

Audit and Compliance Committee

Tuesday, February 20, 2018

**SUBJECT: REVIEW OF AUDITS: FAU 17/18-1, MINOR CONSTRUCTION
PROJECTS FOR THE PERIOD JULY 1, 2016 THROUGH JUNE 30, 2017.**

PROPOSED COMMITTEE ACTION

Information Only.

BACKGROUND INFORMATION

Minor projects are those with construction costs not expected to exceed \$2 million which are managed by the Design & Construction Services Department, a unit of Facilities Management.

Primary objectives of this audit were to evaluate whether:

- Minor construction projects were planned and administered consistent with applicable laws, rules, regulations and established university policies and procedures; and,
- Construction costs billed by the contractor were properly supported by appropriate backup documentation, reviewed and approved by management, processed timely, and accurately posted to the university's accounting records.

Four recommendations were made to address documentation and procedural issues relevant to the management of minor construction projects.

IMPLEMENTATION PLAN/DATE

Management has agreed to address three of our recommendations related to project documentation and oversight by 4/1/18, and revise relevant policies and procedures by 12/1/18.

FISCAL IMPLICATIONS

Not Applicable.

Supporting Documentation: Audit Report FAU 17/18-1

Presented by: Mr. Morley Barnett, Inspector General

Phone: 561-297-3682

Report No. FAU 17/18-1
Report Issue Date: January 25, 2018

FLORIDA ATLANTIC
UNIVERSITY™

Office of Inspector General

Audit Report: *Minor Construction Projects*

For the Period July 1, 2016 through June 30, 2017

Use of Report

We are employed by Florida Atlantic University. This report is intended solely for the internal use of the State University System and is not intended to be used for any other purpose. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

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**REPORT ON THE AUDIT OF
MINOR CONSTRUCTION PROJECTS**

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MEMORANDUM

TO: Dr. John Kelly
President

FROM: Morley Barnett
Inspector General

A handwritten signature in black ink, appearing to read 'Morley Barnett', is written over the printed name of the Inspector General.

DATE: January 25, 2018

SUBJ: AUDIT OF MINOR CONSTRUCTION PROJECTS

In accordance with the University's Internal Audit Plan for fiscal year 2017/18, we have conducted an audit of select minor construction projects. The report contained herein presents our scope and objectives and provides comments and conclusions resulting from procedures performed.

We have made four recommendations to address our findings. In accordance with our established procedures, follow-up will be performed subsequent to the issuance of this report to determine effective implementation of the recommendations by management.

Please call me if you have any questions.

cc: Vice Presidents
Auditee
FAU BOT Audit and Compliance Committee
Inspector General, Florida Board of Governors
Florida Auditor General

Executive Summary

In accordance with the University's Internal Audit Plan for fiscal year 2017/18, we have conducted an audit of minor construction projects (expected construction costs do not exceed \$2,000,000) at Florida Atlantic University for the period July 1, 2016 - June 30, 2017.

Based on a sample of twenty-seven completed, substantially completed, or in-progress minor projects, our primary audit objectives were to determine whether:

- Minor construction projects were planned and administered consistent with applicable laws, rules, regulations and established university policies and procedures; and,
- Construction costs billed by the contractor were properly supported by appropriate backup documentation, reviewed and approved by management, processed timely, and accurately posted to the university's accounting records.

Audit procedures included, but were not limited to, the evaluation of internal controls as those controls relate to the accomplishment of the foregoing audit objectives, as well as performing compliance testing on applicable records related to construction administration for samples of minor projects, including select contractor/trade vendor payment transactions.

Based on our review of relevant available documentation for the twenty-seven selected projects, we believe Facilities Management should improve its administration practices for minor construction projects to ensure compliance with applicable laws, rules, and regulations and established policies and procedures. We have made four recommendations, the details of which, as well as suggestions for corrective action, are found in the Comments and Recommendations section of this report.



January 25, 2018

Dr. John Kelly
President
Florida Atlantic University
Boca Raton, Florida

Dear President Kelly:

SCOPE AND OBJECTIVES

In accordance with the University's Internal Audit Plan for fiscal year 2017/18, we have conducted an audit of minor construction projects (expected construction costs do not exceed \$2,000,000) at Florida Atlantic University for the period July 1, 2016 - June 30, 2017.

