



Office of the City Auditor Review of Witchduck Phase I

Report Date: February 9, 2011

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"Promoting Accountability and Integrity in City Operations"



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Office of the City Auditor
Transmittal Letter



Date: February 9, 2011
To: James K. Spore, City Manager
Subject: Review of Witchduck Phase I

I am pleased to present the report of our review of the Public Works roadway CIP project #2931000-Witchduck Phase I. The results of this review will be provided to City Council through the City's Audit Committee.

The results of our audit are provided in this report. Findings considered to be of insignificant risk have been discussed with management. We completed our fieldwork on December 21, 2010.

The Office of the City Auditor reports to City Council through the City's Audit Committee and is organizationally independent of all other City Departments. This report is intended solely for the information and use of the Audit Committee, City Council, City Manager, and appropriate management. It is not intended to be and should be used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited.

We would like to commend the personnel from the Departments of Public Works and others for their courtesy and cooperation extended to us during the review.

If you have any questions about this report or any audit -related issue, I can be reached at 385-5870 or via email at lremias@vbgov.com.

Respectfully submitted,

Lyndon S. Remias, CPA, CIA
City Auditor

c: City Council Members
Audit Committee Members
Dave Hansen, Deputy City Manager, City Manager's Office
Jason Cosby, Director, Department of Public Works



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Purpose

To verify that the City's contract payments for the design and construction (including the CEI - construction, engineering and inspection contract) phases of the *Witchduck Phase I* roadway project are being made in compliance with the contract terms; that federal and state revenue is being properly accounted for and that the project is complying with all American Recovery and Reinvestment Act (ARRA) reporting requirements.

Scope and Objectives

The objectives of our review were:

1. Verify that contract payments to the general contractor, (E.V.Williams) design firm (Kimley-Horne) and CEI firm (McDonough Bolyard & Peck) are being made in compliance with those individual contract provisions.
2. Document and test the internal controls over those contract payments
3. Verify that all ARRA requests for reimbursement and Urban Construction Initiative (UCI) federal reimbursement requests have been received, accounted for and properly recorded.
4. For the construction contract, schedule and review all change orders and financial notifications and determine whether they have been properly approved and that the resulting total contract amount is being tracked.
5. Determine that the federal ARRA reporting requirements for the project are being properly performed.
6. Review the ARRA revenue and accrual for the year ended June 30, 2010 and determine they have been properly recorded for SEFA and CAFR purposes.

We did not test compliance with the state - VDOT's LAP (Locally Administered Projects) manual (includes Federal Highway regulations) as these requirements are over 800 pages of mainly engineering based requirements. Public Works has contracted with a consultant, McDonough, Bolyard and Peck, to ensure these regulations are complied with as the department transitions from its Legacy format whereby VDOT administered the project to its UCI format whereby an increasing amount of the project is administered by local officials. The City is in the process of applying and obtaining full UCI certification whereby the maximum amount of local autonomy in project administration is permitted.



Methodology

Inquiry, examination of documents and data, walkthroughs and testing were the methods used to review internal controls. To accomplish our objectives, we performed the following procedures:

- Reviewed the CIP budget and Public Works “w” drive which contains detailed information regarding specific roadway projects including *Witchduck Phase I* – project #2931.
- Interviewed the project manager, project supervisor, and the project support and development manager concerning the project background.
- Visited the *Witchduck Phase I* job site with the project manager and interviewed the project inspector and reviewed project records, logs maintained on site.
- Ran various InSITE reports for the project to determine project costs to date, budget to actual and contract payment details.
- Obtained and reviewed the City’s external auditor’s (Cherry, Bekaert & Holland, L.L.P) single audit work performed on *Witchduck Phase I* for the June 30, 2010 CAFR.
- Obtained and reviewed the construction contract with E.V. Williams; the design contract with Kimley Horne; and the CEI contract with McDonough, Bolyard & Peck.
- Scheduled the contract payments from each of those contracts and determined if they were properly approved and paid in compliance with the contract provisions.
- Scheduled the change orders and financial notifications associated with the construction contract and determined if they were approved in compliance with Administrative Directive 6.04- *Capital Improvement Projects (CIP) construction Contracts, Change Orders and Formal Notification Policy* or the Owner’s Contingency (OC) established by Purchasing for the project.
- Verified that the changes in the total construction contract value resulting from approved change orders and financial notifications are accurately tracked.
- Documented and reviewed the City’s required ARRA reporting for the project and determined if the City was in compliance.
- Reconciled the UCI requests for reimbursement and the ARRA request for reimbursement with the appropriate InSITE revenue accounts to verify receipt.
- Reviewed the accrual of federal ARRA funds for the project at June 30, 2010 and verified the reporting of ARRA revenue in the SEFA section of CAFR.

