

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



Non-Competitive Procurements

April 28, 2014

Highlights

Why MCIA Did this Audit

Under carefully prescribed circumstances, Montgomery County Code allows County departments to procure goods and services without prior public notice or competition (“non-competitive”). In FY13, the County’s total value of purchase orders issued under contracts totaled approximately \$871 million, of which \$68 million or approximately 8% was issued under non-competitive contracts. The mix of non-competitive awards includes approximately \$15.6 million of sole source contracts and \$52.5 million through Federal and State grants and County Council designations. As part of the County Wide risk assessment completed by MCIA, contract awards were identified as a high risk area, specifically non-competitive procurements. The Montgomery County Department of General Services (DGS) Office of Procurement has oversight over the County’s procurement process. The Contract Review Committee (CRC) or DGS Director reviews and approves non-competitive procurements. In addition to evaluating compliance with contract submission and approval requirement, our audit also included reviewing aspects of County departments’ review and approval of invoices for non-competitive contracts.

What MCIA Recommends

MCIA is making two recommendations to the DGS Director to enhance the existing procedures for non-competitive procurements. DGS concurred with the recommendations.

April 2014

Non-Competitive Procurement by the Montgomery County Department of General Services

What MCIA Found

DGS Office of Procurement has adequately designed and implemented procedures, as well as internal controls, for non-competitive procurements. DGS has complied with County rules, regulations, and laws as applicable. In reviewing thirty (30) non-competitive procurements, we found no exceptions in the submission, review and approval of non-competitive procurements by CRC and the DGS Director. We do note three areas for improvement that would increase the operational effectiveness of current internal controls that are related to process understanding and functionally : 1) Lack of knowledge of the non-competitive procurement and information requirements by some contract administrators; 2) Sub-optimal procurement specialist staffing mix; and 3) County departments lacking proactivity in ensuring decisions regarding procurement method are made in a timely manner in order to reduce use of non-competitive procurements.

Lastly, we found no exceptions during our testing of the County departments’ review and approval of fifty three (53) invoices related to the non-competitive procurement contracts.

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Objectives

This report summarizes the work performed by Cherry Bekaert LLP on behalf of Montgomery County Office of Internal Audit (MCIA) in an internal audit of Montgomery County non-competitive procurements. The scope of this engagement included reviewing the non-competitive procurement policies and procedures of the County. The objective of the audit was to:

Assess the adequacy of the design and operational effectiveness of internal controls surrounding non-competitive purchases, assess compliance with Montgomery County procurement rules, regulations and laws as applicable, and review selected invoices for proper payment.

This internal audit report was performed in accordance with consulting standards established by the American Institute of Certified Public Accountants (AICPA) and generally accepted government auditing standards (GAGAS) established by the Government Accountability Office (GAO), as appropriate. Our proposed procedures, developed to meet the objectives stated above, were reviewed and approved in advance by MCIA. Interviews, documentation review, and field work were conducted from August 2013 to November 2013.

Background

Non-Competitive Procurement Defined

The Montgomery County Code¹ stipulates that under certain circumstances County departments can procure goods and services without prior public notice or competition². A non-competitive procurement can be used if the non-competitive award serves a public purpose and one or more of the following factors detailed in the following table exist³.

Table 1 – Non-Competitive Procurement Justifications

<u>Justification Option</u>	<u>Description</u>
A	There is only one source for the required goods, service, or construction which can meet the minimum valid needs of the County.
B	The County requires goods or services for potential or pending litigation, condemnation, or collective bargaining.
C	A contractor or subcontractor has been specifically identified in a grant accepted by the County.
D	A proposed contractor has been identified in a grant resolution approved by the Council.

¹ Code of Montgomery County Regulations (County Code) Chapter 11B. Contract and Procurement Regulations

² Code of Montgomery County Regulations 4.1.12.1

³ Code of Montgomery County Regulations 4.1.12.3

When the sole source justification (See Table 1, option A) is used then the basis for the sole source selection can be one of the six listed in Table 2 below⁴.

