



**CEI Services and Responsible Charge Evaluation
Process Review**

December 2009

FHWA Florida Division Office

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Executive Summary

The Construction Engineering and Inspection (CEI) Services and Responsible Charge Evaluation Process Review assessed current processes used, and work being done as part of CEI services, both at public and private level. The review evaluated if staff in responsible charge are properly representing the Federal Highway Administration (FHWA) and Florida Department of Transportation (FDOT) in terms of oversight and fiscal responsibility. In 2004, the FDOT and FHWA reached an agreement to implement changes to the Department's roles in the administration of consultant CEI contracts. The CEI process review evaluated if conditions established in the agreement were met.

As set forth in 23 CFR 635.105, State highway agencies have the responsibility for CEI services in all Federal-aid projects, and even though the agency can employ consultants to provide those services, the agency shall provide a full-time State employee to be in responsible charge of the project.

Under Florida Law, a professional firm and their employees who are performing CEI services on behalf of the State are considered agents of the Florida Department of Transportation (FDOT) to ensure projects are built according to plans and specifications, and contract provisions. It is the firm's responsibility to represent the FDOT and FHWA in Federal projects.

While Federal law allows a State DOT to assume certain project approvals and authorities, FHWA is ultimately accountable for ensuring that the Federal-aid Highway Program is delivered consistent with established Federal requirements.

As part of FHWA's Financial Integrity Review and Evaluation Program (FIRE), the Florida Division assessed Federal-Aid Billing Transactions associated with Responsible Charge Evaluation Process Review. The primary purpose of this segment of the review was to verify that costs are attributable and allocable to Federal-Aid projects, and invoice processing and accounting procedures are conducted as designed and assessed appropriate respective change in the applicable standards.

A multi-disciplinary team approach was established to conduct the CEI process review in order to incorporate objectivity, separation of duties and integration of internal controls and financial oversight into process reviews in correspondence with the FHWA's FIRE Program's conception of the review process. The joint process review consisted of technical engineers and finance specialists from the Florida Division and FDOT. The Review Team visited Districts 3, 4 and 7, conducted interviews and reviewed project files, contract documents, supplemental agreements, invoices and financial documents.

Observations and Recommendations

FHWA's letter dated, January 26, 2004 approved changes in the FDOT's role in administering consultant CEI contract. FHWA required FDOT remained in "responsible charge" by fulfilling the fifteen commitments outlined in that letter. In a February 6, 2004 Memorandum from former Secretary José Abreu to the District Secretaries, the FDOT officially approved the new role of CEI firms in allowing them to exercise their independent professional judgment on project related issues and changes. Based on activities and decisions made since then, this review concluded that the FDOT has in general met the commitments established in the letter. The FHWA and the FDOT's OIG have agreed for the FDOT OIG to conduct a detailed audit in Fiscal Year 2010.

Based on FHWA's definition of Responsible in Charge, the FDOT Project Managers for the projects reviewed are complying with the criteria to be in responsible charge. The project personnel at the State and CEI level are generally following the requirements established by Federal and State regulations with few exceptions as included in this report.

Consultant Grade Computation Forms were reviewed for all projects that had a Consultant CEI contract assigned. The review revealed that more than 50% of the project managers are not completing consultant grade computation sheets on time as described in *Construction Project Administration Manual (CPAM) Section 4.1.12*. Compliance with CPAM is required in accordance with the Florida Federal Aid Partnership agreement. It is recommended that additional internal controls be put in place in order to have accurate records of consultant performance and to ensure Project Managers complete the required reports on time.

In addition, financial records were well-maintained, adequately supported and documented through the use of summary sheets and schedules and supporting documentation such as payroll records, travel records, overtime approvals and detailed vendor invoices. Contract reimbursed costs were accurate, appropriate and properly approved by the FDOT prior to payment. Through coordination with representatives from the various Districts and Central Office, FHWA Review Team was assured that FDOT will take all necessary actions to update *CPAM Section 4.1.12* dealing with consultant CEI contracts.

The process review included an assessment of day-to-day operations performed by the Consultant CEI firms and FDOT Project Managers on the Federal-aid projects visited. With the exceptions included in this report, it was determined that the work being done is in general compliance with approved Federal and State regulations and CEI firms and FDOT Project Managers are properly representing the FHWA and FDOT in terms of oversight and fiscal responsibility.

Conclusions

The 2009 CEI Services and Responsible Charge Evaluation Process Review provided the FHWA the opportunity to assess current processes used and work tasks performed as part of CEI services, both at public and private level. Based on our findings, it was determined that the FDOT has established systems to ensure there is a publicly employed person in responsible charge of the projects. CEI work being performed on Federal-aid projects is in general compliance with approved rules and regulations.

Based on the overall findings of the 2009 Process Review, the FDOT has fulfilled, with the exception of the detailed audit by the FDOT's OIG, the commitments outlined in the January 26, 2004 letter from the FHWA for implementation of the changes requested in the FDOT's letter dated November 18, 2003. The FHWA and the FDOT's OIG have agreed for the FDOT OIG to conduct a detailed audit in Fiscal Year 2010.

Background

As set forth in 23 CFR 635.105, State highway agencies have the responsibility for construction engineering and inspection (CEI) services in all Federal-aid projects, and even though the agency can employ consultants to provide those services, the agency shall provide a full-time State employee to be in responsible charge of the project.

