



Miami-Dade County Board of County Commissioners

Office of the Commission Auditor

Legislative Analysis

Transit, Infrastructure & Roads
Committee

June 10, 2009

2:00 P.M.

Commission Chamber

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Commission Auditor
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Miami, Florida 33128
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**Miami-Dade County Board of County Commissioners
Office of the Commission Auditor**

**Legislative Notes
Transit, Infrastructure & Roads Committee
Meeting Agenda**

June 10, 2009

Written analyses and notes for the below listed items are attached for your consideration:

Item Number(s)

1D1
3A
3B
3K
3L
3R

If you require further analysis of these or any other agenda items, please contact Guillermo Cuadra, Chief Legislative Analyst, at (305) 375-5469.

Acknowledgements--Analyses prepared by:
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**MIAMI-DADE COUNTY
BOARD OF COUNTY COMMISSIONERS
OFFICE OF THE COMMISSION AUDITOR**



Legislative Notes

Agenda Item: 1(D)1
File Number: 090907
**Committee(s)
of Reference:** Transit, Infrastructure & Roads Committee
Date of Analysis: June 8, 2009
Commission District: Countywide
Type of Item: Amendment to the Economic Stimulus Plan (ESP) Ordinance 08-92

Summary

This ordinance:

- (1) extends the sunset provision of the Economic Stimulus Plan (ESP) to January 2013, including the capital projects and the acquisition of goods and services funded through the American Recovery and Reinvestment Act (ARRA);
- (2) provides an expedited process to award *certain* contracts. The word "certain" is used to differentiate from other County projects that are not part of Resolution No. 851-08 ESP list of projects. This ordinance will include all ARRA funded projects to the list of ESP projects; and
- (3) Includes the Department of Procurement Management (DPM) for ESP purchases to ensure compliance with contract documents.

Background and Relevant Information

On July 17, 2008, the Board of County Commissioners (BCC), through Ordinance 08-92, established measures under the ESP to stimulate the local economy by (1) creating a process to expedite certain capital development projects; (2) authorized the Mayor or his designee to advertise for bids, receive and award bids, and appoint professional selection committees; (3) authorized the Mayor or his designee to issue change orders which did not exceed specified amounts; (4) amended the process for implementing CBE, SBE and CSBE measures; (5) provided for inclusion of work order based contracts; and (6) established procedures and limitations for award.

In May 2008, more than 500 industry representatives attended a meeting with the Office of Capital Improvements (OCI), the Directors of the County's 16 capital departments, and the DPM and Small Business Development (SBD) to discuss the acceleration of capital projects. Several architects, engineers and contractors attended the meeting to discuss the downturn in the construction industry.

On May 5, 2008, the County Manager submitted a report to the BCC that revealed that residential construction authorized by permits was down 86% in the fourth quarter of 2007 when compared to 2006.

On July 17, 2008, OCI, through Resolution 851-08, identified an aggressive program that identified \$625.7 million and \$17.3 million respectively in County projects that could be accelerated. The projects are funded by FY 2007-08 Adopted Capital Budget and Multi-Year Capital Plan and FY 2008-09 Adopted Capital Budget. (See File No. 082235)

To date, the BCC, through Resolutions 1427-08 and 542-09, approved the following 8 capital improvement projects as authorized by Ordinance No. 08-92:

Vendor	Amount
Beauchamp Construction Co., Inc.	\$35,044,836.00
Solo Construction Corporation	\$2,907,696.29
Munilla Construction Management, LLC dba MCM	\$ 25,299,169
PB America, Inc.	\$1,212,160
Master Excavators, Inc.	\$1,073,459.86
Trans Florida Development Corp. (2 awards)	\$2,722,593.80
Quality Paving Corp.	\$2,761,758.72

The projects in the table cover the Miami International Airport, Port of Miami and the Miami-Dade Fire Rescue Department (MDFR) Training Facility, Public Works and Water and Sewer. Staff notes that 3 more capital improvement projects were expedited approximately one month ago in the amount of \$19,985,274.82, which require BCC ratification.

According to OCI staff, approximately \$242.4 million in ESP projects have been awarded.

1. ESP Projects awarded directly under the ESP (which require BCC ratification) total **\$91 million**; and
2. ESP Projects awarded via alternate methods (standard BCC award process, Miscellaneous Construction Contract (MCC), DPM contracts, existing department contracts, in-house forces, grants etc) total **\$151.4 million**.

