



John A. Carey
Inspector General

OFFICE OF INSPECTOR GENERAL
PALM BEACH COUNTY



Inspector General
Accredited

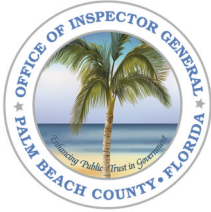
“Enhancing Public Trust in Government”

Contract Oversight Report

CA-2021-0067

Review of the Town of Lantana Library Renovation Contract

March 30, 2023



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CONTRACT OVERSIGHT REPORT CA-2021-0067

DATE ISSUED: MARCH 30, 2023



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REVIEW OF THE TOWN OF LANTANA'S LIBRARY RENOVATION CONTRACT

SUMMARY

WHAT WE DID

The Palm Beach County Office of Inspector General (OIG) conducted a review of the Town of Lantana's (Town) Library Renovation Project for the period from May 2021 through April 2022.



The objective of this review was to determine if the procurement process was in compliance with applicable laws, codes, procedures, and policies. We also reviewed whether the Town complied with Section 2-423, Palm Beach County Code, regarding promptly notifying the Inspector General of mismanagement of a contract resulting in the misuse or loss of public funds exceeding \$5,000.

Our review included construction site progress inspections of the Town's library renovation project; examination of the bid evaluation and contract award processes for Invitation to Bid (ITB) No. 2021-08-PW: Contract for the Renovation of the Library; examination of documents, including records relating to the bid, contract award, and

termination of Sierra Construction and Remodeling Management Corp. (Sierra); and interviews of Town staff and a Town Council Member.

WHAT WE FOUND

On July 26, 2021, the Town entered into a contract for renovation and construction of the Lantana Public Library with Sierra, as the lowest responsible, and responsive bidder.

The Town paid Sierra \$411,731.90 for services rendered through November 5, 2021. The Town eventually terminated its contract with Sierra after reviewing issues relating to Sierra's license and insurance. On January 10, 2022, the Town assigned the contract to Multitech Corp. (Multitech). Then, on May 9, 2022, the Town terminated the assignment to Multitech and entered into a contract with West Construction, Inc. (West), to provide the goods and services necessary to complete the work outlined in ITB No. 2021-08-PW.

We found that the Town's bid evaluation and contract award processes did not comply with applicable Florida Statutes, Town Ordinances, and procurement policies. We also found that the Town did not promptly notify the OIG when it learned of possible mismanagement of its contract with Sierra.

Specifically, we found the Town:

(1) Entered into a contract with Sierra, a vendor that neither registered with the E-Verify system nor collected affidavits from its subcontractors expressing compliance with section 448.095(2), F.S.

(2) Awarded ITB No. 2021-08-PW to Sierra without verifying that the company was properly licensed and insured as required by sections 1.12, 1.20, and 2.12 of ITB No. 2021-08-PW; sections 255.20, F.S. and 489.131(2), F.S.; and Town Ordinance 7.5-22.

(3) Did not notify the OIG when it became aware of possible mismanagement of a contract resulting in the misuse or loss of public funds exceeding \$5,000, in violation of Section 2-423, Palm Beach County Code.

Due to the Town's failure to comply with applicable statutes and guidelines relating to its contract with Sierra, we consider the **\$411,731.90** paid to Sierra to be questioned costs.¹

WHAT WE RECOMMEND

This report contains three (3) recommendations that will assist the Town in complying with Florida Statutes, Town Ordinances, and procurement policies; implementing best practices in the procurement process and contract administration; and complying with the requirement to promptly notify the OIG of possible contract mismanagement, misuse, or loss in accordance with Palm Beach County Code.

¹ Questioned costs are costs or financial obligations that are questioned by the OIG because of: an alleged violation of a provision of a law, regulation, contract, grant, cooperative agreement, other agreement, policies and procedures, or document governing the expenditure of funds; a finding that, at the time of the OIG activity, such costs or financial obligation is not supported by adequate documentation; or, a finding that the expenditure of funds for the intended purpose is unnecessary or unreasonable. As such, and as in this case, not all questioned costs are indicative of potential fraud or waste.

BACKGROUND

The Town of Lantana was incorporated in 1921, and is a three square mile municipality in the southeast region of Palm Beach County, Florida with a population of 11,397. The Town is a full-service community offering police protection, public services, water and sewer utilities, building, marine safety, and municipal administration. The Town's form of government consists of a Town Manager with a mayor and four Councilmembers elected by Town residents.



On May 16, 2021, the Town staff issued Invitation to Bid (ITB) No. 2021-08-PW: Contract for the Renovation of the Library. The project delivery method used for the renovation project was a Design/Bid/Build. The Town had an agreement with an architecture firm, PGAL, Inc. for \$11,948 for PGAL to provide the following services to the Town:

- Assist the Town in answering questions and attending pre-bid conference.
- Site Visits during construction (6 visits) to access the progress of the work and answer the contractor's questions.
- Answer contractor's request for information (RFI's) -all consultants.
- Review all shop drawings and submittals for compliance with the construction documents.
- Review monthly contractor applications for payment and certify for payment.
- Prepare punch list of corrective work to ensure compliance with the construction documents (all consultants).

The Town invited qualified and experienced firms to bid for the renovation project and to provide labor, supervision, equipment, supplies, tools, materials, and all other necessary incidentals required to perform the renovation on a lump sum basis. The Town issued four (4) addenda to the ITB.

The Town received five (5) bids and conducted the bid opening on June 17, 2021. On July 26, 2021, the Town entered into a contract for renovation and construction of the Lantana Public Library with Sierra, as the lowest responsible, responsive bidder, for an amount not to exceed \$811,350. Sierra agreed to provide goods and services in accordance with ITB No. 2021-08-PW and incorporating the ITB and Sierra's bid response (collectively, the Contract). The Town paid Sierra \$411,731.90 for services rendered through November 5, 2021. Thereafter, the Town ordered Sierra to stop work on the project pending the Town's review of concerns relating to Sierra's license and insurance. The Town paid no additional funds to Sierra.

