

DEKALB COUNTY, GEORGIA



LSBE PROGRAM COMPLIANCE STRICKLAND AND SON CONSTRUCTION LLC

AUDIT REPORT

PREPARED BY
FINANCE- INTERNAL AUDIT DIVISION

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Finance Department
Internal Audit & Licensing Division

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TRANSMITTAL MEMORANDUM

DATE: January 16, 2015
TO: Zachary Williams, Chief Operating Officer /Executive Assistant
FROM: Cornelia Louis, Deputy Director of Finance, Internal Audit and Licensing
SUBJECT: Local Small Business Enterprise (LSBE) Program
RE: Strickland and Son Construction, LLC

Attached is the report of the LSBE Compliance - Strickland and Son Construction, LLC review, which you requested. The issues raised in the report were discussed with you, Scott Callan, and Claudette Leak during the Exit Conference on January 16, 2015.

As is customary with our audit work, we do not include the auditee's comments in our report. However, you may consider sending your comments or response directly to the Gwen Brown-Patterson, Interim Chief Financial Officer/Finance Director.

We appreciate the cooperation and assistance we received from Purchasing & Contracting and Facilities Management staff during the course of this review. If you have any questions about the audit or this report, please feel free to contact me at extension 404-371-2639.

Sincerely,

Cornelia Louis

CC: Finance, Audit, and Budget (FAB) Committee
Gwen Brown-Patterson, Interim Chief Financial Officer/Finance Director
Scott Callan, Chief Procurement Officer
Hari Karikaran, Facilities Management Director
Claudette Leak, Administrative Project Manager

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GENERAL INFORMATION

The Local Small Business Enterprise (LSBE) Program ordinance (Chapter 2, Article VII) was enacted in November 2006 to “encourage the participation of small and local businesses in the continuing business of County government; and that the participation of these types of businesses in procurement will strengthen the overall economic fabric of DeKalb County, contribute to the County’s economy and tax base and provide employment to local residents.”

The LSBE program has two types of certifications: Locally Based Inside of DeKalb County (LSBE-DeKalb) and Locally Based Outside of DeKalb County but within the ten County Metropolitan Statistical Area (LSBE-MSA). The Metropolitan Statistical area includes Cherokee, Clayton, Cobb, Douglas, Fayette, Fulton, Henry, Gwinnett, and Rockdale Counties.

The Ordinance states upon award, “Prime Contractors are required to submit a report detailing LSBE/Sub-Contractor usage with each request for payment and not less than on a monthly basis. Prime Contractors are also required to certify that all sub-contractors have been paid within seven days of the Prime’s receipt of payment from the County. Failure to provide requested reports/documentation may constitute a material breach of contract, entitling the County to terminate the Contract for default or pursue other remedies. LSBE subcontractors must submit a detailed report of their subcontracting activity for each County contract they participate in.”

Strickland and Son Construction, LLC (Strickland) has been registered as a LSBE-MSA with the County since May 2009 and with the Georgia Secretary of State since September 21, 1999. The company is located 6235 Short Road, Fairburn, Georgia 30213. Strickland has worked on several County projects as a LSBE-MSA. The projects are: Energy Star Roof Replacement at Recorder’s Court (10-902017), Energy Star Roof Replacement Various Projects—Pole Bridge, Atlanta/DeKalb Senior Center, Briarcliff Library, and Wesley Chapel Library (10-902039), Energy Star Roof Replacement at Tobie Grant Library and Recreation (10-901934) and Portable Toilets Rental (09-760896).

PROGRAM GUIDELINES

“For all qualified sealed solicitations, the Director of Purchasing and Contracting, DeKalb County Government, shall determine if the bidder/proposer has included written documentation showing that at least twenty percent (20%) of the total contract award will be performed by a certified LSBE. This written documentation shall be in the form of a notarized Schedule of LSBE Participation. For all contracts, a signed Letter of Intent from all certified LSBES describing the work, material, equipment and/or services to be performed or provided by the LSBE(s) and the agreed upon dollar value shall be due with bid or proposal documents and included.”

In order for payment to be released to the Prime contractor both the Prime contractor and Subcontractor must submit a utilization report to document the amount of work completed to date. Per the Ordinance “The contractor shall provide a listing of all LSBE and any other subcontractors to be used in the performance of the contract, with each request for payment submitted to the County.”

In addition, the ordinance also states “The contractor cannot make changes to the notarized

schedule of LSBE participation or substitute subcontractor names in the notarized schedule of LSBE participation without the prior written approval of the Contract Compliance Division. A contractor shall not substitute a subcontractor or perform the work designated for a subcontractor with its own forces unless and until the Contract Compliance Division approves such substitution in writing.”