The FHWA defines “Responsible Charge” as meaning the publicly employed engineer is:

- Aware of day-to-day operations on the project,
- Aware of, and involved in decisions about changed conditions which require change orders or supplemental agreements,
- Aware of the qualifications, assignments, on-the-job performance, etc., of the consultant staff at all stages of the project, and
- Visiting the project on a frequency that is commensurate with the magnitude and complexity of the project.

Under Florida Law, a professional firm and their employees who are performing CEI services on behalf of the State are considered agents of the Florida Department of Transportation (FDOT) to ensure projects are built according to plans and specifications, and contract provisions. It is the firm’s responsibility to represent the FDOT and FHWA in Federal projects.

Based on the Florida Federal Partnership Agreement (Topic No. 700-000-005-a) signed between FHWA and FDOT on February 21, 2008, the FHWA has shifted its focus from project-level to program-level oversight, which will limit the number of projects that will be subject to Federal oversight on a day-to-day basis. The focus now is on selecting projects that fall into what FHWA defines as a high-risk category. While Federal law allows a State DOT to assume certain project approvals and authorities, FHWA is ultimately accountable for ensuring that the Federal-aid Highway Program is delivered consistent with established Federal requirements. With the new focus on program-level oversight, it is important to ensure:

- 1) Approved processes and procedures are being followed as they relate to CEI services and consultant contracts, and;
- 2) The actual services are of high quality.

The FIRE program is a review and oversight program that each FHWA division office is required to perform in support of the agency’s annual certification of internal and financial controls. The financial segment of the review ensures Federal funds are properly managed and effectively used in accordance with Federal policies and assessed respective change of the FDOT policies. Federal-Aid billings should be in compliance with A-87, 49 CFR Part 18, 23 CFR Part 140 and other applicable statutes, regulations and rules.

Team Sponsors

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Purpose and Objective

The CEI Services and Responsible Charge Evaluation Process Review assessed current processes used and work being done as part of CEI services, both at public and private levels. The review evaluated if staff in responsible charge are properly representing the FHWA and FDOT in terms of oversight and fiscal responsibility.

In 2004, the FDOT and FHWA reached an agreement to implement changes to the Department's roles in the administration of consultant CEI contracts. The letter, which is included in Appendix A, clarified the role of Consultant CEI firms. The CEI process review evaluated if conditions established in the agreement were met.

The review also:

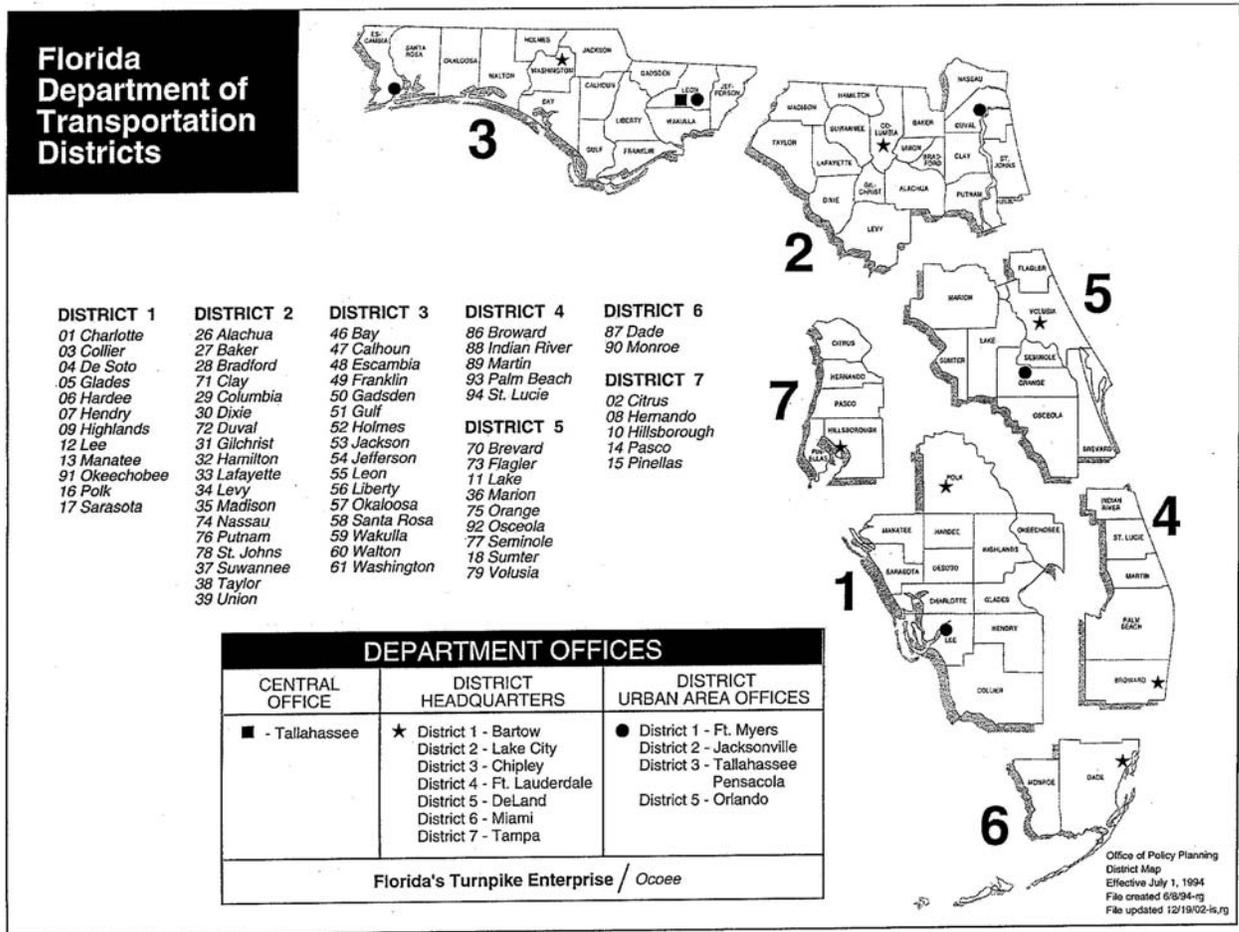
- Studied current procedures used by FDOT to monitor CEI services including frequency, grading system, and reporting.
- Assessed the effects of the monitoring to determine which processes the FDOT follows in cases where there is a low grade.
- Assessed the CEI work being performed in a sample of projects and determined if FDOT is in responsible charge.
- Evaluated invoicing processes of staff in responsible charge and to ensure FHWA and FDOT standards for the invoicing of service agreements are met.
- Verified that costs are attributable and allocable to Federal aid projects.

