



# OFFICE OF INSPECTOR GENERAL PALM BEACH COUNTY

## CONTRACT OVERSIGHT NOTIFICATION (2013-N-0005)

ISSUE DATE: JUNE 26, 2013

Sheryl G. Steckler  
Inspector General

*"Enhancing Public Trust in Government"*

### New Waste-to-Energy Facility General Condition – 51, Labor Hour Review

#### SUMMARY

On February 21, 2013, the Office of Inspector General notified the Solid Waste Authority of its intent to review the provisions of General Condition – 51, which details the labor workforce guidelines for construction workers on the New Waste-to-Energy Facility project site. Specifically, General Condition – 51, in part, states; the "Contractor shall use Bona Fide Efforts to ensure that Seventy per cent (70%) of the total unskilled<sup>1</sup> workforce man-hours utilized on the project site, by Contractor and its subcontractors of any tier, and that Twenty per cent (20%) of the total skilled<sup>2</sup> workforce man-hours utilized on the Project Site, by Contractor and its subcontractors of any tier, go to residents of Palm Beach County..." Moreover, General Condition – 51 provides guidance on documenting residents of Palm Beach County: "Proof of residency shall be sufficiently established by production of a valid Florida voter's registration card, Florida driver's license, state issued identification card, or affidavit of residency if the document submitted for proof of residency shows on its face that the employee resides at an address located in Palm Beach County."

Office of Inspector General staff reviewed the skilled, and unskilled, labor hour information and the local and non-local residency documentation provided by KBR Construction Company L.L.C. Our review encompassed the period from April 2011 through December 2012 and determined KBR Construction Company L.L.C. **complied** with the requirements of General Condition - 51 (as demonstrated below); however, documenting and reporting of the data to the Solid Waste Authority needs improvement.

Labor	General Condition - 51 Minimum Requirement	KBR Construction Company, L.L.C. Determination	OIG Determination
Local – Skilled	20%	37.6%	35.4%
Local – Unskilled	70%	92.6%	92.2%

The proofs of residency documentation reviewed by the Office of Inspector General are in the following categories: Florida issued driver's licenses – 80.7%; Florida issued

<sup>1</sup> GC-51 defines unskilled labor as employees who "are not classified as skilled labor and includes, but not limited to, laborers, field clerks, non-salaried personnel, and entry level helpers and apprentices."

<sup>2</sup> GC-51 defines skilled labor as employees who "work in a craft or trade and whose employment classification is above the first entry level classification for that craft or trade."

identification cards – 8.8%; Affidavits of Palm Beach County Residency – 8.8%<sup>3</sup>; and, “Other” - 1.7%.

Although KBR Construction Company L.L.C. are in compliance with the General Condition – 51 requirements, errors were discovered which led to inaccuracies in the “Local Hire” section of the December 2012 Progress Report prepared for the Solid Waste Authority.

## BACKGROUND

In September 2010, the Solid Waste Authority (SWA) issued Request for Proposals (RFP) No. 11-201/SLB for the “Design, Build, and Operation of a New Waste-to-Energy Facility (“Project”). According to the solicitation document, the SWA requested proposals from entities that have “demonstrated qualifications and capabilities to design, build and operate the New WTE Facility.” On April 13, 2011, the SWA Governing Board awarded a \$668 million contract to the Babcock & Wilcox Power Generation Group, Inc. (B&W) and KBR Construction Company L.L.C.<sup>4</sup> (KBR). The stated purpose of the Project is to construct a facility that will be capable of processing 3,000 tons of municipal solid waste per day to produce electricity and significantly reduce the amount of waste sent to Palm Beach County’s landfill. The Project includes processes to maximize the recovery and recycle of aluminum, steel and other metals and is estimated to be completed in July 2015.

On February 21, 2013, the Office of Inspector General (OIG) notified the SWA of its intent to review the provisions of General Condition (GC)-51, which details the labor workforce guidelines for construction workers at the Project site. Subsequently, the SWA informed the OIG that “KBR prepares the Monthly Progress Report and the associated supporting documentation.”

The “Monthly Progress Report” prepared by KBR contains an array of information; however, the OIG’s review was limited to determining the accuracy of the December 2012 “Local Hire<sup>5</sup>” summary and the associated cumulative data from the inception date of the Project (April 2011) through December 2012.

