Orange County Public Schools

Internal Audit Report

Contingency Funds Audit

June 22, 2011

To: **John Morris, Chief Facilities Officer**

Karen Petters, Facilities Controls Manager - Construction

From: **Linda J. Lindsey, CPA, Senior Director, Internal Audit**

Alva Johnson, Auditor

The audit is an independent activity that is used to evaluate the effectiveness and efficiency of a business operation. Our responsibility is to express an opinion on selected processes and procedures. We are required to report material deficiencies in accordance with the Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing*, Orange County Public Schools policies and procedures, and Florida Statutes.

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BACKGROUND

The Internal Audit Department conducted an audit review of contingency logs used in the Facilities Department in the spring of 2010. That audit dealt with the overall management of contingency and with the tracking process, but not with individual uses of contingency funds. This audit looks at individual contingency transactions.

Contingency logs are maintained for each construction project involving a CM (construction manager) for new schools or comprehensive renovations. A log consists of a listing of each contingency use during the life of a project with a running balance of remaining contingency funds. Contingency funds are tracked separately for the owner and for the CM. Each use of contingency has documentation regarding its justification, approval and cost support as well as a categorization of the nature of the item. The categories used most commonly are: A/E error, A/E omission, owner request, unforeseen condition, BCCO, and scope requirement.

Facilities Services' Policy and Procedure Manual CP220 describes the contingency use policy and process.

CONTINGENCY LOG AUDIT

OBJECTIVES, SCOPE AND METHODOLOGY

OBJECTIVES:

The objective of this audit was to ascertain the criteria for use and the charges against contingency funds. We reviewed and verified residual balances and the categories of usage, fund availability and budget. The reasonableness, accuracy and compliance with contract terms were also evaluated.

SCOPE:

The audit scope included projects that were completed and/or closed-out in 2010.

METHODOLOGY:

Project documentation was reviewed for the selected jobs and an analysis of the data was made to provide information about fund usage.

FINDINGS AND RECOMMENDATIONS

Charges for Contingency Items

The costing of contingency log items was not always in conformity with the contract documents. We noted the following exceptions:

- The CM marked-up the quote
- Average wages were charged instead of actual wages
- Subcontractor wages for personnel not working at the job site were charged to the project

Charges that do not comply with contract documents may result in excess costs to the district and these excess costs may be compounded if they are subject to additional CM or subcontractor fees and mark-up.

Recommendation

The CM and OCPS representatives should verify that charges to contingency funds agree with the contract terms before approving them.

Backup Documentation Errors

There were mathematical errors in the back-up documentation that supported the quotations. These mathematical errors resulted in overcharges for some contingency items. Supporting documentation should be checked for accuracy and reviewed for overall reasonableness. Overcharges may cause cost overruns on projects.

Recommendation

The contingency log items should be verified for reasonableness, price and mathematical accuracy.

A/E Approvals Missing

In several instances, the A/E review of the request for contingency fund usage was not evident. The contingency use process, as spelled out in the Facilities Services - Process and Procedures Manual, CP 220, states the evidence of A/E approval will be forwarded to the Owner Authorized Construction Representative (OACR) before he/she reviews and approves it.

Recommendation

Approval by the A/E should be verified and documented in the project file prior to OACR approval of a request for contingency use.

PLEASE RESPOND IN WRITING TO LINDA J. LINDSEY USING THE AUDIT REPONSE MATRIX FORM WITHIN TEN BUSINESS DAYS FROM THE DATE ON THE FINAL REPORT. PLEASE INDICATE THE STEPS THAT WILL BE TAKEN TO ADDRESS THE ISSUES RAISED IN THE AUDIT.

AUDIT RESPONSE MATRIX FISCAL PERIOD: _____

DEPARTMENT/SCHOOL:	Facilities Construction
ADMINISTRATOR/PRINCIPAL:	Jeff Hart
DEPARTMENT HEAD/AREA SUPERINTENDENT:	John Morris

Exception Noted What is? What should be?	Management Response What needs to be done?	Responsible Person Who needs to do it?	Outcome Timeline When will the action be completed? What is the evidence of completion?
1. CHARGES FOR CONTINGENCY ITEMS: **a. The CM marked-up the quote.**	**Although no specific instances were given where additional CM "Fee" was added, the audit identified instances where either Bond or Subguard was added by the CM to the cost of work.**	**Marc Clinch and Mark Lockard**	**Subcontract Bond is covered under Section 5.A.5 in the CM Contract as "Miscellaneous Costs". By the contract provisions, additional Bond or Subguard when authorized in the GMP, are allowable costs for added scope from contingencies and/or Change Orders. OACRs are to ensure proper Bond and Subguard rates are being charged.**
b. Average Wages were charged instead of actual wages.	**Contingency Request #22 for Conway MS had Simcon Construction charging the same rate for the Foreman as the other labor categories. This rate was very low ($15.53 per hour) and well below prevailing wages, so it was accepted as cost of the work.**	**Marc Clinch and Mark Lockard**	**Labor rates are reviewed by the Architect of Record, the OACR, and the corresponding OCPS Facilities Director for reasonableness compared to industry standards, or as otherwise allowed in the contract.**

Exception Noted What is? What should be?	Management Response What needs to be done?	Responsible Person Who needs to do it?	Outcome Timeline When will the action be completed? What is the evidence of completion?
c. Subcontractor wages for personnel not working at the job site were charged to the project.	**Contingency Request #2 at Piedmont Lakes MS included costs from the Mechanical Subcontractor, S.I. Goldman Company, to produce CADD drawings for the re-configured Central Energy Plant when it was discovered that the new chillers would not fit as designed by the Mechanical Engineer of Record. These drawings were required for modifying the layout of the associated scope of work, for inspection purposes, as well as, documentation of the As-built condition.**	**Marc Clinch and Mark Lockard**	**Costs for Subcontractor-furnished engineering or CADD drawings are a typical and necessary part of any new or comprehensive project, and are usually carried in the subcontractor scope of work schedule of values. Since this was a change, it was addressed by a Contingency Request. In the future, this type of work should be generated by the project's A/E of Record, and be captured in a Change Order, since there was a significant alteration in the layout of the work.**
2. BACKUP DOCUMENTATION ERRORS: **a. There were mathematical errors in the back-up documentation that supported the quotations. Supporting documentation should be checked for accuracy and reviewed for overall reasonableness. Overcharges may cause cost overruns on projects.**	**No specific instances of mathematical errors were provided in the audit materials; however, numerous instances were cited where the allowed 10% mark-up on overhead and profit was applied to a sub-tier subcontractor, and then again applied in the parent subcontractor's quotation. Under "Changes in the Work" in section 12.4 of the CM contract**	**Marc Clinch and Mark Lockard**	**Follow contract provisions.**

	Appendix, the language allows for a 10% mark-up for each subcontractor and sub-subcontractor for all overhead and profit on their direct labor, material, and equipment cost.		
3. A/E APPROVALS MISSING: **a. In several instances, the A/E review of the request for contingency fund usage was not evident.**	**No specific instances were provided in the audit report. It is our policy to require the A/E to review and make recommendations on the validity and cost for work proposed to be done through a Contingency Request. There may have been some clerical error which failed to maintain the review letters with the Contingency Request packages.**	**Marc Clinch and Mark Lockard**	**As a confirmation measure, a new Contingency Request Checklist CP542a will be included as part of our Facilities Policy and Procedure Manual. This new checklist will include line items for the inclusion of the Architect's Review and Approval cover letter on all future contingency packages, and a line item reinforcing the need to check the packages for mathematical errors.**