

State of Florida

Florida Department of Financial Services

Division of Accounting & Auditing

Bureau of Auditing

**Audit of
Department of Management Services
First District Court of Appeal
Courthouse Construction Project**



October 12, 2010

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SCOPE AND METHODOLOGY

The purpose of this audit was to reconcile and validate all sources and uses of project funding, including bond proceeds and other state funding and to determine whether the project is in compliance with applicable provisions of Florida Statutes. The methodology involved the examination of documents and financial records associated with the project, including 1) documents relating to bond issuance and sale; 2) appropriations records; 3) procurement documents; 4) contracts; 5) change orders; 6) project management reports; and 7) all invoices tendered to support payments associated with construction of the project.

INTRODUCTION

In the normal course of paying for construction services involving state funds, vendors submit to DMS invoices which have been certified by the designated architectural/engineering firm. Consistent with acceptable internal controls, the DMS Project Manager reviews and approves the invoices for satisfactory receipt of services and compliance with applicable contract terms and conditions. Upon completion of the review and approval of the invoices, the DMS Project Manager forwards the invoice with his/her documented acknowledgement to the DMS Bureau of Financial Management Services for payment processing and recording on the state's general ledger.

After the payment information has been recorded into the state's account system, payment vouchers, including certification and supporting documentation, are transmitted to the Florida Department of Financial Services Bureau of Auditing ("Auditing") for review. The Bureau is required to post the payment if 1) the payment is adequately supported by a legislative appropriation and 2) it is submitted with proper supporting documentation, including signed certifications from DMS demonstrating that the goods and services were satisfactorily received. The CFO is required to make payments that conform to applicable contract terms and are within the limits specified by the Florida Legislature. This issue was decided in *Chiles v. Milligan*, 654 So. 2d 556 (1995), which confirmed that the Comptroller is not empowered to invoke any supervisory authority to veto or disallow expenditures for which lawful appropriation has been made by the Florida Legislature.

On August 30, 2010, CFO Alex Sink directed the Bureau of Auditing to undertake an immediate audit of the Florida Department of Management Services ("DMS") project for the construction of a new courthouse ("the Project") for the First District Court of Appeal ("1DCA"). This Audit Report was prepared by Auditing as the result of the CFO's directive.

During the audit, the Audit team reviewed documentation for the Project, including expenditure documentation, contracts, purchase orders, written correspondence and emails. The documentation was provided by the DMS, 1DCA and certain vendors associated with the project. Based on our review of the documentation we have listed a total of seventeen (17) findings each of which appear to be violations of and/or are inconsistent with Florida Statutes, the Florida Administrative Code, or acceptable internal control practices. Based on the documentation reviewed by Auditing, as of

September 1, 2010 a total of \$48.6 million has been obligated and \$41.7 million expended for the Project to date. The expenditures as of September 1, 2010 are summarized in the table below.

	Category*	Amount Expended as of 9/1/2010
1	Site Preparation	\$1,643,401
2	Architectural and Design	\$3,383,749
3	Permitting and Fees	\$6,832,009 (1)
4	Building Materials, Labor and Subcontractor	\$22,843,643
5	Millwork	\$3,183,549
6	Granite	\$353,458
7	Artwork	\$103,880
8	Project Management Fees and Profit	\$2,540,439
9	Other	\$879,141
	Total	\$41,763,269

*A complete table of the expenses is found in Exhibit 1.

(1) Includes the \$6 million Development Regional Impact Assessment and the \$660,750 DMS Management Fee

BACKGROUND

DEPARTMENT OF MANAGEMENT SERVICES

Pursuant to Section 255.503, Florida Statutes the DMS Division of Real Estate Development and Management is responsible for the Florida Facilities Pool (FFP). In order to fund additional state office buildings, the Florida Legislature enacted the Florida Building and Facilities Act in 1985 (“Act”). The Act authorizes the Department to finance additional facilities by utilizing lease revenues derived from existing and future facilities, thereby spreading the debt service cost of new facilities among agencies housed in both new and existing FFP facilities, including those which are debt free.

The FFP consists of state-owned office buildings, as well as some warehouse, storage and food service space, under the jurisdiction of the DMS. By law, the FFP also includes facilities financed with the proceeds of bonds issued under the Act. DMS’ authority under the Act includes the 1) construction and/or acquisition of new facilities to be added to the FFP; 2) financing of such facilities through the issuance of bonds by Division of Bond Finance; 3) the management and maintenance of existing FFP facilities; 4) establishment of pool rental rates for such facilities and 5) oversight of the leasing of office space by state agencies.

The DMS Division of Real Estate Development and Management contains the Bureau of Building Construction which has ten budgeted positions. As of September 1, 2010, seven of these positions were designated as Project Managers. These Project Managers are responsible for the oversight of

105 active projects, which are funded by a total of \$302 million in fixed capital outlay appropriations. The current Project is one of the 105 projects included in the Bureau's work plan.

FIRST DISTRICT COURT OF APPEAL

Florida's District Courts of Appeal represent the intermediate level of appellate review in Florida. The 1DCA is one of five district courts of appeal established by Section 35.01, Florida Statutes. The current 1DCA Courthouse is located on Martin Luther King Boulevard in Tallahassee, Florida. The first courthouse for the 1DCA was in the Independent Life Building located on Jefferson Street in Tallahassee, Florida. In 1958, the Court moved into new headquarters in the Supreme Court Building in Tallahassee. Then in 1981, the Court relocated to its present headquarters located on Martin Luther King, Jr. Boulevard in Tallahassee. The enclosed area of the existing courthouse totals approximately 48,500 square feet.

The 1DCA's territorial jurisdiction encompasses 32 counties in North Florida and extends from Pensacola to Jacksonville. Additionally, the 1DCA hears all of the appeals statewide for cases involving the Workers' Compensation Program. At the time of its creation in 1957, the 1DCA consisted of three judges. Since that time, the number of judges on the Court increased from its original three to twelve by 1988, and ultimately to the current number of fifteen judges.

FIRST DISTRICT COURT OF APPEAL COURTHOUSE PROJECT

Facility

The new 1DCA Courthouse Fixed Capital Outlay Project ("the Project") was funded by the Florida Legislature as a facility in the FFP. The total costs of the Project are projected to be approximately \$48.8 million excluding any capitalized interest that occurs during the construction phase. The current design of the proposed 1DCA courthouse has approximately 110,000 square feet, including approximately 97,000 square feet of heated and cooled space and approximately 13,000 square feet of underground garage parking and storage.

During the audit, the Audit team toured the Project. The team learned that the building is planned to house a total of only 124 employees in the 97,000 square feet interior. As currently constructed, the Project includes 2 courtrooms, 16 judicial suites, 1 law library, 1 judicial conference room, 1 large multi-purpose room, 2 smaller multi-purpose rooms, 1 activity room, a large area for the Clerk of the Court and staff, and 18 break rooms.

Funding

Over the life of the Project it has been funded by multiple appropriations from different funding sources. The Florida Legislature has provided funding from General Revenue, the Workers' Compensation Administrative Trust Fund and proceeds from the sale of FFP revenue bonds. The following table summarizes the funding requests and the actual appropriations made for the Project, including the funding sources from which the appropriations were taken.

Date Requested	Requested (Source)	Effective Date	Appropriated (Source)
September 22, 2004	\$100,000 (General Revenue Fund)	July 1, 2005	\$100,000 (General Revenue Fund)
October 7, 2005	\$19.8 million (General Revenue Fund)	July 1, 2006	\$1.8 Million (General Revenue Fund)
October 9, 2006	\$31.7 (General Revenue Fund)	July 1, 2007	\$33.5 million (FFP bonds)
		July 1, 2007	\$7.9 million (General Revenue Fund)
February 8, 2008	\$6.5 million (bond)	July 1, 2008	\$5.5 million (Workers' Compensation Administrative Trust Fund)
September 25, 2008	\$5.7 million		\$0

The Project originated as a result of the perceived need to expand the existing 1DCA Courthouse. Due to concerns over the capacity of the existing facilities, in fiscal year 2005-06 the 1DCA requested and received an appropriation of \$100,000 to examine the need for expansion of the Courthouse. The Project was denominated "First DCA Expansion Project." In November of 2005, DMS began a selection process for an architectural firm in connection with the Project. On January 18, 2006, DMS executed a contract for architect/engineer services with a consortium headed by the local Tallahassee architectural firm of Barnett Fronczak. The consortium included a Miami architectural and interior design firm, Spillis Candela DMJM, which had significant courthouse design experience; the Tallahassee office of the Orlando-based engineering firm Post, Buckley, Schuh, & Jernigan; and the court consulting firm of Justice Planning Associates of Columbia, South Carolina. The consulting contract was initially valued at \$85,000, and subsequently enlarged to a total of \$258,176.

On January 20, 2006, Justice Planning Associates issued a report entitled, "Needs Assessment and Facility Program." The report included the results of the company's examination of the existing 1DCA facilities and workload projections and set forth the following recommendation from the company for an expanded courthouse facility.

It is recommended that a courthouse of approximately 88,000 square feet be developed for the First District Court of Appeal. In addition, a secure parking area for 20 vehicles, requiring 8,000 square feet, should be provided. Eighteen judicial chambers have been programmed, which represents an increase of three chambers from the current total of 15. The facility addresses the long-term needs of 154 staff, an increase of nearly 50 percent from the current total of 105 staff. This proposed facility will serve the long-term spatial and operational needs of the First DCA well into the 21st Century.

Prior to the issuance of the Justice Planning Associates report, in October 2005 the 1DCA sought \$19.8 million in funding from the Florida Legislature for construction of a new courthouse. However, effective July 1, 2006 the Florida Legislature appropriated \$1.8 million dollars in fixed capital outlay (FCO) funds from general revenue for the specific purpose of an expansion/construction project of the existing 1DCA Courthouse (Chapter 2006-25, Laws of Florida). Rather than being used for the expansion of the existing facility as designated, however, these funds were utilized to begin the design process for a new courthouse facility for the 1DCA.

In its Legislative Budget Request (LBR) for fiscal year 2007-08, submitted on October 9, 2006, the 1DCA sought \$31.7 million in general revenue dollars as FCO for a new 87,000 square foot building for its offices and facilities to be constructed and owned by the 1DCA itself. Total project costs were estimated at \$31.7 million. On December 14, 2006, DMS, through the Barnett Fronczak contract, authorized the payment of \$136,885 to cover the services of Jones, Lang and LaSalle, a consulting firm retained to provide "real estate consulting and management services for the predevelopment review and analysis of the options for a new 1DCA facility."

On July 31, 2006, Chief Judge Charles Kahn informed DMS that Judge Paul Hawkes would coordinate visits to various out-of-state courthouses. Planned courthouse tours included visits to: 1) the Michigan Supreme Court and Court of Appeals; 2) the Alexandria, VA., Federal Court; 3) the Richmond Historic Courthouse; and 4) the New Mexico Supreme Court. On January 28, 2007, Judges Paul Hawkes, Robert Benton, Bradford Thomas, and Edwin Browning, Jr., traveled at the taxpayers' expense to Lansing, Michigan in order to inspect the Michigan Hall of Justice, the primary courthouse for both the Michigan Supreme Court and Michigan Court of Appeals. The Michigan Hall of Justice was designed by the Spillis Candela DMJM firm and Justice Planning Associates. The trip cost \$2,405 and was paid from 1DCA FCO funds. At the request of then Chief Judge Browning, however, former DMS Secretary Tom Lewis approved charging the travel expenses to the Courthouse Project.

On February 2, 2007, the 1DCA amended its original \$31.7 million dollar FY2007-2008 LBR to seek bifurcated funding for its proposed new courthouse. As amended, the LBR sought \$24 million in general revenue dollars to cover construction related activities that could be completed within 18 months. The amended LBR indicated, however, that an additional \$13.5 million would need to be requested in fiscal year 2008-2009 in order to finish the building at a total project cost of \$39.7 million dollars. Unable to obtain general revenue funding for a court-owned facility, the 1DCA was able to obtain legislative approval for the issuance of \$33.5 million in bonds for a DMS-managed courthouse facility to be included within the FFP. The Florida Legislature also appropriated \$7.9 million from general revenue for project costs that were not bondable.

During the 2007 Legislative session, Judges Hawkes and Thomas actively lobbied legislators for funding of a new courthouse. In an email message dated May 3, 2007, Judge Hawkes stated as follows:

----- Original Message -----

From: Judge Paul Hawkes <<mailto:hawkesp@1dca.org>>
To: Erik Saylor <<mailto:saylere@1dca.org>> ; Dwore, Don
<<mailto:Don.Dwore@dmjmh.aecom.com>>
Cc: Rick Barnett <mailto:rbarnett_bfa@msn.com> ; Judge Brad Thomas
<<mailto:thomasb@1dca.org>> ; Judge Edwin Browning, Jr. <<mailto:brownine@1dca.org>> ;
Judge Robert Benton <<mailto:bentonb@1dca.org>>
Sent: Thursday, May 03, 2007 5:39 PM
Subject: RE: kick off meeting - setting a date for Week of May 21

I meant for Eric to say that the courtroom on the 4th floor should start off like the Michigan Supreme Court courtroom. I would also like to report that Judge Thomas & I, with help from many, were successful in having amendments adopted that authorize 33.5 million in bonding authority. Obviously we still have the 7.9 million in cash and the 1.8 million from last year. We also understand that we will still have to get the 7 plus million in cash for moving, FF&E, security, technology, Art, etc. The policy makers have been very kind to us & very supportive of a very nice building. Rep. Coley, Sen. Crist and Chris Kise all were helpful and enthusiastic in getting today's bonding authority. They are all also eager for a meaningful kick-off meeting. The schedule said May 14th. I think that the members can make the 21st.