## FINDINGS

### FINDING (1):

**KBR Construction Company, L.L.C. complied with the requirements of General Condition – 51; however, the process for accurately documenting and reporting the “Local Hire” data to the Solid Waste Authority needs improvement.**

#### December 2012 “Local Hire” statistics

To document compliance with the GC-51 requirements, the SWA requires KBR to prepare and submit a “Monthly Progress Report.” The “Monthly Progress Report”

<sup>3</sup> The Office of Inspector General did not verify the authenticity of the “Affidavits” of Palm Beach County residency because if all of the labor hours attributed to the “Affidavits” were removed from the General Condition – 51 calculations, KBR Construction Company L.L.C. would have remained in compliance.

<sup>4</sup> Formerly known as BE&K Construction Company, L.L.C.

<sup>5</sup> The “Local Hire” section of the “Monthly Progress Report” consists of two parts. First, a slide demonstrating the local workforce labor hours worked during the **specific month**, in this instance the period between December 1<sup>st</sup> and December 29<sup>th</sup>, 2012; and, second, a slide demonstrating the **cumulative** local workforce labor hours from the inception date of the project through December 29<sup>th</sup> 2012.

contains an array of information; however, the “Local Hire” section specifically addresses the GC-51 requirements. The “Local Hire” section reports the monthly, and cumulative, labor hours for the local, skilled and unskilled, workforce.

Additionally, GC-51 provides the guidance on the type of documents required to support local (Palm Beach County) residency. Specifically, GC-51 states, "Proof of residency shall be sufficiently established by production of a valid Florida voter's registration card, Florida driver's license, state issued identification card, or affidavit of residency if the document submitted for proof of residency shows on its face that the employee resides at an address located in Palm Beach County."

#### OIG Review

KBR provided the OIG with multiple Microsoft Excel files<sup>6</sup> (“workbooks”) containing the names of the contractors/subcontractors working on the Project in order to support the statistics reported in the December 2012 “Local Hire” summary. The OIG reviewed the workbooks and supporting backup documentation (i.e. proofs of residency) provided by KBR. Our review of the workbooks determined the following:

#### (1) Proofs of Residency Documentation Supporting Local Labor Hours was Lacking

- KBR could not provide proofs of residency documentation for all individuals included in the December 2012 “Local Hire” statistics. KBR stated their standard policy is to include only local workforce labor hours of individuals who provide supporting documentation consistent with the GC-51 requirements. Therefore, absent documentation supporting a worker’s local residency, those workforce labor hours should be removed from the local category and placed into the non-local category. This adjustment resulted in a **reduction of approximately 600 local labor hours**<sup>7</sup>.

#### (2) Workbook Documentation Contained Inaccurate Information:

- KBR included a resident of Broward County, Florida in the December 2012 “Local Hire” statistics. This clerical error is the result of using a filter to isolate individuals living in zip codes beginning with “334”; however, the zip code 334XX is not exclusive to Palm Beach County. Certain locations in Broward, Hendry and Martin Counties in Florida have zip codes beginning with “334”. This adjustment resulted in a **reduction of approximately 1,000 local labor hours**<sup>8</sup>.
- CDM Smith, Inc.’s<sup>9</sup> submission of workforce labor hours to KBR for the month of December 2012, did not reconcile to the workbooks provided for review. This adjustment resulted in a **reduction of approximately 4,400 total labor hours**<sup>10</sup> and **3,800 local labor hours**<sup>11</sup>.

<sup>6</sup> The Office of Inspector General was unable to reconcile the total labor hours per the workbooks with the total labor hours reported in the December 2012 “Local Hire” statistics; however, the variance was less than 0.6%.

<sup>7</sup> The December 2012, “Local Hire” summary included 648 local labor hours from Brothers Concrete Pumping Service; however, due to the lack of residency documentation, the OIG determined the local labor hours were 30.

<sup>8</sup> The December 2012, “Local Hire” summary included 59,404 local labor hours from KBR Construction Company, L.L.C.; however, as a result of the zip code filter error, the OIG determined the local labor hours were 58,382.

<sup>9</sup> CDM Smith, Inc. is a consulting, engineering, constructing and operations firm working as a contractor/subcontractor on the Project.

