

**Internal Audit
Department**



Internal Audit

**Compliance Audit of
Construction Services
Department Priority
Vendors Calendar Year
2015-2018**

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**Independent Auditor’s Report
Compliance Audit of Construction Priority Vendor’s Calendar Year 2015 - 2018
Construction Services**

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Internal Audit

Date: July 25, 2019

To: Board of Trustees
Dr. Michael Hinojosa, Superintendent

Subject: Independent Auditor's Report – Compliance Audit of Priority Vendors Construction Contracts Calendar Year 2015 - 2018

Executive Summary

Pursuant to the Chief Internal Auditor's (Chief Auditor) request and included in the Fiscal Year (FY) 2019 – 2020 Internal Audit Plan, Priority Vendors Construction Contracts Calendar Year (CY) 2015 – 2018 was conducted. Dallas Independent School District (Dallas ISD) Office of Internal Audit (OIA) identified the following exceptions:

1. Construction contracts that exceeded \$50,000 were not taken to the Dallas ISD Board of Trustees (BOT) for authorization individually.
2. Documentation for review and monitoring of unit pricing was missing.
3. The non-boycotting of Israel requirement was not effective prior to September 1, 2017, when the law went into effect. There were 35 total contracts affected by the law. Thirty contracts were signed prior to the law's effective date that did not add the statement in the renewal documentation. Five contracts were signed after the law became effective and OIA could not find the required written statement by the vendor.

Background

On January 15, 2019, the Dallas ISD OIA, started to perform compliance audits of Dallas ISD facilities construction and maintenance contracts for CY 2015 through 2018. The contracts were broken into more specific audits for priority vendors, followed by non-priority vendors including joint ventures and job order contract projects to be completed at the conclusion of this assignment (**See Appendix I**). Because construction and maintenance contracts are administered by two different Dallas ISD departments (Construction Services, and Maintenance and Facilities Services, respectively) that have two different administrative/oversight processes, the audit was divided into two audits: 1) Priority Vendors Construction Contracts - CY 2015 – 2018 Compliance Audit and 2) Priority Vendors Maintenance Contracts CY 2015 – 2018 Compliance Audit. The Priority Vendors Maintenance Contracts – CY 2015 - 2018 is scheduled for completion in September 2019. This audit report is focused on construction contracts of priority vendors managed by Dallas ISD Construction Services Department.

The Dallas ISD Construction Services Department (CS):

- Manages the architectural and engineering design for bond funded construction projects,
- Manages the construction of bond funded school projects,
- Provides oversight of the procurement of real property for new schools and expansion of existing campuses,
- Manages the procurement of fixtures, furniture, and equipment for new schools and additions,
- Assists in the administration of construction related warranties and oversight of construction safety programs to ensure safe activities on all campuses during construction projects.

The OIA examined contracts from CY 2015 through 2018 totaling \$50,602,441 between three vendors within that time period. During the scope of the audit, CS managed contracts totaling \$631,545,622. This figure includes all contracts for all vendors from that time period.

Texas Government Code section 2269.403 states, “*Requirement for job order contracts for facilities. (a)(2) indefinite quantities and orders are awarded substantially on the **basis of predescribed and pre-priced tasks.***”

The 2005 reference book, Job Order Contracting, by the publisher of standard construction costs and methods, RSMeans, states, “*Job order contracting relies **on pre-established unit prices.** It provides an owner with an on-call contractor who is familiar with the site and the owner’s needs.*”¹

(Chief Auditor’s note: If there are no pre-priced unit prices, there is no job order contract (JOC).)

Government Code chapter 2269 provides for only seven methods for a local government, including school districts, to engage in construction contracts:

Subchapter C	Competitive bidding method
Subchapter D	Competitive seal proposal method
Subchapter E	Construction manager-agent method
Subchapter F	Construction manager-at-risk method
Subchapter G	Building using design-build method
Subchapter H	Design-build procedures for certain civil works projects
Subchapter I	Job order contracts method

(Chief Auditor’s note: *If one of these methods is not used, Texas State law is violated.*)

Scope

The scope of the audit was CY 2015-2018 construction project transactions for three priority vendors, Phillips/May Corporation, The Trevino Group Inc., and Skye Building Services LLC. Per the Chief Auditor, the priority vendors were selected based upon prior Maintenance and Facilities Services Roofing and CO2 issues.

¹ Job Order Contracting, 2005, RSMeans, by Allen L. Henderson, foreword page XV

Objective

The objective of the audit was to determine compliance with Dallas ISD board policies for Facilities Construction (CV(LEGAL) and CV(LOCAL)), Facilities Construction – Job Order Contracts (CVF(LEGAL)) and Texas Statute 2269 Job Order Contracts.

