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**Office of the Inspector General
Miami-Dade County**

Cover Memorandum

To: Mr. George Burgess, County Manager

Received by Date

From: Christopher Mazzella, Inspector General

Date: August 3, 2004

Re: *OIG FINAL AUDIT REPORT (2 of 3) of WASD Contract S-718, Installation or Repair of Force Mains, Water Mains and Associated Systems for a Two-Year Period with County Option to Renew for Two Additional Years on a Yearly Basis*

Attached please find the Office of the Inspector General's (OIG) final audit report regarding the above-captioned. Appended and incorporated to this report is the Water and Sewer Department's (WASD) response to the draft version of this report. This audit report highlights one audit finding relating to the lack of documentation establishing an authoritative work completion date. This date is essential for proper work order close-out, and, if necessary, for the granting of time extensions or the assessing of liquidated damages. This finding is reaffirmed in the final report and no changes have been made to the report.

WASD's complete response, including its exhibits, is attached. While not specifically agreeing or disagreeing with the OIG's recommendation, WASD does disagree with the finding itself. This disagreement is addressed in the OIG's Rejoinder, which begins on page 7 of the report. And while there may be disagreement over the finding itself, WASD clearly recognizes that "[a] key element in determining whether times extensions should be granted or liquidated damages assessed is the establishment of a work completion date." More importantly, the OIG is encouraged by WASD's Improvement Initiatives detailed on page 3 of its response. Especially noteworthy are the recent measures establishing a written process in determining an authoritative work completion date and the training of staff to properly document these procedures. With WASD's recognition that its General Covenants and Conditions (GCCs) could be improved and are in the process of being updated, the OIG is confident that clearer procedures will be established to determine a more definable point in time during the life of a project that may be used to justify time extensions or to determine a contractor's liability for liquidated damages. With respect to blanket contracts, the OIG reaffirms this principle.

As part of our on-going process to monitor the implementation of OIG audit recommendations, we would appreciate an update in 90 days (11/05/04) as to the status of the eight enumerated steps identified on page 3 of WASD's response, in particular nos. 1, 3, 6, and 7.

The OIG appreciates the cooperation and assistance shown to OIG staff during this phase of our audit. The final report relating to Contract S-718 will be forthcoming.

cc: Honorable Chairperson Barbara Carey-Schuler, Ed.D.
Honorable Katy Sorenson, Vice Chairperson
Honorable Natacha Seijas, Chair, Govt. Operations & Environment Committee
Mr. Charles Anderson, Commission Auditor
Mr. Pedro Hernandez, P.E., Assistant County Manager
Mr. William Brant, P.E., Director, Water and Sewer Department
Mr. Roger Hernstadt, Director, Office of Capital Improvements Const. Coordination
Ms. Cathy Jackson, Director, Audit and Management Services Department

Clerk of the Board (Copy Filed)

**OFFICE OF THE INSPECTOR GENERAL
FINAL AUDIT REPORT**

Miami-Dade Water and Sewer Department

*Installation or Repair of Force Mains, Water Mains and Associated Systems for a Two-Year Period with
County Option to Renew for Two Additional Years on a Yearly Basis, Contract S-718*

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INTRODUCTION

The Miami-Dade County Office of the Inspector General (OIG) audited the Miami-Dade Water and Sewer Department (WASD) contract titled *Installation or Repair of Force Mains, Water Mains and Associated Systems for a Two-Year Period with County Option to Renew for Two Additional Years on a Yearly Basis, Contract S-718*.

This report is the second in a series of three (3) audit reports on Contract S-718. Specifically, this second report addresses documenting the work completion date which is essential in determining whether liquidated damages and/or time extensions are applicable. This report only discusses this one finding.

In report one, the OIG addressed WASD procedures for work order pre-bid estimates, work order bid proposals and awards, contract documentation and the reporting of final contract expended amounts. We reported that WASD's contract administration and payment processes appear to be deficient in several areas, such as those related to its poor documentation and lack of adequate contract oversight. There were four (4) findings with accompanying recommendations. In general, the OIG recommended that WASD establish formal procedures to ensure that both the work process and the work product are well documented and that contract results, particularly amounts expended, are reported accurately. Report 1 was finalized and issued on June 30, 2003.

WASD's response to the draft version of this report (the second report) is appended in full, including its attachments. The OIG's rejoinder to the response begins on page 7.

Report 3, which is forthcoming, will address contract payment processing documentation, change orders, WASD's compliance with Administrative Order (A.O.) 3-22, *CSBE Program for the Purchase of Construction Services* and A.O. 3-24, *Responsible Wages and Benefits for County Construction Contracts* and contract monitoring by the Department of Business Development (DBD).

GOVERNING AUTHORITY

In accordance with Section 2-1076 of the Code of Miami-Dade County, the OIG has the authority to review past, present, and proposed County and Public Health Trust programs, accounts, records, contracts and transactions. This authority includes conducting contract audits, regardless of whether the contract contains an OIG random audit fee.