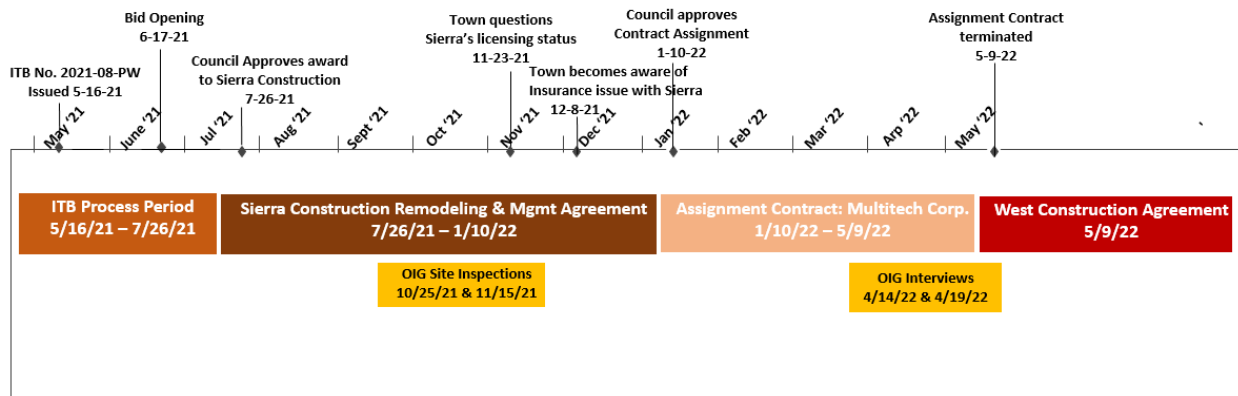


The Town assigned the contract to Multitech, a subcontractor that had been employed by Sierra throughout the renovation, as the new General Contractor. Multitech was expected to complete the renovations. On January 10, 2022, Multitech, Sierra, and the Town

executed an Assignment of Agreement for the Renovation of the Town Library to Multitech.

On May 9, 2022, the Town presented Multitech with a notice of termination for convenience. Also on May 9, 2022, the Town entered into a contract with West, to provide the goods and services necessary to complete the work outlined in ITB No. 2021-08-PW. West had been the second lowest responsive and responsible bidder for the ITB.

TIMELINE



OBSERVATIONS

As part of our regular contract review and evaluation process, the OIG initiated a review of the Town’s Library Renovation Project for the period from May 2021 through April 2022.² The OIG conducted progress site inspections for the project and reviewed ITB No. 2021-08-PW, four (4) addenda, Sierra’s bid, the award evaluation documentation, the final bid tabulation, and relevant statutes and Town Ordinances, policies, and procedures.

The ITB advised bidders to submit bids to the Town Clerk and listed Mr. Joel Cortes, the Town’s former Assistant Public Works Director, as the main point of contact for the ITB. Five (5) bidders bid on the project. According to the July 26, 2021 Town Council meeting minutes, Councilmember Lynn J. Moorhouse made a motion to award the contract to Sierra in the amount not to exceed \$811,350, with funding coming from the Infrastructure Surtax Fund, and to authorize the Town Manager to execute the contract and any amendments thereto. The meeting minutes indicated that Vice Mayor Pro Tem Karen Lythgoe seconded the motion, and the motion passed 5-0.

The parties executed the Contract, and shortly afterwards Sierra submitted four (4) change orders to the Town.

² The review was not expanded to include the review of the process relating to West Construction

According to Town Manager, Mr. Brian Raducci, change orders³ were processed based on the following steps:

1. The Contractor initiates the request for a change order.
2. The Town Manager considers the change order, and approves the change order, as long as the total expenditure for each change order is within the Town Manager's authority.
3. If the dollar value of a change order exceeds the Town Manager's authority, then Town Council approves the change order.

The OIG reviewed emails that show that Sierra provided the Town with Change Order #1, on October 6, 2021, requesting the Town assist with the cost of the demolition of the vault for a cost of \$8,352. On October 11, 2021, Sierra provided the Town Change Order #2, requesting the Town pay labor and material costs totaling \$1,900 relating to work on the roof drain system. The Town Manager provided the OIG with copies of the emails showing he approved⁴ both Change Order 1 and Change Order 2 on October 13, 2021.

The OIG conducted progress inspections of the project on October 25, 2021 and November 15, 2021. The day after the OIG's initial progress site inspection, on October 26, 2021, Sierra provided the Town with Change Orders 3 and 4 to replace two (2) A/C air handlers and condensing units, and to relocate three (3) condensing units to the roof for a total cost of \$47,290. Air conditioning work was not part of the original ITB; thus, the Town had not requested copies of licenses relating to the A/C work.

The Contract award to Sierra was up to \$811,350. Sierra was paid \$401,992.50 from the original contract award. The Town Manager approved Change Order #1 and Change Order #2 totaling \$9,739.40.

Original Contract Amount	\$ 811,350
Change Order 1: Additional work demolition of vault	\$ 8,352
Change Order 2: Roof drain system	\$ 1,900
Approved Revised Contract Amount	\$ 821,602

Sierra was paid for partial work performed under the contract award, Change Order 1 and Change Order 2. The payments issued to Sierra totaled \$411,731.90 for services rendered through November 5, 2021:

³ During a meeting with Town Manager and Town Staff on January 12, 2023, Mr. Raducci stated that the Town does not generate contract amendments for change orders and does not have a documented change order policy.

⁴ The Town's Code of Ordinance does not specifically state procedures for Change Orders, but it states, in Sec. 7.5-25.- Purchases, "Purchases from five thousand dollars (\$5,000.00) up to ten thousand dollars (\$10,000.00) require the approval of the town manager or the finance director or their designee."

Invoice Number	Date Paid	Amount Paid
1	8/27/2021	\$83,200.00
2	9/17/2021	\$125,040.00
3	9/24/2021	\$49,400.00
4	11/05/2021	\$64,552.50
1021-0004	11/05/2021	\$1,805.00
1020-0005	11/05/2021	\$7,934.40
6	11/05/2021	\$79,800.00
Total Payments to Sierra:		\$411,731.90

No additional funds were paid to Sierra. Thereafter, the Town ordered Sierra to stop work on the project pending the Town's review of concerns relating to Sierra's license and insurance. The Town did not approve Sierra's requests relating to Change Orders 3 and 4.

On January 10, 2022, Town Operations Director, Mr. Eddie Crockett, explained to Town Council at a public meeting that the Town staff discovered that Sierra did not meet all of the license and insurance requirements for the project. The Town Attorney and staff recommended to the Town Council that it assign its Contract with Sierra to Multitech, a subcontractor that had been employed by Sierra throughout the renovation. The Town Council approved the recommendation, and on that date, Multitech, Sierra, and the Town executed an Assignment of Agreement for the Renovation of the Town Library to Multitech. Additionally, the Town Council approved a Change Order with Multitech⁵ in the amount of \$47,290 for additional air conditioning systems and related improvements.

