



Audit Report Number 2006-10

City of Richmond
Audit of the Contract to
Reclad City Hall

Contract term May 2003 to May 2005
(extended until November 2005)

Prepared by
CITY AUDITOR
Richmond, Virginia

Submitted to
The Honorable Members of City Council
February 7, 2006

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Fax: 804.646.2230
Mail: City Auditor's Office, 900 E. Broad Street, Room 806, Richmond, VA 23219
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Email: askcityauditor@ci.richmond.va.us
Hotline: 804.646.5697

The Honorable Members of City Council
Richmond City Audit Committee
City of Richmond, Virginia 23219

City Auditor's Report

SCOPE

We audited the construction contract to reclad the City Hall building. Our audit period followed the contract term (May 2003 through May 2005), as extended through November 2005. We reviewed the books and records of Procurement Services, the Office of Minority Business Enterprise (OMBE) and the Department of Public Works (DPW). We have reviewed and evaluated the Departments' administration of the contract and reviewed the systems of internal controls for the same period to the extent considered necessary.

OBJECTIVES

Our audit objectives were to:

- ❑ ensure that the contract was properly secured in accordance with Procurement policies and procedures;
- ❑ determine if Minority Business Enterprise conclusions were properly documented and consistent with the verification procedures;
- ❑ determine if the user agency and evaluation committee performed an adequate review to ascertain competence of potential contractors selected for prequalification purposes (DPW); and
- ❑ ascertain if there was adequate project administration (DPW).

We also identified opportunities for improvement in the internal control structure of the participating agencies. Our testing did not indicate any internal control weaknesses that would allow material misstatement in the records processed and maintained by the City to go undetected.

METHODOLOGY

We conducted our audit in accordance with Government Auditing Standards for Performance Audits issued by the Comptroller General of the United States. During the course of our work, we reviewed supporting documents, evaluated management controls, attended construction meetings and conducted other appropriate tests. We believe that our audit provides a reasonable basis for our conclusions regarding the internal control structure and our recommendations.

CONCLUSIONS

Due to the length of time surrounding both the contract term and audit period, interim audit reports were provided to agency management to address audit recommendations in a timely manner. At this point in time, many of the audit recommendations have been implemented or are awaiting implementation.

- The contract was properly procured in accordance with City Policies.
- The Office of Minority Business Enterprise did not fully develop procedures for documenting staff verification activities that supported overall conclusions during the contract-award stage. However, throughout the contract period staff properly monitored monthly MBE compliance.
- The evaluation committee properly reviewed potential candidates for competence.
- DPW staff performed adequate project administration.

During this audit, we monitored the overall flow of contract payment documents to ensure that the process was timely. We point out several items for consideration:

- The City contract only requires “monthly” invoice submissions by the Prime Contractor instead of identifying a submission due-date. This provides some flexibility for the project team to apply an appropriate schedule. Due to the nature of this project, the Audit Office considered an invoice submission timely if the City received it by the 15th of the following month covered by the invoice. DPW staff had a similar expectation. Since DPW staff met with the Prime Contractor in the 1st and 3rd week of every month, they requested that the Prime Contractor submit an invoice by the 3rd week.
- If the Prime Contractor is not timely in submitting an invoice to the City, the remainder of the payment process could be affected.
- The City has little control over how long it takes the Prime Contractor to then pay its subcontractors (for this contract, *DPW required that the Prime Contractor provide a Release of Lien and Waiver of Claim on a monthly basis*).

We observed inconsistencies in the timeliness of the Prime Contractor's invoicing to the City. In several instances, the Prime Contractor did not change the date of the invoice so tracking the invoice dates for efficiency purposes was difficult. Draft invoices were often submitted by the Prime Contractor but were returned back to the Prime Contractor by City staff because of changes, errors or clarifications. This ultimately delayed the Prime Contractor's final submission. Using available data on the invoices, we accumulated 19 out of the 32 invoices (59%) that were not submitted as a final invoice by the 15th of the following month. Furthermore, in 8 instances the invoice was not received by City staff at all during the next month, but they received it the *following* month. For example, the Prime Contractor should send an invoice for the period ended June 30, 2004 to the City for payment processing by July 15, 2004. In this particular instance, the City did not receive the invoice by July 15th, but received the invoice during August 2004.

The point above is that from a *subcontractor* perspective, when payments are delayed from the Prime Contractor to the subcontractor, the City will most likely be perceived as the reason for the slow payment even though City staff may process an invoice in a timely manner once City staff actually receives it. DPW has acknowledged the risk of this type of perception and has enhanced its policies by requiring that DPW project managers establish specific payment request submissions, review guidelines with the prime contractor at the beginning of each project and provide follow up reviews to ensure compliance with the established guidelines and procedures. The guidelines will be shared with all subcontractors in an effort to clearly communicate the payment process. In addition, the Auditor's Office has added a recommendation for the Procurement Office to establish Release of Lien and Waiver of Claim requirements for certain contracts to reduce the risk of nonpayment from prime contractors to subcontractors.