Methodology

The OIA used the Dallas ISD financial accounting system ORACLE to determine the total audit universe for the three priority vendors. The total audit universe included 86 total construction purchase orders/contracts for the priority vendors during the audit scope period from CY 2015-2018. The OIA examined all 86 priority vendor construction contracts. The OIA tested the contracts against 23 total audit criteria from Dallas ISD policies CV(LEGAL), CV(LOCAL), and CVF(LEGAL) to validate compliance with Dallas ISD Facilities Construction policy. **(See Appendix II).** Audits to determine vendor and District compliance to contract terms are forthcoming.

Observation, Audit Findings, and Recommendations

Observation

Construction Contracts At or Above \$50,000 Not Approved by Board of Trustees

Dallas ISD board policy CV(LOCAL) Facilities Construction Subsection Construction Contracts states “construction contracts valued at or above \$50,000 shall be submitted to the board for approval.” The OIA found 46 of 49 (94%) construction contracts with amounts over \$50,000 were not individually presented to the BOT for authorization. Forty-four were JOC contracts and five were non-JOC contracts. OIA determined all contracts valued over \$500,000 were board approved. OIA examined 86 total contracts; however, only 49 contracts were between \$50,000 and \$500,000.

OIA originally wrote a finding based upon the lack of individual contract board approvals by the board, however, pursuant to management’s response below, the finding is rescinded. OIA agrees with management that CV(LOCAL) be clarified to include or not include blanket authorizations of construction contracts in advance of designated construction projects.

Management’s Response:

Management strongly disagrees with OIA’s conclusion that CV(LOCAL) was violated in connection with these JOC transactions and/or that Management engaged in any attempted or actual “secrecy” or “evasion” of the Board’s authority. As the publicly-available, videotaped Board proceedings make clear, (1) Management sought and received approval for the JOC master contracts, which represented a pool of funds that could be used for JOC projects; (2) the issue of CV (LOCAL)’s \$50,000 approval threshold was explicitly and exhaustively discussed by the Board

in three separate public sessions in March and April 2017; (3) the Board received legal advice from former General Counsel Jack Elrod that the JOC procedure proposed by management had been fully vetted and was entirely legal; (4) the Board explicitly determined that CV(LOCAL)'s \$50,000 approval threshold **did not apply** to the JOC transactions and that the Board's approval of the JOC master agreement constituted all the approval that was necessary; (5) the Board unanimously voted to approve the funds for JOC transactions; and (6) Management and the Board agreed that the Board would be apprised of JOC projects through Board packets. In sum, there are no violations of board policy, there was no "secrecy" or "evasion" of Board authority, and all of OIA's findings to the contrary are meritless.

As an initial matter, OIA correctly states that CV(LOCAL) contains a provision that requires construction contracts greater than \$50,000 to be approved by the Board. OIA also correctly states that in connection with JOC transactions, CVF(LEGAL) states that the Board must approve every "job, contract, or purchase order exceeding \$500,000." The relevant question here is whether Management, in connection with JOC transactions, must first obtain initial Board approval for the JOC "master agreement" and then secondary Board approval for every JOC contract greater than \$50,000.

The Board has answered this question – explicitly and publicly. In March 2017, Management came before the Board to request a \$24,000,000 pool of funds for JOC contracting. During both the March 9 Board Briefing and the subsequent March 23 Board Meeting, there was **extended** and **explicit** discussion about how the \$50,000 Board-approval threshold from CV(LOCAL) did not apply in the JOC context. Indeed, during the March 23, 2017 Board Meeting, the Board struggled with the fact that the \$24,000,000 was equivalent to a "blank check" that would allow Management to select vendors and execute contracts on its own and without Board intervention. Thus, the Board asked Management how the Board could monitor the JOC contracts to help ensure transparency and accountability.

In response to these concerns about transparency and accountability, Management offered to provide weekly board reports, bi-weekly board reports, monthly highlights, or place the information in either a construction report or a maintenance report (during the March 9 Board Briefing) and regular monthly or quarterly updates (during the March 23 Board Briefing) and regular (monthly or quarterly) updates about ongoing JOC contracts. The Board noted that they "appreciated" the gesture.

In addition, just prior to the vote, former Dallas ISD General Counsel Jack Elrod² approached the Board and stated that "I can tell you that we have vetted this process through Legal. We have had at least two or three lawyers, including myself, look at it. The process we are using is perfectly legal. The matter of whether to use the process....that's up to the administration and the Board."

Minutes later, the Board voted **7-1** to approve the JOC funding.

At the April 27, 2017 Board Meeting, Management came back to the Board and asked for additional JOC funding. During this meeting, Trustee Pinkerton, who had previously voiced

² Mr. Elrod was present during the March 7 Board Briefing, the March 23 Board Meeting, and the April 27 Board Meeting.

reservations about giving a “blank check” to Management (and who was the sole “no” vote during the March vote), articulated the following:

“Over the last few months, I’ve been trying to learn more about the job order contracting process. It’s different from how general construction projects are handled. There are different policies that apply to both, and some fundamental differences. I want to say thank you to Mr. Strucely for sitting with me and helping me understand the difference between those two...

