

Memorandum



Date: April 24, 2007

To: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

Supplement to
Agenda Item No. 8J1F

From: George M. Burgess
County Manager

Subject: Questions Regarding Additional Appropriation for the Program Management
Consultant

On March 8, 2007, I issued a memorandum raising a series of questions regarding contracting practices related to the Program Management Consultant (PMC). Since that time, my staff has met almost daily with Miami-Dade Transit (MDT) in an effort to address those concerns, and we have identified 3 errors associated with the administration of this contract to date: Subconsultants were allowed to begin work prior to receiving official MDT approval; misapplication of Section XII of the contract governing subcontracting; and lack of adherence to Disadvantaged Business Enterprise (DBE) regulations. Although we continue to formulate and review remedial administrative measures in order to move forward, this report relays our findings to date and MDT's progress towards corrective actions in each area.

Work Performed Prior to MDT Approval of Firms

Due to administrative oversights, 3 firms (Acumen, Dickey, and Dovetail) performed work and appeared on invoices from the PMC prior to the processing of the appropriate documentation and the receipt of official approvals associated with the formal addition of a firm. Payment was, in turn, authorized by MDT to the prime, Parsons Brinckerhoff, on these invoices. Both the PMC and MDT have indicated that the desire to perform tasks on time likely contributed to these oversights, and procedural directives have been issued to both PMC team members and MDT staff to ensure that no expenditures are incurred nor work paid prior to the receipt of appropriate approvals. MDT has also taken steps to centralize its document controls and tracking mechanisms within the department.

Misapplication of Section XII -Subcontracting

Section XII of the contract includes a provision that the County may direct the consultant to engage the services of designated professional consultants to assist in performing specialized portions of the services. In addition, the consultant may, if approved by the County, employ special professional consultants to perform specialized portions of the work. However, the majority of the 11 firms that were requested for addition to the team should not have been considered under this section since the nature of the work contemplated to be performed was not in all cases a "specialized service". MDT requested the addition of 4 of these 11 firms (nMomentum, ROI Consulting, Sharpton, Brunson & Company, and Transit Safety Consulting), at least 2 of which would have performed services that cannot be considered to be specialized. The rest of the firms were requested by the PMC (Acumen, Bay Area Economics, Bugdal Group, Clifton Weiss & Associates, Dickey, Dovetail, and Correa & Associates). Consideration of the majority of these firms for addition is similarly flawed when evaluated in light of the requirements of Section XII.

The addition of subcontractors should be the exception and considered only when there is a true specialty that is not already addressed by the existing team. To do otherwise undermines the integrity of the County's competitive evaluation process since these additional firms were not scrutinized by any

selection committee as was the original team. The County Attorney's Office has advised that the addition of subconsultants when work may be performed by existing team members is contrary to the intent of Florida Statute 287.055 which pertains to the acquisition of professional architectural and/or engineering services. Further, the purpose of increasing DBE participation, which has been discussed as a motivator for the addition of several firms, is not a legal basis for the addition of subconsultants onto the team under Section XII. Regulations governing additions or deletions of DBE firms are discussed below. As a corrective measure, MDT is developing formalized procedures to preclude future recurrence and narrow the defined scope of specialized services.

DBE Participation

DBE participation from the original PMC team stands at approximately 13%. Part and parcel to the procurement process was the requirement that the PMC produce a team of able and qualified DBE firms to meet the 25% goal made part of the PMC contract. At the outset, the PMC as required provided a list of DBE firms with specific allocations assigned by percentage to support their commitment to meet the 25% goal. Specialty areas and percentage participation were identified for each firm. Subsequent to award, the PMC stated that they would have trouble meeting the 25% goal. The PMC contends that between June 2004, when the PMC first submitted its proposed team, and June 2005, when the first work program was negotiated, changes in the scope of the work occurred that affected their plan to meet the goal. Furthermore, 25% participation had been constructed in anticipation of the 7 year life of the contract where total expenditures were forecast to have reached over \$80 million. Nevertheless, MDT mandated that the 25% goal be met on the \$25 million near-term allocation approved by the Board.

