



**FLORIDA
INTERNATIONAL
UNIVERSITY**

Office of Internal Audit

**Audit of the Construction Manager Selection
Process for the FIU Football Stadium Expansion**

Report No. 11/12-07

February 27, 2012



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OFFICE OF INTERNAL AUDIT

Date: February 27, 2012
To: Albert Maury, Chairman, Florida International University Board of Trustees
From: Allen Vann, Audit Director 
Subject: **Audit of the Construction Manager Selection Process for the FIU Stadium Expansion and Master Plan Project, Report No. 11/12-07**

Pursuant to your request, we have completed an audit of the Construction Manager (CM) selection process for the FIU Stadium Expansion and Master Plan Project (BT-842). This project represents a short term expansion of the FIU football stadium, which has a preliminary budget of \$6 million.

The primary objectives of our audit were to determine whether the CM selection process was fair and competitive and in accordance with applicable Florida Board of Governors (BOG) regulations and University policies and procedures. Accordingly, we found that the CM selection process for the stadium expansion was conducted in a fair and competitive manner and in accordance with applicable BOG regulations and University policies and procedures.

Our selection process, followed by many other universities in the State University System, has warded off legal challenges. All selection committees have had voting representation from the user departments and the committees' voting history reflects that the resulting awards have been evenly spread among the design and construction communities. No anomalies were apparent. As a result of our audit, we concluded that selection panels as currently constituted provide good internal controls over the integrity of the process.

C: Sukrit Agrawal, Chair, BOT Finance & Audit Committee and Committee Members
Mark B. Rosenberg, University President
Kenneth A. Jessell, Chief Financial Officer and Senior Vice President
John Cal, Associate Vice President for Facilities Management
Pete Garcia, Athletic Director, Intercollegiate Athletics
Javier I. Marques, Chief of Staff, Office of the President
Robert Griffith, Director of Planning Facilities Management

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OBJECTIVES, SCOPE AND METHODOLOGY

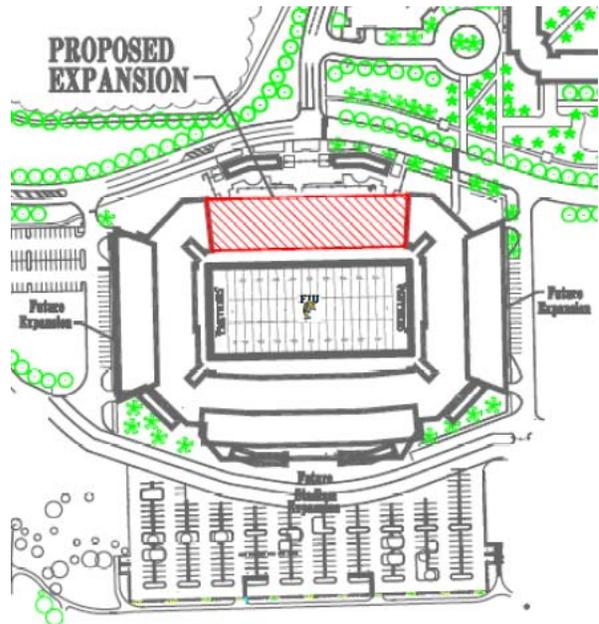
Pursuant to a request from the Chairman of the Board of Trustees, we conducted an audit of the Construction Manager (CM) selection process for the FIU Stadium Expansion and Master Plan Project (BT-842). The primary objectives of our audit were to determine whether the CM selection process was fair and competitive and in accordance with applicable Florida Board of Governors (BOG) regulations and University policies and procedures.

The audit was conducted in accordance with the *International Standards for the Professional Practice of Internal Auditing* and included tests of selection process records and such other auditing procedures as we considered necessary. We reviewed BOG regulations and University policies and procedures, interviewed selection committee members and representatives of the CMs, and examined CM selection documents.

As part of our audit, we reviewed one internal audit report issued this past year related to the scope and objectives of this audit: *Audit of Major Construction Projects – Selection Process of Architects/Engineers and Construction Managers*, dated April 29, 2011.

FINDINGS

The FIU Stadium Expansion and Master Plan was recommended by a Facility Program Committee and approved by the President on August 29, 2011 and August 30, 2011, respectively. The plan sets forth the preliminary requirements for the short term expansion and long term build-out of the FIU football stadium. The project's preliminary budget includes \$6 million in Intercollegiate Athletics private funding. Two separate committees were assembled to select an architect/engineer (A/E) and a construction manager, respectively. The Facilities Planning section (Planning) of the Facilities Management Department (FMD or Facilities) coordinated the selection of both the A/E and the CM for the Stadium Expansion Project. This report covers the CM selection only.



In order to ensure that there is a fair selection process that creates a level playing field for all firms, BOG Regulation 14.0055, *Certification and Competitive Selection for Construction Management Services and*

Design-Build Services, requires the President to appoint a selection committee to make recommendations for construction management services or design-build services. Section (4) of the Regulation requires that:

The Committee shall consist of at least three members, two of which must have demonstrable experience in the selection of construction management and/or professional architectural or engineering services or education in construction, engineering, architecture or other related discipline and shall be comprised of the following:

- (a) At least one facilities' professional from the University Facilities Office or Physical Plant office;
- (b) One facilities professional who is not required to be a current University Facilities or Physical Plant employee; and
- (c) One or more additional members, based on the special needs of the project, if required. The University may add one student as a non-voting member of the selection committee.