Based on a sample of twenty-seven completed, substantially completed or in progress minor projects, our primary audit objectives were to determine whether:

- Minor construction projects were planned and administered consistent with applicable laws, rules, regulations and established university policies and procedures; and,
- Construction costs billed by the contractor were properly supported by appropriate backup documentation, reviewed and approved by management, processed timely, and accurately posted to the university's accounting records.

Audit procedures included, but were not limited to, the evaluation of internal controls as those controls relate to the accomplishment of the foregoing audit objectives, as well as performing compliance testing on samples of minor projects for applicable records related to the administration of the construction process, including select contractor/trade vendor payment transactions during the audit period.

We obtained an understanding of relevant minor construction processes by reviewing written university policies and procedures, applicable Florida Statutes and Florida Board of Governor's regulations, interviewing key personnel, observing actual practices, and analyzing key internal controls. Populations, sample sizes, and selection methods were determined based on our evaluation of internal controls and assessment of audit risk, the availability of pertinent university records, and other factors including auditor judgment.

We conducted our audit in accordance with the Institute of Internal Auditors' International Standards for the Professional Practice of Internal Auditing.

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BACKGROUND

The University's construction process is administered by the Design and Construction Services (DCS) department, a unit of Facilities Management (FM). Design & Construction Services, based at the Boca Raton campus, is headed by a director and staffed by four professional project managers - with architectural and engineering credentials - charged with oversight of the University's major and minor construction projects, two technical staff (a building code specialist and a civil engineer) and one administrative support staff member. In addition, DCS has a project manager dedicated to administering construction programs at the Jupiter Campus.

Minor projects are defined by the Florida Board of Governors as those with construction costs not exceeding \$2 million. DCS requires those requesting such projects to complete a *Minor Project Request Form* evidencing project approval by the requesting department's Dean/Director and the Provost/Vice President. Additional departmental procedures require each project to be supported by a purchase order, approved through the Workday Finance system and tracked in Facilities Management's database by project number/manager. The FM business office is responsible for processing all approved construction manager (CM), contractor, and vendor payments.

Projects overseen by DCS generally fall within the following categories:

1. Smaller projects costing less than \$280,000 (as referenced in Florida Statute 1013.45 - *Educational facilities contracting and construction techniques*) that are managed in-house in their entirety by DCS project managers, whenever practical. These project managers may directly select vendors or use contractors/vendors that have already negotiated their rates with the State of Florida via consortiums, for example. Management considers involvement by the DCS professional staff in managing these types of projects to be a logical and effective cost-saving strategy; and,
2. More complex projects requiring the expertise of one of six professional CM continuing services contractors who have contracted with the University to complete projects under a guaranteed maximum price arrangement.

Regardless of the level of complexity of a given minor construction project, there is an expectation that applicable University policies, State statutes and BOG regulations for competitive solicitations, proper insurance coverage, performance bonds and contractor licensure be followed.

Preliminary discussions with management for this audit indicated that, as part of a restructuring of Facilities Management, several overarching objectives have been established for DCS during the last two fiscal years with respect to minor projects. According to management, there has been a re-emphasis on integrity of the CM and contractor/vendor selection process, more efficient use of available space throughout the University, and more extensive reliance on internal staff expertise to save the University money while maintaining high quality standards.

According to Facilities Management, total minor project expenditures for fiscal years 2015-16 and 2016-17 were approximately \$4 million and \$9 million respectively. An increase in State appropriations, as well as overall University budgets supporting user-funded projects, accounted for the majority of the increase in project expenditures. Individual minor projects managed by

DCS during the audit period ranged from approximately \$300 - \$800,000.

Total expenditures for the 27 sampled projects totaled \$3,104,244 or approximately 36% of \$8,657,689 total project costs for 77 projects completed in FY 2016/17. We reviewed supporting documentation for approximately 74% or \$2,304,331 of partial contractor/vendor payments made for the sampled projects. The 27 projects reviewed represent approximately 35% of the total number of projects completed during the audit period.

