

Prince George's County, Maryland
Office of Audits and Investigations

Office of Central Services

**Contracts and Procurement
Follow-Up Audit**

August 2012



**David H. Van Dyke
County Auditor**

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August 2012

The County Council and County Executive
of Prince George's County, Maryland

We have conducted a performance audit of the

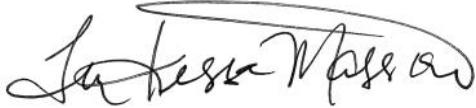
**OFFICE OF CENTRAL SERVICES' CONTRACT AND PROCUREMENT
PROCESS**

in accordance with the requirements of Article III, Section 313, of the Charter for Prince George's County, Maryland. Our report is submitted herewith.

We have discussed the contents of this report with appropriate personnel of the Office of Central Services and wish to express our sincere gratitude to them for the cooperation and assistance extended to us during the course of this engagement.



David H. Van Dyke, CPA
County Auditor



Turkessa A. Massiah, CPA
Auditor-in-Charge



Alicia C. Stanford
Auditor

Results In Brief

The Contract Administration and Procurement (CA&P) Division of the County's Office of Central Services (OCS) provides overall management and direction for the County's procurement functions in accordance with Subtitle 10A of the County Code. The Division's goal is to obtain quality supplies, equipment, general and construction services at the most equitable cost for the County government. Specific duties for the CA&P Division include:

- Procurement of goods and services;
- Contract administration;
- Procurement activities and reporting;
- Oversight of delegated procurement activities; and
- Minority Business Enterprise reporting.

An average of \$211 million in total contracts has been awarded by the County over the last five fiscal years. Below is a breakdown of the total contract awards by year, as reported by the Office of Central Services:

Fiscal Year	Total Dollars Awarded
FY07	\$201.8 million
FY08	\$224.2 million
FY09	\$211.1 million
FY10	\$210.0 million
FY11	\$207.9 million

All rights, powers, duties, and authority relating to the acquisition of supplies, construction, services, etc. for the County are the responsibility of the Purchasing Agent, the Director of Central Services. As such, the County's contract procurement process should be viewed as a centralized purchasing function. However, because of the following major findings addressed in our report, the overall efficiency and effectiveness of the County's purchasing activities appear weakened:

- CA&P does not maintain a central listing of all contracts procured on behalf of the County and there is no identifier in its current database to indicate the contract type.
- The CA&P engages in the use of confirming purchase orders (PO's), a method of securing contracts after the using agency has engaged a vendor for goods or services.
- The Procurement Regulations have not been updated since January 1994 and there are no written procedures governing contract modifications.

- Vendor invoices and payments are not monitored periodically by CA&P.
- Adequate documentation to support all contract and procurement activity is not maintained by CA&P.
- Administrative Procedure 120, which establishes the Administrative Review Committee (ARC) as well as procedures for the review and approval of contracts and other legally binding instruments, has not been updated in more than ten years.
- A number of recommendations from our January 2007 audit report, which are repeated in this report, have not been implemented.

Internal control activities are an important part of an agency's contract planning, implementation, and review functions. They are essential for effective and efficient operations and proper accountability of county, state, and federal resources. Hence, several recommendations for improving internal controls are in this report.

Background

OCS has the authority to procure goods and services to be utilized by all County agencies. However, OCS may delegate limited procurement authority to other County agencies if it is deemed necessary for the efficient operation of the County's purchasing program. Two agencies currently have delegated procurement authority: the Department of Environmental Resources (DER), which has delegated authority for stormwater management construction projects, and the Department of Public Works and Transportation (DPW&T), which has delegated authority for the procurement of goods and services related to roads and bridges.

OCS procures Term Contract Award Notices issued by the Contract Administration and competitive bid awards by the Procurement Division. All other contracts are processed by either the Administrative Review Committee (ARC) or the two agencies with delegated authority, DER and DPW&T. Contracts processed by agencies with delegated authority also are required to go through the ARC process.

OCS Contract and Procurement Processing

OCS is also responsible for issuing procurement regulations and procedures necessary to implement any provisions of the County Code related to the purchasing function. Procurement Regulations (and subsequent amendments) must be approved by County Council resolution. The Procurement Regulations

were last updated January 14, 1994; however, OCS has reported that revisions to the regulations are currently under review.

All County contracts should be awarded by competitive sealed bidding, competitive sealed proposal, contract negotiation, or small purchase procedures. OCS reviews each solicitation prior to action, (i.e. formal bidding, cooperative purchase, contract rider, etc.) to ensure that the best procurement method and best value concepts are recommended, determine the nature of Minority Business Enterprise participation, review the bidder's list, and resolve procurement related issues. Once the appropriate method of procurement is selected, the buyer agency and CA&P can begin soliciting proposals from vendors, either using an Invitation for Bid (IFB) or Request for Proposal (RFP). Public notice of availability of IFB's and RFP's must be made with a minimum bidding time of 21 calendar days.

