

**OFFICE OF THE CITY CONTROLLER**



**PUBLIC WORKS & ENGINEERING DEPARTMENT  
CONTRACT COMPLIANCE REVIEW  
KINSEL INDUSTRIES, INC. - CONTRACTOR  
FOR THE PERIOD OF FEBRUARY 28, 1994  
THROUGH DECEMBER 19, 1997**

**Sylvia R. Garcia, City Controller**

**Judy Gray Johnson, Chief Deputy City Controller**

**Steve Schoonover, City Auditor**



OFFICE OF THE CONTROLLER  
CITY OF HOUSTON  
TEXAS

SYLVIA R. GARCIA

March 6, 1998

The Honorable Lee P. Brown, Mayor  
City of Houston, Texas

SUBJECT: Public Works & Engineering Department  
Contract Compliance Review  
Kingsley Constructors, Inc. - Contractor

Dear Mayor Brown:

In accordance with the City's contract with Mir•Fox & Rodriguez, P.C. (MFR), MFR has completed a review of the Public Works and Engineering Department's Greater Houston Wastewater Program's (GHWP) contract with Kingsley Constructors, Inc. (Kingsley), contract number 34553.

MFR limited their review to determining if Kingsley's construction services were performed and its fees billed and paid in accordance with the terms of the Construction Contract. Their report, attached for your review, notes that the procedure of recording PSCM fees into the Financial Management System should be revised to enhance the control of such fees paid relating to construction contracts. Draft copies of the matter contained in the report were provided to Department officials. The views of the responsible Department officials as to actions taken or being taken are appended to the report as Exhibit 1.

We appreciate the cooperation extended to the MFR auditors by City and GHWP personnel during the course of the review.

Sincerely,

  
Sylvia R. Garcia  
City Controller

xc: City Council Members  
John Baldwin, Deputy Director, Public Works & Engineering Department  
Wendell Barnes, Deputy Director, Public Works & Engineering Department  
Richard Lewis, Director, Finance & Administration Department  
Jimmie Schindewolf, Director, Public Works & Engineering Department

January 2, 1998

Honorable Sylvia R. Garcia, City Controller  
City of Houston  
901 Bagby, 8th Floor  
Houston, Texas 77002

Dear Controller Garcia:

In connection with the Greater Houston Wastewater Program (GHWP), we have completed a review of construction contract number 34553 (Construction Contract) in the amount of \$1,271,000 between the City of Houston (City) and Kingsley Constructors, Inc. (Kingsley). The Construction Contract represents a unit price contract for the construction of sanitary sewers and water mains in the North MacGregor Way North Relief Sewer. The City retained Montgomery Watson Americas, Inc. (MWA) as the Engineer and Program Manager of the GHWP. MWA and its program management consultants provided oversight to the construction process.

Our review was limited to determining if Kingsley's construction services were performed and its fees billed and paid in accordance with the terms of the Construction Contract. The scope of our review was for the period from February 28, 1994 through December 19, 1997, and consisted of the following procedures:

- Obtained an understanding of the project by reviewing the Construction Contract, change orders, Requests for Council Action (RCA), submittal files, test reports, minutes of meetings, and correspondence files.
- Interviewed GHWP personnel and reviewed supporting documentation to determine whether Kingsley performed services in accordance with the terms of its Construction Contract.
- Reviewed and analyzed daily Engineering Construction Reports (ECRs), monthly "Estimates and Certificates for Payment, Unit Price Work" (Pay Estimates), cash allowance, materials, shop drawings, Project Specific Construction Management (PSCM) fees, and related PSCM fee accounts in the City's Financial Management System (FMS).
- Reviewed contingencies and compared certain cost overruns to the Work Change Directives (WCDs) and corresponding change orders.

Honorable Sylvia R. Garcia, City Controller  
January 2, 1998  
Page 2

Our procedures were performed through the date of this report and have not been updated since that date. Based on the procedures performed, we determined that Kingsley's construction services were performed, and its fees were billed and paid in accordance with the terms of the Construction Contract. However, to facilitate the review and enhance the control of PSCM fees paid relating to construction contracts, the City should revise its procedures of recording such fees on FMS. The finding described and noted in this report is the only significant matter that came to our attention.

