

Audit of Contract PL352 with ForesTech Consulting, Inc.

Division of Recreation and Parks

Report: A-1920DEP-024

Office of Inspector General

Internal Audit Section

Florida Department of Environmental Protection

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Tallahassee, Florida 32399-3000

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The Florida Department of Environmental Protection (Department) Office of Inspector General (OIG) conducted an audit of the Division of Recreation and Parks' (Division) Contract PL352 (Contract) with ForesTech Consulting, Inc (Contractor). This audit was initiated as a result of the Fiscal Year (FY) 2019-2020 Annual Audit Plan.

Scope and Objectives

The scope of the audit included activities and financial transactions during the term of the Contract. Our objectives were to:

- Evaluate management oversight of the Contract and the Contractor's compliance with the Contract and Task Assignments
- Determine whether approved payments were supported by required deliverables and evidence of activities outlined in the Contract and Task Assignment Scope of Services

Methodology

This audit 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 authoritative guidance, the Contract, and Task Assignments, interviews with Department and Contract staff, as well as review of Division and Contract records.

Background

The Contract was executed December 22, 2015, for a term of five years and was amended twice for administrative updates and to add positions and contracted increase rates. the Department retained the Contractor *to provide assistance in the development of a comprehensive data-driven resource inventory and management system and other associated services*. Funding

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for activities identified in the Scope of Services is authorized under each Task Assignment. Task Assignments and change orders issued and payments as of August 2020 were as follows:

Task Assignment	Date Issued	Description	Total Task Funding	Payments as of August 2020	Percent of Total Task Funding
1	1/7/2016	Update or Create Forest/Vegetation Stand Map Layers for all Parks, Complete Phase IA Forest/Vegetation Inventory at 27 Parks	\$1,264,057	\$1,264,057	2.3%
2	1/11/2016	Ongoing scoping, Planning, Meetings and Project Administration	\$338,716	\$338,716	0.6%
3	2/18/2016	Resource Management Projects: Evaluate, Provide Cost, and Implement	\$12,650,000	\$12,657,476	22.6%
4	2/16/2016	Finalize Project Implementation Plan	\$0	\$0	0.0%
5	3/15/2016	Torreya State Park - Restoration Zone 10	\$500,000	\$499,975	0.9%
6	4/16/2016	Data Assessment and Modeling Pilot Project	\$169,000	\$168,946	0.3%
7	6/24/2016	Resource Management Projects: Evaluate, Provide Cost, and Implement	\$271,113	\$271,112	0.5%
8	7/13/2016	On-Call Services, Ongoing Scoping, and Project Administration	\$325,000	\$319,297	0.6%
9	7/15/2016	Forest/Vegetation Inventory Data Collection	\$708,638	\$670,520	1.3%
10	9/7/2016	Unit Management Plan Public Process Support	\$71,453	\$67,169	0.1%
11	9/7/2016	Marjorie Harris Carr Cross Florida Greenways State Recreation and Conservation - Infrastructure Mapping	\$135,192	\$135,192	0.2%
12	9/7/2016	Marjorie Harris Carr Cross Florida Greenways State Recreation and Conservation - UMP Update	\$356,864	\$356,863	0.6%
13	9/22/2016	Communications Planning and Support	\$107,200	\$102,842	0.2%
14	10/5/2016	Data Collection, Analysis, and Reporting	\$545,700	\$545,614	1.0%
15	9/29/2016	Long Term Strategic Planning and Decision Support	\$532,169	\$532,168	1.0%
16	9/5/2017	On-Call Services, Ongoing Scoping, and Project Administration (Expanded for Hurricane Irma Cleanup and Restoration)	\$4,992,317	\$4,806,409	8.9%
17	1/23/2018	On-Call Services, Ongoing Scoping, and Project Administration (Expanded for Hurricane Michael Response and Restoration)	\$12,835,000	\$12,777,576	22.9%
18	7/17/2018	Resource Management Projects: Evaluate, Provide Cost, Implement, Management	\$4,150,000	\$3,436,988	7.4%
19	9/19/2018	Waterway Debris Cleanup	\$950,000	\$344,437	1.7%
20	2/18/2019	Fire Management Restoration following Hurricane Michael: Evaluate, Provide Costs, Implement, Management	\$6,000,000	\$5,999,943	10.7%
21	3/20/2019	Timber Assessments for Unit Management Plan Support	\$120,000	\$75,981	0.2%
22	4/16/2019	On-Call Services, Ongoing Scoping, and Project Administration	\$115,000	\$104,463	0.2%
23	7/15/2019	Resource Management Projects: Evaluate, Provide Cost, Implement, Management	\$5,679,900	\$3,995,359	10.2%
24	1/3/2020	Resource Management Projects: Evaluate, Provide Cost, Implement, Management	\$253,887	\$113,536	0.5%
25	1/16/2020	Hurricane Michael - T.H. Stone Memorial St. Joseph Peninsula SP Debris removal	\$2,000,000	\$1,182,080	3.6%
26	1/14/2020	Hurricane Michael Restoration Projects	\$856,500	\$567,169	1.5%
Total			\$55,927,706	\$51,333,887	100.0%

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The Contract Manager is a Program Administrator in the Bureau of Operational Services (BOS). The Task Manager is the Bureau Chief in the Bureau of Natural and Cultural Resources (BNCR).

Results

Management Oversight - Contract Procurement

In October 2015, the Department issued a Request for Proposals (RFP) in seeking a vendor to assist in development of a comprehensive data-driven resource management system. The intent was to provide Department staff with tools necessary to integrate resource inventories into modeling software to determine appropriate and achievable methods to reach resource management goals. Activities identified under the Scope of Services included specialized resource inventory equipment and software, training, resource mapping and inventory, assistance with Resource Management Plans, and assistance with implementing Resource Management Plans. The RFP requested that the respondents have experience with inventory devices and software. As such, the Contractor submitted the sole proposal received by the Department. Many of the activities listed among those for resource management implementation in the Contract as well as subsequently tasked hurricane response activities have been performed by Division staff or procured under separate contracts without the need for specific experience with inventory devices and software.

Contract Compliance

Based on sampled Task Assignments, payments, and other documentation obtained during our audit, the Contractor has operated in compliance with the Contract with respect to the following:

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- Rates billed by the Contractor were compensated consistent with rates identified in Attachment B of the amended Contract, or as mutually acceptable in writing and approved by the Division as required under Paragraph 5 of the Contract.
- Invoices were submitted as specified in each of the sampled Task Assignments and were documented and itemized as required under Paragraph 7 of the Contract.
- The Contractor has maintained liability insurance as required under Paragraph 13 of the Contract.
- In accordance with Scope of Services Paragraph 3 of the Contract, we verified the Contractor submitted a Quality Control Plan as well as monthly performance and cost reports as required.

Section 287.057(14), F.S., requires Contract Managers who manage contracts that exceed \$100,000 to be a certified Contract Manager. Based on our review, both the Contract Manager and the Division's Program Administrator received their Florida Certified Contract Manager certifications on February 10, 2016, and February 19, 2019, respectively.

Management Oversight - Contract Task Assignments

As part of our audit, we reviewed a sample of Projects assigned under Task Assignment 23. Task Assignment 23 was issued to the Contractor on July 15, 2019, for *Resource Management Projects*. The Division's FY 2019-2020 Resource Management Plan included 26 Projects at a cost of \$3,200,000. A change order was issued on March 24, 2020, to add 14 additional Projects for a collective total of \$5,679,900. As of October 1, 2020, \$4,446,820 had been paid for activities under Task Assignment 23. Of the 40 total Projects, we reviewed Contract and Task Assignment 23 requirements and management oversight for a sample of four approved payments associated with three of these Projects as follows:

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Park(s)	Project Description	Project Activities	Total Project Estimated Costs	Voucher/ Date	Approved Payment
Dagny Johnson Key Largo Hammock Botanical State Park	Port Bougainville Canal and Carysfort Marina Projects	Hydrologic Restoration Planning and Implementation	\$408,500	VF05962 (May 14, 2020)	\$450,302
Torrey State Park	Sandhill Restoration	Long Leaf Tubling Restoration	\$215,250	VF04621 (March 3, 2020)	\$15,750
Grayton Beach/Deer Lake State Park	Build Fire Line and Fencing Property Boundary	Fence and Gate Installation	\$73,337	VF04860 (March 17, 2020) VF05028 (March 25, 2020)	\$48,143

Task Assignment 23 Section 2 *Deliverables* requires the Contractor to submit the following documentation to the Department:

- *Project evaluation documentation summarizing observations, options, and estimated costs to complete a project*
- *Meeting notes/minutes for scheduled, formalized meetings involving Department and F4 [ForesTech] Tech staff*
- *Project-specific SOWs [Scope of Work]*
- *Subcontractor bid packages, pre-bid meeting summaries, and bids received*
- *Periodic Project Implementation Status Reports*
- *Additional documentation that verify/quantify Project implementation and effectiveness. For example, prescribed burning, timber sale, invasive/exotic plant control, and tree/brush removal Projects will each have unique sets of forms/documents.*

For the three Projects related to sampled payments, we verified the Contractor submitted Project evaluation documentation as well as status reports, meeting notes, and inspection reports. We verified subcontractor bids were obtained for the Projects at Dagny Johnson Key Largo Hammock Botanical State Park and Grayton Beach/Deer Lake State Park. Subcontractor bids were not obtained for the Project at Torrey State Park. According to the Contractor, the Division advised that bid-solicitation was not necessary for the Project. Based on our inquiry, the Division was unable to provide documentation justifying approval or the exception.

