

**Montgomery County, Maryland
Offices of the County Executive
Office of Internal Audit**



**Contract and Grant Monitoring by
The Department of Environmental Protection**

November 28, 2012

Highlights

Why MCIA Did this Audit

As part of the County Wide risk assessment completed by MCIA, contract and grant monitoring by departments was identified as a high risk area. In FY12, the County's total value of purchase orders issued under contracts totaled \$736 million. Of that amount \$266 million related to Capital Improvement Program (CIP) and the Department of Health Human Services (HHS), both of which were previously subjected to contract and grant monitoring audits. The contract and grant monitoring audit of the Department of Environmental Protection (DEP) is the first in a series of five department audits to focus on the \$470 million of grant and contract spending unrelated to CIP and HHS. DEP FY12 purchase order spending under contracts was \$91 million or 19% of the \$470 million, which is the second highest department in Montgomery County overall. Reports regarding the other four departments will be issued separately.

What MCIA Recommends

MCIA is making three recommendations to DEP in order to improve the performance and enhance the existing internal controls pertaining to contract monitoring. DEP agreed with the recommendations and said it is in the process of implementing them.

November 2012

Contract and Grant Monitoring by the Department of Environmental Protection

What MCIA Found

The Department of Environmental Protection (DEP) has adequate designed and implemented procedures and internal controls for contract monitoring. We found no errors in our testing of DEP's review of contractor invoices and payments made to contractors. However, in testing 9 contracts for contract monitoring, we identified six opportunities for improvement where existing procedures were not performed as designed or procedures and controls could be strengthened.

We found areas where internal controls over the monitoring process could be improved such as (1) documenting the review of performance monitoring reports; (2) improving the timing and method of communication to the department staff when inspections identify something unsatisfactory in contractor performance; (3) improving how blind sample tests (soil and water) of contractor performance are conducted and documented. For example, controls could be improved by formally establishing when the blind samples are taken from locations being tested and formally setting parameters for the test results so that department staff can assess the acceptability of the results.

TABLE OF CONTENTS

| | |
|-----------------------------------|----|
| Objectives | 1 |
| Background..... | 1 |
| Scope and Methodology | 1 |
| Results | 3 |
| Conclusions | 6 |
| Recommendations | 6 |
| Comments and MCIA Evaluation..... | 7 |
| Appendix A..... | 8 |
| Appendix B..... | 10 |

Objectives

This report summarizes the work performed by Cherry, Bekaert & Holland, L.L.P. (CBH) in an internal audit of the Montgomery County contract and grant monitoring process. The scope of this engagement included reviewing the contract and grant monitoring policies and procedures of the Department of Environmental Protection. The objective of the audit was to:

Review and test the effectiveness of contract and grant monitoring policies and procedures followed by County departments (excluding HHS and CIP projects) to ensure contractor performance is contractually compliant and being effectively tracked, that contract changes and extensions are being properly managed, and that applicable invoices are properly reviewed, maintained and are accurate. This audit will include reviewing monitoring by departments of both program performance and financial accountability.

Background

The Montgomery County Department of Environmental Protection (DEP) was the second highest department in purchase order spending under contracts for FY12. DEP made up approximately 19% (\$91.3 million) of the total FY12 expenditure for Non-HHS and Non-Capital purchase orders issued. The department had a total of 79 contracts that were in effect during FY12 ranging from \$300 to \$43.3 million. The contracts in effect for FY12 for DEP tended to consist of: maintenance (for landfills, street sweeping, stormwater inspections, etc.); handling of residential waste (refuse, recycle, hazardous); outreach programs (e.g. campaigns encouraging people to recycle); and fuel and parts.

Scope and Methodology

We performed our review of contract and grant monitoring in two phases. Phase 1 consisted of interviewing responsible individuals from Department of General Services (DGS) and eight County departments, including DEP, to gain an understanding of the policies and procedures followed in monitoring vendor performance under contracts and grants. In addition, Phase 1 included detailed testing of contract and grants monitoring procedures of one contract from eight County departments with the highest purchase order spending for calendar year 2011. See Appendix A for details of the DEP contract tested as part of Phase 1. Results of the procedures performed in Phase 1 were used as a basis for developing the approach to Phase 2 testing. Phase 2 involved detailed testing of the monitoring procedures for 9 contracts in the Department of Environmental Protection. In Phase 1 and Phase 2, CBH reviewed DEP contracts totaling \$58.1M or 64% of the total purchase orders issued during FY12.

