

OFFICE OF THE CITY CONTROLLER



**AVIATION DEPARTMENT
CONTRACT COMPLIANCE AUDIT
CONSTRUCTION PROJECT NO. 528
BUSH INTERCONTINENTAL AIRPORT
TERMINAL A SOUTH CONCOURSE SUPERSTRUCTURE**

Sylvia R. Garcia, City Controller

Judy Gray Johnson, Chief Deputy City Controller

Steve Schoonover, City Auditor



SYLVIA R. GARCIA

OFFICE OF THE CITY CONTROLLER
CITY OF HOUSTON
TEXAS

September 20, 2001

The Honorable Lee P. Brown, Mayor
City of Houston, Texas

SUBJECT: Aviation Department – Bush Intercontinental Airport (Report No. 01-05)
Terminal A South Concourse Superstructure – Contract Compliance Audit

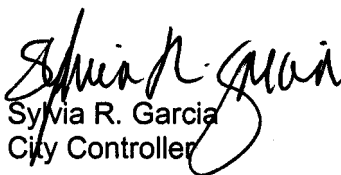
Dear Mayor Brown:

In accordance with the City's contract with JeffersonWells International (JWI), JWI has completed a contract compliance audit of the Aviation Department's contract between the City and Williams Swinerton Construction for the construction of Project 528, Terminal A South Concourse Superstructure located at George Bush Intercontinental Airport. JWI's objectives included determining (1) if the contractor met the stated objectives of its contract with the City and the performance of work was in compliance with contract terms; (2) if Aviation Department personnel responsible for construction and contract administration complied with City policies and procedures; and (3) the adequacy of the Aviation Department's systems of internal control as related to the contract under audit.

The report, attached for your review, concludes there were no significant weaknesses regarding contract compliance or internal controls. However, the auditors did note that contract management and compliance could be enhanced through closer adherence to a number of specific General and Supplementary Conditions sections of the contract. Draft copies of the matters contained in the report were provided to Department officials. The views of the responsible Department officials as to action taken or being taken are appended to the report as Exhibit I.

We commend the Department for taking immediate action on recommendations identified in the report. Also, we appreciate the cooperation extended to our auditors by Department personnel during the course of the audit.

Respectfully submitted,


Sylvia R. Garcia
City Controller

xc: City Council Members
Albert Haines, Chief Administrative Officer
Gerard Tollett, Chief of Staff, Mayor's Office
Richard M. Vacar, Director, Aviation Department
Philip Scheps, Director, Finance and Administration Department



August 17, 2001

Sylvia R. Garcia, Controller
City of Houston

**Re: Contract Compliance Audit Report – City of Houston, Department of Aviation
Construction Project 528 – Terminal A South Concourse Superstructure
George Bush Intercontinental Airport / Houston**

Dear Controller Garcia,

At your request, Jefferson Wells International (“Jefferson Wells”) performed a contract compliance audit of Project No. 528. The contract, dated November 17, 1997, between the City of Houston (“the City”) and Williams Swinerton Construction (“the prime contractor”), was a stipulated price contract with an original estimated value of \$29,613,000 including five (5) alternates totaling \$1,129,000 and thirteen (13) cash allowances totaling \$2,010,000, exclusive of change orders.

We performed fieldwork at the Department of Aviation’s offices for the period from March 5 through April 19, 2001. As discussed in our proposal, the primary audit objectives included:

- Determining that the contractor met the stated objectives of its contract with the City and that the performance of the work was in compliance with the terms of those contracts.
- Determining that Department of Aviation personnel responsible for construction and contract administration complied with the City’s policies and procedures and ensured that the work performed was in compliance with the scope of the contract, and that all such work was adequately overseen and inspected for completeness and adherence to stated requirements.
- Determining that the procurement of all goods and services obtained through the provisions of the contract was in compliance with the procurement laws of the City and of the State of Texas.
- Determining the adequacy of the Department of Aviation’s systems of internal control as related to the contract under review.

