



LIMITED REVIEW
OF CONTRACT COMPLIANCE –
PARAMOUNT PROJECT

Exit Conference Date: February 22, 2007

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Report No. 07-09

CITY OF ORLANDO

OFFICE OF AUDIT SERVICES AND MANAGEMENT SUPPORT

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CITY OF ORLANDO

MEMORANDUM

To: Frank Billingsley, Director, Economic Development Department

From: Beryl H. Davis, CPA, CGFM, Director,
Audit Services and Management Support

Date: Exit Conference Date: February 22, 2007: Report Issuance Date: February 28, 2007

Subject: Limited Review of Contract Compliance - Paramount Project (Report No. 07-09)

The Office of Audit Services and Management Support has performed a review of compliance with the Living Wage and Responsible Contractor (i.e., "Prevailing Wage") provisions of the City's Economic Development Incentive Agreement with Thornton Park Partners, LLC (i.e., the Paramount project). The purpose of this review was to (1) determine if the general contractor and its subcontractors pay employees a living wage/prevailing wage as required by the agreement; and (2) determine if any additional actions should be undertaken by the Economic Development Department to monitor compliance with Living Wage and Responsible Contractor provisions in agreements.

Our examination was conducted in accordance with generally accepted government auditing standards and included a review of relevant City policies, procedures, and the agreement with the Paramount developer, inquiries of City officials and staff, review of selected subcontractors' payroll records, and such other auditing procedures as we considered necessary in the circumstances.

We selected six subcontractors from a list of active subcontractors provided by the general contractor, Hardin Construction. We tested each of these subcontractors' payroll records to determine their compliance with the agreement.

Based upon the test work performed, we conclude that: (1) the subcontractors we reviewed paid their employees the living wage/prevailing wage required by the incentive agreement; and (2) additional continuous monitoring actions by the Economic Development Department are recommended to ensure ongoing compliance.

We would like to express our appreciation to the officials and employees of the Economic Development Department for their courtesy and cooperation.

BHD/am

c: Honorable Buddy Dyer, Mayor
Cheryl J. Henry, Chief of Staff
Byron W. Brooks, Chief Administrative Officer
Mayanne Downs, City Attorney
Rebecca W. Sutton, Chief Financial Officer
Brooke D. Rimmer-Bonnett, Economic Development Deputy Director
Thomas C. Chatmon, Jr., Executive Director, DDB/CRA
Joyce R. Sellen, DDB/CRA Project Manager

BACKGROUND

The City of Orlando's "Living Wage Policy" was enacted as a revision to Policy & Procedure 161.3, Procedure for the Creation of Contracts, Related Insurance Requirements and Other Matters. This policy revision was passed by City Council on August 25, 2003, and was effective for service contracts negotiated on or after October 1, 2003. The living wage is deemed to be \$8.50 per hour, and any service contractor or subcontractor providing services to the City in an amount exceeding \$100,000 per year must pay its employees at least this amount per hour.

On June 21, 2004, Policy & Procedure 161.3 was again revised to include the Living Wage condition for construction contracts with an estimated value of at least \$100,000. This revision took effect on October 1, 2004. In addition, a "Responsible Contractor's Policy" was added that requires contractors and subcontractors to pay their employees the higher of the living wage or the prevailing wage for the Orlando region as established by the Davis-Bacon Act. The Responsible Contractor's Policy additionally obliges contractors and subcontractors to provide health benefits to workers or to increase their hourly wage by 20%.