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*Installation or Repair of Force Mains, Water Mains and Associated Systems for a Two-Year Period with
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TERMS USED IN THIS REPORT

Miami-Dade County (County)	Construction Contracts Section (CCS)
Office of the Inspector General (OIG)	Construction Management Section (CMS)
Water and Sewer Department (WASD)	Contract Review Unit (CRU)
Specifications Unit (SU)	Engineer/Contract Manager/Inspector (CM)
Utility Design Section (UDS)	Community Small Business Enterprise (CSBE)

For purposes of brevity, the background section from Report 1 is not repeated herein.

SCOPE OF REVIEW

We reviewed contract documentation for those work orders awarded under S-718, during the period of June 2000 through December 2003. The OIG auditors interviewed WASD personnel and examined the work order files maintained by WASD's Construction Contracts Section (CCS), Construction Management Section (CMS) and the Contract Review Unit (CRU), as well as reviewed the contract's GCC. For Report 2 of 3, the OIG analyzed all seventeen (17) work orders that WASD awarded during the period from June 2002 through December 2003. Fourteen (14) of the work orders were closed out as completed projects by December 31, 2003. The below table is a listing of all 17 work orders and their dollar amounts.

TABLE 1 – Work Orders Awarded

Work Orders Awarded		Contractor's Name	Work Order Award Amount
1	S-718-1 A	Rockwell General Development	\$330,997
2	S-718-1 B	Rockwell General Development	\$694,250
3	S-718-2 A	Stone Paving	\$375,727
4	S-718-2 B	Stone Paving	\$325,000
5	S-718-4 A	Southeastern Engineering Contractors	\$277,144
6	S-718-4 B	Southeastern Engineering Contractors	\$948,284
7	S-718-5 A	Metro Equipment Service	\$679,780
8	S-718-5 B	Metro Equipment Service	\$346,398
9	S-718-5 C	Metro Equipment Service	\$55,000
10	S-718-7 A	Fountain Engineering	\$826,354
11	S-718-8 A	Boys Engineering II, Inc.	\$996,709
12	S-718-8 B	Boys Engineering II, Inc.	\$1,256,737

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Work Orders Awarded		Contractor's Name	Work Order Award Amount
13	S-718-8 C	Boys Engineering II, Inc.	\$241,200
14	S-718-8 D	Boys Engineering II, Inc.	\$114,700
15	S-718-9 A	Lanzo Construction	\$952,486
16	S-718-10 A	Ric-Man International	\$1,027,674
17	S-718-10 B	Ric-Man International	\$264,779
TOTAL AWARDED AMOUNT			\$9,713,219

FINDING AND RECOMMENDATION(S)

FINDING No. 1 **Project files for the work orders issued pursuant to the S-718 contract do not contain records establishing and documenting authoritative work completion dates, which are essential project records for work order close-out and, if necessary, for the granting of time extensions or the assessing of liquidated damages**

WASD Contract S-718, in its General Covenants and Conditions (GCC), Section 11, Paragraph 3, "Construction Schedule, Time of Performance and Liquidated Damages," states in whole:

"Since time is of the essence in each Project of this Contract, in the event that the work to be done hereunder is not completed within the times hereinbefore specified (and such additional extension of time as the Engineer may have granted), the County will retain from the compensation otherwise to be paid to the Contractor, including partial payments as defined in Section 26 herein, the sum of \$1000.00 for each day thereafter (Sundays and holidays included) that the work remains uncompleted, which sum shall represent the actual damages which the County will have sustained per day by failure of the Contractor to complete the work within said specified times, it being agreed that said sum is not a penalty but is the stipulated amount of damage sustained by the County in the event of such default by the Contractor." (OIG emphasis)

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Unstated in the contract, but a clear requirement nonetheless, is that WASD should prepare authoritative records establishing and documenting (1) that the contractor completed the work and (2) when the contractor completed the work. WASD files contain records that the work has been completed; however, there are no records of when the contractor completed the work. This is a critical record that evidences the date that the contractor completed the contract work and one that can be compared against the authorized completion date. Based on this comparison, WASD may decide to grant an authorized time extension or to assess liquidated damages or, perhaps, to initiate both actions.

A key element of this determination is the work completion date—a readily definable and measurable date, based on the duration of the contractor’s period of performance. However, WASD files for the reviewed work orders did not document the respective work completion dates. Accordingly and when warranted by the circumstances, WASD was precluded from making an authoritative determination whether liquidated damages should be assessed against the contractor or whether an authorized time extension should be granted. Even for the work orders where WASD granted time extensions, the files did not contain a record showing that the work was completed by the revised completion dates. Moreover, WASD also does not have internal policies, procedures or practices that require its personnel prepare such a record.

