



OFFICE OF INSPECTOR GENERAL PALM BEACH COUNTY

CONTRACT OVERSIGHT NOTIFICATION (2012-N-0008)

ISSUE DATE: SEPTEMBER 19, 2012

Sheryl G. Steckler
Inspector General

"Enhancing Public Trust in Government"

SWA Waste-to-Energy Project Application for Payment No. 14

ISSUES

The Solid Waste Authority's (SWA) contract monitoring over the waste-to-energy project allowed a payment to be made to the contractor without the full evaluation and recommendation of the independent monitor.

In furtherance of their goal to improve Palm Beach County's waste management system, SWA contracted jointly with Babcock & Wilcox Power Generation Group, Inc. and KBR Construction Company (B&W/KBR) to design, build, and operate a waste-to-energy (WTE) facility for a fixed price of \$668 million. SWA entered into a contract with Malcolm-Pirnie-Arcadis (MPA), an experienced WTE consulting firm, to assist them in monitoring the WTE project. In their role as the independent monitor, MPA is responsible for, among other things, reviewing and recommending approval of applications for payment submitted by B&W/KBR. Payments to B&W/KBR are contingent upon MPA's review and evaluation.

Each application for payment must be reviewed and approved by four (4) separate participants in the WTE project monitoring process prior to release of funds. The independent reviews and authorizations are designed to ensure that payments to B&W/KBR are allowable, timely, accurate, and in compliance with contract terms. The four (4) participants in this internal control process are:

- 1) MPA;
- 2) SWA Engineering Department (Engineering);
- 3) SWA Finance Department (Finance); and
- 4) Trust Indenture Engineer [Science Applications International Corporation (SAIC)], represents the bondholders' interest in the WTE project and monitors payments from bond proceeds to insure compliance with bond indenture.

The Application for Payment (AP) Review and Approval Process

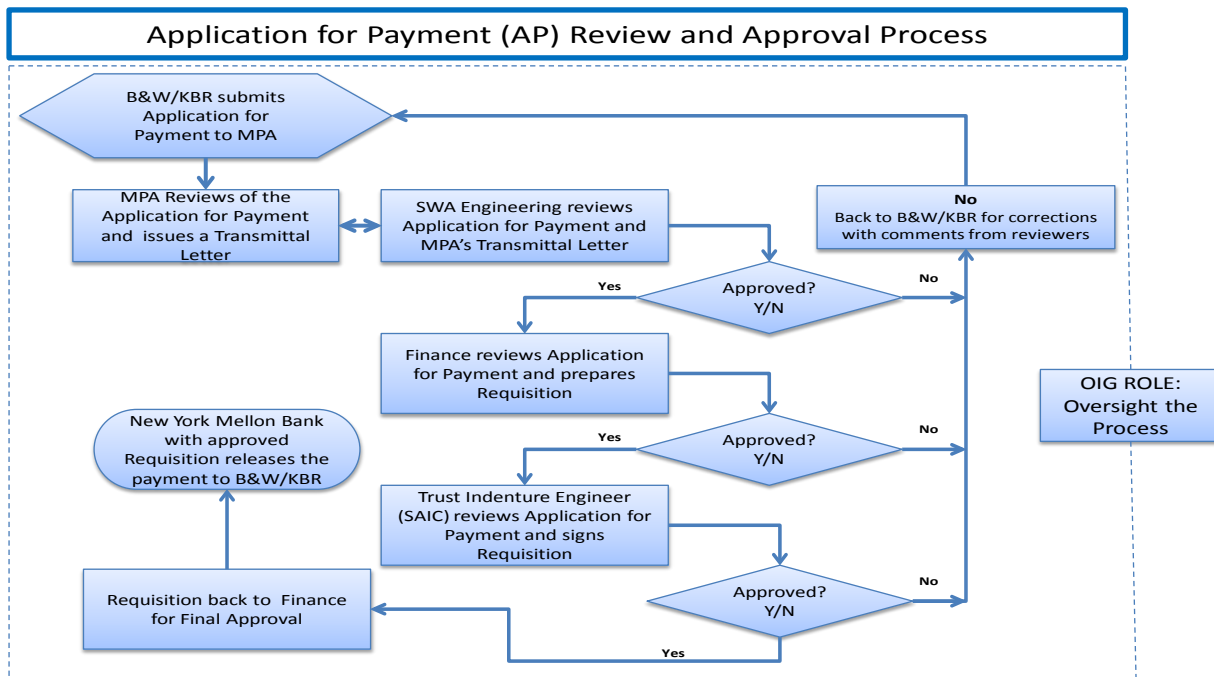
The SWA uses a milestone payment system for the WTE project, whereby the entire project is divided into agreed upon monthly milestones, each with an assigned dollar value. The SWA contract with B&W/KBR specifies the milestones, associated dollar values of each, and the Fund Drawdown Schedule (cash flow schedule). B&W/KBR prepares a monthly Application for Payment (AP) requesting funds for the milestones

completed during the month. The SWA only authorizes payments for milestones that have been 100% completed.