However, the Town did not issue a notice to proceed for Multitech to perform any services under the contract assignment because Multitech did not submit the required bonds to the Town. On May 9, 2022, the Town presented Multitech with a notice of termination for convenience. Also on May 9, 2022, the Town entered into a contract with West to provide the goods and services necessary to complete the work outlined in ITB No. 2021-08-PW. West had been the second lowest responsive and responsible bidder for the ITB.

The relevant governing directives relating to Sierra's contract with the Town include the following:

INVITATION TO BID (ITB) NO. 2021-08-PW

SECTION 1 GENERAL TERMS AND CONDITIONS

....

1.12 AWARD OF CONTRACT

⁵ Sierra's change order submitted for A/C work was later resubmitted to the Town with Multitech listed as the contractor proposing to perform the A/C work.

*a. The contract may be awarded to the responsive and responsible Bidder **meeting all requirements as set forth in the Solicitation.** The Town reserves the right to reject any and all Bids, to waive irregularities or technicalities, and to re-advertise for all or any part of this Bid Solicitation as deemed in its best interest. The Town shall be the sole judge of its best interest. [Emphasis added]*

....

1.20 **LICENSES, PERMITS AND FEES**

*The successful Bidder(s) **shall hold all licenses and/or certifications,** obtain and pay for all permits and/or inspections, and **comply with all laws, ordinances, regulations, and building code requirements applicable to the work required herein.** Damages, penalties, and/or fines imposed on the Town or a successful Bidder for failure to obtain and maintain required licenses, certifications, permits, and/or inspections shall be borne by the successful Bidder. [Emphasis added]*

.....

**SECTION 2
SPECIAL TERMS AND CONDITIONS**

2.12 **INSURANCE**

The Contractor shall not commence any performance pursuant to the terms of this Bid until certification or proof of insurance has been received and approved by the Town's Risk Coordinator or designee.

The required insurance coverage is to be issued by an insurance company authorized, licensed, and registered to do business in the State of Florida, with the minimum rating of B+ or better, in accordance with the latest edition of A.M. Best's Insurance Guide. This insurance shall be documented in Certificates of Insurance that provides that the Town shall be notified at least thirty (30) days in advance of cancellation, non-renewal, or adverse change. The receipt of certificates or other documentation of insurance or policies or copies of policies by the Town or by any of its representatives, which indicate less coverage than is required, does not constitute a waiver of the Contractor's obligation to fulfill the insurance requirements herein. Deductibles must be acceptable to the Town.

The Contractor must submit a current Certificate of Insurance naming the Town as an additional insured and listed as such on the insurance certificate. New Certificates of Insurance must be provided to the Town upon expiration.

The Contractor shall provide insurance coverage as follows:

i. WORKERS COMPENSATION

Awarded Bidder shall carry Workers Compensation Insurance to cover all employees in compliance with the “Workers Compensation Law” of the State of Florida and all applicable Federal laws. The Town reserves the right not to accept exemptions to the Workers Compensation requirements of this Solicitation.

ii. COMPREHENSIVE GENERAL LIABILITY

Awarded Bidder shall carry Comprehensive General Liability Insurance with minimum limits of One Million Dollars (\$1,000,000) which shall also include Products/Completion Liability of One Million Dollars (\$1,000,000). The Certificate shall list the Town as additional insured.

iii. AUTOMOBILE LIABILITY

Awarded Bidder shall carry Automobile Liability Insurance to include owned, non-owned, and hired, with minimum limits of One Million Dollars (\$1,000,000.00) each occurrence.

[Emphasis added]

....

SECTION 3

TECHNICAL SPECIFICATION, STATEMENT OF WORK, OR SCOPE SERVICES

3.1 STATEMENT OF WORK

The Lantana Public Library is an existing structure which will undergo a complete interior renovation together with an addition. The existing structure will remain and the exterior metal and glass panels at the NE corner of the building are to be removed with a new exterior metal stud frame and EIFS finish to be installed to enlarge the building footprint. At the east side of the building, the existing drive thru teller areas will be enclosed with metal framing and EIFS finish to be utilized as a Community room with a new Mechanical room and break room. This roof will be replaced. The interior renovations consist of a new Children’s and Teen area, Adult Reading Room, Stacks area, office, ADA compliant restrooms, new finishes, and new light fixtures. The Mechanical mezzanine and Electrical room will remain. Existing Mechanical System will be altered in the Main Library area. A new split system will be installed for the Community Room. Site work is to include demolition, additional parking spaces, extended sidewalk, new landscape/irrigation, and a fenced outdoor garden space.

The contractor shall furnish all labor, equipment, materials, and perform all operations for applicable construction.

ADDENDA RELATING TO THE ITB**ADDENDUM NO. 1- May 26, 2021**

TO ALL PROSPECTIVE BIDDERS AND OTHER CONCERNED:

....

Question #1: Would there be charges for the permit?

Response: The selected contractor will need to submit a permit however, this will be a NO FEE permit.

....

Question #3: Are there any General Contractor qualification requirements and General Contractor experience?

Response: Per ITB 2021-08-PW, the Town of Lantana invites bids from qualified and experience firms for this renovation. The firm is responsible to provide the required services according to the plans and scope of work.

....

ADDENDUM NO. 3- June 4, 2021

TO ALL PROSPECTIVE BIDDERS AND OTHER CONCERNED:

....

Question #2: Will bidders be required to provide risk insurance? If so, please provide information regarding any requirements and deductible amounts.

Response: The contractor shall submit the required insurance according to ITB 2021-08-PW. Proof of insurance/naming the Town is required at the time of permit submission.

ADDENDUM NO. 4- June 8, 2021

TO ALL PROSPECTIVE BIDDERS AND OTHER CONCERNED:

....

Question #1

Could you provide the original library plans?

Response: A copy of the original library plans have been posted as of 6/8/21.

FLORIDA STATUTES

Pursuant to section 20.165(4)(a), Florida Statutes, the Florida Department of Business and Professional Regulation (DBPR) is charged with licensing and regulating certain businesses and professionals in the State of Florida. The Division of Professions within DPBR oversees licensing programs under chapter 489, Florida Statutes, relating to the regulation of the construction industry.

Section 489.105, F.S., defines certain terms relevant to the regulation of the construction industry, as follows,

(3) "Contractor" means the person who is qualified for, and is only responsible for, the project contracted for and means, except as exempted in this part, the person who, for compensation, undertakes to, submits a bid to, or does himself or herself or by others construct, repair, alter, remodel, add to, demolish, subtract from, or improve any building or structure, including related improvements to real estate,Contractors are subdivided into two divisions, Division I, consisting of those contractors defined in paragraphs (a)-(c), and Division II, consisting of those contractors defined in paragraphs (d)-(q):

(a) "General contractor" means a contractor whose services are unlimited as to the type of work which he or she may do, who may contract for any activity requiring licensure under this part, and who may perform any work requiring licensure under this part, except as otherwise expressly provided in s. 489.113.