Scope

Planning consisted of meetings with Department of Aviation, Planning Design and Construction (“PDC”) Division and Finance Division management personnel, as well as with the Audit Division of the Office of the City Controller. In these meetings there were discussions concerning the organization of the department, the reporting lines, the physical locations of project management personnel and project records, the specifics of the prime construction contract under review, and general departmental procedures for managing construction projects. We also discussed the roles and responsibilities of the managing contractor (“PGAL/ACI”) hired by the Department of Aviation to provide project management on this project.

Ongoing progress discussions were held with PDC Division management and the managing contractor to discuss all issues and related recommendations. An initial closing meeting was held at the end of audit fieldwork to discuss the written recommendations with Department of Aviation and project managing contractor management.

In general, our testwork excluded steps typically performed by the City of Houston’s external auditors, and we did not perform the attest function. Our testwork excluded high-level operational consulting in areas such as effectiveness of the planning or design functions and effectiveness of the overall management of the department. Our testwork focused on the control environment for the aforementioned areas under review, and compliance with established internal controls in those areas.

Conclusion

Based on the testwork performed, we noted no significant weaknesses in internal control or contract compliance. With the exception of the specific deviations noted in our findings below, we found consistently applied procedures and adequate internal controls in all areas tested. While there appears to be a satisfactory control environment in those areas, we noted that contract management and compliance could be enhanced through closer adherence to a number of specific General Conditions and Supplementary Conditions sections of the prime contract as noted in our findings. We feel that there is an opportunity for improved collaboration with the City’s Affirmative Action and Contract Compliance Division (“AA and CC Division”) in regard to compliance with specific contract provisions related to prevailing wage reporting. Since the completion of our audit fieldwork, management has agreed to take action to address these issues, although we have not performed subsequent audit work to verify these actions. Our recommendations appear in the pages to follow.

Respectfully submitted,

Bryan J. Guidry, Engagement Manager - Internal Audit Services
Jefferson Wells International

cc: Kyle Scaff, Jefferson Wells International

EXECUTIVE SUMMARY

- Our review of the certified payroll records on file with the City AA and CC Division for project 528 revealed that certified copies of payrolls were not obtained from eight of the subcontractors as required by Contract General Conditions Article 3.6. We identified five other subcontractors that properly submitted certified payrolls, but not for some pay periods. Our testing also revealed twenty-nine subcontractors that properly filed all certified payroll records required, and met all labor classification and wage scale requirements.
- General Conditions Article 11.3 - Proof of Insurance requires the prime contractor to furnish Certificates of Insurance to the City documenting that all required coverage has been obtained and that it will be available during the term of the contract. In addition, Supplementary Conditions Article 11.2.10 requires the contractor to require that all subcontractors performing work on the project provide insurance coverage to the levels specified in Article 11 Table 1A of the contract. In addition, Article 11.2.10 requires the contractor to obtain from all subcontractors a valid certificate of insurance verifying those coverage levels and periods and to provide that documentation to the City for its files.

Our review of prime contractor certificates of insurance for this project revealed that the required insurance coverage for the period that its personnel worked on the project had been provided, with the exception of builder's risk and owner's and contractor's liability coverage which lapsed on 8/27/98. The contractor's personnel continued to work on site until 10/19/99, and the certificates of insurance provided did not indicate that coverage had been extended through job completion. The Department of Aviation properly maintained documentation for the coverage that was complete in the project files.

Our review of subcontractor insurance documentation revealed that the prime contractor had not provided such to the City for its files. We noted that the Department of Aviation as a matter of practice had not required the contractor to do so, instead relying on the prime contractor to obtain and maintain the documentation. Our review of available documentation of subcontractor insurance coverage supplied by the prime contractor during our audit revealed that for two subcontractors there was no certificate of insurance available, evidence of builder's risk insurance was missing for all subcontractors, and for all but three subcontractors the documentation provided did not cover all or part of the period the subcontractors actually performed work on the project.

