



# Florida Department of **TRANSPORTATION**

Office of Inspector General  
Kristofer B. Sullivan, Inspector General

Audit Report No. 19C-2001  
Push-Button Contracts

DocuSigned by:  
*Kristofer B. Sullivan*  
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November 10, 2020

## What We Did

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The Florida Department of Transportation (Department) Office of Inspector General conducted an audit of the Push-Button contract process to determine if:

- the scope of Push-Button contracts is being written in accordance with available Department criteria regarding the purpose of these contracts; and
- task work orders issued on active Push-Button contracts comply with the original scope of the contract.

## What We Found

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**We determined** the scopes of Push-Button contracts tested were written in accordance with the Department's current governance of Push-Button contracts. **We also determined** task work orders issued on the active Push-Button contracts align with the overall scope of their respective contracts. This report contains one finding concerning Push-Button contract scope intent and three observations concerning:

- Construction Dashboard report accuracy;
- Contractor performance rating; and
- Governance of the Push-Button process.

## What We Recommend

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This report does not contain any recommendations as the one reported finding was compliant with governing directives. There are reportable observations which management may want to review for action.

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**BACKGROUND AND INTRODUCTION**

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State departments of transportation have been using Indefinite Delivery Indefinite Quantity (IDIQ) contracting for decades<sup>1</sup> under a wide variety of names including Push-Button contracts, Job Order contracts, On-call contracts, Master contracts, Stand-by contracts, Framework contracts, Term Agreements, Delivery Order contracts, and Task Order contracts. IDIQ contracts establish a defined scope of work to be completed by the contractor and include established unit cost prices for pre-determined work items.

The Push-Button contract process was identified during the Florida Department of Transportation (Department) Office of Inspector General's (OIG) annual risk assessment for fiscal year 2018-19. The identified risk was that the Department may not be utilizing Push-Button contracts for their intended purposes<sup>2</sup> for supporting operations and alleviating safety issues. Additionally, management expressed concern task work orders may be issued outside the original contract scope.

When establishing a Push-Button contract, the Department identifies a need for a deliverable (defined scope); however, the Department does not know when, where (indefinite delivery), or the quantity of work required (indefinite quantity). The work required to be completed by the contractor is pursuant to the issuance of work documents (task work orders).

As of May 29, 2019, the Department had a total of 59 active Push-Button contracts consisting of:

- 3 Design-Build,
- 22 Construction; and
- 34 Traffic Operations.

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<sup>1</sup> IDIQ contracting practices were first used by the General Services Administration under the Federal Property and Administrative Service Act of 1949.

<sup>2</sup> The intent and purpose of Push-Button contracts is to expeditiously resolve roadway safety and operational deficiencies. Examples include signalization, signing, pavement, pavement markings, and other miscellaneous roadway deficiencies for a pre-determined contract term at various locations.

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In addition, there were 727 task work orders issued on the 59 Push-Button contracts. See Table 1 below.

Table 1: Summary of Push-Button Contracts

<b>Active Push-Button Contracts As of May 29, 2019</b>					
	<b>Construction</b>	<b>Traffic Operations</b>	<b>Design-Build</b>	<b>Total</b>	<b>Task Work Orders</b>
District 1	2	0	2	4	226
District 2	0	5	0	5	31
District 3	2	5	0	7	31
District 4	12	2	0	14	171
District 5	0	12	1	13	83
District 6	6	9	0	15	160
District 7	0	1	0	1	25
Turnpike	0	0	0	0	0
<b>Total</b>	<b>22</b>	<b>34</b>	<b>3</b>	<b>59</b>	<b>727</b>

Source: Office of Construction

### **Bid Factor Method**

As of July 1, 2019, the Contracts Administration Office implemented<sup>3</sup> the Bid Factor Method for awarding Push-Button contracts to mitigate the risk of unbalanced bidding.<sup>4</sup> Under this method, the Department provides quantities and predetermined base unit prices for pay items which will be included in the contract plans and advertisement. Bidders will use the predetermined prices to establish a bid factor they will include in their bid price proposal.<sup>5</sup> The lowest bidder will be determined by the lowest bid factor.

The contracts tested during this audit engagement were active and executed as of May 29, 2019; therefore, none of the contracts tested utilized the Bid Factor Method.

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<sup>3</sup> Contracts Administration issued Bulletin 19-02, Push-Button Contracts with Bid Factor, dated May 24, 2019.