....

(8) "Certified contractor" means any contractor who possesses a certificate of competency issued by the department and who shall be allowed to contract in any jurisdiction in the state without being required to fulfill the competency requirements of that jurisdiction.

....

(10) "Registered contractor" means any contractor who has registered with the department pursuant to fulfilling the competency requirements in the jurisdiction for which the registration is issued. Registered contractors may contract only in such jurisdictions.

Section 489.113, F.S., states,

(2) **A person must be certified or registered in order to engage in the business of contracting in this state.** However, for purposes of complying with the provisions of this chapter, a subcontractor who is not certified or registered may perform construction work under the supervision of a person who is certified or registered, provided that the work is within the scope of the supervising contractor's license, the supervising contractor is responsible for the work, and the subcontractor being supervised is not engaged in construction work that would

require a license as a contractor under any of the categories listed in s. 489.105(3)(d)-(o). This subsection does not affect the application of any local construction licensing ordinances.

[Emphasis added]

Section 489.119, F.S., provides,

(2) If the applicant proposes to engage in contracting as a business organization, including any partnership, corporation, business trust, or other legal entity, or in any name other than the applicant's legal name or a fictitious name where the applicant is doing business as a sole proprietorship, the applicant must apply for registration or certification as the qualifying agent of the business organization.

(a) An application for registration or certification to qualify a business organization must state the name of the partnership and of its partners; the name of the corporation and of its officers and directors and the name of each of its stockholders who is also an officer or director; the name of the business trust and its trustees; or the name of such other legal entity and its members; and must state the fictitious name, if any, under which the business organization is doing business.

....

(3)(a) A qualifying agent must be certified or registered under this part in order for the business organization to operate in the category of contracting in which the qualifying agent is certified or registered.

Section 489.131, F.S., states,

(1) This part applies to **all contractors**, including, but not limited to, those performing work for the state or any county or **municipality**. Officers of the state or any county or **municipality shall determine compliance with this part before awarding any contract for construction, improvement, remodeling, or repair.**

(2) The state or any county or municipality shall require that bids submitted for construction, improvement, remodeling, or repair on public projects be **accompanied by evidence that the bidder holds an appropriate certificate or registration**, unless the work to be performed is exempt under s. 489.103.
[Emphasis added]

In addition, section 255.20 (1), F.S. states,

A county, **municipality**, special district as defined in chapter 189, or other political subdivision of the state seeking to construct or improve a public building, structure, or other public construction works **must competitively award** to an **appropriately licensed contractor** each project that is estimated to cost more than \$300,000.

[Emphasis added]

Section 448.095(2), F.S. provides,

(a) Beginning January 1, 2021, every public employer, contractor, and subcontractor **shall register** with and use the E-Verify system to verify the work authorization status of all newly hired employees. A public employer, contractor, or subcontractor **may not enter into a contract unless each party to the contract registers with and uses the E-Verify system.**

(b)1. **If a contractor enters into a contract with a subcontractor, the subcontractor must provide the contractor with an affidavit** stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien.

2. The contractor shall maintain a copy of such affidavit for the duration of the contract.

(c)1. A public employer, contractor, or subcontractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated s. 448.09(1) shall terminate the contract with the person or entity.

[Emphasis added]

....

(b) **Before commencing the work** or before recommencing the work after a default or abandonment, **the contractor shall provide to the public entity a certified copy of the recorded bond. Notwithstanding the terms of the contract or any other law governing prompt payment for construction services, the public entity may not make a payment to the contractor until the contractor has complied with this paragraph.** This paragraph applies to contracts entered into on or after October 1, 2012.

[Emphasis added]

Town Ordinance Section 7.5-22. Award of bid, states:

(a) *Evaluation of bids.* Bids shall be awarded by the town council to the "lowest responsive, responsible and most qualified bidder." In determining the bidder meeting such criteria, the following may be considered in addition to prices:

- (1) The ability, capacity, and skill of the bidder to perform the contract.
- (2) Whether the bidder can perform the contract within the time specified, without delay or interference.
- (3) The character, integrity, reputation, judgment, experience and efficiency of the bidder.
- (4) The quality of performance on previous public or private contracts of a similar type.
- (5) The previous and existing compliance by the bidder with laws and ordinances relating to any contract.
- (6) The ability of the bidder to provide future maintenance and service.

The below chart summarizes the concerns the OIG found during our procurement review.

	ITB Required Documentation	Did Sierra submit the required documentation to the Town?	Issue
1	Contractor License	No	✓
2	Mandatory Pre-Bid Meeting	Yes	
3	Current COI (GL, Auto, and WC)	Yes*	✓
4	Completed bid forms	Yes	
5	Bid Bond	Yes	
6	Performance Bond & Payment Bond	Yes*	✓
7	Construction Bond	N/A	
8	Letter of Credit	N/A	
9	Execution of offer	Yes	
10	Acknowledgement of Addenda	Yes	
11	General Info of Bidder and Subcontractors	Yes	
12	Conflict of Interest Disclosure form	Yes	
13	Notification of Public Entity Crimes Law	Yes	
14	Drug-Free Workplace	Yes	
15	Non-collusion Affidavit	Yes	
16	Truth in Negotiation Certificate	Yes	

*Note: *Sierra submitted a current certificate of insurance with the bid submission, but the Town's Risk Coordinator or designee did not contact the insurance company to verify the validity and effectiveness of the policies. The Town provided a copy of the Performance Bond and Payment Bond on March 20, 2023. We verified that the bonds were valid and reviewed an email from the Bond Agent stating that the Agent's office experienced delays in issuing the bond due to COVID-19.*

Performance Bond & Payment Bond

In February 2022, the OIG requested procurement documents from the Town including copies of Sierra's bonds, but no bond documents were provided. The OIG's draft report included a finding that the Town failed to obtain a certified copy of a recorded performance and payment surety bond from Sierra, as required by section 255.05(1), F.S., and section 2.14 of ITB No. 2021-08-PW.

On March 13, 2023, pursuant to Article XII, Section 2-427 of the Palm Beach County Code, the Town was provided an opportunity to review and comment on the OIG's draft report. During the review, the Town informed the OIG that Sierra's performance and payment bond was received on August 18, 2021, which was after contract execution and before the first payment was issued.

The Town provided a copy of the bond and supporting documentation to the OIG on March 20, 2023. The OIG verified that the surety company is listed as a certified surety company with the U.S. Department of the Treasury, Bureau of Fiscal Services, and was licensed in the State of Florida. The finding was therefore removed.