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The Contract requires that subcontracts include the same conditions as the Contract.

Based on our review, sampled subcontracts did not include conditions under:

- Paragraph 15.C, regarding release of any rights, claims, or liabilities against the Department
- Paragraph 30.A, requiring that subcontractors maintain and allow access to records for audit purposes
- Paragraph 34.B, regarding required use of the E-Verify system for employment eligibility verification

Paragraph 6 of Task Assignment 23 allows for a five percent markup of all subcontracted cost. Each of the sampled invoices included a five percent markup of subcontracted costs.

Paragraph 6 further states, *Any additional proposed costs must be reviewed and approved by the Department Task or Contract Manager*. Each payment in our sample included Project Approval Forms representing the Division's approval of the Task, Unit, Type, and Contractor rate.

According to Paragraph 7 of Task Assignment 23, *The amount of work accomplished and payment amount to invoice shall be measured or estimated by the Department Field Representative and the Contractor, documented and authorized with signatures, and submitted to the Department Task or Contract Manager for approval and processing*. Each of the approved payments in our sample included a Project Approval Form signed by Park management attesting that the Department's Project Manager approves work as completed and ready to invoice. We spoke with Park management and staff regarding verification of the invoiced amounts for Projects at Dagny Johnson Key Largo Hammock Botanical State Park, Grayton Beach/Deer Lake State Park and Torreya State Park. While the Project Approval Forms included Park management signatures that the work was approved and completed, Park Managers indicated that they had not verified the specific quantities invoiced.

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According to Paragraph 8 of the Contract, payments to subcontractors must be supported by invoices with identical backup documentation required from the Contractor. Each of the sampled invoices did not include copies of subcontractor invoices required by the Contractor. Based on our request, the Contractor provided subcontractor invoices. We verified invoiced amounts were consistent with amounts billed to the Department.

Management Oversight – Professional Service Hours

According to Paragraph 5.B., of the Contract, the Department will pay the Contractor as specified in the Task Assignments. Labor rates for professional services are included in the Second Revised Response Form. According to each Task Assignment, invoiced amounts for staff hours will be based on the number of hours worked multiplied by the approved rates. We reviewed professional service hours billed in a sample of 13 payments under Task Assignments 17, and 21 through 26. The Task Assignments include descriptions of deliverables related to tasked Projects. These deliverables are written in general terms and do not correlate the deliverable to a specific Park project or activity, and do not include an estimate of the hours required for each deliverable. Based on our review, invoices were submitted as required and included a Monthly Report Summary consistent with Paragraph 3 of the Contract Scope of Services. This report described the activities completed during the invoice time period but did not correlate hours billed to a specific activity. We reviewed documentation associated with Monthly Report Summary activities for the 13 sampled payments. Based on this review, the Division had obtained deliverable documentation generally consistent with summarized activities.

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Most of the Task Assignments reviewed did not include a detailed budget of the estimated hours and cost associated with each tasked project or activity. However, we obtained the budget which supported funding for Task Assignment 23. This budget was developed based on estimated costs associated with 40 Park resource management Projects throughout the Division. Of the 40, one Project included estimated cost of \$373,756.50 for *Resource Management Project Planning, Oversight, and Implementation*. As of August 2020, the Department approved payments to the Contractor totaling \$892,098 for Task Assignment 23 Project management professional service hours.

Based on a review of timesheet and payroll documentation for hours billed in the 13 sampled payments, hours reported on staff timesheets were generally consistent with invoiced hours. However, the Contractor uses an electronic record keeping system which does not require timesheets to be signed. During our review, we noted that the Contractor's Software Manager had made changes to Project job codes for staff time records after staff submission.

Management Oversight – Task Assignments for Hurricane Response Activities

Public assistance funds are available from Federal Emergency Management Agency (FEMA) to states for debris removal associated with federally declared disasters. Prior contracts established by the Department for debris removal due to a disaster declaration were coordinated through the Division of State Lands (DSL). DSL executed separate contracts for debris removal and monitoring consistent with requirements necessary for FEMA reimbursement to the Department. Although the Contract Scope of Services does not include assistance with emergency response activities and hurricane restoration services, based on Paragraph 4.C. of the

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Contract, if a specific activity is not included in the Scope of Services, but are in the general scope of services, the Department and Contractor can negotiate Task Assignment activities.

Under Task Assignment 16 as of September 2020, expenditures totaling \$4,683,498¹ were spent for assistance with debris removal and restoration activities as a result of Hurricane Irma². According to staff in the Division of Administrative Services (DAS) Bureau of Finance and Accounting (Finance and Accounting), the cost of emergency response and hurricane restoration service activities under Task Assignment 16 were not eligible for FEMA reimbursement because the Division had not established a contracted monitor nor obtained necessary documentation required for eligibility.

Under Task Assignment 17 as of September 2020, expenditures totaling \$11,557,652³ were spent for emergency response efforts in response to Hurricane Michael⁴. As a result of the Department's ineligibility for Hurricane Irma FEMA funding for activities under Task Assignment 16, the Division subsequently issued a separate purchase order for a monitoring contractor on April 22, 2019. Finance and Accounting staff provided the Division with guidance regarding FEMA eligibility requirements. However, the deliverables under Task Assignment 17 did not include specific requirements for compilation of information by category as necessary for submission to FEMA for reimbursement. During the course of our review, Finance and Accounting staff worked extensively with the Division to obtain necessary documentation for application submission to FEMA for reimbursement of debris removal costs associated with

¹ Hurricane Irma expenditures included under grant number FD073.

² Executive Order 17-235 regarding Emergency Management for Hurricane Irma issued by the State of Florida Executive Office of the Governor September 4, 2017.

³ Hurricane Michael expenditures included under grant number FD079.

⁴ Executive Order 18-276/277 regarding Emergency Management for Hurricane Michael issued by the State of Florida Executive Office of the Governor October 8, 2018.

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Hurricane Michael. At the time of our review, this compilation included costs totaling \$5,726,262.

Hurricane Michael recovery and restoration activities were also subsequently tasked to the Contractor under Task Assignments 20, 25, and 26. None of these tasks contain deliverables which would require submission of documentation in a format necessary for submission to FEMA prior to payment. As of September 2020, expenditures totaling \$20,192,365 were designated as related to emergency response efforts for Hurricane Michael under Task Assignments 17, 20, 25, and 26.

Management Oversight – Timber Sale Agreements

A portion of the 40 Projects budgeted under Task Assignment 23 included management of Timber Sale Agreements. According to the Task Assignment 23 *Deliverable*, Paragraph 2.G., the Contractor is required to prepare and submit timber sale documentation. As part of the 40 Projects identified under Task Assignment 23, two of these Projects were for timber sales at Torrey State Park and Wes Skiles Peacock Springs State Park. We reviewed Agreements executed by the Division and managed by the Contractor associated with the following Projects:

Agreement	Title	Revenue Settlement Amount
CA377	Torrey State Park Restoration Zone 14 Timber Sale Agreement	\$33,862.39
CA376	Wes Skiles Peacock Springs State Park Timber Harvest Timber Sale Agreement	\$134,862.39

For both Agreements, we verified that the Contractor submitted documentation regarding timber sale bids, insurance, settlement summaries, custody documents, scale tickets, purchaser's summaries, and inspections consistent with Task Assignment deliverable requirements.