Contract Issues

On May 4, 2007, at 1:48 PM, Judge Thomas sent an email to Dean Izzo, DMS Interim Director of Real Estate Development and Management, informing him that the bill containing the courthouse funding - CS/CS/HB 985, the omnibus transportation bill for the year - had passed the Florida Legislature and been sent to the Governor for signature. Izzo responded "Great news! Thanks for pushing it through." That same day, which was the last day of the 2007 Legislative Session, DMS issued a Request for Qualifications (RFQ) seeking a general contractor to provide "Construction Management at Risk" for the new 1DCA courthouse project.

Less than six hours after the email from Judge Thomas announcing the passage of HB985, Judge Hawkes sent a long email to DMS staff and other judges expressing the court's view of its role in connection with the new courthouse project.

From: Judge Paul Hawkes [mailto:hawkesp@1dca.org]
Sent: Friday, May 04, 2007 7:34 PM
To: Lahey, Jere; Izzo, Dean
Cc: Don Brannon; Judge Brad Thomas; Judge Edwin Browning, Jr.; Judge Robert Benton
Subject: RE: First DCA Kick-Off Meeting - Wed. May 23

Jere:

It is the Court's desire to keep on the schedule you set last week, and if all goes well to beat it. Especially since you told us a 12% inflation cost can be counted on. Every month of delay before a contract is signed with the CM (the date he gives us a guaranteed maximum price on an accepted design) will cost us \$335,000.00, or better than 11 thousand dollars per day. At even \$400 per square foot in construction cost (some of the most expensive space in our building) we loose over 800 square feet by waiting 30 days to have the preliminary meeting. The 2nd courtroom may only take 1600 feet. If we look at the cost of less expensive space, such as the clerk's office, delay consumes over twice as much space. Using the projected \$250 per foot means each day another 45 feet are lost or quality must be sacrificed. Delay, because the architects haven't signed a contract after they announced an agreement last week, does not seem to be in the court's (or State's) best interest.

We were supposed to be able to start site preparation this July. Then it was delayed to October, then January, then February now if we wait on the new schedule you propose in your e-mail the start will be pushed into at least March (assuming it is always convenient for the architects to meet and there are no other technical concerns from here on out) before anything happens on the site. Of course, I am not optimistic this would be the last requested delay. At this rate of adding delays (adding months here and there at phases where weather and material problems are not yet an issue) we will have a building reduced in value by millions and it will be well into 2010 before we move in. (If not later).

Your e-mail raises some questions:

1. Is there doubt that the court feels that we can better serve the community with a building containing a large meeting room and the other functions we have discussed utilizing a 100,000 square foot building? (The program). Or that the Legislature has provided sufficient resources to construct a facility as we have discussed? (Of course excessive delay can eat into the Legislature's generosity.) I don't think the building committee has any doubt as to the best way to serve the community. Do you think someone else is more qualified to decide how the court should best address the needs of the community we serve? The current plan proposes 94,000 plus square feet. The changes we have said we would like to add bring the total to 100,000 square feet. This is less than a 6% difference. It seems that the bulk of the plan would be the same at 94,000 or at a 100,000.
2. Are the architects refusing to prepare even the very first (preliminary) drawings until the contract is completed and signed by everyone? (We have not seen the contract so if everyone else gets to check off on language maybe we should too.)
3. We think the project is the First District's and that the First District occupies the position of owners. Do you think we're mistaken?
4. What is the harm if we look at & discuss some preliminary drawings and we later learn that some component included in those drawings will not ultimately be in the final product? Or the program is a little smaller or larger ultimately then we envisioned in the beginning? Isn't that the expected result of the design process?
5. You write that we need to "meet to better define mutual project expectations and procedures." Prior to our meeting to discuss your concerns that we do not understand project expectations or procedures, can you provide us with an outline of your points so that we may be prepared to respond?
6. Why is it that you tell us that the "architect may not be able to produce your expected design submission by May 23", instead of the architect? Don Dwore told us he could be prepared by May 23rd. Do you think he was misleading us? I would note that architectural fees do not decrease by \$11,000 for each day of delay.
7. Has there been any suggestion of a different site? If not, what does "variety of . . . site designs" mean in your e-mail? And if we have a relatively flat 15 acre parcel are there major design differences depending on exactly where the building is located (either forward a couple hundred feet or back a couple hundred feet) on those 15 acres?

8. Hasn't it been the expectation all along that the building design would change as we proceed through this process? If that is the expectation, what will the benefit be to delay a May 23rd preliminary meeting until late June, since changes would occur in any event? The changes may come from unknown preferences that appear in discussions, they may come from having to choose from among potential conflicting desires (Courtroom on 4th floor and Judicial suites also being on upper floors), or they may come from a new written program listing a 2,500 square foot meeting room, when the old written plan didn't. Although, everyone knows we want the meeting room so that change would not be surprising. The point is changes are the reality. Since changes are the reality and changes will come from numerous sources, must the possibility of changes from one discrete source delay even the start of the process? Especially since we have to foot the bill for delay. Isn't it really likely that the changes that would come out of a May 23rd meeting be the same changes that would come out of a late June meeting? Of course from reading your e-mail, you never say only a 30 day delay and it sounds like it would be considerably longer.

It seems that you are saying that the architects will do absolutely nothing until they have a signed contract. If that is the case I would very much like to have you verify it in writing so the court can be aware of that reality. They have never said that to us and I do not believe it is right that they would force you into running interference for them. If they do trust us enough to begin without the final contract technicalities signed-off on then we should be able to start. I did assume a good enough relationship to be able to count on a little bit of trust.

I am awaiting your reply. I think you raise some very important issues, at least by implication. As I have tried to say, time is of the essence.

I am having extreme difficulty finding dates that everyone is available since I understand that the sooner we have an acceptable design we can start to lock down the cost. We want to be as careful with the resources the Legislature allocated us as we can. We think the first step toward that goal is moving in an expeditious manner. I am sure that if we spaced out these meetings it would be easier for everyone, but it cost the court \$11,000.00 per day.

DMS sent out a RFQ on May 4, 2007 in order to select a construction management firm. On May 15, 2007 DMS executed a new \$2,011,316 contract for architectural services with the Barnet Fronczak firm and its associated subcontractors without utilizing any competitive procurement process. On June 4, 2007, DMS received five responses to the RFQ for the construction management at risk services. The responses were evaluated by a panel consisting of DMS and the 1DCA. The audit team was provided with two different sets of scoring sheets; the selection of the construction management firm was based on the second set of evaluations. It is not clear as to why there were two separate scoring sheets. On July 19, 2007, the evaluation committee recommended that the DMS Secretary enter into a contract with Peter R. Brown Construction, Inc.

After the selection of Peter R. Brown Construction, Inc., to provide the Project with "Construction Management at Risk," conflict arose between DMS and the 1DCA over the size and finish of the new courthouse and over control of the Project itself. DMS uses a standard form contract in projects involving the retention of a construction management firm which shows DMS as "the Owner". The 1DCA objected to the use of the standard form contract because it did not show 1DCA as the co-owner of the Project with DMS for purposes of the construction management firm contract. Beginning in September of 2007, negotiations took place between DMS and the 1DCA regarding the contract with the construction management firm. After the Court expressed a desire to become a party with DMS and the construction management firm, DMS was concerned about its ability to control the construction project. On October 15, 2007, 1DCA sent to DMS a revised version of DMS' form contract with the construction management firm. Among other changes the Court

sought to identify itself as the co-owner of the project. A number of emails, as shown below, highlight DMS' concerns as to the IDCA's proposed contract changes.

From: Berger, Tom
Sent: Friday, September 28, 2007 2:09 PM
To: Barry, Michael; Lahey, Jere; Price, Joanna (DMS)
Subject: FW: CM at Risk Contract

Mike,

The 1st DCA building committee has asked for an electronic version of our CM contract so they can mark it up. We gave them a hard copy to read and offered to consider their input but, of course, that is an incontinent way to work. I am not interested in letting any tenant have access to our contract or to our negotiations. Can you please tell me if I am wrong? If I am not wrong, I need some support for telling them no. Let me know your thoughts . . . glad to come down when you have a few minutes. My next meeting with them is Monday at 10:00 if you have time between now and then. Thanks.

Tom

From: Erik Saylor [mailto:saylere@1dca.org]
Sent: Monday, October 15, 2007 4:50 PM
To: John Stewart; Rick Barnett; Berger, Tom; Lahey, Jere
Cc: Judge Paul Hawkes; Jo LeBlanc; Price, Joanna (DMS)
Subject: CM Contract, Annotated

Hi.

Attached is the annotated CM Contract.

When you open it, you may have to turn off the "track changes" feature to see it in normal format. If you don't already know how to turn off that feature, go to the task bar, where it says "Final Showing Markup," and change it to read "Final." Then you can print that version.

Please let me know if you have any difficulties opening the document.

Cheers,

Erik

Erik L. Saylor
Judicial Law Clerk
Office of Judge Paul M. Hawkes
First District Court of Appeal, Florida
850-487-1000 ext 122 / 850-921-4768 (fax)
saylere@1dca.org

From: Berger, Tom
Sent: Tuesday, October 16, 2007 8:04 AM
To: Barry, Michael; Price, Joanna (DMS)
Subject: RE: CM Contract, Annotated

Thanks Michael, you are correct on all counts. Judge Browning has asked for a meeting, or negotiating session on these issues, assuming we do not agree with their changes. I'm going to ask Joanna to set a meeting for the three of us to go over the proposed changes and prep the response. We will need solid GC support on this one. Thanks for your help.

Tom

From: Barry, Michael
Sent: Monday, October 15, 2007 5:46 PM
To: Price, Joanna (DMS)
Cc: Berger, Tom
Subject: RE: CM Contract, Annotated

The obvious question is how this could possibly work, with the appeal court having veto power over pretty much every decision. I'm also concerned about the "DMS/1DCA" coupling in areas where DMS conventionally has the sole obligation to do something (provide documents, etc.). The question quickly will become, who's doing what, and more to the point, aren't we effectively on the hook for whatever the court does or fails to do, and that ultimately jeopardizes the project. I don't know that we even have clear authority to share or otherwise delegate contract authority with or to a judicial entity. In any event, it clearly undermines our ability to provide project management services as mandated by the Legislature.

I think the far more preferable approach would be for DMS to assure the court in this contract that DMS will fully consult with court personnel on all matters (including forwarding all documents, etc.), just like (but perhaps more explicitly than) we do in other contracts, but still retain sole decision making authority. I understand why they want the change, but there must be another way to accomplish the objective without tying us into knots.

From Lahey RE DCA CM Contract.txt

From: Lahey, Jere
Sent: Thursday, October 25, 2007 4:41 PM
To: Price, Joanna (DMS)
Cc: Berger, Tom
Subject: RE: DCA CM Contract

I reviewed the proposed CM contract change with the following comments:

1. DMS Override Language: Since we seem destined to communicate with the court in all contract matters we need an override clause that states the 1st DCA must respond timely to all DMS contract coordination events and that lack of response in (say 3 work days) and any disputes as to proper contract interpretation DMS has the contract authority to proceed with our best judgment. Example: If the court wishes to withhold funding of an architectural Authorization because they think they would rather use the funds for nicer construction millwork then DMS has the contract privilege of proceeding with our best judgment and overriding their vested interest.

2. Construction Budget: The construction budget to be negotiated with the CM is \$31,100,000 not \$35M.

3. Substantial Completion is the date the facility is available for "beneficial use" by the using agency. Substantial Completion can not be issued until the State Fire Marshall issues their approval and the City of Tallahassee Building Department issues their Certificate of Occupancy. Then the design professional team determines if the facility meets "beneficial use" and DMS normally accepts this process unless it is apparent that the design professional is not performing their construction administrative duties and have overlooked construction issues that are not "punch list" but integral to the operations of the building. Therefore on pages 77-78 the 1st DCA should not have the authority to co determine Substantial Completion since they lack the expertise to make an informed decision.

Overall the court's request for any shared contract decision making is inconsistent with the likelihood that none of the judges would likely allow another judge to become a design and construction "expert witness" in their court unless that judge had some reasonable level of design and construction credentials.

Jere Lahey

From: Berger, Tom
Sent: Monday, October 29, 2007 3:07 PM
To: 'Judge Edwin Browning, Jr.'; 'Judge Paul Hawkes'; Price, Joanna (DMS); Barry, Michael
Subject: FW: CM for DCA
Attachments: CM AT RISK CONTRACT 1DCA CH mjb1029.doc

Judge Browning and Judge Hawkes,

Here is the contract language that we can support. Please let us know if you would like further discussion. Thank you.

Tom

In November of 2007 DMS and 1DCA were in total disagreement over the 1DCA's desire to be the owner of the project as reflected in the emails below:

From: Berger, Tom
Sent: Thursday, November 29, 2007 10:43 AM
To: 'Judge Edwin Browning, Jr.'; Don Brannon; Brad Thomas; Judge James Wolf; Judge Paul Hawkes; Judge Robert Benton; Lahey, Jere; Price, Joanna (DMS); Jon Wheeler
Cc: Barry, Michael; Weidner, Donald; Izzo, Dean
Subject: RE: CM - 1st DCA Project

Judge Browning,

We have briefed Secretary South and have cancelled the cost workshop for Monday. The Secretary is traveling this week and part of next. Hopefully, your collective schedules will allow a meeting and resolution soon. We will continue working on the permitting process and will be keeping Judge Wolfe involved. Thank you.