Onsite Progress Inspections

Our office conducted two onsite progress inspection visits on October 25, 2021, and November 15, 2021. We documented our observations, and reviewed structural plans, safety documents, subcontractor files, weekly reports, change orders, and E-verify requirements. The inspection reviews prompted an in-depth review of the documentation for the procurement.

OIG Interviews

Town Operations Director, Eddie Crockett

We interviewed the Town Operations Director, Eddie Crockett, on April 14, 2022. According to Mr. Crockett, former Assistant Public Works Director, Joel Cortes, Town Clerk Kathleen Dominguez, and Mr. Crockett were responsible for administering the bid opening and the ITB evaluation process. Mr. Crockett advised the OIG that Mr. Cortes was responsible for documenting the review of the responsiveness of the bid submittals and the bidders' responsibility during the evaluation process. According to Mr. Crockett, however, Mr. Cortes did not document his review.

Mr. Crockett said Mr. Cortes reviewed Sierra's bid response and contacted the references, but did not document his evaluation. Mr. Crockett said that the Town operates

under a decentralized purchasing⁶ structure, and Mr. Cortes did not have previous procurement experience.

Mr. Crockett explained that prior to the issuance of the ITB for the Library Renovation Project, the Town did not have a formalized bid evaluation process. Mr. Crockett stated that “the bid response and award to Sierra Construction did not conform in all material respects to the terms and conditions included in the ITB.” He said that the Town had not adopted a process relating to E-verify verification and compliance, and he did not learn about the E-Verify requirement until the OIG conducted its inspections.

Mr. Crockett said that in November 2021, that Town representatives (Councilmember Mark Zeitler; Town Manager Brian Raducci; Mr. Cortes; and Mr. Crockett) met with Sierra to discuss the details of proposed Change Orders 3 and 4 to relocate an A/C unit. He said, “Councilmember Mark Zeitler was present based on the fact that prior to him becoming a Councilmember for the Town, his company installed the A/C units at the library 7 or 8 years ago.” Mr. Crockett said they discussed the items listed in the change order, and that the Councilmember and Sierra did not agree with items listed in the change order. He said the Councilmember decided to search and verify Sierra’s credentials.

Mr. Crockett also informed the OIG during the interview that the Department of Financial Services, Bureau of Workers’ Compensation Fraud investigators had recently interviewed him and other Town staff regarding concerns with Sierra’s certificate of insurance.

Mr. Crockett told our office that Mr. Cortes was placed on administrative leave on January 20, 2022. Mr. Cortes eventually resigned his position as the Assistant Director of Public Works, and his last day with the Town was March 3, 2022.

Mr. Crockett provided the OIG with a copy of a form the Town created to assist with documenting the evaluation of contractor bids prior to contract award as a result of the OIG progress inspections. According to Mr. Crockett, the Town’s New Contractor/Vendor Verification Checklist form will assist with documenting the responsiveness review during the bid evaluation process. Below is a copy of the new verification form Mr. Crockett provided the OIG on April 14, 2022.

⁶ Town of Lantana: *Role Sec 7.5-16 Purpose; generally, of department heads.* The town has a decentralized purchasing system, which empowers the department heads most familiar with their operations to acquire the goods and services they need, so long as the town council has appropriated adequate funds for the purchase.

An organizational structure in which designated personnel/operating departments from within the organization have the delegated authority to decide on sources of supply and contract directly with vendors without consulting or receiving the approval from the Chief Procurement Officer (CPO). It should be noted that the scope and degree, if any, of decentralized purchasing varies from agency to agency. NIGP: The Institute for Public Procurement Dictionary of Terms, Revised April 2012, Herndon VA.

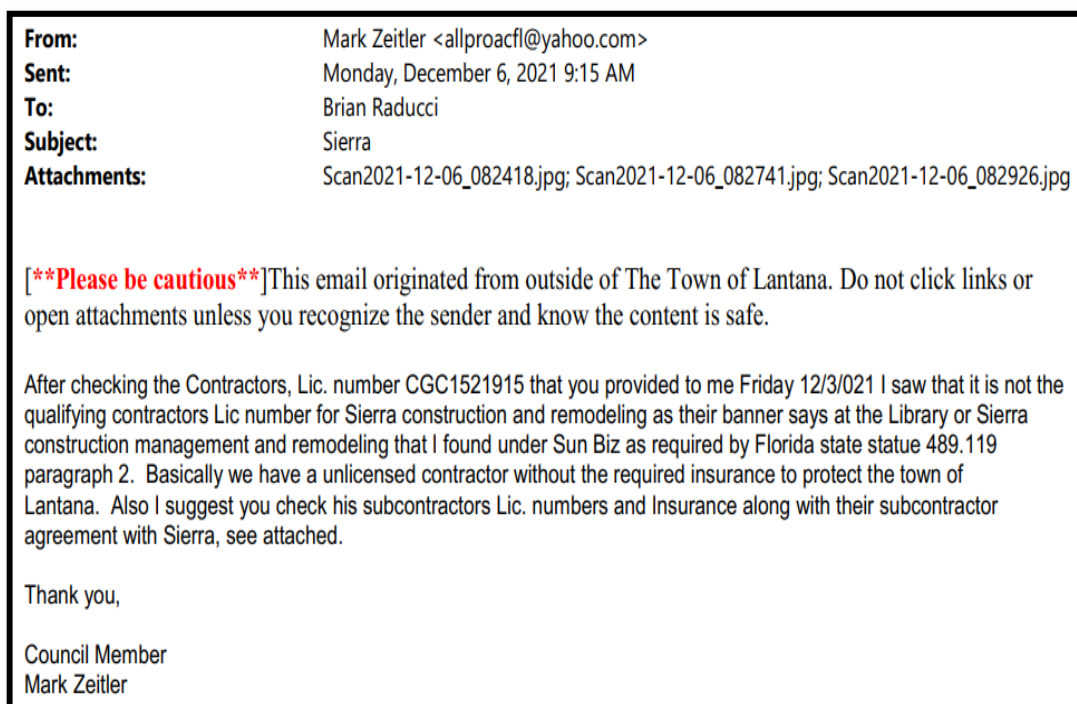
TOWN OF LANTANA NEW CONTRACTOR/VENDOR VERIFICATION CHECKLIST		
CONTRACTOR REGISTRATION INFORMATION	Responsible Individual	Department
Doing Business As (DBA)		
Business Mailing Address		
City, State, Zip		
Business Phone		
Business Email		
Type of Business Performed		
Owner's Name		
Attach a copy of the following:		
Certification Number		
State License or Competency		
County Business Tax Receipt (from your Local County)		
Liability Insurance with Town as certificate holder*		
Workers' Compensation Insurance with Town as certificate holder*		
* - secure Certificate of Insurance directly from the Broker/Carrier if deemed necessary and is feasible to do so.		
ALL NEW VENDORS/CONTRACTORS		
Confirm proper registration with IRS (TIN matching).		
Check the Florida Department of State Division of Corporations website for registration. [https://dos.myflorida.com/sunbiz/]		
Check the Florida Department of Business and Professional Regulation website for licensure. [http://www.myfloridalicense.com/dbpr/]		
Check E-Verify website for proper registration.** [http://www.e-verify.gov]		
**Verify that the contractor has received affidavits from any and all subcontractors stating that they are in fact E-Verified (if applicable).		
Purchase Orders:		
Attach Certificate of Insurance to supporting documentation		
RFP/ITB/Bids:		
If applicable, attach Certificate of Insurance, Performance Bond, Bid Bond, Letter of Credit etc. to supporting documentation		
Notify Town Manager of any contractual issues/concerns that are unable to be resolved in a timely manner		
Note: Depending on the Nature and Scope of the Project at Hand, the verification process referenced above may in fact be conducted by multiple persons from various departments.		