Standards

Our audit was conducted in accordance with generally accepted government auditing standards. The Office of the City Auditor reports to City Council through the Audit Committee and is organizationally independent of all City Departments. This report will be distributed to the City’s Audit Committee, City Council, City Manager, and appropriate management within the City. This report will also be made available to the public.



Background

Witchduck Road Phase I, CIP project #2931000 will ultimately widen Witchduck Road from four to six lanes on a 170-foot right-of-way from Princess Anne Road to Interstate 264 spanning approximately 3,650 feet. Aesthetic improvements will be added to enhance the roadway corridor. The project first appeared in the CIP in 2000-01 to relieve congestion in the area and appears in the Regional Transportation Plan and in the City's Master Transportation Plan.

Two aspects of the project make it unique from an audit/risk perspective from the City's outlook and give the project-increased scrutiny. *Witchduck Phase I* is the initial City project to incorporate both of the following areas and thus directly influenced our decision to select this project to audit. Those two aspects are as follows:

1. UCI project

In 2004 the City of Virginia Beach, along with the cities of Richmond and Hampton (others have joined since), joined the Urban Construction Initiative (UCI), originally known as "First Cities." Under the UCI program, the City will transition from the previous "Legacy" system whereby VDOT officials managed the roadway project to ultimately full UCI member certification whereby the locality administers a streamlined project *and* program process. The UCI certification will allow the opportunity for increasing autonomy for the City in administering and delivering roadway projects. VDOT will still provide oversight and concurrence at various project development points and maintain a compliance program. In 2009, the UCI Certification Program received approval from the Federal Highway Administration (FHWA) and Public Works is moving towards applying for certification. UCI certification is a lengthy process of documenting/testing project delivery systems and assuring VDOT those systems are reliable. In the meantime, as a UCI member, the City does locally administer UCI projects via VDOT's LAP manual. At the time the City joined the UCI program, four projects officially became UCI projects; one of those four was ***Witchduck Phase I***, the others were PA/Kempsville, Elbow Road, and Indian River Road. As one of the first UCI projects to be managed by the City, it is thus understandably of utmost importance that *Witchduck Phase I* be administered with sound stewardship as we concurrently move toward full UCI certification.

2. ARRA funding

The other reason *Witchduck Phase I* is unique and has increased risk and scrutiny is that it is our first ARRA funded project. The City first received ARRA funding for the project directly through the HRTPO – the regions' Transportation Planning Organization (TPO) for 10.4 million. This funding was 12-month ARRA funds and required to be appropriated in twelve (12) months. The state (VDOT) however approached the City about swapping our 12-month ARRA funding for their 90-day ARRA funding, as the state needed a shovel ready project to allocate their ARRA money to; *Witchduck Phase I* was close to shovel ready, so we became the sub-recipient of the 90-day state ARRA funds. VDOT utilized our original 12-month funds on Great Neck ramps. The ARRA award was reduced to 9.6 million as it is restricted by the final amount of the construction award. The increased risk is that project must be



completed in two years after appropriation- March of 2012. It is a fixed priced award – any overruns must be borne by the locality and noncompliance can result in funding termination.