Scope and Methodology

The review included a selection of 12 Federal-aid projects from Districts 3, 4, and 7, that are either ongoing or were completed within the last year and had either innovative or conventional type construction contracts. Projects were selected from a list

requested from FDOT, which included codes that allowed the Review Team to identify projects using consultant contracts or those that are managed by FDOT In-house staff, and the construction contracting method. FHWA oversight status (full oversight or delegated) was not considered. Figure 1 shows a map of the FDOT District Offices.

Figure 1



Source: Florida Department of Transportation

Projects were short-listed based on various factors including project description, cost, percent complete, and recommendation from the FHWA District Transportation Engineer assigned to each district. Table 1 includes a list of the projects reviewed. Invoices, were randomly chosen for financial analysis. Financial fieldwork included a file review to verify that costs are attributable and allocable to Federal-Aid projects. Invoice processing and accounting procedures were conducted using the following standards:

- Are the procedures, outlined in FDOT Topic #375-030-005-C, *Invoicing for Service Agreements*, followed for processing CEI invoices?
- Are invoice procedures in accordance with FDOT Topic #700-000-000,

- Are the procedures, outlined in FDOT Topic #375-030-004, *Audit Process for Professional Services Consultants and Contracts*, followed for audits/reviews of professional consultants applying for qualification and contracting with the Department?

Table 1: Projects Reviewed during process review

FDOT District	FDOT Financial Project ID	Federal-aid Project No.	Review Dates (2009)
3	222434-1-52-01	0101 (179) I	February 2-6
3	222467-1-52-01	1101 (158) I	
3	222466-1-52-01	1101 (160) I	
3	222593-1-52-01	0103 (172) I	
3	423572-2-52-01	0104 (126) I	
4	229797-1-52-01	1002 (040) P	March 16-19
4	228243-1-52-01	0561 (022) P 0561 (024) P	
4	231919-3-52-01 231920-2-52-01	0951 (589) I	
4	231920-6-52-01	0951 (616) I	
7	255844-1-52-01	2001 (035) A	April 13-17
7	255822-2-52-01	2121 (069) P	
7	411334-1-52-02	3014 (064) P	
7	258422-1-62-03	0041 (152) I	

Also, it was the Review Team’s goal to sample the following CEI services as available:

- CEI services performed by State engineers
- CEI consultant contracts in charge of a single project
- CEI consultant contracts in charge of a group of projects
- CEI consultants who work directly for the FDOT but who oversee work being done by other CEI firms.

Letters were sent to each District Secretary requesting that at a minimum all original project files be available for each project, and for the FDOT Project Administrator, CEI Project Engineer, Contract Manager, and financial personnel responsible for processing Consultant Invoice Transmittals (CITs) to be available for interviews and support. Access to invoices, supporting documentation for those invoices, and other related items as identified during the review process were also required.

Upon arrival at each District, the Review Team held a kick-off meeting with FDOT District management and project representatives. Following the meeting, the Team began the review of each project. Project representatives were interviewed using an interview questionnaire that had been developed by FHWA. Project files were

reviewed and findings documented and discussed at the project level. Once all projects were reviewed, a close-out meeting was held with FDOT District staff and a follow-up findings report was provided to each District Secretary.

Observations and Recommendations

Observation 1: *FHWA's letter dated, January 26, 2004 approved the changes in the FDOT's role provided the Department remained in "responsible charge" by fulfilling the fifteen commitments outlined in that letter. In a February 6, 2004 Memorandum from former Secretary José Abreu to the District Secretaries, the FDOT officially approved the new role of CEI firms in allowing them to exercise their independent professional judgment on project related issues and changes. Based on activities and decisions made since then, it was determined that the FDOT has in general met the commitments established in the letter. Table 2 includes the list of commitments and the CEI Review findings. Appendix G contains the complete response letter from FDOT dated December 4, 2009.*

Table 2: Commitments required by the FHWA following the approval of the changes to FDOT's role in the Administration of CEI contracts (FHWA letter dated January 26, 2004)

