

H. CARL McCALL
STATE COMPTROLLER



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ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

November 1, 2000

Mr. John Cahill
Commissioner
Department of Environmental Conservation
50 Wolf Road
Albany, NY 12233

Re: Environmental Products and Services
Contract D-100820
Report 2000-R-2

Dear Mr. Cahill:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law, we audited the books and records of Environmental Products and Services, Inc. (EPS) for the period April 1, 1998 through October 31, 1999. We audited reimbursements claimed by EPS under contract D-100820, which was awarded by the Department of Environmental Conservation (DEC).

The objectives of our financial-related audit were to determine whether amounts claimed by EPS were allowable, adequately documented, and incurred for services funded under the contractual agreement we were auditing. To accomplish these objectives, we reviewed the contractual agreement, EPS's financial and related records, the system of internal controls over charges to the contract, and the level of EPS's compliance with the terms of the contract. We also reviewed records of payments made from the State accounting system.

We conducted our audit in accordance with generally accepted government auditing standards. Such standards require that we plan and perform our audit to adequately assess those operations of EPS that are included within our audit scope. Further, these standards require that we review and report on EPS's internal control structure and its compliance with those laws, rules and regulations that are relevant to EPS's operations included in our audit scope. An audit includes examining, on a test basis, evidence supporting transactions recorded in the accounting records and applying such other auditing procedures as we consider necessary in the circumstances. An audit also includes assessing the estimates, judgments and decisions made by management. We believe that our audit provides a reasonable basis for our findings, conclusions and recommendations.

In planning and performing our audit procedures, we considered EPS's internal control structure. Our consideration was limited to a preliminary review of EPS's internal control structure to obtain an understanding both of the control environment and of the manner in which the transactions flowed through the accounting system and the other systems that supported the claims for reimbursement. Because we did not intend to rely on the internal control structure in performing our work, our assessment did not extend beyond the preliminary review phase. Instead, we appropriately extended our substantive audit tests.

In conducting our audit, we tested EPS's compliance with certain provisions of contract D-100820. Our objective in performing these tests was to obtain reasonable assurance about the accuracy of the amounts billed and the allowability of amounts EPS received from DEC, not to provide an opinion on EPS's overall compliance with such provisions.

The results of our tests indicate that, with respect to the items tested, EPS complied in all material respects with the provisions referred to in the preceding paragraph, except as noted in Section B of this report. With respect to the items not tested, nothing came to our attention that caused us to believe that EPS had not complied, in all material respects, with those provisions.

A. Background and Contractual Terms

Article 12 of the Navigation Law designates DEC as the lead agency responsible for assuring the cleanup of oil spills, and the disposal of the collected oil, debris, and other contaminated material of oil spills. Oil spills affect both surface waters and ground waters. The Commissioner of the Department of Environmental Conservation has determined that to carry out the requirements of Article 12 of the Navigation Law and Section 97-b(3)(e) of the State Finance Law, it is necessary to obtain the services of cleanup contractors available on a standby basis.

EPS is an environmental services company with corporate headquarters located in Syracuse, New York, and 15 service locations throughout the northeast. EPS provides a wide spectrum of services to handle hazardous waste and environmental needs. These services include: emergency spill response; environmental consulting; hazardous waste transportation; geoscience services for property investigation, evaluation and remediation; and an environmental laboratory for comprehensive analytical services.

The contract executed by DEC with EPS is a cost plus contract which allows for reimbursement of direct costs plus a percentage for overhead and profit. Reimbursable costs include labor services, equipment rental charges, material charges, and subcontracts. Labor services are to be reimbursed for each hour of labor at a rate equal to the lesser of actual payroll charges for an employee or the maximum hourly rate for that labor category as specified in the contract, plus 133 percent overhead, plus a percentage for profit not to exceed 27 percent. Equipment rental charges are calculated at hourly rates or appropriate daily, weekly, monthly, quarterly, or yearly discount rates listed in the contract. Material charges are also listed in the contract. The contract was let for two years ending October 31, 1997 with an option for two additional years, which was exercised.

B. Results of Audit

During the period November 1, 1995 through February 18, 2000, EPS was paid approximately \$7.6 million on contract D-100820. We reviewed supporting documentation for four claims (invoices) submitted during the period April 1, 1998 through October 31, 1999. These invoices totaled \$79,165, and included \$33,760 for labor (43%), \$16,353 for equipment rental (20%), and \$29,052 for materials and other reimbursable costs (37%).

We found that DEC incorrectly paid the wrong vendors \$89,749 for work performed by EPS, and charged \$16,253 to the EPS contract for work performed by other vendors under different contracts. We also determined that a \$431 refund is due DEC from EPS. The refund results from labor costs which were unsupported or incorrectly charged (\$351) and equipment rentals which were inaccurately charged (\$80).

1. Incorrect Payments

We reviewed a listing of all payments made on contract D-100820 and found that 13 payments, totaling \$89,749, were incorrectly made to the wrong vendors. Ten additional payments, totaling \$16,253, were incorrectly charged to this contract for work performed on other contracts.

During 1998, DEC received seven invoices from EPS. In preparing the Contract Payment Requests (CPR) for these invoices, DEC incorrectly entered the names and addresses of other vendors under contract with them, and attached the CPRs to the supporting documentation from EPS. Checks totaling \$62,198 were sent to those other vendors. Approximately two weeks later, corrected CPRs were processed by DEC and paid. As a result, \$62,198 in duplicate payments were made to companies unrelated to EPS and had to be recovered.