Proposals submitted by the closing date of the IFB or RFP are reviewed by CA&P for responsiveness prior to distribution for evaluation. Upon a determination of responsiveness, a copy of each of the technical proposals is distributed to individual members of the evaluation/selection committee. Bids and proposals are assessed by the evaluation/selection committee using the criteria outlined in the IFB or RFP.

The formation of a Proposal Analysis Group (PAG) is required for solicitations using competitive sealed proposals when price is not the major determining factor. The PAG is required to evaluate and analyze proposals in accordance with criteria established in the RFP and make a final recommendation for the award of the contract. The Purchasing Agent has the authority to override the evaluation/selection committee's recommendation.

Administrative Review Committee (ARC) Contract Processing

The Procedures for the review and execution on the County's behalf of all contracts are documented in Administrative Procedure 120 (Administrative Review Committee). The ARC is responsible for assuring that the requirements set forth in this procedure and all applicable laws, regulations, and policies are followed prior to transmitting documents to the Chief Administrative Officer (CAO) for execution or other final action. Contracts that must be processed through the ARC include personal services contracts, legal services contracts, construction contracts, contracts awarded under the County's RFP process, and change orders.

The ARC is composed of the Chairperson (a representative of the Chief Administrative Officer) and representatives of the Offices of Management & Budget, Finance, Law, and OCS.

The ARC Chairperson utilizes the New Contract Tracking System (NCTS) to maintain a log of transactions that are processed through the ARC. Authorized individuals from each of the County agencies log into the system and enter requested information using the ARC Transmittal and Checklist. The ARC number provided by the system is written on the transmittal and the screen is printed and included with the hardcopy packages submitted to the ARC.

Objective, Scope, & Methodology

The purpose of this audit was to (1) assess the adequacy and performance of designed control activities in place to procure goods and services to be utilized by all County agencies, (2) determine adherence to applicable laws, regulations, and internal policies and procedures, and (3) identify factors inhibiting satisfactory performance and recommend corrective action.

To conduct this audit we requested a list of all contracts procured by the County for the audit period of FY 2007 to FY 2011. However, we encountered an immediate scope limitation due to the CA&P not being able to provide this listing. As a result, to conduct our sample testing for this audit, we obtained a Purchase Order (PO) detail list (Purchase Activity by line item) directly from the County's financial system for OCS procured contracts testing and a contract listing report from the New Contract Tracking System (NCTS) for contracts procured through agencies with delegated authority. For samples selected, we traced back to supporting documentation in contract files maintained by the OCS, DER, and DPW&T.

We made several attempts to test the ARC contract procurement process but were unsuccessful due to the lack of response. Hence, A&I encountered a scope limitation due to our inability to test this critical process.

A scope limitation reduces the assurance that the auditor may have that a program is operating effectively, ethically, and efficiently. This scope limitation adversely impacted the timeliness of the audit and the conclusion formed on this audit assignment. As such, the resulting findings and comments are based on our examination of the limited data that was made available. All significant fieldwork was completed by February 29, 2012.

Management's Responsibility for Internal Control

Internal control is a process, effected by people at every level of the organization, designed to provide reasonable assurance that the following objectives are being achieved¹:

- Effectiveness and efficiency of operations,
- Reliability of financial reporting, and
- Compliance with applicable laws and regulations.

Management is responsible for establishing and maintaining an environment that sets a positive and supportive attitude towards internal control. When the importance of internal control is communicated to employees, particularly through management's own actions and beliefs, the process is more likely to function effectively.

A strong internal control environment is essential in minimizing operational risks and improving accountability which further helps an agency to achieve its mission.

We noted the following strengths in relation to the controls we reviewed within OCS by the County:

- Written policies are in place for the Contracts and Procurement process for OCS.
- OCS has management level review over all contracts and procurement activity processed by CA&P.
- The OCS contracts and procurement process includes some approval procedures, documents, and checklists to ensure accuracy and completeness of transactions and prevent fraud.
- Several committees, including the ARC, have been established to achieve objective reviews of contracts and procurement.
- The NCTS maintained by the ARC requires a log in and password to ensure access to contract information is only for the specified user.

We also observed many control weaknesses in the process of contracts and procurement that require management's attention. The following sections detail the items noted during our review.

