

**Follow-up of the Audit
of
Restoration of Correctional
Facilities,
Buildings D, E, and F**

**Report by the
Office of County Comptroller**

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**Report No. 372
May 2006**

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May 8, 2006

Richard T. Crotty, County Mayor
And
Board of County Commissioners

We have conducted a follow-up of the Audit of Restoration of Correctional Facilities, Buildings D, E, and F (Report No. 307). Our original audit included the period of January 1, 1999 to February 29, 2000. We also had reviewed certain transactions up to June 7, 2000. Testing of the status of the previous Recommendations for Improvement was performed for the period October 1, 2004 through June 30, 2005. Our follow-up audit was conducted in accordance with generally accepted government auditing standards and included such tests as we considered necessary in the circumstances.

The accompanying Follow-Up to Previous Recommendations for Improvement presents a summary of the previous conditions and the previous recommendations. Following the recommendations is a summary of the current status as determined in this review. In addition, the Manager of the Purchasing and Contracts Division's response to Recommendation for Improvement No. 9 is included herein.

During our review, we noted that 26 of the 27 applicable recommendations for improvement were fully or partially implemented. **We commend** the Capital Projects Division and the Purchasing and Contracts Division for their efforts. In particular, **we commend** the Capital Projects Division for its implementation of direct purchases. As a result, based upon our review of five projects ranging from \$52 million to \$570,000, the use of direct purchases saved the County approximately \$800,000 in sales taxes. We appreciate the cooperation of the personnel of the Capital Projects, the Purchasing and Contracts and the Business Development divisions during the course of the audit.

Martha O. Haynie, CPA
County Comptroller

c: Ajit Lalchandani, County Administrator
Warren Geltch, Director, Department of Administrative Services
Tony Aguerrevere, Manager, Division of Capital Projects
Johnny M. Richardson, Manager, Purchasing and Contracts Division

**IMPLEMENTATION STATUS OF
PREVIOUS RECOMMENDATIONS
FOR IMPROVEMENT**

**FOLLOW-UP OF THE AUDIT OF RESTORATION OF CORRECTIONAL FACILITIES, BUILDINGS D, E, AND F
STATUS OF PREVIOUS RECOMMENDATIONS FOR IMPROVEMENT**

NO.	PREVIOUS RECOMMENDATION	IMPLEMENTATION STATUS			
		IMPLEMENTED	PARTIALLY IMPLEMENTED	NOT IMPLEMENTED	NOT APPLICABLE
1.	We recommend estimated costs of construction projects are adequately supported. Such support should include written independent comprehensive and detailed cost estimates which should be retained and also used to evaluate lump sum bids and proposed prices for change orders.	✓			
2.	We recommend the Purchasing and Contracts Division ensures whenever the IFB requires a specific line item in the bid for mobilization, the contract includes the following:				
A)	A definition of mobilization and its cost elements to the extent practical;				✓
B)	A stipulation that the contractor must retain adequate documentation to support actual mobilization costs; and				✓
C)	A provision that the County has the option of verifying the reasonableness of actual mobilization costs and adjusting the contract price to reflect the actual cost of mobilization.				✓
3.	We recommend the Purchasing and Contracts Division works with the Department of Capital Projects to develop written guidelines for the use of direct purchases. Such guidelines should indicate when direct purchases are appropriate, require the incorporation of a direct purchase clause in applicable contracts and be incorporated in the Divisions' operating manuals.	✓			

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		IMPLEMENTED	PARTIALLY IMPLEMENTED	NOT IMPLEMENTED	NOT APPLICABLE
4.	We recommend the Purchasing and Contracts Division establishes a written policy for the charging of fees for bid documents including a statement of any organizations that are exempt from such fees.	✓			
5.	We recommend the Purchasing and Contracts Division considers establishing a written policy requiring lump sum bidders to submit a detailed breakdown of their bids to show the individual cost components such as electrical, heating and air conditioning, plumbing, roofing and other types of work as applicable.	✓			
6.	We recommend the Purchasing and Contracts Division ensures contractor's certificates of insurance are obtained and properly filed on a timely basis.	✓			
7.	We recommend the Purchasing and Contracts Division and the Department of Capital Projects work together to determine a consistent approach for the handling of payment and performance bonds for increased work due to change orders. Written guidelines should then be prepared and incorporated in the Divisions' operating manuals.	✓			

