November 2011

SPECIAL REQUEST REPORT ON MWH CONTRACTING RISKS

Special Request Results

Why We Did This Report

This memo responds to a request from Council Member Spelman to review the July 2006 Cape Coral Utilities Expansion report issued by Kessler International and determine whether contracting issues raised in that report might be of concern for the City of Austin.

What We Did

To conduct this work, we examined the findings from the Kessler report; reviewed the contract between the City of Austin and MWH Constructors, the main contractor for Water Treatment Plant #4; interviewed City staff with oversight responsibilities over the Water Treatment Plant #4 project; and reviewed limited documentation.

For more information on this or any of our reports, email oca_auditor@austintexas.gov

Mayor and Council,

I am pleased to present this second special request report on MWH Contracting Risks.

Background

The July 2006 Cape Coral Utilities Expansion report identified several weaknesses in the City of Cape Coral's control environment over its Utilities Expansion Project. The Cape Coral report focused on project management by MWH Inc., the same contractor used by the City of Austin for the Water Treatment Plant #4 (WTP #4) project.

The WTP #4 project is managed by Public Works Department (PWD), in collaboration with the Austin Water Utility (AWU) and the Contract Management Department (CMD).

What We Found

Based on discussions with City of Austin staff who have oversight responsibilities over the WTP #4 project, the City of Austin has controls in place for mitigating the major risks identified in the City of Cape Coral report. However, more audit work would be needed to determine whether these controls are working effectively.

Controls in place in Austin include:

- a process for reviewing subcontractors' compliance with established requirements;
- a process for reviewing MWH's bidding procurement practices;
- a review of the cost estimates submitted by MWH; and
- a process for reviewing MWH's monthly invoices.

Appendix A summarizes the risk areas from the City of Cape Coral report and the respective controls established in the City of Austin.

Kenneth J. Mory, City Auditor

APPENDIX A

Summary of Controls Related to Water Treatment Plant #4 Contract

#	Risk areas from the City of Cape Coral report	Mitigating controls in the City of Austin
1	Selection of subcontractors did not ensure that subcontractors met contractual requirements, such as requirements for insurance and bonding or the requirement to be registered with City and licensed.	MWH has the primary responsibility of selecting and monitoring subcontractors. However, the City has designed a process to verify that subcontractors are meeting applicable contractual requirements. For example, based on the established process, City staff reviews subcontractors bid packages prior to MWH's officially advertising for bids/proposals, participates in bid opening meetings, and reviews bid documents submitted by subcontractors. [OCA reviewed the "GMP review process" document, and interviewed City staff.]
2	Selection of subcontractors was not performed in accordance with State and contractual procurement requirements.	MWH has the primary responsibility of selecting and monitoring subcontractors. However, in addition to spelling out desired subcontracting requirements in the agreement with MWH, the City has established a process to verify that MWH bids work in accordance with State and contractual requirements. For example, the City approved MWH's procurement plan, which lays out MWH's bidding process, including advertising strategies. Also, City staff reviews the work package for selected subcontracts and monitors subcontractors' MBE/WBE participation. [OCA reviewed the COA's agreement with MWH; obtained MWH procurement plan; and interviewed City staff.]
3	Cost estimates provided by MWH did not receive adequate level of review to ensure reasonableness and accuracy.	The agreement between the City and MWH assigns the City the responsibility of reviewing and approving cost estimates submitted by MWH. Per City staff, this review includes comparing MWH estimates to the estimates developed by the City's Project Advisor Engineer; also, project management reviews estimates for reasonableness and accuracy. [OCA reviewed the COA's agreement with MWH, and interviewed City staff.]
4	Contractor invoices were not properly reviewed to verify that costs were in accordance with contractual terms, such as wage rates and payroll requirements.	The City has established a process for multiple reviews of MWH's monthly invoices. The invoices are reviewed for accuracy, completeness, and reasonableness. This process includes a review by PWD and AWU project management, and accounting staff in PWD, to ensure that: the work for which the invoice was submitted was actually performed; the quality of work was acceptable; and that the invoiced amount is reasonable and supported by the appropriate documentation. [OCA reviewed the COA's agreement with MWH, a flowchart of the invoice review process, and an example of invoice sheet review; and interviewed City staff.]
5	Poor record keeping practices around timesheets and costs supporting documentation.	The monthly invoice review process described above includes a verification of the existence of adequate supporting documentation.

SOURCE: OCA Analysis of the City of Cape Coral report, interviews with WTP#4 Project Management staff, and review of process documentation.