It has been the past practice in Facilities Management to assemble a selection committee of between three to five members including: one or more staff members from the user department and two or more from Facilities Management.¹ The Planning Section fulfills the experience requirements of §14.0055 (4) (a) and (b) above by using Facilities staff. Accordingly, on September 22, 2011 the Director of Planning, who also serves as the Committee's non-voting Chairman, obtained approval from the President's designee, the Senior Vice President and CFO, for the following selection committee members:

1. Associate Vice President, Facilities Management
2. Project Manager, Facilities Management
3. Assistant Director of Custodial Services, Facilities Management
4. Sr. Associate Athletics Director, Intercollegiate Athletics
5. Stadium Manager, Intercollegiate Athletics²

The selection panel as constituted fulfilled the requirements of the BOG Regulation.

¹ While there is no requirement in the BOG regulations that the majority of voting committee members are from the University's facilities departments, FIU reportedly mirrors that of other members of Florida State University System including: FAU, FSU, UNF, USF, UF, and FAMU.

² The Stadium Manager, who had no previous experience serving on a selection committee, was briefed by a Facilities Planning Coordinator on his responsibilities, how the process works, and requirements under Florida laws and regulations.

Prior to their appointment, it is permissible for the appointees to speak to each other and with staff from interested firms about the project. According to members of the panel, as well as the firms interviewed for this review, it is not uncommon for the firms to visit staff to discuss a planned project.

Unlike design-build solicitations, where Facilities has publically advertised pre-solicitation meetings, as was the case for the original stadium, CM selection solicitations, which are qualifications based, do not require formal pre-bid meetings. The project's legal advertisement and fact sheet instructed interested applicants to direct inquiries to the Director of Planning's email address or office phone. We reviewed the Director's email traffic related to the solicitation and found them to be routine responses to process type inquiries, which in no way gave an unfair advantage to any particular firm. Interested firms visited the sites on their own prior to making their submissions and some visited with staff prior to the beginning of the official "cone of silence."



The Sr. Associate Athletics Director and the Facilities Project Manager met with G-T Construction Group, Inc. a consultant to Facchina Construction of Florida, LLC (Facchina) Construction Group, Inc. The meeting was requested by the consultant and was also attended by representatives of Southern Bleacher Company.³ The President of G-T Construction alleges that he received a clear and unambiguous message from the Project Manager that FIU wanted

Southern Bleachers to be on the expansion project. He claimed to have formulated Facchina's qualifications submission and subsequent presentation materials accordingly. But the Project Manager denied ever stating such a preference and/or making such a recommendation to G-T Construction. The Sr. Associate Athletics Director confirmed that no such conversation took place in her presence. Accordingly, the allegation made by the complainant could not be substantiated.

³ Southern Bleacher Company constructed the bleachers for the original stadium under FIU's design-build contract with Odebrecht. G-T Construction was a consultant to Odebrecht under the original construction project and professed to have a close working relationship with Southern Bleachers Company.

Facilities Planning prepared and published the required legal advertisement for construction manager services and prepared relevant project fact sheets and forms that were made available to interested firms. On September 30, 2011 the legally required public notice and advertisement to solicit for a Construction Manager was made through the University's web site and the Florida Administrative Weekly. The submittals deadline was October 28, 2011.

Qualification submittals were received from nine companies:

1. Arellano Construction
2. Skanska
3. A² Group
4. Facchina Construction
5. Link Construction
6. Pirtle Construction
7. Thornton Construction
8. MCM
9. J. Kokolakis

Eight of the submissions were received within the required deadline and were deemed qualified in accordance with BOG Regulation §14.0055 (6), which requires the University to determine each firm's eligibility. One submittal, from J. Kokolakis, was late and was not accepted or considered.

On November 8, 2011, subsequent to the individual submittal reviews conducted separately by each of the selection committee members, the committee met in a public forum to evaluate and shortlist rank the applicant firms. The Committee had to develop a shortlist consisting of a minimum of three firms to invite for oral presentations and final ranking. Five crucial/required factors were considered:

1. Related experience;
2. Experience and ability;
3. Service (record keeping/monitoring and IT systems);
4. Cost and quality control systems; and
5. Scheduling

The Committee short listed four of the eight qualified firms. (Two were tied for third place.) The following table reflects the shortlist ranking order for each Committee member and the resultant composite shortlist rankings:

Shortlist Rankings	----Athletics Staff----		-----Facilities Staff-----			Composite Rankings
	Sr. Ass. Athletics Director	Stadium Manger	Director Custodial Services	Project Manager	Ass. V.P. Facilities	
①	MCM	Link	Pirtle	MCM	Pirtle	MCM
②	Pirtle	MCM	Arellano	Pirtle	MCM	Pirtle
③	Facchina	Facchina	MCM	Skanska	Arellano	Facchina Arellano
④	Link	Arellano	Skanska	A2 Group	Facchina	N/A

We reviewed all of the submittals, an audiotape of the shortlist meeting, and the shortlist ranking documentation. Based on our review we concluded that the process followed by Planning was fully consistent with the BOG Regulation §14.0055 (7) comprising the shortlist ranking process requirements. We noted no anomalies in the shortlist evaluation and voting process.