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STATUS OF PREVIOUS RECOMMENDATIONS FOR IMPROVEMENT**

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		IMPLEMENTED	PARTIALLY IMPLEMENTED	NOT IMPLEMENTED	NOT APPLICABLE
8.	We recommend the Purchasing and Contracts Division establishes written guidelines for the referral of contract documents to the County Attorney for legal review. Such guidelines should state when a contract should be referred. The scope of work and dollar commitment of the County could be part of the criteria. Also, the written guidelines should prescribe periodic legal review of the boilerplate for IFB instructions and other contract documents.		✓		
9.	We recommend the Purchasing and Contracts Division works with the Department of Capital Projects to develop a more comprehensive audit clause for construction contracts.			✓	
10.	We recommend the language in change order clauses is enhanced to reflect the following:				
A)	The maximum markup percentage for general administration, overhead, and profit is reduced, on a sliding scale, relative to the cost of the change order for high dollar amounts.				✓
B)	The cost of small tools and expendables be specified or included in the markup for general administration, overhead, and profit.		✓		
C)	The labor burden is defined as the contractor's net actual cost after considering payroll tax (FUTA and SUTA) limits, premium discounts, rebates and other appropriate reductions.		✓		

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10. D)	Material costs reflect the contractor's reasonably anticipated net actual cost after consideration of trade discounts and volume rebates.		✓		
11.	We recommend the following:				
A)	The Department of Capital Projects with assistance from the Consulting Engineers perform a detailed comprehensive analysis of the pricing of change orders to ensure that pricing is reasonable and in conformance with the contract provisions. Any computation errors detected should be corrected retroactively.	✓			
B)	The Department of Capital Projects reviews the possible overpayments and requests a credit from the contractor for the amount determined to be excessive payments.	✓			
12.	We recommend the Department of Capital Projects ensures sufficient documentation to support change orders is obtained and reviewed prior to agreeing to a change in the contract amount and then properly filed.	✓			
13.	We recommend the following:				
A)	The Department of Capital Projects works with the Purchasing and Contracts Division to speed up the approval process so that formal change orders showing pricing and scope of work are approved and issued prior to the commencement of changed work.	✓			

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13. B)	Consideration be given to amending the approval process so that approval of funds can be requested from the Board based on estimates of pending change orders in order to eliminate the possibility of halting construction while awaiting approval. This would also prevent frequent requests to the Board for approval of changes involving small amounts.	✓			
C)	In those unusual cases that meet emergency criteria where prior approval is not possible, the Department of Capital Projects' Project Manager should prepare a memo for the file detailing the scope of work, the agreed price, and why it was necessary to proceed without an approved changed order. This information should be provided to the Purchasing and Contracts Division and the Board, as applicable, when formal approval is requested.				✓
14.	We recommend the following:				
A)	The Department of Capital Projects should not issue notice to proceed to contractors for work that needs to be approved by the Board prior to obtaining Board approval.	✓			
B)	The Department of Capital Projects should consider the additional payment of \$21,400 to the subcontractor in its negotiations with the contractor for credit refunds.	✓			

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15.	We recommend the following:				
A)	In situations where additional contracts are given for work on a project, a comparison of the scope of work covered by the contracts should be performed to eliminate possible duplication.				✓
B)	The Department of Capital Projects should meet with the contractor and request a refund for any overpayments made as a result of the duplication of scope.	✓			
16.	We recommend the Department of Capital Projects ensures compliance with the terms of the contract for retainage.	✓			
17.	We recommend the Department of Capital Projects ensures the contractor complies with the terms of the contract and provides adequate supporting documents for materials stored on site before approving applications for payment.		✓		
18.	We recommend the following:				
A)	For future Consulting Engineering contracts, the method of progress payments (with respect to inspection and technical services relating to construction work performed) should not be based upon the amount of construction work that is completed and approved. Instead, payments should be based upon the performance of the Consultant.	✓			