Mir•Fox & Rodriguez, P.C. is pleased to have assisted you with this project, and we appreciate the assistance and cooperation of the GHWP personnel.

Very truly yours,

Mir•Fox & Rodriguez, P.C.

A handwritten signature in cursive script that reads "Gasper Mir, III".

Gasper Mir, III  
Principal

GM/sf

**Finding and Recommendation for the Greater Houston Wastewater Program  
Kingsley Constructors, Inc. Construction Contract**

**Background**

When the City awards a GHWP construction contract, the City appropriates an amount for Project Specific Construction Management fees. The amount of the appropriation is based on a certain percentage ranging from 6% to 15% of the construction contract amount.

The GHWP, as well as the City, maintain detailed records of the amount of PSCM fees incurred for each GHWP construction contract. The City records the amount of PSCM fees in FMS while GHWP maintains a detailed electronic spreadsheet of the amount of fees incurred by specific construction contract.

**Finding and Recommendation**

**Finding:**

For construction contract number 34553, the total amount of PSCM fees appropriated and paid by the City was \$41,943 as reflected on FMS as of December 9, 1997. However, GHWP's records indicated that a total of \$64,774 PSCM fees had been paid by the City as of the same date.

**Recommendation:**

Since FMS is the system of record for the City, the PSCM fee accounts in FMS should accurately reflect the total amount incurred by the City for each construction contract. Having all of the PSCM fees paid for a specific construction contract in one account, would facilitate the City's review and cost control process.



# CITY OF HOUSTON

Post Office Box 1562 Houston, Texas 77251-1562

Lee P. Brown, Mayor

CITY COUNCIL MEMBERS: Bruce Tatro Michael J. Yarbrough Martha J. Wong Jew Don Boney, Jr. Rob Todd Ray F. Driscoll Jean Kelley Felix Fraga  
John E. Castillo Annise D. Parker Joe Roach Orlando Sanchez Chris Bell Carroll G. Robinson CITY CONTROLLER: Sylvia R. Garcia

Chief of Staff  
Office of the Mayor

**JIMMIE SCHINDEWOLF, P.E.**

Director of Public  
Works & Engineering

January 26, 1998

Mr. Gasper Mir  
Mir\*Fox & Rodriguez  
1300 Riverway  
Houston, Texas 77056

Dear Mr. Mir:

In response to your audit report on Contract No. 34553, Job No. 4402-1, I offer the following reply:

We agree that it would be necessary to view the Financial Management System (FMS) data as well as the Wastewater Program data base to determine the exact amount of project specific construction costs.

In response to federal and state mandates to correct wastewater problems by December, 1997, the Wastewater Program managed more than 400 contracts with a combined projected expenditure of more than \$900 million. The level of oversight for individual projects varied as work progressed and as change orders and other unforeseen situations arose.

Both City and consultant management realized that given the governmental mandates, the massive workload and constantly changing field conditions and scopes of work, it would not be possible to exactly match the actual construction management (CM) expenditure for each specific project to the FMS appropriation. In addition, the actual project specific expenditure was impacted by numerous variables not under direct program control such as contractor performance and mix of City and consultant staff.

A decision was made to appropriate additional funding for specific projects with CM expenditures exceeding the appropriation by more than \$100,000. For variances less than \$100,000, it was decided to use non-project specific supplemental funding through the Program management contract appropriation.

Mr. Gasper Mir  
January 26, 1998  
Page 2

You are correct that in instances of additional costs of less than \$100,000 taken from Program management contract appropriation, the City's FMS system does not reflect the actual amount expended for project specific construction management. Program personnel do not have the authorization or the mechanisms required to update the FMS system. Indeed, this matter is further complicated by the fact that there is no specific appropriation of additional funding project specific management for projects that run over by less than \$100,000. However, City Wastewater Program management personnel have a historical data base which does reflect the actual cost for each project and the variance from the FMS appropriation.

Sincerely,



Wendell L. Barnes, P.E.

Deputy Director

Department of Public Works and Engineering

WLB:fh

cc: Jimmie Schindewolf, P.E.  
Richard C. Scott, P.E.  
John Baldwin  
Fred Perrenot, P.E.  
Anthony Crisci, P.E.  
Joe Basista, P.E.  
File AUD