On November 10th the four shortlisted firms/finalists were invited to make an oral presentation to the committee to demonstrate their individual understanding of the project and their ability to provide the CM services. On November 22nd each of the finalists' key team members made presentations to the selection committee. We reviewed the following documentation:

1. presentation materials submitted by each of the firms;
2. audio tapes of the individual meetings, which included presentations and Q&A and a final committee deliberation and scoring session; and
3. final rankings sheets.

All of the selection committee members were interviewed for this review and they all believed that any of the finalists could have satisfactorily performed the work for this project. Notwithstanding, MCM received the highest composite ranking. Each member of the committee offered satisfactory rationale why they voted as they did. All agreed that MCM made an outstanding presentation and had one of the best visions for what the University was looking for. In the final ranking, it was the clear favorite of two of the Facilities staff and was ranked second by the two Athletics staff and the third Facilities staff member.

The following table reflects the final ranking order by committee members and the resultant composite rankings:

Final Rankings	Athletics Staff		Facilities Staff			Composite Rankings
	Sr. Ass. Athletics Director	Stadium Manger	Director Custodial Services	Project Manager	Ass. V.P. Facilities	
①	Facchina	Facchina	MCM	MCM	Pirtle	MCM
②	MCM	MCM	Pirtle	Pirtle	MCM	Pirtle
③	Arellano	Arellano	Arellano	Arellano	Arellano	Facchina
④	Pirtle	Pirtle	Facchina	Facchina	Facchina	Arellano

There were several notable voting patterns. Pirtle ranked second based on votes received from the three Facilities staff members. However, Athletics staff ranked Pirtle in last place. Conversely, Facchina was ranked in first place by the two Athletics staff members but was ranked last by all three Facilities staff. Each of the voting committee members were interviewed and provided their rationale for the way they voted:

1. Most common reasons for poor ratings included: mediocre presentations, past difficulty in meeting deadlines, predisposition for a particular stadium seating fabricator, and lack of sufficient relevant experience.
2. Most common reasons for favorable ratings included: quality of presentation, past structural steel experience and experienced staff.

With regard to the issue of the use of a particular stadium seating fabricator, the Facchina team demonstrated a preference for Southern Bleachers, the original supplier of the bleachers. Athletics staff saw the experience and “learning curve” advantage as a plus for a project where finishing on time is essential. However, Facilities’ staff saw the preference as a negative in that their price may not be as competitive and were less impressed with the experience. While Facchina’s team explained that FIU would have the final say on the approval of subcontractors, this and a reportedly lackluster presentation placed them at the bottom of Facilities staff’s ranking.

According to all of the panel members, including the nonvoting chair, no substantive conversations about the CM selection process took place among the members nor were there any private discussions with the firms outside of the public meetings. In this respect, the “cone of silence” policy in effect throughout the selection process appears to have been adhered to. While all of the selection committee members acknowledged knowing or previously meeting with some of the representatives of the firm, each member signed a statement included in the final ranking sheet that they had no association with any of the applicants and had no conflicts of interest in fulfilling their duty as members of the committee.

FOLLOW UP OF PRIOR AUDIT RECOMMENDATIONS

As part of our audit, we followed up on applicable prior recommendations to determine whether management has effectively implemented them. From our *Audit of Major Construction Projects – Selection Process of Architects/Engineers and Construction Managers*, dated April 29, 2011, we followed up on three applicable recommendations:

Recommendations

The Facilities Management Department should:	
1.1	Maintain all documentation for the selection committee appointment process in the prescribed manner.
1.2	Require all selection committee members to certify on the selection evaluation shortlist form that they had no conflicts of interest with regard to the firms/vendors being evaluated.
2.	At each selection committee meeting, the Facilities Management Department's non-voting chair should provide non-committee staff members with guidance regarding their participation in the discussions and deliberations.

Based on our current audit we determined that these prior recommendations were satisfactorily implemented.

CONCLUSION

The CM selection process was fair and competitive and in accordance with applicable BOG regulations and University policies and procedures. As part of our audit, we revisited the findings contained in our *Audit of Major Construction Projects – Selection Process of Architects/Engineers and Construction Managers*, dated April 29, 2011 and confirmed that the selection processes used by Facilities Planning are adequate and effective and fulfill all State and University regulations and policies and procedures. The process as designed has warded off possible legal challenges. It is the same process followed by many other Universities in the Florida State University System. All selection committees have voting representation from the user departments. The voting history of selection committees reflect that the awards appear to be evenly spread among the design and construction communities and no anomalies were apparent. Selection panels as currently constituted provide good internal controls over the integrity of the process.