COMMENTS AND RECOMMENDATIONS

During the planning phase of this audit, DCS personnel acknowledged that during the last two fiscal years, Facilities Management has been transitioning to focus more on efficiency of the construction process for services offered the University community. We understand that this transition includes revision of existing FM policies and procedures for current practices, while recognizing regulatory requirements applicable to Florida's public universities. Among other factors, we believe that our recommendations are consistent with the above-mentioned considerations and previous Florida Auditor General findings, and take a balanced approach to safeguarding the University's interests with respect to minor construction projects.

Current Findings and Recommendations

SUBCONTRACTOR/VENDOR SELECTION – COMPLIANCE WITH BOG / UNIVERSITY PROCUREMENT REGULATIONS AND BIDDING PROCEDURES:

Florida Board of Governors (BOG) Regulation 18.001 - *Procurement* and University Regulation 6.008 - *Procurement* requires competitive solicitations for purchase of commodities or contractual services, unless otherwise exempt as set forth in the regulations. Further, the University's Procurement Department's Purchasing Manual, Section 1.7 - *Bidding* requires adherence to the following schedule:

Amount	Formal Bid and Quotation Requirements
\$75,000 or greater	Two or more formal bids, unless otherwise exempted by regulation.
\$12,500 - \$74,999	Two or more written competitive quotations, unless otherwise exempted by regulation.
Less than \$12,500	Informal written or verbal quotations.

Our review of the integrity over the selection process for subcontractors/vendors included the following regulatory, contractual, and policy matters:

- An established procurement requirement (FAU Regulation 6.008(3)(b)(2)) that a *Sole Source Certificate* document be submitted in support of a request to purchase a particular commodity or service available only from a single source for which no call for bids were made, unless otherwise exempted by regulation.
- A standard contractual requirement that all six CM continuing services contractors must obtain competitive solicitations for the work to be performed by various trade contractors and administer the construction phase of the project in accordance with Facilities Management (FM) - Design & Construction Services (DCS) Policy & Procedure #5 -

Construction Manager Bidding Procedures. The standard CM contract must be in the guaranteed maximum price (GMP) format which allows any net cost savings (difference between certain project costs and the GMP amount) to be returned to the University. As such, a GMP contract requires University personnel to closely monitor the construction costs and award of bids to subcontractors.

- FM's Policy & Procedure # 5 requirement that the project manager or designee attend bid openings for all trade work bid packages for all CM projects and sign (witness) the *Bid Tabulation Sheet*. Also, the project manager is required to arrange for the Architect/Engineer (A/E), as applicable, of record to attend bid openings. The document is to be signed by all appropriate representatives (bid opener, A/E, CM, & FAU representative). After the CM has analyzed and evaluated the various bids, and indicated their recommendation for each bid package, the document is to be countersigned by the A/E of record. If the lowest bidder is not the recommended subcontractor, the CM must provide a letter of justification for the basis of award outlining the scope and cost adjustments after analysis and evaluation of bids.

Through our observations and discussions with DCS personnel, we learned that the department's current operating practice requires two competitive quotations for all work over \$12,500, but only formal bids (purchases in excess of \$74,999) are being entered on a *Bid Tabulation Sheet* and signed by all parties.

Our review of the trade contract records - *Bid Tabulation Sheets*, including quotations on file for the 27 sampled projects - revealed documentation issues as outlined in Exhibit 1 of this report.

Recommendation No. 1

As similarly recommended by the Florida Auditor General in the University's operational audit for fiscal year ended June 30, 2013, we recommend that Facilities Management ensure that procedures for documenting the monitoring of the subcontractor selection process adhere to BOG and University regulations, established policies and procedures, and contractual terms specified in the University's standard agreements with CM continuing service contractors for minor projects. In particular, we recommend that DCS ensure that competitive solicitations for trade costs between \$12,500 and \$74,999 are documented on the bid tabulations sheets as part of its operating practices. Consideration for applicable FM policy revisions should reflect inclusion of all trade contractors/vendors competitive solicitations on *Bid Tabulation Sheets* as a best practice for maintaining consistency of documentation, protecting the University's reputation and fulfilling its contractual obligations.