Payments received by the Department were consistent with settlement summaries and supported by scale tickets. However, neither Task Assignment 23 nor the Agreements specify the

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Contractor's compensation for management of the timber sale. Under the Contract and Task Assignment 23, the Contractor is compensated on a cost reimbursement basis. This includes the number of hours worked at rates agreed upon under the Contract. Since Contract invoices for professional hours combine staff time billed on multiple Park Projects at various stages, the Department's cost for the Contractor's management of these Agreements is not clear.

Based on our review, both Agreements were signed by the Division Assistant Director. However, the Agreements were not reviewed by the Office of General Counsel (OGC) prior to execution. In addition, neither Agreement contained an Agreement number nor were established in the Florida Accountability Contract Tracking System (FACTS). During the course of our audit, the Division added the Agreements in FACTS.

Conclusions

Based on our audit, the Contractor has generally complied with the Contract with minor exceptions. However, we noted Division control weaknesses in the areas of Contract procurement, subcontracts, payment for professional service hours, oversight of hurricane response activities, and Timber Sale Agreements.

Findings and Recommendations

Finding 1: Management Oversight -Procurement

Under RFP Solicitation No. 2016023C, issued on October 23, 2015, the Department sought *a vendor to assist in development of a comprehensive data-driven resource management system. The intent is to provide Department staff with the tools necessary to integrate resource inventories into modeling software to determine appropriate and achievable methods to reach resource management goals.* The RFP included four overall tasks:

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- Task 1 Inventory Plan Review, Data Input, Review, Validation, and Analysis
- Task 2 Planning
- Task 3 Training and Development
- Task 4 Implementation

Under Section 1.06.B, Paragraph 5, Task 4 – *Implementation*, the RFP listed activities

Task 4 may consist of for the implementation plan. These included:

- A. Timber Sale Preparation
- B. Timber Sale Administration
- C. Site Preparation
- D. Reforestation/Restoration
- E. Forest Inventory and Analysis
- F. Prescribed Burning
- G. Timber Stand Improvement Thinning
- H. Timber Stand Release Treatments
- I. Forest Road/Fire Line Maintenance
- J. Invasive and Exotic Species Control
- K. Forest Inset and Disease Control
- L. Boundary Marking and GPS Mapping
- M. Geographic Information System (GIS) Data Creation and Maintenance
- N. Monitoring and Evaluation

Section 1.06.B. *Technical Response*, Paragraph 3 *Qualification and Experience*, of the RFP requested the *Respondent's past experience with portable or hand held inventory devices (such as Forge Echo hardware or comparable and/or compatible equivalents) and computer assisted inventory software (such as SilvAssist Mobile and SilvAssist Dashboard software, or comparable and compatible equivalents)*. Based on the Contractor's response, the Contractor *hold a US patent for the Forge Echo, while SilvAssist Mobile and SilvAssist Dashboard are*

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innovative solutions for collecting, managing, reporting and analyzing complex resource data in near real time. SilvAssist software was developed by the Contractor.

The RFP and resulting Proposed Contract Section 4.C., states, *In the event that services are required to be performed that are not specifically set out in [the Scope of Services], but are within the general scope of the services, the Department and Contractor hereby reserve the right to negotiate task assignments covering required services.* Many of the resource management activities listed in the RFP as well as subsequently tasked hurricane response activities have been performed by Division staff or procured by the Department under separate contracts without the need for specific experience with portable or hand-held inventory devices and computer assisted inventory software. The Contractor has used subcontractors in implementing many of the resource management Projects and hurricane response activities.

The Department's listing of experience with the specific equipment and software, such as those developed by the Contractor or a comparable and/or compatible equivalent, hindered the likelihood of receiving competing quotes. The Contractor's proposal was the only one received by the Department in response to the RFP.

Section 287.001, F.S., states that *The Legislature recognizes that fair and open competition is a basic tenet of public procurement; that such competition reduces the appearance and opportunity for favoritism and inspires public confidence that contracts are awarded equitably and economically; and that documentation of the acts taken and effective monitoring mechanisms are important means of curbing any improprieties and establishing public confidence in the process by which commodities and contractual services are procured.* As a result of applying a narrow qualification requirement in procuring a contract used for

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implementing a broad range of resource management activities, the Division is not meeting the statutory objective for fair and open competition.

Recommendation:

Going forward, we recommend the Division discontinue the practice of awarding a single contract for a broad range of services using narrowly defined qualifications and experience. Contracts for projects identified by the Division should be procured in a manner that identifies the experience and qualification necessary for the specific activity or project being procured.

Finding 2: Management Oversight – Subcontracted Projects

As part of our audit, we reviewed the following sample of four approved payments associated with three subcontracted Projects under Task Assignment 23.

Park(s)	Project Description	Project Activities	Total Project Estimated Costs	Voucher/ Date	Approved Payment
Dagny Johnson Key Largo Hammock Botanical State Park	Port Bougainville Canal and Carysfort Marina Projects	Hydrologic Restoration Planning and Implementation	\$408,500	VF05962 (May 14, 2020)	\$450,302
Torrey State Park	Sandhill Restoration	Long Leaf Tubling Restoration	\$215,250	VF04621 (March 3, 2020)	\$15,750
Grayton Beach/Deer Lake State Park	Build Fire Line and Fencing Property Boundary	Fence and Gate Installation	\$73,337	VF04860 (March 17, 2020) VF05028 (March 25, 2020)	\$48,143

Task Assignment 23 Section 2 *Deliverables* requires the Contractor to submit *Subcontractor bid packages, pre-bid meeting summaries, and bids received*. Subcontractor bids were not obtained for the Project at Torrey State Park. According to the Contractor, the Division advised that bid-solicitation was not necessary for the Project. Based on our inquiry, the Division was unable to provide documentation justifying this approval or the exception.

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Subcontract Documents

We reviewed Contract requirements for subcontracts associated with the three sampled Projects. Based on this review, we noted the following:

- Paragraph 15.C of the Contract states, *The Department shall not be liable to any subcontractor for any expenses or liabilities incurred under any subcontract, regardless of whether Department has approved such subcontract or subcontractor. Contractor shall be solely liable to its subcontractor(s) for all expenses and liabilities incurred under any subcontract. Any subcontracts made under or in performance of this Contract must include the same conditions specified in this Contract, with the exception of insurance requirements (paragraph 13), and shall include a release of any rights, claims or liabilities against Department.* The three subcontracts included the provision that the *SUBCONTRACTOR will indemnify and hold harmless F4 TECH from and against all claims, damages, losses, and expenses, including, but not limited to reasonable attorney's fees, arising out of or resulting from the operations, acts or omissions of SUBCONTRACTOR or SUBCONTRACTOR's employees, agents, or subcontractors under this Agreement.* However, none of the subcontracts included a release of any rights, claims, or liabilities against the Department.
- Paragraph 30.A of Contract Amendment 1 requires the Contractor to maintain books, records and documents directly pertinent to performance under the Contract and allow the Department, the State, or their authorized representatives access to such records for audit purposes. The Contract also requires, *In the event any work is subcontracted, the Contractor shall similarly require each subcontractor to maintain and allow access to such records for audit purposes.* None of the subcontracts reviewed included requirements regarding recordkeeping access to records for audit purposes.
- Paragraph 34.B of Contract Amendment 1 states, *Contractor is required to utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all employees used by the Contractor under this Contract, pursuant to State of Florida Executive Order No.: 11-116. Also, the Contractor shall include in related subcontracts, if authorized under this Contract, a requirement that subcontractors*

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performing work or providing services pursuant to this Contract utilize the E-Verify system to verify employment eligibility of all employees used by the subcontractor for the performance of the Work. None of the subcontracts reviewed included requirements regarding the use of E-Verify system to verify employment eligibility of all employees used by the subcontractor.

According to Paragraph 7 of Task Assignment 23, *The amount of work accomplished and payment amount to invoice shall be measured or estimated by the Department Field Representative and the Contractor, documented and authorized with signatures, and submitted to the Department Task or Contract Manager for approval and processing.* Each of the approved payments in our sample included a Project Approval Form signed by Park management attesting that *DEP's Project Manager Approves that all work above has been completed and is ready for invoice.* We spoke with Park management and staff regarding verification of the three Projects. While the Project Approval Forms included Park management signatures that the work was approved and completed, Park Managers indicated that they had not verified the specific quantities invoiced. As worded in Task Assignment 23 as well as in the Project Approval Form, payment of the amount of work accomplished and invoiced need only be measured or estimated by the Department Field Representative. The Project Manager's approval only attests that the work is completed and ready for invoice. As such, there is no provision or requirement that the specific quantities billed by the Contractor be verified by the Department.