Table 2 – Sole Source Basis

<u>Sole Source Basis</u>	<u>Description</u>
(1)	Proprietary, patented, or copyrighted items or information are available from only one source.
(2)	The valid performance or delivery due dates required by the County can be met by only one source.
(3)	The required compatibility of equipment, accessories, software, or replacement parts can be met by only one source.
(4)	The County requires for trial use or testing an item or service available from only one source.
(5)	Required public utility services are available from only one source.
(6)	A continuous series of procurements from a single source over a period of time is advantageous as demonstrated by a cost benefit analysis demonstrating that considerations of training, replacement parts, and compatibility with existing capital investments justify the use of a sole source.

Per the County Code as noted in Table 3 below, any non-competitive procurement action above \$100,000 must be approved by the Contract Review Committee (CRC). All other non-competitive procurements can be approved by the Director of Department of General Services (DGS)⁵.

Table 3 – Non-Competitive Procurement Approvals⁶

<u>Contract Amount</u>	<u>Approval Authority</u>
< \$10,000	Department Head
>\$10,000 - <\$100,000	DGS – Procurement
>\$100,000 and based upon sole source justification	CRC

DGS Office of Procurement has oversight over the County's procurement process to ensure all procurements are in accordance with County Procurement Regulations.

Non-Competitive Contracting Activity in Fiscal Year 2013

In FY13, non-competitive procurements accounted for approximately 8% (\$68 million) of the total FY13 encumbrances for purchase orders issued (See Table 4).

⁴ Code of Montgomery County Regulations 4.1.12.3

⁵ Code of Montgomery County Regulations 4.1.12.2

⁶ Code of Montgomery County Regulations 4.1.12.2, Procurement Guide dated April 2010 and discussions with members of DGS Procurement.

Table 4 – Breakout of FY13 Purchases by Procurement Method

Procurement Method	Amount	Percentage of Total
Non-Competitive	\$68M	8%
Competitive	\$803M	92%
Total	\$871M	100%

A total of 311 contracts and 1,033 purchase orders related to non-competitive procurements were in effect during FY13 for approximately 14% of the County purchases (See Table 5).

Table 5 – FY13 Contracts/Purchase Orders by Procurement Method

Procurement Method	Contracts	Purchase Orders
Non-Competitive	311	1,033
Competitive	1,897	6,215
Total	2,208	7,248
Percentage Non-Competitive	14%	14%

All County departments can request approval of non-competitive procurements. During FY13, Health and Human Services (HHS) used this procurement method the most with total purchases of \$44 million, representing 44% of HHS' FY13 total procurements of \$100 million. The \$44 million was 65% of all non-competitive purchases as noted in Table 6 below:

Table 6 – FY13 Purchases by Department Related to Non-Competitive Procurements

Department	Department Total	Percentage of Total
Health and Human Services	\$44,344,491	65.04%
Transportation	\$3,959,669	5.81%
Police	\$3,640,315	5.34%
Technology Services	\$3,326,358	4.88%
Fire and Rescue Service	\$3,139,444	4.60%
Housing and Community Affairs	\$2,075,471	3.04%
General Services	\$1,928,580	2.83%
Economic Development	\$1,769,224	2.60%
Correction and Rehabilitation	\$1,245,950	1.83%
Public Libraries	\$866,058	1.27%
Recreation	\$632,300	0.93%
Permitting Services	\$253,514	0.37%
Sheriff	\$239,140	0.35%
County Executive	\$180,000	0.26%
Community Engagement Cluster	\$114,470	0.17%
Finance	\$111,852	0.16%

Department	Department Total	Percentage of Total
Environmental Protection	\$75,325	0.11%
Circuit Court	\$58,794	0.09%
Merit System Protection Board	\$50,000	0.07%
Intergovernmental Relations	\$45,999	0.07%
Human Resources	\$38,995	0.06%
Board of Elections	\$38,844	0.06%
State's Attorney	\$22,908	0.03%
Restricted Donations	\$9,995	0.01%
Emergency Management and Homeland Security	\$8,910	0.01%
Total	\$68,176,606	100.00%

Non-Competitive Procurement Request Procedures

The non-competitive procurement process begins with a department (the “using department”) defining its need to procure goods or services using a non-competitive procurement action. The using department must prepare and submit a proposed contract and a memorandum from its Department Head to the Director of DGS-Procurement⁷, which was formerly a department separate from DGS. The memorandum should include, at a minimum, sufficient justification for the non-competitive nature of the procurement and a request for approval to purchase under the method. In addition to this memo, the particular needs of the County should be addressed and considered.

