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Office of the Inspector General
Miami-Dade County

Memorandum

To: Mr. Steve Shiver, County Manager

Received by Date

Mr. Aristides Rivera, P.E., Director
Public Works Department

Received by Date

From: Christopher Mazzella, Inspector General

Date: March 17, 2003

Re: Audit Final Report on the Resurfacing and Drainage Contracts within the Quality
Neighborhood Improvement Program (QNIP) (Report 1 of 4)

Attached please find a copy of the Final Audit Report that was conducted by the Office of the Inspector General (OIG) of the Public Works Department's (PWD) resurfacing and drainage contracts within the Quality Neighborhood Improvement Program (QNIP).

This report is the first of a series of four audit reports on QNIP. This first audit report covers contract provisions, contract payments applications, and payment processes. Report number two focuses on the Department of Business Development's monitoring of the program's workforce requirements. Reports number three and four will address contract management issues and questionable costs, and will be issued in the near future.

cc: Commissioner Natacha Seijas, Chair, Govt. Operations and
Environment Committee
Commissioner Jimmy Morales, Chair, Budget and Finance Committee
Mr. Pete Hernandez, P.E., Assistant County Manager
Mr. Roger Hernstadt, Capital Improvements Construction Coordinator
Ms. Cathy Jackson, Director, Audit and Management Services
Mr. Eric McAndrew, Chief Legislative Analyst, Board of County Commissioners

Clerk of the Court (copy filed)

I. INTRODUCTION

The Office of the Inspector General (OIG) randomly selected for audit nine (9) Quality Neighborhood Initiative Bond Program / Quality Neighborhood Improvement Program (QNIBP/QNIP)¹ resurfacing / drainage contracts that have had payments made under them. Five (5) different contractors, with four (4) of the five (5) contractors holding two (2) contracts each, hold these nine (9) contracts. The Miami-Dade County Public Works Department (PWD) prepared and approved these contracts pursuant to the Expedite Ordinance No. 00-104. These contracts were awarded and subsequently ratified by the Board of County Commissioners (BCC) during the period of January 2000 thru May 2001.

This report is the first in a series of four (4) audit reports on the QNIP program. Specifically, this first report addresses PWD's payment processing durations, contract provisions and contract payment applications for QNIP projects. The remaining three reports will address contract monitoring by the Department of Business Development, project planning and project monitoring by PWD, contingency allowances, contract payments and questionable costs.

As detailed in this report, PWD's contract administration and payment processes of the QNIP program appear to be inefficient in several areas. Our general findings demonstrate, inconsistent agreements, extensive payment durations and the lack of contract oversight in specific areas.

GOVERNING AUTHORITY

In accordance with Section 2-1076 of the Code of Miami-Dade County, the OIG has the authority to review past, present, and proposed County and Public Health Trust programs, accounts, records, contracts and transactions. This includes conducting contract audits regardless of whether the contract contains an OIG random audit fee.

BACKGROUND

In an effort to develop and maintain Miami-Dade County's (the County) infrastructure, the Board of County Commissioners (BCC) in Fiscal Year 1998/1999 approved the Quality Neighborhoods Improvement Program (QNIP). QNIP consists of a series of capital improvement projects funded by general obligation and other bond proceeds.

QNIP is a neighborhood restoration program that sets aside \$70 million for drainage

¹ The nine (9) contracts identified in our audit report were funded by two series of general obligation / bond issues, "Quality Neighborhood Initiative Bond Program" (QNIBP) and "Quality Neighborhood Improvement Program" (QNIP). For clarity purposes, "QNIP" is used to describe both issues hereinafter.

improvements, \$28 million for park improvements, \$26 million for sidewalk improvement and repairs, \$11 million for resurfacing streets, and \$7.5 million for safe routes to schools. The intent of this program is to revitalize deteriorating neighborhoods and improve the safety of Miami-Dade County residents, motorists, pedestrians, and school children.

Specifically, QNIP projects include drainage improvements, roadway paving, and sidewalk projects (repairing existing sidewalks and adding new sidewalks) within the unincorporated areas of the County.

II. SUMMARY OF AUDIT WORK PERFORMED

During our review of QNIP contract payments, we identified *four (4)* issues that require management's attention:

1. Inconsistent contract agreements lacked the requirements needed for contract monitoring;
2. Inefficient contract payment processes caused duplication of work in at least three divisions within the Public Works Department;
3. Prompt payment delays strains the County's relationship with contractors and reduces competition for county business; and
4. Deficient contract and payment oversight exposed the County to unnecessary risk of loss.