EXECUTIVE SUMMARY (continued)

- Supplementary Conditions Article 11.5.2 requires the prime contractor (Williams Swinerton) to provide a One-Year Surface Correction Bond amounting to 4 percent of the Total Contract Amount. This bond requirement is specifically included as part of the agreement between the contractor and the City of Houston.

Our review of contract files maintained by PGAL/ACI, the Department of Aviation, and the City Controller's Office did not reveal any evidence that this coverage was provided by the contractor on this project. Since the final contract value is \$30,899,635, the amount of bond coverage should have been \$1,235,985. As a result of the audit query, the Department of Aviation obtained a copy of this bond from the prime contractor.

- In our review of Work Change Directives (WCD's) prepared by PGAL/ACI, we noted inconsistencies in the calculations of proposed adjustments to the contract price. Calculations prepared in the early stages of the contract for work performed by Williams Swinerton Construction for allowable overhead and profit were made using 15% added to the prime contractor costs. This reflected the proper rates as allowed by Supplementary Conditions Article 7.4.2.2.6.a of 10 percent for overhead and 5 percent for profit. As the contract progressed and additional WCD's were issued, the calculation method was changed to adding 10 percent to the prime contractor's cost for overhead and adding 5 percent to the total of cost plus overhead. This increased the total markup from 15 percent to 15.5 percent for change order work performed by Williams Swinerton.

We also noted that the allowed 10 percent increase for overhead for subcontracted work was not always included. This omission was noted in both additive and deductive changes.

There were several instances noted where the calculations were not mathematically correct and the detail shown did not add up to the total.

- Included in the cost of Work Change Directives prepared by PGAL/ACI is a charge of 1% of the total change order cost for bonds. The General Conditions of the contract require the contractor to provide a Performance Bond, Statutory Payment Bond, and One-Year Maintenance Bond in the amount of 100% of the contract price. Supplementary Conditions require the contractor to provide a One-Year Surface Correction Bond amounting to 4% of the total contract amount. There have been four (4) change order issued for the contract increasing the contract price to \$30,899,635. Our review of contract files maintained by the Department of Aviation did not reveal any evidence that the contractor had escalated the bond amounts to coincide with the revised contract value.

EXECUTIVE SUMMARY (continued)

- Supplementary Conditions Article 3.5.3.1 requires the prime contractor (Williams Swinerton) to comply with the City of Houston, TX Code of Ordinances, ch. 15, art. V, & 15.81 et seq., City of Houston, TX Ordinance 95-336 (March 29, 1995) and Exec. Order No. 1-2 (June 14, 1995) relating to Citywide goals for contracting with Minority and Women Business Enterprises (M/WBE). Supplementary Conditions Article 3.5.3.2 requires the prime contractor to make a good faith effort to comply with the City of Houston Code of Ordinances regarding the M/WBE participation goal, which is 17 percent of the value of the Contract.

Our review of the M/WBE Monthly Utilization Reports produced by Williams Swinerton, and submitted to the Department of Aviation and the AA and CC Division, for the purpose of reporting the prime contractor's monthly progress towards compliance with the M/WBE participation goal revealed several deficiencies. The reports that the prime contractor sent to the Department of Aviation each month reflected different payment amounts than the reports submitted to the AA and CC Division. It was also noted that the reports sent to both groups included numerous mathematical errors, incorrect date ranges, report numbers out of sequence, and other problems.

- In our review of the costs for Cash Allowance approvals prepared by PGAL/ACI, we noted that some calculations included a markup for bond cost. In the contract, cash allowances totaling \$2,010,000 were included in the bid contract amount of \$29,613,000. There were bonds issued at the beginning of the project for the amount of \$29,613,000. The total amount for cash allowances did not change from the original \$2,010,000, therefore, no additional bonding was required for cash allowances. We were able to identify added costs of \$6,570 that should not have been paid by the City.
- In our review of required documentation it was learned that the contractor did not submit in writing the names of suppliers proposed to the City Engineer for review and approval as required by General Conditions Section 5.2.1. PDC (or PGAL/ACI) did not request this information from the prime contractor and, therefore, did not receive it.

