

OFFICE OF THE CITY CONTROLLER



**PUBLIC WORKS AND ENGINEERING DEPARTMENT
CONTRACT COMPLIANCE REVIEW
RAMEX CONSTRUCTION CO., INC.
FOR THE PERIOD OF FEBRUARY 26, 1996
THROUGH JANUARY 31, 2000**

Sylvia R. Garcia, City Controller

Judy Gray Johnson, Chief Deputy City Controller

Steve Schoonover, City Auditor



OFFICE OF THE CITY CONTROLLER
CITY OF HOUSTON
TEXAS

SYLVIA R. GARCIA

December 12, 2000

The Honorable Lee P. Brown, Mayor
City of Houston, Texas

SUBJECT: Public Works and Engineering Department
Contract Compliance Review – Ramex Construction Co., Inc.
(Report No. 00-14)

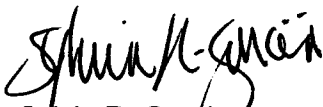
Dear Mayor Brown:

In accordance with the City's contract with Mir•Fox & Rodriguez, P.C. (MFR), MFR has completed a review of the Public Works and Engineering Department's contract number 36277 between the City and Ramex Construction Co., Inc. (Ramex) for the construction of the 84" Water Line project.

MFR limited their review to determining if Ramex's construction services were performed in compliance with the Construction Contract terms and that the engineering testing services were performed as required by the Construction Contract. Their report, attached for your review, noted that Ramex's construction services and the associated engineering testing services were performed in compliance with the terms of the Construction Contract. Draft copies of the matters contained in the report were provided to Department officials. The views of the responsible Department officials as to action taken or being taken are appended to the report as Exhibit 1.

We appreciate the cooperation extended to the MFR auditors by Department personnel during the course of the review.

Respectfully submitted,


Sylvia R. Garcia
City Controller

xc: City Council Members
Albert Haines, Chief Administrative Officer
Cheryl Dotson, Chief of Staff, Mayor's Office
Thomas J. Rolan, Director, Public Works and Engineering Department
Sara Culbreth, Acting Director, Finance and Administration Department

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July 31, 2000

Honorable Sylvia R. Garcia, City Controller
City of Houston
901 Bagby, 8th Floor
Houston, Texas 77002

Dear Controller Garcia:

We have completed a review of the construction contract number 36277 (Construction Contract) in the amount of \$8,652,805 between the City of Houston (City) and Ramex Construction Co., Inc. (Ramex). The Construction Contract represents a unit price contract for the 84" Water Line project. The City also awarded contract number 36276 (Testing Contract) to Professional Services Industries, Inc. (PSI) in the amount of \$170,000 to provide engineering testing services as required by the Construction Contract. Both the Construction Contract and Testing Contract were approved by City Council on February 26, 1996. The Construction Contract was substantially completed on February 9, 1998. The final Construction Contract amount of \$8,635,663 was approved and the work accepted on April 7, 1999 by City Council Motion 99-0551.

Our review was limited to determining if Ramex's construction services were performed in compliance with the Construction Contract terms and that the engineering testing services were performed as required by the Construction Contract. The objectives of our review included:

- Determining that the contractors met the objectives of their contract and were in compliance with the terms of their contract.
- Determining that Public Works & Engineering (PW&E) personnel responsible for the administration of the contracts were in compliance within the City's policies and procedures to ensure that the work performed by the contractors was within the scope of the contract approved by the City and that the construction contractor's work was adequately tested.
- Determining that goods and services acquired through the provisions of the contracts were in compliance with the City and State of Texas procurement laws.
- Determining if PW&E's systems of internal control related to the contracts were adequate.
- Determining if funds have been appropriately charged to the proper contracts.

The scope of our review was from February 26, 1996 to January 31, 2000 and consisted of the following procedures:

- Reviewing RCA's, contracts, schedule of values, change orders, work directives, proposed modifications, correspondence files, engineering testing contracts and related reports.
- Reviewing bid tabulation documentation, insurance and bond information, daily inspection reports, as built drawings, testing contractor results, and punch lists for adequacy and compliance with City policies and procedures.

Honorable Sylvia R. Garcia, City Controller
July 31, 2000
Page 2

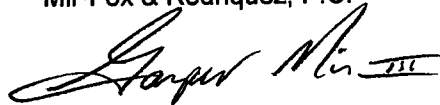
- Testing supporting documentation to payments made by the City.
- Identifying the source of funds used to pay contracts being tested and determining the appropriateness of such funding.
- Reviewing related engineering contracts for compliance with contract terms and the City policies and procedures.

Our procedures were performed through March 22, 2000 and have not been updated since then. Based on the procedures performed, we determined that Ramex's construction services were performed in compliance with the terms of the Construction Contract. In addition, the required engineering testing services were performed as required by Construction Contract 36277. The findings described and noted in this report are the only significant matters that came to our attention.