¹ Internal Control – Integrated Framework published by the Committee of Sponsoring Organizations of the Treadway Commission, Copyright 1994

Lack of Usable Contract Database

As previously mentioned, we experienced an immediate scope limitation due to the inability of OCS to provide a complete listing of all contracts for Prince George's County for the requested testing period, FY 2007 to FY 2011. The inability to retrieve the entire population of contracts for a given period impaired the effectiveness of our contracts testing. This finding was also discussed in a previous audit report issued by A&I in January 2007.

In lieu of a complete listing of contracts, OCS provided a PO detail list (Purchase Activity by line item), which did not contain pertinent information such as contract type, contract number, or contract date. Making our selections from this population subjected our testing sample to false inclusion and false exclusion, where contracts may be excluded that were not captured by this PO detail list that should have been included in our testing population and POs included in the PO detail list that are not associated with an actual contract in any way may be selected.

Our initial attempt to judgmentally select a sample from the PO detail list yielded purchase orders (POs) that were not associated with contracts processed by OCS. After further clarification we selected 15 PO's that were associated with contracts processed by OCS. Audits and Investigations also tested contracts procured by agencies with delegated authority, the Department of Environmental Resources and the Department of Public Works and Transportation. Contract lists were provided by each department for the requested testing period and we selected 10 and 15 contracts from DER and DPW&T, respectively.

OCS utilizes its own contract tracking system (CTS), which runs independent of the NCTS database maintained by the ARC. In fact, OCS has no knowledge of the inner workings of the NCTS. Since OCS has delegated authority and only procures Term Contract Award Notices issued and competitive bids awarded by CA&P, it does not track other contracts binding the County.

However, according to the Prince George's County Charter *Subtitle 10A-104 (a) (1)* the Purchasing Agent (Director of Central Services) is "*to procure contracts for all supplies, services, and construction for which payment, in whole or in part, is to be made out of County funds*"; and (7) "*maintain records and reports for all procurement activity of the County.*"

In addition, in its publication on standards for internal controls (GAO/AIMD-00-21.3.1) the Government Accountability Office (GAO) states that:

"Access to resources and records should be limited to authorized individuals, and accountability for their custody and use should be assigned and maintained. Periodic comparison of resources with the

recorded accountability should be made to help reduce the risk of errors, fraud, misuse, or unauthorized alteration.”

OCS, ARC, DER, and DPW&T maintain separate lists of their contracts. Since OCS does not track all procurement activity it leaves an opportunity for contracts to avoid a procedure in the procurement process, such as review and approval by the appropriate agencies. In addition, there is a lower level of transparency and difficulty accessing important information. With no overall review of contracts it is difficult to determine the valuation of the County’s contractual obligations at any given time. Knowing the County’s contractual obligations will help with identifying its financial position.

1a) We recommend that OCS maintain a comprehensive database of **all** contracts binding the County. A county-wide contract tracking system that includes all contracts would allow OCS to generate a list to review the County’s obligations at a given period, as they are the designated Purchasing Agent. The list generated from the database should include, at a minimum, the contract type (competitive sealed bidding, competitive sealed proposal, emergency contract, sole source, and special circumstance), contract number, using agency, contract status, and contract amount. This system should also have vast report writing capability to allow OCS to run reports for a reasonableness review for all procurement activity at any given time. The ultimate goal of this comprehensive database is that the Purchasing Agent, as well as other decision makers, is well aware of all of the County’s contracts.

The use of this centralized database should be mandatory for any procurement activity. All County agencies should be made aware of and trained on that centralized database. Automated controls should be put in place to ensure contract numbers are not duplicated, system access cannot be breached, and all other risk associated with databases are minimized. In addition, appropriate segregation of duties should exist to ensure the proper approval of contracts through this automated system.

1b) We also recommend that OCS develop and implement a comprehensive contract record management policy that incorporates all procurement activity, including that of agencies with delegated procurement authority.

1c) Lastly, we recommend that OCS maintain oversight over delegated procurement authority activity and have increased interaction with these agencies.

Use of Confirming Purchase Orders (POs)

The CA&P Division engages in the use of confirming PO’s. This method of securing a contract is used when the using agency has already engaged a vendor for goods or services before the contract has been formally solicited for bidding.

Although this practice is not widespread, use of this procurement method is not consistent with the Procurement Regulations. This finding was also discussed in a previous audit report issued by A&I in January 2007.

When testing OCS procured contracts it was noted that two (2) out of our 21 (10%) testing selections had Term Contract Award Notices issued without a corresponding approved Bid/Contract Review Checklist sheet (which contains approval of the Purchasing Administrator, Executive Director, MBOC, and Director of Central Services). We also noted that the contract term start date on the Term Contract Award Notice was before the Bid/Contract Review Checklist approval date on 5 out of our 21 (24%) testing selections. This was noticed particularly with Term Contracts that had option years.

