



Fairfax County Internal Audit Office

Department of Housing and Community Development
Contract Solicitation Audit
Final Report
October 2017

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Executive Summary

We performed an audit of the contract solicitation process at the request of Department of Housing and Community Development (HCD). The contract solicitation process is a joint effort between HCD and the Department of Purchasing and Material Management (DPMM). DPMM has authority and oversight over the contract solicitation process for Fairfax County. As a county department, HCD is tasked with preparing the scope of work for the Request for Proposal (RFP), reviewing the responses, and selecting a vendor. The contract solicitation process must follow the procedures set forth in the Fairfax County Purchasing Resolution.

Our audit was performed to determine if HCD was properly following the procedures set forth in the Fairfax County Purchasing Manual, concentrating on the review and scoring of the vendor solicitations. We found that HCD staff had an in-depth knowledge of the contract solicitation process and the solicitations reviewed were properly conducted. However, we did identify exceptions where compliance could be strengthened and internal controls could be improved as follows:

- Some documentation supporting the HCD staff review of solicitations responses was incomplete.
- The current design of the Independence Statement did not provide a field for written disclosure of potential conflicts. In addition, when the independence statement is signed by all SAC members at once it does not encourage self-reporting of possible impairments to independence and/or conflicts of interest.
- HCD contract solicitation guidance to department staff could be improved with specific examples of potential violations of the Independence Statement and the Non-Disclosure agreement particular to their department, and explanations of the possible repercussions for violations.

Scope and Objectives

This audit was performed as part of our fiscal year 2017 Annual Audit Plan and was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit covered the period January 2015 through October 2016. The objectives of the audit were to determine if:

- Optimal pricing was obtained for contract cost.
- Procurement specifications were appropriately documented.
- Solicitation responses were appropriately evaluated.
- Contract selection process complied with all legal and policy requirements and accepted standards.

- Sufficient data privacy and information protection standards were met.
- Conflicts of interest do not influence the negotiation of contracts.

Methodology

Our audit methodology included a review of the Fairfax County Purchasing Manual which contains the purchasing resolution, policies and procedures and general guidance/best practices. We interviewed HCD and DPMM management and staff to determine the level of understanding of the contract solicitation process and their knowledge of the Fairfax County Purchasing Manual and associated policies. We reviewed solicitation documentation to gain an understanding of the documentation used to support the solicitation process. We selected a sample of solicitations and examined documentation to determine if the contract solicitation process and the review of vendor's responses were properly completed and documented. We evaluated the use of the Independence Statement and the Non-Disclosure Agreement to determine level of compliance with either document.

The Fairfax County Internal Audit Office (IAO) is free from organizational impairments to independence in our reporting as defined by Government Auditing Standards. We report directly and are accountable to the County Executive. Organizationally, we are outside the staff or line management function of the units we audit. We report the results of our audits to the County Executive and the Board of Supervisors, and IAO reports are available to the public.

Findings, Recommendations, and Management Response

1. Lack of Completeness of Solicitation Review Documentation

We found that documentation supporting the HCD staff review of solicitations responses was incomplete. There were six instances by five Selection Advisory Committee (SAC) members in which the Independence Statement was signed but not dated. A SAC member for one solicitation did not compile notes to support the scores which were awarded. And, a SAC member's score sheets for two vendors were not available for review for one solicitation. The review by DPMM and HCD was not effective and did not identify the form incompleteness and omission of submitted and retained documentation.

Per The Competitive Negotiations Handbook:

- Chapter VIII: In The Evaluation Process, "Each member of a SAC for competitive negotiation procurement is required to review and sign a disclosure statement¹ certifying that they have read, understood and agree to abide by the ethical standards in evaluating RFP's. The signed Disclosure Statements¹ will

¹ - Also known as the "Independence Statement."

- become part of the official record of the RFP.”
- Chapter II: Evaluating Technical Proposals, “Individual Scoring: Each scoring member of the evaluation committee must evaluate and score each proposal using the approved scoresheet. All relevant comments should be written next to each evaluation criterion on the scoresheet to facilitate discussion with the other members.”
 - Chapter IX: “Documenting your evaluation is essential since a SAC member may be called upon to attend a “debriefing.” A “debriefing” is a meeting requested by an unsuccessful offeror which outlines the weaknesses (low score) as well as the strengths (high score) of their proposal. In addition, documenting the SAC evaluation is necessary should the unsuccessful offeror(s) file a protest of award.”