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18. B)	Any changes made to the method of payment specified in a contract should be done only through a written amendment to the contract.				✓
19.	We Recommend the following:				
A)	The Department of Capital Projects enters into negotiations with the contractor with a view to recovering some of the costs of the electricity that it used.	✓			
B)	The Department of Capital Projects refrains from entering into verbal agreements for trade-offs with contractors and complies with contract requirements to use written change orders.	✓			
20.	We recommend contract language be improved to ensure the County's ownership of salvageable materials is explicitly stated.	✓			
21.	We recommend the Department of Capital Projects ensures all applicable warranties are processed promptly after work is completed.	✓			
22.	We recommend the Business Development Division ensures all purchase orders and contracts issued to M/WBE subcontractors by prime contractors are signed by the prime contractors.	✓			

INTRODUCTION

Scope and Methodology

The audit scope was limited to an examination of the status of the previous Recommendations for Improvement from the Audit of Restoration of Correctional Facilities, Buildings D, E, and F (Report No. 307) dated November 2001. The audit period was October 1, 2004 through June 30, 2005.

To determine the implementation status of the recommendations, we compiled a comprehensive list of projects that had construction activities during the audit period (both ongoing and closed-out).

Based on the comprehensive list, we judgmentally selected three projects for review. In selecting these projects, we considered the following:

- One project that was started during the audit period;
- One project that was closed-out during the audit period; and,
- One project that had construction activities during the entire audit period.

We reviewed the projects to determine the implementation status of each recommendation. In our review, we considered the recommendations made by the Work Group that was established by the County Mayor after the initial audit.

For those recommendations that were primarily related to the Capital Projects Division (Capital Projects), and based upon the sample selected, we performed the following:

- Verified that the estimated costs of the construction projects were adequately supported by the County's independent cost estimates;
- Verified from the project files that appropriate steps had been taken to recover possible overpayments identified in the original audit;

- Selected the most recently approved change order for each project and checked that the pricing was adequately reviewed for reasonableness and conformance with contract provisions, that there was adequate supporting documentation, and that the change orders were prepared and approved in a timely manner;
- Verified notices to proceed were not issued until the contracts were approved by the Board and the contract documents were properly executed;
- Confirmed that if additional contracts were issued no duplication of scope occurred;
- Obtained the most recently approved pay request for each project to verify that retainage was being paid in accordance with contract terms and stored materials were adequately supported;
- Reviewed the most recent pay request for the consulting engineers associated with the projects in the sample and verified compliance with contract terms;
- Scanned project minutes and other correspondence and interviewed project managers to check if verbal arrangements were being made for changes in scope of work or terms of the contract; and,
- For the project that had been completed, we verified that warranties were processed promptly during the closeout procedures.

For those recommendations that were primarily related to the Purchasing and Contracts Division (Purchasing), we performed the following:

- Verified that mobilization was not included as a line item in lump sum contracts or, if included, we checked that it was defined and auditable;

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- Verified that written guidelines were developed for direct purchases and, if applicable, used for the sampled projects;
- Verified that written policy and procedures were developed for bid document fees, the handling of performance bonds, and review of contract boilerplates;
- Verified that a more comprehensive construction audit clause was developed and in use; and,
- Reviewed the contract change order clause for adequate guidelines in handling small tools and expendables, labor burden and material costs.

For the recommendation that was primarily related to the Business Development Division (BDD), we reviewed files at the BDD and verified that purchase orders and contracts issued to minority and women subcontractors were signed by the prime contractors for the sampled projects.

**FOLLOW-UP TO PREVIOUS
RECOMMENDATIONS FOR
IMPROVEMENT**



1. The Estimated Cost of Construction Projects Should Be Adequately Supported

During the previous audit, we had noted that the County could not provide any documentation to support the \$12 million estimated cost that was published in the Notice of Invitation for Bid for the project.

We Recommend estimated costs of construction projects are adequately supported. Such support should include written independent comprehensive and detailed cost estimates which should be retained and also used to evaluate lump sum bids and proposed prices for change orders.

Status:

Implemented. Independent and comprehensive detailed cost estimates were located in the project files for the sample of three projects that were reviewed.

