
TOWN OF PALM BEACH

Construction In-Progress & Construction Project Bidding Internal Audit

October 1, 2010 through June 30, 2011

Distribution:
Audit Committee

October 2011

Crowe Internal Audit

Team:

Deborah Garringer
Bob Benson
Michael Ciminero
Jorge Blakely
Corinne Ahrend
Jennifer LaCroix

EXECUTIVE SUMMARY

	<i>Page</i>
EXECUTIVE SUMMARY	3
PROCEURES PERFORMED	7
OBSERVATIONS AND RECOMMENDATIONS.....	12

EXECUTIVE SUMMARY

Background and Objective

Crowe Horwath LLP (“Crowe” or “we”) performed an internal audit on the Town of Palm Beach’s Construction In-Process and Construction Bidding Procedures, which include the Purchasing, Public Works, and Finance Departments (“Department”) as of June 30, 2011. The overall objective was to review the policies, procedures and controls over the Town’s construction project bidding and contract administration for the period noted. We interviewed Department personnel, and performed testing on certain sampled items related to the bidding process, contracting process, documentation, and the review process.

The basis for our original project plan was developed from two primary documents. The first document was Procedure No. 1-02-7 *Construction Contracts and Project Management Procedures* (the “Construction Policy”) and the second document was the Town’s Purchasing Policy and Procedures Manual (the “Purchasing Policy”) that has an effective date of October 2009. For projects that were sampled prior to this effective date, we reviewed these in conjunction with the purchasing policies and procedures effective at that time. We discussed compliance with these policies and procedures with employees of the Town’s Departments of Public Works and Purchasing and reviewed certain available records from project files.

Scope

The specific procedures performed were based on the results from two previous audit reports as well as requests provided by the Town as it relates to specific Public Works projects. During 2010, Crowe performed an audit of Construction in Process which included a review of the Town’s accounting function as it related to construction projects from a time period spanning October 1, 2008 to March 31, 2010. The overall objective of that review was to review the controls over the accounting for construction and capital projects for the time period identified. We reviewed selected policies and procedures with the Town’s personnel and in some instances tested certain detailed records and technical configurations. The second report performed in 2010 included the Town’s Construction Project Bidding and Contract Administration functions. This review included testing of a sample of construction projects from the time period spanning October 1, 2008 to March 31, 2010.

The current review was performed as a follow up to the previously completed reports prepared during 2010, including recommendations and management’s responses. Our observations and recommendations are based on our review of transactions from October 1, 2010 through June 30, 2011. Additionally, Crowe performed additional interviews and testing on certain Public Works projects, at the request of Town Council. Although our current testing was performed in some areas without exception, we can provide no assurance that exceptions would have been detected had procedures been changed or expanded. Finally, Crowe brought in Construction audit specialists to assist in the performance of the internal audit procedures.

It should also be recognized that internal controls are designed to provide reasonable, but not absolute, assurance that errors and irregularities will not occur, and that procedures are performed in accordance with Management’s intentions. There are inherent

EXECUTIVE SUMMARY

limitations that should be recognized considering the potential effectiveness of any system of internal controls. In the performance of most control procedures, errors can result from misunderstanding of instructions, mistakes on judgment, carelessness and other factors. Internal control procedures can be circumvented intentionally by Management with respect to the execution and recording of transactions, or with respect to the estimates and judgments requirement in processing of data. Controls may become ineffective due to newly identified business or technology exposures. Further, the projection of any evaluation of internal control to future periods is subject to the risk that the procedures may become inadequate because of changes in conditions, and that the degree of compliance with procedures may deteriorate.

Summary of Results:

Overall, the Department has internal control measures in place to ensure that the Department is operating as intended; however, we did note some areas where improvements, if implemented, could strengthen the overall internal control framework over construction projects and contract Management.