The Office of the Commission Auditor is currently reviewing the history of violations for approximately 57 vendors that have been awarded projects since the inception of the ESP. A supplemental will be disseminated prior to the BCC meeting with our findings.

The \$242.4 million in ESP awards mentioned above are estimated to employ 917 persons in Year One, 1,479 in Year Two and 593 in Year 3. These figures are based on a linear proration of an analysis

prepared in July 2008 by the County's Chief Economist, Dr. Robert Cruz, which projected the jobs resulting from the implementation of the ESP Program. In his July 2008 analysis, Dr. Cruz projected the following:

2,619 positions in Year 1; 4,225 positions in Year 2; and 1,695 positions in Year 3.

According to OCI, their prorated projections above are derived by applying the percentage of ESP projects currently awarded (**35%** [\$242.4 million of original \$625.7 million]) to Dr. Cruz's three-year projections. **Staff notes that these figures do not include jobs resulting from the award of the balance of ESP projects.**

Comments

The ESP accelerates projects through the County's contracting process and reduces the timeline to advertise solicitations and competitive bids and award qualifying projects, design and construction contracts, resulting in some efficiency in the process. For example, through Resolution 1427, three projects were awarded under the authority granted through Ordinance No. 08-92, other projects that are part of the plan have been awarded utilizing alternative contracting mechanisms. Alternative mechanisms include contracts advertised, awarded or underway using the MCC 7040, DPM and other existing department contracts, in-house forces and grant agreements.

Administrative Order 3-49 (AO) established the expedited process for the creation, review and approval of measures relating to the ESP. One of the goals established under the procedure for recommendation on contract set-asides, trade set-asides, aggregate set-asides or subcontractor/subconsultant states the following:

"All advertised projects will contain language to allow public comments to be submitted to SBD within 36 hours of date of advertisement via a designated Review Committee email address or mail."

The AO does not require the advertisement of projects to be published in Spanish and Creole. OCI staff has noted that the County would advertise the expedited capital development projects in the Miami New Times, Diario de Las Americas, Daily Business Review, County's procurement website and various South Florida construction trade publications.

Prepared by: Michael Amador-Gil

MIAMI-DADE COUNTY
BOARD OF COUNTY COMMISSIONERS
OFFICE OF THE COMMISSION AUDITOR



Legislative Notes

Agenda Item: 3(A)
File Number: 091699
Committee(s) of Reference: Transit, Infrastructure & Roads Committee
Date of Analysis: June 8, 2009
Commission District: Countywide
Type of Item: Ratification of Agreements -Equitable Distribution Program

Summary

This resolution ratifies the County Manger's execution of 19 Equitable Distribution Program (EDP) Professional Services Agreements (PSA) for the Fourth Quarter 2008 and First Quarter 2009 for architectural, engineering and landscape architectural firms.

- Of the 19 firms seeking ratification, 9 are existing EDP consultants and 10 are first time contract holders.
- 2 existing EDP consultants do not have performance evaluations. **According to Office of Capital Improvement (OCI) staff, some work assignments are active or have not been closed by the Capital departments.**
- User agencies have completed past performance evaluations for 7 of the 9 existing firms that renewed their contracts during the period. One of the firms does not have a completed EDP project and the other firm's project is in the process of being cancelled. (Capital departments are tasked with completing contract performance evaluations at the completion of an EDP project)
- The resolution states that from the implementation of the EDP in 2002 through December 2008, there were 320 EDP firms; however, the EDP Contractors List on the Capital Improvements Information System (CIIS) lists 264.

According to OCI staff:

- *The 320 reflects the number of firms that were active in the program as of December 31, 2008. OCI has processed over 400 firms in the program but many are no longer active because: (1) vendors have not maintained their technical certification(s) with Miami-Dade; (2) vendors closed their offices; (3) vendors no longer maintain a office in Miami-Dade; and (4) vendors changed their name.*
- *The reasons for the discrepancy between the EDP Oracle database information and the CIIS is as follows: Many of the firms are no longer in the program and are dropped from*

the CIIS and/or never were populated to the CIIS. The CIIS only captures prime firms that have received an EDP prime assignment. Firms that have only participated as a sub on a project are not reflected as a firm with an EDP assignment in the CIIS. Also, the EDP project data is transferred to the CIIS database quarterly.

The item also indicates that there were 1,250 EDP assignments (active and/or inactive); however, a query search of CIIS/EDP assignments revealed 1309.

