



Department of Environmental Protection Office of Inspector General

December 12, 2023

Report A-2223DEP-019

Audit of Agreement INV15 with Lake St. Charles Community Development District for Lake St. Charles Innovative Algae Control and Phosphorus Abatement

INTRODUCTION

The Florida Department of Environmental Protection (Department) Office of Inspector General (OIG) conducted an audit of Agreement INV15 (Agreement) with Lake St. Charles Community Development District (Grantee) for Lake St. Charles Innovative Algae Control and Phosphorus Abatement. This audit was initiated as a result of the OIG Annual Audit Plan for Fiscal Year 2022-2023.

AUDIT SCOPE, OBJECTIVES, AND METHODOLOGY

The scope of the audit included requirements, oversight, deliverables, and disbursements associated with the Agreement between the Department and the Grantee from July 1, 2020, to present.

The objectives of this audit were to:

- Determine whether deliverables and disbursements were completed in compliance with the requirements of the Agreement.
- Determine whether the Grantee complied with the overall requirements of the Agreement.
- Evaluate Department oversight over the Grantee's compliance with the Agreement.

To achieve our audit objectives, our methodology included:

- Reviewing the requirements of the Agreement, attachments, change orders, and amendments.
- Reviewing applicable statutes, regulations, Department procedures, and other authoritative documents.
- Reviewing associated records and documentation; including, deliverables, invoices, communications, and other supporting documentation.
- Interviewing appropriate Department staff and management regarding the processes and controls used in the duration of the Agreement.

BACKGROUND

The Department entered into the Agreement with the Grantee on June 10, 2021, for Lake St. Charles innovative algae control and phosphorus abatement. This is a cost-reimbursement grant, and the reimbursement period was set as July 1, 2020, through the expiration of the Agreement (April 1, 2024). Eligible expenses allowed include contractual and miscellaneous/other expenses, excluding equipment purchases. Pursuant to the Agreement, the Grantee *will conduct field scale use of four types of innovative technology to combat harmful algae blooms in Lake St. Charles: 1) two (2) anchored MPC-Buoys with ultrasonic algae control devices, 2) SOLitude Aeration, 3)*

**Department of Environmental Protection
Office of Inspector General
Audit of Agreement INV15 with Lake St. Charles Community Development District for
Lake St. Charles Innovative Algae Control and Phosphorus Abatement**

MPC-NanoBubble, and 4) *PO4 Sponges*. Oversight of the Agreement was provided by the Department's Office of Water Policy and Ecosystems Restoration (Division). The Division is responsible for the regulatory programs that focus on water supply protection and environmental restoration in Florida.

This Agreement contains 8 tasks; however, during our audit review, work had only begun and been paid for Tasks 1 through 5. Therefore, Tasks 6 through 8 were not reviewed during the audit. There were three amendments and one change order to this Agreement:

- Amendment No. 1: Signed on 11/23/21, this Amendment replaced the Grant Work Plan from the initial Agreement.
- Amendment No. 2: Signed on 5/9/22, this Amendment replaced the Budget Detail by Task from the initial Agreement.
- Amendment No. 3: Signed on 9/15/23, this Amendment replaced the Grant Work Plan from Amendment No. #1.
- Amendment No. 4: Signed on 10/17/23, this Amendment replaced the Budget Detail by Task from Amendment No. 3.
- Change Order No. 01: Signed on 9/15/21, this Change Order replaced the Project Timeline from the initial Agreement.