Procurement Regulations clearly state that competitive purchasing or contract negotiation should be used in every procurement situation; outside of the provisions made for small purchases.

In Subtitle 10A, Division 2, Section 10A-111 (a) of the County Code, it states that:

“Except as otherwise authorized by law, all County contracts shall be awarded by:

- (1) Competitive sealed bidding;*
- (2) Competitive sealed proposal;*
- (3) Contract negotiation; or*
- (4) Small purchase procedures”*

A memorandum from the Deputy Chief Administrative Officer of Government Internal Support Services/Director of the Office of Central Services regarding confirming purchase orders was sent to Department/Agency Heads on March 1, 2007, emphasizing that the County “strictly adhere to the purchasing provisions of Subtitle 10A”.

Furthermore, in its publication on standards for internal controls (GAO/AIMD-00-21.3.1) the Government Accountability Office (GAO) states that:

Transactions and other significant events should be authorized and executed only by persons acting within the scope of their authority. This is the principal means of assuring that only valid transactions to exchange, transfer, use, or commit resources and other events are initiated or entered into. Authorizations should be clearly communicated to managers and employees.

Term Contracts often have exercisable option years, therefore, it is easy to allow these types of contracts to be awarded without review, even after the option has expired. These contracts should still be reviewed by both OCS and the using agency in order to determine whether the option should be exercised or if the contract should be put back out for bid.

This continued practice allows the using agencies to have unauthorized procurement privileges for major purchases. Although, we recognize that the CA&P staff has limited control over activities that occur at the agency level, this practice allows the formal procurement process to be circumvented, which could lead to vendor favoritism in the contract selection process instead of having a competitive awarding of County contracts.

2a) We recommend that the Purchasing Agent ensure that procedures for the use of confirming POs be evaluated and a determination made as to the validity and appropriateness of this procurement method.

2b) We recommend that the Purchasing Agent ensure policies pertaining to confirming POs be included in the County Code and/or the Procurement Regulations.

2c) We also recommend that the Chief Administrative Officer take appropriate action against agencies that continue to violate procurement laws by engaging in this method of securing goods and services.

Review and Update Procurement Regulations and Other Policies/Procedures

The Procurement Regulations have not been updated or re-issued since January 14, 1994. Legislative changes, such as the update to the policy regarding small purchases, are not included in the last authorized Procurement Regulations. In addition, there are no written procedures regarding the execution of contract modifications. This finding was also discussed in a previous audit report issued by A&I in January 2007.

A draft of the revised Procurement Regulations dated April 12, 2011, was provided during our audit and we noted that contract modifications and small purchases had been appropriately addressed. However, as of the end of fieldwork (February 2012), the updated document had not been reviewed, approved, and re-issued to all appropriate procurement personnel.

As procurement activity continues to evolve it is important that policies fully address the entire procurement process. The Purchasing Agent typically issues memorandums to address changes to the procurement process, rather than updating the Procurement Regulations.

The Procurement Regulations should be updated regularly, at least every 5 years, to ensure it remains relevant to County activities. With several agencies (including those with delegated authority) involved in the procurement process it is in the County's best interest to have updated Procurement Regulations. Without periodic update of the Procurement Regulations, agencies may engage in

processes that are outdated or no longer applicable and authority cannot be properly enforced.

As it relates to small purchases, the Prince George's County Council passed *CB-23-2005* in December of 2005 increasing the small purchase threshold from \$15,000 to \$30,000. This change should be reflected in the Procurement Regulations and Law Manual. Currently, if employees reference the 1994 version of the Procurement Regulations for procedural guidance on their agency's small purchases, this could lead to inconsistencies in the way small purchases are and should be processed.

In the event that a modification is necessary, the CA&P staff generally follows the established procurement guidelines governing newly solicited contracts. As such, it appears that contract modifications may be made without required procedures. Lack of control in this area presents an opportunity for a potential vendor to low bid a solicitation in order to win a County contract and to subsequently request a modification to increase the contract price.

During our delegated authority testing at both DER and DPW&T, we encountered a significant number of contract modifications. Four (4) out of the 10 (40%) DER test selections and nine (9) out of 15 (60%) DPW&T test selections had contract modifications. In almost every case a contract modification increased the total amount of the contract. We also encountered contracts with multiple modifications for the same contract. One (1) out of the four (25%) contract modifications for DER and six (6) out of the nine (67%) for DPW&T were for the same contract. Such a high percentage of contract modifications indicate the importance of sound written procedures surrounding the process of contract modifications.

Although Subtitle 10A of the County Code provides a definition for the term "contract modification", it does not provide guidelines for accomplishing such a modification.