<sup>4</sup> Unbalanced bidding is a result of a contractor inflating the price of essential project specific pay items above the state-wide or district-wide average unit price, while deflating other miscellaneous pay items to make the total bid amount the lowest bid. Once the project starts, however, those inflated pay items can make the total contract amount substantially higher than other competing low bids due to repeated use.

<sup>5</sup> A bid factor of 1.000 shall be 100 percent of the base unit price. Any number above 1.000 will increase the base unit price, and any number below 1.000 will decrease the base unit price.

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**Office of Construction Dashboard**

The Office of Construction maintains a database of all current and past construction contract information. This database is called the State Construction Office Dashboard<sup>6</sup> (Dashboard) and is currently the only Department system application with the ability to identify Push-Button contracts via report query. Useful data that can be accessed utilizing the Dashboard's report query function which includes, but is not limited to, contract budgetary information, letting date, execution date, term end date, project final acceptance, and contract scope. Information maintained in the Dashboard reflects SiteManager<sup>7</sup> data entered by District and Central Office contract staff.

**Governing Directives**

**Department Office of Contracts Administration - Federal Bid-Build Push-Button Framework, April 19, 2019, states:**

Bid-Build Push-Button contracts are used to expeditiously resolve state roadway deficiencies at various locations concerning signalization, signing, pavement, pavement markings and other miscellaneous roadway deficiencies for a pre-determined contract term. Push-Button contracts may be commonly referred to as Indefinite Delivery/Indefinite Quantity, Job Order, Task Work Order, or Work Document contracts. This contracting process establishes a defined scope of work to be completed by the Contractor and also includes establishing unit cost prices for pre-determined work items which may be completed by the Contractor pursuant to the Department's issuance of Work Documents. The original scope of work as defined by the estimated number of units for each pay item is approximate and represents estimated planned work requirements based on historical or specific project needs. Work Documents will identify the location, description and amount of work to be performed. Under Bid-Build Push-Button contracting, the Department does not guarantee any maximum quantity, minimum quantity or range of quantities, or work to be performed.

The Contract Amount for any Federally Funded Bid-Build Push-Button Contract shall not exceed \$2,000,000 per year.

The original term to complete all work associated with individual Work Documents should not exceed 180 calendar days. The original amount of individual Work Documents should not exceed \$500,000. Issuance of multiple Work Documents of similar scope in an effort to remain under the \$500,000 Work Document restriction is prohibited.

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<sup>6</sup> The Dashboard website address is [http://dotscomrep1.co.dot.state.fl.us/ibi\\_apps/Controller](http://dotscomrep1.co.dot.state.fl.us/ibi_apps/Controller)

<sup>7</sup> SiteManager is a contract tracking software application that allows project professionals to collect data, track project progress, and provide payment estimations for projects based on the information collected. This software application is a nationally utilized product with most states using as their contract tracking and pay estimation system.

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**Construction Project Administration Manual, Section 6.2.4.8 Push-Button Contracts states:**

This section is not intended for Fast Response nor Emergency Contracts.

This section summarizes the administration of Push-Button contracts. It is not the intent of these procedures to supersede the Contract Documents, but to enhance and provide clarification of the procedures. It is the responsibility of the Resident (RO) to ensure that the Contractor complies with the Contract Documents.

The Department executes Push-Button contracts to expedite critical highway construction needs via a competitively bid indefinite quantity contract. The Push-Button contract establishes a pre-determined list of pay items to assist in estimating and controlling the cost of the work and the contract is administered through the issuance of Work Documents.

**Procedure No. 350-020-200-o, Contract Funds Management – Funds Approval, Section 2.3.10 Push-Button Contracts states:**

Push-Button contracts may be utilized to provide a quick response for resolving unexpected problems concerning signalization, signing, pavement markings, and miscellaneous roadway improvements for a period of one year.

The budgetary ceiling for these contracts shall be \$1,000,000 and shall be awarded with an initial encumbrance of zero dollars. The funds approval request may be submitted in the New Advertisement or New Contract module of the CFM System by the District/Central Office staff.

The use of initial contingency pay items and contingency supplemental agreements on Push-Button Contracts is not appropriate. Funding for extra work required on Push-Button Contracts shall be accomplished either by the issuance of subsequent Task Work Orders when existing pay items in the contract are sufficient to address the required extra work or by adding required pay items to the Push-Button Contract via Supplemental Agreements, followed by the issuance of subsequent Task Work Orders.

Renewal provisions must be input into the CFM System on the initial funds approval request.