To assist the PMC in improving the DBE participation levels, MDT held several meetings with the prime and the DBE firms and made several recommendations to the prime, all in connection with a sustained effort to devise a means of achieving the contract goal. However, MDT's final disposition in this regard was procedurally flawed. Specifically, MDT lead the prime to believe that work done by the added firms who qualified as DBE's would be counted towards the 25% goal when in fact, DBE regulations do not allow for such credit. This is due to the prior commitment of a specific percentage of the work by the prime to the original DBE team members. Therefore, work done by added DBE firms should not have received participation credit until such time as the prime had met the contract goal of 25%. Similarly, added DBE subs may not perform work initially assigned, or contemplated to be assigned, to a current DBE firm on the project without first obtaining approval from MDT. In order for work done by additional firms to count towards existing DBE goals, good cause must be shown that an original DBE firm could not perform its assigned task. In such cases, the subcontract with the DBE firm may be rightfully terminated, and that firm substituted with a DBE firm able to perform the task. MDT erred by deviating from existing policy and electing to count toward the goal all expenditures for work performed by DBE firms, including those not part of the original team. In so doing, the percentage share initially assigned to some members of the original DBE team was in effect reduced.

In a recent development, the DBE firm A2 Group, Inc., a member of the original team which was assigned 2% of the work, has elected to sever its relationship with the prime and discontinue its participation on the PMC contract. Under the applicable rules, the prime must replace that DBE firm with other DBE firm or firms for prices totaling the price originally scheduled for such work or, in the alternative, for the performance of other work not included in its schedule as modified. Accordingly, consistent with its commitment to meet the 25% goal, the prime has proposed to enter into alternate

subcontracts with the previously added DBE firms for a price totaling the price originally assigned to A2 Group, Inc. With the proper substitution of the added DBE firms who have already performed work under the existing contract, their collective participation will be counted toward the attainment of the DBE goal. Upon finalization of the substitution, the DBE participation level to date will increase to approximately 18%.

MDT has informed the PMC that, going forward, only the original DBE firms plus approved substitutions will count toward the 25% goal. In order to increase its DBE participation, the PMC must redistribute work to accomplish this goal. Further, other remedial measures being implemented by MDT are as follows:

- MDT's Office of Civil Rights will continue to work with the Prime as well as the subcontractors to create a transparent process for addressing substitution issues and other related DBE issues.
- The contract goal shall remain at 25%.
- As of April 16, 2007, only the original DBE firms and approved substitutes and additions will be counted toward the goal.
- All new DBE work, tasks and assignments must first be offered to the original member of the DBE team, without exception.
- The Prime shall produce a resource loaded schedule forecasting DBE participation for each annual work order to the end of the current contract.
- All requests for additions, deletions or substitution in connection with the PMC shall be made in writing to the Contracting Officer's Representative (COR).
- The COR shall make determination on all requests submitted to its attention in writing, with advice and counsel from the subject matter experts in the relevant areas.
- DBE attainment will be tracked on a monthly basis and reported accordingly.

Because the nature of this contract is such that work authorizations are issued at the sole discretion of the County, as the program matures, opportunities for participation by DBE firms are expected to increase as new work order authorizations become available. The PMC continues to express its commitment to attaining the established 25% DBE participation goal over the duration of the contract.

While I am optimistic that MDT can successfully administer this contract moving forward, I chose to recommend a modified \$10 million allocation for your consideration on the April 24 Board agenda in order to force a review of the progress on these remedial actions over the coming months. The requested \$10 million appropriation will carry the Rail corridors effort through the end of October and will avoid impacting existing corridor schedules. I will continue to work with MDT to address the concerns raised and a progress report will be provided to the Board this fall when the remaining \$9 million appropriation is requested.



