

Office of Inspector General
Robert E. Clift, Inspector General



Advisory Report No. 16C-1002
District Five Contract E5R16

May 26, 2016

What We Did

The Office of Inspector General (OIG) conducted a contract modification review of the Design-Build contract between the department and Condotte/De Moya Joint Venture (contractor). Contract E5R16 (contract) was awarded for widening and resurfacing I-4 from SR 44 to east of I-95 in Volusia County. The work mix includes widening I-4 from four to six lanes, replacement of three I-4 bridges, and construction of three wildlife crossings.

The original amount of the contract was \$134,462,000. To date, four supplemental agreements (SA) have granted 267 days of additional contract time and approved \$8,836,293 of additional compensation, or 29.7% and 6.6% increase, respectively.

What We Found

We determined SA Nos. 35, 55, 62, and 68 were issued and supported in accordance with contract provisions. We also determined contract administration conducted by District Five complied with applicable laws, rules, and department procedures.

During our review we also observed the following best practices used by District Five in the administration of the contract:

- ✓ District Five's Office of Construction performed an independent review of the time extensions (TE) request, analyses, and support for SA Nos. 35 and 68, prior to approval by the District Construction Engineer; and
- ✓ The department's consultant construction engineering and inspection firm routinely asked questions of the contractor in the weekly progress meetings if there were any department issues impacting the contractor's schedule, and if there are any potential issues the department needs to be aware of.

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BACKGROUND AND INTRODUCTION

The contract was awarded for widening and resurfacing I-4 from SR 44 to east of I-95 in Volusia County. The work mix includes widening I-4 from four to six lanes, replacement of three I-4 bridges, and construction of three wildlife crossings.

The original amount of the contract was \$134,462,000. To date, 267 days of additional contract time¹ has been granted and \$8,836,293 of additional compensation has been approved. The table below shows contract time and cost increases of 29.7% and 6.6%, respectively.

Contract Modifications Summary Design-Build: I-4 from SR 44 to East of I-95 As of November 13, 2015			
	Time	Amount	Comment
Original Contract Time and Amount	900	\$ 134,312,000	
Holiday time extensions	72	-	8.0% increase
Weather time extensions	229	-	24.4% increase
Contingency Supplemental Agreement	-	\$ 150,000	
Supplemental Agreements	267	\$ 8,836,293	29.7% and 6.6% increase
Total	<u>1,468</u>	<u>\$ 143,298,293</u>	

Source: Enterprise Information Portal

SA No. 35, which added \$3,559,297 and 123 days to the contract, was initiated to improve Maintenance of Traffic (MOT) along the eastbound I-4 roadway and temporary I-4 westbound roadway. MOT enhancements included removing and/or relocating temporary barrier wall sections, extending drainage pipe culverts, and other work as needed to add a 10 foot average width temporary paved shoulder throughout the project limits for the Phase II Traffic Control Plan.

According to SA No. 35's support documentation:

Review of the current Traffic Control Plan and MOT has determined that the travel conditions can be further improved from the Request For Proposal requirements by removing or relocating all the temporary barrier walls along the outside shoulder to provide the traveling public and emergency vehicles with an open traversable shoulder for emergency situations for the entire length of the roadway....the median barrier wall along with the shoulder barrier wall locations

¹ Excluding time granted for weather delays and holidays allowed by the contract.

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create pinch points (no shoulders) for motorist and emergency vehicles. The pinch points created traffic and emergency response delays when accidents occur.

See Attachment 1 for a photographic example of a “pinch point” section on I-4 after the barrier wall was relocated. The photograph shows added shoulder area for emergency response vehicles.

SA No. 55, which added \$166,232 and zero days to the contract, was initiated to compensate the contractor for design plans necessary to build and construct a temporary 10 foot average width paved shoulder throughout the project limits for the Phase III Traffic Control Plan.