III. SCOPE, OBJECTIVES AND METHODOLOGY

Our audit objectives were to:

1. Determine whether the County's payments to prime contractors were paid in accordance with the terms and conditions of the contract as well as all applicable Florida statutes, county ordinances, and administrative orders.
2. Determine whether documentation supporting the prime contractors' payment requisitions such as certified payrolls, applicable releases, CSBE Monthly Utilization Reports, etc. was sufficient and properly approved for payment by authorized county personnel.

Specifically, we reviewed QNIP contract payments made during the period of August 2001 through July 2002. To conduct our audit we requested that the Department of Business Development (DBD) provide us with a complete list of all resurfacing and drainage construction projects currently open for monitoring as of May 31, 2002. Based on the information provided, we randomly selected for audit nine (9) QNIP resurfacing / drainage contracts that have had payments made under them. These nine (9) contracts are held by five (5) different contractors, with four (4) of the five (5) contractors holding two (2) contracts each. Our sample size consisted of twenty (20) payment requisitions, which represented a dollar value of \$1,299,327.

IV. FINDINGS AND RECOMMENDATIONS

Finding No. 1: Inconsistent contract agreements

A written agreement is the foundation for most contractual agreements and, when properly written, protects the interests of all parties involved. In addition, county contracts should incorporate by specific references, all applicable Florida statutes, county ordinances and administrative orders, as these documents are the governing authorities for all contracts entered into by the County.

The payment requirement contained in the nine (9) contracts is inconsistent with Administrative Order No. 3-22.

Pursuant to Article 3 (**PAYMENTS**) of all nine (9) sampled contracts prepared by PWD, "Within **20 days** thereafter, payment for the full amount thus determined shall be paid to the Contractor." However, six (6) of the nine (9) contracts contain a Community Small Business Enterprise (CSBE) goal of 6%; therefore causing these contracts to be governed by Administrative Order 3-22, which states that contracts to which a CSBE Subcontractor goal applies **must be paid within fourteen (14) calendar days**.

Administrative Order 3-19, which states that contracts with small businesses, Black, Hispanic, and women-owned business enterprises must be paid within 30 calendar days, governs the remaining three (3) contracts. While technically inconsistent with the contract, the contract requires a shorter payment turn around time, thus going beyond the administrative order's requirements.

Administrative orders establish operating methods and administrative policies and procedures for

all county departments. It is management's responsibility to ensure that all contracts are in conformity with applicable administrative orders prior to execution.²

Recommendation:

The OIG recommends that all current and future contracts be amended to be consistent with applicable administrative orders.

See PWD's response attached.

While the language of the contract may not be legally modified as asserted by PWD, for contracts containing a CSBE goal, the department should adhere to the time requirements of A.O. 3-22, which requires the 14-day payment time frame. The contract would not have to be legally modified in order for the department to pay more promptly.

Finding No. 2: Inefficient contract payment processes

The majority of the contractors engaged in the QNIP program, as either prime or subcontractors, are certified by DBD. These contractors may be a CSBE and/or a Black, Hispanic or women-owned business enterprise. As such, in order to maintain sufficient cash flows, Administrative Orders 3-19 and 3-22 provide for expedited payments to these contractors. Moreover, it is essential that the payment process be as efficient as possible.

Of the nine (9) contracts audited, six (6) of them account for thirteen (13) payment requisitions governed by Administrative Order No. 3-19 and the remaining three (3) contracts accounted for seven (7) payment requisitions governed by Administrative Order No. 3-22.

Our review disclosed numerous areas of duplicative efforts within three PWD divisions, specifically the Construction Division, the Contract Monitoring Office (CMO) and the Finance Division, which ultimately resulted in increased payment requisition processing times.

The Project Manager in the Construction Division prepares and signs a manual draft of the "Project

² In a previously released audit entitled Invoice Payment Process Audit, April 2001, the OIG drew attention to the different payment requirements of A.O. 3-19 and A.O. 3-22. With respect to QNIP, the OIG's report specifically highlighted the administrative requirements of A.O.s 3-19 and 3-22, as not all QNIP contracts contained either a CSBE goal or was a CBSE set-aside. As part of PWD's response to the OIG, dated June 2001, it stated: "The Department agrees with the OIG that the Community Small Business Enterprise Program (CSBE) payment requirements of 14 calendar days, passed in 1997, was never included in the A.O. 3-19 Prompt Payment. PW was unaware of this payment deadline requirement and has guided itself by the County's A.O. 3-19 Prompt Payment. We will ensure that all prompt payment guidelines are adhered to." While the contracts selected for this audit were already awarded as of June 2001, PWD must ensure that future contract provisions are either consistent or go beyond the requirements of the applicable administrative orders.