Assistant County Manager

PROGRAM MANAGEMENT CONSULTANT (PRIME-PARSONS BRINKERHOFF) - SUBCONSULTANT SUMMARY

Firm	Principal	Address	Business Phone	Fax	E-Mail	Proposed Task	Source of Reference	DBE Certification	Initially Vendor or Subconsultant	Date Submitted Request to Add as Subconsultant	Date of MDT Approval to add as Subconsultant	Date Actual Start of Work	Billed Prior to Approval	Paid Prior to Approval	Comments
ORIGINAL DBE FIRMS															
AK Group	Mr. Alberto Ribas, President	7200 N. Kendall Drive, Suite 240, Miami, FL 33156	305-668-8939	305-668-9454	aribas@akgroup.com	Underwater Inspection Construction Engineering And Inspection		4136 Hispanic Owned							
Cardozo Engineering, Inc.	Mrs. Rosanna Cardozo, Principal/President	1201 Peachtree Street, NE 400 Colony Square, Suite 1106, Atlanta, GA 30381	404-541-0625	404-541-0855	rocardozo@cardozo.com	Civil, Environmental, Construction Management		2701 - Woman Owned							
Carmen Morris & Associates, Inc.	Mrs. Carmen Morris, Principal/President	15274 SW 127 th Court, Miami, FL 33186	305-278-2395	305-278-1528	cmorris@bellsouth.net	DBE Compliance Support		464-Black Owned							
EAC Consulting, Inc.	Mr. Enrique A. Crooks, Principal/President	815 NW 57 th Avenue, Suite 402, Miami, FL 33128	305-264-2557	305-264-5507	ecrooks@eacconsult.com	Project Management Support, Structural & Drainage Design, Document Control		4174 - Black Owned							
Nordase & Associates	Mr. Fouad Masri, President	2448 Metro Centre Boulevard, West Palm Beach, Florida 33407	561-691-0970	561-616-0871	fmasri@nordase.com	Geotechnical, Drilling/Selmsiology		9115 - Woman Owned							
Philips Consulting Group, Inc.	Ms. Ramona Philips, Principal/President	1221 Brickell Avenue, 9 th floor, Miami, Florida 33131	305-377-8767	305-744-6148 or 954-475-9601	philips.ramona@worldnet.att.net	Public Outreach Liaison		4245 - Black Owned							
Tringale Associates, Inc.	Mrs. Olivia Quintana, Principal/President	14100 Palmato Frontage Road, #350, Miami Lakes, Florida 33015	305-817-8443	305-817-8471	oquintana@trianglesociates.com	Civil & Structural Design, Construction Management		2604 - Hispanic Owned							
ORIGINAL NON-DBE FIRMS															
The Allen Group, Inc.	Mrs. LaVerna Allen, Principal, Mrs. Cheryl Scholze Jefferson, President	One SE Third Avenue, Suite 2240, Miami, Florida 33131	305-374-2446	305-374-2447	lavera@the-allen-group.com, scholze@the-allen-group.com	Claims and Contract Administration		not a DBE Woman Owned							
DMJM+Harris	Mr. Robert Prince, Principal/President, Mr. Thomas Gibson, Vice President	800 Douglas Road, Suite 770, Miami, FL 33154	305-444-8211	305-444-4306	Thomas.Gibson@dmjmharris.com	Multidiscipline capabilities		not a DBE							
Macleod Consulting Engineering, Inc.	Mr. Ronald Constantini, President	4845 NW 158 Street, Miami Lakes, FL 33014	305-826-5888	305-826-1799	rgconstantini@maclec.com	Soils and Materials Testing		not a DBE							
Post Buckley Schuh & Jernigan	Mr. Todd Kemmer, President/COO, Mr. Frank Martin, Vice President	482 South Keller Road, Orlando, Florida 32810	407-647-7275	407-647-3815	frank@pbsj.com	Multidiscipline capabilities		not a DBE							
NEW FIRMS PROPOSED AND APPROVED															
Acumen Building Enterprise, Inc.	Mr. Walter E. Allen, President	1653 MacArthur Boulevard, Oakland, California 94622-1715	(510) 530-3029	(510) 530-3628	wallen@acumen-saba.com	Information Technology for Fare Collection System	PMC requested to add firm	11467 - Black Owned	Subconsultant	1/23/16	4/28/06	2/4/06	\$108,076	\$0	Work began before approval due to administrative error.
Dickey Consulting Services	Mrs. Sheryl Dickey, Principal/President	1120 NW 6 th Street, Suite B, Fort Lauderdale, Florida 33311	(954) 467-8822	(954) 467-7033	sdickey@dicticons.com	Transit Oriented Development Charities for Public Outreach	PMC requested to add firm	729 - Black Owned	Subconsultant	9/13/06	10/30/06	1/31/06	\$125,791	\$93,354	Work began before approval due to administrative error. PM, not COR, authorized work to begin.
