



Montgomery County Government

MONTGOMERY COUNTY COUNCIL
OFFICE OF LEGISLATIVE OVERSIGHT

REPORT #84-5

JANUARY 22, 1985

TITLE

An Evaluation of the Contract to Renovate the Takoma Park Fire Station #2.

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I. SUMMARY, CONCLUSION AND RECOMMENDATIONS.

Summary. The subject of this evaluation was a contract to renovate the Takoma Park Fire Station #2. This contract was randomly selected from contracts listed in the Contract Activity Reports prepared by the Department of Finance's Purchasing and Materiel Management Division.

This contract was awarded in July 1983, to the lowest bidder for a fixed price of \$127,400. During the construction phase of this renovation project, 13 change orders were approved and the total dollar value of the contract was increased by \$81,389 or 64% of the original contract amount.

Conclusion and Recommendations.

1. Since the mid-1970's, many improvements have been made to correct the deficiencies in the County's contracting policies and procedures.

2. Better internal controls are needed to assure adherence to specific sections of County law and Administrative Procedures and to promote economy and efficiency.

3. Improvements to the internal control system are recommended in the areas of change orders, payments, contract provisions and the contract monitoring report.

II. AUTHORITY. Council Resolution 10-559, CY 84 Work Program of the Office of Legislative Oversight directed the evaluation by OLO, on a sampling basis, of County contracts. This project was in accordance with the Final Report of the County Council Ad Hoc Committee on Legislative Oversight, dated December 14, 1978. Specifically, Final Report Recommendation #7, stated: "Use the Office of Legislative Oversight to evaluate particular contracts on a sampling basis, as a continuing, low key check on County contracting procedures."

III. METHODOLOGY. This contract was randomly selected from contracts listed in the Contract Activity Reports prepared by the Department of Finance's Purchasing and Materiel Management Division. Deborah Snead, Legislative Oversight Program Evaluator, performed this evaluation using a variety of contract auditing techniques, a review of documents (contract files, County laws, Administrative Procedures, and Contract Review Committee Minutes), and interviews with employees of the Department of Finance and Department of Facilities and Services.

IV. BACKGROUND

1. Overview. The subject of this evaluation was a contract awarded to a local construction firm, Construction-Commercial, Inc., to renovate the Takoma Park Fire Station #2. This contract was awarded on July 11, 1983, to the lowest bidder for a fixed price of \$127,400. During the construction phase of this renovation project, 13 change orders were approved and the total dollar value of the contract was increased by \$81,389 or 64% of the original contract amount of \$127,400. A detailed discussion of these change orders is presented in subsequent paragraphs. The Certificate of Substantial Completion was issued and occupancy took place on March 15, 1984. As of September 1, 1984, eight payments had been made to the contractor for a total of \$196,309.00 or 94% of the total contract amount of \$208,789.

2. Contract Administration. Chapter 11B, Contracts, Procurement Matters and Public Ethics, became effective in July 1977. The development of revised administrative procedures to implement this law has been a painfully slow process. The County government is currently working with interim procedures which were published in January 1981. These interim procedures are still being reviewed and the Director of the Department of Finance projects that they will be revised, rewritten and approved by October 1985. Under these interim policies and procedures, numerous County officials within various departments are involved in some aspect of contract administration.

The review by OLO of the contract to renovate the Takoma Park Fire Station #2 showed County officials within the Purchasing and Materiel Management Division, Department of Finance, and the Design and Construction Divisions of the Department of Facilities and Services were specifically involved in administering this contract. The Chief, Purchasing and Materiel Management Division, had signature authority for all contract documents and the Purchasing and Materiel Management Division processed the following actions related to the contract:

- .advertising the invitation for bid;
- .bid opening and tabulation;
- .reviewing the contract provisions for compliance with County requirements;
- .authorizing all change orders; and
- .serving as the central depository of the official contract file.

The Design and Construction Divisions performed the following actions:

- .prepared the project's specifications, invitation for bid, the contract provisions (the County Attorney's Office approves the contract for form and legality) and all change orders.
- .monitored the contractor's performance; and

.approved all payments to the contractor.