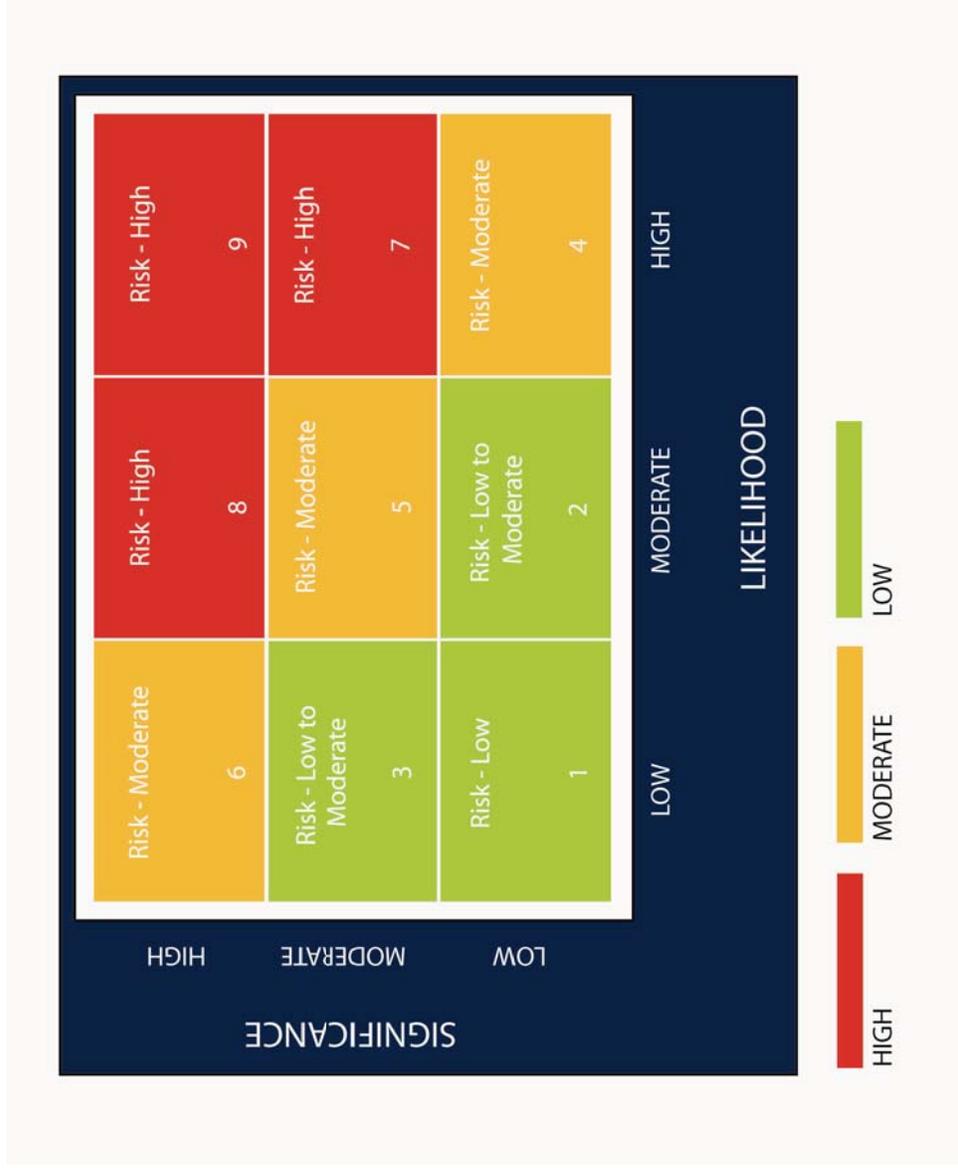
Below is a summary of Crowe's audit procedures where we noted areas of improvement. We also listed the corresponding opportunity for improvement, summary, and risk rating.

Audit Procedure	Opportunity for Improvement	Audit Finding	Risk Rating
Review of Construction in Process Accounts	1	CIP Reconciliation Documentation should be Retained	LOW RISK
Purchase Orders and Invoices	2	Notices to Proceed	MEDIUM RISK
Purchase Orders and Invoices	3	Product Standardization	MEDIUM RISK
Purchase Orders and Invoices	4	Contract File Documentation	MEDIUM RISK
Purchase Orders and Invoices	5	Vendor Selection Committee & Process	HIGH RISK
Purchase Orders and Invoices	6	Periodic Internal Inspections of Procurement Process	HIGH RISK
Contracts	7	Quality Control Review of Contracts	LOW RISK
Contracts	8	Contract Negotiations	MEDIUM RISK
Contracts	9	Direct Owner Purchases	MEDIUM RISK
Contracts	10	Construction Manager at Risk	HIGH RISK
Payment Requests	11	Payment Request Documentation and Review	MEDIUM RISK

EXECUTIVE SUMMARY

Rating Risk

Risks are evaluated based on its “significance” to management’s strategy and its “likelihood” to occur. This will result in a risk profile of the highest risks to the organization as presented below:



EXECUTIVE SUMMARY

The Crowe Horwath Risk Model SM

Definition of Risk

Business risk is an event, action, or failure to act that may adversely affect an organization's ability to achieve its business objectives and successfully implement its strategies. Below is a graphic profile of Crowe's Risk Model, which identifies various types of risk:



PROCEDURES PERFORMED

PROCEDURES		RESULTS
A. Review of Construction in Process Accounts:		
1	Obtain and review current Capital Improvement Program	Obtained and reviewed noting the Town has tracking mechanism for capital improvement projects.
2	Interview the Assistant Finance Director to inquire about the construction in progress accounts.	Interviewed Assistant Finance Director and documented results.
3	Request the analysis performed on the general ledger accounts related to CIP.	Requested and reviewed analysis. See Opportunity for Improvement 1 .
4	Review "new project" listing.	Reviewed new project listing. Selected 3 new projects and traced project budgets to approved Board Resolutions. No issues noted.
5	Obtain and review supplemental schedule that reconciles the individual transactions processed through each account, for quarters ending March 31, 2011 and June 30, 2011.	Requested and reviewed analysis. See Opportunity for Improvement 1 .
B. Capital Project Accounting Policies and Procedures:		
1	Obtain a copy of the current Capital Project Accounting Policy and Procedures document and newly created forms	Obtained and reviewed.
2	Inquire about periodic reconciliations performed on capital project general ledger accounts. Obtain an understanding of who the process owners or specific reviewers are.	Interviewed personnel and documented process.
C Accounting for Infrastructure Capital Assets:		
1	Request and review the capital assets excel spreadsheet	Requested and reviewed.
	a. Verify that items are entered separately	No issues noted.
	b. Confirm that depreciation is being calculated and recorded for assets purchased in the current year	No issues noted.
	c. Verify that the following are tracked:	
	i. Carrying value	No issues noted.
	ii. Depreciation rate	No issues noted.
	iii. Useful lives	No issues noted.
D Employee Access Rights:		
1	Review a copy of the current report of user access from the Office of Information Systems for access rights to Eden modules.	Reviewed. No issues noted.
E Information Systems Security Policy:		
1	Review copy of the current Information Systems Technologies Policy. Verify that it has been updated to reflect new Eden system.	Reviewed and verified. No issues noted.

PROCEDURES PERFORMED

PROCEDURES	RESULTS
F Information Systems Utilization and Communication:	
1 Inquire about the project accounting module of the Eden accounting system	Interviewed personnel and documented results.
a. Is it being effectively utilized?	No issues noted.
b. Is it being reconciled to the general ledger?	No issues noted.
2 Conduct interviews with finance department	Interviewed finance personnel and documented results.
a. Ask about purchase orders with multiple budget line items	No issues noted.
b. Processing transactions	No issues noted.
3 Inquire about period end closing procedures and obtain any written procedure documents, follow-up with finance department staff that procedures are being followed efficiently.	Interviewed personnel and documented procedures. No issues noted.
G Purchase Orders and Invoices:	
1 Obtain a current copy of the Purchasing Manual	Obtained.
2 Request a list of invoices paid from January 1, 2011 through June 30, 2011. Select a sample of invoices and review for the following	Obtained listing. Sample of 40 invoices selected.
a. That three written quotations were obtained;	Testing performed. No issues noted.
b. Purchases were made through the Purchasing Division;	Testing performed. No issues noted.
c. Authorized purchase order was obtained prior to purchase;	Testing performed. See Opportunity for Improvement 2
d. That purchase was made from the lowest responsible and responsive bidder;	Testing performed. Inquiries made with staff. See Opportunity for Improvement 3 .
e. That purchase had approval by an authorized party.	Testing performed. No issues noted.
3 Request a list of contracts entered into from January 1, 2011 through June 30, 2011. Select a sample of contracts to review to ensure that proper procedures were followed	Obtained listing and selected sample of 20 contracts to test. See Opportunity for Improvement 4 and 5 .
4 Review directives and Payday Post communications issued by the Town Manager	Obtained and reviewed. No issues noted.
5 Inquire with management about the Purchasing Policies and Procedures seminars.	Interviewed personnel and documented seminars held during year. No issues noted.
6 Obtain Town Auditor's report results from the period inspections of the procurement process. Also obtain the random audit results from Town Manager designee.	Obtained results of external audit and interviewed Town personnel. See Opportunity of Improvement 6 .