Commitments	Completed	Findings/Recommendations/FDOT's Response
This new concept for the Department's oversight and the role of the Construction Project Manager (PM) on Construction Engineering and Inspection Contracts is approved on a two-year experimental basis, beginning on the date of this letter. Therefore, to continue this concept beyond the conclusion of the two-year trial period, the Department must submit a thorough evaluation and request an additional trial period or permanent implementation.	No	FHWA has not received an evaluation or a request from FDOT for additional trial period. Per FDOT's response dated December 4, 2009, the FHWA and the FDOT have jointly performed additional process reviews focused on CEI staffing levels, Consultant Scopes of Service and CEI grading. The review findings were used to evaluate the processes and make improvements with the goal of permanent implementation. The FDOT has and will continue to improve its policies and procedures to reflect improvements enabling delivery of its work objectives. Department will not be requesting an additional trial period and is seeking permanent implementation.
The Department will work with the FHWA in establishing Construction Project Manager staffing level requirements by April 2004.	Y	FDOT has developed guidelines for tracking staffing level requirements but those guidelines were never incorporated in CPAM. Per FDOT's response dated December 4, 2009, a Construction Project Manager (CPM) staffing matrix to be used as a guide by Districts when assigning PM's to projects. The guide must be used recognizing that adjustments may be necessary due to CPM experience and work load. This matrix will be provided on the FDOT website (in lieu of the CPAM) to all District Consultant CEI Managers for their use in evaluating the proposed Construction Project Manager staffing levels.
The Department will work with the FHWA in establishing thresholds for contract time changes that delineate which ones are to be approved by the Consultant CEI and Department personnel. Also, the Department will place special emphasis on reviewing contract time changes.	Y	In compliance. CPAM was revised.
The Department will work with the FHWA in completing the evaluation of the assignment of responsibilities regarding CEI accountability in the Department's Construction Project Administration Manual (CPAM).	Y	In compliance.
The Department's Construction PM shall remain as the liaison to FHWA on Federal-aid Projects. The PM shall obtain FHWA approval and participation for changes on FHWA Oversight projects in accordance with CPAM.	Y	Generally in compliance. There are instances in which consultant CEI's contact FHWA directly but the FDOT PM's are still involved in the decision making.
The Departments Construction PM will review all contract changes approved by the Consultant CEI for errors and omissions, or decisions not in agreement with the Department's historical decisions.	Y	In compliance.
The Department's District Construction Engineers will develop a process to review a representative sample of contract changes approved by the consultant CEI, to ensure changes were necessary and comply with contract documents.	Y	In compliance. The Review Team found that District Construction Engineers are following CPAM's procedures.

Table 2 Continued: Commitments required by the FHWA following the approval of the changes to FDOT's role in the Administration of CEI contracts (FHWA letter dated January 26, 2004)

Commitments	Completed	Findings/Recommendations/FDOT's Response
The Department will review the performance of the consultant CEI during the early stages of the construction project to ensure that the consultant CEI is demonstrating the necessary knowledge, skills, and experience to make decisions in accordance with the consultant's contract.	Y	The review found that most PM's are completing the initial in-depth review of the CEI firms as required by CPAM. However there are some areas of improvement needed to guide PMs to carry out this task in timely manner.
The Department will work with the FHWA in evaluating and improving the consultant CEI grading system by June 1, 2004.	Y	A new CEI grading system was implemented.
The Department will work with the FHWA in revising the consultant CEI Scope of Services.	Y	New scope of services approved on April 14, 2004 letter. Also, the FDOT is in the process of completing a new scope of services.
The Department and the FHWA will begin a joint process review in the summer of 2004 to ensure the commitments are fulfilled, and to evaluate the new process.	No	The FHWA and the Department completed a process review in District 5 in 2004. Although the findings of the review team were not concluded in a final report, the FDOT implemented improvements to the contract administration process based on the findings of the review. The recommendations of the review team from that 2004 review and the FDOT efforts for implementation are summarized in Appendix G.
The Department will request their Office of Inspector General to conduct a formal audit of the process during the Department's 2005 Fiscal Year.	No	FDOT's OIG maintained the audit on the annual plan since fiscal year 2005 but it was postponed, with FHWA's agreement, due to the significant efforts and resources needed to perform Emergency Response reviews following the 2004 and 2005 hurricanes. The OIG contacted the FHWA in 2008, and participated as a team member in the FHWA's fiscal year 2009 CEI and Responsible Charge Evaluation process review. However, a formal in-depth audit of the changes made to implement the CEI Pilot Program has not been performed. The 2009 review, in which the OIG participated, followed FHWA's work plan with a broader scope. The OIG will perform a formal in-depth audit during fiscal year 2010 and on November 18, 2009, the FHWA and FDOT met and reached an agreement on the scope of the audit.
The Department will work with the FHWA in making the necessary revisions to CPAM, to implement the changes and ensure proper quality assurance.	Y	In compliance
The Department will work with the FHWA in establishing a procedure for formally obtaining FHWA's concurrence in all future CPAM revisions, prior to implementation.	Y	In compliance
The Department will work with the FHWA in establishing a procedure for formally obtaining FHWA's concurrence, prior to implementation, in all District Construction Engineer Memorandums issued by the State Construction Engineer having an effect on Federal-aid contracts.	Y	In compliance. DCE Memorandums are submitted to FHWA for approval.

Observation 2: *Consultant Grade Computation Forms were reviewed for all projects that had a Consultant CEI contract assigned. The review revealed that the process followed on several projects is not in compliance with the requirements established in CPAM Section 4.1.12.*

Per FDOT’s Construction Project Administration Manual (CPAM) Section 4.1.12, the Construction Project Manager shall maintain a continuing overview of Consultant performance of duties by quarterly interim reviews of records, inspection procedures, testing procedures, sampling procedures, etc. These performance reviews shall be conducted beginning with the first full quarter, (during the months of February, May, August, and November) in accordance with Professional Services Consultant Work Performance Evaluation, Procedure No. 375-030-007 and performance standards in Attachment 4-1-1. The Construction Project Manager shall use the **Professional Services Information System (PSIS)** using the **Project Managers Grades System (PMGS)** to record quarterly interim and final grades. The Construction Project Manager shall obtain written comments from other appropriate District personnel on Consultant’s performance.