3. The Contract Review Committee. The Contract Review Committee (CRC) was established in 1975 to ensure that contract selections are made in the best interest of the County. Administrative Procedure 3-4, Contract Review Committee, dated January 21, 1981, describes the duties and responsibilities of the CRC. The members of the CRC include an Assistant Chief Administrative Officer (Chairman), an Assistant County Attorney (Ex Officio Legal Advisor), a designee of the Office of Management and Budget and the Chief, Purchasing and Materiel Management Division. The CRC meets once each week and a written summary of the discussions and actions are maintained. Included among its specific responsibilities is the requirement that the CRC review change orders to any contract when the change order affects the scope of the original contract and/or results in a net change order increase of \$3,000 or more.

4. Contract Monitoring Report. A system of contract monitoring was initiated in the Purchasing and Materiel Management Division in November 1980, to ensure that the County benefited from lessons learned from the administration of previous contracts. A single page contract monitoring report was developed and individual departments were requested to complete this report for every contract they administered. At Exhibit A is a copy of a Contract Monitoring Report form.

V. EVALUATION

1. General. This evaluator participated in audits of County contracts during the mid 1970's and can personally attest to the many improvements that have been made to correct the deficiencies in the County's contracting policies and procedures. Of particular importance is the extent to which the contract file in the Department of Facilities and Services' Construction Division is so well organized and includes supporting documentation for all change orders. Also, noteworthy was the thoroughness of the Contract Review Committee's review and discussion of the change orders. Finally, although, the contract file in the Department of Finance's Purchasing and Materiel Management Division was not well organized, all the official contract documents were identified.

The remainder of this section of the report will discuss areas where better internal controls are needed to assure adherence to County law and administrative procedures and to promote economy and efficiency. The following four areas: change orders, payments, contract provisions and the contract monitoring report, will be discussed individually.

2. Change Orders.

a) During the construction phase of this renovation project, 13 change orders were approved and the total dollar value of the contract was increased by \$81,389 or 64% of the original contract amount of \$127,400. In accordance with Article 12 of the contract, Changes in the Work, the cost resulting from changes was determined by cost plus a fixed percentage fee. The fixed percentage for the contractor was 10% for overhead and 5% for profit. However, if a subcontractor was involved, the contractor could only add 8% to the portion of the work provided by

the subcontractor. OLO's review showed the cost on all 13 change orders was computed by these fixed percentage fees.

b) The review by OLO of the 13 change orders showed that the majority of the \$81,389 was for additional work. For FY 1983, the Approved Capital Improvement Program included Project #832939, Takoma Park Fire Station - Renovation, with \$223,000 allocated for site improvements, construction and furniture/equipment. When the Department of Facilities and Services recommended awarding the contract to the lowest bidder for \$127,400, the Takoma Park Volunteer Fire Department immediately requested additional work to be funded with the surplus funds. The fire department reasoned that the additional work would improve the health and welfare of all personnel and, in two cases, provide energy conservation improvements. OLO reviewed all 13 change orders, the following four change orders are representative of the additional work requested by the fire department.

Change Order #1 - Replace the Roof. This change order increased the total contract amount by \$16,855. The original contract included \$4,000 for repairing the roof. However, because the roof was over twenty years old and was in deteriorated condition, the Takoma Park Volunteer Fire Department, requested that the entire roof be replaced. The Department of Facilities and Services hired a consultant to inspect the roof. The inspection report concluded that, the existing membrane and flashing are beyond repair. The CRC discussed this change and reviewed the supporting documentation before approving this change order.

Change Order #3 - Replace Windows and Bay Doors. This change order increased the total contract amount by \$20,644. The Takoma Park Volunteer Fire Department, requested the replacement of the windows and bay doors because they were "extremely inefficient from an energy conservation standpoint." The CRC discussed and approved this change order.

Change Order # 4 - Folding partitions, acoustical ceiling and insulate exterior walls. This change order increased the total contract amount by \$6,074. The Takoma Park Volunteer Fire Department, requested a sound insulated folding partition to provide an area for fire fighters to read and study. The CRC discussed these changes and questioned representatives from the Department of Facilities and Services and Takoma Park Volunteer Fire Department before approving this change order.