Tom Berger
Deputy Director
Division of Real Estate Development and Management
Department of Management Services
850-487-9921

We Serve Those Who Serve Florida

From: Judge Edwin Browning, Jr. [mailto:brownine@1dca.org]
Sent: Wednesday, November 28, 2007 4:52 PM
To: Berger, Tom; Don Brannon; Brad Thomas; Judge James Wolf; Judge Paul Hawkes; Judge Robert Benton; Lahey, Jere; Price, Joanna (DMS); Jon Wheeler
Cc: Barry, Michael; Weidner, Donald
Subject: RE: CM - 1st DCA Project

Dear Mr. Berger:

The court has received your e-mail. Your proposal prevents the court from fulfilling its duties to the Legislature and Governor's office. Therefore:

1. The meeting for Monday is cancelled.
2. The court objects to further expenditures for the project, except those relating to the permitting process.
3. Based on the assurances of Secretary South, I am confident and expect that DMS will not execute a contract with the construction manager that the court has not approved.
4. I will promptly schedule a meeting with Secretary South in an attempt to resolve what is obviously an insurmountable impasse at this time between us, you and your staff.

Respectfully submitted,

Edwin B. Browning, Jr.,

From: Lahey, Jere
Sent: Friday, November 09, 2007 11:09 AM
To: Berger, Tom
Cc: Price, Joanna (DMS)
Subject: RE: The CM with 1DCAs additions

Tom & Joanna:

I did not make it past page 6 to understand that this is a veiled attempt at making the 1st DCA a co-owner. DMS should not accept this language as is it timely unproductive and legally troublesome to have multiple principals directing the CM. If the 1st DCA does not trust that we will reasonably coordinate and perform then they should obtain general revenue funding and request that the funds not be labeled DMS managed.

This overarching attitude of control should be addressed at this time since it is apparent from the intent that the 1st DCA also does not want DMS to manage their facility within the DMS Bond Pool. This issue should be addressed at this time and if they court can't accept a reasonable management arrangement then DMS should stop the project until future general revenue funding can be obtained.

Jere Lahey
Project Director

-----Original Message-----

From: Berger, Tom
Sent: Thursday, November 08, 2007 12:05 PM
To: Price, Joanna (DMS); Lahey, Jere
Subject: Fw: The CM with 1DCAs additions

----- Original Message -----

From: Kel Putnal <putnalk@1dca.org>
To: Berger, Tom
Sent: Thu Nov 08 11:42:48 2007
Subject: The CM with 1DCAs additions

As promised.

Edwin B. Browning, Jr.,
Chief Judge
First District Court of Appeal
301 S. Martin L. King, Jr., Blvd.
Tallahassee, Florida 32399-1850
(850) 487-1000 x156

The contract issues were apparently resolved in December 2007.

From: Berger, Tom
Sent: Thursday, December 20, 2007 2:00 PM
To: John Stewart
Cc: Barry, Michael; Lahey, Jere; Price, Joanna (DMS); Shearer, Mary Lynn
Subject: FW: CM contract - 1st DCA project
Attachments: CMCONTRACT 1DCA OGC1130.doc

Follow Up Flag: Follow up
Flag Status: Completed

John,

It appears we have finally resolved issues with the 1st DCA. Here is a draft of our contract which includes language regarding notifications to 1DCA, concurrent with notifications to DMS. Please review the draft and comment. It has been in the trenches and will need some proof reading so feel free to comment of form as well as substance. Thank you.

Tom

Subsequently in January of 2008, DMS entered into a contract with Peter R. Brown Construction, Inc. for construction management services. The contract incorporated a substantial number of provisions sought by the 1DCA. The design of the Project had not been finalized and, as a result, the contract executed in January 2008 did not contain a schedule of values, budget, or guaranteed maximum price (GMP). Many other financial terms were shown in the contract as TBD.

On February 7, 2008, John Stewart, executive vice president of Peter R. Brown Construction, Inc., furnished DMS and 1DCA with a conceptual schematic estimate for the building including additional items requested by 1DCA on January 14, 2008. Stewart summarized the estimates as follows:

A summary of the estimate is:

1. The 108,800 square foot building may be completed for \$33.1 million. However, the finishes would not be of the level expected by the judge's committee.
2. The items that were requested to be added (#45 through 83), may be included for an additional \$5.5 million by leaving the building area unchanged at 108,800 square feet.
3. However, in order to include items #3 and 22, we have to add 4,500 square feet, at \$1 million. Therefore, an additional \$6.5 million is required instead of \$5.5 million.

The same day Judge Hawkes appeared before the Senate Committee on Criminal and Civil Justice Appropriations and requested additional bonding authority of \$6.5 million in funding for the new 1DCA courthouse. Subsequently during the 2008 Legislative session \$5.5 million dollars was appropriated from the Workers' Compensation Administrative Trust Fund for the construction of the new 1DCA courthouse.

During February of 2008, the 1DCA Building Committee, made up of Judges from the 1DCA, was unhappy with the services being provided by Barnett Fronczak, and urged DMS to terminate the architectural contract. On February 25, 2008, 1DCA Chief Judge Browning sent the following message:

-----Original Message-----

From: Kel Putnal [<mailto:putnalk@idca.org>] On Behalf Of Judge Edwin Browning, Jr.
Sent: Monday, February 25, 2008 3:32 PM
To: rbarnett@bfbarchitects.com; rbarnett_bfa@msn.com
Cc: Judge James Wolf; Judge Robert Benton; Judge Paul Hawkes; Brad Thomas; Berger, Tom; Price, Joanna (DMS); Jon Wheeler; Don Brannon
Subject: Architect's Contract

Today, the Building Committee voted not to request that Secretary South terminate your contract concerning architectural services relating to the proposed First District Court of Appeal's courthouse. However, that action is dependent upon certain terms and provisions being placed in your contract; I attach such conditions for your information and consideration. After consideration is given to them, please give me a call as to their acceptability and coordinate with DMS. The court looks forward to working with you in the future, and I trust our most difficult times are in the past.

Edwin B. Browning, Jr.,
Chief Judge

An amendment to the Barnett Fronczak contract which contained conditions referenced in Judge Browning's email was executed on March 25, 2008.

On June 16, 2008, Judges Hawkes, Thomas, and Wolf, accompanied by 1DCA Clerk Wheeler, three of the contracted architects, and one employee from Peter R. Brown Construction, Inc., flew by chartered aircraft on a day trip to Michigan to tour the Hall of Justice.

On August 12, 2008, the Florida Cabinet approved a resolution authorizing the issuance of up to \$37.5 million in State of Florida DMS FFP revenue bonds. On the same day, the Board of Trustees for the Florida State Board of Administration approved the fiscal sufficiency of the bonds. On December 9, 2008, the Division of Bond Finance reported a sale of \$36.5 million in DMS FFP revenue bonds to the Florida Cabinet. The Florida Cabinet accepted the report of the sale on that date.

On December 11, 2008, proceeds from the sale of FFP bonds were first made available to DMS for construction of the Project. On December 24, 2008, DMS directed Peter R. Brown Construction, Inc., to begin site construction. On January 16, 2009, DMS issued its Notice to Proceed for construction. No Guaranteed Maximum Price was established until March 23, 2009, well after the new 1DCA courthouse was actively under construction.

Construction is ongoing with an expected completion date of November 2010.

FINDINGS

1. Procurement of Construction Management Firm

The DMS did not award the 1DCA Capital Projects contract through a competitive bid process based on price, as required by Section 255.29, Florida Statutes. DMS elected to award the contract using a rule-based exception to the statutory requirements by executing a waiver. DMS provided the Audit team a copy of the waiver (attached as Exhibit 2) dated July

31, 2007. However, documentation provided to the Audit team did not substantiate the use of the exception by DMS. Additionally, we note that the waiver is dated after Peter R. Brown Construction Inc., was recommended as the Construction Management Firm and rather than being signed by the Secretary as required by the Rule 60D-5.008 F.A.C., it was signed by Shane Strum, Chief of Staff of DMS.

The Request for Qualification process utilized by DMS was based on certain qualitative aspects of the companies, but not based on price. DMS awarded the contract for the Construction Management Services to Peter R. Brown Construction Inc., in a Request for Qualification process through a point system based on the following criteria:

- Type of business structure
- Most recent audited financial statement
- Number of years in business
- Total staff and firms experience profile
- Total Technical Staff
- Distance from operating office to project site
- Related building experience
- Financial capability to successfully complete the project
- Scheduling and cost control
- Capability of office staff
- Experience of on-site staff
- Information systems

Additionally, there was a selection committee interview component that included such criteria as:

- References
- Knowledge of site and local conditions
- Proposed project staff and functions
- Insurance Program
- Overall Approach/Methodology
- Cost Control/Value Engineering
- Scheduling this Project

DMS Rule 60D-5.073, requires that for all contracts in excess of \$500,000, except as otherwise authorized by law or rule, competitive sealed bids are required for contracts within Level Five, the notice of solicitation for those bids shall be publicly advertised in the Florida Administrative Weekly at least 30 days prior to the established bid opening and at least once in a newspaper of general circulation in the county where the project is located at least 30 days prior to the established bid. Instead, DMS chose to use the “Negotiated Fee-Guaranteed Maximum Price Construction Contracting Method” as defined in the DMS Rule 60D-5.002(12), F.A.C., to select a prime contractor for the Project. The waiver provided to the Audit team did not identify any of the factors contained in DMS Rule 60D-5.008, F.A.C., set forth below.

DMS Rule 60D-5.008, provides that the Secretary of the DMS may waive the requirements of Rules 60D-5.003 and 60D-5.0073, and permit negotiation of construction contracts in accordance with Rules 60D-5.0082 and 60D-5.0091, in cases determined by him to be in the best interest of the State. The Rule reads in part:

- (2) *In making a determination of best interest of the State, the Secretary of the DMS may consider such factors as:*
- (a) *Is the need for the facility significant enough to require a substantial reduction of normal delivery time, requiring overlap of design and construction development phases?*
 - (b) *Is the size of the project large, requiring major emphasis on the qualification of the prime contractor because of the highly specialized requirements for scheduling, value engineering, and construction management?*
 - (c) *Is the complexity of the project significant, requiring a prime contractor with specific expertise to be applied to the design process with continuity through the construction phase?*
 - (d) *Is the project construction funding spread out over more than one year thereby making it advantageous to retain a prime contractor through a construction management/negotiated fee-guaranteed maximum price form of agreement?*
 - (e) *Is the project an alteration of an occupied facility which requires working around or relocating occupants while keeping the facility fully operational?*
 - (f) *Is the project a repair or renovation where the conditions requiring correction cannot be fully determined and specified without prime contractor involvement in the removal and examination process as an integral part of design (e.g., concealed damages, removal of asbestos, transformers containing PCB's, etc.)?*
 - (g) *Is the project one which is predominantly historic preservation/restoration requiring a specifically qualified prime contractor's involvement in the design process with continuity of construction management through both the design and construction phases?*
 - (h) *Is the Agency able and qualified to perform the contractor selection and contract negotiation in accordance with Rules 60D-5.0082 and 60D-5.0091, , as determined by the Division?*
 - (i) *Are the construction services required to perform the work on the project available only from one contractor, for a "single source contract"?*
- (3) *In requesting in writing the authority to negotiate from the Secretary, the Agency shall respond to the applicable factors in subsection 60D-5.008(2), , in sufficient detail to justify the authority and will certify to the Secretary that such factors exist, and that negotiation of the construction contract will accommodate reduction in delivery time,*

size and complexity, special expertise, funding cycles or any of the factors under consideration.

2. DMS Project Management Responsibilities

Pursuant to Section 255.503, Florida Statutes, the DMS is responsible for designing, financing, constructing, maintaining and leasing the new 1DCA courthouse. Despite the statutory directive, DMS allowed 1DCA to control the Project, ultimately resulting in increased project costs.

The DMS Project Manager's responsibility for the State is to provide daily monitoring of the Project through the architect/engineer and the construction management firm to document and provide assurance that many aspects of the Project are within scope and budget. In addition, the Project manager approves payments to the construction management firm and the architect/engineer based on completed work.

Based on e-mail correspondence between the DMS, the 1DCA, Peter R. Brown Construction, Inc., and Barnett Fronczak Architects it is clear that 1DCA viewed itself as the equitable owner of the Project and exercised direct control of DMS and the various contractors associated with the Project. Although the 1DCA was not a party to the construction contract, at the insistence of the 1DCA, the contract provided for an extensive role for the 1DCA with respect to design and construction. The records reflect many instances where 1DCA representatives emailed directives and comments to DMS, Peter R. Brown Construction, Inc., and Barnett Fronczak Architects regarding the Project. In addition, documentation such as DMS payment vouchers submitted to Auditing listed Judge Hawkes of the 1DCA as the agency contact person if there were questions or concerns regarding the contract.

3. Contract and Procedures

DMS committed to expenditures before all contract terms and conditions had been reduced to writing, which greatly diminished the State's ability to effectively negotiate a price most favorable to the State. On January 26, 2009, DMS authorized Peter R. Brown Construction, Inc., to proceed with construction, which was nearly two months prior to determination of a Guaranteed Maximum Price. Even before the issuance of an authorization to commence construction, DMS had expressly authorized Peter R. Brown Construction, Inc., to perform \$991,107 of construction services. In addition, on February 4, 2009 DMS authorized Peter R. Brown Construction, Inc., to perform further construction services in the amount of \$5,696,219. A total of \$6,687,326 was authorized for construction by DMS in advance of establishing a Guaranteed Maximum Price.