PURPOSE AND SCOPE

Internal Audit was requested by management to conduct a compliance audit of the LSBE program with all contracts that list Strickland as the subcontractor. This was a result of Strickland’s complaint regarding lack of full payment from the Prime Contractors: S. Garrett & Company (S. Garrett) (Contract # 10-902017 & 10-902039), Skilled Builders Inc. (Skilled Builders) (Contract # 10-901934), Southeastern Econo Disposal Services, Inc. (Southeastern) (09-760896), and Peek Pavement Marking, LLC (Contract # 10-782594).

The purpose of our review was to ensure the County and the Prime Contractors, S. Garrett, Skilled Builders, Southeastern, and Peek Pavement Marking, LLC complied with the guidelines of LSBE program.

Our audit covered the period January 2010 through September 2014. We reviewed payments, invoices, disbursements, utilization reports, checks, emails, and interviewed staff with regard to the abovementioned contracts.

Our review was conducted in accordance with Generally Accepted Auditing Standards and included such tests of records and other auditing procedures as were considered necessary under the circumstances.

OPINION

Internal Audit obtained sufficient appropriate audit evidence to render an opinion on the County’s compliance with the LSBE ordinance for the Energy Star Roof Replacement projects at Records Court and various facilities (projects). However, we cannot render an opinion on the County’s compliance with the Energy Star Roof Replacement at Tobie Grant Library and Recreation Center and Portable Toilet rental contract because no documentation was provided by the County. The County did not comply with the requirements, referred above, applicable to the LSBE program ordinance for the Energy Star Roof Replacement projects for Records Court and Various Projects.

Sufficient appropriate audit evidence was obtained to render an opinion on S. Garrett’s compliance with the LSBE ordinance for the Energy Star Roof Replacement projects at Records Court and various facilities (projects). S. Garrett did not comply with the requirements, referred above, applicable to the LSBE program ordinance.

We cannot render an opinion on Skilled Builders or Southeastern’s compliance of the LSBE program due to insufficient documentation, inconsistent documents, and the non-responsiveness of some prime contractors.

FINDINGS, RECOMMENDATIONS, AND COMMENTS

DEKALB COUNTY

I. Compliance with Policies and Procedures

The County did not comply with requiring monthly utilization reports from the prime contractor, S. Garrett, prior to releasing payment. For example, the County paid S. Garrett a total of \$134,975.70 as of May 17, 2011, but no utilization report was submitted prior to being paid, per email from County personnel.

Recommendation

Internal Audit recommends the County comply with the guidelines set forth by the LSBE Ordinance.

II. Failure to Monitor LSBE Program Adequately

The County also failed to monitor compliance with the LSBE program and enforce corrective action. As mentioned above, the County released payment to S. Garrett without receipt of utilization reports from the company. Listed on the Prime Contractor LSBE utilization report form states, "This report must be submitted with each request for payment...Failure to comply may result in the County commencing proceedings and/or pursuing any other available legal remedy."

Recommendation

We recommend that the County implement a system for tracking utilization reports of prime contractors and subcontractor, payments, percentages of work completed, etc. Utilization reports should be completed and notarized by both the prime contractor and LSBE before payment is disbursed to the prime contractor. In addition, the County should require prime contractors to provide check copies of payments remitted to the LSBE.

Comment

The user department (facilities management) personnel, responsible for overseeing the project, could not provide Internal Audit with project management documents such as project timeline, inspection reports, etc. to support various project completion stages.

S. GARRETT AND COMPANY RECORDERS COURT

S. Garrett (10-902017) was awarded \$149,973 on May 25, 2010 to perform roofing on Recorders Court. According to the contract, Strickland was to receive 20% (\$29,994) for demolition, waste disposal, and site cleanup. The following table (Exhibit 1-1) list payments disbursed to Strickland for the Recorders Court Project.