According to Paragraph 8 of the Contract regarding invoicing requirements for subcontractors, *Reimbursement requests for payments to subcontractors must be substantiated by copies of invoices with backup documentation identical to that required from the Contractor.* Each of the invoices submitted as part of the sample of approved payments did not include copies of subcontractor invoices required by the Contractor. We obtained subcontractor invoices

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for the sampled invoices from the Contractor and verified invoiced amounts were consistent with amounts billed to the Department. According to the Contractor, a prior Division Contract Manager advised that subcontractor invoices were not required. However, there was no documentation of this direction nor was the Contract amended to reflect the change in required documentation.

Recommendation:

Going forward, we recommend the Division ensure that subcontractor bid packages, pre-bid meeting summaries, and bids are obtained as required per Task Assignments. In addition, the Division should ensure that any subcontracts executed by the Contractor include the same conditions as specified in the Contract and include a release of any rights, claims or liabilities against the Department. The Division should also ensure subcontracts contain requirements consistent with the Contract with respect to maintenance and access to records and use of the E-Verify system.

Going forward, we recommend the Division ensure that future contracts and Task Assignment payment requirements include provisions for Division verification of invoiced quantities. The Division should work with Park management and staff to develop and document the methodology for verification of specific quantities of work reported, invoiced, and approved on Project Approval Forms. Further, we recommend the Division ensure that reimbursement requests received from the Contractor for payments to subcontractors be substantiated by copies of invoices with backup documentation identical to that required from the Contractor.

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Finding 3: Billing for Professional Service Hours

According to Paragraph 5.B., of the Contract, *the Department shall pay the Contractor on a combination fee schedule, fixed price, and cost reimbursement basis as specified in each Task Assignment/Task Assignment Change Order Form (Attachment C and D).* Labor rates for professional services are included in the Second Revised Response Form. We reviewed professional service hours billed in a sample of 13 payments under Task Assignments 17, and 21 through 26. Based on the Contractor’s Invoice Summary, the total amount invoiced, including cost for professional hours, for these Task Assignments as of August 31, 2020 were as follows:

Task Assignment	Description	Budget	Total Invoiced as of August 2020 (Per Invoice Summary)	Professional Service Hours Invoiced Cost	Percent of Total Invoiced
17	On-Call Services, Ongoing Scoping, and Project Administration	\$12,835,000	\$12,777,576	\$642,424	5.0%
21	Timber Assessments for Unit Management Plan Support	\$120,000	\$75,981	\$75,981	100%
22	On-Call Services, Ongoing Scoping, and Project Administration	\$115,000	\$104,463	\$104,463	100%
23	Resource Management Projects: Evaluate, Provide Cost, Implement, Management	\$5,679,900	\$3,995,359	\$892,097	22.3%
24	Resource Management Projects: Evaluate, Provide Cost, Implement, Management	\$253,887	\$113,536	\$113,536	100%
25	Hurricane Michael - T.H. Stone Memorial St. Joseph Peninsula SP Debris Removal	\$2,000,000	\$1,182,080	\$227,869	19.3%
26	Hurricane Michael Restoration Projects	\$856,500	\$567,169	\$93,759	16.5%

Most of the Task Assignments reviewed did not include a detailed budget of the estimated hours and cost associated with each tasked Project or specific activity. Each Task Assignment includes descriptions of varying deliverables, such as Project evaluation documentation, meeting notes, Scopes of Work, and Project implementation status reports. These deliverables are written in general terms and do not correlate the deliverable to a specific Park project or activity, and do not include an estimate of the hours required for each deliverable.

Task Assignment requirements for payment provide that invoice amounts will be based on the number of hours worked multiplied by the approved rates. As such, invoices are submitted

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as required, but do not correlate hours billed to a specific deliverable or work for a specific project or activity. Alternatively, invoices submitted by the Contractor include a separate Monthly Report Summary which provides a description of all the activities conducted by contracted staff at various Parks during the month.

For Task Assignment 23, the Division documented a Resource Management Funding Plan project listing which included an estimated budget for each Park project in the total task amount. Included in this list was a statewide project to account for the Contractor's *Resource management project planning, oversight, and implementation* at an estimated cost of \$373,757. As of August 30, 2020, the Contractor's invoiced cost for professional hours under Task Assignment 23 was \$892,098.

Given the Contract and Task Assignments' minimal requirements regarding estimates and support for professional hours, we requested timesheet and payroll documentation to assess the Contractor's support and accountability for hours billed in the 13 sampled payments. Based on this review, Task Assignment hours reported on staff timesheets were generally consistent with invoiced hours. However, the Contractor uses an electronic record keeping system which does not require timesheets to be signed. From a further review of the Contractor's payroll audit logs, we noted that the Contractor's Software Manager had made changes to staff timesheets subsequent to staff submission. While changes did not appear to impact the original hours submitted for the sampled payments, we noted changes which were made to the project job codes used for billing.

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Recommendation:

Going forward, to establish accountability for approved payments for professional service hours, we recommend the Division ensure Task Assignments include a detailed budget of estimated hours and costs associated with projects outlined in the Scope of Services and deliverables. Task Assignments should require that payments for invoiced professional hours specify the activity performed as it relates to the Task Assignment project, budget, and deliverables. The Division should work with Contract management to monitor Task Assignment funding and payments to ensure project costs are consistent with budgeted amounts.

Finding 4: Management Oversight of Task Assignments for Hurricane Response Activities

The Contract Scope of Services does not include assistance with emergency response activities and hurricane restoration services. However, Section 4.C. of the Contract states, *In the event that services are required to be performed that are not specifically set out in [the Scope of Services], but are within the general scope of the services, the Department and Contractor hereby reserve the right to negotiate task assignments covering required services.* Task Assignment 16 was issued September 5, 2017, for *On-call Services, Ongoing Scoping, and Project Administration.* As of September 2020, funding totaling \$4,683,498 for Task Assignment 16 was designated as emergency response efforts related to Hurricane Irma. Deliverables under Task Assignment 16 included meeting minutes, monthly Project progress reports, and *other written reports and electronic data supporting services assigned by the Department, i.e - Hurricane Irma monitoring reports.* According to staff in the DAS Finance and Accounting, the cost of Hurricane Irma emergency response and restoration service activities under Task

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Assignment 16 were not eligible for FEMA reimbursement because the Division had not established a contracted monitor nor obtained necessary documentation required for eligibility.

Task Assignment 17 was issued to the Contractor on January 23, 2018, for *On-call Services, Ongoing Scoping, and Project Administration* at a cost of \$50,000. Task Assignment 17 included assistance with emergency response activities as needed and assistance with debris removal and restoration activities as a result of hurricanes or other natural disasters. Eight change orders were subsequently issued to increase funding to \$12,835,000. As of September 2020, \$11,557,652 in expenditures were designated as related to emergency response efforts in response to Hurricane Michael. As a result of the Department's ineligibility for Hurricane Irma FEMA funding for activities under Task Assignment 16, the Division subsequently issued a separate purchase order for a monitoring contractor on April 22, 2019.

Finance and Accounting staff provided the Division with guidance regarding FEMA eligibility requirements. However, the deliverables under Task Assignment 17 did not include specific requirements for compilation of information by category as necessary for submission to FEMA for reimbursement. As such, payments to the Contractor were approved without this documentation. During the course of our review, Finance and Accounting staff worked extensively with the Division to obtain additional documentation necessary for application submission to FEMA for reimbursement of Hurricane Michael debris removal costs from the Contractor. At the time of our review, this compilation included costs totaling \$5,726,262.

Hurricane Michael recovery and restoration activities were also subsequently assigned to the Contractor under Task Assignments 20, 25, and 26. None of these subsequent tasks contain deliverables which would require submission of documentation in a format necessary for

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submission to FEMA prior to payment. Task Assignment 20 and 25 contained general deliverable requirements consistent with Task Assignment 17. However, the Task Description under Task Assignment 26 did not include specific activities or deliverables related to assistance with debris removal and restoration activities as a result of hurricanes. As of September 30, 2020, expenditures totaling \$20,192,365 were designated as related to emergency response efforts for Hurricane Michael under Task Assignments 17, 20, 25, and 26.

