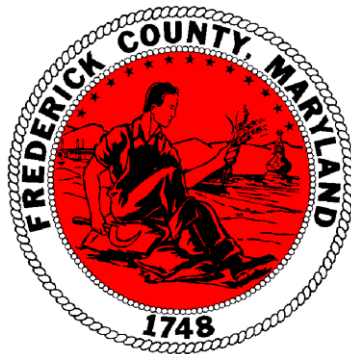
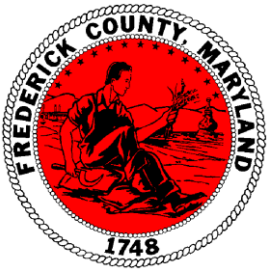


**FREDERICK COUNTY GOVERNMENT
INTERAGENCY INTERNAL AUDIT AUTHORITY**

**FOLLOW-UP TO REPORT #11-04
FREDERICK COUNTY PUBLIC SCHOOLS
CAPITAL CONSTRUCTION MANAGEMENT, PHASE I**

**REPORT #12-09
MARCH 21, 2012**





**INTERAGENCY INTERNAL AUDIT AUTHORITY
INTERNAL AUDIT DIVISION
FREDERICK COUNTY, MARYLAND**

COUNTY GOVERNMENT PUBLIC SCHOOLS COMMUNITY COLLEGE
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MEMORANDUM

COMMISSIONERS

Blaine R. Young
President

C. Paul Smith
Vice President

Billy Shreve

David P. Gray

Kirby Delauter

To: Ray Barnes
Executive Director, Facilities Services
Frederick County Public Schools

From: Richard A. Kaplan
Director, Internal Audit Division

Date: March 21, 2012

Subject: Follow-Up Review of Report #11-04 FCPS Construction Management Phase I

COUNTY MANAGER

David B. Dunn

We have completed our follow-up review of the open recommendations from Report No. 11-04, issued June 15, 2011, on FCPS Construction Management Phase I. The work performed in this review did not constitute an audit that would have required compliance with *Government Auditing Standards*.

CAE/DIRECTOR

Richard A. Kaplan

We reviewed your February 8, 2012 response (see attached) and are pleased that you have implemented many of the recommendations and have recovered \$22,897. Based on your response and the documentation provided, no further action is needed on the recommendations except Recommendations #4b, 6, and 10. These recommendations will remain open since actions to implement them are still ongoing. When the recommendations have been fully implemented, please provide us copies of supporting documents so that we can close them.

If you need further information regarding this follow-up, please contact me at (301) 600-1675.

Interagency Internal Audit Authority

Interagency Internal Audit Authority

Attachment

pc: BOE Members
Leslie Pellegrino, Executive Director, Fiscal Services
Joseph Dattoli, Director of Construction Management
Beth Pasierb, Facilities Planner
Amanda Baugher, Senior Accountant
Melissa Rollison, Accountant
Kelly Hammond, Senior Auditor II



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FACILITIES SERVICES DIVISION
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Frederick, MD 21701
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Ray Barnes, Executive Director
ray.barnes@fcps.org

February 8, 2012

To: Richard Kaplan
Director, Frederick County Internal Audit Division

From: Ray Barnes
Executive Director, FCPS Facilities Services Division

Re: Status of Audit Recommendations
Report #11-04, FCPS Construction Management Phase 1

Cc: Leslie Pellegrino, Executive Director, FCPS Fiscal Services Division
Amanda Baugher, Senior Accountant, FCPS Accounting Department
Joe Dattoli, Director, FCPS Construction Management Department
Beth Pasierb, Facilities Planner, FCPS Facilities Services Division
Melissa Rollison, Accountant, FCPS Accounting Department
Kellie Hammond, Senior Auditor, Frederick County Internal Audit Division

In response to your memo to my office of January 11, 2012, attached is our status report concerning the above referenced audit. For ease of reference, our report is included as additional commentary in our most recent report to you on Phase 1 of this audit dated June 3, 2011.

As noted in our report, we have successfully completed 8 of 10 recommendations included in the audit. The backup attached provides the appropriate documentation in support of our efforts. The remaining two items are in process. These will be completed in the next 60 days. We will update you upon their completion.

We are prepared to provide you further information or answer any questions you have on this subject at your convenience.

FACILITIES SERVICES DIVISION

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Ray Barnes, Executive Director
ray.barnes@fcps.org

ATTACHMENT

June 3, 2011

Richard Kaplan, Director
Internal Audit Division
Frederick County Government
12 E. Church Street
Frederick, MD 21701

Dear Mr. Kaplan:

This letter is in response to the Draft Frederick County Public Schools Construction Management Phase 1 audit report prepared by the Frederick County Internal Audit Division and dated May 11, 2011.

We are pleased that, in general, audit tests indicate that our procedures ensure that amounts charged by contractors for change orders are in compliance with contract terms with only a few minor exceptions associated with equipment rental, overhead and profit. The FCPS Facilities Services Division strives to implement best construction management practices and provide first class stewardship of the taxpayers' money.

We have carefully reviewed your ten recommendations with regard to strengthening our change order procedures and approval process, and offer the following comments:

Recommendation 1: Recover the \$17,900 in equipment overcharges and the remaining \$1,736 in overhead, profit and bond overcharges.

FCPS Response: FCPS agrees. We are in the process of recovering overcharges from all open contracts. This will amount to \$22,897.17. This amount represents overcharges recovered from those contractors in the audit sample as well as additional charges from the non-compliant contractors that were not included in the sample. Recovery from closed contracts is not feasible.

FCPS Status Report 2-8-2012: Completed. The amount noted above has been recovered. Credit Change orders are listed on the attached. (Attachment #1) Copies of the change orders and backup are available upon request.

