



Department of Environmental Protection Office of Inspector General

April 10, 2025

Report A-2324DEP-035

Audit of Agreement CN614 with Floridian Construction and Development Company, Inc. for Boat Dock and ADA Access Boardwalk at Camp Helen State Park

INTRODUCTION

The Florida Department of Environmental Protection (Department) Office of Inspector General (OIG) conducted an audit of Agreement CN614 (Agreement) with Floridian Construction and Development Company, Inc. (Contractor). This audit was initiated as a result of the OIG Annual Audit Plan for Fiscal Year 2023-2024.

AUDIT SCOPE, OBJECTIVES, AND METHODOLOGY

The scope of this audit included a review of activities performed under the Agreement between the Department and the Contractor for the construction of a new boat dock and Americans with Disabilities Act (ADA) access boardwalk at Camp Helen State Park (Park). The scope included records from the execution of the Agreement, May 25, 2022, to the present and included procurement activities prior to the execution of the Agreement.

The objectives of the audit were:

1. To determine the Contractor's compliance with the Agreement terms and conditions.
2. To determine if payments were made for allowable expenditures in accordance with the Agreement.
3. To evaluate Department oversight and internal controls over the Contractor's compliance with the Agreement.

To achieve our audit objectives, our methodology included:

- Reviewing applicable statutes, regulations, Department procedures, and other authoritative documents.
- Reviewing the requirements of the Agreement, attachments, change orders, and amendments.
- Reviewing records and documentation; including deliverables, invoices, communications, and other supporting documentation.
- Interviewing appropriate Department employees and management regarding the processes and controls used in the duration of the Agreement.

BACKGROUND

Following an Invitation to Bid (ITB) the Department retained the Contractor to perform all construction services required to complete the New Boat Dock and ADA Access Boardwalk (Project) at the Park, located in Bay County, Florida. The Agreement required the Contractor to perform work in accordance with the following: the bidding documents, the Agreement, all Change Orders, all Construction Change Directives, the Notice to Proceed, bonds and insurance coverages and conditions, and all other documents specified in Article 5.02, General Conditions, all of which were incorporated by reference as constituting the Contract.

The Agreement was executed in May 2022, for a total amount of \$667,984. Based on the Notice to Proceed, issued August 12, 2022, Final Completion was established as February 10, 2023. The Agreement had one Change Order which extended the Final Completion date to March 19, 2023. The Contractor submitted a total of five Pay Requests and received payment for the total amount of the Agreement. Oversight of the Agreement was provided by the Bureau of Design and Construction (BDC).

RESULTS OF AUDIT

During the audit, we reviewed deliverables, payments, and supporting documentation provided by the BDC to determine compliance of the Agreement. Based on our review, it appears the Project was generally completed in accordance with the Agreement specifications. However, our review found some areas where the terms of the Agreement were not followed. See below for a summary of our review.

Agreement Compliance

Insurance

The Contractor was not to commence work under the Agreement until all the required insurance had been obtained. Certificates and endorsements that provided evidence of such insurance policies and endorsements were to be submitted to the Contract Manager for acceptance of meeting the insurance requirements of the Agreement. The Contractor was to obtain and maintain Worker's Compensation, for all the Contractor's employees, during the life of the Agreement. We were unable to determine whether the Contractor had Worker's Compensation insurance as the BDC did not maintain the documentation.

Substantial Completion Date

The Agreement defines Substantial Completion as, *The degree of completion of the Work, as set forth in Contract Documents, such that the Department can occupy and use the facility for its intended purpose, and for which a Certificate of Substantial Completion may be properly issued to establish acceptance of the Contract Work, in whole or in part, with qualifications for items of a non-critical nature to be completed or corrected. The Certificate so issued will establish a date for the Department's occupancy or use of that portion of the Work deemed to be Substantially Complete.*

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Substantial Completion was to be reached within 150 days after the Notice to Proceed. The Notice to Proceed was issued August 12, 2022, and established the Substantial Completion date as January 11, 2023. More than a month following the January 11th due date, a Change Order was executed that changed the Substantial Completion date to February 17, 2023. The Certificate of Substantial Completion was issued and signed on March 8, 2023, which was nineteen days after the revised February 17, 2023, due date.

The Agreement states that should the Contractor fail to complete the work within the number of days agreed upon to reach Substantial Completion, the Contractor was obligated to pay the Department liquidated damages in the amount of \$150 for each calendar day beyond the Substantial Completion Date until the work reached Substantial Completion and was approved by the Department. Based on our review, we determined that the Contractor did not achieve Substantial Completion by the due date and was not charged for liquidated damages.

Final Completion Date

The Agreement defines Final Completion as: *The completion by the Contractor of all items required for full completion and inspection of the Work, required no more than 30 days after issuance of the Certificate of Substantial Completion for the Project.* Final Completion was to be achieved thirty days after Substantial Completion. Based on the Change Order, the date of Final Completion was established as March 19, 2023. Based on our review, we determined that the Contractor was still performing the work thirty-seven days after the date of Final Completion. Additionally, based on the Department's inspection and determination that the work reached Final Completion, the Contractor was to prepare and execute an Affidavit of Final Completion of the work.

