa Rosa incidents.

According to the Contract's Revised Fee Schedule, the Contractor can charge an additional service fee of 3% for subcontractor invoices less than \$5,000. A portion of the subcontractor invoices less than \$5,000 submitted for reimbursement for the Collier incident included an additional service fee of 5%. During the review, we also noted that the Contract's Revised Fee Schedule listed higher rental rates for 3,300-gallon vacuum trucks than the larger 4,000-gallon vacuum trucks.

According to Section 26 of the Contract, the State of Florida is not required to pay taxes on services or goods purchased under the terms of the Contract. A portion of the subcontractor invoices submitted for reimbursement for the Okeechobee incident included sales tax.

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

Findings and Recommendations

Finding 1: Timely Submission of Invoices

Section 5(B) of the Contract states *invoice(s) and copies must be submitted within sixty (60) days of task completion*. Based on review of Contractual Services Invoice Forms, invoices for the Okeechobee and Santa Rosa incidents were received by the OER 73 days and 114 days, respectively, after the dates of the final Daily Reports. During discussions, the Contractor indicated a task is considered complete when subcontractors have submitted invoices and are paid in full. The Contractor also explained that Accounts Payable staff typically process subcontractor invoices within 60 days of invoice receipt. Based on interviews with OER

Report: A-1516DEP-031

management, task completion depends on varying factors and it is not clearly defined within the Contract. The Contract requires invoice submission within a timeframe that is not clearly defined, communicated, and consistently understood. As a result, the OER is unable to enforce the Contract requirement of timely invoice submission by the Contractor.

Recommendation:

We recommend the OER amend the Contract to specify when a task is considered complete and put processes in place to ensure the Contractor submits invoices within sixty days of task completion.

Finding 2: Invoice Review

Service Fees: According to the Contract's Revised Fee Schedule, the Contractor is allowed to charge an additional service fee of 3% for subcontractor invoices less than \$5,000. Based on review of subcontractor invoices related to the Collier incident, 10 of the 26 subcontractor invoices less than \$5,000 included an additional service fee of 5% rather than 3%, which resulted in excess charges totaling \$32.

Taxes: According to Section 26 of the Contract, the State of Florida is not required to pay taxes on services or goods purchased under the terms of the Contract. During the review of the Okeechobee incident, we noted that two of the six subcontractor invoices submitted for reimbursement included sales tax, which resulted in excess charges totaling \$27.65. OER management indicated that reimbursement of invoices including incorrect service fees and sales tax was a result of oversights during the invoice review and approval processes.

Report: A-1516DEP-031

Recommendation:

We recommend the OER direct the Contractor to ensure invoices conform to limits specified in the Contract. Specifically, invoices should not include sales tax charged for services or goods purchased under the Contract, and additional service fees should be limited to 3% for subcontractor invoices less than \$5,000.

We recommend OER contract management processes include detailed review of invoices to ensure approved payments include amounts and fees allowed by the Contract. Further, we recommend the OER direct the Contractor to reimburse the Department for the \$59.65 (\$32.00 + 27.65) charged in error.

Management Comments

Management Comment 1: Disproportionate Vacuum Truck Rental Rates

During the review, we noted that vehicle rates for 3,300-gallon vacuum trucks and 4,000-gallon vacuum trucks appeared disproportionate in the Contract’s Revised Fee Schedule, as rates for 3,300-gallon vacuum trucks were higher than rates for 4,000-gallon vacuum trucks as detailed below. According to OER management, the Contractor provided these rates in the original Fee Schedule included with the Contract, but the disproportionate rates were not questioned during the initial review of Contract rates nor when the Fee Schedule was revised in April 2013.