We also noted that PDC (or PGAL/ACI) did not monitor the contractor to ensure compliance with General Conditions Section 5.2.4 which states: "Contractor shall execute contracts with suppliers and approved subcontractors within 30 days after the date of the Notice to Proceed."

General

The City of Houston owns and operates the three primary commercial airports that serve the City, in addition to the downtown heliport. The Department of Aviation is charged with operating and maintaining the existing facilities. It is also responsible for the planning, design and construction of capital additions to these facilities through its PDC Division. The specific construction project under review is Project 528, Terminal A South Concourse Superstructure located at George Bush Intercontinental Airport. Project management for this \$29,613,000 capital project was performed by a managing contractor (PGAL/ACI) hired by the Department of Aviation under a separate contract to manage all Terminal A & B upgrades. The contract for PGAL/ACI is not included in the scope of Project 528. On this project, the Notice to Proceed was issued on December 3, 1997 with planned substantial completion within five hundred fifty (550) calendar days, or by June 6, 1999. The project was completed on October 19, 1999, one hundred thirty-five (135) days after the planned completion date. The final construction cost was \$30,899,635, including four change orders totaling \$1,286,635.

Findings & Recommendations

Finding

General Conditions Article 3.6 requires the contractor to comply with governing statutes providing for labor classification of wage scales for each craft or type of laborer, worker, or mechanic. The General Conditions further requires that the contractor submit to the City Affirmative Action and Contract Compliance Division each week, certified copies of payrolls showing classifications and wages paid by the Contractor and all Subcontractors for each employee working on the Project for any day included in the Contract.

Our review of the certified payroll records on file with the City Affirmative Action and Contract Compliance Division for project 528 revealed that certified copies of payrolls were not obtained from eight of the subcontractors. We identified five other subcontractors that properly submitted certified payrolls, but not for some pay periods. Our testing also revealed twenty-nine subcontractors that properly filed all certified payroll records required, and met all labor classification and wage scale requirements.

Recommendation

PDC should collaborate with the City AA and CC Division to ensure that a complete and current listing of all subcontractors that work on a Department of Aviation project is maintained with the AA and CC Division to facilitate proper reporting of certified payrolls on a weekly basis.

Finding

General Conditions Article 11.3 - Proof of Insurance requires the prime contractor to furnish Certificates of Insurance to the City documenting that all required coverage has been obtained and that it will be available during the term of the contract. In addition, Supplementary Conditions Article 11.2.10 requires the contractor to require that all subcontractors performing work on the project provide insurance coverage to the levels specified in Article 11 Table 1A of the contract. Also, Article 11.2.10 requires the contractor to obtain from all subcontractors a valid certificate of insurance verifying those coverage levels and periods and to provide that documentation to the City for its files.

Our review of prime contractor certificates of insurance for this project revealed that the required insurance coverage for the period that its personnel worked on the project had been provided, with the exception of builder's risk and owner's and contractor's liability coverage which lapsed on 8/27/98. The contractor's personnel continued to work on site until 10/19/99, and the certificates of insurance provided did not indicate that coverage had been extended through job completion. The Department of Aviation properly maintained documentation for the coverage that was complete in the project files.

Our review of subcontractor insurance documentation revealed that the prime contractor had not provided such to the City for its files. We noted that the Department of Aviation as a matter of practice had not required the contractor to do so, instead relying on the prime contractor to obtain and maintain the documentation. Our review of available documentation of subcontractor insurance coverage supplied by the prime contractor during our audit revealed that for two subcontractors there was no certificate of insurance available, documentation of builder's risk insurance was missing for all subcontractors, documentation of owner's and contractor's protective liability was missing for all but two subcontractors, and for ten subcontractors the documentation provided either did not cover all or part of the period the subcontractors actually performed work on the project or dollar coverage limits were not those required by contract.