This audit covered contracts and grants in effect during fiscal year 2012. Using procurement data of purchase orders issued under contracts in effect for FY12 provided by DGS, CBH selected 15 contracts to review with department staff using the following criteria:

- Dollar amount of purchase orders issued under the contract
- Description of services being procured on purchase orders issued

CBH and MCIA met with department staff to gain an understanding of the goods or services being procured under each contract, the length and tenure of the contract or contractor, and how much activity the department had with the contractor in FY12. Based upon information shared by the department staff and the review of additional procurement information provided by the department, CBH selected the following 9 contracts for review. For the contracts that had multiple task orders, only one task order was selected for testing.

Table 1 – Contract Sample for Phase 2

| Vendor | Contract # | Description of Goods or Services | PO Amounts for FY12 |
|--|-------------------|---|----------------------------|
| Brunswick Waste Management | 7509000089 | Managing ash residue and other items that are not burnable. | \$10,000,000 |
| Potomac Disposal, Inc. | 808000122 | Collection of trash and recyclables from residential neighborhoods. | \$2,612,150 |
| CT Stanley & Sons, Inc. | 6509000174AB | Property maintenance, mowing, and leachate collection. | \$600,000 |
| Clean Harbors Environmental Services, Inc. | 1005482 | Collection of hazardous and toxic materials. | \$391,000 |
| Technical Resources International¹ | 1011563 | Develop and implement detailed outreach plans for various waste reduction and recycling program elements, in order to educate the general public about recycling. | \$369,507 |
| Stormwater Maintenance LLC | 1008316 | Inspection, maintenance, and repair of all stormwater management (SWM) best management practices (BMP) in the County. This includes commercial, residential, private, as well as public property. | \$345,000 |
| A Morton, Thomas & Associates¹ | 0801000108BD | Engineering Services. Task order is for a study of a neighborhood and existing septic situation as well as the feasibility of sustaining the neighborhood in the long-term and septic service. | \$201,665 |
| Reilly Sweeping, Inc.¹ | 0506020090AA | Sweeping and flushing of certain streets, medians, and parking lots within Montgomery County. | \$197,318 |
| Washington Suburban Sanitary Commission | 180300003AA | Obtain water samples from the County, sending them in for testing, and then analyzing the results. The goal is to monitor the rates that different compounds occur in order to prevent hazardous pollution. | \$64,000 |

Our testing for Phase 2 focused on the following

- Reviewing procedures performed by department staff to ensure contractor performance was in accordance with contract terms.

¹ Contract had multiple task orders issued against it.

- Reviewing procedures performed by department staff to ensure payments made to contractors were for services or goods provided in accordance with contract terms.

The attributes tested are listed below:

Table 2 – Attributes Tested for Contract Administration/Monitoring

| Attribute | Description |
|-----------|---|
| A | Monitoring of contractor performance milestones delivery, submission of status reports, and/or submission of invoices and other data related to payment |
| B | Reviewing of contractor status and performance reports |
| C | Pre approving, receiving, inspecting, and/or accepting of contractor work |
| D | Certifying costs incurred for payment under time and material or labor hour contracts |
| E | Performing site visits or visual observations of contractor work performance, if applicable |
| F | Monitoring procedures performed in accordance with contract terms continually and on a timely basis) |
| G | Identification and reporting of contract problems and violations to appropriate managers on a timely basis. |

Table 3 – Attributes Tested for Invoice Review and Approval

| Attribute | Description |
|-----------|--|
| A | Services or goods invoiced in accordance with contract terms |
| B | Supporting documentation required by the contract was submitted with the invoice and retained |
| C | Unallowable costs do not appear to be included in invoice submission |
| D | Invoice signed by Vendor (if applicable) |
| E | Invoice approved by Contract Administrator/Monitor /Task Order Manager and/or appropriate department manager |
| F | Voucher approved by appropriate finance department person |
| G | Voucher approved by A/P |
| H | Amount per invoice agrees to amount paid |
| I | Invoice signed by Contract Administrator's/Task Order Manager supervisor, if applicable |
| J | Invoice signed by Contract Administrator's/Task Order Manager subordinate, if applicable |

Results

Our review found that contract and grant monitoring was generally performed in accordance with applicable County policies and procedures, department practices and contract or grant terms and conditions. We found no errors in DEP’s review of contractor invoices and payments made to contractors. However, we have identified opportunities for improvement in contract monitoring for 5 of 9 contracts. Those contracts were found to have exceptions with one or more of the 7 attributes tested for contract administration and monitoring. None of the 9 contracts had exceptions related to the attributes tested for invoice review and approval.