The OIG auditors interviewed WASD personnel and examined the work order files maintained by WASD’s Construction Contracts Section (CCS), Construction Management Section (CMS) and the Contract Review Unit (CRU), as well as reviewed the contract’s GCC. The OIG analyzed all seventeen (17) work orders that WASD awarded during the period from June 2002 through December 2003. Fourteen (14) of the work orders were closed out as completed projects by December 31, 2003. (See TABLE 1, Page 4)

This deficiency is an issue because many of the fourteen (14) completed work orders appear to have been completed “late” to one degree or another. WASD approved authorized time extensions for nine (9) of the work orders (ranging from 1 to 334 days). However, as mentioned earlier, the files for these nine (9) work orders did not document that the contract work was completed within the extended time periods. For the other five (5) work orders, the project files did not contain any documentation showing that a time extension had been granted.

WASD did not assess liquidated damages against any of the contractors on any of the fourteen (14) completed work orders regardless of whether time extensions were granted. Moreover, the OIG auditors could neither determine whether it may have been appropriate to assess liquidated damages nor whether the extended completion dates were accurate

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because there were no records of authoritative work completion dates.

WASD does prepare an authoritative contract document “accepting” the project known as a *Certificate of Final Acceptance*. As explained before in Report 1, the *Certificate of Final Acceptance* is a document prepared by the Contract Management Section indicating WASD’s acceptance of the completed project and project conformity with contract specifications and work order requirements. At this time, final payment is made, final retainage release occurs, and other project administrative record keeping is finalized. This document is signed-off by senior WASD officials and it is the authoritative project close-out document. This is not the same document that would necessarily record the date that the contractor completed the project work.

These certificates, however, only document the end of the close-out processes for the completed work orders; this is not the same as documenting work completion necessary for determining whether there are assessable liquidated damages and, if so, the dollar amount of such damages. In addition, these documents often are prepared long after a project’s contract completion date—on average, over 205 days after this date (ranging from 0 to 617 days). (See TABLE 1, Page 4, Column A)

Another part of the GCC is Paragraph 12, Section 26 that states, in part “the date of the acceptance of completion of the Project work shall be the final payment date.” However, our review of these dates shows that they occur, on average, 304 days after the stated contract completion dates. In one case (Work Order No. S-718-4 B), the final payment date was 554 days after the contract completion date. (See TABLE 1, Page 4, Column B)

In addition, the final payment dates often were over 3 months after the *Certificate of Final Acceptance* dates, but in one case (Work Order No. S-718-8 C), the final payment date occurred 334 days later. (See TABLE 1, Page 4, Column C)

As illustrated above, neither the *Certificate of Final Acceptance* date nor the final payment date is helpful in determining an authoritative work completion date. However, a third date (moment in time), as described in the contract’s GCC Section 26, Paragraph 11 (below), could be used to initiate the work completion documentation process. This date would be helpful in identifying that point in which a project is complete for the purposes of granting time extensions or assessing liquidated damages.

“As soon as the Engineer is notified of the completion of the work and can assure himself by tests, inspection or otherwise, that all of the provisions of the Contract have been carried out to his satisfaction, he will make a final estimate of the value of all work done and will deduct

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therefrom all previous payments which have been made.
The amount of the estimate, less any charges or damages
herein provided for, will be paid.” (OIG emphasis)

This contract-required notification and inspection process is not well documented in WASD project files. The GCC does not go further in specifying how such notification is to take place (i.e., written or oral notices) or the document that is to be generated to record such notification. OIG auditors did not find any contractor-supplied notices or WASD-generated records documenting that it received such notices in any of the project files. Also, OIG auditors did not find records that would have been prepared by the various WASD engineers/CMs responsible for project oversight documenting their determinations that the contractors had completed the project work and stating the dates that the work was completed. A part of this record would be the engineer/CM recorded statement, if merited by the circumstances, that assessing liquidated damages or granting time extensions or both are possible contract actions remaining to be taken prior to work order close-out.

WASD has no good basis for granting time extensions to or justifying liquidate damages against S-718 contractors without having prepared authoritative records of the contractors' completion of the contract work. Furthermore, it is difficult to imagine how WASD can formally close-out any work order without some definitive record that the work was completed within the contract period of performance. This is an important record that should be affirmatively documented and not left to deductive reasoning based upon the fact that a final payment was made.

Moreover, WASD should not apply lesser documentation standards to work orders issued under this blanket contract that are processed in-house by WASD. “Lesser” than those standards that it would apply to its larger single project contracts and change orders/time extension requests that it has to submit to the Board of County Commissioners.

Recommendation No.1

WASD should revise its standard GCC, as it specifically pertains to blanket contracts, such as the S-718, and establish new administrative and field policies, procedures and practices, which clearly establish a more definable point in time during the life of a project that may be used to justify time extensions or to determine a contractor's liability for liquidated damages. These policies and procedures should clearly outline the documentation requirements necessary to memorialize this event.

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WASD's Response (appended in full).

WASD does not specifically agree or disagree with the OIG's recommendation, although it does disagree with the audit finding.

OIG Rejoinder

First, WASD states, "The audit erroneously assumed that the date of the Certificate of Final Acceptance was the date to be used for substantial completion." Not true. The OIG did not use the term "substantial completion" at all, in its report. The OIG stated that this certificate was the WASD-prepared document "indicating WASD's acceptance of the completed project and project's conformity with contract specifications and work order requirements." (See page 5 of draft and final report.)