Change order #6 - Change Sprinkler System. This change order increased the total contract by \$6,460. The original contract included \$12,400 for installation of a sprinkler system. The Department of Fire and Rescue Services requested a change to a "new technology system" and explained that, "The installation of the new technology system at Takoma

¹ Memorandum TO: Tom Abraham, Director , Department of Facilities and Services; FROM: Ramon F. Granados, Acting Director, Department of Fire and Rescue Services; SUBJECT: New Technology Sprinkler System - Takoma Station #2; dated August 29, 1983.

Station #2 is extremely important as it can be pointed to by the entire fire protection community as the example of our acceptance and faith in these new systems. Contrary to certain contentions, we do not feel that our intention has delayed the project as we have simply taken advantage of other delays to work out associated problems."1 The CRC discussed this change and questioned representatives from the Department of Facilities and Services and the Department of Fire and Rescue Services before approving this change order.

c) The review of the CRC minutes by OLO, showed that the CRC thoroughly discussed each of the change orders which affected the scope of the original contract and/or resulted in a net change order increase of \$3,000 or more. Of particular interest was the fact that on several occasions CRC members expressed concern over specific change order items; however, they concluded that: 1) money was available; and 2) an appropriate decision had been made concerning the validity of the item. Accordingly, the CRC approved the change orders.

d) All computations included in the documentation supporting each change order were verified by OLO. No significant errors were found. It should be noted that the Construction Division corrected several computation errors prior to approval. Also, the Department of Facilities and Services' Financial Management Section reviewed and verified computations on all change orders before the Director signed the document.

e) Finally, although 13 change orders were approved and the total dollar value of this particular contract was increased 64% above the original contract amount, a review of 42 construction projects showed this situation was the exception rather than the rule. There were a total of 180 change orders approved to these 42 contracts, for an average of four change orders per contract. The total dollar value of these 180 change orders was \$425,470, which is only 1% of the total original amount \$39,363,700 of the 42 contracts.

3. Payments.

a) As of September 1, 1984, eight payments had been made to the contractor for a total of \$196,309 or 94% of the total contract amount. OLO verified all computations included on the request for payments and found no errors. Again it should be noted that the Construction Division and Financial Management Section of the Department of Facilities and Services reviewed and verified all computations before the Director signed the payment authorization document. Additionally, the Accounts Payable Section of the Department of Finance verified all computations before processing payments.

b) Administrative Procedure 3-1, Contracts and Purchasing, effective January 21, 1981, requires each department head to transmit all payment authorization documents to the Department of Finance, Accounts Payable Section, within three days from receipt of an invoice or other notification that payment is due for services. OLO's review of the eight payments to Construction-Commercial, Inc. showed the Department of Facilities and Services took an average of five days to process payment authorization documents to the Accounts Payable Section. To expedite

payment to the contractor, the Accounts Payable Section requested emergency checks on four of the eight payments.

4. Contract Provisions. The General Conditions of the Contract for the Renovation of Takoma Park Fire Station #2 were prepared by the Department of Facilities and Services, approved as to form and legality by the County Attorney and reviewed by the Purchasing and Materiel Management Division. Generally, these provisions follow the format and language recommended by the American Institute of Architects. Additional provisions were included to meet specific requirements of the Montgomery County Code, namely Articles on Ethics in Public Service and Minority Contracting; however, there was no provision in the contract for Access to Plant Records, as required by Section 11B-28 of the County Code. That section requires all County contracts to include a provision allowing the County to audit the books and records of a contractor or subcontractor for a period of three years from the date of final payment.

5. Contract Monitoring Report. A copy of a contract monitoring report covering 4th Quarter FY 84 was filed in the Construction Division's contract file on the Takoma Park Fire Station #2 Renovation. However, there was no contract monitoring report in the Purchasing and Materiel Management Division's contract file on the Takoma Park Fire Station #2 Renovation. OLO interviewed numerous staff in the Department of Facilities and Services and Purchasing and Materiel Management Division to determine policies and procedures for using contract monitoring reports. Except for the contract monitoring report form itself (Exhibit A), there are no written policies or operating procedures explaining the purpose and requirement for using this form and each person interviewed had a different explanation for its purpose and the requirement for using it.