Councilmember Mark Zeitler

On April 19, 2022, we interviewed Councilmember Zeitler. Mr. Zeitler explained his involvement with the Library Renovation Project. He said before becoming a Councilmember, he owned and operated an A/C business locally since 1997. His company installed the A/C unit at the library about 10 years ago. Town Manager Raducci asked the Councilmember to look over the change order estimate from Sierra because of his experience as an A/C contractor. The Councilmember said that the change order estimate from Sierra seemed high, and he questioned if all the work that was proposed was needed.

On November 23, 2021, the Councilmember met with Mr. Cortes, Mr. Crockett, Mr. Raducci, and Mr. Paulo Antonione, Sierra's Superintendent for the Library Renovation Project, to inspect the renovation site in relation to the proposed change order. When the Councilmember was leaving the jobsite, he noticed that a Sierra banner posted at the site did not include a general contractor's license number. He found that to be suspicious and decided to ask the Town Manager for a copy of Sierra's contractor's license. At the time of the bid opening, Sierra should have provided evidence that the firm was licensed and registered with the State of Florida to provide the scope of services in the ITB.

Our office reviewed a December 6, 2021 email from the Councilmember to the Town Manager:



The attachments to the December 6, 2021 email from the Councilmember included the following:

1. DBPR website that shows the license type, name, license number, and status of D'ESPAUX LEOPOLDO, and MULTITECH CORP. (Subcontractor).
2. Section 489.119, F.S. (2021)- highlighting section 2.
3. Section 489.127, F.S. (2019)

Town Manager Brian Raducci

After meeting with Councilmember Zeitler, the OIG met with Mr. Raducci. He said he became the Town Manager in October 2021, and was not involved in the procurement or contract award process for the Library Renovation Project. The Town Manager explained that Multitech was a subcontractor to Sierra, and that Multitech pulled the permits for the project because the company had the necessary A/C licenses.

The Town was unable to provide the OIG with information showing that the awarded bidder, Sierra, held an appropriate certificate or registrations for the Lantana Library renovation project or that Sierra registered with the E-verify system.

FINDINGS

FINDING (1):

The Town entered into a contract with Sierra Construction Management and Remodeling, Corp., a vendor that neither registered with the E-Verify system nor collected affidavits from its subcontractors expressing compliance with section 448.095(2), F.S.

OIG Review

On November 15, 2021, our office conducted an onsite progress inspection of the Town's compliance with security and safety requirements and E-Verify registration, and attended a site inspection by the Town, Sierra, and the PGAL to discuss the proposed work outlined in Change Orders 3 and 4. Sierra's owner and president, Mr. Reuben Sierra, provided the OIG with access to subcontractor files, which included various licenses, certificates of insurance, and subcontractor contact information. We observed that the files contained no subcontractor E-verify affidavits stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien.



Our office notified the Town and Sierra of our observation. Both entities advised the OIG that they were unaware of the requirements of section 448.095. On November 22, 2021, we emailed Mr. Cortes, Mr. Crockett, and Mr. Antonione information regarding 448.095, including a copy of OIG Tips & Trends #2021-0001, *Is your Entity Ready for E-Verify*, issued January 2021. Mr. Antonione replied to the email, "we will start with the E-verify registration right away."

On December 16, 2021, Mr. Cortes and Mr. Crockett called the OIG and said that Sierra had not provided evidence of compliance with section 448.095(2). Our office suggested that they speak with the Town Attorney to discuss the E-Verify statutory requirements.

The following month, on January 18, 2022, Mr. Reuben contacted the OIG to advise that Sierra was no longer the contractor for the Library Renovation Project.

RECOMMENDATION

- (1) The Town update procurement and contracting policies and procedures to include verification of contractor and subcontractor compliance with the E-Verify statutory requirements.

MANAGEMENT RESPONSE

The Town concurs with Finding (1) and has incorporated language in our solicitation documents which explains a proposers' requirement to use E-Verify and references the state statute. A checklist was developed to include compliance verification with E-Verify.

FINDING (2):

The Town awarded ITB No. 2021-08-PW to Sierra without verifying that the company was properly licensed and insured as required by sections 1.12, 1.20, and 2.12 of ITB No. 2021-08-PW; section 255.20, F.S.; and 489.131(2), F.S.; and Town Ordinance 7.5-22.