One of the differences between construction contracts and the law there, where any contract over \$50,000 would come to the Board, and therefore be posted publicly, and with the job order contracting, [where] it’s up to \$500,000 before it comes before the Board, there’s a little less transparency when it comes to [the JOC] projects. I appreciate Mr. Layne working on methods to let the Board be notified about job order contract bids that are out there.”

Minutes later, the Trustees voted **unanimously** to authorize the increase in JOC funds.

Management followed through on its agreement to keep the Board apprised of JOC contracts through the weekly board update, listed within the Construction Services Report, on the following dates: 02/23/17, 03/09/17, 04/13/17, 05/04/17, 06/01/17, 07/13/17, 08/03/17, 09/07/17, 10/05/17, 11/09/17, 12/07/17, 02/01/18, 04/12/18, 05/10/18, 06/14/18, 07/26/18, 10/11/18, 10/25/18, 11/29/18, 12/13/18, 02/14/19, and 05/02/19. These weekly board updates are available to OIA and Management strongly suggests that OIA review them (if it has not already).

For these reasons, OIA’s conclusion that the “board was not told about nor did they authorize construction project contracts exceeding \$50,000” is demonstrably incorrect. The Board openly (and, eventually, unanimously) interpreted the District’s policy to hold that the \$50,000 Board-approval threshold in CV(LOCAL) was satisfied. The Board knew and agreed that only JOC transactions \$500,000 or above would be brought to the Board for approval.

The “Recommendation” section of this finding states that “CS should seek authorization for all construction contracts exceeding \$50,000.” For the reasons stated above, all necessary authorizations were obtained for these JOC transactions. However, Management notes and acknowledges that someone reading CV(LOCAL) without doing any inquiry into how the Board interprets this policy could assume that it applies to JOC transactions. Thus, to avoid similar issues in the future, Management recommends that CV(LOCAL) be reviewed and revised to explicitly state that (1) the Board’s approval of a master JOC agreement constitutes approval of all individual JOC projects unless the \$500,000 statutory threshold is exceeded.

For these reasons, OIA’s Finding No. 1 that the Board “was not told about nor did they authorize” these transactions, which constitutes a violation of CV(LOCAL), is baseless.³

³ Management attempted to explain these matters to the OIA during the course of this months-long audit. These explanations were apparently dismissed by OIA and re-characterized as explanations that “Dallas ISD has always done it this way.” OIA is correct that Dallas ISD has “always done it this way” because the Trustees have unanimously interpreted their policies accordingly.

Estimated Implementation Date: Management will propose clarifications to CV(LOCAL) as part of a proposed overhaul of several procurement-related policies. Management expects to present these proposed edits to the Board within 60 days.

Individual responsible for implementation: N/A

Chief Auditor’s Response to Management’s Response

Management makes a good case. No, the chief auditor was not aware of the board discussion above. This is why we always get management’s response to audit reports. IA agrees with management’s recommendation. However, this audit was from 2015 to 2018, and management only discussed a 2017 meeting.

Finding I

Lack of Documentation to Support Monitoring of Unit Pricing for Construction Contracts

Criteria

Dallas ISD CVF(LEGAL) Job Order Contracts states a district may establish contractual unit prices for a job order contract by providing a list of work items and requiring the offerors to propose one or more coefficients or multipliers to be applied to the price book or pre-priced work items as the price proposal.

According to Government Accountability Office (GAO) Standards for Internal Control in Federal Government (Green Book), Principle 16.04 – Management monitors the internal control system through ongoing monitoring and separate evaluations. Ongoing monitoring is built into the entity’s operations, performed continually, and responsive to change. Separate evaluations are used periodically and may provide feedback on the effectiveness of ongoing monitoring.

Additionally, GAO Green Book, Principle 10.03 – Management clearly documents internal control and all transactions and other significant events in a manner that allows the documentation to be readily available for examination.

Condition

CS did not provide sufficient documentation to validate that CS reviewed and monitored unit price lists using RSMeans during the audit period. RSMeans is a product that provides accurate and up-to-date building construction cost data to pre-construction managers, architects, engineers, contractors, and other entities. OIA reviewed documentation of 86 project contracts for calendar years 2015 through 2018. Fifty-two of the total contracts were JOCs. The JOC master agreements with the three priority vendors required use of RSMeans to establish the contractual unit prices for the contracts.

Cause

Tim Strucely, executive director of Construction Services, stated that before 2017, unit price costing data was not being adequately reviewed. This was a self-identified weakness that came to light early in his tenure. In the fall of 2017, to mitigate this issue, CS added a staff position responsible to review and validate that vendor unit price costing matched with RSMMeans costing.