Mir•Fox & Rodriquez, P.C. is pleased to have assisted you with this project and we appreciate the assistance and cooperation of the Department of Public Works & Engineering personnel.

Very truly yours,

Mir•Fox & Rodriquez, P.C.



Gasper Mir, III
Principal

GM/jh

**Findings and Recommendations for the Ramex's Construction Co. Inc.,
Construction Contract**

CONSTRUCTION

Background

According to the General Conditions of the contract, "For work contracted on a Unit Price basis, on or about the last day of each month, the City Engineer will prepare an estimate of the Work completed to the end of the month based on the Unit Prices provided in the Agreement. Each estimate shall indicate the units of Work completed for each portion of the Work, multiplied by the Unit Prices listed in the Schedule of Unit Price Work, as of the end of the period covered by the estimate. The City Engineer will evaluate the actual final installed quantities of various classifications established in the Agreement before rendering a decision in writing or as a recommendation or in the final Certificate for Payment."

During the project, the project inspector is involved in the day-to-day construction activity. The project inspector completes Engineering Construction Reports (ECRs) each day to document the labor and materials used on the project. These reports are used by the City to track the progress of the project.

Finding and Recommendation

Finding:

For construction contract number 36277, we compared the units of work performed and documented on the ECRs to the units of work performed as reflected on the pay estimates for eight of the 80 line items in the Construction Contract. The results of our test indicated that the units of work noted on the ECRs for only one of the eight items tested agreed to the pay estimates. In addition, we compared the units of work performed for these same eight line items to other miscellaneous documents in the contract files. The units of work on the miscellaneous documents did not agree to the ECRs or the pay estimates. See table below for comparison of units of work on the ECRs to units of work on the pay estimates for the eight line items:

<u>Line Item No.</u>	<u>Unit</u>	ECRs	Pay Estimate
		<u>Total</u>	<u>Total</u>
2	linear feet	6,943.04	6,982.70
3	linear feet	887.24	828.00
4	linear feet	574.49	600.00
6	linear feet	1,734.00	1,734.00
45	square yard	6,051.43	5,911.43
46	square yard	9,461.98	10,426.08
68	linear feet	7,057.03	7,086.74
80	allowance	9,636.75	9,351.87

Based on the eight line items tested and documentation made available to us during the audit, the City has potentially underpaid the construction contractor approximately \$80,600 for the items of work that we tested.

Recommendation:

To ensure that the construction contractors are paid for the work that they perform, PW&E should reconcile the units of work noted on the ECRs to the units of work noted on the pay estimates. The resolution of all the reconciling differences should be documented in the Construction Contract files. In addition, PW&E should not process pay estimates for any construction work if units of work have not been reconciled.

Background

According to the General Conditions of the contract, "the Contractor shall include in the Contract Price all allowances stated in the Contract Documents for:

1. services, utility relocations, permits, or other such capital costs;
2. materials and equipment.

Items covered by an allowance shall be supplied for such amounts and by such persons or entities as the City may direct, but the Contractor shall not be required to employ persons or entities against which the Contractor makes reasonable objection."

"Unless otherwise stated in the Contract Documents:

whenever costs are more than or less than the allowance, the Contract Price shall be adjusted accordingly by Change Order. The amount of the Change Order shall be the difference between actual costs and the amount of the allowance stated in the Contract Documents."

Finding and Recommendation

Finding:

The cash allowance amounts in the Construction Contract were not adjusted in accordance with the contract requirements. Three cash allowances were included in the construction contract: one for Traffic control-flagmen totaling \$175,000; one for Contaminated soil handling totaling \$50,000; and the last allowance was for improvements to a Southwest pump station in the amount of \$20,000.

Upon completion of the contract, we noted that according to the ECRs the total Traffic control-flagmen expenses were in the amount of \$205,677. Although, the construction contractor was only paid \$199,522 such amount is \$24,522 more than amount specified in the Construction Contract. Explanations for the differences were not provided in the contract files. No change order was issued to adjust the cash allowance amount for traffic control-flagmen expenses.

The City paid the Construction Contractor a total of \$11,402 for improvements related to Southwest pump station and the remaining \$8,598 of the allowance was not spent. No funds were spent by the City pertaining to the contaminated soil handling cash allowance. No change order was issued to adjust either of the cash allowance amounts.

Although the remaining unspent portion of the cash allowances in the amount of \$34,077 was not used to pay for other work within the Construction Contract, change orders should have been issued to ensure that these amounts were not used.

Recommendation:

To ensure that the terms of the construction contract are adhered to by PW&E, the City should assign the responsibility for an independent construction contract compliance review to a division outside of the Construction Division for PW&E. The review should be comprehensive and ensure that the terms of the construction contract have been followed. In addition, PW&E should comply with the terms of the construction contract by instituting change orders to adjust the amount of the cash allowance for increases or decreases in the amount(s).