Recommendation:

Going forward, we recommend the Division work with DAS as well as OGC to ensure that any executed contract or Task Assignment for hurricane response activities contain reporting and documentation requirements necessary for submission to FEMA for reimbursement of eligible costs. This documentation and reporting should be required and obtained from the Contractor prior to approval of payment.

Finding 5: Management Oversight of Timber Sale Agreements

A portion of the 40 Projects under Task Assignment 23 included management of Timber Sale Agreements. Agreements for forest restoration and timber sales which were established prior to the Contract were executed by the Department of Agriculture and Consumer Service (DACS) Florida Forest Service (FFS) with private timber companies. Under these prior Agreements, FFS managed the sale and revenue settlement between DACS and the Department. Of the settlement amount, the Department's share was 85% and DACS' share for management of the Agreement was 15%.

The Department's timber sale administration has since been managed by the Contractor. According to the Task Assignment 23 *Deliverable*, Paragraph 2.G., the Contractor is required to

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prepare and submit *timber sale documentation (prepared periodically or weekly): timber sale bid package, settlement summary, chain of custody documents, scale tickets, timber purchaser's summary, timber sale payment, concise summary of logging progress, and timber sale inspection forms*. As part of the 40 Projects identified under Task Assignment 23, two Projects included timber sales at Torreya State Park and Wes Skiles Peacock Springs State Park.

We reviewed the Agreements executed by the Division and managed by the Contractor associated with these two Projects. For both Agreements, we verified that the Contractor submitted documentation consistent with Task Assignment deliverable requirements. Payments received by the Department were consistent with settlement summaries and supported by scale tickets. However, unlike prior Agreements managed by FFS, neither Task Assignment 23 nor the Agreements included a revenue distribution between the Department and Contractor on the basis of the settlement total. As previously discussed, the Contractor is compensated on a cost reimbursement basis for hours worked at rates agreed upon under the Contract. Since invoices for professional hours combine staff time billed on multiple Park projects at various stages, the Department's cost for the Contractor's management of these Agreements is not clear.

According to Department Directive DEP 300⁵ OGC is responsible for creation and dissemination of contract and grant agreement templates used by the Department. The Directive states that OGC will

- *Provide direction/guidance to Contract and/or Grant Administrator in development and review of contract, grant and solicitation templates.*
- *Provide direction/guidance to Program Areas in development and review of contract, grant, and solicitation templates.*

⁵ DEP300 has been updated as of October 1, 2020 with Administrative Policy ADM300. The referenced responsibilities for OGC are consistent between DEP300 and ADM300.

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- *Manage and maintain Department templates and coordinate annual reviews with program areas and Bureau of General Services.*

Both Agreements included in our review were signed by the Division Assistant Director.

However, the Agreements were not reviewed by OGC prior to execution. In addition, neither Agreement contained an Agreement number nor were established in FACTS as required under Section 215.985, F.S. During the course of our audit, the Division added the Agreements in FACTS.

Recommendation

Going forward, for any Timber Sale Agreements executed by the Department, we recommend the Division work with OGC to ensure agreements contain requirements consistent with OGC direction and guidance consistent with Directive DEP 300. In addition, for accountability of the costs associated any contract or Task Assignment issued for development and implementation of timber sales, we recommend the Division include requirements for compensation specifically related to the timber sale event. This compensation should be based on historic estimates of the level of activity necessary for timber sale management and oversight.

Management Comment

Paragraph 8.A of the Contract requires invoices for salaries/wages be accompanied by a *list of personnel involved, salary rates in accordance with those listed in Attachment B, Rate Schedule, and hours/time spent on the project.* Multipliers for overhead, indirect, and general and administrative costs are specified in the Contract as follows:

Indirect Cost	Multiplier Rate
Fringe Benefits	21.7% of Hourly Rate
Overhead	116% of Total Payroll Burden
Fee	10% of Total Labor Costs (Direct Labor + Fringe Benefits + Overhead)

Audit of Contract PL352 with ForesTech Consulting, Inc.
Division of Recreation and Parks

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Under Section 6, *Labor (Subcontractor)* of Contract Amendment 2, Attachment B-2, *Labor costs include overhead, general and administrative, profit and any other related costs.*

These two provisions of the Contract do not define labor costs consistently and have a canceling effect, in that any difference between agreed-upon rates in the Contract and actual labor rates including indirect multipliers would be attributed to *profit and any other related costs*. During the course of our audit, we reviewed a sample of labor rates and estimated the application of multipliers specified in the Contract as follows.

Position Title	Contract Rate	Hourly Rate	Fringe Benefits	Overhead	Fee	Estimated Multiplier Total	Estimated Profit
			21.70% of Hourly Rate	116% of Total Payroll Burden ⁶	10% of Total Labor Cost		
Senior Forester	\$135.00	\$33.90	\$7.36	\$47.86	\$8.91	\$98.02	\$36.98
Forest Analyst	\$117.00	\$29.04	\$6.30	\$40.99	\$7.63	\$83.96	\$33.04
Senior Project Manager	\$245.00	\$61.17	\$13.27	\$86.36	\$16.08	\$176.89	\$68.11
Field Technician	\$97.00	\$22.12	\$4.80	\$31.22	\$5.81	\$63.95	\$33.05
Software Engineer	\$215.00	\$61.17	\$13.27	\$86.36	\$16.08	\$176.88	\$38.12

The differences between the agreed upon rates in the Contract and estimated application of multipliers is attributed to the Contractor’s profit and other related costs. Going forward, in any contract which includes compensation for salaries/wages, the Division would benefit from a review of proposed rates with support for indirect cost multipliers to ensure negotiated rates do not reflect excessive variances and provide accountability for the rates and multipliers agreed-upon by the Department.

⁶ Total Payroll Burden was not defined in the Contract and may include additional employee costs beyond those specified. As such, for the purpose of this calculation, this multiplier was applied to rates provided during the audit (hourly labor rate + calculated fringe benefits).

Audit of Contract PL352 with ForesTech Consulting, Inc.
Division of Recreation and Parks

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To promote accountability, integrity, and efficiency in state government, the OIG completes audits and reviews of agency programs, activities, and functions. Our audit was conducted under the authority of Section 20.055, F.S., and in conformance with the International Standards for the Professional Practice of Internal Auditing, published by the Institute of Internal Auditors, and Principles and Standards for Offices of Inspector General, published by the Association of Inspectors General. The audit was conducted by Christine Cullen and Eileen Harris 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 <https://floridadep.gov/oig/internal-audit/content/final-audit-reports>. 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, FL 32399

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

Memorandum

TO: Valerie Peacock, Audit Director
Office of the Inspector General

FROM: Eric Draper, Director
Division of Recreation and Parks

SUBJECT: Audit of Contract PL352 with ForesTech Consulting, Inc.

DATE: December 21, 2020

This memorandum will serve as the Division's response to the following subject audit findings and recommendations:

Finding 1: Management Oversight Procurement

Under RFP Solicitation No. 2016023C, issued on October 23, 2015, the Department sought *a vendor to assist in development of a comprehensive data-driven resource management system. The intent is to provide Department staff with the tools necessary to integrate resource inventories into modeling software to determine appropriate and achievable methods to reach resource management goals.* The RFP included four overall tasks:

- Task 1 Inventory Plan Review, Data Input, Review, Validation, and Analysis
- Task 2 Planning
- Task 3 Training and Development
- Task 4 Implementation

Under Section 1.06.B, Paragraph 5, Task 4 – Implementation, the RFP listed activities Task 4 may consist of for the implementation plan. These included:

- A. Timber Sale Preparation
- B. Timber Sale Administration
- C. Site Preparation
- D. Reforestation/Restoration

- E. Forest Inventory and Analysis
- F. Prescribed Burning
- G. Timber Stand Improvement Thinning
- H. Timber Stand Release Treatments
- I. Forest Road/Fire Line Maintenance
- J. Invasive and Exotic Species Control
- K. Forest Inset and Disease Control
- L. Boundary Marking and GPS Mapping
- M. Geographic Information System (GIS) Data Creation and Maintenance
- N. Monitoring and Evaluation

Section 1.06.B. *Technical Response*, Paragraph 3 *Qualification and Experience*, of the RFP requested the Respondent's past experience with portable or hand held inventory devices (such as Forge Echo hardware or comparable and/or compatible equivalents) and computer assisted inventory software (such as SilvAssist Mobile and SilvAssist Dashboard software, or comparable and compatible equivalents). Based on the Contractor's response, the Contractor hold a US patent for the Forge Echo, while SilvAssist Mobile and SilvAssist Dashboard are innovative solutions for collecting, managing, reporting and analyzing complex resource data in near real time. SilvAssist software was developed by the Contractor.