During our review, there had been payments made for Tasks 2, 3, 4, and 5. A subsequent payment was made for Task 6; however, our review was limited to Tasks 1 through 5 during this engagement. See summary of payments made per task below:

| Budget per Amendment 4 | | | |
|------------------------|------------------|------------------|------------------|
| Task | Budgeted | Paid | Remaining |
| 1 | \$0.00 | \$0.00 | \$0.00 |
| 2 | \$1,000 | \$0.00 | \$1,000 |
| 3 | \$124,350 | \$124,350 | \$0.00 |
| 4 | \$62,484 | \$31,292 | \$31,192 |
| 5 | \$120,000 | \$120,000 | \$0.00 |
| 6 | \$124,000 | \$124,000 | \$0.00 |
| 7 | \$117,716 | \$0.00 | \$117,716 |
| 8 | \$37,000 | \$0.00 | \$37,000 |
| Totals | \$586,550 | \$399,642 | \$186,908 |

RESULTS OF AUDIT

During the audit, we reviewed documentation and records relating to the Grantee's completion of the deliverables and the subsequent payment requests. The following are the results of our review.

Completion of Tasks and Deliverables

Our review found that the Grantee completed Task 1 in compliance with the Agreement; however, some deliverables for Tasks 2, 3, 4, and 5 were not submitted in compliance with the Agreement or prior to the Grantee receiving payment. A summary of our review of each task and accompanying deliverables is provided below.

Task 1: Quality Assurance Project Plan (QAPP)

Task 1 contained two deliverables: a draft QAPP and a final QAPP. Our review found this task was completed in accordance with the Agreement.

Task 2: Lake St. Charles Algae Treatment Plan (LSCATP) and Public Outreach

Task 2 contained three deliverables:

- 2a) *The Grantee will create a Draft LSCATP in Word format and submit it electronically to the Department Grant Manager.*
- 2b) *The Grantee will submit the following items to the Department's Grant Manager:
 - 1) *the Grantee's public meeting PowerPoint presentation and*
 - 2) *the Draft LSCATP with any suggested changes submitted by the public to the hyperlink/website or information posted there and provide documentation to demonstrate the website's service functionality;*
 - 3) *Dated photograph(s) of installed sign(s) as approved;*
 - 4) *copy of meeting or workshop notices, agenda(s), meeting minutes or notes, and sign-in sheets, and*
 - 5) *copy of promotional effectiveness survey(s) with summary of results.**
- 2c) *The Grantee will complete the LSCATP document. The Grantee and subcontractors will incorporate Task 2.b feedback into final project planning documents to the maximum practicable extent and submit it electronically in a PDF format to the Department's Grant Manager. Upon request, the Grantee will provide a paper copy of the LSCATP to the Department Grant Manager.*

Our review found the Deliverable 2a was completed in accordance with the Agreement. However, Deliverables 2b and 2c had not been completed. A progress report from the Grantee for the period January-March 2023, states the following for Deliverables 2b and 2c:

- 2b) *A version of the public outreach and communication presentation was drafted late in 2021. The original goal to have the outreach completed by the third quarter 2022 was not met. Instead, efforts were diverted from any further development of the public outreach to focus on execution of the grant fieldwork and installation of the technologies. The task of completing the Public Outreach was expected to be completed by the end of the fourth quarter 2022.*
- 2c) *Finalization of the Algae Treatment Plan cannot occur until the Public Outreach and Communication (Task 2b) has been completed. It was the grantee's original intent*

Department of Environmental Protection
Office of Inspector General
Audit of Agreement INV15 with Lake St. Charles Community Development District for
Lake St. Charles Innovative Algae Control and Phosphorus Abatement

to complete this task by the end of September 2022. This goal was not attained primarily due to 2 separate incidents of equipment failure.

During our review, we verified with the Division that the Grantee had not conducted the public meeting. Since no public meeting had taken place, Deliverables 2b and 2c had not been completed and the LSCATP had not been finalized or approved. The Agreement states for subsequent Tasks 3 through 6, *All work associated with this task will be consistent with the LSCATP (Task 2).*

Task 3: MPC-Buoy Deployment

Task 3 had three deliverables. The MPC-Buoy technology constructed as described in this task, as evidenced by: *1) Dated color photographs of the construction site(s) prior to, during, and immediately following completion of the construction task; 2) written verification that the Grantee has received record drawings and any required final inspection report(s) for the project; and 3) signed acceptance of the completed work by the Grantee.* Our review found that Deliverables 2 and 3 appeared to be completed in compliance with Task 3. For Deliverable 1, our review noted colored photographs were provided to the Division and appear to show the MPC-Buoys before, during, and after deployment. However, none of the photographs were dated as required by the Agreement. The Grant Manager approved the Task 3 deliverables on 7/18/22. While our review found the Task 3 deliverables were mostly completed in accordance with the Agreement, the Agreement states for Task 3 *All work associated with this task will be consistent with the LSCATP (Task 2)* which had not been completed during our audit.

