

DENVER BOARD OF WATER COMMISSIONERS

Meeting Date: January 13, 2010

Board Item: VI-B-4

REVIEW OF CONSTRUCTION MANAGER/GENERAL CONTRACTOR (CM/GC) CONTRACTS AND CONSTRUCTION PROJECTS

Action by Consent

Action

Information

At the Board's direction, Denver Water contracted for an external review of three CM/GC projects by an outside construction management expert, DAE Construction Services, and by the forensics financial audit section of BKD, LLP. The three projects subject to review were the Foothills Chlorine Contact Basin, Montclair Pump Station and Capitol Hill Storage Tank CM/GC Projects.

DAE's report was provided to the Board in May 2009. DAE found that, in general Denver Water's CM/GC process "is on a very solid footing. The agency appears to have the construction expertise in-house to manage the process effectively. Its contracts are clearly written and, in our opinion, fairly treat both the agency and its contractor." DAE made a number of recommendations regarding the RFP process, primarily to include an RFQ process whenever time allows, and to require more detailed information from prospective contractors. As DAE notes, a number of these changes were incorporated into later selection processes for the Highlands Office Building and Marston Filter Plant 2 projects.

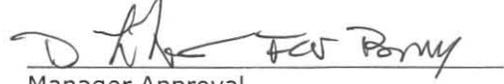
BKD conducted a complete review of all the documentation and payments related to the three projects and presented its findings through Agreed-Upon Procedures reports dated September 2009. The Board reviewed these findings in Executive Session on October 28, 2009. BKD's reports found certain "exceptions" related to missing or mismatched documentation, whose total dollar value was very minor. All expenditures were consistent with the contracts and the negotiated GMP's, and were valid project costs. The reports do not contain any evidence of overbilling, inappropriate billing for labor or equipment, mismanagement, or any other type of wrongdoing.

Based on the information contained in the reports from DAE and BKD, the Engineering staff is undertaking the following actions:

1. Procedures for documenting the process of selecting construction contractors, regardless of the project delivery method, have been established in the Engineering *Project Procedures Manual*. These procedures include forms that will be filled out by the selection team to document the process and will be stored in the project file.
2. Procedures for documenting design consultant selections have also been established in the Engineering *Project Procedures Manual*. These procedures include forms that will be filled out by the selection team to document the process and will be stored in the project file.
3. Engineering and Legal are beginning the process of amending Denver Water's CM/GC contract documents to reflect DAE's advice and to provide more clarity with regard to payment methods. For example, rather than simply incorporating a contractor's proposal, the contract document itself should contain all the relevant provisions governing payment. Although those involved in negotiations reached agreement on payment methods, and although careful contract administration and robust close-out procedures successfully resolved any lingering issues, more transparent contract provisions will improve future project administration.
4. The Construction Manager at Risk (CMAR) contract documents will also be modified for future use, incorporating appropriate language from the revision of CM/GC contract documents described above.
5. Future contract administration will place additional emphasis on documentation of invoices provided by the contractor and reviewed by construction inspectors. Although the hands-on role played by the Denver Water personnel involved in the project has ensured that expenditures are properly made, the goal will be to enable a subsequent reviewer to easily reconstruct the payment process.
6. Necessary documentation will be saved and stored in the project file.

Approvals:


Robert J. Mahoney
Director of Engineering


Manager Approval


Patti Wells
General Counsel