Effect

Our examination could not validate the extent, timing, and nature of the review performed by CS or the Project Management Firms (PMF). Without complete documentation of CS or PMF review of RSMMeans project cost data, OIA cannot validate the accuracy of the contract cost estimates increasing the risk that the District potentially overpaid on one or more contracts.

Recommendation

Prior to the performance of this audit this finding was corrected. According to the CS Executive Director, a detailed review of RSMMeans contract cost data is now required. After approval of the report and in accordance with the implementation date below, OIA will examine current contracts to confirm RSMMeans cost data is being reviewed and unit pricing is being validated during the follow-up phase of the audit.

Chief Auditor's note:

In response to management's response to finding one, this note has been changed. The note originally mirrored trustees' discussion regarding giving a "blank check" to management for JOCs. IA appreciates management's response in this regard.

Regarding finding two, management had the opportunity to provide pre-priced and predescribed tasks, or other acceptable cost measures, and did not do so. IA will not be able to comment further until we audit contract by contract to determine if the contract terms were met by the District and vendors.

In the Dunbar roof audit provided to the Audit Committee at the same time as this report, management admits, "**Current Management does not know whether the District overpaid for the roofing work at Dunbar or not...**"

Management provided IA with two responses to this report. The first included, "*The Executive Director CS conducted his own inquiry into the operation of the Construction Services Job Order Contract program after arriving in the district in November 2016 and took action in early 2017 to require contractor job order proposals to have unit price book line item tabulations. **Prior to this corrective action, the department was soliciting competitive bids from contractors on the job order contract pool list in order to assign job orders.** Although this was different than the traditional job order contracting method, it did not necessarily expose the district to additional costs, as the job orders were competed.*"

Soliciting competitive bids only from contractors on the job order contract pool list is an acknowledgement that state law regarding job order contracts was not followed and subjected the District to possibly having such contracts voided.

Acknowledgement of finding:

- Agree
 Disagree

Management's Response:

Rather than presenting evidence-driven conclusions, the chief auditor includes a variety of opinions and conjectures in the form of a “note.” The chief auditor uses this note to repeatedly demean and project nefarious motives on Management, such as concluding that “the administration kept such jobs secret from the board by not informing them when contracts were \$50k or above,” and “the administration evaded board notification” and “for four years, the administration repeatedly bypassed the board to enter into contracts which it failed to confirm met the requirements of JOCs.” Not only are these statements demonstrably incorrect (see above), but such opinions have no place in an audit report.⁴

Because this note does not appear to be linked to the standard audit format, Management’s responses are segregated into 2 categories: one related to Finding No. 2 and the other related to the chief auditor’s note.

Management Response to Finding No. 2:

In the “Condition” section of this finding, it states, “the JOC master agreements with the three priority vendors required use of RSMMeans to establish the contractual unit prices for the contracts.” Within the master agreements, it allows for a number of ways to establish contract unit pricing. There is an entire section titled, “Other acceptable unit cost sources” which includes “mutually determined costs, subject to verification and audit.” These other acceptable unit cost measures do not relate to RSMMeans and were not considered by OIA in coming to its conclusion.

Furthermore, Texas Government Code section 2269.403 states, “*Requirement for job order contracts for facilities. (a)(2) indefinite quantities and orders are awarded substantially (added bold text and underline) on the basis of pre-described and prescribed tasks.*” Substantially is defined as “for the most part, essential.” This definition allows some flexibility when it comes to JOC contracting.

In the “Effects” section of this finding, it states, “...OIA cannot validate the accuracy of the contract cost estimates increasing the risk that the District potentially overpaid on one or more contracts.” There is no support for this conclusion other than OIA’s speculation that “it might have happened.” Such speculation has no place in an audit.

⁴ Opinions have no place in an audit report. Opinions unsupported by the facts are dangerous and potentially defamatory, particularly when they impugn the integrity of Management. Opinions that are directly contradicted by the facts, such as the opinions in the chief auditor’s note, are reckless and unprofessional. OIA’s opinion that Management “kept [JOC] jobs secret” from the Board and “evaded board notification [on JOCs]” is both patently false and no more relevant than an opinion that OIA intentionally omitted any reference to the **three publicly-available and videotaped Board proceedings** because they directly contradict OIA’s chosen narrative. Neither opinion is worth anything in the context of an audit report, and both should be disregarded.

In the “Recommendation” section of this finding, it states, “During the performance of this audit this finding was corrected.” Within the “Cause” section of this finding, it is indicated that this was a self-identified weakness discovered and corrected in 2017. Although the report contradicts itself, the fact is that this practice was identified and corrected prior to the audit and not during the audit.

