



Central Florida Expressway Authority

Fiscal 2016 Contracts Audit

December 2015

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Table of Contents

Section	Page(s)
Executive Summary	3 – 4
Summary of Audit Procedures Performed and Results	5
Detailed Observations	6 – 12
Appendix A – Detailed Audit Procedures Performed	13 – 18



Executive Summary

Overview

In accordance with the 2016 Internal Audit Plan, Internal Audit audited three (3) contracts with a combined contract value exceeding \$23,750,000 from a population of currently active large engineering, service, maintenance, operations, and construction projects.

Objectives

The objectives of the audit were to (1) audit the accuracy of items billed to the Authority in accordance with contract terms and conditions, and (2) identify and test key processes and controls around contract bidding and execution, budgeting, billing, project oversight, reporting, and supplemental agreement management.

Project Scope and Approach

The audit was performed using a four-phased approach as outlined below:

Phase I – Contract Analysis and Selection

To select contracts for audit, Internal Audit obtained a listing of all active contracts with the Authority and identified a short-list of contracts for audit after interviewing management and performing a risk analysis based on contract size, duration, terms and conditions, and nature of the work performed. The following contracts were selected for audit as approved by the Audit Committee:

1. **Jorgensen Contract Services #000761**– Contract for Roadway Maintenance of S.R. 408, S.R. 417, S.R. 528 and S.R. 551. This contract began in July 2011 and has a current contract value of \$17.4 million. Per the Authority's accounting system (Eden), expenditures to date at the time of audit totaled approximately \$14.7 million.
2. **HNTB Corporation Southeast Division #000850**– Engineering/Design contract for the Wekiva Parkway. This contract began in May 2012 and has a current contract value of \$5.4 million. Per Eden, expenditures to date at the time of audit totaled approximately \$4.7 million.
3. **Day Communications #001002**– Marketing and Communications contract. This contract began in December 2013 and has a current value of \$987,625. Per Eden, expenditures to date at the time of audit totaled approximately \$575,000.

Continued on the following page...

Executive Summary

Phase II – Processes and Controls Review

Internal Audit performed procedures to review the Authority's processes related to procurement, contract administration, project and cost management, and supplemental agreement management. Key controls within each of these areas were identified and tested for each contract selected in Phase I. Details regarding the procedures performed, results, and observations are provided on the following pages and in **Appendix A**.

In September 2015, Internal Audit completed a review of open prior year Contracts Audit recommendations and verified that all have been incorporated into practice and policy. Prior year observations and recommendations were also considered and incorporated into this year's Contracts Audit approach to verify that the prior years findings were resolved and are not prevalent in the contracts selected for fiscal year 2016 contracts audit testing.

Phase III – Contract Specific Audit Procedures

Internal Audit performed detailed procedures to review contract terms, costs billed to the Authority, and other key attributes for each of the contracts selected for audit. The contracts selected, value, spend to date, sample tested, and percentage of spend tested are outlined below:

Contract	Contract Value	Contract Spend to Date [2]	Sample Tested [1]	% Spend Tested
Jorgensen Contract Services	\$17,353,115	\$14,705,157	\$3,439,465	23.4%
HNTB Corporation	\$5,410,000	\$4,655,663	\$1,863,378	40%
Day Communication	\$987,625	\$575,435	\$237,049	41.2%

[1] Invoices were selected for testing using judgmental sampling. A detail of all invoices paid to date was obtained and charted to identify abnormal increases in month over month spend to select samples for testing. The invoices selected were tested for compliance with contract terms and conditions.

[2] As of October 20, 2015.

Phase IV – Reporting and Deliverables

Internal Audit prepared this report for management review and comment and for issuance to the Authority's Audit Committee.

Summary of Procedures Performed and Results

For the contracts selected for audit, Internal Audit identified risks and tested key controls within the process areas outlined below. Where applicable, a sample of detailed project costs was reviewed and tested for compliance with contract terms and conditions. The table below provides an overview of the areas reviewed for each contract audit. Further detail of the specific procedures performed is provided in **Appendix A**.