VI. CONCLUSIONS AND RECOMMENDATIONS

1. Since the mid-1970's, many improvements have been made to correct the deficiencies in the County's contracting policies and procedures. Of particular importance is the extent to which the contract file in the Department of Facilities and Services' Construction Division was so well organized and included supporting documentation for all change orders. Also, noteworthy was the thoroughness of the Contract Review Committee's review and discussion of the change orders. Finally, although the contract file in the Department of Finance's Purchasing and Materiel Management Division was not well organized, all the official contract documents were on file.

2. Better internal controls to assure adherence to County law and administrative procedures and to promote economy and efficiency are needed in the areas of change orders, payments, contract provisions and the contract monitoring report.

3. Improvements to the internal control system are recommended as follows:

.Modify the review and verification procedures within the Department of Facilities and Services to assure the three day requirement

for processing payments to the Department of Finance's Accounts Payable Section is either met or a more practical time requirement is specified.

.Strengthen the review procedures to assure all contract provisions are included in the General Conditions of the Contract.

.Develop written policies and procedures to explain the purpose and use of the Contract Monitoring Report.

.Develop guidelines to promote economy and prevent unnecessary expenditure of funds when the dollar amount of an original contract is considerably less than the appropriated funds.

VII. DEPARTMENT COMMENTS

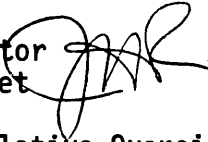
Before submitting this report to the County Council, a draft copy was sent to the Chief Administrative Officer, the Chairperson of the Contract Review Committee, and the department's mentioned in the report. Comments were received from the following:

1. Comments of the Director, OMB.

M E M O R A N D U M

December 13, 1984

TO: Robert K. Kendal, Assistant Chief Administrative Officer

FROM: Jacqueline H. Rogers, Director 
Office of Management & Budget

SUBJECT: Comments on Office of Legislative Oversight Report No. 84-5,
An Evaluation of the Contract to Renovate the Takoma Park Station
Number 2

I have reviewed the Office of Legislative Oversight Report No. 84-5, evaluating the contract for the renovation of the Takoma Park Fire Station No. 2. I agree with the findings and recommendations of the report.

With reference to the administration of the specific contract for renovation of the Takoma Park Fire Station, as indicated in the report, the original appropriation for the project was \$223,000 with the lowest bid being \$127,400. In addition, there were 13 change orders approved by the Contract Review Committee for \$81,389. The Office of Management and Budget has been working with the Department of Fire and Rescue Services and Facilities and Services and the Fire and Rescue Commission to ensure greater accuracy in defining the scope and expenditure estimates for future fire station projects. In addition, letters of understanding are executed between the fire department and the County that define the exact scope of work to be accomplished. These actions should provide a more complete definition of the work to be completed, greater accuracy of expenditure estimates and a reduction in the number of contract change orders for fire and rescue related contracts.

With reference to the broader issue of strengthening contract procedures and administration, I am in accord with the need to improve internal controls in the areas of change orders, payments, contract provisions, and the contract monitoring report. Comprehensive revision of the Administrative Procedures for contracting is now taking place and the recommendations of OLO Report 84-5 will be included in the revision.

All aspects of the contracting process must be organized to initiate and manage an increased number of contracts more effectively. In particular, I agree that the Contract Monitoring Report is a significant component of the contract review process and should be accorded more prominence in contract administration. In addition to written policies and procedures explaining the Contract Monitoring Report, the FY 85 work program for the Division of Purchasing includes development and implementation of a training program for contract administration. Contract managers throughout the County government should be knowledgeable in the legal, financial, and negotiation aspects of contract management.

Furthermore, OMB is devoting more time to review of selected contracts toward writing clearer specifications, statements of work, and requests for proposal.


Finally, OMB is giving special attention to a Final Report from the Economic Advisory Council Subcommittee, "Inventory of Service Resources for County Use," which made a number of recommendations concerning refining contract administration and procedures, including improved training, career development for contract monitors, and sufficient staffing for contract administration.

