

**Review of Contract MV267 with Monroe County
for Mobile Vessel Pumpout Service**

Office of Resilience and Coastal Protection

Report: A-1819DEP-009

Office of Inspector General

Internal Audit Section

Florida Department of Environmental Protection

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<https://floridadep.gov/>





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The Department of Environmental Protection (Department), Office of Inspector General (OIG) conducted a review of Contract MV267 (Contract) between the Department's Office of Resilience and Coastal Protection (Office) and Monroe County (County) for Mobile Vessel Pumpout Service (Service). This review was initiated as a result of the Fiscal Year (FY) 2018-2019 Annual Audit Plan.

Scope and Objectives

The scope of this review included activities and financial transactions under the Contract during the period of July 1, 2017, through June 30, 2018. The objectives were to:

- Determine whether the County complied with the Contract
- Determine whether invoiced costs represented activities required in the Contract deliverables
- Evaluate Office and County management oversight of Contract activities

Methodology

This review was conducted in conformance with the *International Standards for the Professional Practice of Internal Auditing*, published by the Institute of Internal Auditors, and under the authority of Section 20.055, Florida Statutes (F.S.). Our procedures included review of statutory and Contract requirements, authoritative documentation, financial records, Contract activity documentation, and interviews with Office and County staff.

Background

In support of Grant MV266 awarded to the County as part of the Federal Clean Vessel Act (CVA) Grant Program, the Department entered into the Contract to provide additional funding for the County's Mobile Vessel Pumpout Service. Federal funding from the Department

of Interior (DOI), U.S. Fish and Wildlife Service (USFWS) through the Department for Grant MV266 totaled \$180,000 with \$60,000 required by the County in matching funds.

Contract funding of \$500,000 was awarded from the Department pursuant to line item 1567 of the FY 2017-2018 General Appropriations Act. The Contract was executed on October 26, 2017, with a service period from July 1, 2017, through June 30, 2018.

Funding from both Grant MV266 and the Contract supported costs incurred by the County under its Agreement with a private contractor for Keys-Wide Mobile Vessel Pumpout Services, which cost \$875,760 during the service period. Grant MV266 provided \$180,000 in funding on a cost reimbursement basis for salaries and other operating costs. The Contract provided \$500,000 in funding on a fixed fee basis with quarterly payments of \$125,000.

Deliverables in each agreement included a Quarterly Pumpout Report documenting a minimum number of pumpouts as follows.

Agreement	Amount	Funding Basis	Required Pumpouts per Quarter
County Agreement	\$875,760	Unit Rate of \$40.54 per pumpout	5,400
Grant MV266	\$180,000	Cost Reimbursement	2,317
Contract MV267	\$500,000	Fixed Fee	3,083

During FY 2017-2018, the County provided documentation of 23,084 pumpouts. The County was reimbursed \$125,000 on a quarterly basis for the Contract total of \$500,000.

Results

Contract Compliance

The Contract required the County to provide a signed Quarterly Pumpout Report from its contractor documenting a minimum of 3,083 pumpouts; a Quarterly Progress Report documenting the submission of a Return on Investment Report directly to the Governor's Office of Policy and Budget (OPB); and an invoice for services due no later than the 30th day following

the close of each quarter. The Quarterly Pumpout Reports, prepared by the County’s contractor, summarized the number of pumpouts performed each quarter by service area and included the number of gallons pumped and the number of in-state and out-of-state vessels serviced. Based on our review, quarterly reports and invoices were submitted as required, and documented more pumpouts per quarter than the required minimum.

The County was required to provide evidence of self-insurance, and require any subcontractors to secure and maintain general liability, automobile, professional liability¹, and marine insurance. Office management had obtained documentation of the County’s self-insurance, but had not obtained documentation of the County contractor’s insurance. We obtained the contractor’s Certificates of Insurance for auto, general, and marine liability insurance that were in effect during the Contract term.

Invoiced Costs

To verify pumpout activities documented in the Quarterly Pumpout Reports submitted with each invoice, we obtained daily work logs from the County’s subcontractor for the fourth quarter including the months of April, May and June 2018. We compared the number of pumpouts reported in the Quarterly Pumpout Report to totals represented in the daily work logs as follows.

Reported Pumpouts April, May, June, 2018	Documented Vessels
Quarterly Pumpout Report	6,815
Daily Work Logs	6,810

¹ Professional liability insurance was not required under Grant MV266 nor is it required under the current Contract with the County (Contract MV282 FY 2018-2019).

Reported pumpouts were generally supported by daily work logs with minor differences. Grant MV266 and the County’s Agreement required the contractor equip pumpout vessels with a monitoring device² that allows for real-time tracking of vessel activity. For a sample of eight days during the fourth quarter, we compared monitoring data to daily work logs as follows.