According to OCI staff:

The number of projects reflected in the CIIS is the number of EDP projects as of May 2009 CIIS project update. The information provided on this report is as of December 31, 2008. Also, the CIIS quarterly project updates eliminate the cancelled projects. The CIIS does not capture cancelled project history.

Background and Relevant Information

The EDP was created in June 2001 when the Board of County Commissioners (BCC) adopted Administrative Order 3-33. The purpose for establishing the EDP was to fairly and equitably distribute Architectural and Engineering (A/E) professional services for all miscellaneous type projects in which construction costs do not exceed the thresholds required by Section 287.055, Florida Statutes. Due to the development of various computer programs, databases, development of the pre-qualification pool, and forms, full implementation of the program did not take place until July 2002 when the first work assignment was made.

- The OCI is tasked with overall administration of the EDP.
- New participants are not required to execute the Professional Services Agreement (PSA) until such time they are selected for a work assignment.
- Pursuant to Administrative Order 3-39 (AO), Capital departments are only required to complete one EDP performance evaluation at the completion of the assignment.
- The EDP is not a minority and/or small business program.
- The EDP provides work assignment opportunities to firms by employing a rotational selection process based on a firm's past 3 year award and payment history on County projects. The qualified EDP firms that have had less opportunities to provide services to the County over the past 3 years typically will be eligible for an EDP project assignment.
- In order for a firm to participate in the rotational process (EDP program), the firm must meet all pre-qualification process criteria and meet the EDP eligibility requirements, pursuant to AO 3-39.

	Firm	EDP Assignments	# of PSAs	Overall Performance Evaluation	Comments ¹
1	Architektnics, Inc.	5	1	3.8	Performance evaluations were provided for four contracts: A00-PARK-02-6 ; EDP-AV-0502-757034; EDP-AV-0502-757034-2; and EDP-GS-W50101.
2	Environmental Resources Management	5	0	4.0	Performance evaluations were provided for one contract: EDP-WS-S-115.
3	Langan Engineering & Environmental Services	14	1	3.4	Performance evaluations were provided for eight contracts: EDP-DE-003R1-MDAD; EDP-DE-003-MDAD-2; EDP-DE-003-MDAD; EDP-DE-004-MDAD; EDP-DE-004-MDAD-2; EDP-DE-002-MDAD-2; EDP-DE-002-MDAD; and EDP-DE-003R1-MDAD.
4	Perez Associates, Inc.	5	0	3.2	Performance evaluations were provided for four contracts: EDP-AV-0601-819728; EDP-FR-DB-09/10-2; EDP-FR-DB-09/10; and EDP-SP-07.010.
5	Sequeira & Gavarrete	1	1	0	No performance evaluation was provided in the EDP Contractor List. This project is in the process of being cancelled.
6	Axioma 3, Inc.	1	1	0	No performance evaluation was provided in the EDP Contractor List. Axioma 3, Inc was recently assigned their first EDP project; therefore, the vendor does not have a completed assignment.
7	CEB Engineering, Inc.	4	1	3.1	A performance evaluation was provided for one contract: E01-DERM-04, EP-15B.
8	Goldcoast Engineering Consultants, Inc.	7	1	3.8	A performance evaluation was provided for two contracts: EDP-SW-06E025 and EDP-PW-GOB-20050329
9	M.C. Harry and Associates, Inc.	1	2	4.0	A Performance evaluation was provided for only one contract: EDP-JA-SR-20059

¹ Some of the firm's EDP assignments are still active or have not been closed by the Capital departments. Some performance evaluations may not be reflected above.

Comments

According to OCI staff, OCI has requested that participating Capital department Project Managers close out their projects timely and complete the performance evaluations. Administrative Order 3-42 - *Evaluation and Suspension of Contractors and Consultants*, states that "all contractors and consultants shall be evaluated for their performance at least once on each capital improvements contract or agreement."

According to a report by the Office of the Inspector General, dated July 26, 2007, OCI addressed the following areas: (1) user concerns that EDP firms qualifications and technical category specifications are not always carefully matched. OCI explained that ensuring firm's technical expertise matches was the responsibility of the user agency; and (2) increase training for EDP firms and user personnel. OCI stated that it will conduct workshops for new EDP firms, as well as all active participants to discuss program requirements, procedures, and participants' responsibilities.