Recommendation

Require the prime contractor to provide evidence to the City that its builder's risk and owner's and contractor's liability coverage was in effect throughout the construction period. In addition, require the prime contractor to provide documentation to the City that all subcontractors obtained and maintained adequate insurance coverage during the period work was performed in accordance with the contract requirements. Once obtained from the prime contractor, this documentation should be maintained in the project file with other contractual documents.

Implement the use of a checklist to ensure that all contract documents are maintained on file by the Department of Aviation. Such documents include any attachments made a part of the contract by specific reference in the signed agreement. PDC personnel should review this checklist and the actual documentation for completeness at the beginning of the project and again prior to issuing a notice of substantial completion to the contractor. Any changes to the checklist of required documents during the project life-cycle should

be approved by authorized personnel for permanent reference. Documents requiring updates due to changes in contract value (i.e. payment, performance, maintenance, and surface correction bonds, and builder's risk insurance) should be verified for accuracy and completeness prior to a declaration of substantial completion.

Finding

Supplementary Conditions Article 11.5.2 requires the prime contractor (Williams Swinerton) to provide a One-Year Surface Correction Bond amounting to 4 percent of the Total Contract Amount. Such bond would provide for Contractor's correction, replacement, or restoration of any backfill of subsurface work and surface work not in accordance with Contract Documents within one (1) year from the date of expiration of the One-Year Maintenance Bond. This bond requirement is specifically included as part of the agreement between the contractor and the City of Houston.

Our review of contract files maintained by PGAL/ACI, the Department of Aviation, and the City Controller's Office did not reveal any evidence that this coverage was provided by the contractor on this project. Since the final contract value is \$30,899,635, the amount of bond coverage should have been \$1,235,985. As a result of the audit query, the Department of Aviation obtained a copy of this bond from the prime contractor.

Recommendation

Adhere to the existing departmental procedures and checklist to ensure that all essential contract documents are properly obtained and maintained on file by the Department of Aviation. Such documents include any attachments made a part of the contract by specific reference in the signed agreement. Departmental personnel should review this checklist and the actual documentation for completeness at the beginning of the project and again prior to issuing a notice of substantial completion to the contractor. Any changes to the checklist of required documents during the project life-cycle should be properly authorized and noted on the checklist for permanent reference. Documents requiring updates due to changes in contract value (i.e. payment, performance, maintenance, and surface correction bonds, and builder's risk insurance) should be verified for accuracy and completeness prior to a declaration of substantial completion.

Finding

In our review of Work Change Directives prepared by PGAL/ACI, we noted inconsistencies in the calculations of proposed adjustments to the contract price. Calculations prepared in the early stages of the contract for work performed by Williams Swinerton Construction for allowable overhead and profit were made using 15% added to the General Contractor costs. This reflected the proper rates as allowed by Supplementary Conditions Article 7.4.2.2.6.a of 10 percent for overhead and 5 percent for profit. As the contract progressed and additional Work Change Directives were required, the calculation method was changed to adding 10 percent to the General Contractor's cost for overhead and adding 5 percent to the total of cost plus overhead. This increased the total markup from 15 percent to 15.5 percent for change order work performed by Williams Swinerton Construction.

We also noted that the allowed 10 percent increase for overhead for subcontracted work was not always included. This omission was noted in both additive and deductive changes.

There were several instances noted where the calculations were not mathematically correct and the detail shown did not add up to the total.

Recommendation

Revise the contract wording regarding the 10% overhead allowance and 5% profit allowance for contractor-performed change order work to clarify the proper application of those allowances. To ensure uniformity in calculations on all projects, the accepted methodology should be reviewed with all contractors upon receipt of initial Work Change Directives (WCD's).

The calculation of change order costs should be reviewed and checked for accuracy before any Work Change Directive is approved.