WASD continues by stating, "The OIG audit mistakenly identified the Certificate of Final Acceptance Date as the determining date for contract completion and for the assessment of liquidated damages." Again, this is not true. The OIG clearly stated that: "These certificates, however, only document the end of the close-out processes for the completed work orders; this is not the same as documenting work completion necessary for determining whether there are assessable liquidated damages and, if so, the dollar amount of such damages. In addition, these documents often are prepared long after a project's completion date . . ." (See page 5 of the draft and final report.)

Secondly, WASD has belatedly decided to designate as the date of construction completion something that it has labeled as the date of beneficial and useful occupancy. WASD, for purposes of determining whether there should be assessable liquidated damages under any of the contract's work orders, states "internal correspondence and documentation" will suffice as the authoritative record of this event. WASD adds, "The documents establishing beneficial use were available in project files." The OIG concurs with this statement but points out that WASD, at the time, did not use or recognize such records as authoritative records documenting that the work was completed. Now, after applying this new standard, WASD admits that it should have granted time extensions to four (4) work orders.

Lastly, WASD states, "The report also faults the WASD for final payments occurring after the date of acceptance of the completion of the project." The OIG does not attribute any fault whatsoever to WASD for making such payments. The OIG reports the fact that the WASD often makes a final payment long after the authorized contract completion date. Thus, in our opinion, the final payment date is a poor choice to use in determining an authoritative work completion date.

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The OIG reaffirms that WASD should apply the same standards used for documenting change orders/time extension requests when submitting such documents to the Board of County Commissioners and not follow lesser standards when preparing such documents for in-house processing only, as often in the case of blanket contracts.

The OIG also reaffirms that WASD should make clear who should prepare what records and when such records should be completed indicating that the contractor has finished its work and, if necessary, for purposes of determining the need for time extensions or assessing liquidated damages. As recently provided by the department to the OIG, WASD's recently revised (Rev. 7/23/04) "Finalization of Contract Checklist" now contains a column to record the completion date of each item. Furthermore, WASD has included the latest draft of its GCCs reflecting the updates prepared thus far. As recommended by the OIG, WASD should update its GCCs, policies, procedures and other in-house procedural documents reflecting its decision on these issues, especially how it relates to blanket contracts, which is the subject of this audit series.

OFFICE OF THE INSPECTOR GENERAL

DRAFT AUDIT REPORT

Miami-Dade Water and Sewer Department

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TABLE 1 - Schedule of S-718 Work Orders

Work Order No.	Notice to Proceed Date	Completion Time Per Work Order	Contractual Completion Date	Authorized Extension of Completion Date	Revised Contract Completion Date	Certificate of Final Acceptance (CFA) Date	Final Payment Date	Column A	Column B	Column C
								CFA Date Past Contract Completion Date	Final Payment Date Past Contract Completion Date	Final Payment Date Past CFA Date
S-718-1 A	10/11/00	180	04/08/01	3	04/11/01	11/29/02	12/19/02	597	617	20
S-718-5 A	10/16/00	120	02/12/01	1	02/13/01	05/25/01	07/05/01	101	142	41
S-718-4 A	11/28/00	180	05/26/01	21	06/16/01	05/07/02	06/27/02	325	376	51
S-718-1 B	12/11/00	75	02/23/01	23	03/18/01	11/25/02	12/19/02	617	641	24
S-718-8 A	02/05/01	120	06/04/01	330	04/30/02	06/11/02	07/18/02	42	79	37
S-718-5 B	02/12/01	120	06/11/01	-	06/11/01	02/08/02	04/04/02	242	297	55
S-718-8 B	02/13/01	120	06/12/01	334	05/12/02	06/11/02	07/18/02	30	67	37
S-718-4 B	04/18/01	120	08/15/01	124	12/17/01	12/17/02	06/24/03	365	554	189
S-718-2 A	04/19/01	120	08/16/01	-	08/16/01	02/04/02	05/19/02	172	276	104
S-718-8 C	06/18/01	180	12/14/01	181	06/13/02	06/13/02	05/13/03	0	334	334
S-718-2 B	07/10/01	120	11/06/01	-	11/06/01	02/25/02	04/18/02	111	163	52
S-718-7 A	03/14/02	120	07/11/02	136	11/24/02	11/23/02	09/12/03	0	292	293
S-718-5 C	08/14/02	45	09/27/02	-	09/27/02	02/25/03	07/03/03	151	279	128
S-718-10 A	11/12/02	180	05/10/03	-	05/10/03	n/a			work in progress	
S-718-8 D	03/31/03	90	06/28/03	-	06/28/03	10/25/03	11/20/03	119	145	26
S-718-9 A	05/19/03	120	09/15/03	12	09/27/03	n/a			work in progress	
S-718-10 B	10/01/03	120	01/28/04	-	01/28/04	n/a			work in progress	
Average								205	304	99



June 11, 2004

**OFFICE OF THE
INSPECTOR GENERAL
MIAMI-DADE COUNTY**

Mr. Bill Brant, P.E., Director
Miami-Dade Water and Sewer Department
3071 SW 38 Avenue, 5th Floor
Miami, Florida 33146

FILE COPY

Dear Mr. Brant:

CHRISTOPHER R. MAZZELLA
INSPECTOR GENERAL

ALAN SOLOWITZ
DEPUTY INSPECTOR GENERAL

PATRA LIU
ASSISTANT INSPECTOR GENERAL
LEGAL COUNSEL


Attached please find a copy of the Draft Audit Report conducted by the Office of the Inspector General (OIG) of the Water and Sewer Department's (WASD) Contract S-718 *Installation or Repair of Force Mains, Water Mains and Associated Systems*. We are providing this Draft in accordance with the Board of County Commissioners' mandate of advance notification.