Additionally, contracts procured through agencies with delegated authority account for a significant amount of procurement activity for the County. Delegation of Authority was authorized and approved for DER in December 1997 and DPW&T in February 2002 through written agreement between the agency Directors and the OCS Director. Delegation of Authority documents state that the delegated authority "*shall establish and submit for the approval of the Purchasing Agent delegation procedures detailing the operation of the (agency) to be used as an internal guide for the staff of the (agency).*" It also states that "*This procedure shall require that purchase orders be issued for all procurement covered under this delegation to ensure that information pertaining to such procurements are reported in the County's automated procurement system*".

DER created official Standard Operating Procedures (SOP) for their procurement process on July 2011. However, DPW&T does not have a written SOP.

3a) We recommend that OCS expeditiously bring the Procurement Regulations through the appropriate approval process and update and re-issue this document every five (5) years. This update should include specific details regarding contract modifications and delegated authorities.

3b) We also recommend that DPW&T create Standard Operating Procedures for their procurement process as it states in its official Delegation of Authority document.

Vendor Invoices and Payments Are Not Monitored

Discussion with CA&P staff revealed that invoices and payments to vendors are not periodically monitored by OCS. OCS does not follow the contract through to the invoice payment stage or do a periodic review of vendor invoices for reasonableness and compliance with the contract terms. This finding was also discussed in a previous audit report issued by A&I in January 2007.

In addition, there is no clear written procedure in the Procurement Regulations that assigns or delegates the responsibility for examining vendor invoices and payments to ensure that vendors are billing the County according to the terms of their contracts' pricing proposal.

In Subtitle 10A, Division 1, Section 10A-103, Centralization of contractual authority, it states that:

"The Purchasing Agent shall have power and authority over, and shall adopt regulations consistent with this Subtitle, governing the procurement, management, control, and disposal of any and all supplies, services, ... and other items required to be procured by the County."

Additionally, in its publication on standards for internal controls (GAO/AIMD-00-21.3.1) the Government Accountability Office (GAO) states that:

"Internal control should generally be designed to assure that ongoing monitoring occurs in the course of normal operations... It includes regular management and supervisory activities, comparisons, reconciliations, and other actions people take in performing their duties."

Per discussion with the OCS Associate Director, the responsibility of invoice and payment monitoring has been left with the using agency/department. After the Term Contract Award Notice has been issued, OCS is no longer involved unless there are problems with the actual vendor.

In addition, there are no clear procedures on who is responsible for verifying that vendors are billing the County in accordance with the approved contracts. There is the potential for abuse regarding County payments due to the lack of adequate verification and monitoring of the invoices. If this situation persists, it will negate or compromise the formal pricing agreements and the efforts put forth in the procurement process. Although the CA&P staff is not primarily responsible for monitoring payments to vendors, we feel that their input would add an additional layer of internal control governing the payment process.

4a) We recommend that the Purchasing Agent develop written policies and procedures pertaining to the monitoring of vendor billings to the County, and implement these policies and procedures as soon as practicable.

4b) We also recommend that the CA&P Division conduct semi-annual audits of vendor invoices, to ensure that vendor billings are consistent with the terms of their contracts.

Lack of Documentation in OCS Procurement Files

We discovered that the OCS contract procurement folders are incomplete and on occasion did not contain pertinent contract information, such as approval documents crucial to contract enforcement.

We selected a sample of 15 contracts to test contract approval, timeliness, compliance, and invoice monitoring. During our testing we discovered several contract folders that had either the Term Award Notice or Bid/Contract Review Checklist missing or the entire folder could not be located. As a result, we selected 6 additional contracts to gain assurance over contracts procured by the Office of Central Services and still encountered missing documents. We found on multiple occasions contracts were being renewed but did not have a corresponding approval document for that renewal year.

The Term Award Notice is the official contract document and legally binds contracting parties to agreed-upon terms. The Bid/Contract Review Checklist provides pertinent information regarding the bidding process and provides management review and approval of the bid and contract details and contains the approval of the Purchasing Administrator, Executive Director, MBOC, and Director of Central Services. These two (2) key approval documents indicate that there is an official enforceable contract binding the County.

Our level of confidence over the OCS contract procurement process was decreased due to this lack of documentation (missing approval documents). There is a great opportunity for contracts to bypass segments of the procurement process if necessary documentation is not being retained and/or required.

Subtitle 10A – Section 104 (a) (7) states that the Purchasing Agent shall have the authority and responsibility “To maintain records and reports of all procurement activity of the County.”

The above mentioned legislation mandates that the Purchasing Agent (Office of Central Services) maintain records for all procurement activity. The Term Award Notice and Bid/Contract Review Checklist are retained as part of the contract records and therefore should be handled in accordance with *Subtitle 10A – Section 104 (a) (7)*.