Prepared by: Michael Amador-Gil

**MIAMI-DADE COUNTY
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Legislative Notes

Agenda Item: 3(B)
File Number: 091712
Committee(s) of Reference: Transit, Infrastructure & Roads
Date of Analysis: June 8, 2009
Type of Item: Retroactive Change Order
District: 6

Summary

This item approves a retroactive change order between **C.G. Chase Construction Management, Inc.** and Miami-Dade County for work related to the construction of a new Coral Way Bus Wash facility located at 2775 S.W. 74 Avenue.

This change order updates the actual amount of funds used from the Allowance Account associated with this contract. The allowance account associated with this contract is \$181,717, of that amount, \$51,726.12 was used to pay for nine change notices which are detailed in the memo from the County Manager attached to the item. Under the term of the contract, the total cost of the contract is to be reduced "to reflect unexpended amounts" of the Allowance Account. Therefore, the overall contract amount will be reduced by \$129,990.88. The original contract amount was \$1,998,884, and will be reduced to \$1,868,893.12.

This item also approves a 49-day non-compensable retroactive time extension on this project. According to the Administration, the time extension was precipitated by the above-referenced nine change notices.

Construction of the new bus wash facility was completed on March 20, 2008, thus this change order is appropriately before the Board as a retroactive action.

Company Background

While this is this firm's only Transit contract, this firm has been awarded numerous other County contracts. According to the Office of Capital Improvements, this firm was selected to develop the Naranja Prototype Branch Library. Also, on May 6, 2003, the Board approved Resolution R-502-03,

which authorized the negotiation of an agreement with Chase for the construction of the Seaport Department's Deepwater Cruise Terminals D & E. Subsequently, on September 8, 2005, the Board approved Resolution R-1043-05, authorizing the County Manager to execute change orders adding certain additional work scopes up to a maximum amount of \$9,453,013, bringing the total project budget to \$71 million.

According to the Florida Department of State, Division of Corporations, the principal of this company is Clarence G. Chase, who has a registered address of 12805 SW 84 Avenue Road, 2nd Floor, Miami, FL 33156. The company's vice president is listed as David Whelpley. This company is in good standing with the Division of Corporations.

Policy Change and Implication

N/A

Budgetary Impact

This item reduces the overall contract amount from \$1,998,884 to \$1,868,893.12.

Prepared By: Jason T. Smith

**MIAMI-DADE COUNTY
BOARD OF COUNTY COMMISSIONERS
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Legislative Notes

Agenda Item: 3(K)
File Number: 091711
**Committee(s)
of Reference:** Transit, Infrastructure & Roads Committee
Date of Analysis: June 8, 2009
Commission District: Countywide
Type of Item: Engineering Agreement

Summary

This resolution authorizes the Public Works Department (PWD) director to execute Railroad Preliminary Agreements for the necessary engineering design phase for proposed improvements to new or existing railroad crossings not to exceed an amount of \$25,000.

Background and Relevant Information

There were 4 crossings that were rehabilitated in the last two 2 years, through Resolutions 606-70; 809-82; 1584-84 and 203-75 for \$75,620; \$67,558; \$32,175 and \$64,880. The engineering cost was not separated (it was included as part of the construction cost because the railroad companies performed these duties with in-house personnel.

According to PWD staff:

There are other type of agreements such as the opening of a new railroad crossing and/or the upgrade of an existing railroad crossing due to a roadway widening. In this respect, there were 5 crossings that required engineering in the last 2 years; 2 were paid by the developer, through Resolutions 1233-07 and 315-09; and the other 3 were paid by the County, through Resolutions 318-06, 684-06 and 685-06 in the amounts of \$8,616, \$11,068 and \$11,676. Of the 5, 3 were new crossings and 2 were widening due to roadway projects.

The amount of \$25,000 stated in the resolution will fluctuate based on the type of improvement needed, the width of the right-of-way and future increases in construction costs. However, there are currently 80 crossing agreements between the two railroad companies and Miami-Dade County dating to December 7, 1926. According to PWD staff, it is anticipated that all will require engineering costs at the time the crossings require rehabilitation or widening.

