



Memorandum



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To: Lester Sola, Director, Internal Services Department

From:  Christopher Mazzella, Inspector General

Date: February 20, 2013

Subject: OIG Review of the Children's Courthouse Construction Project; IG12-39

The Miami-Dade County Office of the Inspector General (OIG) conducted an audit survey of the Children's Courthouse construction project currently under way in downtown Miami. The courthouse will be a 300,000 square foot facility housing courtrooms and office space for the Juvenile Division of the Eleventh Judicial Circuit of Florida. The project budget is approximately \$140 million, with one hundred percent of the funding coming from bond proceeds repaid with a surcharge assessed on all non-criminal traffic infractions. Suffolk Construction Company, Inc. (Suffolk) was selected as the general contractor and was awarded a \$79,305,500 construction contract in February 2011. The contract includes costs for a contingency allowance, a remediation allowance, and permit fees. Hellmuth, Obata & Kassabaum (HOK) is the architect of record and has a \$17,568,816 professional services agreement (PSA) with the County, which includes design fees and fees for construction monitoring. At present, the project is approximately 64% complete.¹ The Miami-Dade County Internal Services Department (ISD) is charged with overseeing this construction project.

Because the OIG's review was performed as an audit survey, our objective was to determine if a more formal and detailed audit of this project was warranted. We found that it is not. However, as later discussed, we found two issues that should be considered. To reach this conclusion OIG auditors performed the following procedures and made the following evaluations, as listed below:

- Reviewed the contract award process to verify compliance with County guidelines.
- Reviewed the scope of services and terms and conditions covered in Suffolk's construction contract and HOK's PSA.
- Attended four weekly progress meetings held in the Suffolk site trailer, and reviewed meeting minutes of the past four months.

¹ As of December 2012, \$45,801,941 has been paid to Suffolk with a balance to finish of \$33,503,559.

- Selected four payment applications submitted by Suffolk to assess if they were properly reviewed by HOK, as well as by ISD's project manager prior to payment. Additionally, amounts included on each payment requisition were compared against meeting minutes to find support that amounts paid were for work actually completed. Furthermore, payments were reviewed to verify that retainage and Inspector General (IG) fees were properly deducted.
- Reviewed two payment applications submitted by HOK to verify that work performed conformed to the PSA's scope of services and to confirm that these payment applications were reviewed and approved by ISD prior to payment. Moreover, these payment applications were reviewed to verify that IG fees were properly deducted.
- Reviewed HOK's weekly reports, which we note are timely, complete, and informative.
- Reviewed all 19 change orders² approved through December 31, 2012, totaling \$1,306,861. We reviewed Suffolk's proposals and HOK's review and recommendation of each. We note that all change orders were properly approved and none of these approved orders resulted in a time extension to the project. Additionally, we reviewed a sample of Contract Contingency Allowance Authorization Forms to verify that the Administrative Office of the Courts representative, HOK, and ISD approved the expenditures.
- Reviewed the contract's Division 17, which is the technology package for the Courthouse. The scope of work includes low voltage wiring for data and telephone, installation labor, programming and testing for the security and video monitoring system, and equipment. Amendment 2 to the construction contract provides for Suffolk to solicit bids and contract for this scope of work, which is budgeted at \$11.3 million.³
- Reviewed Amendment 1 to the construction contract that provided for Miami-Dade County to directly purchase, on a tax-exempt basis, building materials; supplies; and equipment. The Amendment, approved by the Board of County Commissioners (BCC) in September 2012, requires that vendors directly invoice the County and that the County pay the vendors directly for items purchased. The Amendment contains a listing of \$11,714,624 in materials to be purchased, with an estimated tax savings of \$845,183. Both the County and Suffolk will share in this savings with 70% percent of the savings accruing to the County and

² These change orders are presented by Suffolk as "Potential Change Orders" and are paid from the Contract Contingency Account; these Change Orders are not Contract Change Orders that would require BCC approval.

³ According to the project manager, bids for Division 17 work are currently being received.

30% (up to \$200,000) to Suffolk. The County will retain the remaining tax savings. Amendment 1 states the County will realize approximately \$560,000 in tax savings.

- Reviewed Amendment 1 procedures and the implementation of these procedures. These procedures created a two-tiered reconciliation process requiring that Suffolk prepare and submit a *Direct Purchases Reconciliation Report* on a monthly basis. Second, a deduct change order would be prepared and presented at the project's completion, which would decrease Suffolk's contract price to account for all the tax-exempt purchases, including sales tax savings. The monthly *Direct Purchases Reconciliation Report* shows the amount of sales tax that would have been applicable to the purchases. These amounts are supposed to be deducted from Suffolk's monthly payment requisitions, with a corresponding credit to the County's payment obligations.
- Interviewed ISD's Project Manager, the Capital Budget Coordinator, and the Director of Facilities for the Administrative Office of the Courts. All three individuals expressed their opinion that this construction project is progressing as planned with no major issues to date.

While this construction project appears to be moving ahead with no problems, we did note two issues during our review that may require attention. The first is our observation that procedures related to the implementation of Amendment 1 for purchases made on a tax-exempt basis are not being followed. Our review shows that while 17 purchase orders have been issued for materials to be used on this construction project, Suffolk has not prepared any *Direct Purchases Reconciliation Reports*.⁴ Per discussion with the project manager, materials related to these 17 purchase orders have not been received at the construction site and no payments have yet to be made for the materials. In addition, the project manager informed us that Suffolk will not be submitting *Direct Purchases Reconciliation Reports*, i.e., there will be no deductions to Suffolk's monthly payment requisitions for sales tax savings; instead they will only prepare and submit the deduct change order at the end of the project. As such, the County and Suffolk are not complying with the first part of Amendment 1's reporting requirements. We do not believe that this requirement can be waived.

The *Direct Purchases Reconciliation Report* for materials purchases made on a tax-exempt basis was intended to be used as a management tool so that tax savings accruing to the County can be realized on a monthly basis. Waiting to reconcile the tax savings benefiting the County until the end of the project delays the County realizing the intended benefits, which are estimated to be \$560,000.

⁴ The first purchase order utilizing this tax-savings mechanism was created on December 4, 2012.

The second issue is Suffolk’s apparent frustration by the lack of—what it believes to be—an appeals process that can be used to appeal denied change orders. Suffolk has vocalized its frustration at weekly progress meetings asserting that the recent County departmental reorganization has hampered the process.⁵ Communication with Suffolk is recommended to clarify any misconceptions on the part of the contractor as to an established appeals procedure for denied change orders.

During the course of this audit survey, nothing came to our attention that would cause us to conduct a more in-depth review of this project. We will continue to monitor the Courthouse’s construction, including monitoring expenditures against the contingency allowance account, proposed change orders, as well as expenditures made related to tax-exempt purchases. We may return to this project as it nears completion to review the final payment applications. In the meanwhile, please feel free to contact Assistant Inspector General Patra Liu should you have any questions.

cc: Hon. Esteban Bovo, Jr., Chair, Finance Committee, Board of County Commissioners
Edward Marquez, Deputy Mayor
Miriam Singer, Assistant Director, Internal Services Division
Cathy Jackson, Director, Audit and Management Services Department
Charles Anderson, Commission Auditor
Rick Martinez, Director of Facilities and Security, Administrative Office of the Courts

⁵ See Section 00110-General Covenants and Conditions Subsection # 73 titled – Disputes.