Finding

Included in the cost of Work Change Directives prepared by PGAL/ACI, the City's construction manager, is a charge of 1% of the total change order cost for bonds. The General Conditions of the contract require the contractor to provide a Performance Bond, Statutory Payment Bond, and One-Year Maintenance Bond in the amount of 100% of the contract price. Supplementary Conditions require the contractor to provide a One-Year Surface Correction Bond amounting to 4% of the total contract amount.

There have been four (4) change orders issued for the contract increasing the contract price to \$30,899,635. Our review of contract files maintained by the Department of Aviation did not reveal any evidence that the bond values had been increased to the revised contract value.

Recommendation

Require the contractor to obtain and provide to the City written proof that the contract values for all bonds have been increased after each formal change order has been issued.

Finding

Supplementary Conditions Article 3.5.3.1 requires the prime contractor (Williams Swinerton) to comply with the City of Houston, TX Code of Ordinances, ch. 15, art. V, & 15.81 et seq., City of Houston, TX Ordinance 95-336 (March 29, 1995) and Exec. Order No. 1-2 (June 14, 1995) relating to Citywide goals for contracting with Minority and Women Business Enterprises (M/WBE). Supplementary Conditions Article 3.5.3.2 requires the prime contractor to make a good faith effort to comply with the City of Houston Code of Ordinances regarding the M/WBE participation goal, which is 17 percent of the value of the Contract.

Our review of the M/WBE Monthly Utilization Reports produced by Williams Swinerton, and submitted to the Department of Aviation and the AA and CC Division, for the purpose of reporting the prime contractor's monthly progress towards compliance with the M/WBE participation goal revealed several deficiencies. The reports that the prime contractor sent to the Department of Aviation each month reflected different payment amounts than the reports submitted to the AA and CC Division. It was also noted that the reports sent to both groups included numerous mathematical errors, incorrect date ranges, report numbers out of sequence, and other problems.

Recommendation

The Department of Aviation and AA and CC Division should correspond each month to ensure the M/WBE Monthly Utilization Reports they receive reflect the same amounts paid to subcontractors. The reports received each month should be reviewed for completeness and accuracy, including verifying that the total amounts paid to Minority and Women Business Enterprises properly roll forward from month to month. An amended report should be obtained from the prime contractor for any month in which a report is received containing mathematical errors, incorrect dates, or any other inaccuracies.

Finding

In our review of the costs for Cash Allowance approvals prepared by the City's construction manager, PGAL/ACI, we noted that some calculations included a markup for bond cost. In the contract, cash allowances totaling \$2,010,000 were included in the bid contract amount of \$29,613,000. There were bonds issued at the beginning of the project for the amount of \$29,613,000. The total amount for cash allowances did not change from the original \$2,010,000, therefore, no additional bonding was required for cash allowances. We were able to identify added costs of \$6,570 that should not have been included.

Recommendation

The calculation of the support for cash allowance approvals should be carefully reviewed and checked for accuracy before the authorization is approved. We also recommend the City of Houston request a credit for the identified cost of \$6,570.

Finding

In our review of required documentation it was learned that the contractor did not submit in writing the names of suppliers proposed to the City Engineer for review and approval as required by General Conditions Section 5.2.1. PDC (or PGAL/ACI) did not request this information from the prime contractor and, therefore, did not receive it.

We also noted that PDC (or PGAL/ACI) did not monitor the contractor to ensure compliance with General Conditions Section 5.2.4 which states: “Contractor shall execute contracts with suppliers and approved subcontractors within 30 days after the date of the Notice to Proceed.”

Recommendation

PDC should require the contractor to comply with the General Conditions as written. If there are items in the General Conditions that are not to be followed, they should be noted as “deletions” in the Supplementary Conditions or Addenda.