This report is the second of a series of three audit reports on Contract S-718. Report 2 covers the lack of authoritative project records, which document the work completion date.

The OIG requests your response to this Draft Audit Report. If you would like your response to be included in the Final Audit Report, you must submit it to the OIG by close of business on June 25, 2004. If you wish, you may provide your response by fax to (305) 579-2656.

Please do not hesitate to call should you have any questions.

Yours truly,


Christopher Mazzella
Inspector General



Acknowledgment of Receipt or Proof of Service

6/11/04
Date

APPENDIX 1

cc: Mr. Pedro Hernandez, P.E., Assistant County Manager
Mr. Roger T. Hernstadt, Coordinator, Capital Improvements



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MIAMI-DADE WATER AND SEWER DEPARTMENT

PO Box 330316, Miami, Florida 33233-0316 • 3071 S.W. 38th Avenue • Tel: 305 665 7471

MDD-OFFICE OF THE
INSPECTOR GENERAL

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July 15, 2004

Mr. Christopher R. Mazzella, Inspector General
Office of the Inspector General
Miami-Dade County
19 West Flagler Street, Suite 220
Miami, FL 33130

Re: Response to OIG Draft Audit Report (2 of 3) on Contract S-718

Dear Mr. Mazzella:

This letter is the response to the Draft Audit Report (2 of 3) prepared by your office dated June 11, 2004, regarding the Miami-Dade Water and Sewer Department's (WASD) Contract S-718, *Installation or Repair of Force Mains, Water Mains and Associated Systems*. This report, the second in a series of three, addresses the work completion date documentation.

WASD disagrees with the audit finding that its files do not contain records documenting work completion dates, as more fully explained below. The audit erroneously assumed that the date of the Certificate of Final Acceptance was the date to be used for substantial completion. A key element in determining whether time extensions should be granted or liquidated damages assessed is the establishment of a work completion date. In accordance with industry standards, most construction contracts have a construction completion date (sometimes referred to as substantial completion or date of beneficial and useful occupancy) and a final contract acceptance (close-out) date. WASD has determined that the construction completion (beneficial and useful occupancy) date is the date that determines whether actual damages were incurred and liquidated damages should be assessed. The beneficial and useful occupancy date for pipeline projects is typically determined as the date the pipeline was placed in service, which is the point in the project when WASD has received a Department of Health clearance for water mains or DERM certifications for sanitary sewer pipelines at that time, and for pipeline projects, WASD issues a "placed in service" memorandum and includes it in the project files. Work Orders S-718-5C, S-718-8D, and S-718-10B did not cover pipeline projects, but fall into the category of associated systems and consist of a piling support, an emergency overflow structure and a water control structure. These projects are conveyed to maintenance forces after completion and final approval of work. Typically, the date of conveyance for these projects is determined as the date of beneficial use, as evidenced by internal correspondence and documentation.

WASD has reviewed each work order listed under Table 1 of the OIG's report and prepared a table, copy attached, titled "Schedule of Contract S-718 Work Orders". This table, based on the original provided in the OIG report, compares the revised contract completion date for each work order to a new column, showing the beneficial and useful occupancy date (shown in blue). The

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table has a comment column, which references the documentation substantiating the corresponding beneficial and useful occupancy date. A column showing the difference in days between revised contract completion date and actual completion date is included in the table (both of these columns are shown in blue). Of the seventeen work orders listed in the table, three were on-going projects at the time of the audit. Updated information on those three projects has been provided on the attached Table 1, which shows that:

- Ten have a beneficial and useful occupancy date before the Revised Contract Completion Date. Therefore, no liquidated damages were assessed.
- Six have a beneficial and useful occupancy date after the revised completion date. Based on our review, and as indicated in the Table, time extensions, to the beneficial occupancy date, should have been granted on these projects, due to circumstances beyond the control of the contractor. Therefore liquidated damages were not assessed.
- For one, 718-05C, (piling restoration, coordinated with Florida East Coast railway & South Florida Water Management District) no documentation could be located to establish the beneficial use date; however, inspection performed after contract completion date verified that, except for minor work, the project was already completed.