Process	Procedures Performed / Key Areas Reviewed	Total Controls Tested	Number of Observations	Observation Reference
Procurement	Project funding and bid authorization, project bidding (sealed bids and competitive sealed proposals), bid awards, bid bond requirements, and contract renewals.	16	0	N/A
Contract Administration	Contract terms and conditions, insurance, bond and permitting requirements, and minority and women owned business ("MWBE") requirements.	10	3	3, 4
Project & Cost Management	Invoice processing, project planning, scheduling, quality control, subcontract management, cost management, owner direct material purchases ("ODMP") management, and project reporting.	9	1	1,2
Supplemental Agreement Management	Supplemental agreement review, approval, and execution.	2	0	N/A
TOTAL:		37	4	

Detailed Observations

Procurement

Contract
Administration

Project & Cost
Management

Supplemental
Agreement
Management

Observation 1 – Jorgensen Subcontractor Approval

Contract: Jorgensen Contract Services

Relative Priority: High

The Authority has policies and procedures to authorize the use of subcontractors by vendors. Subcontractors may be approved through (1) inclusion in the vendor proposal and bid or (2) the completion of an "Authorization to Subcontract" form. The "Authorization to Subcontract" form can be approved by the Procurement Director for amounts up to \$25,000 and requires Board Approval for any amount in excess of \$25,000. The Jorgensen contract states that all subcontractors intended to be utilized by Jorgensen must be approved by the Authority in advance.

Jorgensen utilized twenty-six subcontractors since the inception of the contract. Of those twenty-six subcontractors, five were disclosed in the original proposal and contract approved by the Board. Jorgensen did not complete the "Authorization to Subcontract" request for the remaining twenty-one subcontractors. In addition, eight of the twenty-one subcontractors were paid amounts in excess of \$25,000, which required Board approval.

Recommendation

The Authority should utilize a vendor billing compliance checklist (similar to one employed for construction and engineering contracts) to allow for monitoring of the use of subcontractors. A listing of authorized subcontractors should be included in the checklist and the checklist should be used to track the approval of new. The contractor should also be required to submit a detail of the use of subcontractors with each vendor invoice.

Continued on the following page...

Detailed Observations

Procurement

Observation 1 – Jorgensen Subcontractor Approval (Cont.)

Management Response

Management concurs.

Contract
Administration

Management Action Plan

Contract Specialists within the maintenance department will implement the use of a "Subcontractor Status Report" as part of monthly checklist of contract requirement monitoring and require the vendor to provide the listing of subcontractors along with their monthly invoice. Additionally, the Contract Specialist will compare the listing provided against the subcontractor approval forms submitted to confirm compliance. The Contract Specialist will also maintain a spreadsheet of subcontractor use and seek Board approval if the amounts approach \$25,000.

Project & Cost
Management

Action Plan Owner / Due Date

Joe Berenis, Deputy Executive Director/ February 1, 2016

Supplemental
Agreement
Management

Continued on the following page...

Detailed Observations

Procurement

Observation 2 – Jorgensen MRP Retainage

Contract: Jorgensen Contract Services

Relative Priority: High

The Florida Department of Transportation inspects the roadways and bridges three times a year and issues an MRP Rating to the Authority. The Jorgensen contract states that, in an effort to hold Jorgensen accountable throughout the year for roadway maintenance levels, the Authority would withhold retainage from the payments due to the vendor after *each FDOT review*.

Contract Administration

Based on MRP Rating, retainage should be withheld after each review, using the following guidance:

- If cumulative MRP rating less than 91, retainage of 1% of the cumulative 4 month payments are withheld.
- If an element rating is below 89, for each point below 89, retainage of .5% of the cumulative 4 month payments are withheld.
- If a characteristic rating is below 80, that for each point below, retainage of .25% of the cumulative amount of 4 month payments are withheld.

Project & Cost Management

The Florida Department of Transportation issues a final MRP rating at year end which is used to calculate the final amount of retainage to be withheld for the year. A reconciliation is to be performed between the final retainage amount and the amounts previously withheld. Any difference is either withheld from Jorgensen's December payment or released to Jorgensen at that time.