Management Response to the Chief Auditor’s Note:

As mentioned previously, since the chief auditor’s note stands independent of the standard audit format, references to concerns will be expressed and referenced according to paragraphs within the comments.

Paragraph 1: The chief auditor concludes, without evidence, that management kept the JOC transactions “secret” from the board by not informing it when contracts were \$50k or above.” The JOC transactions were not kept secret from the Board; to the contrary, the Board approved the JOC Board Doc knowing that the administration would keep the Board informed through regular updates, and those regular updates occurred. This comment should be disregarded.

Paragraph 2 (Part 1 of 2): In the note, the chief auditor states that Management failed to seek approval for 52 JOC contracts. In the “Findings 1” section, OIA states there were 44 JOC contracts. There is no explanation for this discrepancy in the number of contracts.

Paragraph 2 (Part 2 of 2): The chief auditor concludes that Management’s position that individual JOC contracts did not need to go back to the Board for secondary approval is “nonsensical.” Management strongly suggests that OIA review (or re-review) the March and April 2017 Board Briefing and Meeting videos because the Board (as well as former General Counsel Jack Elrod) came to the same, unanimous “nonsensical” conclusion as Management. Thus, his comments should be disregarded.

Paragraph 3: The chief auditor states that “the administration was diligent in following State law in notifying the board when JOC contracts were at or above \$500,000, yet it disregarded board policy regarding the same.” This statement is nonsensical as written. If OIA is suggesting that management complied with CVF(LEGAL) but disregarded CV(LOCAL)’s requirement that contracts \$50,000 or above be approved by the Board, Management’s position on this matter is discussed fully elsewhere herein.

Paragraph 4: The chief auditor implies that Management tricked the Board into approving the JOC contracts by adding language that begins “BE IT RESOLVED...” The chief auditor’s conclusion reflects a lack of familiarity with the District’s contracting documents. This is standard language on many Board Docs and is approved by legal services prior to being listed in the applicable board agenda item. There was no trickery or deception by Management and Management strongly objects to any suggestion to the contrary.

Paragraph 5: The chief auditor states that the “fine print near the bottom of agenda items does not negate policy.” The chief auditor is not clear about what fine print he is referring to. For the reasons stated above, the chief auditor’s opinions about “blanket authorizations” are contradicted

by the 2017 Board proceedings. The remainder of the paragraph is difficult to understand. Management is happy to further respond if this paragraph is clarified.

Paragraph 7: Management strongly objects to this paragraph, which amounts to nothing more than an uninformed and unsubstantiated character attack. Management strongly encourages the chief auditor to review the publicly-available and videotaped Board proceedings which directly contradict the findings in this report.

Paragraph 8: Management is unable to respond to anonymous allegations by a “senior District administrator.” Management will respond if the administrator or position is identified and if it determines that the allegation is accurate.

Estimated Implementation Date: No implementations necessary

Individual responsible for implementation: N/A

Chief Auditor’s Response to Management’s Response

Pursuant to management’s response in finding one describing the discussion the board had regarding JOCs, the chief auditor’s note was changed. However, conclusions and opinions are integral parts of internal audit’s reports. The Effect, Recommendations, Conclusion and any auditor’s notes are conclusionary. The Texas State Board of Accountancy, the International Standards for the Professional Practice of Internal Auditing, and Government Auditing Standards all include opinions or conclusions. The IA Charter includes “assurance” which is opinion.

Finding No. 2

- In the first paragraph, management states there are other acceptable unit cost measures in the master agreements. However, management did not provide either other acceptable unit cost measure or RSMMeans costs. Management could have easily refuted Finding II by providing either.
- Management refers to Texas Government Code section 2269.403, pointing out that JOCs are awarded **substantially** on the basis of pre-priced and prescribed tasks. Substantially each JOC should be based on pre-priced and prescribed tasks, or other acceptable cost unit measures, yet management did not provide any.
- The Effects section, as previously stated, is opinion. The section stated the District potentially overpaid. Management states it also could have underpaid. The fact is management did not provide any pre-priced and prescribed tasks, or other acceptable cost measures, so we will not know whether the District over or under paid until we do contract-by-contract audits.
- Management points out it corrected the finding’s recommendation before this audit started. We agree and changed the report. However, if management made the correction to the finding, then why did it disagree with the finding?

Chief Auditor’s Note

- Paragraph 1: Although the chief auditor’s note was changed, opinions and conclusions are integral parts of internal audit reports.
- Paragraph 2: Management believes a mistake was made in that the chief auditor referred to 52 JOCs and the condition for finding one states there were 44.

Management misread the finding. There were 44 JOCs not individually presented to the board for approval. Appendix One shows there were 52 total JOCs reviewed. Of those, six were under \$50,000 and two were over \$500,000. The six under \$50,000 did not require board approval, whereas board approval was acquired for the two over \$500,000.