EXHIBIT 1

CITY OF HOUSTON INTEROFFICE CORRESPONDENCE

TO: Ms. Sylvia R. Garcia
City Controller

FROM: Director of Aviation
Houston Airport System

DATE: June 14, 2001


SUBJECT: Contract Compliance Audit
Report-City of Houston,
Department of Aviation
Construction Project 528-Terminal
A South Concourse Superstructure
George Bush Intercontinental
Airport/Houston

This is in response to the findings and recommendations contained in the draft report on the referenced audit submitted to your office by Jefferson Wells International on May 31, 2000. The audit contained eight (8) findings that two of which may be characterized as financial and six as procedural. One of the financial findings concerned the calculation to include mark-up for overhead and profit on contract changes and the other with an error resulting in payment for bond costs on items paid for under a contract allowance. In the first of these findings we maintain that our method of calculation is the correct and customary method of determining the mark-up on changes. We acknowledge the error in the second financial finding which resulted in an overpayment of \$6,570.00 to the contractor. The contractor was contacted about this error and the overpayment was reclaimed prior to close out of the contract.

Of the six (6) procedural findings two (2) were related to documentation provided directly to the Affirmative Action and Contract Compliance Division from the contractor and to which the Aviation department is not privy. We have attached correspondence from AA and CC Division addressing those findings.

We have also attached a synopsis of each audit finding and our detailed response to it for your review. We have, as stated in the responses, taken steps to ensure that the shortcomings will not be repeated.

Should you have any questions, please feel free to contact my office.


Richard M. Vacar

*Views of Responsible
Officials*

RMV:ERP:JSK

Attachments

cc: Mr. Richard Berrones
Mr. Eric R. Potts
Mr. John S. Kahl

Central File

EXHIBIT 1

**Audit Finding Response
Project 528
Terminal A South Concourse Superstructure
George Bush Intercontinental Airport / Houston**

Finding No. 1. The contractor is required to supply to Affirmative Action and Contract Compliance Division each week, certified copies of payroll showing classifications and wages paid by the contractor and all subcontractors for each employee working on the project. Affirmative Action did not have payrolls from eight subcontractors and five others were not obtained for all periods.

Response: The PM will remind the Contractor at the Pre-Construction meeting of the obligation to notify Contract Compliance of any changes in Sub-contractors and the responsibility of the Contractor to submit all payrolls to Contract Compliance. The project inspector will note new subcontractors on daily reports and give information to PM and Contract Compliance. When we acquire an on-site Contract Compliance Officer from Affirmative Action, the on-site officer can note any changes in subs and relay the information to Aviation and Contract Compliance. Contract Compliance should notify the Contractor (and copy Aviation) during the project if they are not receiving subcontractor certified payrolls from the Prime.

Finding No. 2. Supplementary Conditions 00800-10 Article 11.2.10.9,10 &11 requires the contractor to require that all subcontractors performing work on the project provide insurance coverage to the levels specified in Article 11 Table 1A of the contract. The prime contractor had not supplied such documentation.

Response: We acknowledge not receiving this documentation from the contractor. We will amend our procedures by closely reviewing checklist items to require these certificates during the term of the contract. We have been informed by some contractors that they keep a file of these certificates, however the requirement to deliver them to the City has been missed.

Finding No. 3. The contract requires the contractor provide a 1 year surface correction bond which would provide for Contractor's correction, replacement, or restoration of any backfill of subsurface work and surface work not in accordance with Contract Documents within one year. This bond was not provided.

Response: Bond and insurance documentation is normally in place prior to the award of the contract. In this case while the requirement for the bond was present and the bond was purchased, it was not in the project file. Subsequent to the commencement of the audit the bond was located in the file of the contractor and turned over to the City. In addition the requirement for some bonds is included in some contracts in error. Surface correction bonds are normally for paving type contracts and not applicable to buildings

**Views of Responsible
Officials**

EXHIBIT 1

such as this contract. Conversely "Builders Risk" is sometimes required from paving contractors when there is negligible possibility of loss.

Finding No. 4. The contractor charged and was paid 10% overhead and 5% profit on changes. This is covered in Supplementary Conditions 00800-9 Article 7.4.2.2.6.a. The issue is the method of calculation, i.e. multiply the direct cost of the change by 1.15 or multiply by 1.10 and then that product by 1.05. The difference is .05%.