<sup>10</sup> The December 2012, “Local Hire” summary included 61,962 total labor hours from CDM Smith, Inc.; however, the workbooks submitted to the OIG supported 57,562 total labor hours.

- KBR provided the OIG with multiple workbooks to support the December 2012 “Local Hire” statistics. Contained therein along with local labor hours were the names of two professional services firms: Tierra South Florida, Inc. and Engenuity Group, Inc. The OIG requested proofs of residency documentation consistent with the GC-51 requirement. KBR stated, in part:

*“In summary, Tierra South Florida is providing professional testing services (soil, concrete, etc.) and Engenuity is providing professional surveying services. Tabs included in the detail back up were maintained for CDM internal tracking; however, consistent with the requirements of GC-51, these hours were neither carried forward to the summaries nor included in the GC-51 calculations. Consequently, no proof of residency was requested or maintained.”*

The OIG verified that Tierra South Florida, Inc. and Engenuity Group, Inc. were providing professional services on the Project and therefore the labor hours should not be included in the December 2012 “Local Hire” statistics.

Although the OIG determined that KBR’s assertion was correct in that the labor hours were not included in the December 2012 “Local Hire” statistics, they were included in the workbook(s) provided by KBR to the OIG for review. Documentation that does not directly support the information being reported in the “Local Hire” statistics should not be comingled with data that supports the reporting statistics.

#### **RECOMMENDATION: SOLID WASTE AUTHORITY**

The Solid Waste Authority should assign a staff member to periodically review the supporting documentation collected and organized by KBR Construction Company, L.L.C. in support of the “Local Hire” statistics being reported in the “Monthly Progress Report”.

#### **RESPONSE: SOLID WASTE AUTHORITY**

On June 25, 2013, Mark Hammond, Executive Director, Solid Waste Authority provided a response to this Notification (Attachment A). Mr. Hammond stated, in part: “The SWA has engaged S. Davis & Associates, P.A. a qualified independent Certified Public Accountants firm licensed to practice in the State of Florida for the purpose of providing semi-annual compliance examination of KBR manpower records to verify data with regard to local labor workforce requirements ...”

#### **RECOMMENDATION: KBR CONSTRUCTION COMPANY, L.L.C.**

In order to enhance the efficiency of producing and the accuracy of reporting the General Condition – 51 local workforce labor hour statistics to the SWA, KBR should:

1. Develop and implement a standardized reporting template.

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<sup>11</sup> The December 2012, “Local Hire” summary included 31,280 local labor hours from CDM Smith, Inc.; however, the workbooks submitted to the OIG supported 27,442 local labor hours.

2. Maintain proofs of residency documentation in a clear and concise manner that supports the local workforce labor hours being reported.
3. Maintain separate comprehensive workbooks, for each month, supporting the monthly "Local Hire" statistics report.

#### **RESPONSE: KBR CONSTRUCTION COMPANY, L.L.C.**

On June 25, 2013, Stephen J. Hennick, Principal Project Manager, KBR Construction Company, L.L.C. provided a response to this Notification (Attachment B). Mr. Hennick offered the following:

Recommendation #1 – KBR has developed and implemented a standardized reporting template.

Recommendation #2 – KBR will evaluate current internal controls for maintaining proofs of residency documentation to ensure consistent data collection and reporting.

Recommendation #3 – KBR will assess the effectiveness of maintaining comprehensive workbooks to capture the data used to prepare "Local Hire" summary statistics.

#### **ACKNOWLEDGEMENT**

The Inspector General's Contract Oversight staff would like to extend our appreciation to the Solid Waste Authority and KBR Construction Company, L.L.C. staff and management for the cooperation and courtesies extended to us during the contract oversight process.



June 25, 2013

Joe Doucette  
Chief of Operations  
Office of Inspector General  
P. O. Box 16568  
West Palm Beach, FL 33416-6568

**RE: Contract Oversight Notification (2013-N-0005)  
Waste-To-Energy Facility, GC-51**

Dear Mr. Doucette,

Per your request we are providing the following response to your memo regarding Contract Oversight Notification (2013-N-0005).