If applicable, DGS-Procurement will require the using department to submit a wage requirement certification form, insurance approval, cost and pricing data⁸ and Minority/Female/Disabled⁹ compliance. The content of each submission, regardless of contract amount, should include the same information in order to provide justification and proof of public use. Using departments who request a non-competitive procurement requiring CRC review must provide their submission packets to the CRC by the close of business the week prior to the next meeting of the CRC scheduled to review such requests. See Table A-1 in Appendix A for a listing of items required within the packet.

DGS Procurement Specialists act as the liaison between DGS Procurement and the using department by reviewing the memorandum, justification, price and cost data submitted. If needed, the DGS Procurement Specialist requests additional information or clarification from the using departments to ensure all necessary information is available for those reviewing the procurement request.

⁷ Montgomery County Code Section 4.1.12.4

⁸ Cost and Pricing Data is required if the non-competitively negotiated contract or modification exceeds \$50,000, per Procurement Guide dated April 2010.

⁹ Per County Code section 11B.00.01.07, MFD (Minority Female Disabled) contracts relate to the goal of the County government to reduce the effect of discrimination by awarding a percentage of County contracts to minority owned businesses.

Contract Review Committee (CRC)

The CRC has responsibility for approving all procurements and change orders above the thresholds for Invitations for Bid and Requests for Proposal¹⁰. The County Code defines the members of the CRC¹¹:

- The Chair of the Chief Administrative Office or an alternate designated by the County Administrative Officer.
- The Director of DGS Procurement or the Director's designee.
- The Director of the Office of Management and Budget or that Director's designee.
- The Director of the Staff of the County Council or that Director's designee, when a County Council procurement action is considered.
- The County Attorney or designee is a non-voting member.
- The Chief Administrative Officer may designate a Using Department representative as a non-voting member.

The committee members from the Chief Administrative Office, DGS and Office of Management and Budget are voting members of the committee. The members from the County Attorney or Using Departments are non-voting members. Should a member not be able to attend a meeting, the committee can meet in his/her absence or a replacement from the same department of the absent member may step in.

In order for the committee to give final approval to a using department's submission, three members, or their respective replacements, must be present. Within these three members, a representative from legal counsel must be present. Per the County Code¹², the CRC may hold hearings, call witnesses, receive documentation and correspondence, and conduct investigations. The committee holds a weekly public meeting in order to discuss and take action on the week's agenda, as prepared by the Director of DGS-Procurement¹³.

Contract Administration

Once executed, a contract is managed by the contract administrator as designated by the using department. The contract administrator has responsibility for ensuring that the vendor performs and complies with contract terms and payments to the vendor are reviewed and approved in accordance to department and County policies and procedures¹⁴.

Contract administrators receive invoices directly from vendors. The contract administrator reviews the invoice for compliance with contract terms and accuracy of fees charged. Contract administrators either sign or initial the invoice or the invoice cover sheet to evidence their approval of the invoice in accordance with department issued written guidance on invoice review and approval. The approved invoice is

¹⁰ Montgomery County Code Section 15.5

¹¹ Montgomery County Code Section 15.2.1

¹² Montgomery County Code Section 15.2.1

¹³ Montgomery County Code Section 15.3

¹⁴ Office of Procurement - Procurement Guide, dated April 2010

forwarded to the applicable internal staff or section¹⁵ within using departments for processing in the County's financial system, Oracle. The department payables approver is the financial approver of department invoices in Oracle. The designated using department Manager is ultimately responsible for the approval of all invoices, but may assign a designee to review and perform the actual approval. Invoice supporting documentation is filed by the department's payables Section. Per County policy, any invoice over \$10,000 must also be submitted for approval to Accounts Payable personnel in the Department of Finance.

DGS Training on Non-Competitive Procurements

DGS Procurement held general procurement training in April 2013 which involved a segment on contracts and the non-competitive process. DGS plans to hold more specialized training sessions on non-competitive procurement and sole source justifications during FY14.

Scope and Methodology

We reviewed the non-competitive procurement process in three steps. The first step consisted of familiarizing ourselves with non-competitive procurement, policies and procedures. In order to accomplish this, we held interviews with the CRC, DGS Procurement Specialists, and contract administrators from user departments. We used the input provided by the Procurement Specialists to develop questions for the contract administrators. We attended one of the weekly CRC meetings and individually interviewed 12 Procurement Specialists, and 19 contract administrators.