The RFP and resulting Proposed Contract Section 4.C., states, *In the event that services are required to be performed that are not specifically set out in [the Scope of Services], but are within the general scope of the services, the Department and Contractor hereby reserve the right to negotiate task assignments covering required services.* Many of the resource management activities listed in the RFP as well as subsequently tasked hurricane response activities have been performed by Division staff or procured by the Department under separate contracts without the need for specific experience with portable or hand-held inventory devices and computer assisted inventory software. The Contractor has used subcontractors in implementing many of the resource management Projects and hurricane response activities.

The Department's listing of experience with the specific equipment and software, such as those developed by the Contractor or a comparable and/or compatible equivalent, hindered the likelihood of receiving competing quotes. The Contractor's proposal was the only one received by the Department in response to the RFP.

Section 287.001, F.S., states that *The Legislature recognizes that fair and open competition is a basic tenet of public procurement; that such competition reduces the*

appearance and opportunity for favoritism and inspires public confidence that contracts are awarded equitably and economically; and that documentation of the acts taken and effective monitoring mechanisms are important means of curbing any improprieties and establishing public confidence in the process by which commodities and contractual services are procured. As a result of applying a narrow qualification requirement in procuring a contract used for implementing a broad range of resource management activities, the Division is not meeting the statutory objective for fair and open competition.

Recommendation

Going forward, we recommend the Division discontinue the practice of awarding a single contract for a broad range of services using narrowly defined qualifications and experience. Contracts for projects identified by the Division should be procured in a manner that identifies the experience and qualification necessary for the specific activity or project being procured.

Division Response:

The Division concurs with the recommendation. Contract PL352 expires December 21, 2020. The Division, in conjunction with Administrative Services (Procurement) and General Counsel offices recently conducted a solicitation for new contractor to perform similar resource management services as PL352. RP897 was not evaluated based on proprietary software. F4Tech did win the bid and will be contracted. The Division and Department met the statutory objective of fair and open competition.

Finding 2: Management Oversight-Subcontracted Projects

As part of our audit, we reviewed the following sample of four approved payments associated with three subcontracted Projects under Task Assignment 23.

Park(s)	Project Description	Project Activities	Total Project Estimated Costs	Voucher/ Date	Approved Payment
Dagny Johnson Key Largo Hammock Botanical State Park	Port Bougainville Canal and Carysfort Marina Projects	Hydrologic Restoration Planning and Implementation	\$408,500	VF05962 (May 14, 2020)	\$450,302
Torrey State Park	Sandhill Restoration	Long Leaf Tubling Restoration	\$215,250	VF04621 (March 3, 2020)	\$15,750
Grayton Beach/Deer Lake State Park	Build Fire Line and Fencing Property Boundary	Fence and Gate Installation	\$73,337	VF04860 (March 17, 2020) VF05028 (March 25, 2020)	\$48,143

Task Assignment 23 Section 2 *Deliverables* requires the Contractor to submit *Subcontractor bid packages, pre-bid meeting summaries, and bids received.* Subcontractor bids were not obtained for the Project at Torrey State Park. According to the Contractor, the Division advised that bid-solicitation was not

necessary for the Project. Based on our inquiry, the Division was unable to provide documentation justifying this approval or the exception

Subcontract Documents

We reviewed Contract requirements for subcontracts associated with the three sampled Projects. Based on this review, we noted the following:

- Paragraph 15.C of the Contract states, *The Department shall not be liable to any subcontractor for any expenses or liabilities incurred under any subcontract, regardless of whether Department has approved such subcontract or subcontractor. Contractor shall be solely liable to its subcontractor(s) for all expenses and liabilities incurred under any subcontract. Any subcontracts made under or in performance of this Contract must include the same conditions specified in this Contract, with the exception of insurance requirements (paragraph 13), and shall include a release of any rights, claims or liabilities against Department.* The three subcontracts included the provision that the *SUBCONTRACTOR will indemnify and hold harmless F4 TECH from and against all claims, damages, losses, and expenses, including, but not limited to reasonable attorney's fees, arising out of or resulting from the operations, acts or omissions of SUBCONTRACTOR or SUBCONTRACTOR's employees, agents, or subcontractors under this Agreement.* However, none of the subcontracts included a release of any rights, claims, or liabilities against the Department.
- Paragraph 30.A of Contract Amendment 1 requires the Contractor to maintain books, records and documents directly pertinent to performance under the Contract and allow the Department, the State, or their authorized representatives access to such records for audit purposes. The Contract also requires, *In the event any work is subcontracted, the Contractor shall similarly require each subcontractor to maintain and allow access to such records for audit purposes.* None of the subcontracts reviewed included requirements regarding recordkeeping access to records for audit purposes.
- Paragraph 34.B of Contract Amendment 1 states, *Contractor is required to utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all employees used by the Contractor under this Contract, pursuant to State of Florida Executive Order No.: 11-116. Also, the Contractor shall include in related subcontracts, if authorized under this Contract, a requirement that subcontractors performing work or providing services pursuant to this Contract utilize the*

E-Verify system to verify employment eligibility of all employees used by the subcontractor for the performance of the Work. None of the subcontracts reviewed included requirements regarding the use of E-Verify system to verify employment eligibility of all employees used by the subcontractor.

According to Paragraph 7 of Task Assignment 23, *The amount of work accomplished and payment amount to invoice shall be measured or estimated by the Department Field Representative and the Contractor, documented and authorized with signatures, and submitted to the Department Task or Contract Manager for approval and processing.* Each of the approved payments in our sample included a Project Approval Form signed by Park management attesting that *DEP's Project Manager Approves that all work above has been completed and is ready for invoice.* We spoke with Park management and staff regarding verification of the three Projects. While the Project Approval Forms included Park management signatures that the work was approved and completed, Park Managers indicated that they had not verified the specific quantities invoiced. As worded in Task Assignment 23 as well as in the Project Approval Form, payment of the amount of work accomplished and invoiced need only be measured or estimated by the Department Field Representative. The Project Manager's approval only attests that the work is completed and ready for invoice. As such, there is no provision or requirement that the specific quantities billed by the Contractor be verified by the Department.

According to Paragraph 8 of the Contract regarding invoicing requirements for subcontractors, *Reimbursement requests for payments to subcontractors must be substantiated by copies of invoices with backup documentation identical to that required from the Contractor.* Each of the invoices submitted as part of the sample of approved payments did not include copies of subcontractor invoices required by the Contractor. We obtained subcontractor invoices for the sampled invoices from the Contractor and verified invoiced amounts were consistent with amounts billed to the Department. According to the Contractor, a prior Division Contract Manager advised that subcontractor invoices were not required. However, there was no documentation of this direction nor was the Contract amended to reflect the change in required documentation

Recommendation

Going forward, we recommend the Division ensure that subcontractor bid packages, pre-bid meeting summaries, and bids are obtained as required per Task Assignments.

In addition, the Division should ensure that any subcontracts executed by the Contractor include the same conditions as specified in the Contract and include a release of any rights, claims or liabilities against the Department. The Division should also ensure subcontracts contain requirements consistent with the Contract with respect to maintenance and access to records and use of the E- Verify system.

Going forward, we recommend the Division ensure that future contracts and Task Assignment payment requirements include provisions for Division verification of invoiced quantities. The Division should work with Park management and staff to develop and document the methodology for verification of specific quantities of work reported, invoiced, and approved on Project Approval Forms. Further, we recommend the Division ensure that reimbursement requests received from the Contractor for payments to subcontractors be substantiated by copies of invoices with backup documentation identical to that required from the Contractor.

Division Response:

- The Division concurs and is revising procedures for developing and implementing Task Assignments (see attached memo).
- All subcontracts will have the same conditions as the Contract and will include releases of any rights, claims or liabilities against the Department. Task assignment and subcontract templates will be reviewed annually and approved by the Office of General Counsel for compliance-related content.
- The Division is developing procedures for Task Assignments including verification of invoiced quantities (see attached memo).
- Payments to subcontractors will be substantiated by copies of invoices with backup documentation identical to that required from the Contractor.