Management's Response

Action Plan:

The selection process for the Construction Manager (CM) Continuing Services Contracts is transparent and allows the University to negotiate construction service rates for a 3-year period. Once a CM is on contract, their licenses, certificate of insurance and bond requirements are checked and kept on file. This gives our Project Managers the opportunity to select any of the six current CMs on Continuing Service to deliver projects.

In an effort to save the University funds, we have encouraged our technical staff to rely more on their technical abilities. All Project Managers have an architectural background and many have valid licenses to practice. As a result, we have asked our Project Managers to design projects in-house and also to manage construction projects.

This is new to our team. Now the Project Managers have to reach out to sub-contractors and request quotes. This saves the University the CM's fee (5 to 11% of construction cost) and the cost of supervision. During the audited period, 50% of the design and construction of the projects were managed by our staff. In the previous year, that number was 0. Today that number has risen to 80%.

In a booming construction market, it is not easy to create reliable new relationships with contractors of various trades. On a small project (\$12.5K to \$75K) it is the norm to request a minimum of two quotes per trade in accordance with State regulations and procurement requirements.

We do not agree with the auditor's recommendation to use tabulation sheets for small projects. We understand this would expedite their investigation work, but the Project Managers keep all quotes (awarded and non-awarded) on the DCS digital server. Each project has a unique folder. All information, drawings, quotations are stored in subfolders. Additionally, when submitting a requisition in Workday, the Project Manager will attach the awarded and the non-awarded quote. In the absence of the two quotes, the requisition will be sent back and no PO can be generated. The recommendation could be misinterpreted to imply that the lack of bid tabulation sheets for the projects referenced indicates that quotes were not obtained. As stated here quotations are obtained and maintained electronically on the server in the appropriate project folder. It should also be noted that projects up to \$75k do not require a bid thus bid-tabulation sheets are not appropriate. To reiterate, quotes are obtained and maintained electronically.

Implementation Date:

April 1, 2018

Responsible Auditee:

Numa Rais, Director, FM - Design & Construction Services

DOCUMENTATION DEFICIENCIES RELATED TO THE ADMINISTRATION OF MINOR CONSTRUCTION PROJECTS:

As previously noted, management acknowledged during the planning phase of this audit that they are working on revising existing policies and procedures that will apply to the administration of minor construction projects. We tested a sample of 27 minor projects, which included six projects placed with CM continuing services contractors, one project with a non-CM continuing services contractor, and 20 projects managed directly by DCS project managers utilizing approximately 50 trade vendors to perform the work.

Design and Construction Services requires the originator of a project to complete the *Minor Project Request Form* to evidence approvals by the requesting department's Dean/Director and

the Provost/Vice President. Approved projects are logged by the Director of DCS into the on-line Minor Projects Management Database system and assigned to a project manager. Whenever possible, DCS utilizes their existing in-house staff (project managers, architects) to manage the entire project. For more complex projects, the project manager may use one of six CM continuing service contractors to complete projects. The CM firms are professional project management teams that coordinate projects from pre-construction services through the construction phase. Following the pre-construction phase, the CM provides a Guaranteed Maximum Price (GMP) confirming the total contracted amount for delivering the project as designed in accordance with approved construction documents and specifications.

Our review of the sampled projects, as well as discussions with management, indicated the following documentation deficiencies:

- Eight of 27 *Minor Project Request Forms* reviewed had not been approved by the applicable department Dean/Director and/or Provost/Vice President.
- Twenty-three of 27 (85%) projects reviewed revealed that a *Request for Asbestos Verification Form* (FM Policy & Procedure #20) had not been completed by DCS personnel and signed off by the Environmental Health & Safety (EH&S) Asbestos Coordinator to ascertain whether a project might require asbestos abatement. Discussions with management indicated that a checklist was being developed, in coordination with EH&S personnel, which would be used to document whether a particular project, as noted on the *EH&S Building with Potential Asbestos* listing, might be impacted by asbestos materials;
- Our review of 16 payments for four sampled CM continuing service projects indicated the *Project Manager's Change Order Logs*, as noted in FM Policy & Procedure #7 - *Receipt and Approval of Invoices*, had not been completed for any of the CM-managed projects as had been the prior practice. Completion of the *Project Manager's Change Order Log*, assists the project manager in effectively documenting and monitoring any change orders/amendments for each guaranteed maximum price contract component (*Schedule of Values* amounts such as *contingencies*, *general condition* and *profit & overhead*) prior to paying the CM;
- For one minor project contracted out to a non-continuing services CM (Big Dog Construction Services), only a proposal was obtained from the CM. According to FM Policy & Procedure #3 (*Guaranteed Maximum Price (GMP) - Minor Projects*), minor project contracts with CMs should be detailed in the GMP format;
- Our review of 16 payments for four sampled CM continuing service projects indicated three instances where a *Certificate of Contract Performance* (applicable *only* for partial payments) had not been completed for payments totaling \$49,384; and,
- The standard *University Agreement for Continuing Services for Construction Management for Minor Projects* with each of the six CM Continuing Service contractors is not consistent with some of Facilities Management's current operating practices or referenced policies and procedures. For example, the current standard agreements incorrectly reference FM Policy & Procedure #4 (*Labor Tracking for Construction Managers Minor Projects*) in paragraph 2.2.1 (pg.3 of 12). Based on discussions with

management, the *Labor Tracking Spreadsheet* is no longer utilized due to the limited number of projects managed by a single CM.

Recommendation No. 2

We recommend that management address the types of issues noted above as part of relevant updates to current policies and procedures related to the administration of minor construction projects. It will be in the best interest of the University and a best practice for the administration of minor construction projects in higher education to have certain policies and procedures in place to ensure compliance with all applicable BOG, Florida Statutes and University regulations.

In order to effectively communicate management expectation, it is sound business practice to maintain adequate and up-to-date minor construction project policies and procedures. Updated procedures and policies will provide project managers and others with a readily available reference source, and valued guidance and training tool for consistently carrying out assigned duties and responsibilities.

Management's Response

Action Plan:

We agree with the auditor's recommendation. The Policies and Procedures should be revised and reflect current project management processes.

It is important to note that the audit did not find non-compliance with any Board of Governors Regulation or State of Florida Statute. However, we would agree our project management practices do not follow our existing policies and procedures in their entirety. This is primarily because they are outdated and not in line with today's best professional practices in the industry. Additionally, the desire of management has been clearly expressed to manage projects in house where appropriate and obtain quotes for even small projects in an effort to save the university money. This allows Facilities to apply those savings to the much needed deteriorated conditions of the buildings, especially on the Boca Raton campus.

As a newly hired Director, I was tasked to build my team first and foremost. Without a knowledgeable team, we would be ill equipped to manage not only the volume of minor projects but the major projects as well. The audit failed to report that we have hired two additional Project Managers, both architects. Design and Construction Services is also responsible for Space Utilization. The mission of this unit is to constantly gather space data to keep the University space inventory up to date and accurate. This information provides DCS with additional tools to plan projects. What the audit does not report is how projects ensure maximum space efficiency. Too often in the past, projects would reach the department and nobody would question their viability. This has changed. However, this is not reflected in any formal Policy nor any Procedure as of yet. We have worked with an outside consultant to conduct a space analysis of every campus. The data and subsequent findings will guide the development of updated existing or creating new policies to utilize existing space more efficiently as well as design new space with these same efficiencies in mind.

To use the example of asbestos, the Project Managers have a list of all buildings where asbestos has been found, based on Environmental Health and Safety (EHS) surveys. DCS meets regularly with EHS and updates their list of projects weekly. This information is public and can be found

at:

<http://www.fau.edu/facilities/pc/includes/MinorProjectStatusReport.pdf>

So while a form isn't completed for each minor project, every project is compared to the EHS list to identify if, in fact, asbestos will be an issue in any project and as previously stated EHS representatives are involved in all projects.