Task 4: Solitude Aeration Deployment

This task had three deliverables. Solitude Aeration Technology constructed as described in this task, as evidenced by: *1) Dated color photographs of the construction site(s) prior to, during, and immediately following completion of the construction task; 2) written verification that the Grantee has received record drawings and any required final inspection report(s) for the project; and 3) signed acceptance of the completed work by the Grantee.* Our review found that Deliverable 3 appeared to be completed in accordance with the Agreement; however, Deliverables for 1 and 2 were not. For Deliverable 1, we requested additional documents from the Grant Manager; however, they were unable to locate the required photographs. For Deliverable 2, our review found no record drawings or inspection reports appear to have been provided to the Division for this task. While our review found only one of the three Task 4 deliverables were completed in accordance with the Agreement, the Agreement states for Task 4: *All work associated with this task will be consistent with the LSCATP (Task 2)* which had not been completed during our audit. Additionally, our review also noted that it appears equipment was purchased for this task, which is not allowed under the terms of the Agreement; see page 5 for more details.

Task 5: MPC-NanoBubble Deployment

This task had three deliverables. MPC-NanoBubble Technology constructed as described in this task, as evidenced by: *1) Dated color photographs of the construction site(s) prior to, during, and immediately following completion of the construction task; 2) written verification that the Grantee has received record drawings and any required final inspection report(s) for the project; and 3) signed acceptance of the completed work by the Grantee.* Our review found all three Task 5 deliverables appear to have been completed in accordance with the

**Department of Environmental Protection
Office of Inspector General**

**Audit of Agreement INV15 with Lake St. Charles Community Development District for
Lake St. Charles Innovative Algae Control and Phosphorus Abatement**

Agreement. However, the Agreement states for Task 5, *all work associated with this task will be consistent with the LSCATP (Task 2)*, which had not been completed during our audit.

Other Agreement Requirements

The Agreement sets forth both standard terms and conditions in Attachment 1 and special terms and conditions in Attachment 2 to be met by the Grantee. We reviewed the other Agreement requirements and noted the following.

Status Reports

The Agreement states: *The Grantee shall submit status reports quarterly...due no later than twenty (20) days following the completion of the quarterly reporting period. For the purposes of this reporting requirement, the quarterly reporting periods end on March 31, June 30, September 30 and December 31. The Department will review the required reports submitted by Grantee within thirty (30) days.* Our review found the Grantee had submitted the required reports in compliance with the Agreement.

Insurance

The Agreement requires that the Grantee and/or subcontractors to maintain Commercial General Liability Insurance, Commercial Automobile Insurance, and Workers' Compensation and Employer's Liability Insurance throughout the Agreement period. Our review found that the Grantee appeared to be in compliance with this requirement.

Equipment Purchases

The Agreement states, *No Equipment purchases shall be funded under this Agreement.* Additionally, the Agreement specifies eligible reimbursement costs include only *Contractual and Miscellaneous/Other Expenses* but does not include *Equipment or Rental/Lease of Equipment*. Based on our review, it appears that equipment was purchased from a subcontractor via a lease-to-own contract. An email sent from the Grantee to the Division Grant Manager on August 25, 2021, acknowledged that equipment purchases were not allowed under the Agreement but stated equipment for Task 4 would be obtained via a lease-to-own contract (see excerpt below).

When it became known that equipment purchase was not permitted under the grant conditions the agreement was renegotiated to identify and separate only the lake bottom diffused aeration costs and establish a lease to own agreement (See attachment) to meet the requirements of the grant.

