



**Internal Audit Committee of
Brevard County, Florida**

**Internal Audit of the Contract for
The Emergency Operations Center**

**Prepared By:
Internal Auditors**



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May 8, 2024

The Audit Committee of
Brevard County, Florida
2725 Judge Fran Jamieson Way
Viera, Florida 32940-6699

Pursuant to the approved 2023/2024 internal audit plan, we hereby submit our internal audit of the Emergency Operations Center contract. We will be presenting this report to the Audit Committee at the next scheduled meeting on May 22, 2024.

Our report is organized in the following sections:

Executive Summary	This provides a summary of the observations related to our internal audit of the Emergency Operations Center contract.
Background	This provides an overview of the Emergency Operations Center contract.
Objectives and Approach	The internal audit objectives and focus are expanded upon in this section as well as a review of our approach.
Observations Matrix	This section provides the results of our internal audit procedures, including our recommended actions and management's responses.

We would like to thank all those involved in assisting the Internal Auditors in connection with the internal audit of the Emergency Operations Center contract.

Respectfully Submitted,

Carr, Riggs & Ingram, L.L.C.

INTERNAL AUDITORS

Executive Summary

Overview

The Board of County Commissioners of Brevard County, Florida (the “County”) entered into a construction contract (“Contract”) with AJAX Building Company (“AJAX”, “Contractor”) on August 30, 2022 for the purpose of constructing a new Brevard County Emergency Operations Center (“EOC”) consisting of a 48,427 sq. ft. facility and a 3,499 sq. ft. mechanical yard, to be located at 1751 Huntington Lane, Rockledge, Florida 32955 (the “Project”).

Objective

The primary objective was to assess compliance by the Contractor with key provisions of the Agreement with the County and to assess whether the system of internal controls over the County’s management of the contract is adequate and appropriate for promoting and encouraging consistent application of management’s objectives for compliance with key contract terms, and County policies and procedures, as applicable.

Observations

During the course of our work, we discussed any identified observations with management. Our observations and recommendations for improving controls and operations are described in detail in the Observations Matrix included in this report. A summary of observations is identified and their relative risk rating is provided below.

Observation ratings are a subjective evaluation of the severity of the concern and the potential impact on the operations. An observation rating of “High” represents an issue of immediate concern and could cause significant operational issues if not addressed soon. A “Moderate” rating is an issue that may also cause operational issues and does not require immediate attention but should be addressed as soon as possible. Observations given a “Low” rating could escalate into operational issues but can be addressed through the normal course of conducting business.

Observation	Risk Rating
1. <i>Monthly Statements (Payment Applications) – copies of subcontracts were not included with each submission or formal documentation of the review process.</i>	Moderate
2. <i>Subcontractor licenses – subcontractor licenses were not verified pursuant to the Award grant.</i>	Low
3. <i>Quarterly Reporting – various quarterly reports were not submitted within the required deadline pursuant to the Award grant.</i>	Low

Other than the items identified above, we noted no exceptions in the areas tested including:

- Payment Applications
- Change Orders, including County-Direct Purchases
- Contingency Usage
- Bonds and Insurance
- Grant Compliance
- Project Management
- Subcontractor Procurement

Background

Overview

Contract Delivery Method

The type of contract delivery method utilized for the Project was a construction manager at risk contract. This means that the Owner entered into one contract with the Construction Manager for the construction of the project. The Construction Manager entered into subcontracts with each of the trades and suppliers that are procured by the Construction Manager. The Construction Manager team manages the subcontractors in their performance of the construction.

Compensation Structure (Articles 7.1; 2.3.4; 8.1.1)

The Contractor's written Guaranteed Maximum Price ("GMP") guarantees the maximum price to the County for the construction cost of the Project or the designated part thereof. Such GMP will be subject to increase and deduction for changes in the Project as provided in Article 10 and for County direct purchases, if any, in accordance with Attachment "C" (Article 7.1).

The Contractor's fee constitutes the Contractor's total compensation for profit (Article 8). All costs in excess of the final approved GMP, as adjusted up or down in accordance with the terms of this Contract, are the responsibility of the Contractor. Any savings between the GMP, as adjusted, and the sum of the actual cost of the Project, plus the Contractor's fee, will be returned to the County per Article 2.3.4 (Article 7.1). The Contractor shall be allowed to retain 2.225% of the fee on the returned savings (to represent one-half of the Contractor's fee) [Article 2.3.4].