Response: We have reviewed the method of calculation of overhead and profit on WCDs and discussed it with some contractors. The charge for overhead is a cost of doing business by the contractor. Profit is based on the contractor's total cost, including overhead. Therefore we feel the calculation of profit on the product of direct cost times mark-up for overhead is proper. The specific computation will be clarified in future contracts.

Finding No. 5. Change orders include a charge for bonds of 1.0%. In the four change orders passed on this project there is no evidence that the contractor used these funds to pay the bonding company.

Response: The contractor pays for bonds based on total value of the contract. At the close out of the contract and whenever retainage is reduced, the City requires documentation from the contractor's surety that they agree to releasing retainage. At that time, the surety knows the final amount of the contract and payment (for additional work) or credit is paid. In the future we will request documentation from the surety periodically throughout the contract term.

Finding No.6. Several deficiencies were noted in the M/WBE report filed with the Office of Affirmative Action & Contract Compliance. The reports sent to the Aviation department differed from those sent to the affirmative Action office. In addition there were numerous mathematical errors, incorrect date ranges and report numbers out of sequence.

Response: While we are not privy to the information sent directly to Affirmative Action and Contract Compliance, we are aware of the discrepancies in the report filed monthly by the various contractors. We have instituted review procedures to eliminate the month-to-month discrepancy and mathematical errors. The responsibility for auditing of the reports to determine their base accuracy remains within the Affirmative Action and Contract Compliance Division.

Finding No.7. The Cash Allowance approvals showed that on some of them payment was made for bond cost. As the allowance is part of the base contract, the bond cost had been paid.

Response: We acknowledge the error. Steps have been taken to recover the cost of these bonds prior to contract close out.

Views of Responsible
Officials

EXHIBIT 1

Finding No.8. General Conditions Section 5.2.5 requires the City Engineer to review and approve proposed suppliers. In addition Section 5.2.4 requires the Contractor to execute contracts with suppliers and approved subcontractors within 30 days after the date of Notice to Proceed.

Response: Under the open bidding laws the City cannot deny business to any supplier or subcontractor as long as they meet the requirements of the contract. In addition the 30 day time period for execution of contracts between the prime and suppliers and subcontractors cannot be held to due to submittals not being approved at that time and some of the work may be far down on the schedule and that sub-contractor or supplier may not be available at that time

**Views of Responsible
Officials**

EXHIBIT 1



CITY OF HOUSTON
Affirmative Action and Contract Compliance
Interoffice Correspondence

To: Eric Potts, Deputy Director
Department of Aviation

Date: June 18, 2001

From: Velma Laws, Assistant Director

Subject: Contract Compliance Audit Conducted
by Jefferson Wells International

I am providing the following information for inclusion in the Aviation Department's response to the findings of the Jefferson Wells audit.

Regarding the first recommendation that "PDC should collaborate with the City AA and CC Division to... facilitate proper reporting of certified payrolls on a weekly basis:"

"As the result of a collaborative effort between the Department of Aviation and the Affirmative Action and Contract Compliance Office, three Affirmative Action employees have been placed at the airport to monitor and maintain records of all Aviation construction projects. All documents pertaining to these projects, including certified payrolls, will be maintained at the airport. This will allow for better coordination between both departments, thereby facilitating proper reporting of certified payrolls and other information."

Regarding the second recommendation that "the Affirmative Action and Contract Compliance Division should take the necessary steps to ensure that all required documentation is properly forwarded to the Federal Aviation Administration on capital projects that include FAA funding:"

"The Federal Aviation Administration does not require the submission of certified payrolls. They require that contracts are properly monitored and administered, and that all necessary documentation is maintained. By moving personnel and files to the Department of Aviation, all information will be readily available on site if it is ever requested by the FAA."

Please include these statements in your final response to Jefferson Wells. If you have any questions or need additional information, I can be reached at (713) 837-9018.

c: John J. de Leon
Richard Berrones

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Officials*