The tables presented below provide a summary of the exceptions noted during our testing.

Table 4 – Summary of Exceptions from Phase 2 Contract Administration/Monitoring Testing

| Attribute Tested | Total Exceptions Per Attribute | Sample Tested Per Attribute | % Exceptions Per Attribute |
|---|---------------------------------------|------------------------------------|-----------------------------------|
| A - Monitoring of contractor performance milestones delivery | 4 | 9 | 44% |
| B - Reviewing of contractor status and performance reports | 0 | 6 | 0% |
| C - Receiving, inspecting, and/or accepting of contractor work | 0 | 8 | 0% |
| D - Certifying costs incurred for payment | 0 | 9 | 0% |
| E - Visual observations of contractor work | 0 | 7 | 0% |
| F - Monitoring procedures performed in accordance with contract terms | 1 | 9 | 11% |
| G - Identification and reporting of contract problems timely | 1 | 9 | 11% |
| Total Exceptions | 6 | | |
| Total Samples | 9 | | |
| # of Samples with Exceptions | 5 | | |

Table 5 – Summary of Exceptions from Phase 2 Invoice Review and Approval Testing

| Attribute Tested | Total Exceptions Per Attribute | Sample Tested Per Attribute | % Exceptions Per Attribute |
|--|---------------------------------------|------------------------------------|-----------------------------------|
| A - Services or goods invoiced in accordance with contract terms | 0 | 9 | 0% |
| B - Supporting documentation required by the contract was submitted | 0 | 7 | 0% |
| C - Unallowable costs do not appear to be included in invoice submission | 0 | 9 | 0% |
| D - Invoice signed by Vendor, if applicable | 0 | 2 | 0% |
| E - Invoice approved by Contract Administrator/ Task Order Manager | 0 | 9 | 0% |
| F - Voucher approved by appropriate finance department person | 0 | 6 | 0% |
| G - Voucher approved by A/P | 0 | 9 | 0% |
| H - Amount per invoice agrees to amount paid | 0 | 9 | 0% |
| I - Invoice signed by Contract Administrator's/ Task Order Manager supervisor, if applicable | 0 | 8 | 0% |
| J - Invoice signed by Contract Administrator's subordinate, if applicable | 0 | 2 | 0% |
| Total Exceptions | 0 | | |
| Total Samples | 9 | | |
| #of Samples with Exceptions | 0 | | |

Below is a summary of our findings on specific contracts reviewed.

DEP – (Contract #0808000122 – Potomac Disposal, Inc.)

- 1) Contract Administration and Monitoring (Attribute A): The contract administrator reviewed the daily and weekly reports that were furnished by the Field Inspectors and the Field Supervisor that detailed the performance of the vendor; however, the contract administrator's review was not evidenced with a signature or initial. Evidencing the review of the daily and weekly reports ensures that reporting on the contractor's performance has been received and reviewed by the person with responsibility for monitoring performance.

DEP – (Contract #6509000174AB – CT Stanley & Sons, Inc.)

- 1) Contract Administration and Monitoring (Attribute F): The contract administrator or the staff designated to inspect the work performed by the contractor did not document the performance of the inspections or the acceptance of the work performed by the vendor. Per the contract Section C, item 7, the contract administrator is responsible for inspecting all work performed and authorizing payment upon acceptance. Evidencing the inspection of work performed by the vendor helps establish the basis for approval of payment, which will be granted by the contract administrator upon comparing the work invoice to the work inspected by him or his designees.

DEP – (Contract #1005482 – Clean Harbors Environmental Services Inc.)

- 1) Contract Administration and Monitoring (Attribute A): The contract administrator did not document performance of monitoring activities. Specifically, CBH did not see any indication of the contract administrator review/approval of the four key reports prepared by the vendor regarding contractor performance. CBH discussed the absence of evidence of review with the contract administrator, who assumed responsibility for the contract in May 2012; three months after the contract began. The contract administrator indicated awareness of the absence of evidence of review and is in the process of making improvements to the monitoring system to include documentation of performance. Documenting the monitoring actions that were performed by the contract administrator mitigates the risk that monitoring reports are not reviewed and any performance issues not being resolved.
- 2) Contract Administration and Monitoring (Attribute G): During CBH's walkthrough of the monitoring process it was noted that an employee of the contractor rated one of the steps in the contractor's self-inspection as unsatisfactory. The occurrence of the unsatisfactory rating was not communicated to the contract administrator. The contract administrator stated that he is in the process of establishing policies and procedures that require the contractor employees to notify him of performance issues in a timely manner. Ensuring that there is a procedure to notify the contract administrator of issues in a timely manner mitigates the risk that a performance issue will not resolved in a timely manner.