<i>Vehicle Type</i>	<i>Hourly</i>	<i>Daily</i>	<i>Weekly</i>
<i>Vacuum Truck, 4,000-gallon</i>	<i>\$33.95</i>	<i>\$271.60</i>	<i>\$1,309.50</i>
<i>Vacuum Truck, 3,300-gallon</i>	<i>\$43.65</i>	<i>\$349.20</i>	<i>\$1,697.50</i>

Report: A-1516DEP-031

Based on review of Daily Reports, the Contractor rented 58 vacuum trucks for a total of 422.5 hours during the Collier incident. All 58 rentals involved 3,300-gallon vacuum trucks. The Contractor stated that 4,000-gallon vacuum trucks would have been preferable for a job of this size, but the layout of the drop-off site and surrounding terrain prevented the use of this equipment. OER management indicated that rates for 3,300-gallon and 4,000-gallon vacuum trucks were disproportionate in the Contract's Revised Fee Schedule and indicated that the Contract would be amended. Based on our review of the Contract and discussions with management, the OER would benefit from a detailed review of rates included in the Contract Revised Fee Schedule to ensure rates reflect a justifiable expectation of costs.

Management Comment 2: Contract Reference of the Contractor's Name

The Contract references the Contractor by one of its previous names. According to the Contractor's website, in 2008, Southern Waste Services, Inc. merged with Eagle Construction and Environmental Services, L.P. to form Eagle-SWS. In 2011, Eagle-SWS officially changed its name to Progressive Environmental Services, Inc. d/b/a SWS Environmental Services. OER management indicated that they were unaware of this change and that the Contractor did not communicate the change. As amended, the Contract should be updated to include accurate reference to the Contractor's legal name.

Review of Emergency Response Services Contract LE680 with SWS Environmental Services
Office of Emergency Response

Report: A-1516DEP-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 audit was conducted by Adam Crump 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

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Rick Scott
Governor

Carlos Lopez-Cantera
Lt. Governor

Jonathan P. Steverson
Secretary

July 28, 2016

Office of Inspector General
3800 Commonwealth Blvd.
Tallahassee, FL 32399

To Whom It May Concern:

The Office of Emergency Response (OER) has reviewed the Office of Inspector General (OIG) report (A-1516DEP-031) on the Response Contract LE680 with SWS Environmental Services dated July 19, 2016 (received July 19, 2016). OER offers the following responses in regards to the findings of the report.

Finding 1: Timely Submission of Invoices

The OER contract manager will work with the Department of Environmental Protection's (DEP) Procurement Office and with its legal representative to adjust the language of the contract in order to hold the contractor more accountable to the 60-day timeframe where invoices are expected to be provided. The contract manager will also look into possible financial consequences that can be taken for OER to enforce the 60-day timeframe. At this time OER is in beginning discussions on how to proceed with this contract language change.

Finding 2: Invoice Review

The Contract Manager for OER has already taken steps to obtain a refund from SWS Environmental in the amount of \$59.65. An e-mail was sent to Shelly Czupryna, Sr. Service Center Administrator, with SWS on Tuesday, July 19th, 2016 detailing the cost breakdown of the refund needed. At this time, there has been no response from SWS Environmental. The contract manager will follow up with Ms. Czupryna as to the status of the refund.

Management Comment 1: Disproportionate Vacuum Truck Rental Rates

OER has been working with the DEP Procurement Office and have created Amendment 5 to address the rental rate cost mistake. The prices for the 3300-gallon Vacuum Truck and the 4000-gallon will be revised to their corrected price, \$33.95 and \$43.65 respectively. The Amendment has already been reviewed and approved by DEP representatives and is currently being reviewed by Brian Cross, Corporate Attorney for SWS. Once Mr. Cross signs the Amendment and returns it to the OER Contract Manager, it will then only need to be signed by the Secretary of DEP before it can be issued as an executed Amendment to the contract. This Amendment, when received by OER from SWS, is expected to be fully executed within two (2) weeks (depending on the schedule of the DEP Secretary).

Management Comment 2: Contract Reference of the Contractor's name

The OER Contract Manager will be working with the DEP Procurement Office to create an Amendment to address the correct business name of the Contractor. In this case, the contract will be revised to acknowledge the name Progressive Environmental Services, Inc. d/b/a SWS Environmental Services as the correct name of the contractor. This change is expected to take effect within 3 months.

A handwritten signature in black ink, appearing to read 'John Johnson', is enclosed in a light gray rectangular box.

John Johnson, Director
Office of Emergency Response
Florida Department of Environmental Protection