



Orlando-Orange County Expressway Authority

2012 Contracts Audit

May 2012

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Table of Contents

Section	Page(s)
Executive Summary	3 – 5
Summary of Audit Procedures Performed and Results	6
Detailed Observations	7 – 9
Appendix A – Detailed Audit Procedures Performed	10 – 14

Executive Summary

Overview

Per the 2012 Internal Audit Plan, Internal Audit was asked to audit contracts for a sample of large engineering, service, maintenance, operations, and/or 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 audit approach as outlined below:

Phase I – Contract Analysis and Selection

Internal Audit obtained a listing of 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, nature of the work performed, etc. The following contracts were selected for audit and approved by the Audit Committee:

- 1. Broad and Cassel #000132** – This service contract was executed July 15, 1993 and is primarily for outside legal counsel related to right of way acquisitions. The contract terms stated the legal consultant would provide services at the request of the Authority. Per the Authority's accounting system (Eden), the fee-based contract has incurred total expenditures to date of approximately \$20 million.

Due to the age of the Broad and Cassel contract, Internal Audit was unable to test controls related to bidding and procurement policies outlined in the Procurement Procedures Manual which was implemented on December 1, 2009. The Broad and Cassel contract remains open only for the settlement of remaining parcels from the John Land Apopka project which are still in litigation. The current procurement policies now limit contracts of this nature to an initial term of five years and renewals for up to five one-year periods.

Continued on the following page...

Executive Summary

Phase I – Contract Analysis and Selection *(continued)*

- 2. Infrastructure Corporation of America (ICA) #000689** – This contract, executed July 1, 2010, is for ICA to provide services to conduct roadway and bridge maintenance of SR 429 and 414. The total approved contract value of \$7.9 million is divided into lump sum monthly invoices for maintenance services performed. Per the Authority’s accounting system (Eden), total expenditures incurred to date are approximately \$2.7 million.
- 3. Southland Construction, Inc. (“Southland”) #000683** – Contract for the construction of the 429 and 414 interchange ramps and the new interchange for 429 and 437. This contract began in June 2010 and has a current contract value of \$48.7 million. Per the Authority’s accounting system (Eden), expenditures to date total approximately \$40.3 million.
- 4. Sema Construction, Inc. (“Sema”) #000770** – Contract for the construction of the 429 extension between Boy Scout Rd. and US 441 and the construction of an interchange and connector road at 429 and US 441 in Orange County. This contract began in September 2011 and has a current contract value of \$53.6 million. Per the Authority’s accounting system (Eden), expenditures to date total approximately \$22.1 million.

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 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 January 2012, Internal Audit completed a review of the 2010 Contracts Audit recommendations and noted that prior year recommendations have been incorporated into practice and policy, with the exception of two recommendations that are not due yet. Prior year recommendations were also considered and reviewed as part of this year’s Contracts Audit.

Continued on the following page...

Executive Summary

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.

Contract	Contract Value	Contract Spend to Date ^[4]	Sample Tested	% Spend Tested
Broad and Cassel	Fee-Based	\$19,961,004	\$1,184,827 ^[1]	5.9%
ICA	\$7,926,850	\$2,667,154	\$675,096 ^[2]	25.3%
Southland Construction	\$48,746,465	\$40,288,580	\$27,132,396 ^[3]	67.3%
Sema Construction	\$53,561,111	\$22,055,987	\$14,136,418 ^[3]	64.1%

[1] Judgmentally selected a sample of 25 invoices from a population of 1527 invoices using a risk based approach. A listing of all invoices 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] Judgmentally selected a sample of 5 invoices from a population of 20 invoices using a risk based approach. A listing of all invoices 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.

[3] Samples were judgmentally selected to include unit quantities, fuel price adjustments, bituminous mix adjustments, and Owner Direct Material Purchases (“ODMP”) billed to the Authority across several months of the project.

[4] As of March 26, 2012

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.	24	0	N/A
Contract Administration	Contract terms and conditions, insurance, bond and permitting requirements, and minority and women owned business (“MWBE”) requirements.	9	1	1
Project & Cost Management	Invoice processing, project planning, scheduling, and quality control, subcontract management, cost management, owner direct material purchases (“ODMP”) management, and project reporting.	28	0	N/A
Supplemental Agreement Management	Supplemental agreement review, approval, and execution.	8	1	2
	TOTAL:	69	2	

Detailed Observations

Procurement

Observation 1 – Evidence of Contractor Insurance Coverage

Relative Priority: High

Southland contract (Contract #000683) sections 5.11.1 through 5.11.6 outline specific insurance requirements that must be satisfied at the time of contract execution and renewed annually through the completion of the contract. The Authority has not yet received the most recent certificate of insurance evidencing appropriate insurance coverage between January 2012 and January 2013. Beginning in January 2012, the Authority has sent monthly letters to Southland's insurance carrier requesting the updated certificate of insurance without success.