Date`	Number of Pumpout Vessels Working	Vessels Pumped Per Daily Work Logs	Monitoring Indicated Pump Activated	Difference	Average Run Time (Minutes/Seconds)
3/17/2018	4	120	120	0	5:40
3/26/2018	4	150	133	17	7:04
4/4/2018	4	130	124	6	5:50
4/16/2018	4	142	122	20	6:44
5/1/2018	4	143	124	19	5:36
5/10/2018	2	89	89	0	7:07
6/8/2018	3	49	43	6	5:16
6/20/2018	3	72	77	-5	6:33
Total		895	832	63	6:14

Based on our review of monitoring data for the sampled days, the number of vessels recorded in daily work logs were slightly more than the activity supported by monitoring data. This difference was not considered significant given the variability of equipment and monitoring.

To verify entries in daily work logs, we obtained a list of vessels³ registered for pumpout services from the County. For a sample of 160 vessels, we verified that all were registered in the contractor’s database. We also verified the registration of 106 of the 160 with the United States Coast Guard for the vessels in our sample. According to Sections 33 C.F.R. 173.11 and 173.21, recreational vessels may register with the U.S. Coast Guard or in the state of principal use. Most

² The vessel monitoring device, SeaSync Marine, tracks vessel location, vessel pumpout activity, and duration of time the pump is in operation. The duration of time or the number of times the pump is cycled on and off may vary if activated for a continuous pump of multiple boats in close proximity.

³ The contractor’s database included 3,279 vessels registered for pumpout service.

of the vessels that could not be verified were registered in the State of Florida, for which registration is not publicly available online.

Contract Oversight

Contract funding was awarded on a non-competitive basis pursuant to line item 1567 of the FY 2017-2018 General Appropriations Act. According to Section 216.3475, F.S., if funding is awarded on a non-competitive basis, the Department is required to maintain records supporting a cost analysis, which includes a detailed budget submitted by the entity awarded funding.

Contract funding is based on a fixed fee for a minimum of 12,332 pumpouts per year at cost of \$40.54 per pumpout. Based on our review, the County did not submit a detailed budget to the Department demonstrating the development of the cost per pumpout. In addition, the Contract Manager did not complete the required budget cost analysis to determine whether the cost per pumpout was within the competitive prevailing rate for similar services nor documented a review of the cost for allowability, reasonableness, and necessity. A Budget Cost Analysis Form (DEP 55-229) was completed for a prior year⁴ contract with the County for project funding. However, the form did not include documented support demonstrating that a detailed cost analysis was conducted as required for the prior year funding.

Section 287.058(2), F.S. requires that a written agreement be signed by the agency head or designee and the contractor before rendering of any contractual service valued at \$35,000 or more. The service period stated in the Scope of Work for the Contract was July 1, 2017, through June 30, 2018; however, the Contract was not executed until October 26, 2017. All activities in the first quarter and a portion in the second quarter were performed prior to Contract execution.

⁴ Contract MV205 executed pursuant to line item 1546 of the FY 2016-2017 General Appropriations Act

Section 287.058(1)(e), F.S. requires that contracts be divided into quantifiable, measurable and verifiable units of deliverables. Each deliverable must be directly related to the scope of work and specify a performance measure. Deliverables specified in the Scope of Work of the Contract include signed quarterly pumpouts report from the County's contractor. According to the Scope of Work Performance Measures, *The Department's Contract Manager shall review the quarterly reports and documentation to ensure that the required number of pumpouts are performed each quarter.* However, the Contract does not require the County to provide support documentation to verify that the number of reported pumpouts were performed, and Contract management does not request or review daily work logs or monitoring data.

Conclusions

Based on our review, with the exception of payments made for services rendered through the County prior to the execution of the Contract, we verified the County complied with the Contract and invoiced cost represented activities required in the Contract's deliverables. However, the Office did not obtain a detailed budget or conduct a cost analysis as required for Contracts funded on a noncompetitive basis as required under Section 216.3475, F.S. In addition, Contract management did not demonstrate effective oversight of the County's performance consistent with the Contract Scope of Work Performance Measures.

Findings and Recommendations

Finding 1: Costs Analysis for Noncompetitive Procurement

Section 216.3475, F.S., provides that the maximum rate of payment for services funded on a noncompetitive basis may not exceed a rate of payment in excess of the competitive prevailing rate for those services unless expressly authorized in the General Appropriations Act.

If funding is awarded on a noncompetitive basis, the Department is required to maintain records supporting a cost analysis, which includes a detailed budget submitted by the entity awarded funding. Based on our review the County did not submit a detailed budget to the Department. The Contract Manager did not complete a Budget Cost Analysis Form (DEP 55-229) to document whether the cost per pumpout was within the competitive prevailing rate for similar services and review of the pumpout service cost for allowability, reasonableness, and necessity.