Requisition and Payment Certificate” for all contract payments for submittal to the Contract Monitoring Office (CMO). Upon receipt of the draft requisition and supporting documentation, CMO reviews the requisition package for accuracy, enters the information into the Contract Specification Construction Coordination System (CSCCS), and prints the final payment requisition. CMO then calls the prime contractor in order to obtain the contractor’s signature, which certifies that the information is correct.

CMO then hand delivers the requisition package to the Risk Management Division, which determines whether all insurance policies are in effect and returns the package to CMO for approval. Afterwards, the requisition is routed to the Chief of the Construction Division for approval and then forwarded to the PWD Finance Division with a memo addressed to the County’s Finance Department.

The PWD Finance Division reviews the requisition (i.e. funding source) and enters the information into the FAMIS system and forwards it to the County’s Finance Department for payment processing.

Within the review process by CMO alone, there are processing durations ranging from 1 to 15 days between the date of receipt and approval of the requisitions. These ranges are illustrated in six (6) examples below:

Contractor	Project No.	Requisition		DATES		DAYS BETWEEN CMO Received vs. CMO Approval
		No.	Amount	Signed by Contractor	Approved by PW CMO Division	
APAC Of Florida	630015Q	5	257,528.70	11/27/01	12/5/01	8
General Asphalt	630012Q	13	80,912.58	11/20/01	11/29/01	9
H&R Paving	630013Q	13	124,987.05	1/10/02	1/25/02	15
H&R Paving	630014Q	10	3,839.90	1/10/02	1/25/02	15
M. Vila & Associa	630118Q	9	39,082.23	5/17/02	5/30/02	13
ROCK POWER	630117Q	14	42,900.10	12/7/01	12/12/01	5

Please note that this is in addition to the processing durations, from approval of the requisition to payment date (i.e. 16 to 21 days), discussed in Finding No. 3 below.

These long processing durations within the CMO are partly attributable to the Construction Division’s failure to submit a complete and accurate requisition package to CMO.

Furthermore, CMO also duplicates work that the PWD Finance Division does such as data input, checking funding sources, etc. It is noted that the Office of Performance Improvement (OPI) made similar findings and recommendations during their review of "Public Works Contracts Payment Process."

Recommendation:

The OIG recommends that the Construction Division accurately and completely prepare contractor requisition packages preferably online using the CSCC system. This will allow CMO to process and route the requisition package to applicable Departments in a more efficient and timely fashion thereby reducing the payment processing duration.

See PWD response and supplemental response provided by GSA Risk Management attached.

While the OIG recognizes that certain delays were within GSA Risk Management Division, there were also instances when Risk Management returned the requisition within one day, and it took CMO 8-13 days between the date CMO received and approved the requisition. The OIG is supportive of the reforms currently underway within Public Works.

Finding No. 3: Prompt payment delays

Administrative Order No. 3-22, Section XIV. (B)(1) requires that all payment requisitions of prime contractors meeting a CSBE goal are to be promptly reviewed and paid within fourteen (14) calendar days of receipt by the County if those amounts are not in dispute.

Administrative Order No. 3-19 requires that all payment requisitions of small businesses and Black, Hispanic, and women-owned business enterprises are to be promptly reviewed and paid within thirty (30) calendar days of receipt by the County, if those amounts are not in dispute.

Our review of twenty (20) contract payment requisitions disclosed that:

- Six (6) of thirteen (13) or 46% of the prime Contractors meeting Community Small Business Enterprise (CSBE) goals were not paid within 14 calendar days. These payments ranged between 16 and 21 days.
- One (1) of seven (7) or 14% of the prime Contractor certified as small businesses and black, Hispanic, women-owned business enterprises not meeting (CSBE) goals was not paid within 30 calendar days. This payment was processed in 46 days.