EXHIBIT 1



CITY OF HOUSTON

Post Office Box 1562 Houston, Texas 77251-1562

Lee P. Brown, Mayor

CITY COUNCIL MEMBERS: Bruce Tatro Carol M. Galloway Mark Goldberg Jew Don Boney, Jr. Rob Todd Mark A. Ellis Bert Keller Gabriel Vasquez
John E. Castillo Annise D. Parker Gordon Quan Orlando Sanchez Chris Bell Carroll G. Robinson CITY CONTROLLER: Sylvia R. Garcia

July 7, 2000

Mir - Fox & Rodriguez, P.C.
1900 One Riverway
Houston, Texas 77056

Attn: Juanita Harbin

Re: Department of Public Works and Engineering
Contract Compliance Audit Response Report

Dear Ms. Harbin:

We have completed our response to your Contract Compliance Audit for Public Works and Engineering/ Construction Division. Listed below are the issues addressed in the findings.

RAMEX CONSTRUCTION CO., INC. (CONTRACT #36277)

I. Differences in Units of Work between ECRs and Pay Estimates

The units of work noted on the ECRs for only one (1) of the eight (8) items tested agreed to the pay estimates. In addition, the units of work performed for these same eight (8) line items on the miscellaneous documents did not agree with the ECRs or the pay estimates.

Based on the eight (8) items tested and documentation made available to us during the audit, the City has potentially underpaid the construction contractor approximately \$80,600 for items of work that we tested.

RECOMMENDATION:

To ensure that the construction contractors are paid for the work that they perform, PW&E should reconcile the units of work noted on the ECRs to the units of work noted on pay estimates. The resolution of all the reconciling differences should be documented in the Construction Contract files. In addition, PW&E should not process pay estimates for any construction work if units of work have not been reconciled.

**Views of Responsible
Officials**

7530-0179416-00

EXHIBIT 1

Mir - Fox & Rodriguez, P.C.
Page 2 of 3

RESPONSE:

We have reviewed your comments of differences in Units of Work between ECRs and Pay Estimates and state the following:

Your audit reflects discrepancies in payment to the Contractor in Bid Items No. 2, 3, 4, 45, 46, 68 and 80. Auditors found no discrepancy in Bid Item No. 6. The audit found in Bid Item No. 2 that the Contractor was overpaid \$16,339.92. Our review indicates an underpayment of \$8,169.96. This quantity was reported by the Inspector on 6/27/96, but was not picked up by the Estimator. Under Bid Item No. 3, we paid 828 LF as per Final Pay Estimate; however, a Supplemental Report No. 250A deducted 106.21 LF from the Daily Report Quantity of 934.21 LF. We did find a differential of 3.43 LF was paid under Bid Item No. 4, which was adjusted also by the Supplemental Report 250A. The Contractor was underpaid in Bid Item No. 68 a sum under \$100 which is considered to be insignificant compared to the total contract amount.

No discrepancies were found in Bid Items No. 45 and 46.

The ECR's and the pay estimates should always match. If they do not, documentation should be presented in the file to explain the differences. This is the process that is in place. Audits are performed upon project completion to ensure correct payments.

II. Utilization of Change Orders to Adjust Cash Allowance Amounts

The cash allowance amounts in the Construction Contract were not adjusted in accordance with the contract requirements. Although the remaining unspent portion of the cash allowances in the amount of \$34,077 was not used to pay for other work within the construction contract, change orders should have been issued to ensure that these amounts were not used.

RECOMMENDATION:

To ensure that the terms of the construction contract are adhered to by PW&E, the City should assign the responsibility for an independent construction contract compliance review to a division outside of the Construction Division for PW&E. The review should be comprehensive and ensure that the terms of the construction contract have been followed. In addition, PW&E should comply with the terms of the construction contract by instituting change orders to adjust the amount of the cash allowance for increases or decreases in the amount(s).

RESPONSE:

Bid Item No. 80 (Flagmen) exceeded the Estimate amount for the allowance. Normally, a Change Order is issued adjusting any overrun or underruns of allowances. Additionally, change orders are now being utilized to reflect adjustment of quantities of various bid items. Current policy is to pay for flagmen with a lump sum bid item.

Currently, Cash Allowances for projects have been eliminated.

**Views of Responsible
Officials**

7630-0179418-00

EXHIBIT 1

Mir - Fox & Rodriguez, P.C.
Page 3 of 3


If you have any further questions, please call Herbert Lum, P.E. at (713) 837-7194.

Cordially,



Thomas J. Rolen, P.E.
Acting Director
Department of Public Works and Engineering


TJR:HL:lws

cc: Herbert Lum, P.E.
Carl Lowery 
Anthony Crisci, P.E.
Michael K. Ho, P.E.
Godwin Okoro
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**Views of Responsible
Officials**

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