County-Direct Purchases (Article 7.2)

County direct purchases represent purchases made by the County paid directly to vendors for the purchase of materials that were included as part of the applicable subcontractor lumpsum price. This direct purchase by the County results in sales tax savings since the County is not subject to sales tax. The GMP shall be reduced by the cost of the materials and the applicable sales tax is credited to the sales tax line item in the GMP ("Owner's Tax Savings") so that all sales tax savings accrue to the benefit of the County.

Buyout (Article 7.3)

Buyout represents the difference between the line items included in the GMP and the bids received and actual subcontracts executed. Any subcontract pricing that is below the applicable GMP line item will be set aside and added to contingency (Buyout surplus). Any funds that exceed the line item in the GMP will be taken from the contingency via an approved Authorization to Initiate Work/GMP Realignment form (GMP deficiency); however, such events shall not be cause to increase the GMP.

Construction Contingency Funds (Article 7.3)

Construction contingency funds will be used for the purpose of defraying the expenses due to unforeseen circumstances relating to construction. The Contractor will be required to furnish documentation evidencing expenditures charged to this contingency prior to the release of funds by the County. Documentation for use of the Contingency shall be determined by the Construction Team. The Architect/Engineer and County shall verify and approve the actual costs.

Background - continued

Cost of the Project [Work] (Article 9)

The term Cost of the Project shall mean costs reasonably and necessarily incurred in the Project during the Construction Phase for construction services paid by the Contractor... subject to the limits set forth in Articles 9.2 (Direct Cost Items) and 9.3 (Allowances) plus the Contractor's fee stipulated in Article 8, provided the total does not exceed the GMP (Article 9.1).

Direct Cost Items (Including General Conditions listed Attachment "M"): Article 9.2

- A. Labor wages paid for the on-site Project Superintendent, Operations Manager, Secretary, and personnel directly responsible for the operation and supervision of the Project (labor burden not to exceed 44.5% for payroll; and 25% for per diem).
- B. Payments due to Subcontractors from the Contractor or made by the Contractor to Subcontractors for their work performed pursuant to contract under this Contract.
- C. Cost of the premiums for insurance and bonds for the construction of the Project.
- D. Sales, use, gross receipts or similar taxes for allowable direct costs of the Project.
- E. Self-performed work by the Contractor, if approved by the County.
- F. Legal costs, if approved by the County in advance.
- G. Costs for temporary facilities: water, heat, power, sanitary, etc. as approved by the County.
- H. No costs shall be paid by the County to the Contractor for any expenses related to negligent, intentional, or willful acts or omissions by the Contractor, including any of its subcontractors, employees, or agents, to correct defective workmanship, to correct any work not in conformance with the Plans and Specifications, or to correct any deficiency or damage.

Changes in the Project (Article 10)

Change Orders - The County, without invalidating this Contract, may order Changes in the Project within the general scope of this Contract consisting of additions, deletions or other revisions which may cause an increase or decrease in the G.M.P., and/or the Construction Completion Date. All changes in the Project G.M.P. or Construction Completion Date not covered by an authorized contingency, as described in Article 7.3 must be authorized by a written Change Order or Construction Change Directive, and signed by the County, Architect and Contractor before the change is implemented. It shall be the County's discretion as to whether each change order requires the A/E signature. Maximum allowable mark-up on any change order above the G.M.P. for the Contractor is 5% Profit, 5% Overhead, and a 2% Bond. (Article 10.1)

The increase or decrease in the Guaranteed Maximum Price resulting from Change Orders in the Project shall be determined by one of the following ways:

- A. *by mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation by the Architect/Engineer and County;*
- B. *by unit prices stated in the Contract or subsequently agreed upon;*
- C. *by cost as defined in Article 9 plus a mutually acceptable fixed or percentage fee; or*
- D. *by the method provided in Subparagraph 10.1.4. (Article 10.1.3)*

Background - continued

Payments to the Contractor (Article 12.1)