RECORDERS COURT PAYMENT CHART EXHIBIT 1-1				
Payment Date	Payment Made To	Check Number	Amount Confirmed	Amount
3/17/2011	Strickland & Son Construction, LLC	014799	Yes	\$22,252.94
6/10/2011	Strickland & Son Construction, LLC	14328	Yes	\$2,472.54
Total Paid				\$24,725.48
20% of Contract Amount				\$29,997.00
Total Remaining Portion of the 20%				<u>\$5,269.12</u>

Comment-Payments

S. Garrett's utilization report shows 100% completion on March 25, 2011. However, the last utilization report dated June 28, 2011 includes a change order amount for \$5,268.52. Purchasing and Contracting personnel informed Internal Audit no change order was completed by S. Garrett. But, the contract (*Scope of Work, Exhibit A*) between the S. Garrett and Strickland included a deduction for cost incurred by S. Garrett for roof installation, scaffold system, portable toilet, gravel removal, and Asbestos Containing Material (ACM) demolition and disposal. In addition, Strickland signed the Subcontractor Application for Payment form which also included the deduction of \$5,268.52. Therefore, Internal Audit does not believe the remaining **\$5,269.12** is owed to Strickland.

S. GARRETT AND COMPANY VARIOUS PROJECTS

S. Garrett (10-902039) was awarded \$683,455, which includes a 10% (\$62,132) contingency, on May 11, 2010 to perform roofing on Various Projects. The County paid \$621,324 to S. Garrett; the payment did not include the contingency amount. Strickland was to receive 20% (\$124,264.80) for demolition, waste disposal, and site cleanup. Listed below is a table (Exhibit 1-2) of payments disbursed to Strickland for the Various Projects.

VARIOUS PROJECTS PAYMENT CHART EXHIBIT 1-2				
Payment Date	Payment Made To	Check Number	Amount Confirmed	Amount
3/17/2011	Strickland & Son Construction, LLC	23681	Yes	\$11,135.72
4/14/2011	Strickland & Son Construction, LLC	23797 (23697)*	Yes	\$7,568.03
4/14/2011	Strickland & Son Construction, LLC & Diversified Environmental Management	23796 (23696)*	No	\$3,650.00
5/25/2011	Strickland & Son Construction, LLC	23913	Yes	\$13,613.76
5/25/2011	Strickland & Son Construction, LLC	23914	Yes	\$1,236.51
6/29/2011	Strickland & Son Construction, LLC	23926	Yes	\$12,688.08
6/29/2011	Strickland & Son Construction, LLC & Southeastern Econo Disposal Service	23925	Yes	\$10,380.00
8/8/2011	Strickland & Son Construction, LLC	14382	Yes	\$10,756.74
8/8/2011	Strickland & Son Construction, LLC	14383	Yes	\$12,886.32
Total Paid (Confirmed)				\$80,265.16
Total Paid (Unconfirmed)				\$3,650.00
20% of Contract Amount				\$124,264.80
Total Remaining Portion of the 20% (Based on Confirmed)				\$43,999.64

*Two different check numbers listed on the check

Comment-Payments

Check number 23796 Pay to the Order of, Strickland and Son Construction, LLC and Diversified Environmental Management (Diversified) was signed by Strickland but deposited into Diversified's bank account. Diversified personnel could not confirm whether or not Strickland received the \$3,650. However, S. Garrett confirmed that the joint check written to Diversified and Strickland was for asbestos abatement work performed by Diversified. Also, an email reveals that Diversified was paid because of Strickland's failure to pay their subcontractors. Contrary to the reason for the joint check and email, Diversified Environmental Management, Inc. was listed as a subcontractor for S. Garrett on this contract to perform asbestos abatement (10% of contract amount). Furthermore, the contract between S. Garrett and Strickland does not contain details of asbestos abatement as part of Strickland's contractual responsibilities. Strickland was not an approved vendor to conduct ACM demolition and disposal. Since Diversified was paid \$3,650 for asbestos abatement work, we do not believe the \$3,650 paid to Diversified should be included in the calculation of Strickland's overall payment. As a result, we believe Strickland is owed **\$3,650**.

Check number 23925 Pay to the Order of, Strickland and Son Construction, LLC and Southeastern Econo Disposal Service was signed by Strickland but deposited into Southeastern's bank account. Southeastern's owner confirmed Strickland did not receive the \$10,380. Per notes from County personnel, S. Garrett stated that Strickland wasn't paying their subcontractors/vendors and S. Garrett paid them out of Strickland's pay so they would not file a

lien against S. Garrett. We were not able to obtain a formal written agreement between Southeastern and Strickland to validate the amount owed to Southeastern by Strickland. Strickland paid Southeastern \$3,250; but, the payment was for work performed on the Records Court project. In our opinion, according to invoices provided to S. Garrett by Southeastern, the \$10,380 paid was sufficient.