Finally, we mentioned in Recommendation 1, the digital filing process. In the past, all documents were kept as hard copies in a project folder. This was not efficient and many documents were missing. Now each project is saved online, accessible to all DCS team members. Data management has been centralized by our Civil Engineer, who ensures all digital folders and subfolders contain the required files and data. The Project Managers shared ideas and their experience to ensure the most efficient filing system. This is in full compliance of State Regulations but once again is not reflected in any of our policies. The audit only focused on outdated policies.

In conclusion, we agree with the audit or recommendation to revise our Policies and Procedures understanding that first we had to assess the existing practices and develop practices and procedures that were in the best interest of FAU in terms of cost savings, efficiency and the expeditious completion of projects. The policies referenced in the audit are not university-wide policies but internal practice policies which we noted prior to the start of the audit were not reflective of how we conduct business. This is a unit that has gone through a complete overhaul. It is a process that starts with building a team, assessment of practices, verifying compliance with BOG and State Regulations, compliance with building codes, development of internal policies that are more accurately reflective of the changes made. The process is by no means complete which was clearly communicated throughout this process.

Implementation Date:

December 1, 2018

Responsible Auditee:

Numa Rais, Director, FM - Design & Construction Services

INSURANCE & LICENSE MONITORING OF TRADE VENDORS/CONTRACTORS

The University requires all vendors doing business with FAU to be properly licensed, insured and registered as required by law and authorized to do business in the State of Florida (Purchasing manual 12.2 - *Vendor Insurance Requirements*). According to the manual, unless otherwise specified, all vendors must possess the required insurance coverages including Workers Compensation, Automobile, and Professional/General Liability as specified by State statutes.

Insurance certification or license verification (if required) is to be maintained by the requesting department - DCS in the case of minor construction projects. Additionally, Facilities Management Policy & Procedure #20 (*Minor Projects*) states that the Code Compliance Coordinator is responsible for verifying the currency of insurance coverage and licenses for the

contractor or CM selected to do the work, during the term of the project.

Based on discussions with Facilities Management personnel, we noted that insurance coverage and licenses, as applicable, for non-CM trade vendors/contractors were not being validated before issuing a purchase order. For CM projects, the CM is responsible, per Engineering & Utilities (E&U) Policy & Procedure #11 (*Code Compliance & Construction Permit Administration*), for verifying that all their subcontractors are duly licensed (if required), and insured. For many CM projects, DCS selects one or more additional trade vendors or non-CM contractors for project completion.

Our testing of 27 sampled projects included 20 projects managed directly by DCS project managers utilizing approximately 50 non-CM trade vendors to perform the work. In some cases, these non-CM trade vendors utilized performed work requiring a state of Florida license (i.e. electrical, plumbing, structural, and mechanical HVAC). We found no documentation on file to support vendor insurance coverage or required licensure verification for vendors in various trades. The lack of adequate documentation of vendor insurance coverage and proper licenses places the University at risk. DCS management stated that, in coordination with the University's risk manager, they were in the process of developing an on-line database and checklist, with related procedures, to track and document liability insurance coverage(s) and applicable license verifications for all non-CM trade vendors/contractors.

Recommendation No. 3

We recommend that Facilities Management - Design & Construction Services comply with required University policy by verifying and documenting proper license (if required) and insurance coverage for all trade vendors and contractors prior to commencement of a project. To help ensure effective monitoring of required insurance coverage(s) and applicable licenses, we encourage timely development of a tracking database as described by management.

Management's Response

Action Plan:

We agree and support this recommendation. However, it is important to note this falls under the responsibility of the external or hired Construction Manager on Continuing Services contract with FAU. During the selection process, our office checks and records their Certificate of Insurance (COI), licenses and blanket bond. Note many of the vendors and contractors working on this campus, especially during the audit period, have been working with our Project Managers and other departments such as OIT for many years. JCI has supplied and installed 95 % of all low voltage/data cabling on all our campuses.

For projects managed in house, our Building Official is now tracking licenses and Certificates of Insurance. DCS created a digital record, available to all Project Managers, on our shared server. As we were bringing more competition and more vendors on campus it became evident we needed to track their ability to work on campus more rigorously. While that responsibility fell with the Risk Manager in Environmental Health and Safety, we felt our project managers should also track that information. Soon enough it became clear our requests were redundant as many vendors were working with several Project Managers. This has now become the responsibility of our Building Official, who was already checking licenses when delivering permits.