In addition, Delegation of Authority documents for both DER and DPW&T both state that *“Whereas the Director of (agency) shall submit one copy of all solicitations and executed contracts along with the signed Purchase Order to the Director of Central Services. These contract documents will be reviewed for compliance and maintained as a part of the Office of Central Services’ official contract files”*.

Also, in its publication on standards for internal controls (GAO/AIMD-00-21.3.1) the Government Accountability Office (GAO) states that:

Internal control and all transactions and other significant events need to be clearly documented, and the documentation should be readily available for examination. The documentation should appear in management directives, administrative policies, or operating manuals and may be in paper or electronic form. All documentation and records should be properly managed and maintained.

OCS isn't strictly adhering to its record retention policy. In addition, there are no consequences or enforcement from upper management to ensure all procurement documentation is maintained.

A missing Term Award Notice increases the risk for contract inaccuracy, validity of the contract to be compromised, and decreases adherence to the terms of the contract. Lack of documentation decreases the amount of evidence available if an issue or dispute arises.

5a) We recommend that all contracts procured through OCS require an approved original copy of the Term Award Notice and Bid/Contract Review Checklist (approval documents). A new document must be prepared for each new contract term.

5b) We also recommend that management require and hold buyers responsible for record retention. Management should enforce the importance of these required documents and their validity.

5c) Written operating procedures should be established to ensure that comprehensive documentation of contract activity is prepared and maintained with the contract file. Procedures should also include guidelines to ensure contract documentation is properly secured, accounted for, and retained for an appropriate amount of time.

Update Administrative Procedure 120

Administrative Procedure 120 is a critical document that establishes procedures for the review and execution process of all deeds, contracts, and other legally binding instruments that require the signature of the County Executive or his designee under *Section 402 (8)* of the Charter. The Administrative Review Committee (ARC) oversees the review process and is comprised of representatives from the County Executive's Office, the Office of Finance, the Office of Management and Budget, OCS, and the Office of Law. All contracts processed through the ARC must be approved by these five (5) agencies before it is presented to the Deputy Chief Administrative Officer or the Chief Administrative Officer to be signed off for approval.

Administrative Procedure 120 is issued under authority of *Section 402 (8)* and *412* of the Prince George's County Charter. Section 402 (8) states that the County Executive's responsibilities shall include but are not limited to "*signing or causing to be signed on the County's behalf all deeds, contracts and other instruments, including those which, prior to the Charter, required the signature of the Chairman or any member of the Board of County Commissioners, and affixing the County Seal thereto;*"

The last update of this document was October 2001. Process changes, technological advancements, and increases in contract volume create the need for procedures to be updated to remain relevant to the current process.

There also has been great concern about the timeliness of contracts processed through the ARC and the lower level of transparency regarding the process. During our audit we attempted to determine the review time for our test selection, however, the documents that were provided for review did not include the date the contracts were submitted to the ARC. Several unsuccessful attempts were made to obtain additional information from the ARC for our testing.

As a result of the concerns mentioned above, the ARC made a presentation to the County Council on February 28, 2012 announcing plans to automate its review process by uploading documents to an online system. ARC also reported that there will be separate Administrative Procedures to administer and process loans and grants for the County's Economic Development Incentive (EDI) Fund.

At this presentation, the County Council inquired about the contract processing delays. ARC explained that they handle a workload of approximately 20 contracts per week and that those contracts may have two (2) or more issues that need to be addressed prior to approval. Contracts are typically rejected by the ARC due to the language in the certificate of insurance not agreeing with the contract, the vendor is not in good standing, and funding issues identified by OMB or Finance.

Each ARC member submits separate edits to all members for review, which increases the processing time. ARC also explained that staffing is limited, therefore, only two (2) staff members are assigned to handle the weekly ARC processing, adding to the length of time to review documents.

Also, during this Council session, the ARC explained that the weekly meetings are not held as outlined in Administrative Procedure 120. The designated meeting time is an opportunity for ARC representatives to pick up contracts, which are later reviewed in their respective departments.

Without periodic review and updates to Administrative Procedure 120, ARC representatives may engage in procurement processes that are outdated and no longer applicable. There is also a risk that contracts are not properly approved due to a lack of updated procedures.

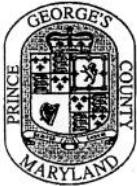
It is understood that with the nature of the procurement process, as it relates to the privacy of the vendor and contract negotiations, the ARC process may not be completely transparent. However, the process should be subject to review by a party independent of the function. Lack of oversight of the ARC process increases the risk that unauthorized contracts may be executed on the County's behalf and the opportunity for fraud or abuse of County funds may be greater.

