

Background of Changes to the FDEP Petroleum Restoration Program



**Marco Island
Environmental Permitting Summer School**

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Why?

What?

When?

How?

**Current
Status**

Basis for Changes

- Legislative Requirement
- Desire for More and Quicker Closures
- Questionable Practices
- Broader use of RBCA & Conditional Closures
- Encourage cost sharing with RPs/Owners
- Continue with successful programs
 - LSSI, PCPP, SRFAAs, LSAs, PAC

Why?

2013 Funding Proviso Language

Why

What

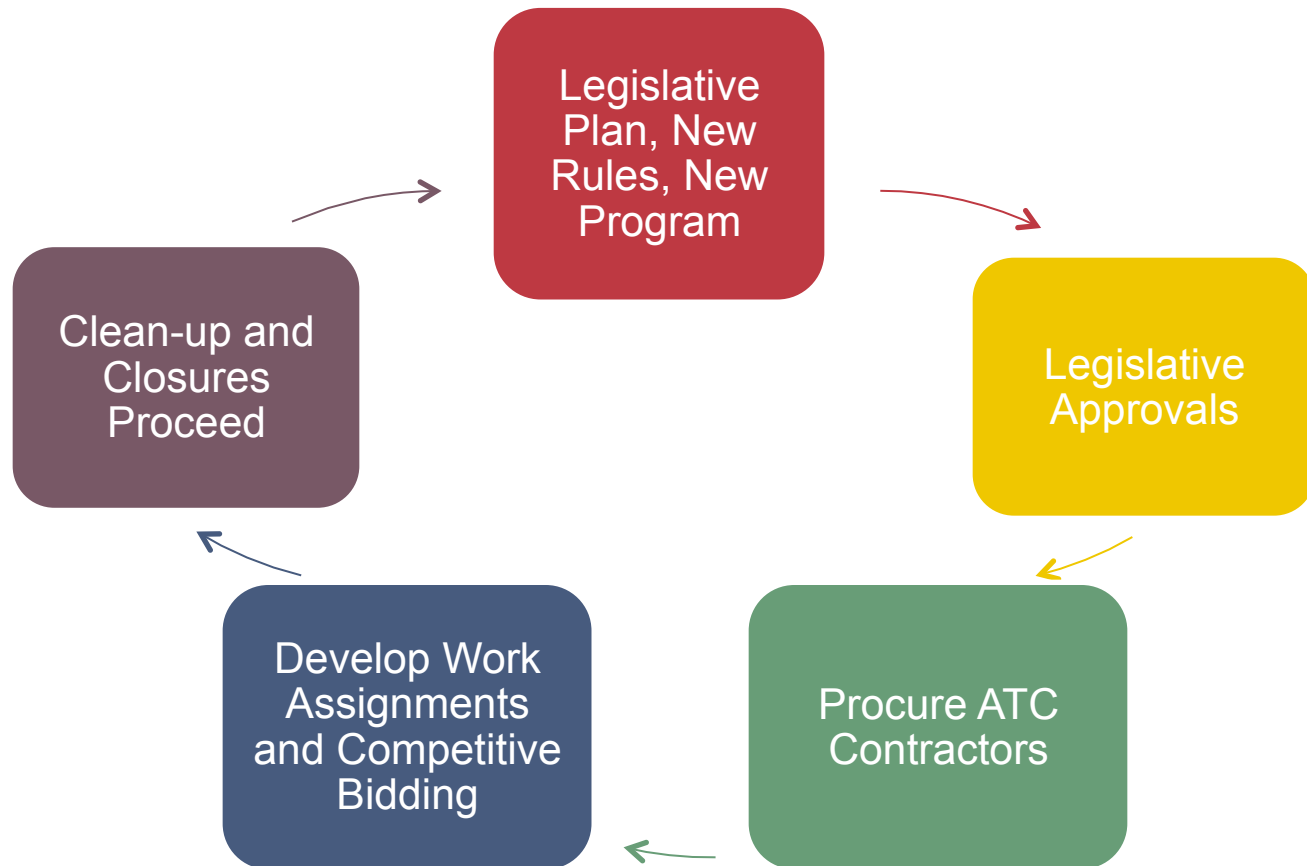
When

How

**Current
Status**

- Funded 2013/2014 at \$125 million
- FDEP to contract on Competitive Bidding
- Expend \$50MM by June 30, 2013
- Develop Plan for Legislative Budget Committee
- Write new site ranking and procurement rules
- Spend remaining \$75 million under new competitive procurement program (post 1/1/14)

New FDEP PRP Program Process Flow – 2013 to 2014



Key Changes?