The review of the project records revealed that in several instances, Project Managers did not complete the initial in-depth review, which is required within 6 months of contract start (CPAM 4.1.13). Also more than 50% of the quarterly reviews required were not completed. Table 3 represents the results of the review of project records. The number of reports required is based on contract duration. Table 3 does not include the projects reviewed that were managed by FDOT In-house staff.

Table 3: Consultant Grade Computation Forms per project

District	Federal-Aid No.	FPID	No. of reports required	No. of reports complete	Initial in-depth review complete?
3	0101 (179) I	222434-1-52-01	27	12	No
	1101 (158) I	222467-1-52-01			
	1101 (160) I	222466-1-52-01			
	0103 (172) I	222593-1-52-01	8	5	Yes
4	1002 (040) P	229797-1-52-01	29	22	No
	0951 (589) I	231919-3-52-01	26	8	No
	0951 (616) I	231920-2-52-01			
	231920-6-52-01				
7	2001 (035) A	255844-1-52-01	15	14	No
	2121 (069) P	255822-2-52-01	5	2	Yes

Consultant Grade computation forms are a useful tool FDOT has implemented to keep the CEI firm accountable for performing tasks that are included in their contract. Therefore, if the grading is not done as required, there will not be a method for continually monitoring CEI performance with contract requirements. An example of lack of monitoring may result in consultant firm not having a Quality Assurance Program in place for the duration of the project.

A positive finding was that some Project Managers included comments for each section graded. This practice provides the reviewer a good understanding of the grades given. Also, it was found that Project Managers often meet with their consultants to discuss performance issues. This is very beneficial as it provides consultant firms additional and timely feedback that would allow them to improve existing practices.

Recommendation: It is recommended that additional internal controls be put in place in order to have accurate records of consultant performance and to assure the required reports are completed on time.

It is also recommended for District staff to pay close attention to how the grading of different consulting firms compare. The grading reports are subjective and different Project Managers can grade the same areas differently. If decisions are made to dismiss certain consultant performance issues on the grade form it can not only give the impression to outside reviewers that there have not been any issues in the past; there could be a fairness concern as well.

Response from FDOT: The Department recognizes the importance of complying with established policies and procedures and will strive towards having its Project Managers complete and issue the consultant grade computations on a quarterly basis. Project Managers will be required to provide appropriate comments in the consultant grade computation report regarding the consultant's performance. The Operations/Resident Engineer will continue to review the grade computation report to ensure consistency in grading.

The State Construction Office will make this issue an agenda item for DCE meetings and CEI Managers Meetings and discuss with these groups the idea of making this a performance measure for its quarterly reporting. The SCO will stress the importance of the consultant grading process and the need for consistency among the Districts. Districts Construction offices will be encouraged to discuss the need for compliance with the consultant grading procedures at internal District meeting as appropriate.

The Professional Services Unit is presently developing a process that will automatically provide an electronic notification (email) to CEI PM's to notify them that an interim or final consultant grade is due. The notification process will be implemented on a statewide basis upon completion of the development process.

Observation 3: *The review revealed that in most projects, the Quality Assurance (QA) Plan was not submitted by the CEI firm when required or it was not submitted at all. It was also noted that in some projects, the in-depth asphalt QA review required was not completed. With the exception of one contract in which no QA Program was established, there is evidence that most Project Managers took action at some point to improve the process. A number of QA review reports were available for the Team to review. There is no format require.*

The CEI firms are required to submit a QA Plan 30 days after being awarded a contract and there should be QA reviews performed every six months.

The Review Team found that QA review reports that included specific comments related to the findings were very useful because they provided the reviewer a good understanding of the issues encountered. Some reports followed a requirement/finding/recommendation format and that was very useful as well.

Also, in one project there were separate audits performed by the CEI's corporate office that are in addition to those reviews required by the contract. This activity can have a positive impact in the overall project.

Recommendation: We recommend FDOT sample additional CEI contracts to ensure QA plans and programs are completed within the time frame established in CPAM. Specific requirements related to the QA Program are included in the Professional Services Agreement. Therefore, it is the Project Manager's responsibility to ensure that those requirements are met on a timely manner, and that issues or concerns are properly documented using Consultant Grade Computation Forms. One of the most significant findings pertained to a CEI firm that did not have an established QA Program. It is very important for immediate measures to be taken to ensure contract compliance in the future.

Response from FDOT: The Department added language to the CEI Scope of Services that requires Consultant CEI firms to submit a QA plan for approval by the Department within 30 days of notification of the award of a contract. The SCO will discuss the importance of compliance with the procedural requirements at District Construction Engineers meetings and CEI Managers meetings.