The second step was to perform a detailed review of a sample of non-competitive submission packets. The purpose of this procedure was to ensure proper justification and documentation was provided by user departments per County Code stipulations. Our review was limited to determining if the information provided by user departments reasonably supported the justifications given for the non-competitive procurement; we did not validate the justification details. We obtained original contract files including any amendments and/or modifications.

Lastly, we performed testing over the invoice review and approval process for each contract selected. We verified the invoice and approval documentation complied with the procedures described by the contract administrators for their departments. We verified proper payment of each invoice per department practice.

Sample Selection

We obtained from DGS Procurement, a comprehensive listing of all procurement activity that occurred in FY13. We were able to extract all non-competitive procurements (sole source and grant) and randomly select a sample of 30 contracts for testing as noted in Table 7 - 9 below. We stratified the population of departments to identify parameters to classify departments as upper, middle, and lower for purposes of sample selection. The contract approval threshold is evaluated based on the original contract amount, therefore

¹⁵ Departments without a Contracts Section have members designated to fulfill the duties that a section would perform.

some sample items had less than \$100,000 in FY13 but still passed through the CRC upon their inception.

- a) Upper Stratum: Departments who have above \$1 million in total non-competitive procurement encumbrances in FY13 from all of their active contracts. This threshold included departments with procurement activity that most likely included contracts that required approval of the CRC. We selected 20 contracts from this stratum.
- b) Middle Stratum: Departments who have less than \$1 million and greater than \$100,000 in total non-competitive procurements in FY13. This threshold included departments with procurement activity that most likely included a mixture of contracts that require approval of the CRC or approval by the DGS Director. We selected 5 contracts from this stratum.
- c) Lower Stratum: Departments who have less than \$100,000 in total non-competitive procurements in FY13. This threshold included departments with procurement activity that most likely included a majority of contracts that required approval by the DGS Director only. We selected 5 contracts from this stratum.

Table 7 – Contract Sample Selection – Upper Stratum

	Contract #	Supplier	Department	FY13 Amount
1	9426000111AA	Correctional Education AS	Department of Correction and Rehabilitation	\$70,000
2	1025844	Correctional Education AS	Department of Correction and Rehabilitation	\$14,000
3	0642020037AA	Ballard Spahr LLP	Office of Intergovernmental Relations ¹⁶	\$75,000
4	1020313	CoStar Realty Info, Inc.	Department of Economic Development	\$20,448
5	0363200005AA	Parsons Brinckerhoff, Inc.	Department of General Services	\$116,952
6	1021173	Artpreneurs, Inc.	Department of General Services	\$80,000
7	5645010002UX	Chimes, Inc.	Health and Human Services	\$121,226
8	1648001034AA	Guide Program, Inc.	Health and Human Services	\$113,340
9	9648010133AA	Mental Health Association of Montgomery County	Health and Human Services	\$35,340
10	1023729	Dudley E. Warner, Jr.	Health and Human Services	\$35,585
11	8643510024AA	Korean Association of the State of MD Metro Area, Inc.	Health and Human Services	\$25,000
12	1024143	Crossroads Community Food Network, Inc.	Health and Human Services	\$25,000
13	1002305	Housing Unlimited, Inc.	Department of Housing and Community Affairs	\$25,000
14	1019333	A Wider Circle, Inc.	Department of Housing and Community Affairs	\$53,920
15	1025622	Nichevision Forensics, LLC	Department of Police	\$55,000
16	7474000122AA	Northrop Grumman Systems Corporation	Department of Police	\$49,520
17	16691AA	CA Inc	Department of Technology Services	\$84,535
18	1025989	William R Selby	Department of Transportation	\$45,000
19	9505506007AA	Caracal Enterprises, LLC	Department of Transportation	\$10,000

¹⁶ This contract was transferred to the Department of Economic Development subsequent to FY13. As our scope included only FY13, testing related to the contract administration during FY13 while the contract was under the Office of Intergovernmental Relations.