6a) We recommend that the Administrative Review Committee review, update, and re-issue Administrative Procedure 120 to all personnel involved in the procurement process and ensure that personnel are properly trained on the new procedures.

6b) We also recommend that the ARC update the checklist provided to agencies and provide training to departments, if necessary, to ensure ARC requirements are met prior to submission for review. Issues that can be resolved by the using agency, such as insurance certification and vendor status, should be addressed before the ARC accepts a contract for review.

6c) We recommend that the ARC expeditiously implement an automated review process to alleviate the need for numerous copies of contract documents and corresponding edits. Electronic review will allow multiple parties to view and edit a single document, significantly reducing contract review times.

6d) Lastly, **we recommend** appointing a body to periodically monitor the entire ARC process to prevent fraud and increase the level of transparency with the process. This body should be independent of the ARC process.



PRINCE GEORGE'S COUNTY GOVERNMENT

Office of Central Services

Rushern L. Baker, III
County Executive

Floyd E. Holt
Deputy Director

Monica J. Johnson
Director

Stephanie P. Anderson
Deputy Director

MEMORANDUM

TO: David H. Van Dyke, County Auditor
Office of Audits and Investigations

FROM: Monica J. Johnson, Director
Office of Central Services

DATE: July 2, 2012

RE: Audit Report – Office of Central Services – Contracts and Procurement



The Office of Central Services (OCS) has reviewed the preliminary findings and recommendations in the June 18, 2012, Audit Report of Contracts and Procurement. Our agency's response is enclosed. If you have any questions or need additional information prior to our formal exit conference please contact me at 301- 883-6450.

Thank you for the opportunity to review and comment on the preliminary report.

Attachment

cc: Thomas Himler, Deputy Chief Administrative Officer for Budget, Finance and Administration

"One Mission – One Team"

1400 McCormick Drive, Suite 336, Largo, MD 20774 Tel (301) 883-6450, Fax (301) 883-6464

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Office of Central Services Response to Audit of Contracts and Procurement Processes

Audit Finding1: Lack of Usable Contract Database

Office of Central Services Response: OCS concurs with the finding and agrees, in part with the recommendations.

Audit Recommendations:

- 1a. We recommend that OCS maintain a comprehensive database of ALL contracts binding the County.

Office of Central Services Response:

Administrative Procedure 120, states that the Chairperson of the Administrative Review Committee (ARC) is the "repository for all County contracts/grant documents." The Office of Central Services (OCS) processes numerous contracts for the County, but not all contracts. The County has longstanding practices regarding the execution of contract documents and other legally binding instruments. Administrative Procedure 120 delegates the authority to sign "purchase orders processed for competitive and noncompetitive procurements..." to the Director of Central Services (Purchasing Agent). Accordingly, OCS has a complete database of contracts requiring a purchase order.

OCS will maintain a comprehensive database for the contracts within its purview, but will not assume responsibility for or encroach upon the duties delegated to the ARC Chairperson as set forth in Administrative Procedure 120. Full implementation of the County's pending Enterprise Resource Planning (ERP) System will support a comprehensive database and provide various ad hoc reports.

- 1b. We also recommend that OCS develop and implement a comprehensive contract record management policy that incorporates all procurement activity, including that of agencies with delegated procurement authority.

Office of Central Services Response:

OCS will develop and implement a comprehensive contract record management policy that incorporates all procurement activity.

- 1c. We recommend that OCS maintain oversight over delegated authority procurement activity and have increased interaction with these agencies.

Office of Central Services Response:

OCS will continue to maintain oversight over the Department of Environmental Resources and the Department of Public Works and Transportation, the two agencies with delegated procurement authority. Currently, OCS participates in the agencies' monthly Contract Review Committees. OCS will increase interaction with each agency.

Audit Finding 2: Use of Confirming Contracts

Office of Central Services Response: OCS agrees with the recommendations, but takes issue with description of "confirming contracts" discussed in the Condition section of the preliminary audit report. OCS does not encourage or support the use of confirming purchase orders. However, OCS does recognize the necessity of providing a payment instrument for vendors who provide goods and services to County agencies in good faith. As such, a process has been established for authorizing payments utilizing confirming purchase orders.

Audit Recommendations:

- 2a. We recommend that the Purchasing Agent ensure that procedures for the use of confirming contracts be evaluated and a determination made as to the validity and appropriateness of the procurement method.

Office of Central Services Response:

OCS will review and evaluate the procedure used for confirming purchase orders. It should be noted that the Purchasing Agent issued a directive on March 1, 2007 that requires Department Heads to submit a written request to the Purchasing Agent seeking approval before a confirming purchase order can be issued. The request for approval requires an explanation of why the procurement occurred outside of the normal procurement process and a description of the preventive measures the agency has established to prevent future occurrences. Confirming purchase orders are used to ensure that vendors are paid for services provided and that the County honors the financial obligations made by County agencies to vendors.