**Procedure No. 625-020-010-I, Design-Build Procurement and Administration, Section 7.4 Specific Federal Aid Requirements For Design-Build Push-Button Projects states:**

The use of Design-Build Push-Button procurement process on Federally Funded projects shall be limited to the use of Federal Safety funds and further shall only

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be utilized on those Federal Safety funded projects which are considered as Type 1 and Programmatic Categorical Exclusion projects as defined in the Departments Project Development and Environment Manual (NEPA evaluation). The use of Federal Safety funds under Design-Build Push-Button procurement process is expressly limited to \$5 million per Department fiscal year per District.

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## **RESULTS OF REVIEW**

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This report contains one finding concerning Push-Button contract scope intent, and three observations on:

- Construction Dashboard report accuracy;
- Contractor performance rating; and
- Governance of the Push-Button process.

### **Finding 1 – Push-Button Contract Scope Intent**

**We determined** the scope of Push-Button contracts tested were written in accordance with the Department’s current governance of Push-Button contracts. **We also determined** task work orders issued on the active Push-Button contracts align with the overall scope of their respective contracts.

Our testing consisted of interviews with 58 contract managers, project administrators, and other staff from each District to review the scope of each contract and the task work orders issued. In total, we tested all 59 active Push-Button contracts and 727 task work orders and found no exceptions.

This report does not contain any recommendations as this finding was compliant with the governing directives reported in the Background section.

### **Observation 1 – Construction Dashboard Report Accuracy**

**We observed** the Push-Button contract information within the State Construction Office Dashboard was not accurate for two of the seven Districts<sup>8</sup> tested.

We utilized the Dashboard to identify the population of Push-Button contracts for testing. We requested each District verify the accuracy of the information reported from the Dashboard. Districts Three and Five informed us the Dashboard report for their respective districts was not accurate. Districts Three and Five subsequently furnished a corrected list of contracts.

District Three provided a corrected list containing seven Push-Button contracts. None of the four queried Dashboard contracts were included in their corrected list.

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<sup>8</sup> The Turnpike Enterprise did not have any active Push-Button contracts for the scope of the audit.

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District Five provided a corrected list containing 13 Push-Button contracts.<sup>9</sup> One of the 12 queried Dashboard contracts was not included in their corrected list. Additionally, two of the contracts on the corrected list were not included in the queried Dashboard report list.

We met with the Office of Construction [SiteManager] Systems Specialist responsible for maintaining the Dashboard regarding the potential causes of the inaccuracies. We were informed that for all seven of the Push-Button contracts identified for District Three, the "ACTV"<sup>10</sup> status field within SiteManager was not selected. This caused the Dashboard's queried report to be inaccurate due to the incompleteness of certain data fields. The two District Five contracts that did not populate on the queried report were attributed to a data entry error; however, the specific cause of the error could not be identified. The Construction Systems Specialist from the Office of Construction also noted that staff turnover within the Districts could be a possible cause of data entry errors.

The audit found the Dashboard to be useful in identifying the relevant District Push-Button contract information. However, SiteManager entry errors at the District level contributed to the Dashboard's output report not being accurate and reliable.

### **Observation 2 – Contractor Performance Rating**

**We observed** the Department does not have a formal accountability and monitoring system for rating the performance of Push-Button contractors.

District staff informed the OIG liquidated damages<sup>11</sup> are not an effective financial disincentive for untimely pursuit and completion of work. Push-Button contract budgetary ceilings are lower than other traditionally procured construction projects, which results in lower liquidated damages. Staff from five of seven Districts recommended improving the Push-Button process by implementing a method to rate the performance of Push-Button contractors.

During audit inquiry, we were informed that on April 1, 2016, a Push-Button Construction Project Administration Manual (CPAM) Chapter Task Team from District Four submitted to the Office of Construction a new CPAM chapter proposal for the administration of Push-Button contracts. One of the significant recommendations from

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<sup>9</sup> Original corrected list from the District included 14 contracts. One of the 14 contracts (E5Y48) was subsequently determined to be outside the scope of the audit and removed from the testing population.

<sup>10</sup> ACTV is a condition status type within SiteManager. Selection of the ACTV status type indicates the contract has been activated and is ready for use by the field staff.

<sup>11</sup> According to contract specification 5-1.7 Work Documents/Liquidated Damages, if the Contractor does not begin work by the end of the day provided by the Work Document, or if the assignment of work on the Work Document is not complete within the number of calendar days specified on the Work Document, then the Department may assess the Contractor, not as a penalty but as liquidated damages, a per day assessment of 1% of the total Work Document amount or the amount shown in Subarticle 8-10.2 (Amount of Liquidated Damages), whichever is less.



