



**Review of Hourly Billing Rates – Miller, Legg & Associates, Inc. North
County Neighborhood Improvement Project SW Quadrant & Bid
Package 12**

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Report No. 16 - 2



Office of the County Auditor
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Executive Summary

This report presents the results of our review of hourly labor rates invoiced under the construction management services contract between Broward County and Miller, Legg & Associates (MLA) executed on February 6, 2007 (RLI # 20060110-2-EED-1). The purpose of our review was to determine whether hourly labor rates billed by MLA and its subconsultants complied with contract requirements.

To accomplish our objective, we reviewed hourly labor rates in two pay applications from MLA and four of their subconsultants for the periods from October 9 through December 3, 2011 and December 1, 2012 through January 28, 2013. Hourly labor rates consist of hourly rates, overhead, and fringe benefit cost elements plus a negotiated profit. Article 10.12 of the contract, the truth-in-negotiation certificate states “Signature of this Agreement by consultant shall act as the execution of a truth-in negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this agreement are accurate, complete, and current at the time of contracting...”

Our review disclosed the following issues:

- MLA and one of its subconsultants overbilled the County \$35,787 for labor at rates in excess of the actual hourly salary rates paid to their employees.
 - Based on the results of our sampling and the systemic nature of the overbillings, we estimate potential overbillings by MLA may exceed \$1.6 million over the entire contract period, \$800,000 since 2010, and
 - The identified overbillings by MLA resulted in recalculated profit percentages ranging from 29% to 94% as compared to the 10% contracted profit percentage, and hourly overbillings ranging from \$10.25 to \$74.64 per hour.
- One subconsultant did not comply with contract documentation requirements resulting in unsupported labor costs of \$15,798.

To address these issues, we recommend the Board of County Commissioners direct the County Administrator to require MLA to:

1. Immediately remit the overpayments of \$35,787 identified in our review to the County,
2. Review all invoices from the inception of the contract to identify any and all additional overpayments without cost to the County,
3. Provide the results of their review to the County no later than August 31, 2016,
4. Remit all additional overpayments to the County no later than August 31, 2016, and

5. Submit payroll documentation from Lakdas/Yohalem Engineering for the \$15,798 identified as unsupported in this report or remit the \$15,798 to the County no later than June 30, 2016.

Purpose and Scope

The purpose of our review was to determine whether hourly labor rates billed by MLA and its subconsultants complied with contract requirements. Our review covered invoices (pay applications) numbered 59 and 74 submitted by MLA for the period October 9 through December 3, 2011 and December 1, 2012 through January 28, 2013.

Methodology

To accomplish our objective, we:

- Reviewed
 - The Contract between MLA and Broward County executed February 6, 2007 (including amendment),
 - Two pay applications from MLA, including supporting invoices from its subconsultants, and
 - Payroll registers and other supporting documentation from MLA and its subconsultants
- Compared the billed overhead and fringe benefit rates to Financial Reports¹ certified by Independent Certified Public Accountants (CPA) for MLA and two subconsultants,
- Interviewed staff at:
 - Broward County Water and Wastewater Services Division (WWS), and
 - MLA and its subconsultants
- Consulted with the County Attorney's Office

Background

On February 6, 2007 Miller, Legg & Associates, Inc. (MLA) was engaged to provide professional consulting engineering services for the North County Neighborhood Improvement Project SW Quadrant and Bid Package 12 (North County NIP). These services include design development, permitting, preparation of contract documents, and construction administration for storm water drainage, water, sanitary sewer, street paving,

¹ We reserve our rights to perform in-depth review of the supporting documentation for overhead and fringe benefit rates billed.

landscaping, and signage improvements. The contract was approved for \$8,809,679 and amended November 9, 2010 to add \$130,000 for a total amount of \$8,939,679. This amount includes:

- Maximum not-to-exceed of \$4,587,572,
- Lump sum of \$3,839,607, and
- Reimbursables not-to-exceed of \$512,500.

As of September 30, 2015 the County has paid Miller Legg \$8,553,922.

Subconsultants

MLA contracted with 11 subconsultants to provide professional engineering and construction administration services. Our review covered the four subconsultants that submitted invoices for labor costs during the period sampled.

Exhibit B Salary Costs

Exhibit B Salary Costs presents rates for the raw hourly salary, overhead, fringe benefits, profit and the total billing rate for each personnel category anticipated to be assigned to the project. Exhibit B also shows an overall multiplier of 2.992. The multiplier is applied to the actual hourly labor rate paid to the consultant's and subconsultants' employees to determine the billing rates invoiced to the County.

Invoice Process

MLA submits pay applications to WWS for salary costs incurred by its personnel and subconsultants based on contract rates established in Exhibit B and reimbursable expenses. MLA is responsible for reviewing invoices from its subconsultants for accuracy and completeness before including them in the pay application package to the County.

Invoice Sampling

We reviewed a sample of two pay applications (numbers 59 and 74) totaling \$208,668 for October 9 through December 3, 2011 and December 1, 2012 through January 28, 2013.

Findings

Finding 1: MLA and one of its subconsultants overbilled the County \$35,787 for labor at rates in excess of the actual hourly rates paid to their employees.