PROCEDURES PERFORMED

PROCEDURES		RESULTS
H Whistle-blower Policy:		
1	Obtain policy and procedures on the Town's Ethics Hotline. Inquire with staff that they are aware of this and have been given documentation on the Town's Ethics Hotline.	Obtained Town's Ethics policy. Interviewed 3 Town employees noting all were aware of the Ethics Hotline. No issues noted.
I Contracts:		
1	Obtain a listing of contracts and change orders/amendments to contracts. From that list select a sample of contracts that change orders have been completed on.	Obtained listing of contracts and change orders. Crowe selected sample of 20 contracts, 5 of which had change orders completed.
	- Review the contracts for appropriate documentation supporting the scope or contract price change.	Reviewed change order documentation. No issues noted.
2	Review updated Construction Contracts and Project Management Procedures. Verify that quality control reviews on contracts are being completed	Obtained contract file and made inquiries with Town personnel. Crowe noted the quality control reviews on contracts is not fully documented. See Opportunities for Improvement 7, 8, 9, and 12
3	Review Procedures for Processing Change Orders.	Obtained and review procedures. No issues noted.
4	Obtain a listing of change orders and select a sample to:	Obtained listing and selected sample.
	a. Verify that Request for Information (RFI) to the design engineer for evaluation of the change order request and development of estimated costs is included.	Testing performed. No issues noted.
	b. Verify that Change order requests have design engineer changes reflected in the specifications and/or plans, cost estimate, contractor proposal, and use of American Institute of Architect (AIA) form is signed by each party	Testing performed. No issues noted.
	c. Verify that no work was authorized until all appropriate approvals were obtained and a formal change order was issued with approval from the Town Manager (documented through the Eden approval process)	Testing performed. Opportunity for Improvements 2 and 11
5	Interview with staff on the procedures to utilize Construction Manager at Risk contract delivery system	Interviewed Town staff. See Opportunity for Improvement 10.
J Project Files:		
1	Obtain a listing of major construction projects and non-major construction projects.	Obtained listing.
2	Select a sample of projects from each list and review project file to verify that the following are included in the project file	Sample of 20 contracts selected.
	a. A copy of the management review (for major construction projects only), which includes:	
	i. Cost records	For one (1) of the twenty (20) files tested Crowe was unable to see documentation of management review. See Opportunity for Improvement 7.
	ii. Open purchase orders and commitments	For one (1) of the twenty (20) files tested Crowe was unable to see documentation of management review. See Opportunity for Improvement 7.
	iii. Engineering progress reports	For one (1) of the twenty (20) files tested Crowe was unable to see documentation of management review. See Opportunity for Improvement 7.
	iv. Project management status reports	For one (1) of the twenty (20) files tested Crowe was unable to see documentation of management review. See Opportunity for Improvement 7.

PROCEDURES PERFORMED

PROCEDURES	RESULTS
v. Conferences with project engineers and/or independent architects	For one (1) of the twenty (20) files tested Crowe was unable to see documentation of management review. See Opportunity for Improvement 7 .
vi. Correspondence file	For one (1) of the twenty (20) files tested Crowe was unable to see documentation of management review. See Opportunity for Improvement 7 .
vii. Change orders	For one (1) of the twenty (20) files tested Crowe was unable to see documentation of management review. See Opportunity for Improvement 7 .
b. Plans and Specifications	Out of twenty (20) files reviewed, certain documentation was not available. See Opportunity for Improvement 4 for complete details of exceptions.
c. Copies of the Bid Document and contractor response(s)	Out of twenty (20) files reviewed, certain documentation was not available. See Opportunity for Improvement 4 for complete details of exceptions.
d. Engineering progress reports	Out of twenty (20) files reviewed, certain documentation was not available. See Opportunity for Improvement 4 for complete details of exceptions.
e. Project management status reports	Out of twenty (20) files reviewed, certain documentation was not available. See Opportunity for Improvement 4 for complete details of exceptions.
f. Documentation of conferences with project engineers and independent architects	Out of twenty (20) files reviewed, certain documentation was not available. See Opportunity for Improvement 4 for complete details of exceptions.
g. Copies of all correspondence relating to the project	Out of twenty (20) files reviewed, certain documentation was not available. See Opportunity for Improvement 4 for complete details of exceptions.
h. Complete cost records, including copies of invoices	Out of twenty (20) files reviewed, certain documentation was not available. See Opportunity for Improvement 4 for complete details of exceptions.
i. Change orders with supporting documents and revised plans	Out of twenty (20) files reviewed, certain documentation was not available. See Opportunity for Improvement 4 for complete details of exceptions.
j. Project check lists	Out of twenty (20) files reviewed, certain documentation was not available. See Opportunity for Improvement 4 for complete details of exceptions.
k. Competitive bidding was properly executed in accordance with policy.	Out of twenty (20) files reviewed, certain documentation was not available. See Opportunity for Improvement 4 for complete details of exceptions.
l. Fair price estimates were determined prior to bid openings.	Out of twenty (20) files reviewed, certain documentation was not available. See Opportunity for Improvement 4 for complete details of exceptions.
m. Contracts were administered by qualified engineers	Out of twenty (20) files reviewed, certain documentation was not available. See Opportunity for Improvement 4 for complete details of exceptions.
n. Projects were monitored to ensure compliance with specifications and budgets	Out of twenty (20) files reviewed, certain documentation was not available. See Opportunity for Improvement 4 for complete details of exceptions.
o. Site visits were performed as required	Out of twenty (20) files reviewed, certain documentation was not available. See Opportunity for Improvement 4 for complete details of exceptions.
p. Process used to track and resolve problems and violations	Out of twenty (20) files reviewed, certain documentation was not available. See Opportunity for Improvement 4 for complete details of exceptions.
q. Approval of change orders prior to processing	Out of twenty (20) files reviewed, certain documentation was not available. See Opportunity for Improvement 4 for complete details of exceptions.
r. Administrator's approval of the billing requisition/invoice	Out of twenty (20) files reviewed, certain documentation was not available. See Opportunity for Improvement 4 for complete details of exceptions.
K Payment Requests:	
1 Obtain a listing of invoices paid from January 1, 2011 through June 30, 2011. Select a sample of invoices and review for:	Obtained listing of invoice paid. Selected sample of 40 invoices.
a. Administrator's approval on billing requisition	Testing performed. No issues noted.