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the task team was the need for a process to evaluate contractors. The task team’s proposal included a modified Contractor’s Past Performance Rating (CPPR) form<sup>12</sup> designed to rate the performance of Push-Button contractors. The proposed CPAM chapter was adopted; however, the modified CPPR form was not implemented. During subsequent inquiries with the Office of Construction, we were informed the modified CPPR form proposed did not comply with Florida Administrative Code<sup>13</sup> (F.A.C.). Rule Chapter 14-22, F.A.C., dictates the use of a specific version of the CPPR form when evaluating the performance of construction contractors.

The Office of Construction informed the OIG the CPPR Pursuit of Work component relies upon the contract having a critical path schedule. Push-Button task work orders are assigned allowable contract time, but due to the short duration of the work orders, the use of critical path schedules is not applicable. See the CPPR form criteria in Figure 1 and an explanation of Pursuit of the Work in Figure 2 below.

Figure 1: Contractor Past Performance Rating Form

<u>ANSWER ALL QUESTIONS</u>			
	<u>Maximum Value</u>		<u>Rated Value</u>
1. Pursuit of the Work.	12		<input type="text"/>
2. Proper MOT and Minimize Impacts to Traveling Public.	12		<input type="text"/>
3. Timely and Complete Submittal of Documents.	8		<input type="text"/>
4. Timely Completion of Project.	14/20	note #4	<input type="text"/>
5. Coordination / Cooperation with CEI Personnel, Property Owners and Utilities Company.	10		<input type="text"/>
6. Mitigate Cost and Time Overruns.	12		<input type="text"/>
7. Environmental Compliance.	10/12	note #4	<input type="text"/>
8. Conformance With Contract Documents.	20		<input type="text"/>
9. DBE Utilization	0/4	note #4	<input type="text"/>
Total Score	98/100		<input type="text" value="0"/>
Project Administrator (signature) _____		Resident Engineer (signature) _____	
Date _____		Date _____	

Source: Office of Construction

<sup>12</sup> The District Four task team submitted the Contractor’s Past Performance Rating form for Push-Button Contracts which is a modified version of the Office of Maintenance Contractor Field Performance Rating (CFPR) form.

<sup>13</sup> Rule 14-22.003(2)(a)1. b., Rating the Applicant, F.A.C., states, “Contractor’s Past Performance Reports shall reflect the applicant’s organization, management, and demonstrated work performance, including work sublet to others, as set forth in Form 700-010-25, Rev. 09/05 (CPPR)...”

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Figure 2: Contractor Past Performance Rating Form Pursuit of the Work Breakdown

700-010-25  
CONSTRUCTION  
09/05

**CONTRACTOR PAST PERFORMANCE RATING**

**1. Pursuit of The Work** - Contractor ~~diligently and systematically pursues the work~~ with sufficient labor, materials, and equipment at all times. ~~Active progress is made on critical path items each day in accordance with the approved schedule. The contractor schedules the subcontractors so that they are pursuing their work as well.~~ Contractor worked five (5) days a week unless the contract states otherwise, excluding weather days. Percent is based on allowable contract time (minus weather days) and on a five (5) workday week unless otherwise stated in the contract.

12 The contractor aggressively pursued the work 90% of the days. Documentation in the project files by the CEI reveals that the progress of the work was unsatisfactory no more than 10%.

9 The contractor aggressively pursued the work 80% of the days. Documentation in the project files by the CEI reveals that the progress of the work was unsatisfactory no more than 20%.

6 The contractor aggressively pursued the work on at least 70% of the days. Documentation in the project files by the CEI reveals that progress of the work was unsatisfactory no more than 30%.

3 The contractor aggressively pursued the work on at least 60% of the days. Documentation in the project files by the CEI reveals that progress of the work was unsatisfactory no more than 40%.

0 The contractor did not aggressively pursue the work on at least 50% of the days. Documentation in the project files by the CEI reveals that progress of the work was unsatisfactory no more than 50%.

Note: Grades between those shown will be based on an extrapolation of the actual percentage of the days the contractor aggressively pursued the work., i.e., 86% of the days would equate to a grade of 11. The status of performance in this category should be shared with the Contractor on a monthly basis.