Comment - LSBE Contract Withdrawal

On June 21, 2011 Strickland sent a formal letter to S. Garrett withdrawing from the Energy Star Roof Replacement—Various Projects. According to the letter, Strickland withdrew due to the inability to continue work on the project without payment for demolition, site cleanup, and waste disposal on the Wesley Chapel Library. County personnel notes stated as of June 22, 2011, “Strickland is still non-performing and they (S. Garrett) have replaced them with another LSBE, Diversified Environmental Management to provide the work originally subcontracted to Strickland.” Nevertheless, S. Garrett’s attorney sent a letter, dated June 27, 2011, not releasing Strickland and Son “from its contractual obligation to Garrett under the two subcontracts.”

Strickland informed Internal Audit that only 5% (*Pole Bridge, Atlanta/DeKalb Senior Center, Briarcliff Library was 100% completed, 95% of Wesley Chapel Library completed*) of the project remained uncompleted at the time of withdrawal, which coincides with S. Garrett’s Utilization report, dated July 30, 2011. S. Garrett Utilization Report shows a revised percentage of 0.145% amount of subcontract work for Strickland and 0.055% (*or \$34,356.27, listed on the report*) for Diversified. S. Garrett confirmed Diversified was only paid \$12,270.50. Based on S. Garrett’s revised utilization report, Internal Audit believes Strickland is due \$19,232.77. The table (Exhibit 1-3) below lists a payment analysis of project payments.

PAYMENT ANALYSIS OF ENERGY STAR ROOF REPLACEMENT-VARIOUS PROJECTS EXHIBIT 1-3						
Facilities	Total Contract Amount	20%	14.5%	20% completion of LSBE	Amount Due to LSBE	Amount Paid to LSBE
<i>Wesley Chapel Library</i>	\$366,161.00	\$73,232.20	\$53,093.35	NO	\$53,093.35	\$35,954.40
<i>Pole Bridge</i>	\$62,493.00	\$12,498.60		YES	\$12,498.60	\$11,135.72
<i>Briarcliff Library</i>	\$68,697.00	\$13,739.40		NOT CONFIRMED ¹	\$13,739.40	\$11,993.25
<i>DeKalb/Atlanta Senior Center</i>	\$123,973.00	\$24,794.60		YES	\$24,794.60	\$21,181.79
Total	\$621,324.00				\$104,125.95	\$80,265.16²
<i>Difference Between Amount Due and Amount Paid</i>						\$23,860.79
<i>Minus Retainage for Briarcliff & Wesley Chapel³</i>						\$4,628.02
<i>Total Due to Strickland</i>						\$19,232.77

¹ Garret stated clean-up was not complete, \$412.17 remaining.

² This is the Total Paid (Confirmed) from Exhibit 1-2.

³ Retainage is not disbursed to the subcontract if work is not completed.

Comments-Check Dates

Some checks remitted by S. Garrett were dated out of sequence. Internal Audit believes the checks were backdated to show compliance with the LSBE Program. According to the program, "Upon award, Prime Contractors are required to submit a report detailing LSBE/Sub-Contractor usage with each request for payment and not less than on a monthly basis. Prime Contractors are also required to certify that all sub-contractors have been paid within seven (7) days of the Prime's receipt of payment from the County." The County issued a check for \$54,486.45 to S. Garret on April 11, 2011. S. Garrett disbursed two checks, one to Strickland and Diversified and the other to Strickland, on April 14, 2011; the issue date is within 7 days after the County issued the check to S. Garrett.

The following table (Exhibit 1-4) displays checks dated out of sequence.

CHECKS DATE SEQUENCECHART EXHIBIT 1-4	
Check Number	Check Date
23681	3/15/2011
23697	3/10/2011
23795	4/29/2011
23796 ¹	4/14/2011
23797 ¹	4/14/2011
23798 ¹	4/10/2011

¹ Although check 23796 and 23797 was issued on 4/14/11, 23796 was posted on 5/11/11 and 23797 was posted on 5/13/11. Check 23798 was posted on 5/9/2011.

SKILLED BUILDERS, INC. TOBIE GRANT LIBRARY AND RECREATION CENTER

Skilled Builders (10-901934) was awarded \$149, 910.20 on February 23, 2010 to perform roofing on Tobie Grant Library and Recreation Center. According to the contract, Strickland was to receive 20% (\$29,982.04) for demolition, waste disposal, and site cleanup and 30% (\$44,973.06) for roofing.