2. The Contract Language for Mobilization Should Be Revised

During the previous audit, we noted the amount paid by the County for mobilization may have been substantially overstated. In addition, the contract documents did not include a definition, or a description of mobilization costs. The successful bidder included in its lump sum bid of \$11.9 million a line item of \$220,000 for mobilization.

We Recommend the Purchasing and Contracts Division ensures whenever the Invitation for Bid (IFB) requires a specific line item in the bid for mobilization, the contract includes the following:

- A) A definition of mobilization and its cost elements to the extent practical;

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- B) A stipulation that the contractor must retain adequate documentation to support actual mobilization costs; and,
- C) A provision that the County has the option of verifying the reasonableness of actual mobilization costs and adjusting the contract price to reflect the actual cost of mobilization.

Status:

- A) Not Applicable. The IFB for the three projects reviewed did not contain a specific line item for mobilization. We were informed that a specific line item for mobilization is no longer utilized in lump sum contracts.
- B) Not Applicable. Mobilization was not included as a line item.
- C) Not Applicable. Mobilization was not included as a line item.

3. Written Guidelines Should Be Established for the Use of Direct Purchases

During the previous audit, the County did not use direct purchases to acquire any of the materials used on the project. Based upon the schedule of values, approximately eight million of the original \$11,917,000 contract was for materials. As a result, approximately \$480,000 of the contract represents payment of sales taxes.

We Recommend the Purchasing and Contracts Division works with the Department of Capital Projects to develop written guidelines for the use of direct purchases. Such guidelines should indicate when direct purchases are appropriate, require the incorporation of a direct purchase clause in applicable contracts and be incorporated in the Divisions' operating manuals.



Status:

Implemented. The County Mayor established a work group to review direct purchasing procedures of the County. The work group established guidelines for the use of direct purchases. Purchasing then prepared further written guidelines and included appropriate language for use in the IFB boilerplate. A review of five construction projects confirmed the implementation of the written guidelines. In addition, we noted that Capital Projects went beyond the established guidelines and successfully applied direct purchases to contracts as small as \$570,000 (the guidelines only required it be considered for contracts in excess of \$10 million). As a result, the County saved approximately \$800,000 of sales taxes from these five projects.

4. The Purchasing and Contracts Division Should Establish a Written Policy for the Charging of Fees for Bid Documents

During the previous audit, we noted that not all organizations that obtained bid documents, plans, and specifications for the Restoration of Correctional Facilities, Buildings D, E and F paid the fee of \$150 for the documents.

We Recommend the Purchasing and Contracts Division establishes a written policy for the charging of fees for bid documents including a statement of any organizations that are exempt from such fees.

Status:

Implemented. We found that the Purchasing and Contracts Division issued an interoffice memo stating that project managers are required to provide an estimate of the costs that should be charged for plans and specifications. In addition, the memo specifies what organizations are exempt from the fees.



5. Consideration Should Be Given to Requiring Lump Sum Bidders to Submit a Detailed Breakdown of their Bids to Show the Individual Cost Components

During the previous audit, we were informed that bidders are not required to break down their bids by the various cost components of a project. Instead, bidders are asked to present their bids as a lump sum total. For the contract reviewed, bidders were asked to present their bids as a total cost for each of the three buildings being restored plus an amount for mobilization costs and two alternative items.

We Recommend the Purchasing and Contracts Division considers establishing a written policy requiring lump sum bidders to submit a detailed breakdown of their bids to show the individual cost components such as electrical, heating and air conditioning, plumbing, roofing and other types of work as applicable.

Status:

Implemented. The work group considered the recommendation and concluded that it was not practical to require bidders to include detailed breakdown of their lump sum bids. We accept this as a reasonable attempt by the County to implement our recommendation.

6. The Purchasing and Contracts Division Should Ensure Contractor's Certificates of Insurance Are Obtained and Properly Filed on a Timely Basis

During the previous audit, we noted that a copy of the January 1, 1999 to December 31, 1999 liability insurance certificate for the primary contractor could not be located by the Purchasing and Contracts Division.

We Recommend the Purchasing and Contracts Division ensures that contractor's certificates of insurance are obtained and properly filed on a timely basis.



Status:

Implemented. We found that the project files for all three of the projects reviewed contained contractor's certificates of insurance.