The OIG audit mistakenly identified the Certificate of Final Acceptance Date as the determining date for contract completion and for the assessment of liquidated damages. As explained above, the date of beneficial use is the WASD and industry practice for the establishment of construction completion dates and liquidated damage assessment. The Certificate of Final Acceptance is issued upon final contract close-out, which may be months after beneficial use. We therefore disagree with OIG's finding that WASD's project files did not contain sufficient records to document work completion dates necessary to show if the contract work was completed within the original contract time or subsequently granted time extensions. The documents establishing beneficial use were available in project files. We disagree with the report's statement that there are "no records of when the contractor completed the work". For these projects WASD records were sufficient to determine whether liquidated damages should be assessed.

The report also faults the WASD for final payments occurring after the date of acceptance of the completion of the project. The "Certificate of Final Acceptance" is signed by Construction Management personnel and is then attached to and circulated with the Final Pay Estimate as it is processed for payment. Thus, the signature on the Certificate will always be before the final payment date. Please note that the language from the General Covenants and Conditions (GCC's) quoted in the audit report has been deleted in WASD's revised GCC (page 28).

WASD Improvement Initiatives

Several years ago, as a result of increased contractor disputes, increased project complexity, loss of institutional knowledge and expertise and more stringent regulations, WASD recognized the need for improved documentation and policies and procedures to address the issues of time

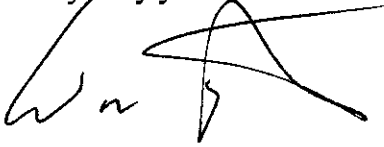
extensions, liquidated damages, and project closeout documentation and has taken pro-active steps in several areas:

1. Engineering, Construction Management, Contract Review and Office of the County Attorney initiated a process to review and improve WASD's General Covenants and Conditions (GCCs) which were already very comprehensive. A copy of the most recent draft is attached. The GCCs are being implemented as they are reviewed and approved by the County Attorney's Office.
2. WASD implemented a Construction Management Certification Program in conjunction with Florida International University (FIU) to train WASD staff in the management of construction contracts. At this time, 28 staff have participated in some portion of the program, which is on-going. We are not aware of any other county department that has invested, and continues to invest, in university training for its construction management staff.
3. WASD has updated and implemented a construction management policies and procedures manual to provide guidelines to the construction section staff. This manual will be revised routinely as new conditions arise.
4. Since February 2004, bi-monthly mandatory classes are being held with all inspectors and construction managers to discuss the new general conditions and proper project documentation methods. Your office is invited to attend.
5. WASD is scheduling on-site seminars to be conducted by outside providers on Construction Management and Claims Documentation. Your office will be invited to attend. We have conducted these in the past and former employees of your office attended and expressed their appreciation for the class.
6. A draft memorandum on guidelines and procedures in establishing a project's beneficial and useful occupancy date and the closing pay period date for a construction contract final pay estimate is being reviewed by the County Attorney's Office. The latest draft version is attached and is expected to be in place within 30 days.
7. A form entitled "Finalization of Contract Checklist", copy attached, has been revised to better define and list all of the items that may be needed to closeout any contract. We are now recording the completion date for each item and initialing the items that are not applicable, rather than just checking off each completed item.
8. WASD has staffed a Contract Review Section, now housed in the Director's office, to provide oversight and review of contract payments. This staff works closely with Construction Management staff to identify, address and improve in-house construction activities.

Mr. Christopher Mazzella
July 15, 2004
Page 4 of 4

In conclusion, revised GCCs, the on-going university and in-house training, and the establishment of administrative and field policies, procedures and practices have assisted in establishing an improved workforce with the appropriate tools and knowledge to manage construction projects. This includes the WASD's renewed emphasis on existing and improved procedures used to justify time extensions or to determine a contractor's liability for liquidated damages. We welcome your office's review and comment, and are available to meet to discuss this response.

Very truly yours,

A handwritten signature in black ink, appearing to read 'W. Brant', with a large, sweeping flourish extending to the right.

William M. Brant, P.E.
Director

Attachments

cc: P. Hernandez
R. Hernstadt
H. Codispoti
B. Wells

Table 1: Schedule of Contract S-718 Work Orders

Contract and Work Order No.	Notice to Proceed Date	Completion Time Per Work Order	Contractual Completion Date	Authorized Extension of Completion Date	Revised Contract Completion Date	Date of Beneficial Use	Difference in Beneficial Use and Contract Dates (Days)	Certificate of Final Acceptance (CFA) Date	Final Payment Date	Documentation Comments for Date of Beneficial Use
S-718-01 A	10/11/00	180	04/08/01	3	04/11/01	03/09/01	-33	n/a	n/a	Memo from CM to Sewage Collection Division stating facilities are ready for service. A Settlement Agreement reached with Rockwell General Development Corp. in the sum of \$150,000 for both work orders (A & B).
S-718-05 A	10/16/00	120	02/12/01	1	02/13/01	02/20/01	7	05/25/01	07/05/01	As per inspector, punchlist completed. Liquidated damages (LD) were not assessed because the City of Miami had a moratorium on downtown work during the holidays. A time extension should have been granted.
S-718-04 A	11/28/00	180	05/26/01	21	06/16/01	06/18/01	2	05/07/02	06/27/02	Memo from CM to Sewage Collection Division stating facilities are ready for service. Liquidated damages were not assessed because FDOT required additional maintenance of traffic scheduling which delayed the work. A time extension should have been granted.
S-718-01 B	12/11/00	75	02/23/01	23	03/18/01	06/20/01	94	n/a	12/19/02	Memo from CM to Sewage Collection Division stating facilities are ready for service. A settlement agreement was reached with Rockwell General Development Corp. in the sum of \$150,000 for both work orders (A&B). Settlement Agreement addressed the LDs and time extension issues. Work Orders are not yet finalized pending Rockwell General Development Corp. submitting closeout documentation.
S-718-08 A	02/05/01	120	06/04/01	330	04/30/02	02/16/02	-73	06/11/02	07/18/02	Memo from CM to Water Distribution Division stating facilities are ready for service.