Recommendation:

Going forward for Contracts awarded on a noncompetitive basis, we recommend the Office obtain a detailed budget from the County that includes costs that can be evaluated for allowability, reasonableness, and necessity. We also recommend the Office maintain documentation to support the completion of a cost analysis as required under Section 216.3475, F.S.

Finding 2: Payment for Services Rendered Prior to Contract Execution

According to Section 287.058, F.S., a written agreement shall be signed by the agency head or designee and the contractor before the rendering of any contractual service valued at \$35,000 or more. Section 287.058(2), F.S. states, *If the agency fails to have the contract signed by the agency head or designee and the contractor before rendering the contractual service, and if an emergency does not exist, the agency head shall, within 30 days after the contractor begins rendering the service, certify the specific conditions and circumstances to the department as well as describe actions taken to prevent recurrence of such noncompliance.* The service period for the Contract was July 1, 2017, through June 30, 2018, however the Contract was executed on October 26, 2017. The County's subcontractor began work covered under the Contract on July 3, 2017, which was 116 days prior to execution of the Contract. The Department paid \$125,000

for first quarter activities from July through September 2017, and a portion of the second quarter invoiced activities during October 2017. These costs should not have been allowed in accordance with requirements under Section 287.058, F.S.

Recommendation:

We recommend the Office address the prior payment of disallowed costs and seek reimbursement of payments made for services rendered prior to the Contract's execution. Going forward, we recommend the Office ensure that payments under contracts with the County include only services rendered once the contract has been executed as required under Section 287.058(2), F.S.

Finding 3: Management Oversight and Monitoring

Section 287.058(1)(e), F.S. requires that the contract be divided into quantifiable, measurable and verifiable units of deliverables. Each deliverable must be directly related to the scope of work and specify a performance measure. Section C of the Contract's Scope of Work required a signed quarterly pumpout report documenting a minimum of 3,083 pumpouts per quarter. The deliverable was quantifiable and measurable, but not verifiable without additional documentation. Section F of the Contract's Scope of Work reads, *The Department's Contract Manager shall review the quarterly reports and documentation to ensure that the required number of pumpouts are performed each quarter.*

The County's Agreement required the contractor to provide signed monthly pumpout logs for each pumpout vessel in operation. Under the Contract, the County was not required to provide these logs or other documentation as support for the work performed under the Contract. In review of quarterly invoices, Contract management had not requested support documentation to ensure the required number of pumpouts were performed each quarter.

Recommendation:

Going forward, we recommend the Office address documentation requirements contained in contracts with the County to ensure records are provided with quarterly reports which support the reported number of pumpouts performed. As part of its review of quarterly reports, the Office should also establish a process to verify whether reported pumpouts are consistent with documented support.

To promote accountability, integrity, and efficiency in state government, the OIG completes audits and reviews of agency programs, activities, and functions. Our review was conducted under the authority of Section 20.055, F.S., and in conformance with the International Standards for the Professional Practice of Internal Auditing, published by the Institute of Internal Auditors, and Principles and Standards for Offices of Inspector General, published by the Association of Inspectors General. The review was conducted by Jeff Taylor 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.

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Memorandum

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

FROM: Kevin Claridge, Director, Office of Resilience and Coastal Protection

SUBJECT: Response to Review of Contract MV267 with Monroe County for Mobile Vessel Pumpout Service, Report: A-1819DEP-009

DATE: March 13, 2019

The Office of Resilience and Coastal Protection (office name was changed from Florida Coastal Office in Governor Executive Order 19-12) received the Review of Contract MV267 with Monroe County for Mobile Vessel Pumpout Service from the Office of Inspector General on February 13, 2019.

This Review had three Finding Recommendations. To address the overall contract items presented, effective immediately, the office will ensure staff training on contract management and require the utilization of contract processing checklists. The office will also continue to require multiple staff reviews to ensure proper contract processing and management.

Below are responses specific to the three Findings:

Finding 1: Cost Analysis for Noncompetitive Procurement – The office will obtain detailed budgets from Monroe County as part of the contract quarterly report that can be evaluated for allowability, reasonableness, and necessity. The office will maintain documentation to support a cost analysis.

Finding 2: Payment for Services Rendered Prior to Contract Execution – The office will pursue a settlement agreement for the payment made prior to the contract execution. The office will immediately ensure the appropriate organizational structure and processes are in place to execute contracts before work is conducted and payments are made.

Finding 3: Management Oversight and Monitoring – The office will ensure documentation/record requirements of pumpouts are included in the contract conditions and received as part of the contract quarterly report. Additionally, routine checks/verifications of pumpout data will be conducted.