4. Budgetary Control of Construction Contract

The schedule of values provided to the Audit team did not accurately depict budgetary control of the construction contract in terms of Guaranteed Maximum Price during the period of March through November 2009. A Schedule of Values is a detailed statement furnished by

the Construction Management Firm that divides the total Guaranteed Maximum Price into specific dollar amounts for the various parts of the project and is also used as the basis for submitting and reviewing progress payments. New amounts were continuously being booked as values while at the same time change orders were reducing the contract amounts. Without further audit of the Peter R. Brown Construction, Inc.'s records reflecting costs, the Audit team cannot provide assurance that the amounts listed in the schedule of values represent the accurate cost of those values.

5. Design Changes Led to Additional Funding

The total costs of the building significantly increased during the planning phase due to the expanded scope in square feet, custom fixtures and high-end finishes such as granite, etched glass and ornamental woodwork. Based on documents provided by DMS, the new courthouse with an increased size to 108,000 square feet could have been built for approximately \$33.1 million. As a result of the change in square footage and customization, planned construction costs increased from \$33.1 to \$36.78 million. During the 2008 Florida Legislative Session, the IDCA requested an additional appropriation of \$6.5 million and ultimately received an additional appropriation of \$5.5 million. This appropriation, from the Workers' Compensation Administrative Trust Fund, was effective July 1, 2008.

6. Contract Renegotiation Requirements

DMS made no attempt to renegotiate any of the contracts for the new IDCA courthouse as required by Laws of Florida Chapter 2009-15, Section 1. This provision, which became effective January 27, 2009, was in response to a severe budget shortfall and provided that:

Notwithstanding any provision of law to the contrary, each state agency shall review existing and proposed contracts with private providers in an effort to reduce contract payments. It is the statewide goal to achieve substantial savings; however, it is the intent of the Legislature that the level and quality of services not be affected. Each agency may renegotiate contracts consistent with this section. The Legislature intends that its substantive and fiscal committees will review the results of this effort and the effectiveness of each agency in meeting the goal. This section expires July 1, 2009.

DMS indicated to the Audit team that it had renegotiated other more substantial contracts unrelated to this Project and thought that the possibility of achieving any savings on the new IDCA courthouse contracts was remote.

7. Creation of "Owners' Contingency" Fund

On December 19, 2008, DMS executed amendment No. 1 to the contract with Peter R. Brown Construction, Inc., to develop an unfunded "Owner's Contingency" value for future funds to be expended at the sole discretion of the DMS.

As of December 2009, DMS had \$1.09 million of fixed capital outlay funding that was not encumbered by a contract. In order to keep the funding from reverting back to the State Treasury, by change order No. 15 dated January 27, 2010, DMS obligated these funds to the Peter R. Brown Construction, Inc., contract by assigning the funds to the newly created "Owners' Contingency" line item. The result of this was that the Guaranteed Maximum Price of the Project increased from \$36.78 million to \$37.87 million. The \$1.09 million has been used to pay for some of the extras that were not provided for in the original contract.

8. Additional Design Changes and Expenditures

As a result of the IDCA's continuing involvement in the redesign of the new courthouse during the construction phase, numerous additional services by the Barnett Fronczak Architects were authorized and paid by the DMS. Architectural and engineering services associated with the redesign resulted in an additional \$1.1 million in fees.

On May 15, 2007, DMS entered into a contract for architectural services with the Barnett Fronczak firm for the Project. The contract outlined the scope of work in task form, identified the maximum amount to be paid for each task, fixed a total contract price of \$2,011,316, and prescribed measures of payment based on hourly rates and agreed multipliers for overhead and profit.

The total amount obligated by DMS for the Project's architect engineering firms is \$3,774,976.42. Payments made for the architectural services through August, 31, 2010 total \$3,436,847.35. Payments for additional services totaled \$1.1 million. See schedule below:

Architects	Original Contract Value	Contract Amendments	Additional Service Authorizations	Total Obligation	Disbursements as of August 31, 20010
Barnett Fronczak Architects	\$75,000.00	\$0.00	\$180,385.00	\$255,385.00	\$254,176.32
Barnett Fronczak Barlowe Architects	\$2,011,316.00	\$316,584.00	\$976,530.42	\$3,304,430.42	\$3,103,026.90
SSRCx Facilities Commissioning	\$202,761.00	\$0.00	\$12,400.00	\$215,161.00	\$120,643.00
	\$2,289,077.00	\$316,584.00	\$1,169,315.42	\$3,774,976.42	\$3,477,846.22

9. Additional Design Changes and Expenditures

On August 7, 2009, the DMS authorized, and subsequently paid, \$2,784 for Additional Services Authorization Number 28 under Article 4 of the Barnett Fronczak Barlowe contract. The additional services were for the design of a pedestal associated with the statue, "Lady Justice." "Lady Justice" was designed as a 12 foot bronze statue intended to be the "Focal Point" at the front entrance of the court building. American Bronze Fine Art quoted \$68,319 as the cost of "Lady Justice."

Based on discussions with the DMS, it appears that the IDCA has decided not to install the statue.

10. Avoidance of Sales Tax and Redirection of Funds

DMS utilized a sales tax exemption allowed under Department of Revenue Rule 12A-1.094, F.A.C., and avoided the payment of sales tax for materials used in the Project. The sales tax payments thereby avoided were not used to reduce the overall price tag of the Project. Rather, the amount that would have been used to pay the sales tax was placed in the “Owners Contingency” line item to be expended at the discretion of DMS. No overall reduction in the cost of the Project was achieved by the use of the sales tax exemption. As of August 2010, a total of \$589,000 which would have been paid as sales tax was instead utilized to cover other costs associated with the Project.

11. Direct Payments to Subcontractors

The direct purchase of materials by DMS in order to avoid sales tax created an inconsistency with Article 5 of the contracts by establishing a contractual relationship between DMS and subcontractors.

Article 5 of the Peter R. Brown Construction, Inc., Contract required Brown to award subcontracts by a Request for Proposal Process based on price and ability to perform the work. Article 5 specifically states:

The contract with the construction manager defines contractual relationship with subcontractors. Article 5.1 of the construction contract defines a subcontractor as a person or organization who has direct a contract with the Construction Manager to perform any of the work at the site. Nothing contained in the Contract Documents shall create any contractual relation between the DMS, IDCA or Architect-Engineer and any subcontractor.

On December 19, 2008, 11 months after execution of the contract with Peter R. Brown Construction, Inc., DMS executed amendment No. 1 to the contract which provided for the direct purchase by DMS of construction materials to avoid paying state sales tax. This amendment was inconsistent with the existing language of Article 5 quoted above.

Direct purchase of materials establishes an implied contractual relationship between DMS and the supplier in contravention of the written contract. For a state agency to make direct payments to subcontractors with which it does not have a written contract is facially inconsistent with Section 215.965, Florida Statutes. In addition, no state agency or DMS has directly procured these materials in accordance with the requirements of Chapter 287, Florida Statutes.

12. Internal Controls for Receiving Reports

The Project Manager should verify the receipt of materials for the 1DCA Project as a part of proper internal control functions. The payment vouchers and MyFloridaMarketPlace records demonstrate that DMS Finance and Accounting staff validated the receipt of approximately \$11 million in Project construction materials.

In relevant part, Amendment No. 1 to the contract for the Construction Management Services states:

upon owner's receipt of purchase order request and supporting material, the owner will review the same and if approved issue a purchase order directly to the supplier of the applicable direct purchase material with delivery F.O.B. project site. Upon delivery of the direct purchase materials to the project site, the Construction Manager shall ensure that the direct purchase materials are requested in the owners purchase order. The Construction Manager shall immediately document receipt of the materials and the content of the shipment and shall forward all paperwork including receiving reports, bills of lading, packing slips, invoices and associated back-up documentation to the owner.

Validations for the satisfactory receipt of goods and services should always be performed by state employees with actual knowledge of the receipt of the goods or services. These duties should be performed by Project Managers who directly participate in the oversight of contractual services.

13. Debt Service

The annual lease payments due from the 1DCA for the new courthouse will be insufficient to cover the annual debt service.

The FFP works on the basic principle that the total of all annual lease payments made by state agencies which occupy buildings included in the FFP covers the total of the annual debt service and maintenance expenditures for all facilities in the pool. Uniform annualized lease payments are currently set at \$17.18 per full service square foot, irrespective of whether there is debt service on the building. All of the other buildings in the pool either do not have debt service or have lease payments that are greater than their debt service.

The new courthouse consists of 97,000 square feet of rentable office space. The annualized rent is \$1,666,460. The debt service on the building is running approximately \$2,500,000 per year. Because the annual lease payments for the new courthouse space will be insufficient to cover the debt service for the bonds that finance the construction of the courthouse, the other members of the pool will subsidize the debt service for these bonds. The courthouse will be the only facility in the pool with a debt service which is subsidized by pool lease payments.

The table below compares the Department of Revenue’s (DOR) new facilities square footages, annual lease payment and annual debt service with that of the new 1DCA courthouse. These facilities were constructed at approximately the same time period and located across the street from each other. See Exhibit 3 for more detail.

FLORIDA DEPARTMENT OF REVENUE		
Annual Lease Payments	Annual Debt Service	Difference
\$7,398,944.00	\$5,799,031.00	\$1,599,913.00
Square Feet	430,672	
Debt Service/Sq Foot	\$ 13.47	

FIRST DISTRICT COURT OF APPEAL		
Annual Lease Payments	Annual Debt Service	Difference
\$1,666,460.00	\$2,494,088.00	(\$827,628.00)
Square Feet	97,000	
Debt Service/Sq Foot	\$ 25.71	

14. Deferred Construction Costs

The completed courthouse is not anticipated to be in accordance with the original specifications from the current fixed capital outlay funding. Although there are currently 15 judges in the 1DCA, the new courthouse was designed to accommodate 18 judges. However, DMS has indicated to the Audit team that two of the 18 originally designed judge’s suites will not be completed. Approximately 3,500 square feet has been reconfigured. One suite has been reconfigured into two “general purpose” rooms and another suite has been “shelled” resulting in the postponement in construction costs.

Future costs for conversion of the “general purpose” room to a judge’s suite and completion of the “shelled” judge’s suite are undetermined.

15. DMS Project Design Responsibilities

Pursuant to Section 255.503, Florida Statutes, the DMS is responsible for designing, financing, constructing, maintaining and leasing the new 1DCA courthouse. Despite the statutory directive, DMS allowed 1DCA to control the Project. On two occasions, judges from the 1DCA took trips to tour the Michigan Hall of Justice Building in Lansing Michigan at the expense of the taxpayers and Peter R. Brown Construction, Inc, the Project construction company. The Michigan Hall of Justice Building was the model for the new 1DCA courthouse. The first trip, on January 28, 2007, was funded by 1DCA Project funds in the total amount of \$2,405.51, representing travel expenditures for the four judges on the tour - Judges Hawkes, Browning, Benton and Thomas.

The second trip occurred on June 16, 2008. Judges Hawkes, Thomas, and Wolf, accompanied by 1DCA Clerk Wheeler, three of the contracted architects, and one employee from Peter R. Brown Construction, Inc., flew by chartered aircraft on a day trip to Michigan to tour the Hall of Justice. Peter R. Brown Construction, Inc., paid \$12,800 for a chartered airplane for this second trip. No employee of DMS participated in this trip. Peter R. Brown

Construction, Inc. was unable to provide documentation to the Audit team to demonstrate that the travelers or the 1DCA reimbursed Peter Brown Construction Inc. for the expense of this trip.

Prior to the second trip in June of 2008, Peter R. Brown Construction, Inc., sent the following email:

From: Keith Leach [mailto:LeachK@peterbrownconst.com]
Sent: Tuesday, June 10, 2008 8:04 AM
To: Nicoloso, Eugenio; Berger, Tom; Don Brannon; Jon Wheeler; Judge Brad Thomas; Judge Edwin Browning; Judge James Wolf; Judge Paul Hawkes; Judge Robert Benton
Cc: John Stewart; Scott Brewer; Ian Jones
Subject: Michigan Supreme Court Visit

Further to our conversation during our last meeting I just wanted to double check and make sure that there are no issues with PRBC paying for the trip for the Building Committee members who would like to attend the scheduled trip to the Michigan Supreme Court Building next week. At our meeting I asked Judge Wolf and Judge Hawkes if they felt there were any conflicts or issues with PRBC paying for the trip and members of the Court attending. As I recall, Judge Wolf replied that he did not immediately see any issues but would think about it.

Prior to our going I just wanted to confirm that this trip would be no violation of State laws nor would it create any conflict for the Court. I do not wish to be alarmist or to create undo anxiety, I just want to be completely sure we are on safe ground.

Thank you in advance for your consideration and thoughts.

Keith Leach
Peter R. Brown Construction, Inc.

The Audit team is unaware of any response to this email.

16. Statutory Limitation on Art Work Expenditures

In contravention of Section 255.043(1), Florida Statutes, DMS has obligated the state to pay a total of \$513,930 for artwork and related services from the Project Fixed Capital Outlay appropriations. To date only \$103,880 has been paid on these obligations. Section 255.043(1), Florida Statutes, states:

Each appropriation for the original construction of a state building which provides public access shall include an amount of up to 0.5 percent of the total appropriation for the construction of the building, not to exceed \$100,000, to be used for the acquisition of works of art produced by, but not limited to, Florida artists or crafts persons. Those works of art acquired shall be displayed for viewing in public areas in the interior or on the grounds or the exterior of the building and not in private offices or areas with limited public access.
{Emphasis added}

These services were added via a \$121,272 authorization for additional services to the architect contract dated June 17, 2009, and a \$392,658 change order to the construction management contract dated December 28, 2009. These dollar amounts were based on quotes from only one source, Signature Art Gallery of Tallahassee, Florida.