Article 5.2 and Exhibit B of the Contract requires MLA to bill the County the hourly labor rates paid to its personnel engaged directly on the project. We reviewed two pay applications and compared the hourly labor rates billed for each job category to applicable payroll registers provided by MLA. We also examined whether rates exceeded the maximum hourly rates established in Exhibit B.

We found MLA overbilled the County \$34,722 for labor at rates in excess of the actual hourly rates paid to their personnel. In addition, MLA permitted one subconsultant, BND Engineers, Inc., (BND) to bill at an hourly labor rate in excess of the actual hourly rate

paid to one of their employees resulting in overbilling the County \$1,065 for the pay application reviewed. **Table 1** below shows the results of our review of MLA and subconsultants' labor costs.

Table 1
Labor Costs Reviewed and Amounts Billed In Excess of Actual Payroll Cost

Consultant/Subconsultants ²	Pay Application Reviewed	Amounts Reviewed	Billed in Excess of Actual Payroll Rates
Miller, Legg & Associates, Inc. (Prime)	#59 & #74	\$ 119,781	\$ 34,722
BND Engineers, Inc.	#59	15,166	1,065
Lakdas/Yohalem Engineering, Inc. (See Finding 2)	#59	15,798	
R.J. Behar & Company, Inc.	#59 & #74	22,243	0
Garth Solutions	#59	9,324	0
Total Amounts		\$ 182,312³	\$ 35,787

Source: Prepared by the County Auditor's Office based on analysis of selected pay applications and applicable payroll documentations

Based on the results of our sampling and the systemic nature of the overbillings, we estimate potential overbillings by MLA may exceed \$1.6 million over the entire contract period, \$800,000 since 2010. Furthermore, the identified overbillings by MLA resulted in recalculated profit percentages ranging from 29% to 94% as compared to the 10% contracted profit percentage, and hourly overbillings ranging from \$10.25 to \$74.64 per hour. The **Appendix 1** on page 6 shows the schedule of hourly overbillings by position for the two applications reviewed.

Finding 2: One subconsultant did not comply with contract documentation requirements resulting in unsupported labor costs of \$15,798.

Article 10.3.2 of the Contract requires MLA to retain financial records and supporting documentation for at least three years after Contract termination. MLA's contracts with its subconsultants bind them to the terms of MLA's Contract with the County. As a result, subconsultants are also required to retain financial records and supporting documentation for at least three years after contract termination.

Our review disclosed that a subconsultant, Lakdas/Yohalem Engineering, Inc. (Lakdas) did not retain payroll documentation to support the rates billed to the County for the invoice dated November 17, 2011. As a result, we could not verify \$15,798 in salary cost billed for a project engineer. Lakdas informed MLA that they do not retain employee and salary information more than twelve months after employee termination.

² This review excluded the following five subconsultants that did not provide services in the period sampled: Tierra South Florida, Procopio & Associates Aylward Engineering & Surveying, Inc., Oscar L. Rubio & Associates and Nova Consulting

³ Amount excludes \$23,987 in professional services and reimbursable expenses by MLA and \$2,369 in reimbursable expenses billed by MLA's subconsultants Ace Blueprinting, Inc., Nodarse & Associates and Accelerero Communications.

Recommendations

To address these issues we recommend the Board of County Commissioners direct the County Administrator to require MLA to:

1. Immediately remit the overpayments of \$35,787 identified in our review to the County,
2. Review all invoices from the inception of the contract to identify any and all additional overpayments without cost to the County,
3. Provide the results of their review to the County no later than August 31, 2016,
4. Remit all additional overpayments to the County no later than August 31, 2016, and
5. Submit payroll documentation from Lakdas/Yohalem Engineering for the \$15,798 identified as unsupported in this report or remit the \$15,798 to the County no later than June 30, 2016.

Appendix 1

Schedule of Hourly Overbillings by Position for Two Pay Applications Reviewed

Pay Application Reviewed	Period Covered	Position	Invoiced Hourly Billing Rate	Hourly Rate per Contract ⁴	Hourly Overbillings	Excess Profit Percentage
#59	11/6/11 - 12/3/11	Project Manager	\$ 172.21	\$ 97.57	\$ 74.64	84%
		Project Manager	172.21	136.64	35.57	29%
		Project Manager	172.21	122.22	49.99	45%
		Sr. Designer/Technician	113.67	89.76	23.91	29%
		Sr. Resident Rep.	106.92	79.11	27.81	39%
		Sr. Resident Rep.	106.92	80.78	26.14	36%
		Designer/Technician	91.17	65.11	26.06	44%
		Admin. Assistant	68.65	58.40	10.25	19%
#74	12/30/12 - 1/26/13	Project Manager	\$ 177.38	\$ 128.34	\$ 49.04	42%
		Project Manager	177.38	136.65	40.73	33%
		Registered Land Surveyor	155.33	89.76	65.57	80%
		Sr. Designer/Technician	117.08	73.06	44.02	66%
		Sr. Resident Rep.	110.13	79.12	31.01	43%
		Sr. Resident Rep.	110.13	88.96	21.17	26%
		Sr. Resident Rep.	110.13	80.78	29.35	40%
		Designer/Technician	93.91	65.11	28.80	49%

Source: Prepared by the County Auditor's Office based on analysis of selected pay applications and applicable payroll documentations

⁴ Calculated based on actual pay rate per MLA payroll register for the personnel assigned to the project times the contract multiplier