7. A Consistent Approach for the Handling of Payment and Performance Bonds to Cover Change Orders Should Be Determined

During the previous audit, the County paid the contractor \$4,780 for premiums on payment and performance bonds for change orders Nos. 1-9 that totaled \$802,378. However, no additional bond coverage was obtained for the amount paid at that time. Also, the County could not provide a written policy detailing a method for handling the additional bond coverage for change orders.

We Recommend the Purchasing and Contracts Division and the Department of Capital Projects work together to determine a consistent approach for the handling of payment and performance bonds for increased work due to change orders. Written guidelines should then be prepared and incorporated in the Divisions' operating manuals.

Status:

Implemented. Additional language was included in the Payment and Performance Bond boilerplates. This language adequately defines the payment of performance bonds for increased work.

8. Written Guidelines for Legal Review of Contracts Should Be Established

During the previous audit, we noted the Purchasing and Contracts Division did not refer the contract documents for the County's \$11.9 million construction contract to the County Attorney for review. Also, for the past several years,



according to the Purchasing and Contracts Division, the boilerplate used to prepare the IFB instructions and the contract had not been referred to the County Attorney for review.

We Recommend the Purchasing and Contracts Division establishes written guidelines for the referral of contract documents to the County Attorney for legal review. Such guidelines should state when a contract should be referred. The scope of work and dollar commitment of the County could be part of the criteria. Also, the written guidelines should prescribe periodic legal review of the boilerplate for IFB instructions and other contract documents.

Status:

Partially Implemented: According to the Division, contract boilerplates are being submitted periodically to the County Attorney's Office for review. However, we note that written guidelines have not yet been developed.

We Again Recommend the Purchasing and Contracts Division establishes written guidelines for the referral of contract documents to the County Attorney for legal review. Such guidelines should state when a contract should be referred. The scope of work and dollar commitment of the County could be part of the criteria. Also, the written guidelines should prescribe periodic legal review of the boilerplate for IFB instructions and other contract documents.

9. The Audit Clause in the Agreements Should Be Strengthened

During the previous audit, we noted the audit clause in the County's contracts with the consulting engineers and the primary contractor needed additional language. These audit clauses did not provide access to all related records and personnel, and the flow-down of requirements to payees, material suppliers, subcontractors and sub-subcontractors.

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In addition, the language did not cover audit resolution issues such as reimbursements of overpayments, overcharges, and audit costs if overpricing and/or overcharges exceed an agreed upon percent (for example, one percent) of the total contract billings as a result of an audit.

We Recommend the Purchasing and Contracts Division works with the Department of Capital Projects to develop a more comprehensive audit clause for construction contracts.

Status:

Not implemented. Purchasing, in cooperation with our Division, developed a more comprehensive audit clause subsequent to the audit; however, this clause was not put in use. Our follow-up review showed that the same audit clause noted in the contracts reviewed during the previous audit was included in the three contracts reviewed in this audit.

We Again Recommend the Purchasing and Contracts Division works with the Department of Capital Projects to develop a more comprehensive audit clause for construction contracts.

Management's Response:

Please be advised that we requested and obtained assistance from the Audit Division to develop an audit clause acceptable to both organizations. However, instead of a single clause, the Audit Division developed separate audit clauses for the following categories of contracts:

- A) Construction
- B) Professional Services (Architect-Engineer)
- C) Not-for-Profit
- D) Purchase orders
- E) Term Contracts
- F) Single Award Contracts



These Clauses have been reviewed and have been implemented substantially as developed by the Audit Division. We appreciate the assistance received from the Audit Division to address this matter.

10. The Change Order Clause Should Be Enhanced

The previous audit reported that the change order clause in the contract should be strengthened to assist the County in negotiating a reasonable amount for pricing change orders. The areas noted were as follows:

- A) The change order clause prescribed a set of fixed percentages that could be added to the cost to cover general administration, overhead and profit. However, these percentages were not reduced relative to the cost of the changed work.
- B) The change order clause was silent regarding the cost of small tools and expendables.
- C) The section of the clause covering payroll taxes and other items generally referred to as labor burden was not sufficiently detailed. This clause should specify that the labor burden allowable should be the net actual cost for items such as fringe benefits, insurance and payroll taxes.
- D) The section of the clause covering material costs did not specify that the contractor's costs should be the reasonably anticipated net costs reflecting any cost reductions available to the contractor due to trade discounts and/or volume rebates.

