

REPORT OF THE ACQUISITION SUB-COMMITTEE

PREAMBLE:

The Fairfax Purchasing Resolution, as approved by the County Supervisors, states: “WHEREAS, the Board of County Supervisors is dedicated to securing high quality goods and services at reasonable cost while ensuring that all purchasing actions be conducted in a fair and impartial manner with no impropriety or appearance thereof, that all qualified vendors have access to County business and that no offeror be arbitrarily or capriciously excluded, that procurement procedures involve openness and administrative efficiency, and that the maximum feasible degree of competition is achieved.”

This report is directed to furtherance of the above objective.

The estimated annual budget of Fairfax County is \$5.8B. The General Fund is \$3.3B and “Other” is \$2.5B. It is estimated acquisitions account for 50% of the General Fund (\$1.7B) and 70% of the “Other”(\$1.75B). The following recommendations should produce at least a 5% reduction in acquisition expenditures. This would reduce obligations of the General Fund by \$88M and the “Other” funds by \$80M for a total reduction of \$168M.

Unfortunately it is not expected all recommendations can be fully implemented and saving realized in less than a year. Therefore, “Issues” have been identified as short-term and extended-term issues. Implementation of the recommendations for short-term issues will be “brute force” and culture changing. Implementation of recommendations for extended-term issues will improve the efficiency and effectiveness of County acquisition expenditures.

While conducting our review we found many positive aspects of the County’s acquisition system and personnel – aspects we expect are not found in most other counties. The County personnel we encountered were professional and exuded dedication and pride. We found sets of acquisition policy did exist and felt the Fairfax County Resolution exhibited, as a cornerstone, the involvement of the Board of Supervisors. We sensed the acquisition community strives to provide value to County citizens.

Issue 1 Short-term Reduce Low Priority Acquisitions

Discussion:

Limited review of potential acquisitions indicates County offices have not adjusted to the fact the County faces a deficit. Although we lacked access to virtually all past and current obligating documents, we found current solicitations for tree houses, expensive

police radios for schools, and automatic flush valves for newly renovated Woodson High School.

We found no polices for challenging and/or validating requirements. Extensive fragmentation of contracting within the County also adversely affects requirement challenges by contracting offices.

Recommendation:

The County Executive and School Board should immediately establish a committee to review and, initially, pursue elimination of low priority acquisitions. Most likely internal organizations will fight this plan and obtaining acquisition information will be very difficult for the committee. Even finding all of the County contracting offices, including those outside the United States, may prove difficult. Additionally there are probably thousands of purchase card holders in the County. It will require the authority and attention of the County Executive and School Board to implement and execute.

It is suggested the committee include citizens from each district as well as selected county employees. It is also suggested free IT such as tweets, blogs, and/or websites be used to allow other citizens and County employees help identify low priority acquisitions. A method of stopping and/or reducing low priority acquisitions must be established.

[Note: Although it would not be as effective, the Braddock Supervisor could establish a volunteer committee. Access to acquisitions would be a substantial obstacle and the effect would probably be limited to focusing attention on low priority acquisitions as opposed to stopping them.]

Issue 2 Short-term Implement Executive Program Reviews

Discussion:

We were surprised to find no evidence major acquisition program reviews were being conducted within the County. We expected to find program, not just project, reviews to be conducted on a scheduled basis with at least the elements of cost, schedule, quality and technical risk being addressed on a quarterly or semi-annual basis. Few major acquisitions are flawless. Costs grow, schedules slip and the original benefits of the acquisition deteriorate. The County Executive and the FCPS Superintendent should be provided, on a scheduled basis, executive level information that allows them the option of terminating or rescaling a program. Without program oversight we expect there are multiple major acquisition programs within the County that are “allowed” to remain over budget, over schedule or expected to provide reduced benefits.

Recommendation:

The County Executive should promptly provide the Board of Supervisors an implemented written policy requiring major acquisition program reviews [at least semi-

annually] for acquisition under the Executive's control. The County Executive should also promptly identify at least the five largest acquisition programs under the Executive's control for inclusion in the review.

After the County Executive implements and refines major acquisition programs reviews it should be expected the FCPS Superintendent would implement the same policy.

Issue 3 Short-term Leverage Competition For Better Performance and Lower Costs

Discussion: Increase Competition

Although our review was limited to County acquisition policies and other information available on the Internet concerning solicitations and awards we found multiple occasions to improve competition within the County thus improving performance and lowers costs.

No County policy requires competition prior to issuance of obligating orders pursuant to existing labor hour or time and material contracts. It will be argued the labor rates and material overheads were competitively established; however, the cost determining factors, labor mix, number of hours, and material were not competitively established. It is these determining factors that establish the cost of the effort which should be established by competition.