Observation 4: *The files containing Supplemental Agreement (SA) and Work Order (WO) information were reviewed for all projects. The review revealed several trends in all Districts.*

Following trends were noted:

- *Inconsistent back-up documentation related to estimates, legal review, encumbrances, etc.*
- *Engineer's estimates were identical to the contractor's estimate in two occasions*
- *The Engineer's Estimate and Entitlement Analysis are being prepared (dated) after the draft of the SA/CO is reviewed; or not signed and dated.*
- *Additional costs are paid using force account (time and materials) and that practice is discouraged by the FHWA (23CFR 635.120(d))*

Recommendation: The Engineer's Estimate is an independent tool used for cost verification and cost negotiation and should be kept confidential. It is recommended that additional controls be put in place so that negotiations are fair and equitable.

FDOT Administrator needs to review the SA and WO prior to sending it to the legal department and FHWA for concurrence for its accuracy. Requirements of CPAM are required to be followed at all times.

Response from FDOT: The Department concurs with FHWA's position pertaining to the use of force account (time and materials) to reimburse contractors for extra work associated with construction changes.

The Department has established policies and procedures for documenting, processing and approving Supplemental Agreements and Unilateral payments. The procedures provide guidance on the proper steps which must occur in processing the contract changes. The Department will encourage the District Construction staff to establish an internal process to review steps required for proper documentation and processing proposed changes to the contract.

These requirements will be re-emphasized to District Construction staff and CEI Managers at the next scheduled DCE meeting and CEI Manager's meeting. The Departments OIG office conducts routine audit reviews on construction contracts to ensure that contract modifications are process in accordance with approved policies and procedures.

Observation 5: *During the review of the Supplemental Agreement (SA) and Work Order (WO) project files, it was noted on a couple of occasions that the Notice to Proceed (NTP) was sent to contractor prior to the funds encumbrance.*

Per CPAM 7.3.12: **Documenting and Approving the Work; Issuing the Notice to Proceed with the Work**, the District Construction Engineer or designee must obtain funds approval through the Contract Funds Management System (CFM) prior to the Secretary or designee approving the work on **Supplemental Agreement, Form No. 700-010-45**, and before giving the Contractor written notice to proceed with the work.

Recommendation: It is recommended that additional internal controls be put in place in order to avoid this from happening in the future.

Response from FDOT: The Department will discuss the importance of compliance with the procedural requirements at District Construction Engineers (DCE) meetings and CEI Managers meetings.

Observation 6: *The Contractor's Past Performance Rating reports (CPPR) were reviewed for all projects, which are typically done on a monthly basis. Issues are discussed with the Contractor during weekly progress meetings. Based on the review, the process being followed was generally in close compliance with requirements established in CPAM Section 13.1.6, with some opportunities for improvement.*

Per CPAM 13.1.6 (A), Interim Performance Ratings shall be originated and signed by the Project Administrator and may be completed at the discretion of the Project

Administrator at any time (milestones, phase change, etc.) on any project regardless of size or duration. The original copy of these reports shall be furnished to the Contractor and a copy shall be retained in the contract file.

The Review Team found that there was a need for more quality control of the forms to avoid minor errors that could affect the overall rating of the Contractor's performance. Also, as recommended in some projects, better filing systems would help keep adequate supporting documentation of the rating.

A positive finding is that all forms in several projects were signed by the CEI Project Administrators or FDOT Project Managers in case of FDOT In-house projects. Also, in some projects there were detailed records available documenting issues.

Recommendation: In general, the process being followed is in compliance with CPAM and there is evidence that Project Administrators keep records of issues. It is recommended that the FDOT Project Manager review and comment on the CPPR's as appropriate. The CEI staff should also ensure that a copy of all Deficiency Warning Letters and Deficiency Letters, as well as other pertinent information is kept on file and reported immediately in the CPPR. Failure to do so, may present the risk of not having adequate supporting records should more complex issues arise.

Response from FDOT: Department Project Managers will be advised to review the contractor performance rating procedures and ensure that the consultants are properly documenting the contractor's performance in a timely manner. The Project Managers will review the CPPR for applicable signatures.

Financial Observations and Recommendations

The financial component of this review includes 3 observations with recommendations to correct and improve processes identified. The observations were administrative in nature and have no material effect on FDOT overall performance. It is believed that implementing these recommendations will result in more comprehensive procedures and financial management oversight. Based on this review, FHWA can reasonably rely on the State's internal controls, and has determined that overall, reviews of CEI invoices are accurately and properly processed and are supportable with sufficient documentation.

Financial Observation 1: *FDOT Topic Number 375-030-005-c, Invoicing for Service Agreements dated December 11, 1996 is outdated and does not address the incorporation of the Consultant Invoice Transmittal System (CITS) in FDOT's policies and procedures.*

Financial Recommendation 1: FDOT should ensure: *FDOT Topic Number 375-030-005-c, Invoicing for Service Agreements, is reevaluated and updated as needed.*

Response from FDOT: The Department concurs with the review findings. The procedure "Invoicing for Service Agreements", FDOT Topic Number 375-030-005-c dated December 11, 1996 will be updated.

Financial Observation 2: *One of the district contracts reviewed included compensation elements that were established in (Contract Invoice Transmittal) CITS as “Estimates”; however contract documents did not include any corresponding reference to estimates. This particular contract included the verbiage "Limiting Amount" on each line item, which by industry standard is interpreted as each of these line items had a limiting amount for that specific element. However, FDOT contracts allow compensation elements established as estimates in CITS are allowed to transfer funds between other compensation elements established as estimates as long as the overall contractual total is not exceeded. The discrepancy between the contract and CITS may give the impression the contract is not being executed in accordance with the way it was written.*

Financial Recommendation 2: FDOT should increase internal controls to ensure CITS invoicing processes and languages are consistent with contract language.