Contract Administration

Recommendation

Because of the significance of the exposure associated with a potential lack of insurance coverage, the Authority should work closely with Southland and their insurance carrier to obtain the most recent certificate of insurance. In the event the certificate of insurance cannot be provided, the Authority should work with legal counsel to determine an appropriate course of action. The Authority should also investigate options to include contract terms and conditions in their standard contract language (e.g. right to withhold payment without proof of adequate insurance coverage) to ensure certificates of insurance are provided in a timely manner.

Project & Cost Management

Management Response

Concur.

Supplemental Agreement Management

Management Action Plan

The Director of Procurement will meet with General Counsel to discuss what action can be taken to ensure that the contractor submits updated insurance certificates as required by the contract.

Action Plan Owner / Due Date

Claude Miller, Director of Procurement / June 1, 2012

Detailed Observations

Procurement

Observation 2 – Timely Execution of Supplemental Agreements

Relative Priority: *Medium*

Supplemental Agreement #1 for SEMA (Contract #000770), totaling \$337,201, was approved by the Board on November 14, 2011; however, the actual supplemental agreement between the Authority and SEMA was not executed until February 22, 2012. As of February 20, 2012, SEMA had been paid \$109,375 by the Authority for the work performed under Supplemental Agreement #1, indicating work was performed and billed by SEMA prior to the full execution of the supplemental agreement.

Contract Administration

Management indicated the three month delay for the execution of Supplemental Agreement #1 was a one time occurrence, as the new Construction, Engineering, and Inspection Consultant (“CEI”) did not follow the procedure of providing the supplemental agreement to the Contractor for execution following Board approval. Management indicated this has since been resolved and the status of all supplemental agreements gets reviewed during weekly construction progress meetings held between the Authority, the CEI, and the contractor.

Project & Cost Management

Recommendation

Understanding that it is sometimes necessary for work to be performed and/or billed prior to execution of supplemental agreements with contractors, management should ensure that supplemental agreements are executed in a timely manner to help prevent potential legal exposure or accounting timing issues. Additionally, management should continue the review of all supplemental agreements with the CEI and contractor on a weekly basis.

Supplemental Agreement Management

Continued on the following page...

Detailed Observations

Procurement

Observation 2 – Timely Execution of Supplemental Agreements

Management Response

Concur.

Contract Administration

The payment for work authorized by the Board to be added to a construction contract commonly precedes the full execution of a Supplemental Agreement as is managed by the Authority through the utilization of “Extra Work”. “Extra Work” is itemized in each monthly payment estimate prepared by the Authority and is intended to keep projects on schedule while awaiting the formal execution of the Supplemental Agreements. “Extra Work” can be utilized throughout the course of a project unless the additional work combined with the amount of completed work exceeds the authorized value of the contract.

Project & Cost Management

Management Action Plan

Management will maintain vigilance on tracking the status of Supplemental Agreements through the inclusion of an agenda item entitled "Supplemental Agreement Log" for the weekly progress meetings between the Contractor and CEI for discussion and status updating. The Supplemental Agreement Log contained in the progress meeting minutes will document the current status of the process and include the assigned party/individual from which action is currently required to advance the process. This additional requirement will be added to the ACPAM for guidance to the CEI's. The Director of Construction, or the In-House Resident Engineer, will review the minutes and Supplemental Agreement Log from the progress meetings to keep abreast of the progression of the pending Supplemental Agreement toward final execution.

Supplemental Agreement Management

Action Plan Owner / Due Date

Ben Dreiling, Director of Construction (with the assistance of the CMC and individual project CEI Teams) / July 1, 2012



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 completed 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

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:

Contract Administration

- 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.

Project & Cost Management

Supplemental Agreement Management

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, subcontractor management, CEI oversight, and ODMP processing. The procedures performed included:

Contract Administration

Project & Cost Management

Supplemental Agreement 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;
- Utilization and monitoring of the CEI Consultants assigned to construction contracts;
- Discussion and limited testing of changes to project schedules;
- Review of reporting submitted to management on a regular basis; and
- Detailed testing of the ODMP programs implemented for the construction contracts selected.

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:

Contract Administration

- Testing for Board approval of all supplemental agreements in excess of \$50,000;
- Testing for the approval of all supplemental agreements by the appropriate parties;
- Testing of adequate supporting documentation and compliance with contract terms and conditions in regards to price and scope for all executed supplemental agreements related to the construction contracts selected for review; and
- Testing of a sample of fuel price and bituminous mix adjustments related to the construction contracts selected for review.

Project & Cost Management

Supplemental Agreement Management



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