County acquisition policy does not require obtaining more than one bid prior to awarding contracts or orders over \$5000. Policy requires solicitation of multiple sources, but allows award, without further justification or review if only one bid or proposal is obtained. This policy allows "gaming" – soliciting firms known not to bid thus issuing essentially sole source actions or award based on ineffective solicitations.

Recommendation: Increase Competition

Implement policy to require either a sole source justification, reissuance of the solicitation or approval one level above the contracting authority prior to issuance of award based on only one bid or proposal.

Discussion: Revise Solicitation Time Policy

Consistent with the Virginia Public Procurement Act, County policy allows limiting solicitation time from release to closing to only five days without justification or higher level approval. In our limited review we found none restricted to only five days, but did find that even solicitation with an expected value of over a million dollars were open less than 30 days. The average seemed about 15 days. Short solicitation times usually result from poor acquisition planning and result in lesser quality bids/proposals.

Recommendation: Revise Solicitation Time Policy

Policy should be issued requiring solicitation times of at least 30 days for solicitations over \$50,000 and 20 days for solicitations over \$10,000, unless a justification is approved one level above the applicable contracting authority. Poor acquisition planning should be identified and corrective actions taken to prevent future events.

Discussion: Tighten Purchase Card Controls

Purchase cards reduce acquisition time and effort significantly. However, purchase cards are prone to non-competed, non-negotiated pricing by untrained employees, often lack material/performance tracking, and present extensive opportunities for fraud, waste and abuse. There are trade-offs. Most likely there are many purchase cards with high limits (over \$5000) within the County. One reason cited for high limit cards is emergency acquisitions. Emergency acquisitions should be handled by trained professionals and not be a distraction for persons directly involved in the emergency – they should remain focused on their primary mission.

Recommendation: Tighten Purchase Card Controls

Purchase cards should be strictly limited to transactions of less than \$5000 except for DPSM contracting personnel. This does not imply all purchase cards should have a \$5000 limit. DPSM should implement 24/7 emergency contracting procedures and support for emergencies. This does not require someone to “be in the office” 24/7.

Issue 4 – Extended Term

Eliminate Fragmentation of the County’s Acquisition System

Discussion:

Fragmentation of the County’s acquisition system is initiated by the Fairfax County Purchasing Resolution as approved by the Board of Supervisors. The result is probably a dozen or more County contracting offices, some with perhaps only one person, and hundreds of persons obligating county funds using purchase cards and issuing orders.

The Purchasing Resolution establishes a County Purchasing Agent and endorses a centralized County purchasing system by stating:

“The primary duty of the County Purchasing Agent is to carry out the principles of modern central purchasing and supply management in accordance with applicable laws and regulations and with generally accepted professional standards in such a manner as to insure the maximum efficiency of governmental operation and to give to County taxpayers the benefit in savings that such accepted business procedures are known to produce.”

Following the above statement the Fairfax County Purchasing Resolution lists multiple pages of exceptions to centralization and provides the framework for the formal and informal fragmentation of the acquisition framework within the County. Examples of

exceptions are: The Department of Public Works and Environmental Services, The Fairfax County Public School Board, The Fairfax County Park Authority, The Department of Housing and Community Development, The Department of Transportation, The Fairfax County Sheriff [and Fairfax Water Board].

In addition to the contracting authority delegated by the “Resolution,” the Department of Supply Management has delegated special additional contracting authority to FCPS and small purchase authority (under \$10,000) to all Departments.

It will be argued the “Resolution” only separates Construction and Architecture & Engineering from the centralized contracting of the County Department of Purchasing and Supply Management (DPSM). Careful reading of the “Resolution” and review of practice indicates expanded decentralization. The reason for decentralizing Construction and Architecture & Engineering is physical geographical dispersion of the projects. This is not the case within Fairfax County.

Some disadvantages of dispersion of acquisition functions are:

Duplication of the effort to produce acquisition policy (or just have offices without any)

Duplication of IT systems and maintenance

Potential contractors face different policies and practices from a multitude of different offices.

Lack of consolidated training

Duplication of support functions such as legal, HR and IT.

Duplication of management

“Stovepiped” offices

Reduced oversight – if any

There are significant organizational pressures to decentralize the acquisition functions. Each organization is highly motivated to control acquisitions functions for their organization. Program and project oriented organizations demand acquisition system performance prioritize schedule and quality, not cost. Reduce solicitation time, limit the number of eligible contractors which can propose, award quickly, get on contract – we can modify it later, make changes now – will price them later, my specification is not “gold plated.”

Acquisition offices are often viewed as an obstruction because they introduce the importance of cost in the equation. This is a check and balance severely mitigated by decentralization of acquisition functions. Lack of checks and balances allow more opportunities for fraud, waste or abuse.