DEP – (Contract #0801000108BD – A. Morton Thomas & Associates)

- 1) Contract Administration and Monitoring (Attribute A): The Task Order Manager² told us that he reviewed the monthly status report from the vendor but he did not initial the report indicating his review. Documenting the monitoring actions performed by a contract administrator/task order manager is a basic, necessary internal control.

DEP – (Contract #1803000003AA - Washington Suburban Sanitary Commission)

- 1) Contract Administration and Monitoring (Attribute A.): The contract administrator is not documenting the performance or results of blind sample testing of water samples it performs on the vendor. Blind sample testing consists of testing a duplicate sample from one of the testing sites without telling the vendor which sites it came from. The test results from the duplicate or blind sample and the test results from the official sample from the same site are compared for consistency. Currently, the methodology of how (selection of site from where sample was taken) or when to conduct the blind sample is not formally documented. In addition, the contract administrator does not document the comparison between the results of the blind sample and the results of the known sample to indicate whether they are consistent or inconsistent. Formalizing the methodology and documenting the results of blind sample testing ensures monitoring procedures are performed as intended and the assessment of vendor's performance supported.

Conclusions

DEP has designed and implemented monitoring and invoicing controls intended to ensure compliance with Montgomery County Regulations. CBH found that controls for contract monitoring, administration and invoice review and approval are generally operating as intended. However, our audit identified that weaknesses exist in the evidencing of performance of controls by department staff. We believe that the recommendations described below will provide the DEP and the County an effective means of addressing the issues outlined in this report.

Recommendations

We are making three recommendations to improve internal controls over the Montgomery County DEP contract monitoring process. CBH recommends that the Director of the Department of Environmental Protection:

1. Implement procedures for all DEP contracts that require all reports that are reviewed during the monitoring process, whether created by the contractor or DEP staff, be signed and dated by the reviewer.
2. Reinforce with DEP staff and contractors that unsatisfactory items noted during inspections must be reported to the contract administrator immediately.

3. Implement procedures regarding blind testing of vendors to ensure the methodology of the testing is documented and in accordance with department practices and that the results of such testing is documented and retained by the contract administrator

Comments and MCIA Evaluation

We provided DEP with a draft of this report for review and comment on November 13, 2012 and DEP responded with comments on November 21, 2012. DEP concurred with the recommendations in the report. The department said it is in the process of implementing each of the recommendations. DEP's actions, if properly implemented, should adequately address our concerns. DEP's comments appear in Appendix B.

Appendix A

The contract tested in Phase 1:

| Vendor | Contract # | Description of Goods or Services | PO Amounts for FY12 |
|--|------------|--|---------------------|
| Northeast Maryland Waste Disposal Authority | 06476AA | Management of the solid waste disposal services for Montgomery County through operation of the transfer facility and trash burner. | \$43,292,069 |

The attributes tested and results from Phase 1

Table A1 – Attributes Tested for Contract Awarding

| Attribute | Description | Exceptions for DEP |
|-----------|---|--------------------|
| 1 | Determine if all documentation, per solicitation method, was included in submission package | 0 |
| 2 | Solicitation request met specified criteria | 0 |
| 3 | Determine DGS supervisor and management review was performed and documented (submission checklist) | 0 |
| 4 | Based on solicitation amount were proper formal or informal procurement procedures followed | 0 |
| 5 | Determine if there was proper cutoff on receipt of solicitations based on the solicitation due date | 0 |
| 6 | Determine if the department had proper management review and approval of award recommendations prior to submission to DGS (if applicable) | 0 |
| 7 | Determine if DGS performed review of the department's solicitation review and recommendation | 0 |
| 8 | Determine if DGS posted the award after approval of the award recommendation | 0 |