Similarly, eight additional payments, totaling \$27,551, were incorrectly made to a laboratory which is a subsidiary of EPS. Seven of these payments were also made directly to EPS. As a result, \$24,212 in duplicate payments were made to EPS and its subsidiary, and one additional payment of \$3,339 was incorrectly paid to only the subsidiary. Likewise, these overpayments had to be recovered.

(DEC officials advised us that the \$89,749 in overpayments were subsequently identified during their review process and the monies recovered. DEC officials further indicated that they have revised their review and verification process to identify such errors before payments are made.)

We also noted that ten additional payments, totaling \$16,253, were incorrectly charged against the EPS contract for vendors which performed work for DEC under other contracts. While these errors had no financial impact, they did misstate the costs of the respective contracts.

2. Labor Services

We reviewed 138 labor transactions totaling \$33,760 on four invoices submitted by EPS between July 1998 and October 1999. We examined daily job reports, time cards and payroll registers supporting the invoices we reviewed to determine whether the labor charges billed had actually been worked and paid. EPS uses a computerized system to track and bill labor charges. Payroll services are provided by an outside vendor. The daily job reports represent the basic input document for the billing system. The hours recorded on the daily job reports are supported by employee time cards which are used to generate the payroll.

We found three instances, totaling \$433, where the amounts billed were not supported by actual payments or differed from the time recorded on the daily job reports. In one instance, the daily job report indicated that the employee was at the work site but there was no corresponding time recorded on the time sheet and he was not paid for the hours. EPS over-billed DEC \$377 for these hours. In the two other instances, the daily job reports indicated that the employees worked more time than was recorded on the time cards and paid. EPS over-billed DEC \$56 for these instances.

There were two additional instances where incorrect pay rates for employees had been entered in the billing system. In one instance, only the premium portion of the employee's overtime rate had been entered with no allowance for the straight time, overhead and profit portions. This resulted in DEC being under-billed by \$112. In the second instance, the rate entered in the system was \$10 higher than it should have been and resulted in DEC being over-billed \$30.

3. Equipment

The contract specifies rates that are to be charged for each type of equipment. We reviewed 112 equipment transactions totaling \$16,353 on four invoices submitted by EPS between July 1998 and October 1999. We found one instance where DEC billed for a piece of equipment using an incorrect rate. This resulted in an overpayment of \$80 to EPS.

Recommendations

1. *Correct the \$16,253 in charges incorrectly made against the EPS contract. Verify that the correct contract number is recorded on the Contract Payment Request form.*

(DEC officials indicated that they have removed the charges incorrectly made against the EPS contract and have assessed them against the appropriate contracts. They added that changes made to the verification process would help mitigate this problem in the future.)

2. *Recover the \$431 overpaid to EPS for labor and equipment charges.*

(DEC agreed to recover the overpayment to EPS.)

A draft copy of this report was provided to DEC officials for their review and comment. Their comments have been considered in preparing this report and are included as Appendix A. DEC officials agreed with our recommendations and indicated that they either have been or are in the process of being implemented.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Department of Environmental Conservation shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.

Major contributors to this report were Charles Hammarberg, Ron Skantze, Peter Schmidt, Mike Filippone, and Arthur Lebowitz.

We wish to thank the management and staff of Environmental Products and Services and the New York State Department of Environmental Conservation for the courtesies and cooperation extended to our auditors during the audit.

Very truly yours,

William P. Chalice
Audit Director

cc: Charles Conaway
Albert J. Staiti

GEORGE E. PATAKI
GOVERNOR



JOHN P. CAHILL
COMMISSIONER

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
ALBANY, NEW YORK, 12233-1010

OCT 4 2000

Mr. William P. Challice, Audit Director
Office of the State Comptroller
Division of Management Audit & State Financial
Services
123 William Street
New York, NY 10038

RE: Draft Audit Report 2000-R-2
Environmental Products and Services, Inc.
Contract D-100820

Dear Mr. Challice:

We have reviewed your draft audit report in connection with the above audit and here offer our response to your recommendations.

Recommendation 1:

Correct the \$16,253 in charges incorrectly made against the EPS contract. Verify that the correct contract number is recorded on the Contract Payment Request form.

(DEC officials indicated that they have removed the charges incorrectly made against the EPS contract and have assessed them against the appropriate contracts. They added that changes made to the verification process would help mitigate this problem in the future.)

Department Response:

As you point out in the draft report, these errors had no financial impact. A bookkeeping error was made which resulted in ten payments totalling \$16,253 appearing on a list of payments made to EPS. However, all ten payments were made to the right vendors under the right contracts and in the correct amounts. We have removed these "charges" incorrectly made against the EPS contract and have assessed them against the appropriate contracts. We agree that the correct recording of vendors on the Contract Payment

Request forms should be verified. We have had a review and verification process in place. This process has been revised and strengthened even before the current audit took place. This will assist us in avoiding such mistakes in the future.

Recommendation 2:

Recover the \$431 overpaid to EPS for labor and equipment charges.

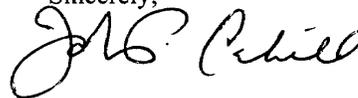
(DEC agreed to recover the overpayment to EPS.)

Department Response:

We will be taking steps to recover the \$431 in overpayments. To do this, we need the Office of the State Comptroller to provide us with the details pertaining to these overpayments necessary to make full recovery. We have requested this information from the Comptroller and will take the necessary actions as soon as the information becomes available.

Thank you for the opportunity to provide you with these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "John P. Cahill". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

John P. Cahill