In addition to these policy provisions, the City has included in its Economic Development Incentive Agreements similar provisions requiring the payment of a Living Wage/Prevailing Wage. At the request of the Economic Development Department, we selected the agreement with Thornton Park Partners, LLC (the developer of the project commonly referred to as the "Paramount project") to review in further detail. This agreement includes two provisions requiring the developer, its general contractor and subcontractors to pay its employees in accordance with these provisions. Our objective was to determine compliance with the Living Wage and Responsible Contractor's Policy provisions for the Paramount project. We first determined that the project's general contractor, Hardin Construction, does not perform any on site construction with its own workers and subcontracts all hourly labor. We then obtained a list of active subcontractors from the general contractor and selected six subcontractors to review in more detail. These subcontractors are: Flash-Rite, Benchmark Site Development, Energy Air, Grunau Company, Progressive Plumbing, and Tri-City Electrical Contractors. We reviewed payroll information and tested it to determine if a prevailing wage is paid. We also inquired about the provision of health care benefits, but did not perform detailed testing of this area.

ISSUES AND CONCLUSION

Objectives The objectives of our review were to (1) determine if the general contractor and its subcontractors pay their employees a living wage/prevaling wage as required by the incentive agreement; and (2) determine if any additional actions should be undertaken by the Economic Development Department to monitor compliance with Living Wage and Responsible Contractor provisions in its other incentive agreements.

Scope and Methodology At the time we initiated the review, the general contractor identified fourteen subcontractors active on the Paramount project, which began construction on April 3, 2006. We selected six local subcontractors to review payroll information to determine whether the subcontractors were paying employees the required living wage/prevaling wage.

Audit Actions Our objective was to test compliance with the Living Wage and Prevailing Wage provisions of the incentive agreement with the developer of the Paramount project. We first inquired of the general contractor, Hardin Construction, whether they perform any construction work and were told that all work is subcontracted. We then acquired a listing of all of the subcontractors that were scheduled to perform any work on the Paramount job.

We narrowed this listing to the subcontractors that had local offices and had performed work as of November 2006, the date of our visit to begin the detailed payroll testing. Fourteen subcontractors met these conditions. We selected six subcontractors (Flash-Rite, Benchmark Site Development, Energy Air, Grunau Company, Progressive Plumbing, and Tri-City Electrical Contractors) and reviewed their payroll records as explained below.

Flash-Rite, Inc. performs traffic maintenance services for the Paramount job. They stated that they have three employees assigned to the project. We selected the month of November 2006 to test and we reviewed copies of time cards along with

other information showing the wages paid to the employees. We verified that the Flash-Rite employees were paid the living wage/prevaling wage for their job classifications during this selected month.

Benchmark Site Development performs site development services for the Paramount job. They provided payroll information for the six employees assigned to this job. We selected the month of October 2006 to test and we reviewed copies of time cards along with other information showing the wages paid to these employees. We verified that the Benchmark employees were paid the living wage/prevaling wage for their job classifications during this selected month.

Energy Air performs Heating, Ventilation and Air Conditioning (HVAC) construction for the Paramount job. They provided payroll information for the eight employees assigned to this job. We selected the month of November 2006 to test and we reviewed a payroll summary document that showed the wages paid to these employees. We verified that the Energy Air employees were paid the living wage/prevaling wage for their job classifications during this selected month.

Grunau Company performs Fire Protection Systems construction for the Paramount job. They provided payroll information for the three employees assigned to this job. We were given a time and pay summary report showing all work on the project since its inception, which totaled only 7 hours (in the months of June, July and November) as of the time of our review. We verified that the Grunau employees were paid the living wage/prevaling wage for their job classifications for this period.

Progressive Plumbing performs Plumbing construction for the Paramount job. They provided payroll information for the twelve employees assigned to this job. We selected four weeks in the months of October and November 2006 to test and we reviewed a time card history report that showed the wages paid to these employees. We verified that the Progressive employees were paid the living wage/prevaling wage for their job

classifications during this selected month.

Tri-City Electrical performs Electrical construction for the Paramount job. They provided payroll information for the five employees assigned to this job. We selected the month of July 2006 to test and we reviewed a time card detail listing document that showed the wages paid to these employees. We verified that the Tri-City employees were paid the living wage/prevaling wage for their job classifications during this selected month.