The audit fails to mention many projects that were completed on campus without the Facilities Department's knowledge. Colleges hired their own facilities staff, reporting to chairs and Deans and not to the Facilities Department. Spaces were renovated without our knowledge. The colleges were hiring contractors directly with no communication to the Facilities Department. This has now changed, and we developed relationships across campuses within the Colleges. Now all projects are managed by DCS. This ensures all projects are permitted and licenses checked. In the past, our Building Administrator was not keeping a log of these licenses, but instead was updating our old Microsoft Access database. This tool is not meeting our current needs. As result we developed a matrix to track permits, license and COI available to the entire DCS team. This is not reflected in our Policies and Procedures, which once again, we agree need to be updated.

Implementation Date:

April 1, 2018

Responsible Auditee:

Numa Rais, Director, FM - Design & Construction Services

NON-COMPLIANCE WITH BONDING REQUIREMENTS – FLORIDA STATUTES 1010.07 & 255.05

Florida Statute 1010.07 - *Bonds or Insurance Required* states that all contractors paid from University funds shall give bond for the faithful performance of their contracts in such amount and for such purposes as prescribed by Florida Statute 255.05 – *Bond of Contractor Constructing Public Buildings*. Florida Statute 255.05 requires a payment and performance bond equal to the contract price for all contracts greater than \$100,000 with a surety insurer authorized to do business in Florida as a surety, unless an exemption is granted by a state agency.

Compliance testing of a sample of 27 minor construction projects indicated that eight of the projects had construction contracts individually exceeding \$100,000 to a single contractor (continuing and non-continuing services). We noted that for all contracts (six total) awarded to a continuing service contractor, a blanket payment and performance bond greater than the contract amount was provided by the CM. However, for two trade vendors (non-continuing services) contracted directly by DCS, there was no documentation on file regarding separate payment and performance bonds for the contracted work. Also, our review of Facilities Management's Policy and Procedure #20 - *Minor Projects* section related to bond requirements revealed the need for revision to properly reflect current Florida Statute requirements.

Recommendation No. 4

To better protect the University's financial interests, we recommend management ensure that all contractors, including trade vendors selected to perform construction services, comply with current Florida Statutes for payment and performance bonding requirements. Concurrent with this recommendation, necessary revisions of applicable policies and procedures should be made to conform with the State's performance bond requirements.

Management's Response

Action Plan:

We agree and support this recommendation. Similar to Recommendation No. 3 response, it should be stated that the bonding requirement is also being reviewed by the Building Official.

In conclusion, while we understand the focus of this audit was on minor projects, we made it clear in all audit entrance meetings as well as weekly/regular scheduled meetings with the field auditor and others that internal policies were not reflective of the changes made within the department. Changes that benefited FAU by designing and managing projects internally in an effort to save the university money wherever possible. We emphasized at each meeting that instead, we were following the regulations set forth by both the Board of Governors and the State of Florida and as practices were fully developed they would be reflected in updated internal policies.

In short, notating where we were not following outdated policies doesn't depict the spirit in which this unit now functions. As previously stated, we are now saving between 5-11 % every time we manage a minor project internally. Those funds may then be reallocated to other critical facility needs on the campuses. There is an entrepreneurial spirit in which we function operating as a business versus the outdated practices reflected in the policies referenced in this audit. We appreciate the time the Office of the Inspector General spent in working with us and we will make every effort where appropriate to implement their recommendations.

Implementation Date:

April 1, 2018

Responsible Auditee:

Numa Rais, Director, FM - Design & Construction Services

Prior Audit Recommendations

Our examination generally includes a follow-up on findings and recommendations of prior internal audits, where the subjects of such findings are applicable to the scope of the current audit being performed.

Within the past three years, our office has not conducted any audits related to minor construction projects. Accordingly, a follow-up on prior audit findings is not applicable.