Prepared by: Michael Amador-Gil

**MIAMI-DADE COUNTY
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Legislative Notes

Agenda Item: 3(L)
File Number: 091718
**Committee(s)
of Reference:** Transit, Infrastructure & Roads Committee
Date of Analysis: June 8, 2009
Commission District: 1, 2, 3, 9 and Countywide
Type of Item: Interdepartmental Agreement

Summary

This resolution authorizes an interdepartmental Agreement between Public Works Department and the Miami-Dade Community Action Agency/Greater Miami Service Corps. The Agreement allows for the use of County funds, not to exceed \$1 million, issued in work orders up to \$200,000 each, for the construction of new sidewalks.

Background and Relevant Information

The Greater Miami Service Corps (GMSC) is a nonprofit organization chartered by the State of Florida in July 1990. Since 1990, the GMSC has been operating under the auspice of the Miami-Dade Community Action Agency (CAA). GMSC provides out-of-school young people with the resources and services necessary to transition to independence and self-sufficiency. Program emphasis is placed on preparing young people to enter the workforce through education, work experience, internship, job placement and post-program follow-up to placement retention.

- GMSC's mission is to "enhance the employability and self-esteem of young adults ages 18-23, through public/private ventures which provide work projects and education that result in tangible community improvements and a skilled workforce."
- Services are provided to out-of-school youth who are either unemployed or underemployed; a high school graduate or dropout; basic skills deficient; single parents; and non-custodial parents or youth with prior criminal history.
- Approximately 7,000 clients have attended the program.

Comments

According to the Office of Strategic Business Management, Resolution 175-93 establishes the relationship between Miami-Dade County's Community Action Agency in the provision of reimbursable administrative and management support as follows:

- personnel and personnel services
- fiscal services
- participation in the County's general liability self-insurance program
- access to GSA services

Prepared by: Michael Amador-Gil

**MIAMI-DADE COUNTY
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Legislative Notes

Agenda Item: 3(R)
File Number: 091755
**Committee(s)
of Reference:** Transit, Infrastructure & Roads Committee
Date of Analysis: June 8, 2009
Commission District: 8
Type of Item: Reject all Proposals

Summary

This resolution rejects all proposals for Contract No. 20080029. Contract No. 20080029 establishes 1 non-exclusive Professional Services Agreement to provide planning, design, and post design services for drainage improvements to Caribbean Blvd. at the C-1N Canal Crossing.

Of the 6 firms evaluated by the Competitive Selection Committee (CSC), BCC Engineering, Inc. was the top ranked. However, 5 of the 6 firms, including BCC Engineering, were found to be non-compliant with the Community Business Enterprise (CBE) Participation Provisions pursuant to the Notice to Professional Consultants (NTPC). Subsequently, the First-Tier ranking report indicates that only one (1) firm is in compliance, Sanchez-Zeinali & Associates, Inc., ranked third by the CSC.

On February 26, 2009, the Department of Small Business Development (SBD), notified 5 of the 6 firms of their non-compliance with CBE Participation Provisions. On March 24, 2009, the Office of Capital Improvements notified all the vendors of the County's intent to reject all proposals and to re-advertise the project.

The estimated cost of the design work is \$325,000.

Background and Relevant information

According to SBD's website, CBE/Architecture and Engineering (A&E) is a gender/race neutral program designed to provide contracting opportunities for small and medium size A&E firms.

Eligibility requirements:

- Average Gross Revenue for last 3 years does not exceed \$4 million for architectural, engineering, and surveying and mapping services.
- 3 year average gross receipts cannot exceed \$6 million for landscape architecture.

- Qualifier owns at least 25% of interest/issued stock.
- Owner can have only one CBE/A&E certified firm.

Prior to advertisement, SBD reviews A&E solicitations for the application of measures. Bidders on contracts with CBE measures are to comply with the requirements of the CBE Participation Provisions

The following questions were posed to SBD:

Question: Why did the County experience so many difficulties in this competitive process, having 5 of the 6 firms being deemed non-responsive?

According to SBD, Section 2-10.4.01 (Community Business Enterprise Program) requires that CBE set-asides be reserved for competition solely among first tier CBE-A/Es. Five of the 6 firms were determined to be “non-compliant” because they were 2nd tier CBEs or utilized 2nd tier CBEs.

Question: Does SBD provide active and inactive A&E vendors training and/or workshop opportunities?

According to SBD, vendors must meet program requirements at the time of proposal submittal. Pre-award Compliance is conducted by SBD after completion of the first tier selection process, upon request by the Office of Capital Improvement. SBD attends all pre-proposal conferences/meetings to communicate small business program requirements (via a very detailed presentation).

Prepared by: Michael Amador-Gil