PROCEDURES PERFORMED

PROCEDURES	RESULTS
b. Documentation supporting the approval from a member of Public Works department, evidencing that the percentage of completion was reasonable at the date of the requisition.	Testing performed. See Opportunity for Improvement 11 .
c. Completed AIA document	Testing performed. No issues noted.
d. Supporting schedule of values which correlates to the initial contract with any additions/reductions for approved change orders	Testing performed. See Opportunity for Improvement 11 .
e. Standardized payment request document for consultants – detailing work completed and agreement with the Professional Services Agreement and the Project Proposal upon which the Scope of Work was based.	Testing performed. No issues noted.
f. Approval of invoice by Town Project Manager and appropriate Town personnel	Testing performed. No issues noted.
L Controls Over the Receipt of Supplies and Materials:	
1 Interview Purchasing Agent/Public Works inquiring about the internal controls of the receipt of supplies and inventory into the warehouse related to Construction Projects	Interviews performed. No issues noted.
2 Determine how the receipt of materials and supplies are tracked and whether there are inventories maintained.	Interviews performed. No issues noted.
M Vendor Selection Committees:	
1 Obtain and review written policy on Vendor Selection Committees	Obtained and reviewed policy. See Opportunity for Improvement 5 .
2 Verify that members of the selection committees are chosen based on both background/experience/expertise and as to areas of authority/responsibility	Obtained and reviewed policy. See Opportunity for Improvement 5 .

OBSERVATIONS AND RECOMMENDATIONS

Overall, the Town's Construction Project bidding and accounting procedures have strengthened their internal control measures. However, the following observations were noted during our audit procedures:

1. OPPORTUNITY FOR IMPROVEMENT 1 – CIP RECONCILIATION DOCUMENTATION SHOULD BE RETAINED: LOW RISK

We observed that the Town had previously implemented a quarterly reconciliation of their construction in process (CIP) accounts. In June 2011, the Town moved to a monthly reconciliation process. Once completed, the reconciliation was reviewed but no documentation of this review was retained.

Recommendation:

We recommend that the Town maintain supporting documentation for each monthly CIP reconciliation performed, including documentation of review. Per discussions with the Town and review of documentation, these procedures have been implemented during July 2011.

Management Response / Action Plan:

As noted in the recommendation, the Accounting Assistant is now maintaining copies of emails that verify that the CIP reconciliation has been reviewed by the Assistant Finance Director. This process was implemented in July 2011.

Individual(s) Responsible:

Jane Struder, Finance Director; Cheryl Somers, Assistant Finance Director; Mary McQuaig, Accounting Assistant

Due Date: Completed.

2. OPPORTUNITY FOR IMPROVEMENT 2 – NOTICES TO PROCEED: MEDIUM RISK

Authorization to commence work is at times issued verbally, leaving no verifiable evidence as to when the order was issued.

Recommendation:

In that contracts may specify a fixed completion date, which if not met may result in substantial penalties or that retentions and ultimate realization can be related to the fulfillment of such contract guarantees, we recommend that notices to commence work for such agreements be issued in writing or in such manner that there is verifiable evidence that could be retained on the contract file.

OBSERVATIONS AND RECOMMENDATIONS

Management Response / Action Plan:

A written Notice to Proceed will be required for all capitalized construction projects. The following language will be included in the new Capitalized Construction Management Administrative Procedure, which has been drafted, reviewed by Crowe, and is near completion. *“The contractor shall not commence work on the project until the written Notice to Proceed has been issued by the Public Works Department. The Notice to Proceed shall include the official commencement date, the completion date, and contact information for the assigned project engineer.”*

Please note that the new Capitalized Construction Management Administrative Procedure will replace Procedure No. 1-02-7, which was one of the documents referenced during the audit.

Individual(s) Responsible:

Jay Boodheshwar, Director of Recreation and Special Projects

Due Date: October 14, 2011

3. OPPORTUNITY FOR IMPROVEMENT 3 – PRODUCT STANDARDIZATION: MEDIUM RISK

Per discussion with Town staff and review of contract file, we observed that documentation to support a product’s standardization is not being maintained by the Town. Designation of a product standardization is based on the product’s service history, quality and performance reviews, comparables and engineering recommendation.