SA No. 62, which added \$97,643 and zero days to the contract, was initiated to revise the truss length of selected overhead sign structures, which will avoid conflict with the future rail corridor. Another purpose of SA No. 62 was to eliminate all external overhead sign lighting and use high visibility retroreflective sign sheeting instead.

SA No. 68, which added \$5,013,120 and 144 days to the contract, was initiated to compensate the contractor for all work, labor, materials, paving, fill material, and equipment required to construct temporary 10 foot wide paved shoulders (one going eastbound, the other westbound) for I-4 Phase III construction.

RESULTS OF REVIEW

Observation 1 – Compliance with Contract Provisions

We reviewed TE support documents, such as the MOT Enhancement – Engineer's Time Extension Analysis and critical path method schedules for SA Nos. 35 and 68 at Parsons Brinckerhoff (CEI)² project office. **We determined** the 267 days of contract time granted for SA Nos. 35 and 68, 123 and 144 days, respectively, were supported in accordance with contract provision 8-3.2.6, Time Extensions.

The CEI prepared the Engineer's Cost Estimates for SA Nos. 35, 62, and 68 using department statewide average pay item costs to provide assurance of accurate SA pay item prices. Statewide average salary design rates were used to prepare the Engineer's Estimate for SA No. 55. **We determined** the additional compensation of \$8,836,293 approved for SA Nos. 35, 55, 62, and 68 was supported in accordance with Contract Section 4-3.2.1, Allowable Costs for Extra Work.

Observation 2 – Review of Other Contract Documents

We reviewed project correspondence from the CEI to the contractor and e-documents from the department's Electronic Data Management System and confirmed the contractor is enrolled in and using the E-Verify system. **We determined** the contractor has complied with the E-Verify program requirements found in Contract Section 7-27, E-Verify, and the Department of Homeland Security's E-Verify Self-Assessment Guide.

We observed and obtained a copy of the Worksite Traffic Supervisor's wallet MOT certification card. **We determined** the contractor complied with the Worksite Traffic Supervisor MOT Advanced Training Certification requirement found in Standard Specifications for Road and Bridge Construction (2010 Edition) Section 105-8.3, Worksite Traffic Supervisor.

We accompanied the CEI on a project site visit and observed if vehicles within the project limits had a Florida license plate. We noted there were no vehicles with out-of-state license plates. **We determined** the contractor complied with the Contractor Vehicle Registration requirements found in Contract Section 7-23, Contractor's Motor Vehicle Registration, and section 337.11(13), Florida Statutes, Requirements of Vehicle Registration.

We examined Disadvantage Business Enterprise (DBE) compliance documents from the District Five Contract Compliance Manager's files:

- Daily Work Report (DWR) for JS&L Site, Inc. (SA No. 68 DBE subcontractor)

² Parsons Brinckerhoff is the department's consultant construction, engineering and inspection firm (CEI).

- Wage and Hour Record documents for JS&L Site, Inc.

Based upon audit inquiry and review of DWR, we confirmed JS&L Site, Inc. performed drainage work at the project. **We determined** District 5 monitored JS&L Site, Inc. for DBE compliance.

Observation 3 – Independent Review of Time Extension Requests

Prior to the District Construction Engineer approving SA Nos. 35 and 68, we noted the CEI was required to submit to the District Construction Office, for an independent review, the request for a time extension and supporting documentation.

These independent reviews by the District's Construction Office serve as internal controls and are identified as a best practice helping ensure TE requests are supported in accordance with contract requirements and department procedures.

Observation 4 – Weekly Progress Meeting Minutes

We identified “best practices” in the type of questions that are being asked of the contractor in weekly progress meetings. Though these meetings normally cover the job's progress, schedule updates, weather days, etc., the questions below were developed specifically by the district for use on their projects:

- Were any department issues at this time impacting their (contractor) schedule?
- Are there any potential issues that the department needs to be aware of?