	Contract #	Supplier	Department	FY13 Amount
20	1023788	Alta Bicycle Share	Department of Transportation	\$53,863
			Total	\$1,144,069

Table 8 – Contract Sample Selection – Middle Stratum

	Contract #	Supplier	Department	FY13 Amount
21	9711000042AA	Montgomery Coalition for English Literacy	Department of Public Libraries	\$716,058
22	6751000002AA	Hansen Information Technologies ¹⁷	Department of Permitting Services	\$193,539
23	1001339	The Active Network, Inc.	Department of Recreation	\$37,000
24	7644260139AA	Big Brothers, Big Sisters	Department of Health and Human Services	\$45,000
25	8644260150AA	GapBuster, Inc.	Department of Recreation	\$92,770
			Total	\$1,084,367

Table 9 – Contract Sample Selection – Lower Stratum

	Contract #	Supplier	Department	FY13 Amount
26	1026915	Kathleen J. Taylor	Merit System Protection Board	\$50,000
27	1022821	Karen J. Jackson	Department of Finance	\$30,470
28	2341000078AA	Pictometry International Corporation	Department of Environmental Protection	\$40,000
29	1018591	Unionsoft LLC	Office of Human Resources	\$8,995
30	1201000101AA	Mercury Public Affairs LLC	Office of Intergovernmental Relations	\$15,333
			Total	\$144,798

In addition to contract testing, we selected 53 invoices for testing. If applicable, two invoices per contract were selected for testing; otherwise, one invoice was selected from invoices paid during FY13, accordingly. Contract administrators provided a listing of all invoice activity in FY13, from which we haphazardly selected sample invoices.

Results

Our review found that compliance with Montgomery County procurement rules, regulations and laws, as well as invoice review and approval, was performed in accordance with applicable department and County policies and procedures. We found no exceptions in any contracts or invoices tested.

Below is a summary of attributes tested and our testing results:

¹⁷This vendor is now called “Infor Public Sector.”

Table 10 – Attributes Tested for CRC Approved Procurements

Attribute	Description
Tested the inclusion of the following documents in the non-competitive submission	
A	Issues surrounding the request are indicated
B	Who, what, when, where, how much, why and how the request meets Procurement’s regulations (Section 4.1.12.2)
C	Which factor listed under Procurement Regulations Section 4.1.12.3 is being used as justification
D	Whether the Office of the County Attorney has reviewed the document or the County Attorney approval is contingent upon CRC approval

Based on our testing, we determined that the non-competitive procurement submissions presented to the CRC were reviewed and awarded in accordance with Montgomery County policy and procedures and no exceptions were noted with regard to Attributes A-D in Table 10 above.

Based on our testing, we determined that the non-competitive procurement submissions presented to DGS-Director were reviewed and awarded in accordance with Montgomery County policy and procedures and no exceptions were noted with regard to Attributes A-E in Table 11 below:

Table 11 – Attributes Tested for DGS Director or Department Head Approved Procurements

Attribute	Description
Tested the inclusion of the following documents in the non-competitive submission	
A	Memorandum, which includes: Department head signature, scope of work, justification, contract value, and contract term.
B	Contract document, including signatures from: Department head, Contractor and County Attorney
C	Risk Management approval or waiver of insurance certificates
D	Cost & Price Analysis; if more than \$50,000
E	Oracle requisition or certification from the Director of Finance stating that funds are available

For the sample of 30 contracts tested, the distribution of non-competitive procurement justification is detailed in Tables 12 & 13 below:

Table 12 – Description of Non-competitive Procurement Justifications¹⁸

Justification Option	Description
(a)	There is only one source for the required goods, service, or construction which can meet the minimum valid needs of the County. The basis for identifying a sole source includes:
	1. Proprietary, patented, or copyrighted items or information are available from only one source.

¹⁸ Information obtained from Procurement Guide dated April 2010

Justification Option	Description
	2. The valid performance or delivery due dates required by the County can be met by only one source.
	3. The required compatibility of equipment, accessories, software, or replacement parts can be met by only one source.
	4. The County requires for trial use or testing an item or service available from only one source.
	5. Required public utility services are available from only one source.
	6. A continuous series of procurements from a single source over a period of time is advantageous as demonstrated by a cost benefit analysis demonstrating that considerations of training, replacement parts, and compatibility with existing capital investments justify the use of a sole source.
(b)	The County requires goods or services for potential or pending litigation, condemnation, or collective bargaining.
(c)	A contractor or subcontractor has been specifically identified in a grant accepted by the County.
(d)	A proposed contractor has been identified in a grant resolution approved by the Council.