Recommendation:

We recommend that specifications, quality and performance reviews completed in support of all new designations be documented and maintained in accordance with the Town’s policies. Set periodic reviews of previous designations should also be implemented and evidence of such review retained to show compliance.

Management Response / Action Plan:

The Purchasing Manual update, which has been drafted, reviewed by Crowe, and is near completion, will include the following language in Section 6-2. - Standardization. *“Standardization may occur when a process has been completed based on defining and applying uniform specifications such as quality, design and performance. The standardization process shall be documented and maintained by the Purchasing Division; including details to support the standardization designation. Thereafter, purchase of standardized products may be negotiated by the Purchasing Agent, on a sole source basis. Periodic reviews should be completed by the Public Works Department on previous designations to ensure standardization requirements are being met. Said reviews should be completed at a minimum of every two years and documentation should be maintained by the Purchasing Division to show compliance. Levels of purchasing authority shall be followed to procure standardized products.”*

OBSERVATIONS AND RECOMMENDATIONS

Individual(s) Responsible:

Jay Boodheshwar, Director of Recreation and Special Projects

Due Date: October 14, 2011

4. OPPORTUNITY FOR IMPROVEMENT 4 – INCOMPLETE CONTRACT FILE DOCUMENTATION: MEDIUM RISK

During Crowe's testing of twenty (20) construction contract files, we identified the following file documentation exceptions for items required by the Town's Purchasing Manual and the Town's Construction Contacts and Project Management Procedures. The following issues related to twenty of the twenty contract files tested.

- For two (2) of the twenty (20) contract files tested, the department was not able to provide documentation of fair pricing estimates,
- For one (1) of the twenty (20) contract files tested, documentation of the weekly engineering progress reports were not current,
- For twelve (12) of the twenty (20) contract files tested, all contract related correspondence was not included in the project file,
- For one (1) of the twenty (20) contract files tested, the department was not able to provide a copy of the project reference sheet.

Recommendation:

We recommend the Department follow the current policies related to construction contracts and project Management procedures as it relates to contract file documentation. It is important that all contracts are maintained in a consistent manner to ensure that documentation is available and complete, should questions arise by internal or external parties.

Management Response / Action Plan:

Staff will continue to improve the consistency of our documentation. File deficiencies have been brought to the attention of the individual project engineers for correction. Information Systems has developed a practical method of transferring email correspondence to the electronic files. Project Engineers will transfer future correspondence to the electronic files on a regular basis. Some research will be necessary to locate and transfer files that have previously been automatically archived.

Individual(s) Responsible:

Paul Brazil, Director of Public Works

Due Date: Transfer of active files has been completed. Archived files will be transferred by October 31, 2011.

OBSERVATIONS AND RECOMMENDATIONS

5. OPPORTUNITY FOR IMPROVEMENT 5 – VENDOR SELECTION COMMITTEE & PROCESS: HIGH RISK

The vendor selection process does not require that prior to engagement, background checks be completed on entities, their officers or key employees to ensure immediate family members, or others do not hold interests in entities that may present a conflict to the Town.

Recommendation:

Such review should be strongly considered for revision to the Town's Purchasing Manual as part of their vendor acceptance or retention procedures. The review may occur shortly after or in connection with the completion of a previous job where contractor retention is required. Implementation of such policy will help determine if there are any integrity issues that may affect the Town's willingness to engage the service provider, and help ensure there are no conflicts of interest.

Management Response / Action Plan:

The Purchasing Manual update, which has been drafted, reviewed by Crowe, and is near completion, addresses Selection Committees in Section 6-14.4. and includes the following language: *"All committee members will receive participation guidelines upon approval of the selection committee. Members will also be required to confirm that they have no conflicts of interest and do not hold interests in entities that may present a conflict to the Town by signing an acknowledgement form. In addition to the requirement that potential vendors disclose any conflicts of interest they may have with the Town, background checks may be employed to further screen vendors to ensure that they do not hold interests in entities that may present a conflict with the Town."*

Staff will utilize a protocol to be provided by Crowe Horwath for guidance in determining when and how to conduct the supplemental background screening of potential vendors.

Individual(s) Responsible:

Jay Boodheshwar, Director of Recreation and Special Projects

Due Date: October 14, 2011

6. OPPORTUNITY FOR IMPROVEMENT 6 – PERIODIC INTERNAL INSPECTIONS OF THE PROCUREMENT PROCESS: HIGH RISK

Previously we had recommended that the Town require periodic inspections of key processes and procedures by parties independent of the processing source, particularly in relation to the purchase orders and invoices. The Town responded that the auditors would perform periodic inspections and that a designee of the Town Manager would conduct random audits from time to time. Per discussions with Town personnel, we were unable to determine if any random audits had been conducted by a designee of the Town Manager.

