

**Review of Construction
Contract CN157 with Gulf Group, Inc.**

**Office of Operations
Bureau of Design and Construction**

Report: A-1617DEP-003

Office of Inspector General

Internal Audit Section

Florida Department of Environmental Protection

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The Office of Inspector General (OIG) conducted a review of Construction Contract CN157 (Contract) between the Department of Environmental Protection (Department) and Gulf Group, Inc. (Contractor). This review was initiated as a result of the Fiscal Year (FY) 2016-2017 Annual Audit Plan.

Scope and Objectives

The scope of this review included Contract activities during the period of February 11, 2015 through September 15, 2016. The objectives were to:

- determine the Contractor's compliance with the Contract
- evaluate the Office of Operations Bureau of Design and Construction (BDC) management oversight of Contract activities
- determine whether disbursements were made for allowable expenditures and in accordance with the Contract

Methodology

This review was conducted under the authority of Section 20.055, Florida Statutes (F.S.), and in conformance with the *International Standards for the Professional Practice of Internal Auditing*, published by the Institute of Internal Auditors. The procedures of this review included interviews with BDC management and review of BDC and Contractor records.

Background

The Federal Highway Administration (FHWA) of the United States Department of Transportation provides funding and assistance to state transportation departments for the planning, design, construction, and rehabilitation of roads, highways, bridges, and trails through various programs. FHWA Transportation Enhancement Grants have been provided to the

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Department through Local Agency Program (LAP) Agreements with the Florida Department of Transportation (FDOT) for the purpose of developing the Florida Keys Overseas Heritage Trail (FKOHT) as laid out in the FKOHT Master Plan (Master Plan). As described in the Master Plan, the FKOHT is a multi-use bicycle and pedestrian facility that serves as a recreational and alternative transportation corridor for the Florida Keys. Paralleling U.S. Highway 1, from Key Largo (Mile Marker 106.4) to Key West (Mile Marker 0), this recreational path incorporates 23 of the historic Flagler Railroad bridges and provides access to various State and National Parks, Wildlife Refuges, and Marine Sanctuaries.

The Retrofitting and Span Replacement of the Kemp Channel Historic Bridge (Project) is one of many projects undertaken by the Department in furtherance of the FKOHT and Master Plan. BDC previously engaged a structural engineer to create a set of construction plans and technical specifications to incorporate rehabilitation of the existing structure and replacement of missing bridge span sections so that a continuous path could be created and connected to the existing FKOHT system.

As part of the Project, BDC engaged a Construction Engineering and Inspections services consultant (CEI) to ensure the Project was completed in accordance with the created plans and specifications, and in compliance with applicable federal and contractual requirements. The CEI supervised the Contractor's activities and methods and performed quality control and assurance procedures throughout the life of the Project.

In February 2015, the Department entered into the Contract for Project construction services for \$1,868,000. A Change Order executed in September 2016 authorized Project changes and additional funding of \$15,991.12. The Project included a substantial completion

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date of April 25, 2016, and a final completion date of May 25, 2016. As consideration for these services, the Department was to provide periodic payments to the Contractor totaling \$1,883,991.12.

Results

Contractor Compliance

As part of the FKOHT LAP Agreement oversight, FDOT conducted Compliance and Construction Project Administration Audit Reviews throughout the Project. These reviews were performed to ensure both the Contractor's and the Department's compliance with applicable federal laws, FHWA regulations, and FDOT LAP Manual guidance. Based on these reviews, the Contractor and the Department were compliant with applicable laws, regulations, and guidance.

We reviewed Project documents for compliance with the following Department Invitation to Bid BDC39-13/14 (ITB) and Contract requirements.

- ITB Sections B-2 Bidder Qualifications: BDC obtained copies of licenses and certifications necessary to perform Project work, and submitted evidence of corporate registration with the State of Florida, Department of State, Division of Corporations. BDC also obtained the required bid bond.
- ITB Section F Articles 8.01 and 8.01.04, Performance and Payment Bonds: BDC obtained the required performance bond and a labor and material payment bond.
- ITB Section F Article 9, Insurance: BDC obtained the Contractor's and primary subcontractor's insurance certificates for workers' compensation, general liability, and automobile insurance policies that met coverage requirements. The Department and Board of Trustees of the Internal Improvement Trust Fund were listed as additional

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insureds on the primary subcontractor's Certificates of Liability Insurance. The Contractor's Certificates of Liability Insurance only listed the Department as additional insured.