Funding

The 2010/2011 CIP lists the following funding sources for the project:

Pay-AS-You-Go-General Fund	\$253,322
State Contribution (UCI)	\$13,827,844
Charter Bonds	\$1,865,734
Fed Cont-2010- Regional Surface Trans Program	<u>\$10,640,000*</u>
Total Funding	<u>\$26,486,900</u>

**The actual amount of the ARRA award was 9.6 million; the amount is restricted by the amount of the construction award.*

Summary of Witchduck Phase I Budgeted Costs

Phase I	CIP Amount	Comments
Design	\$1,600,000	Design Contract w/ <i>Kimley Horne</i> , for \$1,597,273 . Scope of work in each contract detail the deliverables. The design contract payments are in 540.00000.603109 and 492.00000.603103 and are close to the \$1,597,273.
Site Acquisition	\$12,314,000	Purchase of 40 parcels - 38 houses, law office, 7/11 and part of a church property. Spreadsheet on PW W drive details appraisal(City assessors' office) and amount paid. Other costs include relocation/moving, demo debris removal, title costs etc. Most homeowners paid appraisal or initial offer made. These costs are booked mostly in 540.00000.609010 (11.2mill), 535.00000.609010 and 430.00000.609010 .
Private Utility Adjustment	\$1,771,000	Costs in 540.00000.609210.2931 for utility relocation underground. This work was involved creating a duct bank for Dominion Power for approximately \$1,242,280.
Construction	\$8,965,000	The main construction contract is with <i>EV Williams</i> dated 9/29/09 and contains 3 addendums for \$7,473,343. Another Engineering and inspection contract – (estimated 1.3 million) has been executed with McDonough Bolyard & Peck MBP whereby they inspect and manage the contract/UCI/VDOT process/ARRA compliance. There are expected change orders of \$1,000,000.
Street Lights	\$100,000	
Landscaping	\$537,000	
Contingencies	\$1,199,900	
Total 2010-11 CIP	<u>\$26,486,900</u>	



Results

CONTRACT PAYMENTS

Construction Contract

We scheduled each of the construction payments to the General Contractor, E.V Williams, from the beginning of construction through the end of the fiscal year 6/30/2010 totaling \$2,371,869.60.

We reviewed each payment and verified:

- Approved for payment by the Project Manager and Project Inspector
- Unit Pricing and Line items charged agree with the specific line items in the contract
- Quantity-to Date line items agrees with prior payment detail and do not exceed contract total
- Mathematically Correct
- Properly coded for ARRA inclusion and construction phase
- Paid prior to request for ARRA reimbursement

Design Contract

We scheduled each of the design contract payments to Kimley -Horne totaling \$1,684,288.49 and verified:

- Approved by the Project Manager
- Mathematically correct
- Purpose consistent with the contract phase
- Properly recorded
- The total payments do not exceed the contract value

Construction, Engineering & Inspection(CEI)Contract

We scheduled each of the CEI contract payments to McDonough, Bolyard and Peck totaling \$58,942.62 and verified:

- Approved by the Project Manager
- Paid by the correct hourly rate specified in the contract for the position, activity & firm
- Mathematically correct
- Purpose appears consistent with contract
- The total payments do not exceed approved contract amounts

Results

We tested each of the contract payments for the above criteria and noted no exceptions. The controls were working effectively and the payments were made in compliance with the contract provisions.



CHANGE ORDERS

The original construction fixed price contract amount with E.V. Williams was a base bid amount of \$7,473,343.39 with a contingency amount of \$1,000,000. It is very important that change orders are properly approved by management *and* tracked so both parties always know the total amount of the approved contract. The City has an Administrative Directive - #6.04 *Capital Improvement Projects (CIP) Construction Contracts, Change Orders and Formal Notification Policy* – that details the change order approval policy. Because *Witchduck Phase I* construction is funded by state ARRA 90 day money and requires completion in two years (March 2012). Purchasing established an Owners Contingency (OC) for *Witchduck Phase I*. This allows Public Works to internally expedite change orders up to \$75,000 (up to an accumulated amount of \$560,500, approximately 7.5% of base bid).