Table 13 – Distribution of Non-competitive Procurement Justification in Sample

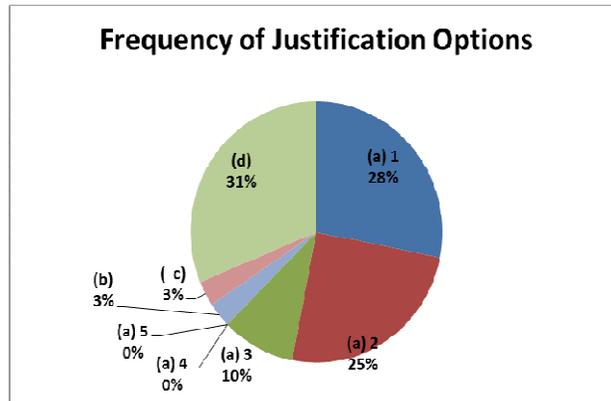
	Contract #	Department Name	(a) 1	(a) 2	(a) 3	(a) 4	(a) 5	(a) 6	(b)	(c)	(d)
1	9426000111AA	Department of Correction and Rehabilitation	X								
2	1025844	Department of Correction and Rehabilitation	X		X						
3	0642020037AA	Office of Intergovernmental Relations		X							
4	1020313	Department of Economic Development									X
5	0363200005AA	Department of General Services		X							
6	1021173	Department of General Services									X
7	5645010002UX	Health and Human Services			X						
8	1648001034AA	Health and Human Services									X

	Contract #	Department Name	(a) 1	(a) 2	(a) 3	(a) 4	(a) 5	(a) 6	(b)	(c)	(d)
9	9648010133AA	Health and Human Services									X
10	1023729	Health and Human Services		X							
11	8643510024AA	Health and Human Services									X
12	1024143	Health and Human Services									X
13	1002305	Department of Housing and Community Affairs									X
14	1019333	Department of Housing and Community Affairs									X
15	1025622	Department of Police	X								
16	7474000122AA	Department of Police		X							
17	16691AA	Department of Technology Services			X						
18	1025989	Department of Transportation		X							
19	9505506007AA	Department of Transportation	X	X							
20	1023788	Department of Transportation	X								
21	9711000042AA	Department of Public Libraries									X
22	6751000002AA	Department of Permitting Services	X								
23	1001339	Department of Recreation	X								
24	7644260139AA	Department of Health and Human Services									X
25	8644260150AA	Department of Recreation	X								
26	1026915	Merit System Protection Board		X							
27	1022821	Department of Finance		X							
28	2341000078AA	Department of Environmental Protection								X	
29	1018591	Office of Human Resources							X		

	Contract #	Department Name	(a) 1	(a) 2	(a) 3	(a) 4	(a) 5	(a) 6	(b)	(c)	(d)
30	1201000101AA	Mercury Public Affairs LLC	X								
		Total per justification	9	8	3	0	0	0	1	1	10

For the 27 contracts that use sole source as the justification, 9 contracts, or 28%, gave the basis of the vendor being the sole source for what was being purchased, 3 or 10% gave the basis of the vendor being the only one who could provide the required compatibility of what was purchased, and 8, or 24%, gave the basis that the valid performance or delivery due dates required can only be met by the source. See Graph 1 below for the full distribution of sole source basis:

Graph 1 – Distribution of Non-competitive Procurement Justification in Sample



Based on our testing, we determined that invoice review and approval is performed in accordance with Montgomery County policy and procedures and no exceptions were noted with regard to Attributes A-E in Table 14 below:

Table 14 – Attributes Tested for Invoice Payment

Attribute	Description
A	Invoice calculations are reasonable and accurate (foot and cross-foot)
B	Supporting documentation required by the contract was submitted with the invoice
C	Unallowable costs do not appear to be included in invoice submission
D	Invoice approved by Contract Administrator/Monitor /Task Order Manager and/or appropriate department manager
E	Voucher approved by A/P (if above \$10,000 threshold)
F	Amount per invoice agrees to amount paid

Observations

Through interviews with procurement specialists and contract administrators, we noted the following areas for improvement in the non-competitive procurement process to enhance the operational effectiveness of internal controls:

1. Many using departments wait too long to decide whether to renew an existing contract or seek a new contract for goods or services. Typically, the competitive procurement process takes anywhere from 6 months to a year to be properly executed. When a department waits until a contract is less than the above time frame from expiration, the option to pursue a competitive procurement is not feasible due to a compressed time window in which to award a new contract. Therefore, the using department defaults to seeking approval for a non-competitive procurement prior to the contract expiration. This limits the County's ability to determine whether there are other advantageous vendors that could provide the goods and services needed.