We Recommend the language in change order clauses is enhanced to reflect the following:

- A) The maximum markup percentage for general administration, overhead, and profit is reduced, on a

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sliding scale, relative to the cost of the change order for high dollar amounts.

- B) The cost of small tools and expendables be specified or included in the markup for general administration, overhead, and profit.
- C) The labor burden is defined as the contractor's net actual cost after considering payroll tax (FUTA and SUTA) limits, premium discounts, rebates and other appropriate reductions.
- D) Material costs reflect the contractor's reasonably anticipated net actual cost after consideration of trade discounts and volume rebates.

Status:

Partially implemented. The work group reviewed this recommendation and concluded that a sliding scale for markups for G/A, Overhead and Profit was not feasible. We accept this as a reasonable attempt by the County to implement our recommendation. In addition, the work group also concluded that small tools, expendables, labor burden, and material costs should be defined in the contract and included in negotiations of change orders where possible and should be handled consistently from contract to contract. However, these items were not defined nor adequately addressed in the three contracts reviewed.

We Recommend the County implements the recommendations as finalized by the work group.

11. The Pricing of Change Orders Should Comply with the Provisions of the Contract

Our previous audit noted that several change orders were processed incorrectly. Errors relating to overhead and profit charged by the prime contractor (for work performed by subcontractors) and for work performed by the prime



contractor were noted. In addition, charges for small tools and expendables were noted on the invoices. Small tools and expendables should be included in indirect expenses or negotiated and specifically stated in the contract if computed separately. As a result, the County could have overpaid the contractor up to \$24,507.

We Recommend the following:

- A) The Department of Capital Projects with assistance from the Consulting Engineers perform a detailed comprehensive analysis of the pricing of change orders to ensure that pricing is reasonable and in conformance with the contract provisions. Any computation errors detected should be corrected retroactively.
- B) The Department of Capital Projects reviews the possible overpayments and requests a credit from the contractor for the amount determined to be excessive payments.

Status:

- A) Implemented. A review of a sample of change orders issued for three projects showed adequate analysis and review to ensure that pricing was reasonable. Also, no computation errors were noted.
- B) Implemented: Our review showed that the County negotiated with the contractor and collected some of the overpayments noted in the previous audit.

12. Adequate Documentation Should Be Maintained to Support Change Orders

The previous audit noted that the County did not have adequate documentation to support three change orders totaling in excess of \$71,000. In addition, the support could not be provided by the contractor.



We Recommend the Department of Capital Projects ensures sufficient documentation to support change orders is obtained and reviewed prior to agreeing to a change in the contract amount and then properly filed.

Status:

Implemented. Our review of the change orders relating to the three projects in our sample showed that adequate supporting documentation was obtained in each instance.

13. The Approval Process for Change Orders Should Be Improved

As shown below, our previous audit revealed that changed work was performed without approval from the Purchasing and Contracts Division and the Board of County Commissioners (Board) prior to the work being performed.

- A) Work amounting to \$46,813 or 54 percent of the work covered by change order No. 2 was completed and billed prior to the issuance of the formal change order.
- B) Change order No. 8 included twenty-two changes ranging in price from a decrease (credit) of \$8,895 to an increase of \$58,334. Change order No. 8 required Board approval because total changed work had exceeded five percent of the original contract. However, some of the changed work in change order No. 8 had already been done and paid for before approval was requested from the Board.

We Recommend the following:

- A) The Department of Capital Projects works with the Purchasing and Contracts Division to speed up the approval process so that formal change orders showing pricing and scope of work are approved and issued prior to the commencement of changed work.

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- B) Consideration be given to amending the approval process so that approval of funds can be requested from the Board based on estimates of pending change orders in order to eliminate the possibility of halting construction while awaiting approval. This would also prevent frequent requests to the Board for approval of changes involving small amounts.
- C) In those unusual cases that meet emergency criteria where prior approval is not possible, the Department of Capital Projects' Project Manager should prepare a memo for the file detailing the scope of work, the agreed price, and why it was necessary to proceed without an approved change order. This information should be provided to the Purchasing and Contracts Division and the Board, as applicable, when formal approval is requested.