Results

We scheduled all processed change orders and formal notifications and verified they were approved in compliance with the above policies. In addition, we verified without exception that Public Works' contracts division is tracking the change orders and formal notifications and resulting change in total price of the contract accurately and display the current contract amount on the cover of each payment voucher.

ARRA COMPLIANCE

As stated, the *Witchduck Phase I* construction is being funded with 9.6 million of *state* ARRA money. Thus, the City is in a sub recipient role with regards to these funds and as such, the City's Project Manager for *Witchduck Phase I* is trained by VDOT and given access to the state ARRA portal to enter the required ARRA information concerning the requirements and use of the portal. The required information is entered each month and involves three areas of information, (1586) Project Details, (1585) Monthly Data, and (1587) Contractor Data. We visited the *Witchduck Phase I* project site, where the Project Manager maintains hardcopies of the monthly data entered and reviewed the monthly data. We also talked with the Fiscal Analyst for ARRA projects from VDOT who review the entered information for *Witchduck Phase I*.

Finding #1

We confirmed that the City's Project Manager had attended the required ARRA training and was entering the required ARRA information monthly. We noted that some of the required contractor information in the required 1587 fields (name, contact information, award date and notice to proceed date) was missing. The state ARRA Fiscal Analyst noted the same and asked that we submit the required information. Other required project information is monthly payroll data for the contractor and subcontractors that is entered through the portal directly by the contractors. The contractors send a hard copy of their payroll to the project manager who is required to review the information for reasonableness as the City has ultimate accountability. Some of the hard copy payroll information was not properly filed.



Recommendation

- 1.1 We recommend the City's Project Manager contact the state and submit the missing required contractor information for the monthly ARRA report. We also recommend consistent monthly review and documentation of the review of the contractor submitted payroll information for the project and filing of the contractor payroll information with the hard copy ARRA monthly report.

Management Response

Public Works agrees and has entered the missing required ARRA reporting information and it now appears on the January 2011 report. The Project Manager has also reorganized the subcontractor payroll information to make review for reasonableness much easier.

UCI & ARRA REIMBURSEMENTS

One of the significant changes from transitioning from the Legacy VDOT projects to UCI where we manage our own projects is the funding. Now we must submit reimbursement request packets to VDOT for approval to obtain our revenue. On *Witchduck Phase I*, the construction phase is funded with ARRA money from the state which works similarly in that the project was approved for ARRA funding and we must periodically submit our construction expenditures for reimbursement. We scheduled and reviewed all UCI reimbursement requests for the project to date. These UCI construction expenditures involved 13 requests for reimbursement dating back to 2006 totaling \$11,974,680.80 in federal funds. We were able to reconcile the UCI requests for reimbursement to their receipt in InSITE.

As far as ARRA reimbursement, we were able to verify that the only ARRA reimbursement request made for the project through fieldwork was one made on May 27, 2010 for \$1,085,247.22. We traced the expenditures to the backup construction expenditures (mostly payments to the general contractor and a vendor for signage). The reimbursement request was received and properly recorded. We confirmed that the ARRA funds were properly reported in the City's CAFR in the Schedule of Expenditures of Federal Awards (SEFA) for June 30, 2010 and the ARRA revenue accrual at June 30, 2010 of \$1,036,000 appears accurate.

Conclusion

Based on our review, we believe the City's Contract payments for the construction, design and CEI of *Witchduck Phase I* are being made in compliance with the contract terms and that the controls related to contract payments are operating effectively. The required ARRA reporting for the project is being performed in compliance with requirements and the UCI and ARRA reimbursements are being accounted for and recorded correctly.

As the City transitions to full UCI certification, they will obtain an increasing level of both autonomy and responsibility in future roadway project administration. This could, in the future, precipitate a need for additional resources for the successful implementation of the UCI program going forward.



Acknowledgements

We would like to thank the personnel from the Departments of Public Works and Finance for their cooperation and responsiveness to our requests during the review and their receptiveness to questions, recommendations and suggestions.