Dorelli Consulting, Inc.	Mrs. Miryam Allen, Principal/President	3627 Valleyhill Road SW, Revonah, Georgia 30274	(770) 503-3113	(770) 605-6537	mallen@everallconsultants.net	Fare collection operations and customer service	PMC requested to add firm	30-0133188 - Black Owned	Subconsultant	1/23/06	3/1/06	9/8/05	\$60,264	\$55,540	Work began before approval due to administrative error. PM, not COR, authorized work to begin.
Momentum Corporation	Mr. Shivam Durnna, Principal/President, Mrs. Tracy L. Durnna, Officer	4315 Ivy Chase Lane, Suwanee, Georgia 30024	(404) 454-9787	(838) 295-6754	sdurnna@momentum.com	Revenue operations and collections for fare collection	MDT requested to add firm	20-1803110 - Asian Owned	Subconsultant	1/13/07	1/4/07	12/28/05	\$0	\$0	Rec'd advance authorization from COR to begin work on 12/28/05.
RCI Consulting, Inc.	Mr. William Johnson	8190 NW 36 th Street, Suite 108, Doral, Florida 33166	305-471-3888	305-675-0962	info@rci-miami.com	Quality Assurance	MDT requested to add firm	11327 - Black Owned	Subconsultant	1/23/06	4/25/06	Not Applicable	Never Billed	No	Firm withdrawn from team due to conflict of interest.
Transt Safety Consulting Services	Mr. Albert W. Harlorn, Principal/President	1390 Ocean Drive, Suite 202, Miami Beach, Florida	Business & Fax (305) 338-4026	Business & Fax (305) 338-4026	aharlora@bellsouth.net	Safety and Security Staff Support	MDT requested to add firm	not a DBE	Subconsultant	1/31/07	2/7/07	2/16/07	\$0	\$0	
NEW FIRMS PROPOSED BUT NOT APPROVED															
Bay Area Economics (BAE)	Jared Smith Heiner, Managing Principal, Mark Kovala, Principal, David Shiver, Principal, Ron Galem, President	1285 68th Street, Emeryville, California 94609	(510) 547-9380	(510) 547-9388	jarred@baecon.com, emark@baecon.com	Rail Station Market Assessments for Transit Oriented Development	PMC requested to add firm	11705 - Woman Owned	Vendor	5/19/06	Not Approved	Not Applicable	Billed as Vendor	Not presently working.	Not presently working.
Bugdal Group	Mrs. Gioclianna Bugdal, Principal/President	11893 SW 69th Court, Pinecrest, Florida 33156	(305) 965-6688	(305) 865-1387	gbugdal@bugdal.com	Graphics and Signage for Medical Stations	PMC requested to add firm	4651-Woman Owned	Subconsultant	1/5/07	Not Approved	Not Applicable	Never Billed	No	No work has been performed.
Clifton, Weiss & Associates, Inc.	Mrs. Elizabeth L. Clifton, Principal/President, Mr. Stephen Weiss, Principal/Vice President	624 Plymouth Road, P.O. Box 740-828, Pennsylvania 19437-0839	(215) 628-2640	(215) 628-3165	sweiss@cliftonweiss.com	Transt Telecommunications	PMC requested to add firm	839 - Women Owned	Subconsultant	1/23/08	Not Approved	Not Applicable	Never Billed	No	No work has been performed.
Kovacs, Inc. Dbr. Jimmie Kovacs & Associates	Mr. James Kovacs, Principal/President	5735 SW 48 th Street, Miami, Florida 33155	Business (305) 740-8228, (305) 412-3847	(305) 742-8979	jkovacs@kovacs-associates.com	Architectural Concepts for Transit Oriented Development	PMC requested to add firm	Woman Owned but not a DBE	Vendor	3/28/06	Not Approved	Not Applicable	Billed as Vendor	No	Not presently working.
Sharpton, Brunson & Company P.A.	Mr. Darryl Sharpton, Principal/President, Mr. Anthony Brunson, Principal/Vice President	One Southeast Third Avenue, Suite 2100, Miami, Florida 33131	(305) 374-1574	(305) 372-8161	dshar@brunson.com, abrunson@brunson.com	Management Oversight and Accounting	MDT requested to add firm	11309 - Black Owned	Subconsultant	3/24/08	Not Approved	Not Applicable	Never Billed	No	Firm was not approved because appropriate paperwork was never submitted.

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