CONCLUSION

We believe the administration of minor construction projects could be improved by more effective monitoring for compliance with regulations and established University policies and procedures. Most importantly, we recognize opportunities to improve the monitoring processes related to documenting the selection of trade contactors and verification of required licenses and insurance. We consider our recommendations to be cost-beneficial to implement, provide relevant guidance for making necessary revisions in departmental policies and procedures, and will strengthen DCS' overall internal control environment.

We wish to thank the staff of Facilities Management - Design & Construction Services for their cooperation and assistance which contributed to the successful completion of this audit.

A handwritten signature in black ink, appearing to read "Morley Barnett", is displayed on a light-colored rectangular background.

Morley Barnett, CPA, CFE
Inspector General

Audit Performed By: Ben Robbins, CPA (NC)

Project #/Name/CM/Vendor	(A)	(B)	(C)	(D)	(E)
/-----Refer to Legend for detailed comments based on audit testing -----/					
P-7213 / Tennis Court Complex / Morganti	5 Trades – Range (\$12,573 – \$802,519)	1 Trade - Fencing (\$87,980)			
P-7206 / Reno. EH&S Space / JWR			Two Subcontractors - (Lotspeich - \$15,640 & FloorPro - \$18,700)		✓
P-7251 / Reno. Cafeteria – (Jupiter Campus) / JWR			Two Subcontractors - (SS Waterproofing/Paint - \$14,155, \$30,720 & Walter Awning - \$47,500)	Two Subcontractors - (Cayman Mfg. - \$57,063 & Singer Equip. - \$24,582)	✓
P-7289 / Reno. Purchasing Space for New Studio / JWR			Five Subcontractors - (Riteway Demo. - \$13,412, Acousti Eng. - \$17,105, Lotspeich - \$14,335, AA Advanced - \$18,850 and C Davis Electric - \$43,968)	One Subcontractor - (Nightingale Commercial Resurfacing - \$32,774)	✓
P-7410 / Reno. Library Main Entrance Lobby / Big Dog Construction				1 Trade – (Big Dog Const. – CM became the Sole Source Contractor for the Flooring Portion (\$23,480) of the contract)	✓
P-7241 / Replace Exhaust Fans / B&H Metals (Vendor)					✓
P-7244 / Lib. Shelving Removed / 4 diff. Vendors					✓
P-7282 / Rm. 150 Renov. / Multiple Trades (19 different vendors)					✓
P-7294 / Bldg. Exterior Walkway Marina Painting / 3 different vendors					✓

Legend:

- (A) *FAU Bid Tabulation Sheets* were not signed by the FAU Representative (Project Manager) to indicate that all of the bid openings had been witnessed by him.
 - (B) A *Letter of Justification* for the basis of the award exceeding \$74,999 to a subcontractor who was not the lowest bidder had not been obtained by the CM.
Note: During our audit the deficiency was communicated to the auditee; the CM subsequently prepared a *Letter of Justification*.
 - (C) University records to evidence two or more written competitive quotations for subcontractor(s) with trade costs between \$12,500 and \$74,999 were not on file. **Note:** During our audit the deficiency was communicated to the auditee; the CM subsequently provided copies of competitive quotations obtained from the applicable trade subcontractor.
 - (D) University records such as a *Letter of Justification* for why a 2nd proposal was not obtained from a subcontractor(s) with trade costs between \$12,500 and \$74,999 were not on file; and, the subcontractor(s) selection was not documented on the *FAU Sole Source Certificate* form.
Note: During our audit the deficiency was communicated to the auditee; the CM subsequently provided an e-mail explaining why a 2nd proposal quote was not obtained. The explanation provided was deemed to be equivalent to a *Sole Source* exemption which should have been documented by DCS on the *FAU Sole Source Certificate* form (Required by FAU Purchasing).
 - (E) *FAU Bid Tabulation Sheet*, including the CM's recommendation, as applicable, had not been used to document competitive solicitations from trade subcontractors for proposal(s) between \$12,500 and \$74,999 as had been a prior practice to demonstrate monitoring of, and compliance with, established policies and procedures and the University's standard contract agreement (article 2.2.1) with all six Construction Management (CM) Continuing Services contractors.
- ✓ Documentation issue pertains to Legend (E) for the noted project.