Status:

- A) Implemented. Change orders reviewed in this follow-up audit were approved in a timely manner.
- B) Implemented: The work group reviewed this recommendation and made revisions to procedures that existed at the time of our audit to correct the deficiencies noted.
- C) Not Applicable. In those unusual cases that a change order meets the emergency criteria that affect the Critical path, County policy now allows the Division to proceed with the work without PCD's approval; but requires the Division to submit the necessary change order paper work to PCD for approval within 30 days. We consider this new policy to be reasonable and an adequate substitute for our recommendation. During our review, we did not note any instances within our samples that utilized the emergency change order procedures.



14. Notice to Proceed Should Not Be Issued for Sole Source Work Prior to Approval

The previous audit noted that the County issued a sole source purchase order for \$335,409 to the contractor to replace the roofs of Buildings E and F. However, the Department of Capital Projects improperly authorized the commencement of the work prior to authorization by the Board. In addition, the County paid an additional \$21,400 for overhead and profit as a result of the scope of work being handled as a separate purchase order instead of a change order.

We Recommend the following:

- A) The Department of Capital Projects should not issue notice to proceed to contractors for work that needs to be approved by the Board prior to obtaining Board approval.
- B) The Department of Capital Projects should consider the additional payment of \$21,400 to the subcontractor in its negotiations with the contractor for credit refunds.

Status:

- A) Implemented: Our follow-up review showed that notices to proceed for the three projects in our sample were issued after the contracts were approved by the Board and contract documents properly executed.
- B) Implemented. After consideration, the Division determined that since this was a separate contract (sole source purchase order), they did not have the justification for requesting a refund.



15. The Scope of Work Covered in Related Contracts Should Not Be Duplicated

During our previous review, we noted that certain scopes of work for repairs to the roof and lightning protection system for Buildings E and F that were included in the original contract for \$11.9 million dollars could have been duplicated under the separate purchase order for the installation of new roofs on the same buildings.

We Recommend the following:

- A) In situations where additional contracts are given for work on a project, a comparison of the scope of work covered by the contracts should be performed to eliminate possible duplication.
- B) The Department of Capital Projects should meet with the contractor and request a refund for any overpayments made as a result of the duplication of scope.

Status:

- A) Not applicable. We did not note any contracts for additional work (outside scope of original contract) during our review.
- B) Implemented. The Division negotiated with the contractor and obtained a refund of \$6,700 for some of the scope duplication.

16. The Department of Capital Projects Should Ensure Compliance with Contract Provisions for Retainage

The previous audit reported that an incorrect rate was used to compute retainage for the months of July, August, and September 1999 for Building D. The contractor reduced the



rate of retainage from 10 percent to five percent and then to one percent.

We Recommend the Department of Capital Projects ensures compliance with the terms of the contract for retainage.

Status:

Implemented: The correct rate was used to calculate retainage for the three projects reviewed.

17. Adequate Supporting Documents Should Be Obtained Before Applications for Payment (Containing Materials Stored on Site) Are Approved

Our previous audit noted the following from the review of supporting documents provided by the Contractor for a sample of payments for materials stored on site:

- There was no detailed itemized listing of the material stored at the site.
- There was no receiving report or other documentation to show that the materials were received at the site.
- There were no invoices to support \$364,335 (40 percent) of the \$916,498 cost of the materials claimed to have been delivered and stored on the site.

We Recommend the Department of Capital Projects ensures the contractor complies with the terms of the contract and provides adequate supporting documents for materials stored on site before approving applications for payment.



Status:

Partially Implemented. During our testing, we found inadequate supporting documentation for stored materials billed by one contractor. Total stored materials billed were \$191,398; however, there were no invoices or other documentation to support \$59,898 of this amount. The items were described as water play materials.

We Again Recommend the Department of Capital Projects ensures the contractor complies with the terms of the contract and provides adequate supporting documents for materials stored on site before approving applications for payment.