- Paragraph 3: Because the chief auditor's note was changed, there is no comment to make.
- Paragraph 4: Because the chief auditor's note was changed, there is no comment to make.
- Paragraph 5: Because the chief auditor's note was changed, there is no comment to make.
- Paragraph 7: Because the chief auditor's note was changed, there is no comment to make.
- Paragraph 8: Because the chief auditor's note was changed, there is no comment to make.

The executive director of CS is commended for "in early 2017 requiring contractor job order proposals to have unit price book line item tabulations."

Finding II

Contracts Did Not Contain Required Written Statement Per Texas Government Code 2270

Criteria

Texas Government Code Chapter 2270 – Prohibition on contracts with companies boycotting Israel states a governmental entity may not enter into a contract with a company for goods or services unless the vendor provides written verification it does not boycott Israel and will not boycott Israel during the term of the contract. The law affects contracts with vendors with 10 full-time employees that exceed \$100K. This law is referenced within the district under Dallas ISD CV(LEGAL) Facilities Construction. The state legislature passed this law in April of 2017, and it went into effect on September 1, 2017.

Condition

The OIA found five contracts executed after September 1, 2017, that met the dollar contract criteria and did not have the required written verification from the vendors. Thirty JOCs entered prior to the effective date of the law were exempt. However, when the JOC contracts were renewed after the law went into effect, the required written verification was not included in the renewal. Based upon information obtained in the audit, Dallas ISD Procurement maintains that steps to address this issue have been undertaken.

Cause

The written verification is obtained during the procurement phase of the project contract by the Dallas ISD Procurement Department. The master agreements for 35 eligible contracts were

approved in CY 2015, which did not require this written verification. However, during the second renewal period, the verification was required. Renewals were reviewed and approved by the CS instead of the Procurement Department. As a result, CS personnel may not have been aware of the new requirement. The form must be signed by the vendor when submitting the proposal to be considered responsive by Dallas ISD.

Effect

Because the renewal of the contractors' master agreements do not contain the written verification their original proposals could be considered non-responsive which could be problematic.

Recommendation

During the performance of this audit this finding was corrected by CS. During the Audit, OIA discussed this with Dallas ISD Procurement Department personnel who stated that beginning September 1, 2017, all proposals contain a written verification form to meet the legal requirement. After approval of the report and in accordance with the implementation date below, OIA will examine current contracts to confirm all proposals contain a written verification form to meet the legal requirement.

Acknowledgement of finding:

- Agree
- Disagree

Management's Response: The finding is duly noted and corrective action has already been taken to comply as stated in the auditor's recommendation.

Estimated Implementation Date: N/A

Individual responsible for implementation: Rose Kohut, CS Procurement Director.

Conclusion

Management's response regarding the discussion of approving JOCs in advance of actual projects is appreciated and illuminating, not only for IA but for current board members. IA agrees with management in the board deciding if it wants to continue with this practice.

It would have been better if management had provided OIA with pre-priced or prescribed tasks, or other acceptable cost units. As it is, we will have to audit contract by contract to determine if contract terms, policy, and state law were met by the District and vendors.

Two statements from management are telling:

- ***“Current Management does not know whether the District overpaid for the roofing work at Dunbar or not...”***
- ***“Prior to this corrective action, the department was soliciting competitive bids from contractors on the job order contract pool list in order to assign job orders.”***

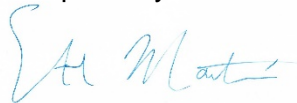
The OIA staff would like to thank the CS management team and their team for their assistance with this audit. The CS department has oversight of billions of dollars in bond funds and is tasked with ensuring all required records and documentation is retained digitally and in hardcopy formats.

This audit was conducted in accordance with the Institute of Internal Auditor's International Standards for the Professional Practice of Internal Auditing. Those standards require OIA plan and perform the audit to obtain appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. OIA believes the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Management's Responsibility

Management is responsible for the design, implementation, and maintenance of internal control within the District.

Respectfully submitted,



Steven Martin
Chief Internal Auditor

cc: Pamela Lear, Dallas ISD Chief of Staff
Scott Layne, Dallas ISD Chief Operating Officer
Gloria Maddox-Powell, Dallas ISD Deputy Chief of Operations
Timothy Strucely, Dallas ISD Executive Director - Construction Services Department
Candace Yarbough, Dallas ISD Interim Executive Director – Procurement Services

Acknowledgments:

Ron Salo – Senior Auditor

Appendix I

Construction and Maintenance Audits Total Audit Universe/Sample Breakdown

Audit #	Audit Name	Job Order Contracts Total	Non-Job Order Contracts Total	Total Audit Universe	Total Audit Sample	Total Audit Sample Dollar Amount
1	Construction Priority Vendors 2015 – 2018	52	34	86	86	50,602,441.05
2	Maintenance Priority Vendors 2015 – 2018	74	0	74	74	17,456,107.32
3	Non-Priority Vendors Job Order Contracts 2015 – 2018	321	79	321	79	35,413,388.48
4	Joint Ventures 2015 – 2018	TBD	TBD	84	84	382,414,098.02
5	Non- Priority Vendors Construction/Maintenance 2015 – 2018 (All Fund 600's, Fund 774)	TBD	TBD	1908	91	40,179,654.35
6	Non- Priority Vendors Construction/Maintenance Contracts 2015 – 2018 Multi Fund (Fund 197 & Fund 199)	TBD	TBD	2243	91	368,953,335.74
Total Purchase Orders/Contracts		447	113	4716	505	895,019,024.96

Appendix II

Audit Criteria from Dallas ISD Policy

Criteria #	Criteria Description	Dallas ISD Policy
1	Board approval of selection methodology for construction contracts \$25,000 or above	CV Local
2	Public Notice of procurement of construction contractor – includes when, where bid proposal responses will be received and opened & Estimated Cost	CV Legal
3	Bid proposal/Contractor selection evaluation criteria	CV Legal
4	Publishing of evaluation/selection criteria in the bid proposal	CV Legal
5	Bid is sealed	CV Legal
6	Selection based upon published evaluation/selection criteria for contractors in capital improvement projects	CV Local
7	Bid evaluations made public by the 7th day after the contract is awarded	CV Legal
8	Required contract provision prohibiting boycotting Israel	CV Legal
9	Change order provision and proper change order approval in contract - Change order approval requirements and limitations	CV Local
10	Independent inspection, testing and construction materials engineering services	CV Legal
11	Architect/Engineer/Land Surveyor selection requirements met: Registered Architects/Engineer requirements (\$100,000 new construction, \$50,000 renovations/remodels)	CV Legal
12	Payment and performance bonds	CV Legal
13	Workers compensation coverage	CV Legal
14	Background checks	CV Legal
15	Board approval of all construction contracts \$50k or more	CV Local
16	Contingency allowance required	CV Local
17	Final payment - completion of work, all close out documents (certificates and certifications) received by the District	CV Local
18	Minority participation in capital improvement projects	CV Local
19	Non-campus facility alterations \$10,000 or above require Board notification	CV Local
20	Unit prices were established by providing a list of work items and requiring the offerors to propose one or more coefficients or multipliers to be applied to the price book or pre-priced work items as the price proposals	CVF Legal
21	District may award job order contracts to one or more job order contractors in connection with each solicitation of proposals. An order for a job or project under a job order contract must be signed by a District representative and the contractor. A fixed-price, lump-sum contract based substantially on contractual	CVF Legal
22	Base term for a JOC may not exceed two years and may not be renewed annually by the District more than three years	CVF Legal
23	Job Order Contracts (JOC) are for maintenance, repair, alteration, renovation, remediation, or minor construction of a facility when the work is of a recurring nature but the delivery times, type and quantities of work required are indefinite. Must comply with CV Legal : <i>a. Selecting a contracting method (CV Legal See Criteria #1)</i> <i>b. Giving public notice of the project, (CV Legal See Criteria #2)</i> <i>c. Publishing contract selection criteria (CV Legal See Criteria #4)</i> <i>d. Making evaluations public after the contract is awarded, (CV Legal See Criteria #7)</i> <i>e. Providing for inspection, verification and testing necessary for acceptance of the facility by the district, (CV Legal See Criteria #10)</i>	CVF Legal

Appendix III

DALLAS ISD Board Documents Approving Pool of Job Order Contractors - Board Document 62331



3700 ROSS AVENUE DALLAS, TEXAS 75204
DALLAS INDEPENDENT SCHOOL DISTRICT
BOARD OF TRUSTEES
 AGENDA ITEM

REVISED

FOR USE BY BOARD SERVICES OFFICE

BOARD FILE #: 62331
 AMENDED DATE: 4/23/15 (See Minutes)

Meeting Type: Board Meeting Meeting Date: April 23, 2015
 Policy Reference: CV (LEGAL), CV (LOCAL)

CONSIDER AND TAKE POSSIBLE TO AUTHORIZE, NEGOTIATE AND ENTER INTO CONTRACTS WITH JOB ORDER CONTRACTING FIRMS FOR MINOR CONSTRUCTION, REPAIR, REHABILITATION, OR ALTERATION OF FACILITIES PROJECTS MANAGED BY DALLAS ISD CONSTRUCTION SERVICES (NOT TO EXCEED \$25,000,000 AUTHORIZED BOND FUNDS, GENERAL OPERATING FUNDS AS ASSIGNED, MAINTENANCE TAX NOTES AS ASSIGNED AND FUNDS ASSIGNED TO AND MANAGED BY CONSTRUCTION SERVICES AS AUTHORIZED BY THE BOARD OF TRUSTEES)