From the original 50% deposit paid in December 2020 the portion allocated strictly to the 50% deposit on the leased to own lake bottom diffused aeration system credited deposit amount was \$31,292. The total cost of the leased to own aeration system is \$62,584. The budget cost analysis form supplied allocated 63,000 for the aeration system.

I am assuming that since the subcontractor agreement with Solitude Lake Management is lump sum and the equipment is leased to own that the Property Reporting Form is not applicable.

In response to the email (excerpt above), the Grant Manager approved the deliverables for Task 4a, and responded: *Thank you for the submittal of the Deliverables for DEP agreement INV15, Task 4a: SOLitude Aeration Demonstration. Please consider this email approval of the August 25th, 2021 submittal.*

**Department of Environmental Protection
Office of Inspector General**

**Audit of Agreement INV15 with Lake St. Charles Community Development District for
Lake St. Charles Innovative Algae Control and Phosphorus Abatement**

The Lease to Own Service Contract states that ownership of the equipment will be transferred to the Grantee at the end of the lease period and after final payment. Since this is a reimbursement grant, it would appear the Department would be paying for this equipment fully.

CONCLUSION

Based on our review of Tasks 1 through 5, we found the Grantee completed Task 1 in compliance with the Agreement; however, some deliverables for Tasks 2, 3, 4, and 5 were not submitted in compliance with the Agreement or prior to the Grantee receiving payment. Our review noted some areas where Division oversight and internal controls could be strengthened to ensure payment is not approved for ineligible costs and incomplete deliverables. Our findings and recommendations are listed below.

FINDINGS AND RECOMMENDATIONS

Finding 1: Payment of Incomplete Deliverables – The Grantee received reimbursement although some deliverables were not completed in accordance with the Agreement.

Our review found that the Grantee completed Task 1 in compliance with the Agreement; however, some deliverables for Tasks 2, 3, 4, and 5 were not submitted in compliance with the Agreement or prior to the Grantee receiving payment. Moreover Task 2 required a public meeting which has not been held, and the Agreement states that for subsequent Tasks 3 through 6, *All work associated with this task will be consistent with the LSCATP (Task 2).*

Task 2 contained three deliverables:

- 2a) *The Grantee will create a Draft LSCATP in Word format and submit it electronically to the Department Grant Manager.*
- 2b) *The Grantee will submit the following items to the Department's Grant Manager:*
 - 1) *the Grantee's public meeting PowerPoint presentation and*
 - 2) *the Draft LSCATP with any suggested changes submitted by the public to the hyperlink/website or information posted there and provide documentation to demonstrate the website's service functionality;*
 - 3) *Dated photograph(s) of installed sign(s) as approved;*
 - 4) *copy of meeting or workshop notices, agenda(s), meeting minutes or notes, and sign-in sheets, and*
 - 5) *copy of promotional effectiveness survey(s) with summary of results.*
- 2c) *The Grantee will complete the LSCATP document. The Grantee and subcontractors will incorporate Task 2.b feedback into final project planning documents to the maximum practicable extent and submit it electronically in a PDF format to the Department's Grant Manager. Upon request, the Grantee will provide a paper copy of the LSCATP to the Department Grant Manager.*

Our review found the Deliverable 2a was completed in accordance with the Agreement. However, Deliverables 2b and 2c had not been completed. During our review, we verified with the Division

**Department of Environmental Protection
Office of Inspector General**

**Audit of Agreement INV15 with Lake St. Charles Community Development District for
Lake St. Charles Innovative Algae Control and Phosphorus Abatement**

that the Grantee had not conducted the public meeting. Since no public meeting had taken place, Deliverables 2b and 2c had not been completed and the LSCATP had not been finalized or approved. Subsequent Tasks 3-6 specify, *All work associated with this task will be consistent with the LSCATP (Task 2)*.