17. DMS Notice to Florida Arts Council

On October 27, 2009, DMS submitted the notice to the Florida Arts Council required by Section 255.043(2), Florida Statutes. The notice was misleading. The notice specified that only \$100,000 would be spent for art work on the 1DCA Courthouse, notwithstanding the fact that DMS already intended to pay over \$500,000 to Barnett Fronczak Barlowe and Signature Art Gallery. Attached as Exhibits 4 and 5 are the notice to the Florida Arts Council and October 26, 2009 email from Signature Art Gallery to DMS respectively.

MANAGEMENT COMMENTS

1. The contract with the Peter R Brown Construction, Inc., did not contain any specific remedies in terms of dollars for contractor nonperformance. The new contract requirements established by the Florida Legislature effective July 1, 2010 require specific remedies for contractor nonperformance be incorporated into all state contracts.
2. DMS should review its rules applicable to Space Allocation and Configuration Standards. The Audit team noted extraordinary use of African Mahogany (Sapele) wood throughout the new 1DCA courthouse. Records disclose that approximately 102,000 board feet of Sapele (approximately 20 miles) were procured for the Project. We also noted an extensive use of granite throughout the building. The finish schedule for the office space in this Project is markedly different than that for the office space contemporaneously constructed for the Department of Revenue located across the street.
3. The Florida Legislature appropriated \$2,494,088 million from the Workers' Compensation Administrative Trust Fund for debt service on the Project to be paid fiscal year 2009/2010. As additional \$2,491,512 was appropriated for debt service for fiscal year 2010/2011 from the same trust fund.

RECOMMENDATION

Due to the findings in this report that involve matters with the Executive and Judicial branches of State government, it is recommended that copies of the report be provided to The Executive Office of the Governor, Chief Justice of the Florida Supreme Court, Speaker of the House and President of the Senate.

EXHIBITS

- Exhibit 1 – Project Expense Table
- Exhibit 2 – Waiver
- Exhibit 3 – Debt Service Payments
- Exhibit 4 – Notice to the Florida Art Council
- Exhibit 5 – Email from Signature Art Gallery to DMS
- Exhibit 6 – Time Line

EXHIBIT 1 – PROJECT EXPENSE TABLE

	Contract Schedule of Values	Fixed Capital Outlay Appropriations					Total
		State Courts			DMS		
		2006	2007	2008	2008	2009	
Appropriations as 8/31/10		\$100,000.00	\$1,800,000.00	\$7,900,000.00	\$33,500,000.00	\$5,500,000.00	\$48,800,000.00
Services & Materials Disbursements							
Existing Building Analysis, Site Analysis and Selection and Conceptual Site/Building Plan Architecture Courthouse and Interior Improvement & Site Work - Site Plan Documentation	\$255,385.00	\$96,000.00	\$158,176.31				\$254,176.31
Architect Site Work & Courthouse Construction Phase Monitoring Fee	\$1,426,880.00		\$1,206,929.57	\$611,602.46		\$2,461.79	\$1,822,993.82
Architect Revisions Documentation	\$484,180.00		\$53,959.52	\$209,700.14		\$168,474.72	\$432,134.38
Geotechnical Engineer	\$681,788.25		\$233,747.34	\$332,408.20		\$9,612.66	\$575,768.20
Artwork Design, Selection & Lighting	\$50,353.50		\$35,603.09	\$34.14	\$10,249.36	\$1,022.39	\$46,908.97
Architect Leadership in Energy & Environmental Design (LEED) Activities	\$145,743.67		\$0.00	\$15,497.67	\$4,000.00	\$115,808.00	\$135,305.67
Leadership in Energy & Environmental Design (LEED) Commissioning	\$111,429.00		\$36,887.94	\$58,711.66			\$95,599.60
	\$215,161.00					\$120,243.00	\$120,243.00
Architects as of 8/31/10	\$3,370,920.42	\$96,000.00	\$1,727,303.77	\$1,227,954.27	\$14,249.36	\$417,622.56	\$3,483,129.95
Judges Travel as of 8/31/10			\$2,405.51				\$2,405.51
General Conditions & Construction Documentation	\$1,792,720.22			\$223,810.00	\$540,137.27	\$58,245.97	\$822,193.24
Contract Manger Leadership in Energy & Environmental Design (LEED) Activities	\$58,289.00				\$55,614.37	\$3,428.03	\$59,042.40
Permit & Fee Changes	\$178,834.00		\$8,791.00	\$13,769.04	\$20,116.65	\$128,582.75	\$171,259.44
Site Work	\$1,435,726.71				\$1,231,256.13	\$188,262.52	\$1,419,518.65
Landscaping	\$426,528.00				\$218,017.37	\$5,865.30	\$223,882.67
Concrete & Reinforcing Steel	\$2,025,220.31				\$1,090,981.86	\$736,493.86	\$1,827,475.72
Precast Concrete	\$3,775,664.01				\$3,719,548.92		\$3,719,548.92
Masonry	\$448,598.83				\$293,089.40	\$470,924.73	\$764,014.13
Steel	\$2,806,233.25				\$1,916,136.13	\$589,159.82	\$2,505,295.95
Ornamental Railing	\$172,201.00				\$93,482.23		\$93,482.23
General Trades	\$400,920.71			\$75,883.00	\$305,556.98	\$58,672.39	\$440,112.37
Rough Carpentry	\$276,911.20				\$321,412.72	\$0.00	\$321,412.72
Roofing	\$699,049.21				\$633,624.68	\$12,150.00	\$645,774.68
Doors & Hardware	\$1,036,706.36				\$680,544.67	\$231,185.70	\$911,730.37
Overhead Doors	\$34,650.00				\$31,891.73	\$0.00	\$31,891.73
Skylight	\$207,145.00				\$151,976.25	\$0.00	\$151,976.25
Glass	\$608,501.73				\$384,534.92	\$55,662.35	\$440,197.27
Gypsum	\$2,105,862.15				\$1,788,505.09	\$273,118.82	\$2,061,623.91
Tile & Terrazzo	\$254,124.30				\$94,500.86		\$94,500.86
Acoustical, Carpet & Resilient	\$946,375.29				\$444,291.43		\$444,291.43
Water Proofing & Painting	\$610,964.14				\$259,461.58	\$37,013.40	\$296,474.98
Specialties	\$503,953.10				\$282,601.05	\$7,260.75	\$289,861.79
Courtroom Seating	\$65,943.00				\$11,701.66	\$0.00	\$11,701.66
Elevator	\$304,058.71				\$225,206.25	\$6,209.29	\$231,415.54
Fire Protection & Fireproofing	\$542,989.27				\$423,700.84	\$1,705.57	\$425,406.42
Plumbing	\$897,114.09				\$856,868.69	\$191,953.29	\$1,048,821.98
HVAC & Controls	\$2,690,027.79				\$1,681,572.30	\$699,776.87	\$2,381,349.17
Electrical	\$2,363,529.40				\$2,101,912.56	\$71,289.55	\$2,173,202.11
Audio-Visual	\$785,498.50				\$229,702.27	\$18,170.00	\$247,872.27
Security	\$304,356.56					\$222,937.58	\$222,937.58
Architectural Woodwork	\$3,708,317.54				\$3,537,007.45		\$3,537,007.45
Marble	\$44,528.00				\$44,150.00		\$44,150.00
Lighting Hardware	\$1,046,717.20				\$1,017,121.57		\$1,017,121.57
Construction Manager Site Work & Construction Phase Monitoring Fee	\$1,690,798.55				\$1,176,816.34	\$72,381.40	\$1,249,197.74
Construction Manager Overhead & Profit	\$1,532,595.87				\$1,213,658.43	\$77,582.83	\$1,291,241.26
DMS Management Fee		\$4,000.00	\$47,000.00	\$144,500.00	\$360,750.00	\$104,500.00	\$660,750.00
Development of Regional Impact Assessment				\$6,000,000.00			\$6,000,000.00
Construction as 8/31/10	\$36,781,653.00	\$4,000.00	\$55,791.00	\$6,457,962.04	\$27,437,450.65	\$4,322,532.77	\$38,277,736.46
Disbursement Totals as of 8/31/10		\$100,000.00	\$1,785,500.28	\$7,685,916.31	\$27,451,700.01	\$4,740,155.33	\$41,763,271.93
Contract & Direct Order Remaining Balances							
Peter R. Brown Construction, Inc.							\$5,201,048.71
Barnett, Fronczak & Barlowe Architects							\$201,403.52
Smith Sockman Reid, Inc. dba SSR Cx							\$94,918.00
MFMP Direct Orders							\$1,457,298.20 (1)
Total Remaining Obligations as of 8/31/10							\$6,954,668.43
Remaining Appropriation Balance as of 8/31/10							\$82,059.64

EXHIBIT 2 – WAIVER



Governor Charlie Crist
Secretary Linda H. South

Division of Real Estate Development
and Management
4050 Esplanade Way
Suite 335, Building 4050
Tallahassee, Florida 32399-0950

850.488.6233: TEL
850.487-9947: FAX
<http://dms.myflorida.com>

**AUTHORITY TO NEGOTIATE
CONTRACT FOR
CONSTRUCTION MANAGEMENT SERVICES**

JB-26015000
First District Court of Appeal - Expansion
Tallahassee, Florida

Based upon the selection committee's recommendation and pursuant to Section 20.05(1)(b), F. S., and Chapter 60D5.008 Florida Administrative Code, the following is hereby approved:

Authority for the Department of Management Services, Division of Real Estate Development and Management to negotiate, prepare and execute an agreement for Construction Management services with the Number One (1) firm listed below, pursuant to Chapter 60D-5.0082 and 60D-5.0091. If successful negotiation cannot be achieved with the Number One (1) firm, the Division may negotiate with the remaining firms in the order shown.

1. Peter R. Brown Construction, Inc., Tallahassee, FL
2. Ajax Building Corporation, Tallahassee, Florida
3. Elkins Constructors Inc., Jacksonville, Florida
4. Turner Construction Company, Orlando, Florida

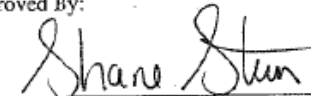
Reviewed and Recommended By:



 Dean M. Izzo, Director
 Division of Real Estate Development and
 Management
 Department of Management Services

Dated: 7.27.07

Approved By:



 Linda H. South, Secretary (or designee)
 Office of the Secretary
 Department of Management Services

Dated: 7/31/2007

cc: Client Agency
Administrator, Contracts Section
Project Director, DMS

EXHIBIT 3 – DEBT SERVICE PAYMENTS

The following analysis related to Finding No. 13 is prepared for illustration purposes to compare annual lease payments and annual debt service payments for thirty years with the assumption that annual lease payments remain fixed at \$17.18 per square foot with a price inflator of 1% per year for the next thirty years. The comparison is between the Florida Department of Revenue’s new building and the new IDCA building.

	FLORIDA DEPARTMENT OF REVENUE			FIRST DISTRICT COURT OF APPEAL		
	Annual Lease Payments	Debt Service	Difference	Annual Lease Payments	Debt Service	Difference
1	3,699,472.00	1,887,803.00	1,811,669.00	833,230.00	1,540,914.00	-707,684.00
2	7,398,944.00	5,799,031.00	1,599,913.00	1,666,460.00	2,494,088.00	-827,628.00
3	7,472,933.44	5,798,781.00	1,674,152.44	1,683,124.60	2,491,513.00	-808,388.40
4	7,547,662.77	5,799,281.00	1,748,381.77	1,699,955.85	2,493,238.00	-793,282.15
5	7,623,139.40	5,799,081.00	1,824,058.40	1,716,955.40	2,494,088.00	-777,132.60
6	7,699,370.80	5,795,881.00	1,903,489.80	1,734,124.96	2,494,063.00	-759,938.04
7	7,776,364.50	5,799,681.00	1,976,683.50	1,751,466.21	2,493,163.00	-741,696.79
8	7,854,128.15	5,795,081.00	2,059,047.15	1,768,980.87	2,492,563.00	-723,582.13
9	7,932,669.43	5,797,281.00	2,135,388.43	1,786,670.68	2,490,763.00	-704,092.32
10	8,011,996.12	5,795,881.00	2,216,115.12	1,804,537.39	2,492,763.00	-688,225.61
11	8,092,116.09	5,795,881.00	2,296,235.09	1,822,582.76	2,491,213.00	-668,630.24
12	8,173,037.25	5,797,081.00	2,375,956.25	1,840,808.59	2,490,938.00	-650,129.41
13	8,254,767.62	5,799,281.00	2,455,486.62	1,859,216.67	2,494,188.00	-634,971.33
14	8,337,315.30	5,797,281.00	2,540,034.30	1,877,808.84	2,492,400.00	-614,591.16
15	8,420,688.45	5,796,081.00	2,624,607.45	1,896,586.93	2,490,900.00	-594,313.07
16	8,504,895.33	5,795,481.00	2,709,414.33	1,915,552.80	2,491,900.00	-576,347.20
17	8,589,944.29	5,796,525.00	2,793,419.29	1,934,708.33	2,490,150.00	-555,441.67
18	8,675,843.73	5,798,500.00	2,877,343.73	1,954,055.41	2,489,163.00	-535,107.59
19	8,762,602.17	5,794,738.00	2,967,864.17	1,973,595.96	2,490,100.00	-516,504.04
20	8,850,228.19	5,795,238.00	3,054,990.19	1,993,331.92	2,492,706.00	-499,374.08
21	8,938,730.47	5,794,575.00	3,144,155.47	2,013,265.24	2,489,994.00	-476,728.76
22	9,028,117.77	5,797,538.00	3,230,579.77	2,033,397.89	2,493,606.00	-460,208.11
23	9,118,398.95	5,799,425.00	3,318,973.95	2,053,731.87	2,491,100.00	-437,368.13
24	9,209,582.94	5,797,525.00	3,412,057.94	2,074,269.19	2,489,294.00	-415,024.81
25	9,301,678.77	5,796,600.00	3,505,078.77	2,095,011.88	2,492,494.00	-397,482.12
26	9,394,695.56	5,796,175.00	3,598,520.56	2,115,962.00	2,493,769.00	-377,807.00
27	9,488,642.51	5,795,775.00	3,692,867.51	2,137,121.62	2,489,544.00	-352,422.38
28	9,583,528.94	5,797,075.00	3,786,453.94	2,158,492.84	2,492,325.00	-333,832.16
29	9,679,364.23	5,798,475.00	3,880,889.23	2,180,077.77	2,493,638.00	-313,560.23
30	9,776,157.87	5,794,525.00	3,981,632.87	2,201,878.54	2,490,413.00	-288,534.46
	251,197,017.05	170,001,557.00	81,195,460.05	56,576,963.01	73,806,991.00	-17,230,027.99

EXHIBIT 4 – NOTICE TO THE FLORIDA ART COUNCIL

Florida's Art in State Buildings Program

Construction Appropriation Notification Form

Upon initial appropriation, the state agency shall complete this form & send it to the Florida Arts Council via the Dept of State Division of Cultural Affairs in accordance with Section 255.043, F.S.