2. Comments of the Director, Facilities & Services.

MEMORANDUM

December 11, 1984

TO: Robert K. Kendal
Assistant Chief Administrative Officer

FROM: Thomas S. Abraham, Director
Department of Facilities and Services 

RE: OLO Report #84-5, Contract to Renovate the Takoma Park Fire Station
No. 2

We find that Mr. Mansinne's report on the above-referenced contract is fair and factual. We were surprised that OLO would randomly select a contract with a value of only \$127,400 when we have so many \$1 million plus contracts. It so happened that this contract resulted in change order increases of over 60%. We did note, however, with redeeming satisfaction, that Mr. Mansinne did point out in his report that our change order average is only 1% with projects which totalled over \$40 million.

OLO points out that DFS Construction Division's files and records were extremely well organized and all financial matters pertaining to the contract were thoroughly documented. I would only add that the processes discovered by OLO during the audit of this contract are standard procedures in this Department. While sometimes our client agencies grow impatient with the time that it takes to do certain things, we are proud of this report that shows that we are so well organized and that our files are properly documented.

One point that OLO makes in the form of criticism is in the area of payments. AP 3-1 says, according to the OLO report, that payment documents are to reach the Accounts Payable Section within three days from receipt of invoice and that DFS takes an average of five days. Here again, we are willing to accept the criticism and will certainly pledge to make improvements in the payment process. I should point out, however, that we were the first, if not still the only, department to require two signatures on all payments. We are also the only department that has a Financial Management Section through which all payments must pass. Our system works to the benefit of the County in that invoices are verified by the Construction Division before being processed and that Financial Management provides an additional check against the contract and provides me with accounting information on our projects that is up to date on any given day. Financial Management also ensures that the proper accounts are being charged. All payments for this project were processed in Financial Management in two days or less, with the exception of Partial Payment # 7 which took four days due to a car accident involving the manager. All payments for this project were signed by the Director or Assistant Director in one day or less.

Again, I felt that Mr. Mansinne's report was fair and factual and reflective of this Department's standard operating procedures.

TSA:lcw
cc: Mary Miller
Murray Tuel
1252D

3. Comments of the Chief, Purchasing Division.

December 14, 1984

TO: Max Bohnstedt, Director, Department of Finance *MKB*
FROM: John A. Battan, Chief, Purchasing Division *JAB*
SUBJECT: Comments - Office of Legislative Oversight Report #84-5
An Evaluation of the Contract to Renovate the Takoma Park Fire Station #2

Some improvements have been already been initiated with respect to the procurement problems covered by the recommendations in this report. However, our procurement system improvements have been more oriented towards productivity than towards quality. The report recommendations essentially deal with the quality of procurements, such as file documentation and internal controls relative to contract provisions and procedures.

The actions being taken to totally overhaul the procurement regulations, and the actions that will be taken to develop a training program, should go a long way in bringing about qualitative improvements. However, we cannot ignore the fact that doing the job better generally requires more time; and the cumulative impact on our staffing resources could be significant. For example, if a Buyer who simply places documents in a contract folder were required to organize those documents in a prescribed way, more working time will be needed. Whether that additional time is five minutes or one hour depends on the nature of the procurement involved; and thousands of procurements are processed annually.


It appears that the intent of the last statement in VI-(3) is to preclude situations where change orders come about merely because funds are available for use. However, the report does not otherwise indicate that such a thing has happened. I recommend that the report be more explanatory regarding the reason for an intent of the statement involved.

With respect to all report recommendations, it would seem appropriate to identify which office should take the lead in bringing about improvements, e.g., the Purchasing Division, the County Attorney, the CAO, etc. If the departments were to be directed not to generate change orders merely because funds are available, signature by the CAO would appear necessary.

4. Comments of the Director, Department of Fire and Rescue Services.

M E M O R A N D U M

December 11, 1984

TO: Robert K. Kendal, Assistant Chief Administrative Officer
FROM:  Ramon F. Granados, Director
Department of Fire and Rescue Services
SUBJECT: OLO Report 84-5
Renovation of Takoma Park Fire Station #2

I have reviewed the draft copy of OLO Report 84-5, An Evaluation of the Contract to Renovate the Takoma Park Fire Station #2 and have found the report to be an accurate and factual account of the Station #2 renovation project. However, I would encourage the inclusion in the final document of further background information on the thirteen approved project change orders.