OBSERVATIONS AND RECOMMENDATIONS

Recommendation:

We recommend the Town select a designee of the Town Manager and create a schedule of when the random procurement audits should take place. We also recommend that the random audits performed by the designee be documented in a memo so that the Town will be able to track the issues or progress noted by these inspections.

Management Response / Action Plan:

Independent auditors have conducted 3 thorough reviews of Town contracting practices in the past 17 months (Crowe in the summer of 2010; Nowlen, Holt, and Miner in the winter and spring of 2011; and Crowe for this report in the summer of 2011). Occasional additional independent audit procedures will be completed in the future. In addition, the Town will now commence the random staff audits recommended above using a protocol to be provided by Crowe and on a frequency that has been approved by Crowe.

Individual(s) Responsible:

Peter B. Elwell, Town Manager

Due Date: Commence by October 31, 2011, and continue periodically thereafter.

7. OPPORTUNITY FOR IMPROVEMENT 7 – QUALITY CONTROL REVIEW OF CONTRACTS : LOW RISK

Previously we recommended that Management should review and regularly evaluate the status of the total estimated costs and status on contracts in progress to provide information that would enable Management to take corrective action, where applicable, to effectively manage contracts. Management's review should be comprehensive and documented in the individual project's files. The Town responded that Management reviews would be documented in each individual project file.

- In our current year testing of twenty (20) project files, we noted one (1) file that did not include documentation of Management's review of the file.

Recommendation:

We recommend that the Town continue to work towards their goal to have a documented review in every project file using the "Project Reference Sheet" that was created for this purpose.

Management Response / Action Plan:

All files have been reviewed. The Director of Public Works will ensure that all files include proper documentation that such review has been completed.

Individual(s) Responsible:

Paul Brazil, Director of Public Works

Due Date: Completed.

OBSERVATIONS AND RECOMMENDATIONS

8. OPPORTUNITY FOR IMPROVEMENT – CONTRACT NEGOTIATIONS: MEDIUM RISK

Through interviews of Town personnel, we noted that contracts are negotiated without the participation of the Purchasing staff.

Recommendation:

We recommend that the Purchasing staff be included in all contract negotiations as required by Section 11-3 of the purchasing manual.

Management Response / Action Plan:

In addition to the requirement that the Purchasing staff be involved in the negotiation and recommendation of contracts, as described in Section 11-3 of the Purchasing Manual, the new Capitalized Construction Management Administrative Procedure will require that the Director or Public Works, Purchasing Agent, and Town Attorney approve all contracts before they are executed.

Individual(s) Responsible:

Jay Boodheshwar, Director of Recreation and Special Projects

Due Date: October 14, 2011

9. OPPORTUNITY FOR IMPROVEMENT 9 - DIRECT OWNER PURCHASES: MEDIUM RISK

Through interviews of Town personnel, we noted that Contracts are not negotiated so that the Town could benefit from its tax exempt status as it relates to direct owner purchases.

Recommendation:

According to the Town's Purchasing Manual, section 1-2.3.2, the Town's tax exemption information should be utilized in all purchase transactions of goods to ensure that taxes are not charged to the Town. Given the potential cost savings that this may present, we recommend that implementation of such policy be elevated on the Town's current fiscal year agenda.

Management Response / Action Plan:

Section 1-2.3.2 addresses the Town's sales tax exemption for purchasing of goods and services. It requires staff to make sure that our exemption is used each and every time a purchase is made. Regarding taking advantage of the tax exemption for direct owner purchases related to larger contracts, such as construction projects, the Town has previously employed this approach with long lead-time equipment and supplies. Staff will continue to look for opportunities to utilize this approach for future projects, regardless of size, and will work with the Purchasing Agent to accomplish this.

OBSERVATIONS AND RECOMMENDATIONS

Individual(s) Responsible: All Department Directors and Lynda Venne, Purchasing Agent

Due Date: Ongoing

10. OPPORTUNITY FOR IMPROVEMENT 10 – CONSTRUCTION MANAGER AT RISK : HIGH RISK

Through discussions with the Town personnel we learned that the Town has been utilizing a Construction Manager at Risk (CMR) method of contracting for major construction projects, including non-building projects.

By using a CMR contract, much of the risk that the Town would normally have, would be transferred to the construction manager. Another possible benefit of this type of contract, if used properly, is that a Guaranteed Maximum Price (GMP) is set for a particular project. With the GMP being set, costs that arise over this would be the responsibility of the CMR. To go along with this increased risk taken on by the construction manager, there is a mark-up in the GMP for these contingencies that might arise for the construction manager. In practice, if a CMR arrangement is used, the Construction Manager is normally engaged early in the process to manage the design process.