Monthly Statements - The Contractor shall submit to the County a sworn statement along with the Certificate for Payment, showing in detail all monies paid out, cost accumulated or costs incurred on account of the Cost of the Project during the previous period and the amount of the Contractor's fees due as provided in Article 8. This data shall be attached to and/or made available in a digital/electronic format compatible with the County's software alongside the Certificate for Payment Form shown in Attachment "N", and shall include, but not be limited, to the following:

- A. *Daily Reports;*
- B. *Updated Project Schedule;*
- C. *Daily Redline As-Builts drawing(s) review;*
- D. *Provide a billing report with each payment application that shows a breakdown of costs incurred by line item. This report should correspond with the amounts being charged on the Schedule of Values.*
- E. *Provide backup copies of all invoices that the County is being billed for, including vendor invoices, payments to subcontractors, cell phone statements, insurance, petty cash receipts, etc. These invoices should be coded by the line item that they correspond to on the billing report and Schedule of Values.*
- F. *Provide backup copies and documentation of all costs incurred under General Conditions.*
- G. *Provide backup copies of all payroll that details which labor amounts were paid to whom on a weekly basis.*
- H. *Provide copies of all subcontractor contracts.*

** The amounts charged on the Payment Application must be accurate and correspond with the total dollar amount of backup provided by the Contractor.*

Payment by the County to the Contractor of the statement amount shall be made in accordance with Florida Statute 218.735. Five percent of each payment shall be held by the COUNTY as retainage until Final Completion, provided the retainage is not the subject of a good faith dispute, the subject of a claim brought pursuant to s. 255.05, Florida Statutes or otherwise the subject of a claim or demand by the COUNTY.

Staffing

Key personnel from the County that were involved in our engagement included:

Title
Public Works Director, Public Works
Contracts Administrator, Public Works
Facilities Construction Manager, Public Works (Project Director, as designated in Contract)
Director, Emergency Management
Operations Manager, Public Works

Background - continued – Project Statistics

The following table represents a summary of the original GMP:

8:02:53AM		6/17/2022	
Description		Unit\$	Total \$
Report includes Taxes & Insurance.			
<u>NOTICE : This Document is considered proprietary information and shall not be distributed beyond the intended recipient without the express written consent of Ajax Building Company, LLC !!</u>			
Total Division 01 GENERAL REQUIREMENTS			\$1,358,123
Total Division 03 CONCRETE			\$2,019,974
Total Division 05 METALS			\$1,426,595
Total Division 06 WOOD & PLASTICS			\$197,179
Total Division 07 THERMAL & MOISTURE PROTECTION			\$1,362,669
Total Division 08 DOORS & WINDOWS			\$1,285,704
Total Division 09 FINISHES			\$2,458,150
Total Division 10 SPECIALTIES			\$457,970
Total Division 11 EQUIPMENT			\$282,526
Total Division 12 FURNISHINGS			\$1,199,863
Total Division 21 FIRE SUPPRESSION SYSTEMS			\$236,730
Total Division 22 PLUMBING			\$983,440
Total Division 23 HVAC WORK			\$3,179,000
Total Division 26 ELECTRICAL WORK			\$7,027,764
Total Division 31 SITEWORK			\$2,812,043
Total Division 32 SITE IMPROVEMENTS			\$378,492
Total Division 36 BONDS & INSURANCE			\$582,191
Total Division 37 WARRANTY ALLOCATION			
Total Division 45 OWNER'S TAX SAVINGS			-\$420,000
Total Division 50 ESCALATION COSTS			\$50,000
Total Division 80 CONTINGENCY			\$463,035
Total Division 95 OVERHEAD & FEE			\$1,197,315
Total Sec BB BASE BID			\$28,538,763
ESTIMATE TOTALS			\$28,538,763

The following presents project activity for Payment Applications No. 1 – 15 (period ending – 1/24/24):