Why

What

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How

Current
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New Rules & Bill

- Chapter 62-771 – Ranking Rules
 - Added definition of imminent threat
 - Allows and describes re-scoring process
- Chapters 62-772 – Procurement Procedures
 - Established competitive process for PRP
 - Established Agency Term Contractors
 - Electronic registration/procurement through MyFloridaMarketPlace
- Senate Bill 1582/HB 7093
 - Repealed 376.30711 – Preapproval
 - Provides intent of PRP
 - Provides for RP to cost share with FDEP to achieve faster cleanups

Timeline

Aggressive Schedule!

Program funded 2013/2014 at \$125 million - the FDEP to contract on Competitive Bidding (057)



Very aggressive timeline for planning, rule making, new solicitation & program overhaul.

Why

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Current Status

Why

What

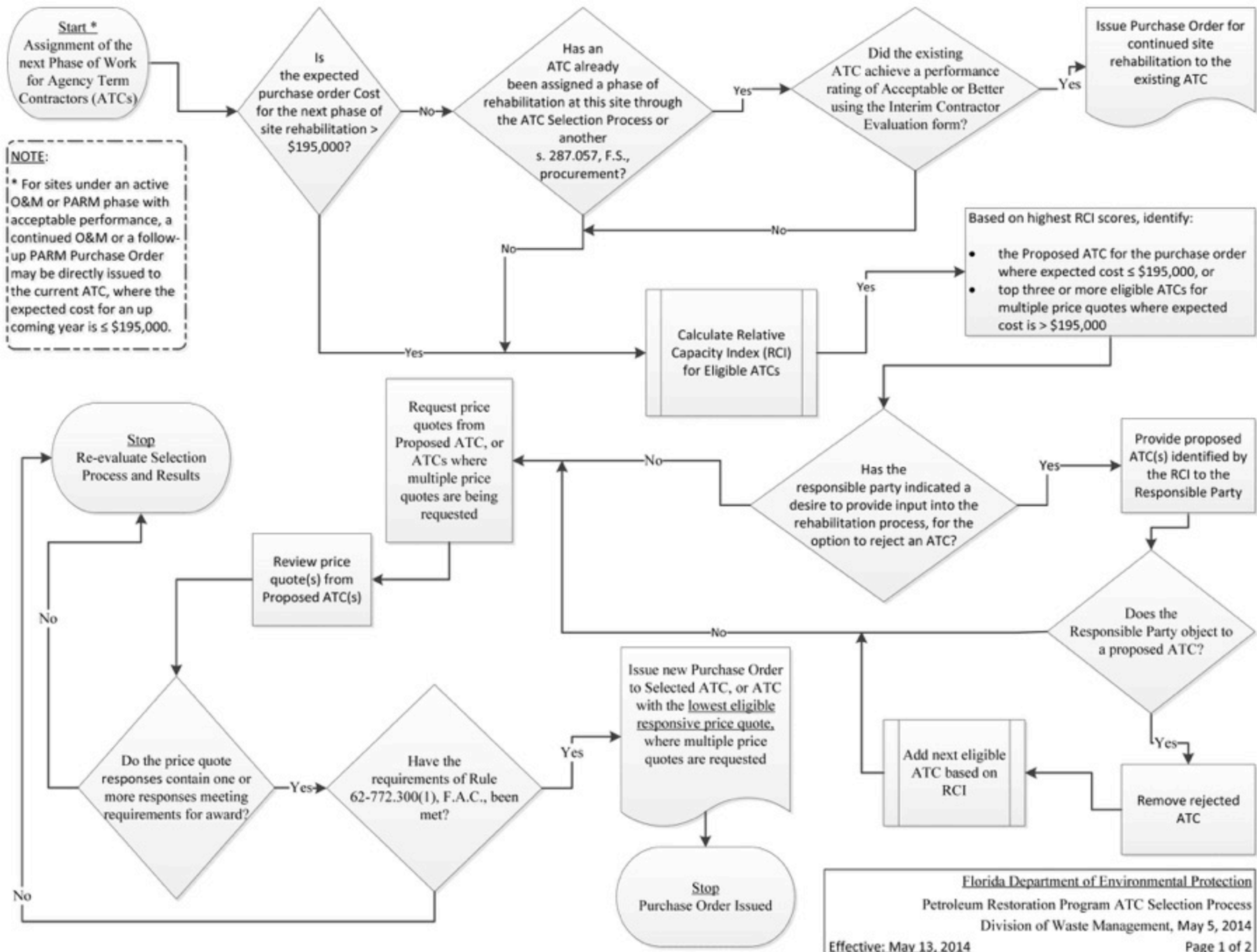
When

How

**Current
Status**

Details of the Changes

- Agency Term Contractors (72) – 3 regions
- E-Quotes & ITBs
- MFMP – Electronic Purchase Orders
- Scopes of Work Developed by FDEP
- Work assigned (<\$195K) through RCI formula
- Affidavits, Access, HSPs, Proposals
- Continuity – If ATC is performing well, work continues with that ATC for O&M & NAM (< \$195,000)
- 287.057 requires projects > \$195K to be bid
- RP can select if 25% cost savings
- New PRP is still under significant development



NOTE:
* For sites under an active O&M or PARM phase with acceptable performance, a continued O&M or a follow-up PARM Purchase Order may be directly issued to the current ATC, where the expected cost for an upcoming year is ≤ \$195,000.

Relative Capacity Index
(RCI)

$$= \frac{\text{BondingCap}^c}{\left(\text{EncBal} \times \frac{\text{EncBal}}{25,000}\right)^b + \text{SchRank}^r}$$

Where:

BondingCap = The vendor's most recently demonstrated limits of Performance or Financial Guarantee Bonding* for performance of the corresponding petroleum restoration services on a state-wide basis, with an upper limit of \$3 million for the purposes of this calculation. The BondingCap term is raised to the power c, where the exponent c = 0.85.