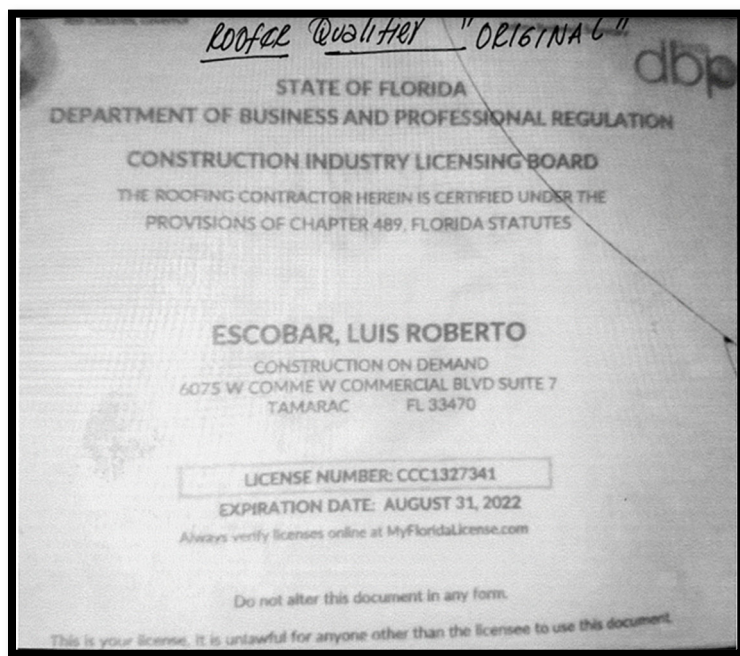
OIG Review

The Town competitively solicited the Library Renovation Project through an ITB process and entered into a contract with Sierra on July 26, 2021. The Town had guidance and standards in place regarding the criteria for and requirements to award a contract, but failed to follow the established guidance and standards outlined in the ITB and Town Code of Ordinances. The ITB states in section 1.12, "the contract may be awarded to the responsive and responsible Bidder meeting all requirements as set forth in the Solicitation." The ITB also states in section 1.20, "the successful Bidder(s) shall hold all license and/or certifications, obtain and pay for all permits and/or inspections, and comply with all laws, ordinances, regulations, and building code requirements applicable to the work required herein." Section 2.12 of the ITB specified the insurance requirements for award and provided that no work was to commence until certification or proof of insurance has been received and approved by the Town's Risk Coordinator or designee.



We found that the Town inappropriately awarded the contract to Sierra, which was not a licensed contractor, in violation of section 255.20(1), F.S. According to section 489.131(2), a municipality shall require that bids submitted for construction, improvement, remodeling, or repair on public projects be accompanied by evidence that the bidder holds an appropriate certificate or registration, unless the work to be performed is exempt.

The Town received a photo copy of License Number:



CCC1327341 issued to Luis Roberto Escobar, as part of Sierra's bid response:

On January 19, 2023 during a phone call with Mr. Crockett, he said the Town believed Mr. Luis Roberto Escobar was business partners with Sierra. Sierra's bid response also included three (3) supporting "Licensee Details" printed from the DBPR database:

Escobar, Luis Roberto (Primary)
Construction On Demand (DBA Name)
License #CCC1327341 Expiration 8-31-22
Certified Roofing Contractor

Escobar, Luis Roberto (Primary Name)
Shell Plus Construction Inc. (DBA Name)
License #1261487 Expiration 8-31-22
Certified Roofing Contractor

Escobar, Luis Roberto (Primary Name)
Concrete Designs FL (DBA Name)
License #CBC1257130
Expiration 8-31-22
Certified Building Contractor

On March 9, 2022, the OIG searched the State of Florida DBPR⁷ online licensing database⁸ using both Sierra's owner's name and the business name; neither search resulted in a match for a certified or registered contractor.

We also reviewed the contractor's license for Mr. Escobar and determined that the license was valid, but we could not find any information to indicate that Mr. Escobar is a registered agent, subcontractor, or employee of Sierra.

With regard to the insurance requirements, Sierra submitted a current certificate of insurance with its bid that appeared on its face to meet the specified insurance requirements in the ITB. The Town, however, did not contact the insurance company to verify the policy's validity and effectiveness. Verifying an awarded vendor's insurance coverage minimizes the government's exposure to financial risks that could arise out of the project.

The Town Manager said during his interview with our office that he became aware that there may have been a potential licensing and insurance issue with Sierra on December 6, 2021. Additionally, Mr. Crockett informed the OIG that the Department of Financial Services, Bureau of Workers' Compensation Fraud investigators had recently interviewed him and other Town staff regarding concerns with Sierra's certificate of insurance.

⁷ Department of Business and Professional Regulation, section 20.165, F.S. The DBPR is charged with licensing and regulating certain businesses and professionals in the State of Florida.

⁸ DBPR Online Services: <http://www.myfloridalicense.com/DBPR/online-services/>

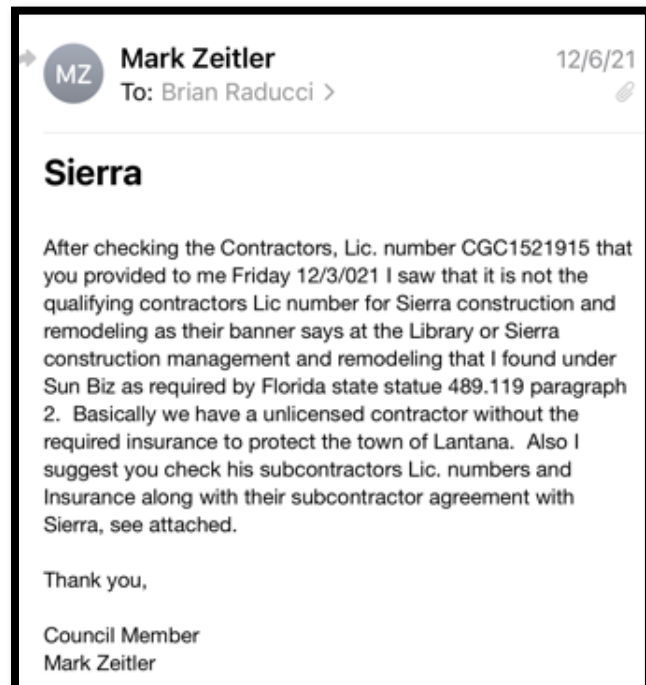


On May 12, 2022, the OIG contacted the State of Florida's Department of Financial Services (DFS), Investigative and Forensic Services Division. The DFS was the agency that interviewed the Town's staff the previous month regarding Sierra's Certificate of Insurance.

The DFS verified that the agency received a report from an insurance carrier in December 2021 that Sierra had provided the Town with a false Certificate of Insurance for Workers' Compensation. Sierra was already under investigation for a similar issue in another county. The DFS stated that Mr. Reuben was arrested on April 5, 2022 and charged with passing a forged or altered instrument, and false statements.

We reviewed the Town's bid records to determine how the bids were evaluated and the awardee selected. We found no evidence the Town documented its review of the bids, or the determination and selection of Sierra as the lowest, responsive and responsible bidder, including verification of the license and insurance requirements.

The Town Ordinance states that a "bid shall be considered **responsive only if it substantially conforms to requirements of the invitation for bids** as it relates to pricing, surety, insurance, specifications, and any other matter unequivocally stated in the invitation for bids as a determinant of responsiveness."



RECOMMENDATION

- (2) The Town update policies and procedures to include the bid award evaluation process and the determination of bidder's responsiveness and responsibility, to verify that proposed contract awards are compliant with the Florida Statues, Town Ordinances, and the solicitation documents.