Missing dates on the Independence Statement decrease accountability in determining if the form was properly completed prior the start of proposal review. Incomplete or missing scoring notes make it hard to assess a SAC member’s rationale for scores assigned. Further, without written support for scoring SAC members would have to rely on their memory to explain the basis for their scores. Finally, missing scoresheets impair the ability of HCD and/or DPMM to provide feedback on a vendor’s proposal during a debriefing or support the solicitation review process if a protest or FOIA request is filed.

Recommendation:

DPMM should reinforce with staff the importance of reviewing the completed Independence Statement to make certain they are properly completed with required signatures and dates. We recommend that HCD reinforce with staff the importance of properly completing and reviewing the Independence Statement; providing written rationale for scoring given; and retaining scoring sheets either by the SAC chair or the Contract and Procurement Coordinator.

Management Response:

DPMM Response:

As of September 26, 2017 DPMM bolstered its efforts and emphasize to the Contracts staff the responsibility to assure the Independence Statements are properly completed with required signatures and dates. DPMM notified contract staff in writing of the audit findings and directed them to check and verify that all SAC members have executed the Independence Statement form with the proper signature and date.

HCD Response:

As of September 26, 2017 HCD directed the Contract & Procurement Coordinator (CPC) to reinforce the importance of properly completing and reviewing the independence statement; providing written rationale for score awarded; and the CPC will retain the completed scoresheets. The CPC will review the scoresheets to assure that SAC members have provided an adequate explanation for each criteria of the evaluation.

2. Strengthening the Independence Statement

The Independence Statement was a single document which is signed as a group by each member of the SAC. When the Independence Statement is signed by all SAC members at once it does not encourage self-reporting of possible impairments to independence and/or conflicts of interest. In addition, the current form design does not have a field for self-reporting potential impairments by SAC members.

Per The Competitive Negotiations Handbook, Chapter VIII: In The Evaluation Process, "Each member of a SAC for competitive negotiation procurement is required to review and sign a Disclosure Statement¹ certifying that they have read, understood and agree to abide by the ethical standards in evaluating RFP's. The signed Disclosure Statements¹ will become part of the official record of the RFP."

Recommendation:

The Independence Statement should be redesigned by DPMM to be form that SAC members individually sign and include space for individuals to write any potential conflicts. Until DPMM issues an updated statement, HCD should assess requiring its SAC members to sign the form individually and request any potential conflicts be noted in writing to the SAC chair and/or Contract and Procurement Coordinator.

Management Response:

DPMM Response:

DPMM is currently revising the Independence Statement Form to be a single use form to be signed individually by each SAC member; the newly revised form will include space for each SAC member to identify and disclose potential conflicts of interest. The new form will require executive management review and approval in addition to review by the County Attorney's office. Anticipated completion date is Nov 1, 2017.

HCD Response:

As of September 26, 2017 HCD CPC verbally reminded SAC members of the importance to review and complete the Independence Statement and directed the SAC members to express any potential conflicts of interest to the DPMM Contract Administrator either in writing on the back of the Independent Statement or in private should the SAC member be concerned about expressing the potential conflict in writing. DPMM will document any conflicts noted verbally.

3. Additional Guidance on Independence Statement and Non-Disclosure Agreement Violations and Disciplinary Actions

Internally within HCD, guidance to HCD staff on what actions would be considered to be violations of either the Independence Statement or Non-Disclosure Agreement could be strengthened. While the documents provided gave general guidelines, they lacked specific scenarios which HCD employees could encounter due to their unique and sometimes close relationships with vendors, as part of their required duties. In addition, HCD staff expressed that they were not fully aware of the potential disciplinary actions management could assess when violations were proven. This understanding is crucial to the effectiveness of the completion of the Independence Statement and Non-Disclosure Agreement by the SAC members.

Failure to understand the parameters of what would be considered a violation of the Independence Statement or Non-Disclosure Agreement, increases the risk of inadvertent impartiality of the selection process.

Recommendation:

HCD should include department specific scenarios in its staff training and written guidance on what a violation of the Independence Statement and Non-Disclosure Agreement would be. This guidance should also detail the possible consequences for violating the agreements so that staff members are fully aware of the range of disciplinary actions that could be taken.

Management Response:

HCD Response:

HCD has established an Ethics Training course which will include guidance on the possible consequences of violating either the Independence Statement or Non-Disclosure Agreement. The Ethics training will review scenarios and review actions that are violations of the Independence Statement or Non-Disclosure Agreement. The HCD CPC will remind SAC members, at the initial SAC meeting, the importance of not violating either agreement and discussing scenarios that could be determined to be a violation of either agreement. In addition, HCD will suggest additional language for the Non-Disclosure Agreement to DPMM which will clearly detail the possible consequences of violating the agreement. The Ethics trainings will be completed by November 30, 2017.