- 2b. Policies pertaining to confirming contracts should also be included in the County Code and/or the Procurement Regulations and Law manual.

Office of Central Services Response:

Policies and procedures pertaining to confirming purchase orders will be added to the updated Procurement Regulations.

- 2c. We also recommend that the Chief Administrative Officer take appropriate action against agencies who continue to violate procurement laws by engaging in this method of securing goods and services.

Office of Central Services Response:

OCS will prepare recommendations for the Chief Administrative Officer to discourage agencies from violating the procurement laws and requesting confirming purchase orders for goods and services procured outside of approved processes.

Audit Finding 3: Review and Update Procurement Regulations; Lack of Written Procedures Governing Contract Modifications and Delegated Authority

Office of Central Services Response: OCS concurs with the finding and agrees with the recommendations.

Audit Recommendations:

3a. We recommend that OCS expeditiously bring the manual through the appropriate approval process and re-issue the revised draft Procurement Regulations and Law Manual every five (5) years. This update should include specific details regarding contract modifications and delegated authorities.

Office of Central Services Response:

The Procurement Regulations are in the process of being updated. Changes resulting from recent legislation, related to project labor agreements and local business initiatives (i.e., CB-16-2011 and CB-17-2011) must be incorporated into the final draft. OCS agrees that the Regulations should be updated every five (5) years.

3b. We also recommend that DPWT create Standard Operating Procedures for their procurement process as it states in its official Delegation of Authority document.

Office of Central Services Response:

OCS will work with the Department of Public Works and Transportation to ensure that they submit their Standard Operating Procedures to the Purchasing Agent for review and approval.

Audit Finding 4: Vendor Invoices and Payments Not Monitored

Office of Central Services Response: OCS concurs with the finding and agrees with the recommendations.

Audit Recommendations:

4a. We recommend that the Purchasing Agent develop written policies and procedures pertaining to the monitoring of vendor billing to the County, and implement these policies and procedures as soon as practicable.

Office of Central Services Response:

The Purchasing Agent will develop written policies and procedures for use by agency contract administrators to ensure accuracy in the review of vendor invoices and verify that the billing is consistent with the pricing, terms and conditions of the contract.

4b. We also recommend that the Contract Administration and Procurement Division conduct semi-annual audits of vendor invoices, to ensure that the vendor billings are consistent with the terms of their contracts.

Office of Central Services Response:

The Contract Administration and Procurement Division will request and review invoices periodically to ensure that vendor billings are consistent with the terms of the contract.

Audit Finding 5: Lack of Documentation in OCS Procurement Files

Office of Central Services Response: OCS concurs with the finding and agrees with the recommendations.

Audit Recommendations:

5a. We recommend that all contracts procured through the Office of Central Services require a signed approved original copy of the Term Award Notice and Bid/Contract Review Checklist (approval documents). A new document must be prepared for each new contract term.

Office of Central Services Response:

Contract Administration and Procurement will create and implement new procedures to ensure that the Term Contract Award Notice and Contract Review Checklist are inserted in the vendor's bid folder in a timelier manner.

5b. We also recommend that management hold buyers responsible for record retention. Management should enforce the importance of these required documents and their validity.

Office of Central Services Response:

OCS will create and implement policies and procedures to hold buyers responsible for record retention and reinforce the importance of maintaining complete and accurate records.

5c. Written operating procedures should be established to ensure that comprehensive documentation of contract activity is prepared and maintained with the contract file. Procedures should also include guidelines to ensure contract documentation is properly secured, accounted for, and retained for an appropriate amount of time.

Office of Central Services Response:

All procurement and vendor records are maintained in compliance with the County's seven (7) year record retention requirement. OCS will ensure that written operating procedures are established to ensure that comprehensive documentation of contract activity is maintained in the contract file.

Finding 6: Update Administrative Procedure 120

Office of Central Services Response: The finding and recommendations related to Administrative Procedure 120 should be directed to the Chair of the Administrative Review Committee.

Audit recommendations:

6a. We recommend that the Administrative Review Committee review, update, and re-issue Administrative Procedure 120 to all personnel involved in the procurement process and ensure that personnel are properly trained on the new procedures.

6b. We also recommend that the ARC expeditiously implement an automated review process to alleviate the need for numerous copies of contract documents and corresponding edits. Electronic review will allow multiple parties to view and edit a single document, significantly reducing contract review time.

6c. We recommend appointing a body to periodically monitor the entire ARC process to prevent fraud and increase the level of transparency with the process. This body should be independent of the ARC process.