The Florida Department of Management Services has received a legislative appropriation to construct:

a new facility an addition/expansion

Project #JB-26015000 Project Name: First District Court of Appeal

Project City: Tallahassee Project County: Leon

The total appropriation is: 47,720,000 Appropriated in Fiscal Year: various

Art Allocation is: \$100,000 (*up to .5% of total appropriation for the construction of the building, maximum of \$100,000*)

Target Dates:


Program _____ Architect/Engineer _____ Schematics _____

Construction Start _____ Construction Finish: October 2010

Project Director: Gene Nicoloso, 4050 Esplanade Way, Suite 335G, Tallahassee, Florida, 32399 (850) 488-2521

New Facility Contact: Judge Paul M. Hawkes, Chief Judge, First District Court of Appeal:
Mr. Stephen Nevels, Marshal, First District Court of Appeal
301 South Martin Luther King, Jr., Blvd.
Tallahassee, Florida 32399-1850
(850) 487-1000

Architect : Rick Barnett, Barnett Fronczak Barlowe Architects, 225 South Adams Street
Tallahassee, Florida 32301, (850)224-6301

Person filling out this form  Date 10/27/09

Form received by ASB Program Manager _____ New Project File Made _____

EXHIBIT 5 – EMAIL FROM SIGNATURE ART GALLERY

From: Nicoloso, Eugenio
Sent: Monday, October 26, 2009 1:30 PM
To: 'Siggall@aol.com'
Cc: Brad Will; Dave Fronczak; Rick Barnett; Judge Paul Hawkes; 'Andrew Wellman'; Berger, Tom
Subject: RE: 1DCA - Images Proposal

Mary, the April 14th and July 11 submittal from Barnett Fronczak had Fabrication and Installation at \$287,950. Why is this proposal \$70,000 more at \$357,500?

From: Andrew Wellman [mailto:WellmanA@peterbrownconst.com]
Sent: Monday, October 26, 2009 11:52 AM
To: Nicoloso, Eugenio
Cc: Brad Will; Dave Fronczak; Rick Barnett; Judge Paul Hawkes
Subject: FW: 1DCA - Images Proposal

Gene – Now that the proposal has been revised by Mary, are we to proceed with the Owner Change Order Request based on this revised proposal?

Thank you,

Andrew Wellman
Project Manager
Peter R. Brown Construction, Inc.
1424 Piedmont Drive E.
Tallahassee, FL 32308
850-668-4498 office
850-668-6790 fax

From: Siggall@aol.com [mailto:]
Sent: Wednesday, October 21, 2009 12:42 PM
To: Andrew Wellman
Cc: A602PMcC@aol.com
Subject: Re: 1DCA - Images Proposal

Andrew -
Attached is a revised quote for the DCA.
I have removed the items that related to
the design of items for the first and third
floor niches.
Thank you very much.
Mary

In a message dated 10/20/2009 10:35:55 A.M. Eastern Daylight Time, WellmanA@peterbrownconst.com writes:

Mary – I have been told by the Judges and by Gene Nicoloso that the quote that you have provided us may require revision. There are funds that are set aside for design that are not supposed to be in the quote to PRBC for construction. Please review this and let me know if the quote is to be revised.

Thank you,

Andrew Wellman
Project Manager
Peter R. Brown Construction, Inc.
1424 Piedmont Drive E.
Tallahassee, FL 32308
850-668-4498 office
850-668-6790 fax

EXHIBIT 6 – TIME LINE

September 22, 2004 First District Court of Appeals (1DCA) requested \$100,000 from General Revenue.	First District Court of Appeals (1DCA) requested \$100,000 of General Revenue Fixed Capital Outlay for Architect/Engineer services to begin planning an expansion of the existing 1DCA building due to staffing needs.
July 1, 2005 1DCA received first appropriation for project.	Laws of Florida Chapter 2005-70 established a General Revenue Fixed Capital Outlay Appropriation of \$100,000 for Architect Services for Building Expansion.
September 8, 2005	Deadline for responses to Department of Management Services' (DMS) Notice to Professional Consultants for Architecture-Engineering.
September 15, 2005 Responses were evaluated.	DMS received seven responses to Notice to Professional Consultants for Architecture-Engineering. Proposals were evaluated by Hal Branch - DMS, Dean Izzo - DMS, Jere Lahey - DMS, Chief Judge Charles Kahn - 1DCA, Judge Bradford Thomas - 1DCA, and Judge James Wolf - 1DCA.
October 7, 2005 1DCA requested appropriation of \$19 million for architect services for new courthouse.	1DCA requested \$19 million of General Revenue Fixed Capital Outlay for Architect/Engineer services to include the preparation of a report to explain and justify the 1DCA need for new space. Included in the request narrative were the following statements: 1) "The current court building does not have sufficient land available to construct additional office space and parking at a reasonable cost and without unacceptable disruption to the operation of the Court. In addition, and most importantly, the current building does not provide adequate and acceptable security for Court personnel and the public which conduct business with the Court." 2) "Bids from an architect/engineer will be reviewed over the next few weeks and a contract should be negotiated some time in October." 3) "DMS has currently identified a five-acre tract on Capital Circle Southeast already owned by the State of Florida which is also subject to a reverter clause should substantial construction on a large building not be begun by January 2008."
November 2, 2005 Negotiations began for architect contract.	DMS' Authority to Negotiate Contract for Architect-Engineer Services. Architect approved listing the top three responses: 1. Barnett Fronczak Architects/Spills Candela DMJM/Post Buckley Schuh & Jernigan, Tallahassee 2. Rink Design Partnership, Inc., Jacksonville 3. Hellmuth, Obata & Kassabaum, Inc, Tampa
November 9, 2005	Barnett Fronczak Architects submitted its 1st District Court of Appeal Fee Proposal to DMS Project Manager.
January 18, 2006	Agreement Between DMS and Architect-Engineer [Barnett Fronczak Architects] signed 1/18/06 with total value of \$85,000.
January 18, 2006 First Authorization for Additional Services	DMS issued Authorization No. 1 for "Additional Services" of \$10,000 to the Agreement Between DMS and Architect-Engineer to cover the cost of Reimbursables.

executed for the architect contract.

April 21, 2006

Report containing future facility needs released.

Contextual Analysis, Site Analysis, & Conceptual Diagrams released. The report indicated that by 2030 the First District Court of Appeals will have 18 judges and 154 staff and will require a total of 87,726 building gross square feet.

July 1, 2006

\$1.8 million appropriation became law.

Laws of Florida Chapter 2006-25 established a General Revenue Fixed Capital Outlay Appropriation of \$1.8 million to expand /construction of First District Court of Appeals building within State Court System.

September 5, 2006

Real estate consulting services added to architect contract.

DMS issued Authorization No. 2 for "Addition Services" of \$15,000 to the Agreement Between DMS and Architect-Engineer to cover the cost of Jones Lang LaSalle, Real Estate Consultants, whose scope of services stated, "... provide real estate consulting and management services for the predevelopment review & analysis of the options for a new 1st District Court of Appeals facility."

September 7, 2006

Architect contract increased by \$104,000.

DMS authorized a budget change to the Agreement Between DMS and Architect-Engineer Barnett Fronczak Architects 1st District Court of Appeals Expansion last signed 1/18/06 to increase the agreement's budget to a total of \$104,000.

October 9, 2006

1DCA requested \$31.7 million appropriation.

State Court System requested \$31.7 million of General Revenue Fixed Capital Outlay for the construction of an 87,000 square foot building for the offices and facilities of the 1DCA. According to attachments, project costs were estimated at \$31.7 million.

December 14, 2006

Real estate consultant services increased by \$136,855.

DMS issued Authorization No. 3 for "Addition Services" of \$136,885 to the Agreement Between DMS and Architect-Engineer to cover the cost of Jones Lang LaSalle, Real Estate Consultants, whose scope of services stated, "... provide real estate consulting and management services for the predevelopment review & analysis of the options for a new 1st District Court of Appeals facility."

December 14, 2006

Additional funds added to architect contract for cost overruns.

DMS issued Authorization No. 2-R for an additional \$3,500.00 and authorized "Additional Services" of \$136,855 to the Agreement between DMS and Architect-Engineer to cover the Cost-Over-Runs of its subcontractors.

January 26, 2007

Judge's letter to DMS

Edwin B. Browning, Jr., Chief Judge 1DCA, in letter to Jere K. Lahey, DMS Project Manger, stated, "We grant the authorization requested with reservations. I and other members of the court building committee are concerned with the manner in which this issue has been handled. The costs far exceed the amount originally allocated for them, and appear to be excessive in several instances. I think that the architect should be placed on notice that future billings should be discussed in advance and fully explained so that there will be no misunderstanding. After all, we are dealing with taxpayer's money and the court feels a fiduciary responsibility to see that the fees incurred for the project's development are not excessive."

January 28, 2007

Judges' traveled to Michigan.

Judges Hawkes, Benton, Thomas, and Browning traveled out-of-state to tour Michigan's Hall of Justice Courthouse. Travel was funded from the Fixed Capital Outlay appropriation in the amount of \$2,405.51

January 30, 2007

Reimbursables were increased under the architect contract.

DMS issued Authorization No. 1R Reimbursable (Not-to-Exceed) to the Agreement between DMS and Architect-Engineer by increasing it by \$15,000 to a total of \$25,000.

February 2, 2007

IDCA reduced appropriation request to \$24 million.

State Court System reduced its request for \$31.7 million of General Revenue Fixed Capital Outlay for the construction of an 87,000 square foot building for the offices and facilities of the First District Court of Appeal to \$24 million for work that could be completed within 18 months. According to the request narrative, the following services would be covered by the \$24 million:

- 1) Architect / Engineering Construction Documents / Construction services
- 2) Site Infrastructure Construction
- 3) Construction Manager's Guaranteed Maximum Price (GMP)
- 4) Sub-contracts for Primary Building Systems
- 5) Threshold Inspection
- 6) Material Testing
- 7) Fees & Contingencies

The narrative also indicated that an additional appropriation of \$13.5 million would be needed for Fiscal Year 2008-2009 to cover the following:

- 1) Sub-contracts for Finish Building Systems
- 2) Contract for Communication Equipment, Information Technology, & Security Equipment
- 3) Contracts for Finish Site Work
- 4) Fees & Contingencies

Finally, the narrative stated, "Total project cost is estimated to be \$39.7 million."

May 4, 2007

DMS issued Request For Qualifications for Construction Management Services.

DMS issued a Request for Qualifications (RFQ) from licensed general contractors who wished to compete to provide "Construction Management at Risk" services.

May 15, 2007

New architect contract was executed for \$2,011,316.

DMS and Barnett Fronczak Barlowe Architects (BFBA) executed a new architect-engineer contract for the IDCA construction project. DMS did not go through the Request for Qualification process to obtain the Authorization to Negotiate for this contract; rather, DMS used the Authorization to Negotiate approval from the existing contract. Total contract value is \$2 million with a current Funding and Expenditure Limit of \$835,806.

May 22, 2007

Architect contract increased for additional services.

DMS issued Authorization (AA) No. 2 under architect-engineer contract for "Additional Services" to modify the existing program for court request requirements by subcontractor Justice Planning Associates - \$4,800 (Justice systems operations, planning, and design - Columbia, S.C.) and Barnett, Fronczak & Barlowe Architects - \$866.

May 22, 2007

Architect contract increased for additional services.

DMS issued Authorization (AA) No. 3 architect-engineer contract for "Additional Services" to provide interim interior design services to select and procure furnishings by subcontractor Spillis Candela DMJM - \$11,000.