	Totals	ODP	Tax Savings	Non-ODP
Original GMP	\$ 28,538,763			
Change Order 3	ODP (1,813,090)	(1,813,090)	109,135	
Change Order 4	ODP (1,213,291)	(1,213,291)	72,847	
Change Order 7	ODP (1,241,059)	(1,241,059)	74,814	
Change Order 9	Switchboard & Chiller delay/ODP (1,781,134)	(2,159,289)	130,257	378,155
Change Order 11	ODP/voided ODP* (654,278)	(654,278)	39,257	
	-			-
Total change orders	(6,702,852)	(7,081,007)	426,310	378,155
Adjusted GMP (Contract Sum To Date)	\$ 21,835,911			
Completed and Stored To Date (thru PA 15) (period to: January 31, 2024)	18,185,311			
Balance to Finish	\$ 3,650,600			
Percent Complete	83%			

Change orders not included had no financial impact on the GMP. They were transfers between GMP line items or were changes that utilized the construction contingency reserve included in the GMP (Change Orders: 1-2, 5-6, 8, 10, and 12-13).
 *Net decrease of additional ODP of \$1,011,945 less voided ODP of \$357,668 = \$654,278 at 6% (approximate).

Objectives and Approach

Objectives

The primary objective was to assess compliance by the Contractor with key provisions of the Contract with the County and to assess whether the system of internal controls over the County's management of the contract is adequate and appropriate for compliance with key contract terms, certain laws, rules and County policies and procedures, as applicable.

Approach

Our approach consisted of three phases:

Understanding and Documentation of the Process

During the first phase, we held an entrance conference with the Director of Public Works, the Director of Emergency Management, Construction Manager for Public Works, Operations Manager for Public Works, and the Contracts Manager for Public Works to discuss the scope and objectives of the audit work, obtain preliminary data, and establish working arrangements. We reviewed the Contract, Florida Statutes, administrative orders, County policies and other resources related to the Project. We conducted interviews with responsible Public Works personnel and documented their respective roles in the processes. We updated our understanding of the EOC contract key compliance attributes and relevant contract management controls.

Detailed Testing

The purpose of this phase was performance of testing procedures based on our understanding of the EOC contract key compliance attributes, applicable County ordinances, and Florida State Statutes. Our procedures included interviewing relevant personnel as well as detailed transactional and control testing. We met with responsible personnel from the County related to the EOC contract and documented their role in the process. The period of our testing included thirteen (13) payment applications: Application No. 1 (period ending November 30, 2022) – Application No. 13 (November 23, 2023). The procedures performed included the following by the respective areas noted below:

Payment Applications

Obtained monthly pay applications submitted to the County up to November 30th, 2023 in accordance, which included various provisions outlined in Article 12.1 of the Agreement, and tested the performance of the following attributes:

- a. Verified that daily reports were included in the submissions.
- b. Verified that the project schedule had been updated appropriately (monthly updates).
- c. Validated the review of daily Redline As-Built drawing(s).
- d. Verified that a billing report accompanied each payment application, detailing a breakdown of costs incurred by line item (this report should correspond with the amounts being charged on the Schedule of Values).
- e. Verified the inclusion of backup copies for all invoices billed to the County, including vendor invoices, payments to subcontractors, cell phone statements, insurance, petty cash receipts, etc. (these invoices should be coded by the line item that they correspond to on the billing report and Schedule of Values).

Objectives and Approach - continued

Approach – continued

Detailed Testing - continued

- f. Verified the inclusion of backup copies and documentation of all costs incurred under General Conditions.
- g. Verified the inclusion of backup copies of all payroll that details which labor amounts were paid to whom on a weekly basis.
- h. Verified the inclusion of copies of all subcontractor contracts.
- i. Validated the inclusion of signatures from the appropriate personnel, namely the project director and the Architect/Engineer on the Pay App.
- j. Recalculated overhead and fee to ensure fee calculation is based on percentage of work completed less retainage.
- k. Verify that the amounts charged on the Payment Application is accurate and correspond with the total dollar amount of backup provided by the Contractor (sample basis)
- l. Ensure mathematical accuracy through verification of the cover page and schedules of values (sample basis).
- m. Agreed original contract sum to the approved GMP in the Contract.

Change Orders, including County-Direct Purchases

Obtained all change orders (increases and decreases to the GMP) submitted to the County up to November 30th, 2023 and performed the following attributes:

- a. Verified that all necessary approvals and signatures are present on the change order (Project Director, Architect/Engineer, Contractor, and authorized by the County Manager, Assistant County Managers or Department/Office Director as delegated in BCC-27 Section II (C).
- b. Verified that the change order included proper backup support per the Contract.
- c. Recalculated the CM fee (overhead and fee) in accordance with the contract (only applicable for CO#9 (AJAX OCO #4).
- d. Verified that the material requisitions form complied with Attachment C for County-Direct purchases of materials and the sales tax was properly credited to the sales tax allowance line item in the GMP (schedule of values).