Conclusion We noted no exceptions during our testing; therefore, we conclude that the subcontractors we reviewed paid their employees a living wage/prevaling wage as required by the incentive agreement with the City for the months selected for review.

RECOMMENDATIONS

Increase Efforts to Ensure Compliance with Agreement Provisions

In addition to the contract with the developer of the Paramount project, the Economic Development Department (ED) has other Economic Development Incentive Agreements containing provisions that require the developer who receives the incentive to require its general and subcontractors to pay the workers on the project a living wage and also meet a “Responsible Contractor” provision. The Responsible Contractor provision requires developers to pay a prevailing wage to the employees on these projects. The prevailing wage is determined based on job classifications as established by the Davis-Bacon Act. During the course of this review, we found that ED has not yet developed a means for the developer to report compliance with these agreement provisions.

As a result, ED does not have an ongoing method for the developer on economic development incentive projects to report

compliance with the living wage/prevailing wage requirements. We performed some limited research into how other governments with living wage/prevailing wage provisions ensure compliance with such provisions. We found that the City and County of San Francisco requires all contractors before initiating work to sign a “written commitment” to pay the living wage. The City and County of Denver goes further and requires its contractors to submit certified payroll information. Denver also requires that this information be reviewed by City staff prior to any pay request being released for payment.

Our research also showed that both San Francisco and Denver require the developer to post a notice at the development location that informs the workers on the project that the project developer is required to pay a living wage/prevailing wage. These notices are required in several languages and list a contact number for the workers to call to make inquiries and report non-compliance.

We believe that an effective reporting system would assist ED staff to gather and review the necessary information to determine compliance with these important agreement provisions. In addition, an active monitoring program where ED reviews the certified payrolls submitted by the general contractor and subcontractors would resonate throughout the development community and demonstrate the City’s commitment to ensuring the living wage/prevailing wage is being paid on its economic development projects.

Further, the requirement of a posting on the job site is a very simple and effective means to further encourage compliance with required minimum pay provisions. It informs the workers of the requirement and tells them how and where they can get further information from the City.

Although our testing of subcontractors of the Paramount project did not result in any non-compliance, we believe that the City would benefit from ED instituting a more structured program that could demonstrate compliance with the important Living Wage and Responsible Contractor provisions of the City’s

Economic Development Incentive Agreements. This could be done by requiring the developer, general contractor and subcontractors on affected projects to submit a “letter of commitment” and certified payrolls that document compliance with the living wage/prevailing wage provisions of the agreements.

Recommendation 1. We recommend that Economic Development institute a certified payroll submission process on future projects to further enhance compliance with the Living Wage and Responsible Contractor provisions of the City’s Economic Development Incentive Agreements. (MEDIUM – See next page)

Response We concur. The Economic Development Staff will develop a process to obtain submission of certified payrolls to facilitate the compliance for the Living Wage and Responsible Contractor provisions on future projects. The Public Works Department has been contacted to discuss the procedures they currently have in place. Staff will follow up to obtain the language used in their contracts that has been successful in obtaining submission of Certified Payrolls and determine the process currently used by the Public Works Department.

Recommendation 2. We recommend that Economic Development require developers receiving incentive payments on future projects to post a notice on the development site that informs the workers of the Living Wage/Prevailing Wage requirements of the City’s Economic Development Incentive Agreements. (MEDIUM)

Response We concur. The Economic Development Staff will prepare wording for inclusion in future Incentive Agreements to require that a notice be posted on the development site that informs the workers of the Living Wage/Prevailing Wage requirements. In addition, staff will draft wording for the notice to be posted on site.

Each recommendation is classified with a “Criticality Factor”, defined as:

HIGH - represents a control risk or needed improvement requiring immediate attention.

MEDIUM – represents a control risk or needed improvement requiring attention in the next year.

LOW – represents a process improvement that can be addressed at management’s discretion.