May 22, 2007	Email Chain - Judge Hawkes expressed concerns about the project including that Barnett Fronczak Barlowe Architects would be the primary A&E firm rather than Spillis Candela DMJM.
June 7, 2007 Responses received for Construction Management Request For Qualifications.	DMS received five responses to its Request for Qualifications (RFQ) from licensed general contractors who wished to compete for Construction Management at Risk services for 1st District Court of Appeals Project: 1. Ajax Building Corporation 2. Baycrest Corporation 3. Elkins Construction 4. Peter R Brown Construction, Inc. 5. Turner Construction Company
July 1, 2007 \$33.5 million in bonds authorized.	Laws of Florida Chapter 2007-196 authorized issuance of \$33.5 million in construction bonds and established a Fixed Capital Outlay appropriation of \$33.5 million in the Florida Facilities Pool Working Capital Trust Fund for the construction of First District Court of Appeals within DMS. It was appropriated as a DMS-managed project.
July 1, 2007 \$7.9 million appropriation became law.	Laws of Florida Chapter 2007-72 added to the General Revenue Fixed Capital Outlay \$7.9 million to expand/construction First District Court of Appeals within State Court System. It was appropriated as a DMS managed project.
July 19, 2007 Construction Management Request For Qualifications Responses evaluated.	The five responses to Request for Qualifications (RFQ) from licensed general contractors who wished to compete for Construction Management at Risk services were evaluated by Judge James Wolf - 1DCA, Judge Paul Hawks - 1DCA, Jere Lahey - DMS, Joanna Price - DMS, and Kenneth Taite - DMS. The evaluation committee recommended to the DMS Secretary that it be authorized to negotiate a contract with the respondents in the following order: 1. Peter R Brown Construction, Inc. 2. Ajax Building Corporation 3. Elkins Construction, Inc. 4. Turner Construction Company
July 26, 2007 Possible second trip to Michigan	Peter R Brown Construction, Inc. (PRBC) issued an invitation to travel to Michigan aboard a private plane to visit the Hall of Justice Courthouse. The Judges, DMS, and the architects were offered four seats and PRBC received three seats. Of note, Stewart (PRBC) stated: "I know most of the team has already been." It is unclear whether the trip occurred.
August 14, 2007 Architect contract increased for additional services.	DMS issued Authorization (AA) No. 4 architect-engineer contract for "Additional Services" to expand the site plan by subcontractor <u>Spillis Candela DMJM</u> - \$9,200; <u>Post Buckley Schuh & Jernigan</u> - \$8,900, and Barnett Fronczak Barlowe Architects (BFBA) - <u>\$16,010</u> .
August 21, 2007 Architect contract increased for additional services.	DMS issued Authorization (AA) No. 5 under Article 4 of the BFBA architect-engineer contract for "Additional Services" for Subsurface Report on the Proposed Storm Water Ponds by subcontractor <u>Alpha Geotechnical and Testing Services, Inc.</u> - \$6,767 and <u>BFBA</u> - \$521.
August 28, 2007	DMS issued Authorization (AA) No. 6 architect-engineer contract for

Architect contract increased for additional services. "Additional Services" for LEED" (Leadership in Energy & Environmental Design) Facilitator Services by subcontractor The Spinnaker Group (Sustainable Design Consulting and Commissioning Services, Weston, FL) - \$55,775.

September 12, 2007
Architect contract increased for additional services. DMS issued Authorization (AA) No. 4-Revision architect-engineer contract for "Additional Services" to increase the amount of AA #4 by \$20,266 for subcontractor Spillis Candela DMJM \$15,266.00 and BFBA - \$5,000.00.

September 28, 2007
DMS sent email to 1DCA regarding Construction Management contract. DMS expressed concerns with the 1DCA having access to an electronic version of the DMS contract to mark up and to DMS negotiations with the construction manager.

September 30, 2007
Architect contract increased for additional services. DMS issues Authorization (AA) No. 7 architect-engineer contract for "Additional Services" for (3) Alternate Building Evaluation Studies for the Extended Concept Schematic Design Phase by BFBA - \$11,200.

October 10, 2007
Facilities Commissioning Contract executed. Smith Seckman Reid, Inc., SSRCx Facilities Commissioning Contract for Engineering/Building Commissioning for 1DCA Project is executed in the amount \$202,761.

October 15, 2007
1DCA emailed Construction Management contract with its edits back to DMS.

October 15, 2007
DMS emailed 1DCA indicating concerns with 1DCA's contract edits. DMS legal expressed concerns with the 1DCA's revisions including: court having veto power over DMS; "DMS/1DCA " coupling in areas where DMS conventionally has had the sole obligation to do something (provide documents, etc); DMS being "on the hook" for whatever the court does; questions whether DMS has legal authority to delegate contract authority to Court; and DMS' undermined ability to provide project management services as mandated by the legislature.

October 25, 2007
DMS sent email expressing additional concerns with the 1DCA's contract edits. DMS expressed concerns with 1DCA's contract language including: the need for DMS override the 1DCA, for example, "if the court wishes to withhold funding of an architectural Authorization because they think they would rather use funds for nicer construction millwork then DMS has the contract privilege of proceeding with out best judgment and overriding their vested interest"; "construction budget is \$31,100,000 not \$35M"; and judges should not determine substantial completion.

October 29, 2007
DMS sent revised draft contract to 1DCA for review with language DMS can support.

November 9, 2007
DMS sent internal email regarding the Construction Management contract. The Email stated the contract is a veiled attempt to make the 1DCA co-owner, making it "timely unproductive and legally troublesome to have multiple principals directing the CM." The email suggested the 1DCA "...should obtain general revenue funding and request the funds not be labeled DMS managed."

November 28, 2007
DMS emailed 1DCA a "final version" of Construction Management contract attached with revised language but "not as strong" as the 1DCA might have

DMS email to IDCA hoped.

November 28, 2007
Judge Browning responded to DMS email.
Judge Browning rejected the latest version of the contract. He stated, "your proposal prevents the court from fulfilling its duties to the Legislature and Governor's office." IDCA canceled a project meeting and objected to further project expenditures except for permitting. Browning stated, "Based on the assurances from secretary South, I am confident and expect that DMS will not execute a contract with the construction manager that the court has not approved...I will promptly schedule a meeting with Secretary South to resolve what is obviously an insurmountable impasse at this time between us, you and your staff."

December 5, 2007
Internal DMS email was sent listing issues with draft Construction Management contract.
An attachment to the email described Construction Management contract issues between DMS and IDCA. Concerns included shared ownership with IDCA, IDCA having authority to make construction decisions whereas DMS is responsible and accountable, allowing IDCA unrestricted access to construction manager which "...at best will be confusing and at worst **will encourage scope creep and change orders.**"

December 20, 2007
Draft contract sent to Construction Management firm.
A draft contract was attached to email for Peter R. Brown Construction, Inc. to review. DMS stated, "It appears we have finally resolved issues with the IDCA."

January 7, 2008
Barnett Fronczak Barlowe Architects was awarded Project 26015000, with a contract start date of January 7, 2008.

January 7, 2008
Construction Management contract executed.
DMS and Peter R. Brown Construction, Inc. (PRBC), executed a contract for Construction Manager services, last signed 1/7/08 for preconstruction costs of \$299,693.

January 7, 2008
Start date for Construction Management contract.
Start Date for Construction Management contract between DMS and Peter R. Brown Construction, Inc., with preconstruction costs of \$299,693.

February 7, 2008
Architect contract increased for additional services.
DMS issued Authorization (AA) No. 8 architect-engineer contract for "Additional Services" for Site Plan Traffic Engineering Analysis by BFBA - \$2,000.

February 7, 2008
Architect contract increased for additional services.
DMS issued Authorization (AA) No. 9 architect-engineer contract for "Additional Services" for NPDES Permitting Plan for DEP by BFBA - \$400.00.

February 7, 2008
Construction Management firm stated building could be completed for \$33.1 million.
Signed memo from John Stewart, Executive Vice President, Peter R. Brown Construction, Inc., stated that the project could be completed for \$33.1 million but finishes would not be acceptable to the judges. He proposed adding another \$6.5 million.

February 8, 2008

1DCA requested \$6.5 million in additional bonding authority.

Senate Judicial Committee met about the 1DCA building funding. 1DCA requested \$6.5 million additional bonding authority.

February 25, 2008

Judges required amendment to architect contract that gives them more project information.

The Building Committee voted not to request that Secretary South terminate the architect-engineer contract relating to the proposed 1DCA's courthouse. However, that action was dependent upon certain terms and provisions being placed in the contract, including:

1. DMS and the architect firm were required to hold informal meetings with the 1DCA
2. DMS and the architect firm were required to provide unedited and uncensored information to a representative of the 1DCA
3. Require 1DCA review of payment requests.

April 7, 2008

Architect contract increased for additional services.

DMS issued Authorization (AA) No. 10 architect-engineer contract for "Additional Services" for activities described in BFBA proposal dated 3/28/08 by Spillis Candela DMJM - \$22,342.99 and BFBA - \$25,904.43.

April 20, 2008

Architect contract increased for additional services.

DMS and Barnett Fronczak Barlowe Architects (BFBA) executed Amendment No. 1 to the architect-engineer contract deleting the previous funding limitation and changed the vendor's name from Barnett Fronczak Architects to Barnett Fronczak Barlowe Architects.

June 2, 2008

Architect contract increased for additional services.

DMS issued Nine Authorizations under architect-engineer contract for "Additional Services" totaling \$273,653.55.

June 4, 2008

Architect contract increased for additional services.

DMS issued Authorization (AA) No. 19 architect-engineer contract for "Additional Services" for Design Services for Security Systems including Access Control and Camera Surveillance by subcontractor Schmidt Dell (a private company categorized under Management Engineering and located in Pensacola, FL) - \$16,750 and BFBA - \$1,340.

June 4, 2008

Architect contract increased for additional services.

DMS issued Authorization (AA) No. 20 under architect-engineer contract for "Additional Services" for Design Services for Structured Cabling for Voice, Video, and Data by subcontractor Schmidt Dell (a private company categorized under Management Engineering and located in Pensacola, FL) - \$41,750 and BFBA - \$3,340.

June 5, 2008

Project funds and travel to Michigan.

Email sent from DMS to 1DCA, PRBC, and BFBA stating that project funds cannot be used for this travel.

June 6, 2008

Architect contract increased for additional services.

DMS issued Authorization (AA) No. 22 under architect-engineer contract for "Additional Services" for Lighting Design Services for the parking lots and access drives by subcontractor Hines Hartman Engineering dba H2Engineering (provides expertise in mechanical, electrical, plumbing, fire protection, and telecommunications design, Tallahassee) - \$10,000.

June 10, 2008 Email sent from PRBC to 1DCA to confirm that PRBC's paying for the judges' travel to Michigan did not pose any conflicts or issues.

Email related to travel to Michigan.

June 18, 2008 Email from Peter R. Brown Construction, Inc. to 1DCA and DMS with notes from Michigan trip. Judges Hawkes, Thomas, Wolfe and Wheeler from 1DCA attended. It does not appear that any DMS staff participated.

Travel to Michigan

July 1, 2008 Laws of Florida Chapter 2008-152 Line No. 2554B established a Workers' Compensation Administrative Trust Fund Transfer to DMS-1DCA appropriation of \$5.5 million for the construction of the 1DCA by DMS. Detail Expenditures narrative stated, "With more accurate cost information, the 2008 Legislature provided an additional \$5.5 million from the Workers' Compensation Administrative Trust Fund as part of the contribution due from the trust fund."

\$5.5 million from Workers' Compensation Trust Fund transferred to DMS-1DCA appropriation.

September 3, 2008 DMS issued Authorization (AA) No. 23 architect-engineer contract for "Additional Services" for Lobby Floor Design activities described in BFBA proposal dated 6/13/08 by BFBA - \$15,000.

Architect contract increased for additional services.

September 25, 2008 State court System requested \$5.7 million General Revenue Fixed Capital Outlay for 1DCA Building Furniture, Fixtures, and Equipment. According to the LAS/PBS System Exhibit D-3A - Expenditures by Issue and Appropriation Category - Detail Expenditures narrative, completion of construction was scheduled for summer of 2010.

Additional \$5,747,834.00 General Revenue Fixed Capital Outlay appropriation requested by 1DCA.

September 25, 2008 State Transportation (Primary) Trust Fund - The \$6M was the 1DCA's proportionate share/assessment of the Development of Regional Impact (DRI) of the construction of the Capital Circle Office Complex. DRI means a development which, because of its character, magnitude, or location, would have a substantial effect on the health, safety, or welfare of citizens of more than one county in Florida as defined in S. 380.06, F.S.

\$6 million transferred from project appropriation to DOT.

October 2, 2008 Peter R. Brown Construction, Inc. issued its Notice to Bid for sub-contractors on the 1DCA Project.

October 29, 2008 Barnett Fronczak Barlowe Architects, in a revised October 29, 2008, letter to DMS Project Director, Gene Nicoloso, indicated the estimated construction cost was \$30 million; however, after meeting with the 1DCA Building Committee and finding that the 1DCA's vision did not match what DMS had anticipated in its original Construction Budget, the estimated building costs increased to \$35.9 million.

Architects estimated construction costs at \$30 million until they met with the 1DCA. Then costs increased to \$35.9 million.

December 11, 2008 Bonds to fund construction were issued at \$36.5 million. Net proceeds were transmitted to the State Treasury for DMS construction.

Bond closing

December 19, 2008 DMS and Peter R. Brown Construction, Inc. executed Amendment to Agreement between DMS and Construction Manager Number 1 increasing the budget to \$37.4 million and capping the spending limit at \$7.8 million.

Construction Management

Contract increases to \$37.4 million.

December 24, 2008

First construction authorization issued.

DMS issued Construction Authorization Number 1 to Peter R. Brown Construction, Inc. to perform the following construction services in advance of the establishment of the Guaranteed Maximum Price (GMP): Site Construction and Precast Shop Drawings - \$991,107.

January 20, 2009

Architect contract amendment number 2.

DMS and Barnett Fronczak Barlowe Architects executed Amendment No. 2 to the architect-engineer contract, increasing Total Contract Value to \$304,000 for Design Documentation Changes.

January 26, 2009

DMS issues Notice to Mobilize.