**OIG Findings:**

**(2) Workbook Documentation Contained Inaccurate Information:**

- *KBR included a resident of Broward County, Florida in the December 2012 "Local Hire" statistics. This clerical error is the result of using a filter to isolate individuals living in zip codes beginning with "334"; however, the zip code 334xx is not exclusive to Palm Beach County. Certain locations in Broward, Hendry and Martin Counties in Florida have zip codes beginning with "334". This adjustment resulted in a **reduction of approximately 1,000 local labor hours.***
- *CDM Smith, Inc.'s<sup>7</sup> submission of workforce labor hours to KBR for the month of December 2012, did not reconcile to the workbooks provided for review. This adjustment resulted in a **reduction of approximately 4,400 total labor hours and 3,800 local labor hours.***

**SWA Response:**

*We ask that these findings contain footnotes which give the total number of hours which will help put the adjustments in proper perspective.*

**OIG Recommendation:**

*The Solid Waste Authority should assign a staff member to periodically review the supporting documentation collected and organized by KBR Construction Company, L.L.C. in support of the "Local Hire" statistics being reported in the "Monthly Progress Report".*

**SWA Response:**

*The SWA has engaged S. Davis & Associates, P.A., a qualified independent Certified Public Accountants firm licensed to practice in the State of Florida for the purpose of providing semi-annual compliance examinations of KBR manpower records to verify data with regard to local labor workforce requirements as stipulated in the Design/Build Contract for the new Waste-to-Energy facility, Project No. 11-201, General Condition 51, Labor (GC-51), of the applicable skilled and unskilled workforce man-hour percentages and hourly rates of Palm Beach County residents and compliance with Palm Beach County's Living Wage Ordinance. S. Davis & Associates will conduct a formal review of KBR's performance with regard to the requirements of GC-51 from project inception to completion. The Final report shall be statistically sufficient to support whether or not KBR met these requirements.*

We thank you for the opportunity to respond to the report. Your analysis provides the SWA and KBR with useful information which will assist KBR in complying with General Condition – 51 of the Design/Build Contract.

Sincerely,



Mark Hammond  
Executive Director

Attachment: Response from KBR dated 6/25/2013



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Physical Address: 6801 North Jog Road, West Palm Beach, FL 33412  
Warehouse Receiving: 6610 North Jog Road, West Palm Beach, FL 33412  
Phone: 561.616.4460 Fax: 561.616.4553

June 25, 2013

Mr. Mark Hammond  
Executive Director  
Solid Waste Authority  
7501 North Jog Road  
West Palm Beach, Florida 33412-2414

Subject: Response to the Office of Inspector General Contract Oversight Notification –  
Waste-to-Energy Facility, GC-51

Dear Mr. Hammond:

KBR appreciates the opportunity to review and respond to the report of the Office of Inspector General Contract Oversight Unit related to compliance with General Conditions – 51, of the Design Build Contract with the Solid Waste Authority of Palm Beach County. KBR wishes to thank the Office of Inspector General for independent confirmation of KBR's compliance with the Design Build Contract terms and for their cooperation with our staff and subcontractors during the audit performance.

KBR acknowledges the recommendations and the OIG findings and has the following specific responses to each of the recommendations.

### **SPECIFIC RECOMMENDATIONS AND RESPONSES**

**OIG Recommendation 1:** Develop and implement a standardized reporting template.

**KBR Response:** A standardized reporting template has been developed and implemented for reporting purposes.

**OIG Recommendation 2:** Maintain proofs of residency documentation in a clear and concise manner that supports the local workforce labor hours being reported.

**KBR Response:** KBR will evaluate the current internal controls for maintaining proofs of residency to ensure consistent data collection and reporting.

**OIG Recommendation 3:** Maintain separate comprehensive workbooks, for each month, supporting the monthly "Local Hire" statistics report.

**KBR Response:** We will assess if comprehensive workbooks are the appropriate approach for the effective reporting of "Local Hire" data.

# KBR

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Mr. Mark Hammond  
Executive Director  
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KBR is committed to providing the Authority with accurate and timely information related to GC-51 compliance. We are available at any time to address any questions or concerns.

Sincerely,



Stephen J. Henrick  
Principal Project Manager

cc: Ray Schauer – SWA  
Nick Bouler – KBR  
Michael Fick – Babcock & Wilcox