18. Progress Payments for the Consulting Engineers Should Be Based Upon their Performance and Changes Made to the Contract Terms Should Be by Written Amendments

The consulting engineering contract relating to the construction of the Buildings D, E, and, F reviewed during the prior audit required progress payments to be made on a monthly basis proportionate to the percentage of construction work approved by the County. However, this type of consulting contract should not stipulate payments to Consultants be based on work accepted by the County, but consultants should be paid based solely upon work actually performed by them regardless of whether the prime contractors' work is approved by the County. We found during our previous review that the County was paying the consulting engineer equal monthly payments instead of following the contract terms. Although this practice was simpler, the contract should have been formally amended to reflect the change.

We Recommend the following:

- A) For future Consulting Engineering contracts, the method of progress payments (with respect to



inspection and technical services relating to construction work performed) should not be based upon the amount of construction work that is completed and approved. Instead, payments should be based upon the performance of the Consultant.

- B) Any changes made to the method of payment specified in a contract should be done only through a written amendment to the contract.

Status:

- A) Implemented. Our review of payments made against the contracts for consulting engineers associated with the three projects in our sample revealed that payments were made in accordance with the contract terms.
- B) Not applicable. No changes in the method of payment were noted.

19. Reimbursement Should Be Sought for County Power Consumed by the Contractor and Verbal Agreements for Trade-offs Should Not Be Entered Into with Contractors

During our previous review, we noted that the contractor did not reimburse the County for the cost of electricity that it consumed in two forty-foot trailers during the construction period of approximately twenty-seven months. Also, the Department of Capital Projects had verbally agreed that the contractor could use County electric power free of charge at the trailers during the restoration of buildings F and E in exchange for the installation of fencing and access improvements to the rear of Buildings D, E, and F where the trailers were located.



We Recommend the following:

- A) The Department of Capital Projects enters into negotiations with the contractor with a view to recovering some of the costs of the electricity that it used.
- B) The Department of Capital Projects refrains from entering into verbal agreements for trade-offs with contractors and complies with contract requirements to use written change orders.

Status:

- A) Implemented. The Division negotiated with the contractor and recovered some (\$800) of the cost for the electricity used.
- B) Implemented. No verbal agreements were noted during our review of the three projects in our sample.

20. Contract Language with Respect to the County's Ownership of Salvageable Materials Should Be Expanded

During our previous audit, a walk-through to inspect the work in progress revealed a large amount of scrap plumbing, including some copper. The County's Project Manager stated that the materials had some value but all salvageable materials belong to the contractor per the provisions of the contract. However, the contract language implied that the County owns all salvageable materials.

We Recommend contract language be improved to ensure the County's ownership of salvageable materials is explicitly stated.



Status:

Implemented. Ownership of salvage materials was clearly stated in the specifications of the contract documents reviewed.

21. The Department of Capital Projects Should Ensure All Applicable Warranties Are Processed Promptly After Work Is Completed

During our previous audit, we found that the roof warranty for work done on Building B under a previous contract was never registered. The unsigned original warranty and copy were still in the files at the Department of Capital Projects three years after work was completed.

We Recommend the Department of Capital Projects ensures all applicable warranties are processed promptly after work is completed.

Status:

Implemented. Our review of files for the project that was closed out during the audit period showed that applicable warranties were processed in a timely manner.

22. The Business Development Division Should Ensure that Purchase Orders Received as Evidence of Work Allocated to M/WBE Subcontractors Are Properly Authorized

During our previous audit we noted that two of six contracts/purchase orders submitted to the Business Development Division as evidence that work was allocated to M/WBE subcontractors were not signed by anyone representing the contractor.

We Recommend the Business Development Division ensures all purchase orders and contracts issued to M/WBE

**STATUS OF PREVIOUS
RECOMMENDATIONS
FOR IMPROVEMENT**



Follow-Up of the Audit of the
Restoration of Correctional
Facilities, Buildings D, E, and F

subcontractors by prime contractors are signed by the prime contractors.

Status:

Implemented. Our follow-up review revealed that purchase orders and contracts issued to M/WBE subcontractors by the three prime contractors in our sample were signed by the prime contractors.