TOBIE GRANT LIBRARY AND RECREATION CENTER PAYMENT CHART EXHIBIT 2-1				
Payment Date	Payment Made To	Check Number	Amount Confirmed	Amount
11/1/2010	Strickland & Son Construction, LLC	075270	Yes	\$49,720.40
12/13/2010	Strickland & Son Construction, LLC	2450	Yes	\$13,186.60
12/23/2010	Strickland & Son Construction, LLC	2458	Yes	\$7,000.00
Total Paid				\$69,907.00
20% (\$29,982.04) & 30% (\$44,973.06) of Contract Amount				\$74,955.10
Total Remaining Portion of 20% & 30%				\$5,048.10

Comment

Per user department, the project was 100% completed in October 2010. We were not able to obtain utilization reports from Skilled Builders. County personnel provided a utilization report submitted by Strickland. As of report date, Skilled Builders has not responded to our request regarding documentation associated with the contract.

No other subcontractor was listed on the contract to perform services provided by Strickland. Internal Audit reviewed emails from Strickland's subcontractor requesting payment for work performed on the project. Strickland responded, "Skilled Builders Inc. is responsible to pay a balance of \$6,610.00 to Strickland & Son Construction as final payment of the Tobie Grant roofing project. Once Strickland & Son receive's this final payment they will make final payment to MSI. We attended a meeting at DeKalb County concerning this matter and Skilled Builders was instructed to handle this situation." No further information was provided by the County.

A revised Letter of Intent (Exhibit B), signed by Skilled Builders and Strickland, shows 20% (\$29,982.04) for demolition was eliminated but the 30% (\$44,973.06) remained unchanged. The utilization report and check copies submitted by Strickland show \$22,907 was received for demolition, waste disposal, and site cleanup and \$47,000 was received for Pass Through Subcontract and PVC Roofing Installation. Due to the inconsistencies of the contracted amounts, total disbursed amount exceeded the revised amount on the Letter of Intent, and lack of response from Skilled Builders, we are unable to draw a conclusion as to monies due.

SOUTHEASTERN ECONO DISPOSAL SERVICES, INC.

Southeastern was awarded \$80,000 on November 6, 2009 to perform delivery and pickup of portable toilets. According to the contract, Strickland was to receive 20% (\$16,000) for Delivery and Pick-up of Portable Toilets.

Comment

A utilization report obtained from Purchasing and Contracting personnel submitted by Southeastern listed \$5,394.75 paid to Strickland for Portable Toilet Delivery and Pickup. Nonetheless, Strickland contends no work was performed on the project and no money was received.

Southeastern's owner informed Internal Audit that no documentation could be provided because company was dissolved in 2011. But, the owner stated Strickland was not able to perform the duties set forth in the contract due to lack of equipment. In addition, we inquired about the utilization report submitted by Southeastern displaying payment of \$5,394.75 to Strickland; Southeastern could not provide further details.

PEEK PAVEMENT MARKING, LLC

Peek Pavement never used Strickland & Son Construction, LLC as the LSBE on contract # 10-782594.

Conclusion

Overall, based on our review of all project documents we received, thus far, we believe Strickland is due \$19,232.77. Pertaining to the Southeastern contract, our test of compliance did not include an assessment of whether or not Strickland satisfied “the minimum qualifications or other requirements of the contract as set forth by the contractor.” The table (Exhibit 3-1) below provides a breakdown of the various projects.

SUMMARY OF INFORMATION				
EXHIBIT 3-1				
Project Name/Prime Contractor	Contract Award Amount	LSBE %	Amount Paid to Strickland	Possible Amount Due
Energy Star Roof Replacement at Recorders Court S. Garret & Company (10-902017)	\$149,973.00	\$29,994.60	\$24,725.48	-
Energy Star Roof Replacement at Various Projects S. Garret & Company (10-902039) <ul style="list-style-type: none"> • Pole Bridge AWTP • DeKalb/Atlanta Senior Center • Briarcliff Library • Wesley Chapel Library 	\$621,324.00	\$104,124.95	\$80,265.16	\$19,232.77
Energy Star Roof Replacement at Tobie Grant Library and Recreation Center Skilled Builders, Inc. (10-901934)	\$149,910.20	\$29,982.04 (30% roofing \$44,973.06)	\$69,907.00	Insufficient evidence to make recommendation
Portable Toilets (Rental) Southeastern Econo Disposal Service, Inc. (09-760896) *No work performed by Strickland	\$80,000.00	\$16,000.00	\$0	No work Performed by Strickland; No amount Due
Pavement Marking of Roads and Parking Lots Peek Pavement Marking (09-760896)	\$250,000.00	\$50,000	\$0	No work Performed by Strickland; No amount Due