Contingency Usage

Obtained the change order/contingency log and haphazardly selected a sample of 5 contingency changes and performed the following:

- a. Obtained documentation of proper approval by the contractor and the subcontractor.
- b. Verify that proper documentation was included (i.e. labor, materials, or markup).
- c. Verify that components included in the change are allowable components per the contract
- d. Obtained documentation of proper approval of changes by the county designee.

Bonds and Insurance

To test compliance with the bonding and insurance requirements of the Contract, we performed the following:

- a. The Public Construction Bond obtained complied with the requirements of Article 13.2(B).
- b. The insurance certificates secured complied with the requirements of Article 12.2(C).

Objectives and Approach - continued

Approach – continued

Detailed Testing - continued

Grant Compliance

Obtained the executed award agreements, project scope documents, and subsequent amendments or extensions, (as applicable) and reviewed executed award agreements to gain an understanding of the compliance requirements including but not limited to: allowable activities, costs, and scope of work and any specifically disallowed types of expenses, reimbursement terms, and local match requirements (including possible over-reimbursement). Documented an understanding of the reimbursement request process.

Obtained reimbursement request submitted to the grantor and verified the following:

- a. Cost were incurred prior to seeking reimbursement.
- b. Reimbursement request was approved at the appropriate level by County management.
- c. Cost were supported by invoices, pay apps and other evidence.
- d. Activities and cost were allowable based on award terms and conditions.
- e. Reimbursable amount did not exceed the amount awarded.

Obtained subcontractors licenses and permits for compliance with grant agreement 19-SP-10-06-15-01-236 between the County and the Florida Division of Emergency Management, Attachment E.

Subcontractor Procurement

Obtained subcontractor documentation (bid tabulation) related to subcontractors selection process, selected a sample of the five largest trades, and performed the following:

- a. Evaluated subcontractor bid tabulation to validate that at least (3) bids were solicited to ensure a competitive process in accordance to BCC-25, section III (H).
- b. Verified that the lowest and qualified subcontractors were selected in accordance with BCC-25, section III (O).

Project Management

Obtained records of all monthly Owner Architect Contractor (OAC) meetings (minutes, agenda, and sign-in sheets) and utilized Active Data to select a sample of 10 to test the following pursuant to the contract agreement, Article 2, Sec 2.5.3:

- a. The County designee, architect, and contractor were in attendance.
- b. Meeting minutes were provided to the County.

Reporting

At the conclusion of our procedures, we documented our understanding of the processes and controls related to the EOC Contract and summarized our findings related to our contract compliance testing procedures. We conducted an exit conference with management and have incorporated management's responses into our report. We prepared our report and provided copies to appropriate County personnel.

Observations Matrix

Rating	Observations	Recommendation	Management Response
Moderate	<p>1. Monthly Statements (Payment Applications)</p>		
	<p>We obtained and reviewed payment applications (PA) 1-13 and performed the 13 testing attributes (a-m) listed in the Objectives and Approach section on pages 7 and 8 and noted the following:</p> <ul style="list-style-type: none"> a. Copies of the subcontracts were not provided with any of the 13 PA's during our testing period in accordance with Article 12.1.h. b. Written evidence of the monthly validation process is not formally documented and retained.* <p>*Based on discussions with the Contract's Manager, the support obtained and attached to the PA each month is reviewed and matched to the items charged in the schedule of values including payroll, general conditions, general requirements, subcontractor payment applications, etc. The Contract Administrator provided emails as evidence of items identified for resolution with the Contractor. However, written evidence of this validation process, and related controls performed, is not fully documented.</p>	<p>We recommend that management perform the following:</p> <ul style="list-style-type: none"> a. Obtain copies of the subcontracts entered into by the Contractor as of the last processed PA and going forward, as applicable. b. Develop a PA checklist that includes all the items required in Article 12 of the Agreement as well as the steps necessary to verify that the charges in the PA are properly supported and allowable pursuant to the terms and conditions of the Contract. Evidence of this PA review process should be documented and retained. 	<p>Response:</p> <ul style="list-style-type: none"> a. Management subsequently obtained copies of the subcontracts from the Contractor. Management does not anticipate any new subcontractors for the remainder of the project. Management will not require subcontracts to be submitted for future projects unless it is a grant/funding requirement. b. Management subsequently developed a PA checklist with evidence of approval documented on the PA checklist for each PA reviewed and approved. <p>Responsible party: Project Director (as designated in the Contract).</p> <p>Estimated completion date:</p> <ul style="list-style-type: none"> a. Completed. b. Completed.