Table A2 – Attributes Tested for Contract Administration/ Monitoring

| Attribute | Description | Exceptions for DEP |
|-----------|--|--------------------|
| 1 | Determine if a copy of the contract and all modifications are documented in the contract file | 0 |
| 2 | Determine if any correspondence concerning performance of the contract are documented in the contract file | 0 |
| 3 | Determine if status reports are documented in the contract file (if applicable) | N/A |
| 4 | Determine if invoices copies are documented in the contract file | 0 |
| 5 | Determine if contract has proper approval | 0 |

| Attribute | Description | Exceptions for DEP |
|-----------|--|--------------------|
| 6 | Determine if amendments have proper approval | 0 |
| 7 | Determine if contract is properly monitored | 0 |
| 8 | Determine if contract and corresponding amendment(s) were approved in accordance with the Procurement Guide. | 0 |
| 9 | Determine if current contract cost exceed contract/PO cost | 0 |
| 10 | Determine if Contract Administrator has discussed project overrun with department management | N/A |

Table A3 – Attributes Tested for Invoices Review and Approval

| Attribute | Description | Exceptions for DEP |
|-----------|---|--------------------|
| 1 | Invoice calculations are in accordance with the contract terms and accurate (foot and cross-foot) | 0 |
| 2 | Supporting documentation required by the contract was submitted with the invoice | 0 |
| 3 | Unallowable costs do not appear to be included in invoice submission | 0 |
| 4 | Invoice signed by Vendor (if applicable) | N/A |
| 5 | Invoice signed by Contract Monitor | 0 |
| 6 | Voucher approved by appropriate department person | 0 |
| 7 | Voucher approved by A/P | 0 |
| 8 | Amount per invoice agrees to amount paid | 0 |
| 9 | Invoice rates agree to contract rates | 0 |

N/A = Attribute is non-applicable to contract

Appendix B

MEMORANDUM

November 21, 2012

TO: Larry Dyckman, Manager
Office of Internal Audit
Offices of the County Executive

FROM: Robert G. Hoyt, Director
Department of Environmental Protection

SUBJECT: Response to the Office of Internal Audit's Report on Contract and Grant Monitoring

The purpose of this memorandum is to respond to the Office of Internal Audit's report on Contract and Grant Monitoring by Non-HHS Departments, Department of Environmental (DEP).

DEP thanks the Office of Internal Audit and Cherry, Bekaert & Holland, LLP, for the objective, third-part review of our contract monitoring and invoice payment practices. DEP's Mission is "to improve the quality of life in our Community through conservation, protection and restoration of natural resources guided by the principles of Science, sustainability and stewardship; and to provide solid waste management services, including reducing, reusing, and recycling waste in an environmentally progressive and economically sound manner." Our statement reflects both our commitment to meeting our programmatic goals and our equally strong commitment to stewardship of our fiscal resources.

The audit review resulted in three recommendations to improve contract monitoring practices in DEP. Our responses are as follows:

Recommendation 1: Implement procedures for all DEP contracts that require all reports that are reviewed during the monitoring process, whether created by the contractor or DEP staff, be signed and dated by the reviewer.

Larry Dyckman
November 21, 2012
Page 2

Recommendation 2: Reinforce with DEP staff and contractors that unsatisfactory items noted during inspections must be reported to the contract administrator immediately.

DEP Response to Recommendations 1 & 2: We concur with these recommendations. Specifically, we are reinforcing at Senior staff and section meetings the importance of signing all reviewed reports prepared during the monitoring process and that unsatisfactory items identified during inspections be reported immediately to the Contract Administrator. These Senior staff are charged with ensuring that staff responsible for DEP contracts are aware of and are following these practices, effective immediately. Further, this fiscal year, we plan to review sound contract monitoring practices and develop a communication plan to keep contract monitoring staff current regarding their responsibilities.

Recommendation 3: Implement procedures regarding blind testing of vendors to ensure the methodology of the testing is documented and in accordance with Department practices and that the results of such testing is documented and retained by the Contract Administrator.

DEP Response to Recommendation 3: We concur with this recommendation. Specific to the subject contract, we are in the process of developing a protocol to assure compliance with the contract requirements for quality control. We expect to have the approved protocol by the end of the fiscal year. Additionally, since there are several contracts that have components of water quality monitoring, we are forming a small working group to look at this both at the specific contract and broader application levels, also to be completed by the end of the fiscal year.

Thank you for the opportunity to respond. If you have any questions related to the above, please contact me at 240-777-7781. You may also contact Dan Locke at 240-777-6402 or Steve Shofar at 240-777-7736.

RGH:dl

Attachment

cc: Deidre Bland, Senior Manager, Cherry Bekaert and Holland
Dan Locke, Department of Environmental Protection
Steve Shofar, Department of Environmental Protection
Carmen Ruby, Department of Environmental Protection