Response from FDOT: The District Professional Services Units were sent written guidance on this topic, on July 16, 2009 (attached), and were requested to review all active federally funded contracts to ensure that the paper contract document clearly references which compensation elements are established as estimates. In instances where there were discrepancies between CITS and the paper contract, the districts were instructed to amend the paper contract to incorporate the Estimate language. The District Professional Services Offices were also advised to use the approved Estimate language (reviewed by Susan Kurtz) contained in the boilerplate Method of Compensation for future contracts where applicable.

Financial Observation 3A: *Documentation supporting invoices lacked FDOT financial project number and invoice number. Documents lacking the project number and invoice number make associating these documents to the appropriate invoice and/or FDOT project burdensome and may result in payment errors.*

- FDOT Procedure 375-030-005, Invoicing for Service Agreements. “For agreements establishing limiting amounts for direct expenses, two copies of supporting information will be submitted to document direct expenses. In addition, time sheets or time sheet summaries will be submitted to support salary related expenses where limiting amounts have been established for salary related expenses. All such supporting documentation will be on letter sized paper and will contain the DOT contract number and invoice number on the upper right hand corner of each page.”

Financial Observation 3B: *The majority of invoices reviewed had adequate supporting documentation that fully met Department requirements. However, deficiencies were identified in the supporting documentation records. It is important that adequate documentation be obtained prior to invoice payment to ensure fair and equitable value is paid for services received. Incomplete file documentation indicates a lack of adequate review. This process weakness increases the risk of overpayments, payment for unnecessary services and payments for services not received, as well as increasing the*

potential for having fraudulent invoices which are not detected. Specifically, there were instances in which:

- Payments with discrepancies on invoices (reimbursements were correct) were not returned to the CEI for correction. *Any CIT's payments which do not "mirror" the invoice submitted for payment should be returned for correction or discrepancies should be appropriately annotated.*
- Several invoice packages reviewed contained what appeared to be handwritten "corrections". *All handwritten cross-outs/corrections etc. should have explanatory comments.*
- There was no documentation in the Project Manager's files as to the disposition/origination of a credit billing. *Deviances and/or Discrepancies should be properly annotated in the Project Manager's files.*
- Monthly invoices were not submitted to FDOT in accordance with contractual documents.
- Several invoice packages were missing copies of the associated CIT. *A complete review of invoice packages helps to ensure that work performed was correctly documented and invoiced properly. Additionally, an inadequate review of supporting documentation prior to invoice payment may result in overcharges, as well as payments for unnecessary services and payments for services not received. The absence of the CIT in the Project Manager's file may be indicative of a lack of adequate technical review.*

Applicable guidance is as follows:

- FDOT Procedure 350-030-400, Disbursements Operations Manual, Sections 2.12.3.2(A)(3) and (B)(3) states, "Payment requests must be submitted to the appropriate disbursement office with the appropriate documentation, to include, any supporting documentation or justification."
- FDOT Procedure 375-030-005, Invoicing for Service Agreements. Applicable sections state:
 - "For agreements establishing limiting amounts for direct expenses, two copies of supporting information will be submitted to document direct expenses. In addition, time sheets or time sheet summaries will be submitted to support salary related expenses where limiting amounts have been established for salary related expenses. All such supporting documentation will be on letter sized paper and will contain the DOT contract number and invoice number on the upper right hand corner of each page."
 - "An invoice package for a written agreement will consist of the invoice summary sheet and applicable supporting documentation."

- “The Invoice Package will receive a technical review by the Contract Manager; an administrative review by either the Contract Manager or Professional/Contractual Services Unit as appropriate.”
- “Technical Review - The Contract Manager will review the Invoice Package to determine if the Consultant's invoiced progress is accurate and consistent with the reviewer's knowledge of project progress, and ensure the billing is reasonable and in accordance with the agreement, supplemental agreements, deliverables and other written authorizations. The Contract Manager shall check to see if a Minority/Disadvantaged Business Enterprise Payment Certification is included in the Invoice Package if required. A copy of the invoice package will be maintained by the contract manager.”

“Administrative Review - Either the Contract Manager or the Professional/Contractual Services Unit will prepare a Contract Invoice Transmittal (CIT), (Form 350-060-02) to accompany the invoice package for payment. An administrative review will be made to check conformity with the agreement, supplements, previously submitted invoices, and supporting data.

Financial Observation 3C: *Discrepancies were noted in overtime requests. Variances between the number of actual overtime hours and the number of overtime hours requested were noted. Project Managers should be aware of conditions which result in variances of overtime hours actually worked versus hours requested. Explanations, for excessive variances, should be documented. This process weakness increases the risk of payment for unnecessary overtime and excess costs.*

Additionally, we noted occurrences in which overtime requests documents used to approve “requested” and “actual” overtime hours did not correspond with employee timesheets. Conversations with the Project Manager revealed the common occurrence of the CEI billing for overtime charges from prior pay periods for its employees. Although no overpayments were identified, this method of billing requires a continuous reconciliation of prior period billings which is cumbersome for project managers and results in inefficiency. An inefficient process may result in overcharges, as well as payments for unnecessary services and payments for services not received.

- FDOT Topic No. 700-000-000, Construction Project Administration Manual (CPAM) requires that the Consultant’s “proposed” overtime hours shall be pre-approved by the Construction Project Manager. The Construction Project Manager shall approve actual required overtime worked.”