Recommendation 2: Review additional change orders that were not included in our sample from the non-compliant contractors noted during our audit and recover any additional overcharges relating to equipment and/or overhead, profit and bond.

FCPS Response: FCPS agrees. All additional change orders from the non-compliant contractors have been reviewed. Identified overcharges were recovered and are reflected in the dollar amount included in response to Recommendation 1.

FCPS Status Report 2-8-2012: Completed.

Recommendation 3: In conjunction with their contracted consultants, perform a thorough review of all future change orders ensuring charges are accurate, in accordance with the contract, and required

documentation is included.

FCPS Response: FCPS agrees and will address the issues identified by this audit. We will modify the Change Order cover page to ensure standard submission of information and consistent review of all change orders. The Change Order cover page will be included in all newly executed AIA and CM contracts after January 1, 2012.

FCPS Status Report 2-8-2012: Completed. The modifications to the CO Cover page have been completed and are in use as of 1-1-2012. A copy of the new page is attached. (Attachment #2)

Recommendation 4: Consider amending future contracts to: (a) use national or regional rates, such as the Associated Equipment Distributors (AED) Green Book, for the pricing of equipment charges instead of using Rentals Unlimited rates; and (b) be consistent with FCPS Regulation #200-6 and best practices and require that support for PCOs be itemized, specifically describing the detail to be provided for lump sum change orders.

FCPS Response: FCPS agrees with part (a) of this recommendation. We have purchased the AED Green Book and will modify our standard contract to reference the AED Green Book as well as to better define our allowable costs.

With respect to part (b) of this recommendation, we acknowledge the requirements of Reg. 200-6 and comply with them in nearly every case. However our AIA contracts also allow for negotiated costs for PCO's that must be done quickly in order to protect project schedules and budget and that address a specific indentified problem. In the limited circumstances that PCO's are approved in this way, we do not require detailed descriptions and backup in advance of the work being performed. We will seek to resolve the inconsistency between our contracts and Regulation 200-6 by January 1, 2012.

FCPS Status Report 2-8-2012: Partially completed. Contracts have been modified as of 1-1-2012 to provide for additional sources to use for rental rates. (See Attachment #3). We are in the process of revising Regulation 200-6 to eliminate the inconsistency between it and section 7.3.3.3 of the AIA A-201 contract. We expect to have the revised regulation approved by the end of April 2012. A draft of the revised regulation is attached. (Attachment #4)

Recommendation 5: FCPS Construction Management should require their construction managers to submit the contractors total proposed cost of a project change for review prior to approving any potential changes.

FCPS Response: FCPS agrees. Whenever possible CM's will calculate total costs for a PCO from all contractors prior to approving change orders. We also agree that the FCPS will use the CM estimate based on the contractors total proposed cost when project schedule and cost are primary considerations.

FCPS Status Report 2-8-2012: Completed. These procedures are in place for projects as of 1-1-2012. A copy of the AIA Construction Manager Contract Article 14 Section 4r is attached (Attachment #5)

Recommendation 6: FCPS determine if the "Change Orders to Construction Projects" policy should be revised to include requirements for Board approval based on the total cost of a project change.

FCPS Response: The FCPS Construction Department will consult with our Board of Education by end of calendar year to determine their interest in revising the policy.

FCPS Status Report 2-8-2012: Review of this policy in underway by FCPS Legal Services. Expect to have some direction by the end of March.

Recommendation 7: Strengthen the General Conditions Contract to include a requirement to issue Notices to Proceed.

FCPS Response: FCPS agrees. Current practice is to authorize changes before work begins. This is primarily accomplished by email. We agree that that the current AIA documents need to be strengthened to match current practices. In addition, as provided in #8 below, we will ensure that Notices to Proceed and backup will be filed in the FCPS project files along with the change order. We will modify our current AIA contracts to implement these changes for all newly executed contracts after Jan 1, 2012.

FCPS Status Report 2-8-2012: Completed. AIA contracts have been modified for projects as of 1-1-2012. Attached are Article 7 of the AIA 201 General Contractor contract and Article 7 of the AIA 232 Owner/Prime Contractor contract. (Attachment #6 and #7)

Recommendation 8: Develop a policy to maintain Notices to Proceed by change order and file them so that they are readily available in the event of disputes between FCPS Construction Management and their contractors.

FCPS Response: FCPS agrees. FCPS will improve procedures to ensure that Notice to Proceed documents are filed with the Change Order.

FCPS Status Report 2-8-2012: Completed. FCPS Procedure #42 has been written to match the current practice which is now in effect. (Attachment #8)

Recommendation 9: Develop procedures to consistently classify change orders by type.

FCPS Response: FCPS agrees. FCPS will establish standard change order classifications and include them in all newly executed AIA and CM contracts after January 1, 2012.

FCPS Status Report 2-8-2012: Completed. A procedure has been prepared defining the categories of change orders. These will be consistent from project to project. These categories are now included on the new change order cover document. (Attachment #8)

Recommendation 10: Continue efforts to assess the cost and feasibility of implementing an automated system to help maintain and track project data, including Notices to Proceed and change orders.

FCPS Response: FCPS agrees. We are currently evaluating several software products that will provide an automated process of project management including design review, construction submittal review, PCO and CO review, etc. FCPS will implement the selected software as funding becomes available.

FCPS Status Report 2-8-2012: In Process. The FCPS Construction Management Department is currently piloting two separate products at the Oakdale ES Addition project and the North Frederick ES Replacement School project. An evaluation of each product will be made as experience is gained.

We are available to discuss our responses with you and look forward to the approval of the report by the Interagency Internal Audit Authority.

Sincerely,

“original signed”
Ray Barnes,
Executive Director