- ITB Section F Articles 6.03 and 6.04, *Term of Contract*: BDC obtained progress schedules as required. Based on review of documentation and interviews with the Project Manager, original substantial and final completion dates were extended as a result of a Change Order, and the revised completion dates were met.
- ITB Section F Article 21.01, *Job Site Personnel*: Based on review of CEI daily reports and interviews with the Project Manager, a full-time Superintendent was provided by the Contractor throughout the life of the Project as required.
- ITB Section F Articles 37.01, *Record Drawings* and 5.10, *Contract*: BDC maintained professional surveyor documentation of the Project location, dimensions, and elevations of the finished work. "As-built" drawings and specifications, signed by the professional surveyor and mapper, were provided as required.

BDC Oversight

BDC provided a Project Manager to coordinate Project activities. Based on review of documentation and interviews with BDC and CEI personnel, the Project Manager provided assistance and instruction on behalf of the Department throughout the life of the Project. In addition to bi-weekly visits, the Project Manager was on-site for inspections, walkthroughs, and progress meetings. BDC was also responsible for Contract procurement for the Project. Based on review of prequalification and qualification criteria in the ITB, the Contractor's bid

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documentation included necessary documentation to justify the awarding of the construction Contract.

Pay Requests and Disbursements

According to ITB Section F Article 7, *Contract Price*, Pay Requests are to include a completed Certificate for Payment form, Schedule of Values, invoice on the Contractor's letterhead, and Minority Participation Report. The Department made periodic payments to the Contractor, in accordance with the Contract. Payment for each of the ten Pay Requests processed during the Project contained the required documentation. The Project Manager and CEI certified amounts requested as being representative of work completed based on inspections and observations prior to disbursement.

ITB Section F Article 7.01, *The Contract Price* states, *the Contract Price shall be paid to the Contractor periodically, not less than monthly, upon receipt of a proper and correct Pay Request*. Pay Requests were submitted on a monthly basis. However, payments for Pay Requests 7 and 8 were both disbursed in January 2016. According to BDC staff, payment was delayed on Pay Request 7 due to a BDC request for additional information from the Contractor.

During the review, we noted clerical errors in Payment Applications 8 and 10 that resulted in retainage and payment calculation errors. Subsequent payments adjusted for the errors and the total Contract price was not affected.

During the course of the Project, it was determined that asphalt deterioration was greater than originally estimated and additional milling and asphalt replacement was necessary. Additional fencing was also needed for safety conditions. The estimated cost for the additional items exceeded available Project funding of \$15,991.12. BDC made changes to the Project scope

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to offset the additional cost. This included removal of pavement striping and bike symbols, which were included in the original Schedule of Values, but were determined unnecessary for multi-use trails in FKOHT projects. In September 2016, the Department issued the Change Order. BDC worked with FDOT and the Contractor to complete the Project changes. Final payment was made in October 2016.

Conclusion

Based on our review of Project documentation and discussions with BDC management, the Contractor completed the Project in conformance with the Contract. BDC documented management oversight, CEI supervision and quality control, and coordination with FDOT as necessary for the Project. In addition, disbursements for Project expenditures were made in accordance with the Contract and Change Order, with the exception of clerical errors noted above.

To promote accountability, integrity, and efficiency in state government, the OIG completes audits and reviews of agency programs, activities, and functions. Our audit was conducted under the authority of Section 20.055, F.S., and in conformance with the International Standards for the Professional Practice of Internal Auditing, published by the Institute of Internal Auditors, and Principles and Standards for Offices of Inspector General, published by the Association of Inspectors General. The audit was conducted by Adam Crump and supervised by Valerie J. Peacock.

Please address inquiries regarding this report to the OIG's Audit Director by telephone at (850) 245-3151. Copies of final reports may be viewed and downloaded via the internet at <http://www.dep.state.fl.us/ig/reports.htm>. Copies may also be obtained by telephone (850) 245-3151, by fax (850)245-2994, in person or by mail at Department of Environmental Protection, Office of Inspector General, 3900 Commonwealth Boulevard, Mail Station #41, Tallahassee, FL 32399.

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