Financial Recommendation 3: FDOT should ensure personnel preparing and approving CIT request/payments have received training and are aware of the proper procedures for processing payments and closely monitor this process in order to minimize the occurrence of administrative errors.

Response from FDOT: Following update of FDOT Procedure 375-030-005, Invoicing for Service Agreements, Central Office Procurement will develop a Computer Based Training Course (CBT), to instruct District and Central Office Project Managers on invoice approval processes in accordance with procedure.

Successful Practices

Successful Practice 1: The Process Review included interviews with FDOT District 7 Staff related to the Interstate Engineering Support Contract to the Interstate Construction Program Office at Oak Park. AECOM, which is the consultant providing engineering support, oversees scheduling, project information, website management, and have a Public Information Officer. Project Managers bring change orders and AECOM Staff complete the processing including recommendation for the requests to encumber funds.

The firm has quarterly reviews of supplemental agreements to determine if changes have been coded avoidable, which they then prioritize by cost. This is used for process improvement as design and other FDOT staff is present during the discussions. The meetings are attended by staff in charge of value engineering and those who track design errors and omissions.

Successful Practice 2: Based on interviews with FDOT representatives, it is evident that having a Resident Compliance Specialist (RCS) has proven to be beneficial. Also, having workbooks that detail various processes like the processing and approval of contract changes is a valuable resource.

Successful Practice 3: The District 7 Oak Park Interstate Office conducts Quality Assessment Reviews on each project. FDOT Project Managers conduct these reviews on projects they do not regularly oversee. FDOT's Guide lists are used and findings are documented using FDOT's form 700-010-96.

Successful Practice 4: The State Materials Office performs in-depth reviews on projects and provides feedback to the Districts and project staff.

Successful Practice 5: District 4 holds a Contract Manager Academy three times per year with the objective of training staff on activities or processes related to Work Program.

Successful Practice 6: District 4's Construction Office has implemented a system that sends electronic notifications to Project Managers each quarter to remind them that Consultant grades are due.

Successful Practice 7: FDOT's OIG successfully executes policies and procedures, outlined in Topic # 375-030-004, *Audit Process for Professional Services Consultants and Contracts*, in,

- Monitoring audits/reviews of professional consultants applying for

- ensuring accounting systems meet the Department’s standards,
- ensuring consultants comply with the overhead audit requirements designated in Chapter 14-75, FAC,
- ensuring consultants’ fee proposals are adequately supported, and
- Audits of professional service agreements selected for audit are conducted, and audit issues addressed.

Successful Practice 8: FDOT’s Professional Services Office provides comprehensive training to provide Project Managers an understanding of the CITS application as a tool for invoice processing; as well as a basic knowledge of the CITS contract document and how it relates to the contract proper and the negotiation thereof.

Conclusions

The 2009 CEI Services and Responsible Charge Evaluation Process Review provided the FHWA the opportunity to assess current processes used, and work being done as part of CEI services, both at public and private level. Based on our findings, it was determined that the FDOT has established systems to ensure there is a publicly employed person in responsible charge of the projects. Also, CEI work being performed on Federal-aid projects is substantially in compliance with approved rules and regulations.

The FHWA letter dated, January 26, 2004 approved the changes in the FDOT’s role provided the FDOT remained in “responsible charge” by fulfilling the fifteen commitments outlined in that letter. In a February 6, 2004 Memorandum from former Secretary José Abreu to the District Secretaries, the FDOT officially approved the new role of CEI firms in allowing them to exercise their independent professional judgment on project related issues and changes. Based on activities and decisions made since then, it was determined that the FDOT has in general met most of the commitments established in the letter with a few exceptions.

Various successful practices were identified during the review. One of these practices was the use of independent checks on construction projects by separate Project Managers not directly involved in the projects.

Even though there are opportunities for improvement to ensure full compliance with approved State and Federal regulations and procedures is achieved, we are aware that the FDOT has promptly begun to take action in resolving issues identified through this review. We received a positive response from the Districts visited and Central Office. We look forward to continue working with FDOT in ensuring Federal-aid projects are developed in accordance with approved regulations and in promoting the use of successful practices.

Appendices

- Appendix A: January 26, 2004 letter from FHWA to FDOT: “Department’s Oversight and The Role of the Construction Project Manager on Construction Engineering and Inspection Contracts”
- Appendix B: February 6, 2004 Memorandum from Secretary José Abreu to District Secretaries: “Role of CEI Firms”
- Appendix C: FDOT Forms:
1. 700-010-03: Consultant CEI 6-month In-depth review
 2. 375-030-8x: Consultant CEI (CCEI) Work Performance Evaluation
 3. 700-010-25: Contractor’s Past Performance Report
 4. FDOT Consultant Grading Scale
- Appendix D: District 3 Letter and Findings
- Appendix E: District 4 Letters and Findings
- Appendix F: District 7 Letters and Findings
- Appendix G: December 4, 2009 FDOT Response to initial observations

References

- Reference A: 23 U.S.C. 114
- Reference B: 23 U.S.C. 302
- Reference C: 23 CFR 172
- Reference D: 23 CFR 635
- Reference E: FHWA’s Contract Administration Core Curriculum Participant’s Manual and Reference Guide 2006
- Reference F: FDOT’s Construction Project Administration Manual (CPAM)
- Reference G: Rule 14-75, Florida Administrative Code
- Reference H: FDOT Topic # 375-030-004, *Audit Process for Professional Services Consultants and Contracts*,
- Reference I: FDOT Procedure 375-030-005, Invoicing for Service Agreements