Upon request, the Contract Manager provided the Contractor's Affidavit of Final Completion, which was notarized by the Contractor on October 31, 2024, while the audit was occurring and past the date of Final Completion. If Final Completion failed to be reached within thirty days of Substantial Completion, the Contractor was obligated to pay liquidated damages in the amount of one-half of the amount of the Substantial Completion liquidated damages for each calendar day beyond the Final Completion Date until the work has reached Final Completion and approved by the Department. Based on our review, we determined that the Contractor did not achieve Final Completion within the thirty days, and no payments were made for liquidated damages.

Pay Requests Supporting Documentation

As stated in the Agreement, *The Contractor shall provide to the Department with each Pay Request digital color construction progress photographs, drawings, maps, and diagrams, particularly for those items and Work that will not be visible upon completion of the Work, and for temporary controls, facilities and utilities, temporary protection, and Project signage, as required in the Contractor Documents, or as reasonably necessary to record the progress of the Project and facilitate the orderly and proper performance of the Work.* Based on our review of the documentation provided by the Contract Manager, Contractor Pay Requests submitted and approved for payment did not include the Agreement's required color construction progress photos, drawings, maps, diagrams, temporary controls, facilities/utilities, temporary protection, and Project signage.

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Final Pay Request Required Documentation

In accordance with the Agreement, *The Contractor's final Pay Request shall be accompanied by all the required items for a Pay Request and the following additional items:* completed and notarized Affidavit of Final Completion, including releases; record photos; record drawings; and a written guarantee of labor and materials on the Contractor's letterhead. Based on our review of the Contractor's final Pay Request submittal, none of the Agreement's required documentation was provided by the Contractor. Upon request, the Contract Manager provided the Contractor's Affidavit of Final Completion, which was notarized by the Contractor on October 31, 2024, which was past the date of Final Completion. The BDC stated that they were unable to locate any additional documentation and that a request for the documentation was sent to the Contractor. No additional documentation from the BDC nor the Contractor was provided.

Subcontractor Approval

As required under the Agreement, the Contractor was not to assign nor subcontract any of the work without the prior written consent of the Department. Our review determined that some of the work under this Agreement was completed by a subcontractor. According to the BDC, a list of subcontractors from the Contractor was not requested nor provided for the BDC's review. The written consent of the Project's subcontractors by the BDC was also not provided. However, the BDC stated they monitored the work and had the ability to remove subcontractors if they created issues with the Park or the public.

Construction Change Orders

There was one Change Order, submitted eight days after the Agreement's Substantial Completion date, that requested a time extension of both the Substantial and Final Completion dates due to rain and material delays, as well as changes in construction to accommodate existing conditions. Pursuant to the Agreement, should the Contractor request an extension of the Agreement's term due to delays caused in any way by the Contractor, its Subcontractors, suppliers or fabricators, it must be presented to the Department within fourteen days after the delay-causing event commences or sooner if the Substantial Completion or Final Completion Date is less than fourteen days from commencement of the delay-causing event. For any delays in the work that were due to rain or unusually severe weather, the Contractor was to notify the Contract Manager within twenty-four hours, for each occurrence throughout the Agreement term. As specified in the Agreement, the Contract Manager was required to track rain days relative to the Progress Schedule. The Contract Manager stated that while verbal communication with the Contractor about delays occurred, there was no written documentation.

Site Inspections and Progress Meetings

Regularly scheduled site inspections and progress meetings by the Contract Manager were to occur to ensure compliance with the Agreement, quality of workmanship, schedule monitoring, and other applicable documentation. For each site visit, the Contract Manager was to complete an Observation Report and take photos. Based on our review, a total of sixteen days of site photography were found within the Contract Manager's files. However, only eight Observation Reports were completed. Per the Contract Manager, an Observation Report was not always completed for each site visit.

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One-Year Warranty Inspection

As established in the Agreement, the Certificate of Substantial Completion for the work shall establish the date for the commencement of Guaranties or Warranties. As specified in the Division's Operation Manual dated June 1, 2024, Contract Managers are to set a calendar reminder to inspect the work thirty days prior to the end of the one-year warranty and address any issues with the Contractor. Based on our review, the Contract Manager performed the warranty inspection on March 28, 2024, which was twenty days past the year of when Substantial Completion was reached, which was March 8, 2023.

CONCLUSION

During the audit, we reviewed deliverables, payments, and supporting documentation provided by the BDC to determine compliance of the Agreement. Based on our review, it appears the Project was generally completed in accordance with the Agreement specifications. However, our review found some areas where the terms of the Agreement were not followed; including, the work was not completed timely and pay requests did not contain all required documentation. Our findings and recommendations are listed below.