EncBal = The total available Encumbrance Balance from STCM for work being performed for the Petroleum Restoration Program (PRP), excluding performance based contract encumbrances, and contract encumbrances subject to the alternative contractor selection provisions of Rule 62-772.401, F.S., where the participant or applicant has selected the agency term contractor. For the purpose of this calculation, the EncBal term includes potential purchase order assignment values for agency term contractors, while identified as a candidate for a given purchase order issuance under the associated PRP procurement. The EncBal reflects reductions for pending invoice payments for invoices once they are approved by the Petroleum Restoration Program, even prior to their actual disbursement. The EncBal term is raised to the power b, where the exponent b = 0.7.

SchRank = The rank of the eligible vendors within a given region based on each vendor's contracted Schedule of Pay Item Prices (Pay Schedule) for the expected Scope of Work; where the resulting lowest Pay Schedule calculated cost is ranked as 1 for the expected work elements, and where the highest cost is ranked n for a particular region, where n is the number of eligible contracted PRP vendors in the region. The rank is to be raised to the power r, where the exponent r = 2.5.

Notes:

* The financial Institution or surety company providing the performance or financial guarantee bonding commitment to the eligible Vendor must be authorized to do business in the State of Florida and be listed currently and continuously on U.S Treasury Department Circular 570 to constitute an acceptable surety commitment. The Vendor shall give notice to the Department not more than five days following any listing removal therefrom, and in the event of any other change in the financial Institution or surety company providing the surety commitment or in the amount of the surety commitment.

It is expected that a uniform retainage rate (e.g., 10%) would be initially applied during invoice payments for each contracted purchase order, in lieu of requiring that a performance bond be obtained. The retainage rate may be adjusted, up to a maximum of 25%, for a contractor's future purchase orders based on relevant factors such as contractor performance.

Why

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Current Status

Current Status

- New rules have been ratified
- New bill is in place
- ATC Contractors have been selected /contracted
- Current Program
 - Equotes and ITBs
 - ATC Work Assignments
 - Developing SOW
 - LSSI, PCPP, PAC, SRFAA continue
 - RP designation w/25% cost savings
 - Many SOW to be assigned and POs issued
 - Many issues still being worked out, but progress is being made.

Imagine the result