Task 3 contained three deliverables: *The MPC-Buoy technology constructed as described in this task, as evidenced by:*

- 1) *Dated color photographs of the construction site(s) prior to, during, and immediately following completion of the construction task;*
- 2) *written verification that the Grantee has received record drawings and any required final inspection report(s) for the project; and*
- 3) *signed acceptance of the completed work by the Grantee.*

For Task 3, our review found that Deliverables 2 and 3 appeared to be completed in compliance with Task 3. For Deliverable 1, our review noted colored photographs were provided to the Division and appear to show the MPC-Buoys before, during, and after deployment. However, none of the photographs were dated as required by the Agreement. The Grant Manager approved the Task 3 deliverables on July 18, 2022. While our review found the Task 3 deliverables were mostly completed in accordance with the Agreement, the Agreement also states for Task 3 *All work associated with this task will be consistent with the LSCATP (Task 2)* which had not been completed during our audit.

Task 4 contained three deliverables: *Solitude Aeration Technology constructed as described in this task, as evidenced by:*

- 1) *Dated color photographs of the construction site(s) prior to, during, and immediately following completion of the construction task;*
- 2) *written verification that the Grantee has received record drawings and any required final inspection report(s) for the project; and*
- 3) *signed acceptance of the completed work by the Grantee.*

Our review found that Deliverable 3 appeared to be completed in accordance with the Agreement; however, Deliverables for 1 and 2 were not. For Deliverable 1, we requested additional documents from the Grant Manager; however, they were unable to locate the required photographs. For Deliverable 2, our review found no record drawings or inspection reports appear to have been provided to the Division for this Task. While our review found only one of the three Task 4 deliverables were completed in accordance with the Agreement, the Agreement also states for Task 4: *All work associated with this task will be consistent with the LSCATP (Task 2)* which had not been completed during our audit. Additionally, our review also noted that it appears equipment was purchased for this task, which is not allowed under the terms of the Agreement [see Finding 2 for more details].

Task 5 Our review found all three Task 5 deliverables appear to have been completed in accordance with the Agreement. However, the Agreement states for Task 5, *all work associated with this task will be consistent with the LSCATP (Task 2)*, which had not been completed during our audit.

**Department of Environmental Protection
Office of Inspector General
Audit of Agreement INV15 with Lake St. Charles Community Development District for
Lake St. Charles Innovative Algae Control and Phosphorus Abatement**

Payments: Our review found Task 2 had not been completed, and no payments had been made on Task 2. However, Tasks 3 through 5 were dependent on the completion of the LSCATP (Task 2). Although Tasks 3 through 5 had some missing deliverables and were dependent of completion of Task 2, the following payments had been made:

| Task | Budgeted | Paid |
|---------------|------------------|------------------|
| 1 | \$0.00 | \$0.00 |
| 2 | \$1,000 | \$0.00 |
| 3 | \$124,350 | \$124,350 |
| 4 | \$62,484 | \$31,292 |
| 5 | \$120,000 | \$120,000 |
| Totals | \$307,834 | \$275,642 |

Recommendation:

- 1.1 We recommend the Division work with Grant Managers to ensure required deliverables and documentation are reviewed and meet the requirements of the Agreement prior to approval of reimbursement.

Management Response:

As part of the payment for reimbursement process, each grant manager is to schedule a briefing with the Director and the Budget Coordinator with the Office of Water Policy and Ecosystems Projects to review the acceptability of deliverables before the grantees are informed that they may submit invoices for reimbursement request. This was previously managed by the supervisor of the grant managers, but with multiple changes in grant managers and supervisors, there was insufficient oversight necessary to ensure the precise terms of the agreement were met.

Finding 2: Equipment Purchases - The Grantee purchased equipment which was not authorized under the terms of the Agreement.