The management of the City of Richmond, Virginia, is responsible for maintaining financial records. It is also responsible for establishing and maintaining a system of internal accounting control and management control. In fulfilling this responsibility, management is required to assess the expected benefits and related costs of control procedures.

We discussed the attached comments and recommendations with management throughout the audit and formally on January 3, 2006 and January 23, 2006; we have included managements' responses from the responsible officials.

We would like to thank the departmental management and staff for their cooperation and assistance during this audit.

This report is intended for the members of the Richmond City Council, the City Audit Committee, the City and departmental management of the City; it is a matter of public record.

Respectfully submitted,

Randi L. Ricco-Clifford, CPA, CIA, CGAP
Interim City Auditor

Contributing to this report: LaTanja Davenport, MBA

December 7, 2005

Executive Summary

Background

The City Hall building was constructed in 1972. The design incorporated technology that allowed thin layers of marble to be attached to the face of the building to create a skin. A condition, called hysteresis, has affected the marble to the point where the marble has deteriorated at different rates. This has caused the panels to bow and crack. In 1995, fiberglass straps and a system of fiberglass corner supports were installed to temporarily ensure that all marble panels remained in place. The construction contract for recladding the building was expected to permanently correct the problem by removing the marble and installing a metal panel system. The original contract term was May 19, 2003 through May 18, 2005. The original authorized limit was \$19,500,000.

The total expenditures on this contract as of November 23, 2005 were approximately \$21 million. This includes eight change orders totaling approximately \$1.5 million (7%). Approximately \$943,000 of the change order amounts were considered to be unforeseen conditions. Design clarifications with costs that could possibly have been avoided totaled approximately \$157,000. Approximately \$487,000 was added to the contract as a change order, which added sales tax to the contractor's bid price. This was deemed to be a disparity in the language of the City's general conditions boilerplate and was later revised for future contracts. There were also miscellaneous credits and other costs that were considered requests by City administration for enhancement purposes that are included in the change order amount above.



City Hall - Before



City Hall - After

We audited the Procurement process, Minority Business Enterprise activity and DPW's project administration throughout the construction phase of the project.

**Summary of
Recommendations**

In order to improve operations and better achieve the Departments' objectives, we made recommendations for managements' consideration. During the audit period, our Office provided interim recommendation status reports. The departments have already started implementing many of these recommendations and some have been considered corrected by the Auditor's Office (see individual recommendations).

1. Enhance Procurement procedures to include:
 - a. specific reference check procedures
 - b. a formal safety program for certain contracts
 - c. turn-around goals for the change-order process
 - d. an analysis of signature levels for change-order efficiency purposes
 - e. the establishment of Release of Lien and Waiver of Claim requirements for certain contracts
2. Establish procedures for documenting Minority Business Enterprise project goals and verification activity.
3. Establish written policies and procedures for the DPW project management environment.

FINDINGS AND RECOMMENDATIONS

1. Enhance Procurement Procedures

We observed the following items during the audit of the contract:

- There was some uncertainty relating to the assigned responsibility for checking a contractor's references. We could not determine if it was the user agency's responsibility or Procurement's. Furthermore, the user agency was not aware that a standardized form existed for this procedure.
- Procurement Policy does not require a vendor to submit its safety program during the Request for Qualification (RFQ) process (Virginia Department of Labor and Industry can conduct safety inspections of any job site).
- The approval process for five out of eight change orders submitted during the contract period was not timely. Based upon the dates of the change orders, Procurement did not process them within a 5 working day period. Procurement Policy states that there will be a 5 working day standard for processing change orders.

Additionally, there is no target or goal established for a full turnaround time frame to process a change order (which would include all the required signatures). The change order process should include a goal/standard for a *full* turnaround period so that the user agency and contractor are provided with an expected turnaround time to coordinate activities. Furthermore, the turnaround goal should be as short as possible to reduce project delays.

Considering the size of this project, we considered 15 days as a reasonable time period to obtain the internal signatures necessary to approve a change order. Seven of the eight change orders took over 15 days that ranged from 24 days to 42 days to reach full approval.

- We also observed that the signature of the user agency's fiscal analyst AND the Finance department's signature were required and may be redundant. Eliminating unnecessary approvals may help to speed up the approval process.
- We note that Procurement generally does not require a monthly Release of Lien and Waiver of Claim from a prime contractor to ensure that subcontractors are properly paid under their contract.