Apparently there are county organizations not funded by the Board of Supervisors and without oversight by the Board of Supervisors. However, County citizens do fund their activities and acquisitions. Examples are Fairfax Water and the Economic Development Authority. Most likely these and similar, but undiscovered, organizations have separated acquisition systems.

Identification of fragmented functions within the County is not new. The March 20, 2009 report to Supervisor McKay by the Lee District Budget Advisory Group recommended consolidation of multiple functions including IT.

Recommendation:

The County Executive and FCPS Superintendent should jointly prepare a plan and schedule to significantly reduce fragmentation of the County’s acquisition system. Suggested features of the new acquisition office are:

A stated level of performance that allows other County offices to focus on their primary missions without being distracted by operating a separate acquisition systems.

Provide all county offices with training, assistance, and guidance in preparation of requirement definitions and acquisition planning – including actual preparation.

Provide “easy” interface, including training, with county offices.

Be staffed with a trained, professional acquisition workforce.

Be responsible for administration of all County contracts while providing training, materials and advice to other County employees concerning contract administration as requested or required.

Require the new office to challenge and stop acquisitions not in the best interest of the County.

Be “graded” on a scheduled basis by other County offices.

**Issue 5 – Extended Term
Improve Contract Administration**

Discussion:

Costs increase, quality decreases and schedules slip during contract performance even with superior contract administration. Lack of County policy allows a person with no contract administration experience or training to administer any contract, including its largest contracts. This lack of policy probably reflects the County’s lack of attention to contract administration – FCPS construction perhaps being an exception.

For most acquisitions informal policy is to disperse contract administration to the organization which initiated the requirement. It is expected contract administration within these organizations is performed by persons “in addition to their regular job”, by junior personnel, and with little management oversight. This dispersion also mitigates organizational checks and balances thus increasing opportunities for fraud, waste and abuse.

Recommendation:

There are a several ways to significantly improve contract administration and each has multiple elements including training, policy, quality controls, contract changes, etc. The County Executive should require formation of a plan, including a schedule, to transform the County's approach to contract administration. It should be expected the plan would be shared with School Superintendent. Once the fiscal emergency is over, recommend consideration of sending selected acquisition personnel to the Defense Acquisition College at Fort Belvoir.

Issue 6 – Extended Term Dramatically Increase Acquisition Transparency

Discussion:

In early December 2009 Supervisor Cook's newsletter announced "The county is in the first phase of a multi-year effort to install an Enterprise Resource Planning system that will provide an extensive financial database and make possible access to transaction level data. The new page is www.fairfaxcounty.gov/finance/transparency."

Currently limited acquisition information is available on the County's webpages. They include a portion of most higher dollar value solicitation, a list of "catalog or schedule" contracts previously awarded, and some of the County's acquisition policies.

Increased acquisition transparency not only allows citizens and the media to review County acquisition funded obligations, but also encourages contractors to bid or propose in response to County solicitations. It should be expected potential contractors will analyze trends and expenditures in their areas of expertise. Potential contractors should also be made aware of the County's acquisition policies. Business uncertainty results in higher prices.

It may be argued there are potential privacy issues; however, these are very limited and relatively easy to avoid.

Recommendation:

Acquisition transparency at a minimum should include at least a list of ALL obligating contracts, orders, modifications, etc. over \$50,000. Each entry should at least specify: identification of the document (contract number, order number, modification number, etc.), amount obligated, date of obligation, short description of effort, category of effort (good, service, construction, etc.), performance window if applicable, identification of sole source or limited source actions, issuing office, and contractor. In addition to a searchable website, a "flatfile" or .csv file containing all actions should be available for download and analysis.

All County solicitations over \$10,000 should be posted at a County website as should be all sole source determinations. Contractors and persons should be able to download the

entire solicitation. Since most contracts, modifications, orders, etc. are already electronically stored, the County should allow download of these documents.

Issue 7 – Extended Term Document Office Practices And Expand Acquisition Policy

Discussion:

Some offices, even very well run ones, appear to be reliant on their managers for their excellent work. We did not find sufficient documentation of these practices. The unanticipated loss of such managers would have a negative effect if the documentation does not exist.

County acquisition policy is fragmented and limited. Since DPSM is not responsible for all County acquisition policy, most likely some County acquisition offices have little or no acquisition policy in place. Areas not addressed by County acquisition policy include:

File documentation requirements, contract administration processes and documentation, solicitation, contract, modification and order structures, acquisition planning, issuance of orders and modifications, conduct and documentation of pricing and negotiations, use of various contract types, use of provisions and clauses, required training and experience, and strategies and requirements for IT acquisitions.

Recommendation:

The Fairfax County Purchasing Resolution should be modified to require one County office responsible of issuance and updating of all County acquisition policy. Exceptions for specific organizations should be limited or non-existent.

Acquisition managers must insure that offices' practices are documented and that all employees have up to date continuity books in the event of their loss.