The CMR will contract out the work and will manage the projects instead of this function being performed by the Town. Also, we noted that the Town's policies and procedures related to CMR contracts do not address a number of items, including, but not limited to, the following:

- Requiring CMR vendors to competitively bid subcontractor work.
- Requiring CMR vendors to supply documentation to the Town of subcontractor bids.
- Situations when CMR is acceptable and the approval process for using a CMR arrangement.

Recommendation:

We recommend the Town review and revise their Policies and Procedures related to CMR contracts to ensure that the Town's procurement policies and procedures requirements are properly executed and documented within these files. The Town should ensure that the CMR is used in a manner that benefits the Town. We recommend that the Town develop documented procedures that include procedures to determine whether construction projects utilize a CMR arrangement, or are competitively bid. For example, the Town should document the types of projects and the circumstances when a CMR arrangement would be advantageous.

Management Response / Action Plan:

The Purchasing Manual update, which has been drafted, reviewed by Crowe, and is near completion, will include the following language in Section 11-5.4. – Construction Manager at Risk (CMR):

OBSERVATIONS AND RECOMMENDATIONS

"The selection of the successful contractor under this process, known as the CMR, is based upon a competitive qualifications procedure, and is allowed under Florida Statute Section 255.20.

The Town may authorize the use of competitive sealed proposals for contracts for construction manager at risk. This method is intended to permit the procurement of a construction manager at-risk to perform the functions that a construction manager may provide to a public owner, including constructability review, schedule and cost review, and the construction review function prior to the completion of the design of the project by the design consultant.

Ideally, the CMR will not self perform any construction work under this contract and will be secured prior to the commencement of the design process. The Owner reserves the right to allow the CMR to self perform work upon prior written notification and consent of the Town Manager or designee.

The CMR contract is issued with a Pre-Construction Phase Services scope and fee and will be amended once the GMP is negotiated to include the Construction Phase Services scope and fee. The greatest benefit is achieved when the contractor is brought into the design process at the onset. The benefit of this construction method is the contractor's input into the design resulting in a better scope of work and the expectation that fewer change orders and claims will occur due to design errors.

The Pre-Construction contract will require the following, among other things:

- 1. Develop a project manual, which includes, but isn't limited to, issues such as project goals, project approach, work plan, communication/coordination procedures, emergency contacts, etc.*
- 2. Pre-qualifying subcontractors*
- 3. Competitively bidding subcontractor work*
- 4. Provide documentation of pre-qualification and bidding process*
- 5. Prepare GMP*

A GMP amendment will be executed with the Construction Phase Services contract, which will define the CMR's total Guaranteed Maximum Price (GMP) and time of performance and serve as the authorization to proceed with Construction Phase Services. The GMP will be built upon receipt of bids from subcontractors and material suppliers, which includes its fee, general conditions, any contingencies, and any allowances. The CMR is responsible for directing and coordinating the entire project including bidding of all subcontract requirements. The GMP is the most the CMR can receive for constructing the scope of work negotiated. If the cost for the project comes in less than the GMP, the balance of the GMP reverts back to the owner [the Town]. On the other hand, unless there is a scope change approved by the owner [the Town], any cost overruns are to the CMR's account."

Individual(s) Responsible:

Jay Boodheshwar, Director of Recreation and Special Projects

Due Date: October 14, 2011

OBSERVATIONS AND RECOMMENDATIONS

11. OPPORTUNITY FOR IMPROVEMENT 11 – PAYMENT REQUEST DOCUMENTATION AND REVIEW : MEDIUM RISK

- During our review of forty (40) construction invoice payments, we noted three (3) invoices did not contain documentation of how the invoice price related back to the approved contract.
- Additionally nineteen (19) of the invoices tested did not contain any documentation that the percentage of contract fee billed was reasonable in comparison to the percentage of completion of the work on the contract. The lack of substantive documentation as to the percentage of completion on open projects increases the likelihood that payments will be made prior to the work being performed and the Town losing leverage on the contractor should there be performance issues on the project.

Recommendation:

We recommend the Town follow implemented policies on invoice payment review which include verifying that invoices are supported by a schedule of values which correlates to the initial contract with any additions/reductions for approved change orders and that each line item is checked by the project manager and verified for completion of work and delivery of materials. Project managers should utilize the comment space provided in the financial system that allows for notes to be added to the approval noting the appropriateness of the billing in relation to completed work.

Management Response / Action Plan:

All payment requests are scrutinized for accuracy and reasonableness compared to work performed. Documentation of that evaluation has been insufficient. Project Engineers have been instructed to use the comments section in our financial software (Eden) to document that review.

Individual(s) Responsible:

Paul Brazil, Director of Public Works

Due Date: Completed