Contract and Work Order No.	Notice to Proceed Date	Completion Time Per Work Order	Contractual Completion Date	Authorized Extension of Completion Date	Revised Contract Completion Date	Date of Beneficial Use	Difference in Beneficial Use and Contract Completion Dates (Days)	Certificate of Final Acceptance (CFA) Date	Final Payment Date	Documentation Comments for Date of Beneficial Use
S-718-05 B	02/12/01	120	06/11/01	0	06/11/01	06/27/01	16	02/08/02	04/04/02	Memo from CM to Asst Dir, Water stating facilities are ready for service. Lack of coordination with the Departments distribution forces for the final tie-in delayed the contractor therefore no LDs were assessed. The delays were not the fault of the contractor. A time extension should have been granted.
S-718-08 B	02/13/01	120	06/12/01	334	05/12/02	01/16/02	-116	06/11/02	07/18/02	Memo from CM to Meter Section Chief stating facilities are ready for service.
S-718-04 B	04/18/01	120	08/15/01	124	12/17/01	01/22/02	36	12/17/02	06/24/03	Letter of Release from the Dept of Health to place water supply system into service. Liquidated damages (LD) were not assessed because the City of Miami had a moratorium on downtown work during the holidays. A time extension should have been granted.
S-718-02 A	04/19/01	120	08/16/01	0	08/16/01	07/03/01	-44	02/04/02	05/19/02	Memo from CM to Sewage Collection Division stating facilities are ready for service.
S-718-08 C	06/18/01	180	12/14/01	181	06/13/02	01/31/02	-133	06/13/02	05/13/03	DERM Certification Letter.
S-718-02 B	07/10/01	120	11/06/01	0	11/06/01	11/01/01	-5	02/25/02	04/18/02	Bacteriological report dated 11/1/02 indicates that line was ready for service. Department of Health clearance received 11/27/01.
S-718-07 A	03/14/02	120	07/11/02	136	11/24/02	09/26/02	-59	11/23/02	09/12/03	Letter of Release from the Dept of Health to place water supply system into service.
S-718-05 C	09/26/02	45	11/09/02	0	11/09/02	Not Verified	Not Verified	02/25/03	07/03/03	Inspector resigned without closing out the project. Another inspector in February of 2003 verified work and finalized project. The Department could not verify the beneficial and useful occupancy date therefore LDs were not assessed.
S-718-10 A	11/12/02	180	05/10/03	0	05/10/03	10/15/03-W 10/23/03-S	166	Not yet issued	Not yet issued	Memo from Unit Supervisor to Water Distribution Division stating facilities are ready for service (water main) and DERM Certification Letter (sewer main.) Time extension being prepared. Punch list items being completed in conjunction with Florida Department of Transportation.

Contract and Work Order No.	Notice to Proceed Date	Completion Time Per Work Order	Contractual Completion Date	Authorized Extension of Completion Date	Revised Contract Completion Date	Date of Beneficial Use	Difference in Beneficial Use and Contract Completion Dates (Days)	Certificate of Final Acceptance (CFA) Date	Final Payment Date	Documentation Comments for Date of Beneficial Use
S-718-08 D	04/22/03	90	07/20/03	0	07/20/03	07/18/03	-2	10/25/03	11/20/03	A letter from the Unit Supervisor to the Contractor changed the Notice to Proceed date to April 22, 2003. Tank was filled on 7/18/03 (Friday) and required a 24-hour continuous test.
S-718-09 A	05/19/03	120	09/15/03	12	09/27/03	08/20/03	-38	04/01/04	04/02/04	Memo from Unit Supervisor to Water Distribution Division stating facilities are ready for service.
S-718-10 B	10/01/03	120	01/28/04	108	05/15/04	05/07/04	-8	Not yet issued	Not yet issued	DFRM and South Florida Water Management District certification issued. Change order being processed for additional costs.

**MIAMI-DADE WATER & SEWER DEPARTMENT
CONSTRUCTION SECTION'S
FINALIZATION OF CONTRACT CHECKLIST**

To be completed by the Inspector at finalization of contract work. The checklist below will be signed by the Inspector and respective Supervisors.