The Agreement states, *No Equipment purchases shall be funded under this Agreement.* Additionally, the Agreement specifies eligible reimbursement costs include only *Contractual* and *Miscellaneous/Other Expenses* but does not include *Equipment* or *Rental/Lease of Equipment*. Based on our review, it appears that equipment was purchased from a subcontractor via a lease-to-own contract. An email sent from the Grantee to the Division Grant Manager on August 25, 2021 acknowledged that equipment purchases were not allowed under the Agreement but stated equipment for Task 4 would be obtained via a lease-to-own contract (see excerpt below).

When it became known that equipment purchase was not permitted under the grant conditions the agreement was renegotiated to identify and separate only the lake bottom diffused aeration costs and establish a lease to own agreement (See attachment) to meet the requirements of the grant.

From the original 50% deposit paid in December 2020 the portion allocated strictly to the 50% deposit on the leased to own lake bottom diffused aeration system credited deposit amount was \$31,292. The total cost of the leased to own aeration system is

**Department of Environmental Protection
Office of Inspector General**

**Audit of Agreement INV15 with Lake St. Charles Community Development District for
Lake St. Charles Innovative Algae Control and Phosphorus Abatement**

\$62,584. The budget cost analysis form supplied allocated 63,000 for the aeration system.

I am assuming that since the subcontractor agreement with Solitude Lake Management is lump sum and the equipment is leased to own that the Property Reporting Form is not applicable.

In response to the email (excerpt above), the Grant Manager approved the deliverables for Task 4a, and responded: *Thank you for the submittal of the Deliverables for DEP agreement INV15, Task 4a: SOLitude Aeration Demonstration. Please consider this email approval of the August 25th, 2021 submittal.*

The Lease to Own Service Contract states, *The final payment will be invoiced October 1, 2022 in the amount of \$100.00 which will transfer ownership of the site 27 – Lake St. Charles vertex aeration system to the client [Grantee].* Since this is a reimbursement grant, it would appear the Department would be paying for this equipment fully.

Recommendations:

- 2.1** We recommend the Division review payments made for any equipment purchase or lease and seek reimbursement from the Grantee for those expenditures, as equipment purchases, nor equipment leases are allowed under the terms of the Agreement.

Management Response:

For this item, the funds that support the agreement allow for the reimbursement of rental/lease equipment and is commonly allowed in the Innovative Technology grant program. For INV15, however, the grant was not drafted properly to indicate that the equipment rental/lease was permitted and this was missed in the agreement review process. Additionally, the grant manager at the time was not aware that the lease to own agreement would result in the grantee owning the property, which is not consistent with Department policy for equipment with a value of greater than \$5,000.00.

To address the recommendation regarding the allowance of rental agreements, we have updated our grant review procedures to include a team review after the grant manager and their supervisor have completed a review of the final draft agreement. This team review requires the grant manager to present to the Director, the Budget Director, and the Water Quality Technical Lead the grant and includes the updated checklist to avoid the rental agreement language and any other allowable items from being inadvertently missed prior to execution.

To address the recommendation to resolve the lease to own that resulted in the purchase of equipment, our grant agreement procedures have been updated to clarify that lease to own agreements are not allowable and all current grant managers have been trained to understand the difference. In this particular instance, after working with the grantee, a decision was made to not seek reimbursement for the equipment or for the equipment to be returned to the Department. This decision was made because the equipment is still in use and providing environmental and human health benefits that are desired by the Department.

STATEMENT OF ACCORDANCE

Statement of Accordance

The Mission of the OIG is to promote accountability, integrity, and efficiency by providing quality audits, investigations, management reviews, and technical assistance.

This work product was prepared pursuant to § 20.055, Florida Statutes, in accordance with the *Principles and Standards for Offices of Inspectors General* as published by the Association of Inspectors General and the *International Standards for the Professional Practice of Internal Auditing*, as published by the Institute of Internal Auditors, Inc. The audit was conducted by Caroline Wilder and supervised by Susan Cureton.

This report and other reports prepared by the OIG can be obtained through the Department's website at <https://floridadep.gov/oig> or by contacting:

Office of Ombudsman and Public Services
public.services@floridadep.gov
(850) 245-2118

Candie M. Fuller,
Inspector General