RECOMMENDATION (a, b, c, and d were issued in an interim report dated June 28, 2004)

We recommend that Procurement management enhance procedures to include the following:

- a. Assign responsibility for the vendor reference check.
- b. For construction contracts, require that a copy of the vendor's formal safety program be submitted during the evaluation process. A standard safety checklist could be developed for the agency to compare the safety programs. Job specific items could then be added, as appropriate. The following items are examples of standard safety checklist items that should be included in any safety program:
 - Hazardous communication program, including MSDS procedures
 - Methods for safety training
 - Fall protection plan
 - First aid/CPR instructions
 - Procedures to follow for accidents
 - Contact names for dedicated safety staff
- c. Enhance the change order process guidelines to include a final turn-around goal (which includes all agencies, including the Chief Administrative Officer) for all change orders which can be both competitive and reasonable.
- d. Review the current level of required signatures in the change order process to determine if all signatures add value to the process.
- e. Establish a formal procedure that requires a prime contractor to submit a Release of Lien and Waiver of Claim within the monthly invoice/requisition request for certain contracts.

MANAGEMENT RESPONSE

- a. A standard reference check is provided with the RFQ responses for the Agency's use. Procurement Services will emphasize that the Agency is responsible for performing technical references on each firm under consideration. Procurement Services will continue to obtain reference checks from the surrounding localities (purchasing peers). **Auditor's Comment: We have reviewed updated documentation to ensure the responsibility is determined and we also reviewed Procurement's contract file checklist for inclusion of a reference check procedure. We now consider this item corrected.**
- b. The Request for Qualification will be changed to reflect the inclusion of a safety plan. **Auditor's Comment: We have reviewed updated RFQ boilerplate documentation and now consider this item corrected.**

- c. Procurement Services estimates that change order revisions and updated guidelines will be in place by the end of April 2006.
- d. Currently, all signatures are required and necessary; however, Procurement Services initiated a charter change that will allow for the Finance Dept. approval of contracts to be deleted, thus streamlining the process slightly. **Auditor's Comment: We have observed that the process has been streamlined and consider this item corrected.**
- e. Procurement Services concurs with this recommendation and will evaluate and analyze this requirement for implementation by April 2006.

2. Establish documentation procedures for determining Minority Business Enterprise project goals and verification procedures.

The Office of Minority Business Enterprise (OMBE) did not have documentation to support both its conclusions and verification procedures. We found the following weaknesses:

- Original documentation (goal worksheet) was not available to support "mini-analysis" conclusions that identify the project's target percentage of MBE participation.
- Efforts made by OMBE to verify business references on the City's Past Good Faith Efforts Form were not documented (staff should document which of the contractor's business references were verified, which ones were not verified, who was contacted, when, results, etc.).
- Efforts made by OMBE to verify subcontractors listed on the City's Participation Verification Form (MBE-2) were not formally documented (name of the representative, date the conversation took place, other verification procedures and any other pertinent information).

RECOMMENDATION (issued in an interim report dated February 4, 2004)

We recommend that OMBE management:

- a) establish a procedure to ensure that the MBE mini-analysis on a project level is properly documented to provide reasonable assurance that the level of potential MBE availability was individually considered and determined.
- b) establish procedures to ensure that OMBE staff document verification procedures (verbal telephone conversations, etc.) to provide evidence and support for conclusions made in the MBE process for prequalification and awarding purposes. Documentation should include items such as the name of the representative who was contacted, the date and significant questions/answers made during the conversation. The following items should be included in the documentation procedures:

- Past Good Faith Efforts Determination: document procedures performed and discussions held that support the points awarded in the pre-qualification process.
- MBE-2 Subcontractor List and Minority Participation Verification Form: document discussions with potential subcontractors to support the dollar amount of the contract and whether the subcontractor is in agreement with dollar amounts submitted by the prime contractor. Documentation should also include the name of the representative and the date the conversation took place.

MANAGEMENT RESPONSE

OMBE has established a procedure and form to capture the information included in our mini-analysis as it relates to establishing MBE/ESB goals on City contracts. The Office has also established procedures to document all of our verification procedures whether for prequalification or award purposes.

Auditor's Comment: Our Office has reviewed the documentation enhancements and has considered this recommendation corrected.

3. Establish Policies and Procedures

The Department of Public Works does not have a Policies and Procedures Manual for staff to follow for specific procedures and job functions within the project management environment. Written procedures should be available to enhance the effective operation of any department. Written procedures:

- help ensure management that procedures are being carried out according to its intentions;
- provide guidance whenever a question arises concerning the appropriate way to resolve a problem; and
- facilitate training of new employees.

RECOMMENDATION (issued in an interim report dated June 28, 2004)

We recommend that the Department establish procedures, specific to its project management functions. These procedures should be used as a continuing reference source for the Department's methods and to promote consistency.

MANAGEMENT RESPONSE

The procedures manual for DPW Facilities Management (A&E Division) is currently underway. A comprehensive outline for the document has been created by the Architect I and the drafting of the various sections, checklists and standardized forms that will comprise the manual is also underway. The completion of the division's procedures manual has already been incorporated as a goal for the current fiscal year (FY2005) and will be measured by June 30, 2005.

Auditor's Comment: Our Office has reviewed DPW's procedures manual and considers this recommendation corrected.