B&W/KBR submits an AP to MPA for technical review. Once reviewed, MPA dates and signs the AP and prepares a transmittal letter that includes an evaluation of each milestone and a recommendation for payment. MPA sends the transmittal letter, along with all supporting documentation to Engineering for their review and approval.

Engineering reviews the AP for completeness and accuracy which includes reconciliation to the online information management system designed to record and track all WTE project information and accessible to all parties involved with the WTE project. Upon receipt and review of the MPA transmittal letter and associated supporting documentation, Engineering determines the eligible payment amount. Engineering then attests to the completion of the milestones and the related payment by signing the AP. The approved AP is then forwarded to Finance for their independent review and approval.

The scope of Finance’s review includes Engineering’s authorizing signature, cumulative payments amount, and the project’s cash flow. Once Finance verifies the eligible payment, they prepare the Trust Indenture Letter (Requisition) and forward the completed package to the Trust Indenture Engineer for review and approval. The Trust Indenture Engineer reviews the completed package and signs the Requisition indicating his or her approval of the payment amount. The completed package is then returned to Finance for the final payment approval (SWA Director or designee signature on Requisition). The approved Requisition is then sent to the Bank of New York Mellon authorizing release of funds to B&W/KBR.



Application for Payment (AP) Package No. 14

On June 25, 2012, B&W/KBR submitted AP No. 14 totaling \$15,586,214 for 19 milestones completed during June 2012. MPA reviewed it and prepared a transmittal letter to Engineering, dated June 29, 2012. The transmittal letter included an evaluation of 18 of the 19 milestones within AP No. 14. MPA's review did not include confirmation of their evaluation of one milestone (Milestone #155 Area 200 – Refuse Pit Mat & Walls – IFC, valued at \$1.2 million). Nonetheless, MPA recommended approval for the entire \$15,586,214.

Engineering conducted their review of AP No. 14 and on July 2, 2012, approved payment of the entire \$15,586,214. Engineering's review of MPA's transmittal letter failed to detect that the evaluation of milestone 155 had been omitted. Engineering sent AP No. 14 to Finance where it was reviewed and verified. The Requisition and AP No. 14 were forwarded to the Trust Indenture Engineer for approval. The Trust Indenture Engineer signed the Requisition and returned it to Finance where it was signed by the SWA representative authorizing payment of the entire \$15,586,214. The Requisition was then sent to Bank of New York Mellon and B&W/KBR was paid via electronic funds transfer.

In summary, MPA prepared a transmittal letter for AP No. 14 wherein the amount recommended for payment exceeded the evaluations by \$1.2 million. None of the participants responsible for ensuring the accuracy, completeness and validity of APs submitted by B&W/KBR detected that the evaluation of milestone 155 had been omitted from the transmittal letter prepared by MPA.

It is noted that OIG staff brought this matter to the attention of the Engineering Director on July 26, 2012 who contacted MPA for additional information. A revised transmittal letter was issued by MPA on July 30, 2012 indicating the oversight of the previous transmittal letter, including an evaluation of milestone 155, and reaffirming authorization of the entire \$15,586,214. An OIG review of the online information management system revealed that milestone 155 was posted as 100% complete and eligible for funding at the time AP No. 14 was submitted by B&W/KBR. It is also noted that shortly after the oversight was brought to their attention by the OIG, SWA executive staff informed the OIG that Finance's role in the monitoring process would be expanded immediately to include a more thorough review of Engineering's approvals.

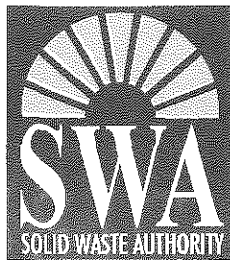
RECOMMENDATION

Increasing the scope of Finance's review will strengthen the monitoring over the WTE project. To ensure the timely, appropriate and allowable disbursement of funds, it is recommended that participants in WTE project monitoring be more thorough in their review of applications for payment.

RESPONSE FROM MANAGEMENT

The Solid Waste Authority Executive Director provided the following response to the OIG Notification 2012-N-0008 (Attachment A):

“The Solid Waste Authority acknowledges that the documentation verifying the completion of Milestone #155 was not included in the approved project Application for Payment No. 14 as required and has implemented the recommended corrective action”



YOUR PARTNER FOR
SOLID WASTE SOLUTIONS

September 19, 2012

Office of Inspector General
Palm Beach County
P.O. Box 16568
West Palm Beach, FL 33416

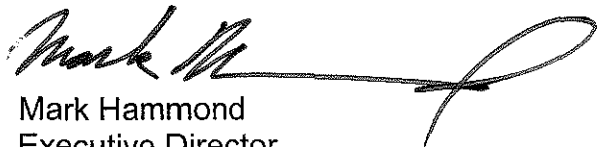
ATTN: Joe Doucette, Chief of Operations

RE: **Contract Oversight Notification**
SWA W-T-E Project Application for Payment #14

Dear Mr. Doucette,

The Solid Waste Authority acknowledges that the documentation verifying the completion of Milestone #155 was not included in the approved project Application for Payment No. 14 as required and has implemented the recommended corrective action.

Sincerely,



Mark Hammond
Executive Director