MANAGEMENT RESPONSE

The Town concurs with Finding (2) and has developed a checklist which includes, when applicable, ensuring a proposer is properly licensed and insured.

FINDING (3):

The Town did not notify the Office of Inspector General when it became aware of possible mismanagement of a contract resulting in the misuse or loss of public funds exceeding \$5,000, in violation of Section 2-423, Palm Beach County Code.

OIG Review

Section 2-423 (4), Palm Beach County Code:

The county administrator and each municipal manager, or administrator, or mayor where the mayor serves as chief executive officer, **shall promptly notify the inspector general of possible mismanagement of a contract** (misuse or loss exceeding \$5,000 in public funds), fraud, theft, bribery, or **other violation of law which appears to fall within the jurisdiction of the inspector general**, and may notify the inspector general of any other conduct which may fall within the inspector general’s jurisdiction. **[Emphasis Added]**

The Town Manager said that he became aware of the potential license/insurance issue on December 6, 2021. On December 9, 2021 the Town stopped Sierra from performing renovations to the Library. The OIG contacted Town staff on December 1, 2021 and December 15, 2021 regarding status of the E-verify requirement. On December 16, 2021, the Town informed the OIG that the Library Renovation project is pending the approval of a change order, but did not inform the OIG that there were potential contract concerns regarding the Contractor’s license and insurance issue. When the Town became aware of possible contract violations, the OIG should have been notified. Subsequently, our office continued with its normal review activities such as interviews, reviewing emails, and records received from the Town.



On January 18, 2022, Mr. Reuben contacted our office to advise that its contract with the Town had been terminated on January 10, 2022. It was not until April 14, 2022, that Mr. Crockett informed the OIG that that DFS was investigating Sierra regarding concerns with potential insurance violations. On April 19, 2022 the Town Manager informed the OIG of the need to terminate Sierra due to non-compliance with required contractor licensing and insurance issues. On June 22, 2022, the Town Manager explained that, “the Town verified that Sierra Construction Management & Remodeling, Corp. was not licensed or properly qualified under Multitech Corp and therefore halted their renovation work on Thursday, 12/09/2021.”

The Town did not notify the OIG promptly. The acknowledgment of the contract mismanagement issue was made known to our office as a result of our inquiries between December 2021 and April 2022.

RECOMMENDATION

- (3) The Town train staff on the requirements of section 2-423 (4), Palm Beach County Code.**

MANAGEMENT RESPONSE

An email was sent out reminding department heads of the requirements to notify the OIG when applicable.

QUESTIONED COSTS

Questioned Costs Total = **\$411,731.90**

- Contract award: The total Town Council approved contract award amount was \$811,350; of this amount the **Town paid \$401,992.50.**
- Change orders: The total Town Council approved in change orders was \$56,542; of this amount the **Town paid \$9,739.40**

RECOMMENDATIONS SUMMARY

1. The Town update procurement and contracting policies and procedures to include the E-Verify statutory requirements.
2. The Town update policies and procedures to include the bid award evaluation process, and the determination of bidder’s responsiveness and responsibility, to verify that proposed contract awards are compliant with the Florida Statutes, Town Ordinances, and the solicitation documents.
3. The Town train staff on the requirements of section 2-423 (4), Palm Beach County Code.

ACKNOWLEDGEMENT

The Inspector General's Contract Oversight & Evaluations staff would like to extend our appreciation to the Town of Lantana for the cooperation and courtesies extended to us during the contract oversight process.

This report is available on the OIG website at: <https://www.pbcgov.com/OIG>. Please address inquiries regarding this report to the Director, Contract Oversight & Evaluations Division by email at inspector@pbcgov.org or by telephone at (561) 233-2350.

ATTACHMENT

Attachment 1 – Town of Lantana's Management Response

ATTACHMENT 1 – TOWN OF LANTANA'S MANAGEMENT RESPONSE

Town of Lantana

COUNCILMEMBERS

Christopher Castle
 Ken Mason
 Lynn J Moorhouse, D. D. S.
 Mark Zeitler



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Karen Lythgoe
 MAYOR

March 21, 2023

Mr. Anthony Montero
 Director of Contract Oversight & Evaluations Division
 Office of Inspector General
 Palm Beach County
 100 Australian Ave, 4th Floor
 West Palm Beach, FL 33406-1465

RE: Contract Oversight Report CA-2021-0067, Library Renovation Contract

Dear Mr. Montero:

We received your correspondence dated March 13, 2023, along with its applicable attachment. On behalf of the Town of Lantana (Town), please accept this response to the above referenced document. It includes the Office of Inspector General's (OIG) findings, recommendations and the Town's responses based on the attachment provided from the OIG.

Finding (1): The Town entered into a contract with Sierra Construction Management and Remodeling, Corp., a vendor that neither registered with the E-Verify system nor collected affidavits from its subcontractors expressing compliance with section 448.095(2), F.S.

o **Recommendation:**

(1) The Town update procurement and contracting policies and procedures to include verification of contractor and subcontractor compliance with the E-Verify statutory requirements.

o **Management's Response:**

The Town concurs with Finding (1) and has incorporated language in our solicitation documents which explains a proposers' requirement to use E-Verify and references the state statute. A checklist was developed to include compliance verification with E-Verify.

Finding (2): The Town awarded ITB No. 2021-08-PW to Sierra without verifying that the company was properly licensed and insured as required by sections 1.12, 1.20, and 2.12 of ITB No. 2021-08-PW, section 255.20, F.S.; and 489.131(2), F.S.; and Town Ordinance 7.5-22.

o **Recommendation:**

(2) The Town update policies and procedures to include the bid award evaluation process and the determination of bidder's responsiveness and

responsibility, to verify that proposed contract awards are compliant with the Florida Statutes, Town Ordinances, and the solicitation documents.

o Management's Response:

The Town concurs with Finding (2) and has developed a checklist which includes, when applicable, ensuring a proposer is properly licensed and insured.

Finding (3): The Town did not notify the Office of Inspector General when it became aware of possible mismanagement of a contract resulting in the misuse or loss of public funds exceeding \$5,000, in violation of Section 2-423, Palm Beach County Code.

o Recommendation:

(3) The Town train staff on the requirements of section 2-423 (4), Palm Beach Code.

o Management's Response:

An email was sent out reminding department heads of the requirements to notify the OIG when applicable.

Upon your review, should you require additional information or have any further questions, please feel free to contact our office at (561) 540-5004.

Respectfully submitted,



Brian K. Raducci
Town Manager