Finding 3: Billing for Professional Service Hours

According to Paragraph 5.B., of the Contract, *the Department shall pay the Contractor on a combination fee schedule, fixed price, and cost reimbursement basis as specified in each Task Assignment/Task Assignment Change Order Form (Attachment C and D).* Labor rates for professional services are included in the Second Revised Response Form. We reviewed professional service hours billed in a sample of 13 payments under Task Assignments 17, and 21 through 26. Based on the Contractor's Invoice Summary, the total amount invoiced, including cost for professional hours, for these Task Assignments as of August 31, 2020 were as follows:

Task Assignment	Description	Budget	Total Invoiced as of August 2020 (Per Invoice Summary)	Professional Service Hours Invoiced Cost	Percent of Total Invoiced
17	On-Call Services, Ongoing Scoping, and Project Administration	\$12,835,000	\$12,777,576	\$642,424	5.0%
21	Timber Assessments for Unit Management Plan Support	\$120,000	\$75,981	\$75,981	100%
22	On-Call Services, Ongoing Scoping, and Project Administration	\$115,000	\$104,463	\$104,463	100%
23	Resource Management Projects: Evaluate, Provide Cost, Implement, Management	\$5,679,900	\$3,995,359	\$892,097	22.3%
24	Resource Management Projects: Evaluate, Provide Cost, Implement, Management	\$253,887	\$113,536	\$113,536	100%
25	Hurricane Michael - T.H. Stone Memorial St. Joseph Peninsula SP Debris Removal	\$2,000,000	\$1,182,080	\$227,869	19.3%
26	Hurricane Michael Restoration Projects	\$856,500	\$567,169	\$93,759	16.5%

Most of the Task Assignments reviewed did not include a detailed budget of the estimated hours and cost associated with each tasked Project or specific activity. Each Task Assignment includes descriptions of varying deliverables, such as Project evaluation documentation, meeting notes, Scopes of Work, and Project implementation status reports. These deliverables are written in general terms and do not correlate the deliverable to a specific Park project or activity, and do not include an estimate of the hours required for each deliverable.

Task Assignment requirements for payment provide that invoice amounts will be based on the number of hours worked multiplied by the approved rates. As such, invoices are submitted as required, but do not correlate hours billed to a specific deliverable or work for a specific project or activity. Alternatively, invoices submitted by the Contractor include a separate Monthly Report Summary which provides a description of all the activities conducted by contracted staff at various Parks during the month.

For Task Assignment 23, the Division documented a Resource Management Funding Plan project listing which included an estimated budget for each Park project in the total task amount. Included in this list was a statewide project to account for the *Contractor's Resource management project planning, oversight, and implementation* at an estimated cost of \$373,757. As of August 30, 2020, the Contractor's invoiced cost for professional hours under Task Assignment 23 was \$892,098.

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submission. While changes did not appear to impact the original hours submitted for the sampled payments, we noted changes which were made to the project job codes used for billing.

Recommendation

Going forward, to establish accountability for approved payments for professional service hours, we recommend the Division ensure Task Assignments include a detailed budget of estimated hours and costs associated with projects outlined in the Scope of Services and deliverables. Task Assignments should require that payments for invoiced professional hours specify the activity performed as it relates to the Task Assignment project, budget, and deliverables. The Division should work with Contract management to monitor Task Assignment funding and payments to ensure project costs are consistent with budgeted amounts.

Division Response:

The Division concurs. Task Assignments and projects within Task Assignments will include a detailed budget of estimated hours and costs associated with projects. Task Assignments will detail professional hours and specify activities performed relating to the Task Assignment project, budget, and deliverables. The Division will establish procedures for contract management and will have budget office staff to monitor Task Assignment costs, pricing, invoices and payments to ensure project costs are consistent with budgeted amounts.

Finding 4: Management Oversight of Task Assignments for Hurricane Response Activities

The Contract Scope of Services does not include assistance with emergency response activities and hurricane restoration services. However, Section 4.C. of the Contract states, *In the event that services are required to be performed that are not specifically set out in [the Scope of Services], but are within the general scope of the services, the Department and Contractor hereby reserve the right to negotiate task assignments covering required services.* Task Assignment 16 was issued September 5, 2017, for On-call Services, Ongoing Scoping, and Project Administration. As of September 2020, funding totaling \$4,683,498 for Task Assignment 16 was designated as emergency response efforts related to Hurricane Irma. Deliverables under Task Assignment 16 included meeting minutes, monthly Project progress reports, *and other written reports and electronic data supporting services assigned by the Department, i.e. - Hurricane Irma monitoring reports.* According to staff in the DAS Finance and Accounting, the cost of Hurricane Irma emergency response and restoration service activities under Task Assignment 16 were not eligible for FEMA reimbursement because the Division had not

established a contracted monitor nor obtained necessary documentation required for eligibility.

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Hurricane Michael recovery and restoration activities were also subsequently assigned to the Contractor under Task Assignments 20, 25, and 26. None of these subsequent tasks contain deliverables which would require submission of documentation in a format necessary for submission to FEMA prior to payment. Task Assignment 20 and 25 contained general deliverable requirements consistent with Task Assignment 17. However, the Task Description under Task Assignment 26 did not include specific activities or deliverables related to assistance with debris removal and restoration activities as a result of hurricanes. As of September 30, 2020, expenditures totaling \$20,192,365 were designated as related to emergency response efforts for Hurricane Michael under Task Assignments 17, 20, 25, and 26.

Recommendation

Going forward, we recommend the Division work with DAS as well as OGC to ensure that any executed contract or Task Assignment for hurricane response activities contain reporting and documentation requirements necessary for submission to FEMA for

reimbursement of eligible costs. This documentation and reporting should be required and obtained from the Contractor prior to approval of payment.

Division Response:

The Division concurs. Executed contracts and/or Task Assignments for hurricane response activities will contain reporting and documentation requirements necessary for submission to FEMA for reimbursement of eligible costs. This documentation and reporting will be required and obtained from the Contractor prior to approval of payment.

Finding 5: Management Oversight of Timber Sale Agreements

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We reviewed the Agreements executed by the Division and managed by the Contractor associated with these two Projects. For both Agreements, we verified that the Contractor submitted documentation consistent with Task Assignment deliverable requirements. Payments received by the Department were consistent with settlement summaries and supported by scale tickets. However, unlike prior Agreements managed by FFS, neither Task Assignment 23 nor the Agreements included a revenue distribution between the Department and Contractor on the basis of the settlement total. As previously discussed, the Contractor is compensated on a cost reimbursement basis for hours worked at rates agreed upon under the Contract. Since invoices for professional hours combine staff time billed on multiple Park projects at various stages, the Department's cost for the Contractor's management of these Agreements is not clear.

According to Department Directive DEP 3005 OGC is responsible for creation and dissemination of contract and grant agreement templates used by the Department. The Directive states that OGC will

- *Provide direction/guidance to Contract and/or Grant Administrator in development and review of contract, grant and solicitation templates.*
- *Provide direction/guidance to Program Areas in development and review of contract, grant, and solicitation templates.*
- *Manage and maintain Department templates and coordinate annual reviews with program areas and Bureau of General Services.*

Both Agreements included in our review were signed by the Division Assistant Director. However, the Agreements were not reviewed by OGC prior to execution. In addition, neither Agreement contained an Agreement number nor were established in FACTS as required under Section 215.985, F.S. During the course of our audit, the Division added the Agreements in FACTS.

Recommendation

Going forward, for any Timber Sale Agreements executed by the Department, we recommend the Division work with OGC to ensure agreements contain requirements consistent with OGC direction and guidance consistent with Directive DEP 300. In addition, for accountability of the costs associated any contract or Task Assignment issued for development and implementation of timber sales, we recommend the Division include requirements for compensation specifically related to the timber sale event. This compensation should be based on historic estimates of the level of activity necessary for timber sale management and oversight.

Division Response:

The Division concurs. Timber sale agreements will contain requirements consistent with OGC direction and guidance consistent with Directive DEP 300 comply with OGC standards. Timber sale agreements will contain specific compensation including prices, hours and activities for individual tasks.



FLORIDA DEPARTMENT OF Environmental Protection

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, FL 32399

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

Memorandum

TO: Wes Howell, Chief Bureau of Natural and Cultural Resources
Division of Recreation and Parks

THROUGH: Parks Small, Assistant Director
Division of Recreation and Parks

FROM: Eric Draper, Director
Division of Recreation and Parks

SUBJECT: Moving forward with Contract RP987

DATE: December 15, 2020

The Resource Management Contract builds on the Division's success with augmenting staff resources with externally sourced expertise and efficiency. With the new contract in place, the following expectations will help assure that the Division has responded to the audit of PL352 along with committing to a high level of accountability in support the goal of making the resource management contract highly successful.