Source: Office of Construction

The absence of a system for rating the performance of Push-Button contractors and immaterial liquidated damages may not disincentivize contractors' delay in their initial pursuit and completion of work.

### Observation 3 – Push-Button Contract Guidance

**We observed** an opportunity exists to enhance the Department's procedures governing the Push-Button contract process.

The OIG inquired of District staff "What recommendations do you have regarding the procedures<sup>14</sup> governing Push-Button contracts?" Their responses ranged from "There is no guidance" to "CPAM and specifications are very clear...they are enough." Other relevant responses are noted below.

- Need yearly meetings with all Push-Button administrators in the state.
- CPAM is limited, maybe there needs to be a lone chapter regarding Push-Button contracts.

<sup>14</sup> Department Office of Contracts Administration, Federal Bid-Build Push-Button Framework, April 19, 2019; Construction Project Administration Manual, Section 6.2.4.8 Push-Button Contracts; Procedure No. 350-020-200-o, Contract Funds Management, Funds Approval, Section 2.3.10 Push-Button Contracts; Procedure No. 625-020-010-l, Design-Build Procurement and Administration, Section 7.4 Specific Federal Aid Requirements For Design-Build Push-Button Projects

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- Would like to see Pay Item Tracking System have more integration with SiteManager. With Push-Button it is a pain to do straight through SiteManager as opposed to the Pay Item Tracking System. One system needs to be used and be able to track each task work order. Since they all currently have the same tracking number, it is hard to use current systems.<sup>15</sup>
- Would like to see everything through SiteManager.
- Needs to be some formal guidance, it is hard to figure out what the rules are.
- There probably does need to be formal guidance. Depending on what kind of Push-Button [scope] you are doing...rules may be different.
- Make procedures easier to find. Better documentation what this process is supposed to look like. Better define what qualifies. Very difficult to find Push-Button information. Need guidance. Had to lean on District counterparts.
- Simplified budget clarity.
- Maybe a procedure for state funded Push-Button contracts and one for federal funded Push-Button contracts.
- We need a procedure for future and current employees. It is a vital program and a good tool.
- Need a standalone procedure for the administration of Push-Button contracts.
- Satisfied with procedures in place...similar to other work products.
- Satisfied with the current procedures governing push-button contracts.
- Consistent guidance is needed...we have to train contractors on what Push-Button contracts are.
- Create a training that would let project managers know what resources are available for the administration of Push-Button contracts.
- Need more guidance from Tallahassee...how to process an invoice for example.
- Not a lot written down as far as how to administer these Push-Button contracts. Would like more guidance/procedures.

District staff indicated they were aware of the various procedures and guidance the Department provides for the administration of Push-Button contracts. However, staff from all seven Districts expressed a need for centralized, standalone guidance. In addition, staff at six of the seven Districts were not aware of the different budgetary ceilings applicable to Push-Button contracts. In summary, District staff expressed concern of having to locate guidance from various sources in piecemeal fashion which allows the opportunity for errors.

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<sup>15</sup> The Construction Systems Specialist from the Office of Construction informed the OIG of future plans to add functionality to the Pay Item Tracking System for the administration of Push-Button contracts.

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**APPENDIX A – Purpose, Scope, and Methodology**

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The **purpose** of this engagement was to determine if:

- the scope of Push-Button contracts is being written in accordance with available Department criteria regarding the purpose of these contracts; and
- task work orders issued on active Push-Button contracts comply with the original scope of the contract.

The **scope** of this audit included Department active Push-Button contracts as of May 29, 2019, excluding maintenance Push-Button contracts.

The **methodology** included:

- reviewing current Department policies and procedures governing Push-Button contracts;
- identifying active District Push-Button contracts as of May 29, 2019, utilizing the Office of Construction’s Statewide Construction Dashboard;
- interviewing Central and District Office staff from the Office of Construction, Program Management, Work Program, Traffic Operations, and Contracts Administration; and
- reviewing and testing Push-Button task work orders.

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**APPENDIX B – Management Response**

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The Director of Construction responded to the report on November 2, 2020, with no comments.

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**PROJECT TEAM**

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**STATEMENT OF ACCORDANCE**

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The Department's mission 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 Office of Inspector General's mission is to provide independent and objective investigative and audit services that promote accountability, integrity, and efficiency within the Florida Department of Transportation and its partners.

This work product was prepared pursuant to section 20.055, Florida Statutes, in accordance with the Association of Inspectors General *Principles and Standards for Offices of Inspector General*, and conforms with The Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing*.

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