The draft report identifies \$81,389 or 64% of the original contract amount of \$127,400 as being used to fund project change orders. The draft further states that the majority of the thirteen change orders provided for additional project work. While work additional to the contract work did occur, there are noteworthy conditions/considerations which necessitated the effecting of this work.

Most notable was the limiting of the project's scope during the preparation of the bidding documents. This action was in response to the project cost estimate provided by the Department of Facilities and Services. When the received bids were at a greatly lower dollar value than the estimate, a re-evaluation was made of the project's capability. This re-evaluation lead to the inclusion of the following change orders:

A. C.O. #1 - roof replacement	\$16,850.00
B. C.O. #8 - waterproof parapet	448.00
C. C.O. #9 - repair roof deck	1,106.00
14% of original contract amount	<u>\$18,409.00</u>

The remaining change orders can be catagorized and identified as follows:

Robert K. Kendal
 December 11, 1984
 Page Two

<u>Building Conditions Unknown at Time of Bid</u>	
A. C.O. #5 - Fire wall changes	\$ 8,295.00
B. C.O. #7 - Change of doors	1,848.00
C. C.O. #9 - Leveling of existing floors	1,854.00
9.4% of original contract amount	<u>\$11,997.00</u>
<u>Energy Savings</u>	
A. C.O. #3 - Doors and windows	\$20,644.00
16.2% of original contract amount	<u>\$20,644.00</u>
<u>Utilization of Available Technology</u>	
A. C.O. #6 - Sprinkler Pipe	\$6,460.00
5.1% of original contract amount	<u>\$6,460.00</u>
<u>Fire Code Compliance</u>	
A. C.O. #10 - Sprinkler heads	\$707.00
B. C.O. #12 - Exit signs	287.00
.8% of original contract amount	<u>\$994.00</u>
<u>Design/Bid Document Oversights</u>	
A. C.O. #11 - Air Condensing Unit Protection	\$696.00
B. C.O. #13 - kitchen & generator	12,192.00
10.1% of original contract amount	<u>\$12,888.00</u>
<u>Additional Project Requests</u>	
A. C.O. #2 - Roof fan & gas range	\$3,922.00
B. C.O. #4 - Folding door & accustical ceiling	6,074.00
7.8% of original contract amount	<u>\$9,996.00</u>

The above information provides a more complete view of the use of project funds to effect change orders. While this department does not propose that such an extensive use of the change order mechanism should be an acceptable practice, it is felt that the unique circumstances associated with the Station #2 renovation project warranted the thirteen approved work change orders.

RFG:RR:des



CONTRACT MONITORING REPORT

CONTRACT NO. (PD No.): _____ CONTRACT ENCUMBRANCE NO: CT _____

TO: Mrs. M. Weaver, Purchasing Director

VIA: _____
(Department Director)

FROM: _____
(Contract Administrator)

NAME OF CONTRACTOR: _____

PROGRAM TITLE/NAME: _____

CONTRACT COMMENCEMENT DATE: _____

CONTRACT TERMINATION DATE: _____ FIXED ESTIMATED

CONTRACT VALUE: \$ _____

PAYMENT SCHEDULE: _____ Lump Sum on Completion: \$ _____ Per Month

OTHER: _____

Are payments to Contractor current? YES NO

Provide explanation if payments are not current: _____

Required work is on schedule or is being provided in a timely manner. YES NO

Provide explanation if NO: _____

Has written notice been issued to the Contractor advising of unsatisfactory performance or failure to comply with contractual conditions? YES NO. If YES, attach copy:

Is Contractor in compliance with all laws and regulations concerning Non-Discrimination in Employment and is his program/service accessible for handicapped individuals? YES NO

Provide explanation if NO. _____

Is Contractor overall performance satisfactory? YES NO

Provide explanation if NO: _____

Would you recommend this Contractor for additional work in the County Government? YES NO

Provide explanation if NO. _____

COMMENTS: _____