Supplemental Agreement Management

During 2011 and 2012, the Authority calculated the amount of retainage that should be withheld based on the final MRP rating of 76,452.88 and \$16,989.53 respectively. However, no retainage was actually withheld from the vendor payments. There was no retainage required for 2013.

During 2014, a supplemental agreement was executed with Jorgensen to withhold the fiscal year 2011 and 2012 retainage. However, due to an error, only \$80,757 of the \$93,442 retainage amount was withheld, resulting in a overpayment of \$12,685.

Continued on the following page...

Detailed Observations

Procurement

Observation 2 – Jorgensen MRP Retainage

Recommendation

The Authority should implement a process for calculating and reviewing the retainage to be withheld after each MRP rating to ensure accuracy. Approval of the calculation should be documented and submitted to the finance department to ensure the retainage is properly reflect in the vendor payments.

Contract
Administration

Management Response

Management concurs.

Management Action Plan

Project & Cost
Management

The Authority will implement a secondary review process of the MRP retainage calculation before processing the retainage along with the final payments. Retainage calculated and withheld will be documented on the vendor's invoice with supporting documentation for finance's review upon processing.

Action Plan Owner / Due Date

Director of Maintenance/March 1, 2016

Supplemental
Agreement
Management

Continued on the following page...

Detailed Observations

Procurement

Observation 3 – Jorgensen Surety Bond

Contract: Jorgensen Contract Services

Relative Priority: Low

The Jorgensen Contract Services Contract states that the Contractor (Jorgensen) is required to acquire a surety bond for the annual value of the contract. This is calculated by taking the total contract value and dividing it by five (the contract term). In the event of a Supplemental Agreement, the surety bond must be updated to reflect the new contract value.

Contract Administration

The Jorgensen contract had an initially contract value of \$16,989,528, which results in an annual bond requirement of \$3,397,905.60. During the initial two years of the contract term (2011 and 2012), the surety bonds were provided to the Authority in the amount of \$3,327,333.88 resulting in an underinsured exposure of \$70,571.72 each year. The error was corrected by the contractor for 2013 and subsequent years; however the error was not identified by the Authority as part of its normal process.

Project & Cost Management

Recommendation

The Authority should establish a procedure requiring Contract Management to prepare a checklist identifying key contract terms related to each contract. The contract manager should perform a detailed review of contract compliance at least annually and should reference the checklist to ensure vendors are in compliance with contract terms and conditions prior to releasing the last vendor payment of the year.

Supplemental Agreement Management

Continued on the following page...

Detailed Observations

Procurement

Observation 3 – Jorgensen Surety Bond (Cont.)

Management Response

The Authority concurs and notes that less than six contracts within the Authority are subject to this type of bond. Most contracts require a bond at the commencement of the project.

Contract Administration

Management Action Plan

The Contract Specialists within the maintenance department will verify the amount of the surety bond complies with the contract requirements as part of the contract compliance checklist. In addition, the procurement department will prepare a secondary review of the compliance with the surety bond requirement.

Action Plan Owner / Due Date

Director of Maintenance/ immediately
Claude Miller, Director of Procurement/ Annually, upon expiration of surety bond

Project & Cost Management

Supplemental Agreement Management

Continued on the following page...

Detailed Observations

Procurement

Observation 4 – Jorgensen Insurance Rating

Contract: Jorgensen Contract Services

Relative Priority: *Low*

The Jorgensen contract states that all insurance companies used by the Contractor should have been in business for at least five years and have A.M. Best financial rating of at least A- (excellent) and a financial size category rating of XII (\$1 Billion to \$1.25 Billion in policyholder surplus funds). A.M. Best, as a rating agency, is focused exclusively on the insurance industry.

Contract Administration

Jorgensen used six separate insurance carriers over the life of the contract for commercial liability, business automobile liability, and workers' compensation coverages. One of the insurance carriers, Old Republic General Insurance Corp, maintained a financial rating of A- or better; however, their financial size category was only IX (\$250 Million to \$500 Million in policyholder surplus funds), below the size agreed to per contract.