Observations Matrix

Rating	Observations	Recommendation	Management Response
Low	<p>2. Subcontractor Licenses</p>		
	<p>The Award agreement for award 19-SP-10-06-15-01-236, between the County and Florida Department of Emergency Management, Attachment E – Warranties and Representations pertaining to Licensing and Permitting states the following:</p> <p><i>All subcontractors or employees hired by the Recipient shall have all current licenses and permits required for all the particular work for which they are hired by the Recipient.</i></p> <p>Based upon discussion with the Project Director, the County did not obtain subcontractor licenses to ensure compliance with this provision of the Award agreement.</p>	<p>We recommend that as required by the Award agreement that the County verify that all subcontractors or employees hired by the Recipient have current licenses and retain documentation as evidence.</p>	<p>Response: Management has subsequently obtained copies of the subcontract licenses from the Contractor. Management does not anticipate any new subcontractors for the remainder of the project.</p> <p>Responsible party: Project Director (as designated in the Contract).</p> <p>Estimated completion date: Completed.</p>

Observations Matrix

Rating	Observations	Recommendation	Management Response
Low	<p data-bbox="281 345 947 524">3. Quarterly Reports – Not Submitted Timely</p> <p data-bbox="281 386 947 524">The Award agreement for award 19-SP-10-06-15-01-236 between the County and Florida Department of Emergency Management includes the following terms and conditions:</p> <p data-bbox="300 570 928 862"><i>The Recipient shall provide the Division with quarterly reports and a close-out report. These reports shall include the current status and progress by the Recipient and all Sub-Recipients and subcontractors in completing the work described in the Scope of Work and the expenditure of funds under this Agreement, in addition to any other information requested by the Division.</i></p> <p data-bbox="300 906 928 1157"><i>Quarterly reports are due to the Division no later than 15 days after the end of each quarter of the program year and shall be sent each quarter until submission of the administrative close-out report. The ending dates for each quarter of the program year are March 31, June 30, September 30, and December 31.</i></p> <p data-bbox="300 1203 928 1455"><i>If all required reports and copies are not sent to the Division or are not completed in a manner acceptable to the Division, the Division may withhold further payments until they are completed or may take other action as stated in Paragraph (15) REMEDIES. "Acceptable to the Division" means that the work product was</i></p>	<p data-bbox="1003 386 1526 602">We recommend that management put a process in place to ensure that quarterly reports, required by Award agreements, are submitted by the respective due dates to avoid any possible delays in receiving payments.</p>	<p data-bbox="1577 386 1997 1044">Response: Throughout the grant cycle, Emergency Management staff worked closely with the State. No concerns were raised, and the funds were paid in full to the County without any issues. Emergency Management is actively working on identifying solutions to enhance task management across the divisions by refining the grant processing checklist, adding a suspense tracker, and implementing a management review, thereby bolstering confidence in eliminating delays for future projects.</p> <p data-bbox="1577 1089 1997 1157">Responsible party: Emergency Management Director</p> <p data-bbox="1577 1203 1997 1271">Estimated completion date: October 2024</p>

	<p><i>completed in accordance with the Budget and Scope of Work.</i></p> <p>We noted that six out of the nine quarterly reports submitted during the construction period to date were submitted after the 15 day deadline.</p> <p>The Director of Emergency Management stated the Quarterly reports were not consistently submitted for the life of the award due to a lack of project activity and/or the disruption by the COVID-19 pandemic. He also stated there were no adverse communications or consequences from the Grantor as a result.</p>		
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