According to DGS Procurement, this is often due to a backlog of work within the using departments; other matters may take priority. A listing is available both internally, as well as to the general public, showing all outstanding contracts within the County and when they are set to expire. DGS Procurement, as a policy, sends a notification to a using department when contracts are 6 and 4 months away from expiration.

2. Currently, due to turnover within the DGS Procurement department, the staffing mix is lean, which has resulted in experienced procurement specialists not having enough time to mentor and supervise newer staff. The lack of personnel available for mentoring and supervision impacts the rate at which newer staff members learn and master their job requirements. As a result, it is taking longer for new staff members to become technically proficient at performing the due diligence that their roles require. This learning curve translates into a longer turnaround of submission review and creates delays for both DGS Procurement and the using departments.

According to DGS Procurement, the department is in the process of recovery from turnover and departures. A process is currently in place for more experienced procurement specialists to mentor newer or less experienced staff members. There has been a shift to hire from the Public Administration Intern (PAI) program and train new staff from the ground up. DGS Procurement is confident that with time the staffing mix will be more conducive to an efficient performance of duties.

3. Using departments do not informally have a clear understanding of the non-competitive procurement process and information requirements. The lack of understanding has led to some submission packets being incomplete and not up to department standards in justification details. Procurement Specialists review justification submission packets and do identify gaps in information, allowing the using departments to make edits. However, the identified omitted information or errors in calculations create an increase in back and forth between departments and DGS Procurement, which extends the time needed for procurement requests

to be reviewed and possibly approved. Procurement Specialists noted that inconsistencies in the sufficiency of details and information included in the justification request clearly indicates the lack of understanding by the using departments of the information requirements for non-competitive procurements. Contract Administrators, who are the main preparers of non-competitive submissions, told us that the lack of knowledge and awareness of context of the information to be included in justifications is rooted in the level of procurement training and experience of the contract administrators. Examples of information often omitted or in error in justifications:

- An example of incomplete information would be a using department detailing that the procurement of new software might include a few years of maintenance, when in fact the department intends to keep the system for much longer which would make the maintenance requirement a longer time frame.
- Errors in the cost analysis such as figures not being the same in the price information in contract as they are in the memo.
- Incorrect regulation stated in the justification.

According to DGS Procurement, a new training curriculum has been implemented in the fall of 2013. Included in the curriculum are general sessions relating to procurement, competitive and non-competitive, as well as sessions designed to drill down to specifics for each department. Trainings are shorter in duration and offered more frequently to better accommodate the schedules of contract administrators. In addition, members from the County's Management Leadership Service (MLS) will be included on certain training sessions. This will allow them to better supervise contract administrators and place responsibility on the departments to provide more complete submissions on the front end of the process.

Recommendations

We are making two recommendations to improve the Non-Competitive Procurement process. We recommend that the DGS Director:

1. Continue developing and providing training to contract administrators and other key procurement stake holders (i.e. MLS) on the topic of non-competitive procurement; providing more training opportunities will mitigate the knowledge gap among those with roles and responsibilities in the procurement process. In trainings emphasis should be given, but not limited, to the following topics:
 - a. Utilization of resources available to using departments provided by DGS Procurement, like the provided reporting on contracts expiring within 4 to 6 months, to assist in being proactive in evaluating and selecting procurement methods that bring the best value to the County.
 - b. Qualitative and quantitative information needed to adequately support the justification for purchasing a good or service in a non-competitive manner. Information that provides better transparency on the procurement include:
 - i. Projected useful life of goods or services
 - ii. Lifetime cost for goods or services
 - iii. Cost analysis

2. Continue to develop internal training and mentoring opportunities for DGS procurement staff members by more experienced Procurement Specialists. Reinforce with staff acceptable qualitative and quantitative information needed to adequately support the justification for purchasing a good or service in a non-competitive manner.