FINDINGS AND RECOMMENDATIONS

Finding 1: Liquidated Damages – The Contractor did not timely reach Substantial Completion or Final Completion in accordance with the terms of the Agreement and no payments were made for liquidated damages, as required by the Agreement.

Substantial Completion Date

Substantial Completion was to be reached within 150 days after the Notice to Proceed. The Notice to Proceed was issued August 12, 2022, and established the Substantial Completion date as January 11, 2023. More than a month following the January 11th due date, a Change Order was executed that changed the Substantial Completion date to February 17, 2023. However, the Certificate of Substantial Completion was issued and signed on March 8, 2023, which was nineteen days after the revised February 17, 2023, due date.

The Agreement states that should the Contractor fail to complete the work within the number of days agreed upon to reach Substantial Completion, the Contractor was obligated to pay the Department liquidated damages in the amount of \$150 for each calendar day beyond the Substantial Completion Date until the work reached Substantial Completion and was approved by the Department. Based on our review, we determined that the Contractor did not achieve Substantial Completion by the due date and was not charged for liquidated damages.

Final Completion Date

Final Completion was to be achieved thirty days after Substantial Completion. Based on the Change Order, the date of Final Completion was established as March 19, 2023. Based on our review, we determined that the Contractor was still performing the work thirty-seven days after the date of Final Completion. Additionally, based on the

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Department's inspection and determination that the work reached Final Completion, the Contractor was to prepare and execute an Affidavit of Final Completion of the work. Upon request, the Contract Manager provided the Contractor's Affidavit of Final Completion, which was notarized by the Contractor on October 31, 2024, while the audit was occurring and past the date of Final Completion. If Final Completion failed to be reached within thirty days of Substantial Completion, the Contractor was obligated to pay liquidated damages in the amount of one-half of the amount of the Substantial Completion liquidated damages for each calendar day beyond the Final Completion Date until the work has reached Final Completion and approved by the Department. Based on our review, we determined that the Contractor did not achieve Final Completion within the thirty days, and no payments were made for liquidated damages.

Recommendations:

We recommend the Division implement stronger internal controls to ensure Substantial Completion and Final Completion occurs within the timeframes specified in the Agreement and is documented in the project files, or the Contractor is assessed liquidated damages in accordance with the terms of the Agreement.

Management's Response:

The Division concurs with the finding and will work to ensure that Substantial Completion and Final Completion occurs within the contract, or the Contractor will be assessed Liquidated Damages in accordance with the Contract.

Finding 2: Pay Requests – The Contractor did not provide all the required documentation within their Pay Request submittals to the Department.

Based on our review, the Contractor's pay requests did not include all the required documentation as specified within the Agreement.

Pay Requests Supporting Documentation

As stated in the Agreement, *The Contractor shall provide to the Department with each Pay Request digital color construction progress photographs, drawings, maps, and diagrams, particularly for those items and Work that will not be visible upon completion of the Work, and for temporary controls, facilities and utilities, temporary protection, and Project signage, as required in the Contractor Documents, or as reasonably necessary to record the progress of the Project and facilitate the orderly and proper performance of the Work.* Based on our review of the documentation provided by the Contract Manager, Contractor Pay Requests submitted and approved for payment did not include the Agreement's required color construction progress photos, drawings, maps, diagrams, temporary controls, facilities/utilities, temporary protection, and Project signage.

Final Pay Request Required Documentation

In accordance with the Agreement, *The Contractor's final Pay Request shall be accompanied by all the required items for a Pay Request and the following additional items:* completed and notarized Affidavit of Final Completion, including releases; record photos; record drawings; and a written guarantee of labor and materials on the

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Contractor's letterhead. Based on our review of the Contractor's final Pay Request submittal, none of the Agreement's required documentation was provided by the Contractor. Upon request, the Contract Manager provided the Contractor's Affidavit of Final Completion, which was notarized by the Contractor on October 31, 2024, which was during our audit and past the due date for Final Completion. The BDC stated that they were unable to locate any additional documentation and that a request for the documentation was sent to the Contractor. No additional documentation from the BDC nor the Contractor was provided.

Recommendations:

We recommend the Division implement internal controls to ensure all Contractor Pay Request submittals include all the Agreement's required documentation, are submitted prior to approving payment, and are retained in the project files.

Management's Response:

The Division concurs with the finding and will work to ensure that the required documentation for invoices is submitted by the Contractor in accordance with the Contract and retained in the project file.

STATEMENT OF ACCORDANCE

Statement of Accordance

The Mission of the OIG is to promote accountability, integrity, and efficiency by providing quality audits, investigations, management reviews, and technical assistance.

This work product was prepared pursuant to Section 20.055, Florida Statutes, in accordance with the *Principles and Standards for Offices of Inspectors General* as published by the Association of Inspectors General and the *International Standards for the Professional Practice of Internal Auditing*, as published by the Institute of Internal Auditors, Inc. The audit was conducted by Natasha Toth and supervised by Susan Cureton.

This report and other reports prepared by the OIG can be obtained through the Department's website at <https://floridadep.gov/oig> or by contacting:

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