Project & Cost Management

Recommendation

The Authority should implement a process for the monitoring of the A.M. Best Ratings for insurance carriers utilized by vendors. A member of the Procurement Department should verify that the carrier's financial rating and size meets the contractual terms and confirm the rating and size of the carrier each time the vendor provides a new proof of insurance document.

Supplemental Agreement Management

Management Response

The Authority concurs.

Management Action Plan

Procurement Department personnel who requests insurance renewal information will verify the credit ratings and financial size category for each renewal received.

Action Plan Owner / Due Date

Claude Miller, Director of Procurement/ Immediately



Appendix A

Detailed Audit Procedures Performed

Detailed Procedures Performed

Procurement

Procedures Performed - Procurement

Internal Audit performed detailed audit procedures related to the procurement, bidding, contract award, and contract renewal of all contracts selected for testing. The procedures performed included:

- High level review of the process for establishing bid estimates for large construction contracts;
- Testing of Board approval to advertise for bids and proposals and Board approval of the contract award;
- Testing for the use of five year contract terms and the option for five one year renewals for contracts;
- Testing of the key components of the competitive sealed bid and proposal processes, including:
 - Completion and utilization of bidding and award schedules;
 - Timestamps applied to all received proposals and compliance with submittal deadlines;
 - The use of bid opening and bid tabulation sheets;
 - Performance of unbalanced bid reviews for competitive bids;
 - Completion of disclosure forms by the Authority's employees responsible for evaluating technical and price proposals; and
 - Comparison of evaluation and scoring to advertised request for proposals.
- Completion and distribution of the monthly expiring contracts report by the procurement department; and
- Completion and approval of the expiring contract renewal worksheet and Board approval of contract renewals.

Contract Administration

Project & Cost Management

Supplemental Agreement Management

Detailed Procedures Performed

Procurement

Contract Administration

Project & Cost Management

Supplemental Agreement Management

Procedures Performed – Contract Administration

Internal Audit performed detailed audit procedures related to key contract terms and conditions utilized by the Authority and the satisfaction of insurance, bonding, permitting and MWBE requirements by the contractors selected for testing. The procedures performed included:

- Testing for the review of contracts by the Authority's Legal Counsel;
- Testing of key contract reviews and clauses, including:
 - Review by the Authority's Legal Counsel; and
 - Inclusion of key right to audit, termination, and indemnity clauses.
- Outlining and testing of insurance, bonding, and permitting requirements specific to the contracts selected; and
- Satisfaction of MWBE requirements set forth in the original bid and as required by the Authority.

Detailed Procedures Performed

Procurement

Procedures Performed – Project & Cost Management

Internal Audit performed detailed audit procedures related to invoice processing and approval, project planning, scheduling and quality control, project cost management and reporting, and subcontractor management. The procedures performed included:

Contract Administration

Project & Cost Management

- Testing of a sample of invoices for the projects selected for adequate review and approval by the appropriate personnel and compliance with the Authority's invoice processing procedures;
- Discussion of current practices in regards to quality control and risk management plans and performance and quality monitoring;
- Testing of subcontractor approval and a sample of payments made to subcontractors;
- Detailed testing of costs billed for a sample of invoices selected for each of the service contracts selected and detailed testing of a sample of the quantities billed for each of the construction contracts selected;
- Review of MRP Rating process and recalculation of retainage withheld;
- Discussion and limited testing of changes to project schedules; and
- Review of reporting submitted to management on a regular basis.

Supplemental Agreement Management

Detailed Procedures Performed

Procurement

Procedures Performed – Supplemental Agreement Management

Internal Audit performed detailed audit procedures related to supplemental agreement execution, review, and approval. The procedures performed included:

- Testing for Board approval of all supplemental agreements in excess of \$50,000; and
- Testing for the approval of all supplemental agreements by the appropriate parties.

Contract Administration

Project & Cost Management

Supplemental Agreement Management



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