The CEI then follows up and reminds the attendees that “any request for time needs to be done formally and submitted in a timely manner for the department to be able to review and have an opportunity to mitigate any issues.”

It is the department's responsibility to ensure appropriate monitoring controls are in place and operating effectively. Probing questions, such as these, help ensure the department is proactively monitoring and documenting issues affecting the contractor. If done in a consistent, predictable, and repeatable manner, it also enhances awareness of new members on the project about the contract's requirements for requesting additional time and/or filing a notice of intent.

Lastly, there is the benefit to both the department and contractor of having historical information available regarding any subsequent requests for additional time and/or compensation for the project.

APPENDIX A – Purpose, Scope, and Methodology

Section 20.055, Florida Statutes, requires the OIG to conduct audits, examinations, investigations, and management reviews related to programs and operations of the department. This review was performed as part of the OIG’s mission to promote accountability, integrity, and efficiency for the citizens of Florida by providing objective, and timely audit and investigative services.

The **purpose** of this review was to determine compliance with applicable regulations, as well as department policies and procedures. Our objectives were to:

- determine if the supplemental agreements that granted time complied with Contract Section 8-3.2.6, Time Extensions;
- determine if the supplemental agreements that increased the contract amount complied with Contract Section 4-3.2.1, Allowable Costs for Extra Work; and
- review other contract documentation, as needed, for compliance with applicable contract provisions, laws, rules, and procedures, including:
 - o E-Verify program;
 - o Worksite Traffic Supervisor MOT training certification;
 - o Contractor vehicle registration; and
 - o Disadvantaged Business Enterprise subcontractor compliance.

The **scope** of our review was Contract E5R16 and the associated contract changes resulting from SA Nos. 35, 55, 62, and 68 from May 2012 through November 2015.

Our **methodology** consisted of:

- reviewing applicable laws, rules, regulations, and procedures, including Florida Statutes and department publications such as CPAM and Standard Specifications for Road and Bridge Construction (2010 edition);
- examining and testing supporting documentation and management controls, including supplemental agreements, critical path method monthly schedules, time extension analyses, and other documents used to support contract modifications;
- interviewing department and Parsons Brinckerhoff (Construction, Engineering, and Inspection firm for Contract E5R16) personnel; and
- observing construction project site conditions.

APPENDIX B – Contractor Response

CDJV's Construction Project Manager was notified by email on March 16, 2016 and no further comments were received.

APPENDIX C – Management Response

The District Construction Engineer responded by email on May 2, 2016 with no comments to add to the report.

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DISTRIBUTION, PROJECT TEAM, AND STATEMENT OF ACCORDANCE

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Melinda Miguel, Chief Inspector General, Executive Office of the Governor

Project Team:

Engagement was conducted by Richard Pearson, Auditor in Charge

Under the supervision of:

William Pace, Contract Audit Manager; and

Kristofer B. Sullivan, Director of Audit

Approved by: Robert E. Clift, Inspector General

Statement of Accordance

*The mission of the department is
to provide a safe transportation system that ensures the mobility of people and goods,
enhances economic prosperity, and preserves the quality of our environment and communities.*

*The mission of the Office of Inspector General is
to promote integrity, accountability, and process improvement in the Department of
Transportation by providing objective fact-based assessments to the DOT team.*

This work product was prepared pursuant to section 20.055, Florida Statutes, in accordance with the applicable Principles and Standards for Offices of Inspectors General as published by the Association of Inspectors General and the International Standards for the Professional Practice of Internal Auditing as published by the Institute of Internal Auditors, Inc.

This report is intended for the use of the agency to which it was disseminated and may contain information that is exempt from disclosure under applicable law. Do not release without prior coordination with the Office of Inspector General.

Please address inquiries regarding this report to the department's Office of Inspector General at (850) 410-5800

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ATTACHMENT 1 – Photograph of I-4 “pinch point” section after barrier wall relocation



Source: CEI project files