CONTRACT NO: _____ ER No. _____

CONTRACT TITLE: _____

	Date Completed	Initial If Not Applicable
1) Punch List Complete	_____	_____
2) Approved Mylar As-Builts	_____	_____
3) Blue Line As-Builts (Five Copies)	_____	_____
4) Red Line As-Builts	_____	_____
5) As-Builts on Electronic Disc	_____	_____
6) Test Reports	_____	_____
7) DEP Certification (HRS)	_____	_____
8) DERM Certification	_____	_____
9) Verification of Placing Facilities in Service	_____	_____
10) D. O. T. Approval	_____	_____
11) Public Works Approval	_____	_____
12) So. Florida Water Management District Approval	_____	_____
13) Building & Zoning Certificate of Completion	_____	_____
14) Building & Zoning Certificate of Occupancy	_____	_____
15) Operations & Maintenance Manuals	_____	_____
16) Spare Parts	_____	_____
17) Warranties	_____	_____
18) Final Redline Estimate W/ Subcontractor Listing	_____	_____
19) Other: _____	_____	_____

According to the best of our knowledge and belief, the field work for this contract is complete.

Inspector: _____
Print Name Signature & Date

Construction Manager I: _____
Print Name Signature & Date

Construction Manager II: _____
Print Name Signature & Date

Rev. 7/23/04

Distribution
Construction Section

July 2, 2004

Notification of Dates of Completion

Norman Duncan, P. E.
Chief, Construction Section

The following guidelines and procedures are being established to determine a project's completion date and the closing pay period date for the final estimate. This information is critical in ascertaining, if, and when, we should begin assessing liquidated damages, and if a County Commission Change Order is necessary.

Closing Date of the Final Pay Period

The Department's procedure for the establishment of project pay periods is outlined in the contract document's *General Covenant and Conditions* whereby pay periods are to end on the 25th day of each month for the duration of the contract. No distinction has been made in the contract documents between the period ending dates for partial payments and final payments. Effective immediately, the ending date for the final pay period will be the date in which all applicable items on the Finalization of Contract Checklist has been completed, whatever date of the month it may fall on.

The Department will be altering the contract documents so that there will be a distinction between partial and final pay periods. The Compliance Unit is modifying the applicable documents so as to accurately reflect the closing date of the final pay period established by the Construction Units. The County still expects contractors to maintain all appropriate insurance policies through the completion of all work.

Completion Date

The date of completion is to be determined as follows; Current procedure calls for the Manager of the Construction Contracts Section to send a letter to the contractor assigning a Notice to Proceed (NTP) date to each project. Applied to this, are the calendar days of construction time stipulated in the contract documents to complete the work, with the NTP date marking day one. The Construction Section intends to employ the following guidelines; a contract's completion date will be established as the date that all the major punch list items have been completed and accepted by the Department. This date has critical implications regarding the assessment of liquidated damages and the preparation of Change Orders.

Assessment of Liquidated Damages

Effective immediately, when the ending date for a pay period of a redline estimate exceeds the contract completion date, the Construction Manager I will advise the Unit Supervisor, who must determine whether or not liquidated damages are to be assessed. The Unit Supervisor will prepare a memo justifying this decision and provide clear instructions for how the Compliance Unit should proceed. This memo must be attached to the redline estimate. This memo must also accompany each and every subsequent redline estimate which exceeds the contract completion date.

If a redline estimate with a pay period ending date that surpasses the contract completion date is presented to the Compliance Unit, without written direction as to how to proceed regarding liquidated damages, the Compliance Unit will reject the submitted redline estimate and return it to the Construction Manager I.

Initiation of County Change Orders to Extend Time

There are usually two entities in the County possessing the authority to extend the time of a typical contract, the County Manager, and the Board of County Commissioners. When, in the judgement of the Unit Supervisor, it becomes evident during the course of construction that a time extension will become necessary, the Compliance Unit must be notified in writing and provided with the back-up documentation to begin preparation of a Change Order.

As everyone is no doubt aware, the processing of Change Orders is a lengthy, time consuming process. For the purpose of avoiding potential delays in the processing of final estimates, the Unit Supervisor will evaluate the progress of each project no less than two months prior to the contract date of completion and assess the need for a time extension Change Order. In the event the Unit Supervisor determines that a Change Order is necessary, the Compliance Unit should be informed and provided with the information necessary to prepare a change order at least sixty (60) days prior to the contract date of completion.

Thank you for your cooperation in this matter.

cc:

Edith Brown, C. P. A.

Manny Mitra, C. P. A.

Victor Fernández-Cuervo, P. E.

Humberto Codispoti, P. E.

Tony Smith, P. E.

David Murray, Assistant County Attorney

File: Dates of Completion

7/02/04

WASD's revised
General Covenants and Conditions
DRAFT only

This latest draft version was provided to the OIG as part of WASD's response dated July 15, 2004. WASD, at present, is still reviewing and revising this document in conjunction with the County Attorney's Office.

Due to the size of this document, this attachment is not posted as part of this report. The hard copy is filed with this report at the County Clerk's Office or is available by contacting the OIG.