1. As the new resource management contract is implemented, BNCR will update procedures for scopes of work, task assignments, subcontractor bidding, requirements, determining quantities, verifying work, invoice reviews and approvals and payments.
2. The procedures will be set out in a format that is consistent with the DRP Operations Manual and will be supported by a flow-chart showing each detailed step from development to completion and payment.
3. Task assignments will reference the back-up documents that govern specific decisions, actions and contingencies.
4. Prices will not default to the "not to exceed" prices on the price list and will be negotiated to the lowest reasonable, comparative price.

5. BNCR will consider procuring services from other resource management contractors and not rely solely on RP987.
6. The task assignment, or projects within a task assignment, for project planning will not preclude use of services tasked to resource management contractors or subcontractors procured outside of RP987.
7. BNCR will request additional bureau staff or allocate funds for additional staff expertise to help develop and manage contracts and project task assignments.
8. Task assignments greater than \$50,000 will be reviewed at the Division level.

ED/jp



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December 19, 2020

Ms. Valerie Peacock
Audit Director
Office of Inspector General
Department of Environmental Protection
3900 Commonwealth Blvd. MS 40
Tallahassee, Florida 32399

Dear Ms. Peacock:

This letter is in response to the Audit of Contract PL352, Preliminary Report sent to us on Thursday, November 19, 2020.

We have reviewed the material and substantively agree with your recommendations as they pertain to F4 Tech (Contractor). Since this process began earlier this year, we have learned more about how we can make advancements to our internal administrative processes and procedures going forward. For that, we are grateful for the opportunity to make those improvements.

There are a few items we wish to clarify in order to ensure accuracy and precision of the findings. To that end, we respectfully offer the following for your consideration:

- 1) Finding 3, page 19, paragraph 2 references Task Assignment 23 and states: “Resource management project planning, oversight, and implementation at an estimated cost of \$373,757.” It also states: “As of August 30, 2020, the Contractor’s invoiced cost for professional hours under Task Assignment 23 was \$892,098.” While it is true that the estimates are significantly less than the actuals, there is additional information not included in the audit report that would add context and justification regarding the differences. First, the estimate was based on 40 projects identified at the beginning of the planning cycle. Then on March 24, 2020, a change order (PL352 TA23 Change Order 1) was executed with the Department that increased the original task order by almost \$2.5 million. This change order, as well as other modifications, resulted in an additional 14 projects, as well as scoping and solicitations for over 30 projects to be conducted under another pending task assignment, being assigned to F4 Tech. The purpose was “...to provide additional support for resource management projects.”
- 2) Beginning on page 22, Finding 5 concerns timber sales and revenue splits between the Department and Contractor. Reference is made to the Department’s prior agreement with DACS, which received 15% of timber sale revenues. The recommendations call for a similar arrangement or that compensation “be based on historic estimates of the level of activity necessary for timber sale management and oversight.” While we understand and agree for the need to control and manage costs, please consider the following:



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- a. Basing compensation for timber sales on historic estimates would be inequitable because the way in which timber sales are completed today are vastly different than how they were conducted when DACS managed the sales. DACS was and continues to be significantly understaffed for this work. Changes were made to improve ecological restoration and enhancement at the request of the Department since it is prescribed by each park's approved management plan.
 - b. With similar and typical responsibilities regarding timber sale administration, F4 Tech's average costs were under 12%, which is over 3% lower than those for DACS. This is based upon an analysis of 30 timber sales with contract dates between March 29, 2016 through July 10, 2020. It's important to note, however that timber markets are very marginal in and toward the southern part of the state around parks like Highlands Hammock (among many others), so timber revenues are often severely limited and, in many cases timber markets are not even available. For this reason, among others regarding ecological restoration, actual costs per timber sale are subject to rather wide variances.
 - c. In addition, seven of the 30 timber sales the Department required timber marking (labor intensive) so that the goals and objectives of the management plans could be met. This is a very expensive step in the process and apparently not employed in the past by DACS because of the previously mentioned limited staffing. The costs for marking added approximately \$200,000 to the costs of those sales and were in addition to the administration costs referenced above.
- 3) Beginning on page 24 there is a discussion and calculation of F4 Tech's salaries, overhead, and profit. The calculations presented in the table suggest that F4 Tech made profits over what was allowed in the contract – this is simply not the case. For each year of the five-year contract, the actual fee/profit % was less than the 10% allowed by the contract. F4 Tech's traditional formula used and developed in conjunction with its accountant is based upon taking the employee's salary plus payroll burden times a multiplier that yields a 10% operating profit, based upon estimated billable hours per year per employee. The overhead percent in the contract was taken by removing the 10% from our overall multiplier for profit and then deducting the salary and payroll burden.

Thank you again for the opportunity to provide a response to the audit report. If you should have any questions or would like additional information, please do not hesitate to let me know.

Sincerely,

Mark M. Milligan

Mark Milligan
President

Report: A-1920DEP-024

OIG Comments Regarding Contractor's Response

Based on the Contractor's response to the report Findings 3 and 5, as well as the Management Comment, the following OIG comments serve to clarify audit results.

Response Comment 1, Finding 3

Task Assignment 23, issued July 16, 2019, identified 26 projects from the Division's Resource Management Funding Plan with an overall budget of \$3,200,000. One of these 26 projects was a project for the Contractor's oversight in implementing the other 25 projects titled *Resource management project planning, oversight, and implementation* at an estimated cost of \$373,757. A Change Order was issued on March 24, 2020 adding 14 new projects at an additional cost of \$2,479,900. The 14 additional projects supporting the cost for this Change Order did not include budget for additional Contractor resource management cost. However, whereas the \$2,479,900 increased funding represented a 44% increase in the total Task Assignment 23 budget, the Contractor's \$892,098 invoiced cost for professional hours exceeded the budget for resource management project planning, oversight, and implementation by \$518,341 (58%).

In the response, the Contractor states, *This change order, as well as other modifications, resulted in an additional 14 projects, as well as scoping and solicitations for over 30 projects to be conducted under another pending task assignment, being assigned to F4 Tech.* Scoping and solicitations for over 30 projects to be conducted under another pending Task Assignment were not activities associated with Task Assignment 23. The Contractor's statement demonstrates their view of allowable activities included in the Task Assignment 23 professional service hourly billing and reaffirms the Division's lack of requirements, oversight, and required support for

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invoiced professional hour activities. This circumstance clarifies the Division's need for increased documented oversight and monitoring of allowable Task Assignment activities, funding, and payments to ensure project costs are consistent with documented Task Assignment activities and detailed budgets.

Response Comment 2, Finding 5:

The Finding reference to Timber Sale Agreements executed by FFS served to demonstrate that prior Agreements included specific terms regarding revenue distribution and agreed-upon compensation for all parties involved. As noted in the Finding, neither Task Assignment 23 nor the Timber Sale Agreements included a revenue distribution between the Department and Contractor. The Department's cost for the Contractor's management of Timber Sale Agreements was unclear due to the Task Assignment's lack of requirements and required support for invoiced professional hour activities.

The Contractor's response provided an explanation regarding their cost for Timber Sale Administration. In the response, the Contractor stated, *seven of the 30 timber sales the Department required timber marking (labor intensive) so that the goals and objectives of the management plans could be met.* Timber marking activities were not included in the Task Description or deliverables under Task Assignment 23. The Contractor's statement demonstrates that the work being performed and invoiced was not consistent with direction stated in the Task Assignment. Despite the Contractor's stated justification for cost related to Timber Sale Administration, support for this cost was not outlined or required under the Task Assignment. As stated in the Recommendation, going forward the Division should include requirements for

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compensation specifically related to a timber sale event. This compensation should be based on historic estimates of the level of activity necessary for timber sale management and oversight.

Response Comment 3, Management Comment:

In the response, the Contractor stated, *The calculations presented in the table suggest that F4 Tech made profits over what was allowed in the contract – this is simply not the case.*

Information provided in the Management Comment was obtained from Paragraph 8 of the Contract and Section 6 Attachment B-2 of Contract Amendment 2. The Contractor's explanation for the actual fee and profit percentage was not specified in the Contract. The multipliers included in the Management Comment table are separate from the five percent subcontractor handling fee the Contractor was allowed to apply to all subcontracted costs under the Contract. As stated in the Management Comment, the Division would benefit from a review of proposed rates with support for indirect cost multipliers to ensure negotiated rates do not reflect excessive variances and provide accountability for the rates and multipliers agreed upon by the Department.