DMS sent Peter R. Brown Construction, Inc. a Notice to Mobilize on site and to Proceed with Construction.

January 26, 2009

Change order for first direct purchase.

DMS and Peter R. Brown Construction, Inc. executed Change Order No. 1 Owner (DMS) Direct Purchases totaling \$103,704.84.

January 29, 2009

Hawkes concerned about replacement of job superintendent.

In an email response concerning the replacement of the job superintendent, Hawkes stated that the superintendent was a very important part of the selection of PRBC and the building committee would be very concerned if that were to happen.

February 4, 2009

Construction authorization number 2 issued.

DMS issued Construction Authorization Number 2 to Peter R. Brown Construction, Inc. to perform the following construction services in advance of the establishment of the Guaranteed Maximum Price (GMP): Complete site package, concrete, rebar, masonry, structural/misc steel - \$5.6 million.

February 5, 2009

Email regarding artwork for the new facility.

In an email to DMS, Judge Hawkes proposed getting approximately 60 pictures (images) from archives printed on acid free paper, having them framed, and hanging them around the courthouse. He estimated the cost would be \$100,000 to \$120,000. DMS questioned whether this is an additional \$120,000 for artwork.

February 24, 2009

Second direct purchase change order executed.

DMS and Peter R. Brown Construction, Inc. executed Change Order No. 2 Owner Direct Purchases totaling \$911,517.04.

March 9, 2009

Amendment number 3 to the architect contract.

DMS and Barnett Fronczak Barlowe Architects executed Amendment No. 3 to the architect-engineer contract for the 1DCA construction decreasing Total Contract Value by \$12,472.

March 13, 2009

Architect contract increased for additional services.

DMS issued Authorization (AA) No. 24 architect-engineer contract for "Additional Services" for Site & Landscape Plan Revisions, Buffer Planting Plan Revision, and Employee Patio Revision activities described in BFBA proposal dated 3/13/09 by subcontractor Post Buckley Schuh & Jernigan (PBS&J) - \$39,400 and Construction Documents, Bidding, Construction Services, and administrative fee for PBS&J by BFBA - \$37,946.

March 18, 2009
Facilities Commissioning Contract increased for additional services.
DMS issued Authorization Number No. 1 under Article 4 of the SSRCx Facilities Commissioning Contract for Engineering/Building Commissioning for "Additional Services" described in SSRCx 9/24/08 proposal - Commissioning Review of the DMS' Project Requirements and Basis of Design Documentation.

March 23, 2009
Guaranteed Maximum Price approved.
DMS and Peter R. Brown Construction, Inc. executed Amendment 2 to Agreement between DMS and Construction Manager Contract with total construction budget of \$36.7 million. This amendment formally approved the Guaranteed Maximum Price.

April 7, 2009
Direct purchase change order
DMS and Peter R. Brown Construction, Inc. executed Change Order No. 3 Owner Direct Purchases totaling \$4.3 million.

June 1, 2009
Direct purchase change order
DMS and Peter R. Brown Construction, Inc. executed Change Order No. 5 Owner Direct Purchases totaling \$80,182.99.

June 11, 2009
Art quote email
On June 11, 2009, DMS received a Signature Art Gallery quote from architect-engineer in the amount of \$413,222 for 379 pieces of framed artwork. DMS approved \$122,272 as an authorization to the architect-engineer contract and indicated the rest would be approved later.

June 17, 2009
Architect contract increased for additional services.
DMS issued Authorization (AA) No. 25 architect-engineer contract for "Additional Services" for activities described in BFBA proposal dated 4/14/09 by Mary Maida and Denise Choppin - \$95,500 and BFBA - \$25,772.

July 1, 2009
Debt service appropriation became law.
Laws of Florida Chapter 2009-81 Line No. 2478A established a Workers' Compensation Administrative Trust Fund a Debt Service appropriation of \$2.4 million for the IDCA construction bonds administered by DMS.

July 13, 2009
Owner (DMS) Contingency fund
An email chain between DMS and IDCA described the need to set up an owner contingency fund to prevent funds from reverting.

July 30, 2009
Direct purchase change order
DMS and Peter R. Brown Construction, Inc. executed Change Order No. 7 for Owner Direct Purchases totaling \$3.5 million including \$2.5 million for millwork.

August 7, 2009
Architect contract increased for additional services.
DMS issued 11 Authorizations for the architect-engineer contract for "Additional Services." These services included Site & Landscape Plan Revisions, Focal Point Coordination (**Lady Justice**) activities, and Lawyer Lounge Revision activities. Total increase in the contract amount was \$35,665.

August 13, 2009
\$15,680 increase to
DMS and Peter R. Brown Construction, Inc. executed Change Order No. 4 per Article 8.1.2 (1) (b) Addition of 5 Work Days to Work Schedule - \$15,680.

construction management contract.

August 18, 2009

Direct purchase change order

DMS and Peter R. Brown Construction, Inc. executed Change Order No. 8 Owner Direct Purchases totaling \$166,996.58.

August 25, 2009

Architect contract increased for additional services.

DMS issued Authorization (AA) No. 1-R1 architect-engineer contract for "Additional Services" to increase AA#1 Reimbursable Expense activities described in BFBA proposal dated 7/23/09 by \$10,000 for BFBA.

September 10, 2009

Bronze statue price quote

Email from Barnett Fronczak Barlowe Architects to judges and DMS with attached quote for 12 foot bronze statue (Lady Liberty) at \$68,319.

September 16, 2009

Architect contract increased for additional services.

DMS issued Authorization (AA) No. 26-R1 architect-engineer contract for "Additional Services" for Subsurface Testing for Concrete Paving activities described in BFBA proposal dated 9/2/09 by Alpha Geotechnical and Testing, Inc. - \$1,246.50.

September 22, 2009

Architect contract increased for additional services.

DMS issued Authorization (AA) No. 19-R1 architect-engineer contract for "Additional Services" for Security activities described in BFBA proposal dated 9/10/09 Revised by Schmidt Consulting Group, Inc - \$5,750 and BFBA - \$846 increase.

September 22, 2009

Architect contract increased for additional services.

DMS issued Authorization (AA) No. 20-R1 architect-engineer contract for "Additional Services" for Comm./AV/Security activities described in BFBA proposal dated 9/10/09 by BFBA - \$34,990 increase.

September 29, 2009

Direct purchase change order

DMS and Peter R. Brown Construction, Inc. executed Change Order No. 11 Owner Direct Purchases. Black Box - \$580,000.

September 29, 2009

Architect contract increased for additional services.

DMS issued Authorization (AA) No. 26-R2 architect-engineer for "Additional Services" for Geotechnical Services activities described in BFBA proposal dated 9/16/09 by Alpha Geotechnical - \$429 increase.

October 6, 2009

Architect contract decreased.

DMS issued Authorization (AA) No. 1-R2 architect-engineer contract for "Additional Services" to decrease AA#1-R1 Reimbursable Expense activities described in BFBA proposal dated 9/30/09 by <\$10,000> for BFBA.

October 7, 2009

Architect contract increased for additional services.

DMS issued Authorization (AA) No. 26-R3 architect-engineer contract for "Additional Services" for Geotechnical Services activities described in BFBA proposal dated 9/30/09 by BFBA - \$8,727 increase.

- October 7, 2009**
Architect contract increased for additional services.
DMS issued Authorization (AA) No. 35 architect-engineer contract for "Additional Services" for Paying Modification activities described in BFBA proposal dated 9/30/09 by BFBA - \$429 increase.
- October 7, 2009**
Architect contract increased for additional services.
DMS issued Authorization (AA) No. 36 architect-engineer contract for "Additional Services" for Reimbursable Expense described in BFBA proposal dated 9/30/09 by BFBA - \$10,000 increase.
- October 9, 2009**
Architect contract increased for additional services.
DMS issued Authorization (AA) No. 36 architect-engineer contract for "Additional Services" for Reimbursable Expense described in BFBA proposal dated 9/30/09 by BFBA - \$10,000 increase.
- October 15, 2009**
Fourth amendment to architect contract.
DMS and Barnett Fronczak Barlowe Architects executed an Amendment No. 4 to the architect-engineer contract increasing Total Contract Value by \$25,056.
- October 16, 2009**
1DCA requests an additional \$3.5 million for furniture, fixtures, and equipment.
State Court System requested \$3.5 million General Revenue Fixed Capital Outlay for Furniture, Fixtures, and Equipment. According to the LAS/PBS System Exhibit D-3A - Expenditures by Issue an Appropriation Category - Detail Expenditures narrative, completion of construction was scheduled for Fall of 2010.
- October 21, 2009**
Construction management contract change order
DMS and Peter R. Brown Construction, Inc. executed Change Order No. 12 - To add back the Super Sky's Contract for Glass from Viracon original deducted on Change Order 9 for \$34,495.07.
- October 26, 2009**
DMS questioned \$70,000 increase for art work.
In an email chain between DMS and Peter R. Brown Construction, DMS questioned an approximate \$70,000 increase in the cost of fabrication and installation and the number of images. Signature responded, "During the last several weeks of consulting with Rick {BFBA} and the judges, the quantity and sizes of pieces and the framing materials have been clarified, resulting in the current fabrication and installation amount." The number of images is approximately 400.
- November 18, 2009**
FLORIDA FINE ARTS TRUST FUND D - Transfer to Division's Fine Arts Trust Fund of \$15,000 pursuant to Interagency Agreement between DMS & Dept. of State regarding administration of the art selection.
- December 28, 2009**
Guaranteed maximum price of construction management contract increased for artwork.
DMS and Peter R. Brown Construction, Inc. executed Change Order No. 13 for \$392,658 - "This additive change order is to increase the GMP scope of work to accommodate the Images scope of work as defined by the attached 2-page quote and description from Signature Gallery date 10-7-09."
- January 11, 2010**
DMS issued Authorization (AA) No. 37 architect-engineer contract for

Architect contract increased for additional services. "Additional Services" for Converting a Portion of the Clerk of Court's Open Space in Conference Room described in BFBA proposal dated 1/5/10 by BFBA - \$4,762.66.

January 27, 2010
Owner's Contingency created. DMS and Peter R. Brown Construction, Inc. executed Change Order No. 15 - "This additive change order serves to create the "Owner's Contingency" Line Item" in the amount of \$1 million.

March 8, 2010
Court requested funds for six months' rent of new facility. State Court System requested \$833,230 of Expense for six months of DMS Rent on the 1DCA Building. According to the LAS/PBS System Exhibit D-3A - Expenditures by Issue and Appropriation Category - Detail Expenditures narrative, the lease with DMS for 1DCA Building is to start 1/1/11 and is based on DMS standard per Square Foot Annual Rental Rate of \$17.18 times the building's 97,000 square feet divided by 2. It is estimated that next fiscal year's rental cost will be \$1,666,460 unless DMS's annual rental rate increases.

April 15, 2010
Change order executed reducing owner's contingency. DMS and Peter R. Brown Construction, Inc. executed Change Order No. 16 - "Reduce Owner's Contingency which was added to the contract via Change Order # 15 by \$4,850 for accessory lighting and \$1,428.00 for art selection."

June 21, 2010
Debt service payment made. DMS transferred \$249 million to State Board of Administration for Debt Service on DMS's Florida Facilities Pool Revenue Bonds, Series 2008A.

June 24, 2010
Change order reducing owner's contingency executed. DMS and Peter R. Brown Construction, Inc. executed Change Order No. 17 - "Reduce Owner's Contingency for Monitoring Performance of South Storm Pond."

June 24, 2010
Architect contract increased for additional services. DMS issued Authorization (AA) No. 39 architect-engineer contract for "Additional Services" for Additional Services Requested for Pond Monitoring Performance described in BFBA proposal dated 4/27/10 by BFBA - \$2,568.

July 1, 2010
Debt service appropriation. Laws of Florida Chapter 2010-152 Line No. 2838 established a Florida Facilities Pool Clearing Trust Fund (a Debt Service appropriation of \$2.49 million) for the 1DCA's construction bonds administered by DMS.

July 8, 2010
Direct purchase change order. DMS and Peter R. Brown Construction, Inc. executed Change Order No. 18 Owner Direct Purchases totaling \$202,093 including \$4,500 for photographers.

July 14, 2010
Direct purchase change order. DMS and Peter R. Brown Construction, Inc. executed Change Order No. 19 Owner Direct Purchases. Seven MyFloridaMarketPlace Direct Orders were placed to various artists and photographers - \$72,000.

August 1, 2010
DMS issued Authorization (AA) No. 38 architect-engineer contract for

"Additional Services" for Art Selection in BFBA proposal dated 3/9/10 by BFBA - \$1,428.

August 30, 2010

DMS and Peter R. Brown Construction, Inc. executed Change Order No. 20
Owner Direct Purchases.

Direct purchase change
order

Dell	\$51,636
Artwork Framing and Signage	\$ 8,500
CDW (Computer Discount Warehouse)	\$10,296
Tiger Direct (Computer Hardware, software & accessories)	\$26,039
SHI (Computer Hardware, software & accessories)	<u>\$13,325</u>
Totaling	\$109,795

August 31, 2010

DMS issued Authorization (AA) No. 38-R1 under architect-engineer contract for
"Additional Services" for Framing & Signage in BFBA proposal dated 8/31/10
BFBA - \$8,500 increase.

Architect contract
increased for additional
services.

NOTE: The BFBA proposal dated 8/31/10 that supports this increase is missing.

November 30, 2010

Barnett Fronczak Barlowe Architects, Contract End Date

November 30, 2010

Peter R. Brown Construction, Inc., Contract End Date

November 30, 2011

Smith Seckman Reid, Inc., Contract End Date