The following table illustrates the aforementioned condition:

Contractor	Project No.	DATE		CHECK		DAYS BETWEEN
		Requisition Signed by Contractor	Requisition Approved by PW CMO Division	Date	Amount	Requisition Signed by Contractor vs Check Date
CONTRACTOR MEETING CSBE GOALS (6%)						
APAC Of Florida	630015Q	11/27/01	12/5/01	12/14/01	257,528.70	17
General Asphalt	630012Q	11/20/01	11/29/01	12/7/01	80,912.58	17
General Asphalt	630011Q	5/7/02	5/8/02	5/23/02	37,485.63	16
H & R Paving	630013Q	1/10/02	1/25/02	1/31/02	128,826.95	21
H & R Paving	630014Q	1/10/02	1/25/02	1/31/02		21
H & R Paving	630013Q	6/10/02	6/17/02	6/26/02	36,639.83	16
CONTRACTOR NOT MEETING CSBE GOALS						
M . Vila & Associates	630116Q	7/30/01	8/3/01	9/14/01	70,168.40	46

Per PWD's response the proper amount of requisition #17 for M. Vila & Associates is \$49,103.20. The OIG recognizes this. The OIG selected its sample by check number (see above table). Therefore some checks included more than one requisition payment. Check number 55298 consisted of two payments, requisitions number 17 and 18 for \$21,065.20 and \$49,103.20, respectively, for the total amount in question.

Recommendation:

The OIG recommends that management monitor each phase of the payment process to ensure timely payment processing. This may involve requesting periodic "Prompt Payment" statistics from the Contract Monitoring Office (CMO).

PWD did not provide a specific response to this recommendation.

Finding No. 4: Incomplete payment applications

PWD's contract payment process did not comply with Miami-Dade County Code §10-35, "Releases of claim by subcontractors required." This Code section requires the prime contractor to submit executed affidavits (subcontractor's statement of satisfaction) or releases of claim from all first-tier subcontractors and direct suppliers to the prime contractor, who have performed any work or supplied any materials for the project as of that date for each payment requisition.

Furthermore, if these affidavits (release of claim) cannot be furnished, the contractor may submit an executed "Consent of Surety to Requisition Payment" form, identifying the subcontractors and suppliers and the amounts for which the statement of satisfaction cannot be furnished. Even with the redundancy in the payment process utilized, verification of this one element was not always performed as required.

Twelve (12) of the thirteen (13) contract requisitions were not supported by a "Release of Claim" or "Consent of Surety to Requisition Payment" form. The remaining one (1) was supported by a release; however, it was incomplete in that it did not certify the amount paid to the CSBE subcontractor.

The OIG also noted that none of the nine (9) contracts included the requirement that **all** payment requisitions (except the first payment) be accompanied by the "Release of Claim" or "Consent Of Surety to Requisition Payment" form further demonstrating a lack of consistency between the contract language and applicable county ordinances and administrative orders.

The lack of adherence to these requirements may indicate a lack of knowledge of the policies and procedures by staff and a lack of enforcement by management. This promotes an atmosphere lacking accountability, which exposes the County to unnecessary risk of loss (i.e. liens).

Recommendation:

The OIG recommends that in conformance with Section 10-35 of the Miami-Dade County Code, all contract payment requisitions (except for the first) should be supported by an executed "Release of Claim" form for all first-tier subcontractors and direct suppliers to the prime contractor who have performed any work or supplied any materials for the project as of that date, stating that payment has been received for all previous amounts due. The release should also certify the amount and period of payment.

See PWD response.

PWD states that "two (2) of the payments did not require releases of lien since there was no record that any subcontractor or supplier had performed services in the prior months work/requisition." The OIG examined 13 requisitions packages on file at the Finance Department. None of the requisitions on file at Finance had the release of lien/consent of surety. As explained, PWD keeps that supporting documentation in its own files. Further examination only revealed one release pertaining to the 13 requisitions. Including the two requisitions identified by PWD, this leaves ten (10) requisition packages without the supporting documentation that was not found in either Finance or Public Works' files. In some instances, PWD acknowledges that releases were subsequently obtained. It is again reiterated that each payment requisition be supported with the corresponding release of lien/consent of surety as mandated by Section 10-35.

A copy of this report was provided to the Public Works Department (PWD) in draft form. PWD's response is attached (Appendix 1). A supplemental response by GSA Risk Management is attached as Appendix 2.

The OIG appreciates the cooperation and courtesies extended by county staff who were involved in our review of this second portion of the QNIP audit.