• Justification:	On August 22, 2013, per board file #51489, the Board of Trustees authorized the issuance of obligations designated as "Dallas Independent School District Limited Maintenance Tax Qualified School Construction Notes, Taxable Series 2013 (Direct-Pay Subsidy Notes)". On August 28, 2014, per board file #82006, the Board of Trustees approved the procurement method of job order contracting for the selection of contractors for minor construction, repair, rehabilitation, alteration or hazardous materials abatement projects managed by DISD Construction Services. On March 28, 2015, per board file #62331, the Board of Trustees authorized the issuance of "Dallas Independent School District Multi-Modal Limited Maintenance Tax Notes, Series 2015. This document will provide the resolution required for assignment of projects, as needed, to approved Job Order Contracting firms managed by Dallas ISD Construction Services.		
• Bid/RFP Statistics and Information:	Received: 14	M/WBEs: 9	• Bid/RFP #: CS #15-002
	Compliant: 14	M/WBEs: 9	• Opening Date: 02/26/15
• M/WBE Information:	In accordance with the District's M/WBE Program requirements, this contract's M/WBE goal is set at 30% of the contract amount. <input type="checkbox"/> No subcontracting opportunities <input checked="" type="checkbox"/> Committed to achieving 30% <input type="checkbox"/> M/WBE vendor <input type="checkbox"/> Multiple M/WBE vendors		
• Recommended Vendor(s):	Respondents Per the Attached Detailed Sheet		
• Contract Type:	Competitive Sealed Proposal		
• Contract Term:	Initial 2-year term with 3 one-year renewal options		
• Lowest Responsive Bidder(s):	• Sole Source Vendor:		
• Funding Information:	Bond Funds, General Operating Funds, Limited Maintenance Tax Notes		
<input type="checkbox"/> Budget Approval NA <input type="checkbox"/> (Budget Department Approval Required)	Request #:	PO #:	Project Order #:

• Contact Information:
 Name: Ed Levine Title: Executive Director
 Department: Construction Services Phone #: (972) 925-7200

BE IT RESOLVED BY THE DALLAS INDEPENDENT SCHOOL DISTRICT BOARD OF TRUSTEES:
 That the Board of Trustees authorizes the District to negotiate and enter into contracts with the listed job order contracting firms for minor construction, repair, rehabilitation, or alteration of facilities projects managed by Dallas ISD Construction Services, not to exceed \$25,000,000.

This Board action shall take effect April 23, 2015

SIGNATURE REQUIRED FOR APPROVAL AS TO CONTENT AND CERTIFICATION TO THE BEST OF MY KNOWLEDGE, THAT CONTRACT IS WITHIN SCOPE OF POSITION AND NO CONFLICTS OF INTEREST EXIST AS DEFINED BY BOARD POLICY (SEE LOCAL). RECOMMENDED ACTION IS THE BEST VALUE AVAILABLE AND MEETS THE REQUIRED SPECIFICATIONS, IF ANY.	SIGNATURE REQUIRED FOR APPROVAL AS TO FORM.	SIGNATURE CERTIFIES THAT THE APPROPRIATE STAFF HAVE REVIEWED AND SIGNED THE BOARD DOCUMENT.
 (1) Exec. Dir./Director	 (2) School Attorney	 (3) Chief
Date Signed: <u>4-24-15</u>	Date Signed: <u>4/24/15</u>	Date Signed: <u>4/23/2015</u>

• Additional Information Sheet(s) attached: Yes No

Appendix III – Continued

DETAILED INFORMATION SHEET

Meeting Date: April 23, 2015

Title: CONSIDER AND TAKE POSSIBLE ACTION TO AUTHORIZE, NEGOTIATE AND ENTER INTO CONTRACTS WITH JOB ORDER CONTRACTING FIRMS FOR MINOR CONSTRUCTION, REPAIR, REHABILITATION, OR ALTERATION OF FACILITIES PROJECTS MANAGED BY DALLAS ISD CONSTRUCTION SERVICES (NOT TO EXCEED \$25,000,000 VARIOUS FUNDS)

Job Order Contracting Firms Recommended:

1. CZOT – MGS LLC*
2. Lemco Construction Services, L.P.*
3. Big Sky Construction Company, Inc.
4. Phillips/May Corporation*
5. RS Commercial Construction
6. Reeder General Contractors, Inc.
7. SDB Contracting Services, Inc.
8. Adept Facilities & Design, Inc.*
9. The Trevino Group, Inc.*
10. Skye Building Services, LLC
11. Denali Construction Services, LP*
12. 3i Construction, LLC*
13. VIP Construction, LLC*
14. Alpha Building Corporation*

*Denotes M/WBE Firm