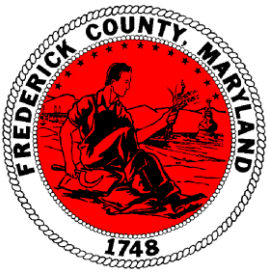


**FREDERICK COUNTY
INTERAGENCY INTERNAL AUDIT AUTHORITY**

**FOLLOW-UP TO REPORT NO. 09-07
FREDERICK COUNTY DIVISION OF PUBLIC WORKS
CHANGE ORDER PROCESS
ISSUED FEBRUARY 18, 2009**

**REPORT # 10-C
APRIL 21, 2010**





INTERAGENCY INTERNAL AUDIT AUTHORITY INTERNAL AUDIT DIVISION FREDERICK COUNTY, MARYLAND

COUNTY GOVERNMENT PUBLIC SCHOOLS COMMUNITY COLLEGE

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MEMORANDUM

To: Al Hudak, Director, Division of Public Works

From: Richard A. Kaplan
Director, Internal Audit Division

Date: April 21, 2010

We have completed our follow-up review of the outstanding recommendations from the Frederick County Division of Public Works Change Order Process, Audit Report No. 09-07, issued February 18, 2009. On September 15, 2009, the Director of the Division of Public Works (DPW) provided a written response that described the actions DPW took to address our recommendations. However, the Purchasing Director needed additional time to gather information regarding actions taken by the Consultant Responsibility Board (CRB) to address our recommendations. On March 22, 2010, the Director of Purchasing provided a written response that described such actions. We found that Recommendations 1(b) and 2 have been implemented and no further action is needed. Recommendation 1(a) regarding the revised CRB policy needs Board of County Commissioner (BoCC) approval to be implemented.

Recommendation 1(a): The Division of Public Works (DPW) should review the A/E Responsibility Review Board Policy established in 1993 and the updated draft policy from 2002 in conjunction with the Purchasing Department, DUSWM, and the County Attorney's Office and submit a revised policy to the County Manager for approval and implementation. In our opinion, the policy should require that an A/E Responsibility Review Board meet and make a final decision on A/E liability if the A/E liability is over an established dollar amount, taking into consideration costs for pursuing cost recovery.

DPW reviewed the A/E Responsibility Review Board Policy, also known as the Consultant Responsibility Board (CRB) Policy. DPW, in conjunction with the Purchasing Director and the other members of the CRB, updated the policy. The policy now establishes a specific dollar limit for error and/or omission change orders that the CRB should review and recommend whether or not to pursue compensation from the Architect/ Engineer (A/E). The CRB is required to document their final decision on cost recovery. The policy establishes a dollar limit of \$10,000 for projects with an original contract value of \$500,000 or less. For projects with an original contract value of over \$500,000, it establishes a threshold of .5% of the contract value for linear projects and .75% for vertical projects. The Purchasing Director, upon consultation with the County Attorney's Office, plans to take the revised CRB policy to the BoCC for final approval before it is implemented.

The Frederick County Change Order Policy was also revised to reflect the new thresholds for error and/or omission change orders. This policy was approved by the appropriate authority and signed by the Purchasing Director on December 14, 2009.

Recommendation 1(b): DPW should review change orders that involve A/E errors and/or omissions above the established dollar limit and, after consultation with the A/E Responsibility Review Board, (1) document decisions not to pursue cost recovery, or (2) aggressively pursue recovery of costs and collect amounts due. Such decisions to pursue cost recovery should be made and documented in a timely manner due to the 3-year statute of limitations on such contracts.

For every error and/or omission change order, the DPW project managers now document the reason for the error and/or omission and recommend whether or not to pursue cost recovery. DPW also prepares a Monthly Change Order Report and submits it to the CRB. The CRB reviews the total error and/or omissions by project to determine if any projects have change orders exceeding the newly established thresholds. The CRB's decision on cost recovery for those projects exceeding the thresholds are documented in the meeting minutes. The CRB reviewed the error and/or omission change orders noted in the February 18, 2009 audit report and decided not to pursue damages. In addition, there have not been any projects since the February 2009 audit in which the CRB has decided to pursue costs from an A/E.

Recommendation 2: DPW, in conjunction with the Purchasing Department, should revise the County Change Order Policy to specify what should be included as supporting documentation to ensure that change order costs are supported and reasonable.

DPW, in conjunction with the Purchasing Director, the CRB, and the Consultant Selection Committee revised the Frederick County Change Order Policy specifying that change order backup should include Contractors/Consultants labor costs, Subcontractor/Subconsultant labor costs (if applicable), equipment & material costs, and appropriate mark up. Labor costs should include hourly rate, labor burden, and estimated hours.

If you need further information regarding this follow-up, please call me at (301) 600-1675, or Kelly Hammond at (301) 600-2912.

Interagency Internal Audit Authority

Interagency Internal Audit Authority

pc: Harold Good, Director, Purchasing Department
Charles Nipe, Department Head, Construction Management & Inspection
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Thomas Meunier, Department Head, Highways & Transportation
Kelly Hammond, Audit Manager, Internal Audit Division
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