Comments and MCIA Evaluation

We provided DGS with a draft of this report for formal review and comment on March 25, 2014 and DGS responded on April 18, 2014. DGS said it concurred with the report's two recommendations and is implementing actions to address them. (See Appendix B for DGS response.)

Appendix A

Table A-1: Items Required for Non-Competitive Procurements Greater than \$100,000¹⁹

Memorandum signed by the Department Head with the following information:	
A	Background: Indicating the issues surrounding the request
B	Discuss and answer the following: Who, what, when, where, how much, why, how the request meets Procurement Regulations, Section 4.1.12.2
C	Note which factor listed under Procurement Regulations Section 4.1.12.3 is being used as justification
Contract submissions must include the following:	
D	Description of what good/service is being requested
E	Contract/project value
F	Indication of whether the Office of the County Attorney has reviewed the document or that the County Attorney approval is contingent on CRC approval

Table A-2: Items Required for Non-Competitive Procurements Less than \$100,000²⁰

Memorandum signed by the Department Head with the following information:	
A	Description of scope of work or specifications
B	Contract value or cost of services
C	Contract term
D	Note which factor listed under Procurement Regulations Section 4.1.12.3 is being used as justification
Contract submissions must include the following:	
E	Contract document containing appropriate signatures of: 1) Department head, 2) Contractor and 3) County Attorney
F	Risk Management approval or waiver of insurance certificates
G	Cost & Price Analysis; if more than \$50,000
H	Oracle requisition or certification from Director of Finance that funds are available, with correct commodity code

¹⁹ Information obtained from Procurement Guide dated April 2010

²⁰ Information obtained from Procurement Guide dated April 2010

Appendix B



DEPARTMENT OF GENERAL SERVICES

Isiah Leggett
County Executive

David E. Dise
Director

MEMORANDUM

April 18, 2014

TO: Larry Dyckman, Manager
Office of Internal Audit
Deirdre Bland, CPA
Cherry Bekaert

FROM: David Dise, Director
Department of General Services

SUBJECT: Formal Response of the Montgomery County Internal Audit (MCIA) on Non-Competitive Procurements

I am in receipt of the MCIA's final report on non-competitive procurements, and appreciate this opportunity to review and provide a formal response before MCIA finalizes the report.

After reviewing the report, I am pleased to see MCIA found that the "...Office of Procurement has adequately designed and implemented procedures, as well as internal controls, for non-competitive procurements" and "...complied with County laws...."

More notably, the audit results showed no findings and noted no exceptions. This is a testament to the value, transparency and commitment the Office of Procurement places in the process and with the public trust, in delivering services to its customers. This is significant since compliance was maintained even during a time of constrained resources.

The Department of General Services agrees with the two recommendations made to enhance the existing procedures.

With regards to the first recommendation, we have already developed training modules with contract administrator issues in mind and continue to work on new training formats. Two examples are below:

- (1) as noted in the report, the Office of Procurement, as part of a collaborative multi-stakeholder group, has launched with the Office of Human Resources, a revamped contract administrator training series that provides for certification upon completion of all modules. Both contract administrators as well as MLS staff are targeted for this training. The overview covers various procurement methods including the non-competitive method; and
- (2) the Office of Procurement has developed a Contract Administrator Forum that offers training on various topics of relevance to contract administrators. The most recent forum was held on

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April 4, 2014, and the focus was Navigating the Contract Review Committee (CRC) process. The forum provided for a mock CRC meeting and a panel discussion with active participation from contract administrators. The forums also provide networking time to meet with procurement specialists and with other contract administrators. The guidelines and checklists will be distributed and posted on the Intranet.

With regards to the second recommendation, we are continuing existing efforts to train and mentor new procurement staff. Two examples are below:

- (1) support national and local training for procurement staff through the National Institute of Governmental Purchasing (NIGP) and the Maryland Public Purchasing Association (MPPA), along with internal training; and
- (2) pairing of new procurement specialists with more experienced procurement specialists that provides knowledge transfer and mentorship; this was built into the duties of the procurement specialist series.

I appreciate the time taken and analysis performed by you and the Auditors from Cherry Bekaert in recognizing the hard work already being performed and the continued efforts recommended, which have already begun.

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