



OFFICE OF INSPECTOR GENERAL PALM BEACH COUNTY

CONTRACT OVERSIGHT NOTIFICATION (2014-N-0003)

Sheryl G. Steckler
Inspector General

ISSUE DATE: FEBRUARY 13, 2014

"Enhancing Public Trust in Government"

Contract Review Committee Palm Beach County Water Utilities Department

SUMMARY

On November 13, 2013, Office of Inspector General (OIG) staff attended the weekly Palm Beach County ("County") Contract Review Committee (CRC) meeting where staff from the Water Utilities Department submitted routine project/contract paperwork for approval. During the meeting, the OIG observed that: (a) the Water Utilities Department (WUD) submitted incomplete project/contract paperwork for approval; and, (b) WUD staff did not adequately address the CRC's questions concerning the submitted project/contract paperwork.

The OIG identified that the WUD's lack of preparedness diminished the efficiency of the CRC and resulted in a delayed vendor payment¹ of \$21,019.96 and "County" acceptance of work performed. Moreover, we identified that Policy and Procedure Memorandum #CW-F-050 lacks language requiring "County" department staff, who attend the CRC meeting, to have sufficient knowledge about the project/contract paperwork submitted for approval in order to discuss project details and respond to the CRC's questions.

BACKGROUND

On April 4, 1989, the Palm Beach County Board of County Commissioners established the CRC. The CRC consists "of four voting members: one appointee of the Board of County Commissioners; County Engineer, County Attorney, and the Director of the Contract Development and Control Division/OFMB Department."² The duties and responsibilities of the CRC are outlined in Policy and Procedure Memorandum (PPM) #CW-F-050 with the stated purpose of ensuring "that change order and consultant services authorizations authority for Construction, Engineering and Architectural Contracts is consistent with uniform application..." Moreover, PPM #CW-F-050 states the CRC is "to review and approve/reject specific additional services against annual Professional Services Agreements or contracts and, change order and construction change directive requests..."

OIG staff regularly attends the weekly CRC meeting where staff from various "County" departments submit project/contract paperwork for approval. At the November 13, 2013 meeting, the OIG observed that (a) one project submitted by WUD had incomplete

¹ The delayed payment did not violate section 218.70, Florida Statutes – Local Government Prompt Payment Act.

² Except for the appointee of the Board of County Commissioners, PPM #CW-F-050 permits members of the committee to designate, in writing, any individual within their department to attend meetings that they are unable to attend.

paperwork; and, (b) WUD staff attending the meeting did not sufficiently answer the CRC's questions.

FINDINGS

FINDING (1):

The Water Utilities Department's lack of preparedness for the November 13, 2013 Contract Review Committee meeting resulted in a delayed \$21,019.96 vendor payment.

OIG Review:

On November 13, 2013, the CRC met to review, discuss and approve or reject project/contract paperwork submitted from Palm Beach County departments. Specifically, WUD submitted four items: a "final contract" summary and three "final authorization" summaries³. Because the "final contract" summary document did not contain an executed power-of-attorney (an executed power-of-attorney is required), the CRC was unable to approve the request. However, the CRC provided a conditional approval that was contingent upon receiving the executed document⁴.

Moreover, the CRC asked specific questions related to two of the "final authorization" summaries; however, WUD staff did not sufficiently answer their questions. Ultimately, the CRC approved one of the "final authorization" summaries, by a 3-1⁵ vote, and "deferred" the other until WUD staff was able to answer their questions. The "deferred" item was a \$21,019.96 "final authorization" payment to a vendor⁶. Finally, before concluding the meeting, the CRC chair requested that staff representing WUD have sufficient knowledge related to the project(s) for which they are seeking approval.

Having knowledgeable staff at the meeting benefits both the "County" Departments and the CRC; however, WUD's lack of preparedness has diminished the CRC's ability to efficiently review project/contract paperwork and has resulted in unnecessary delays.

It is noted that at previous CRC meetings, the OIG observed similar instances where WUD submitted incomplete or inaccurate paperwork⁷ for CRC approval, and staff in attendance did not adequately address the CRC's questions.

³ According to PPM #CW-F-050: "[t]he Committee shall review and approve the final acceptance and final payment for all Board of County Commissioners executed construction projects." Even though neither "final contract" summary nor "final authorization" summary is defined in the PPM, the OIG was informed that a "final contract" summary is a final payment document prepared when a project has been competitively solicited; and, a "final authorization" summary is final payment document prepared for consultants who have annual contracts with the "County".

⁴ The executed power of attorney was received on November 14, 2013.

⁵ The dissenting vote was because WUD staff could not sufficiently answer the member's question(s).

⁶ The CRC approved the "final authorization" payment on January 8, 2014.

⁷ For example, at the August 28, 2013 CRC meeting, WUD had three items that were "deferred" to a later meeting. One item was a change order that required clarification and the two remaining items were final authorization summaries that required corrections. Moreover, at the August 7, 2013 CRC meeting, WUD had a "final authorization summary" deferred due to incorrect paperwork.

FINDING (2):

Policy and Procedure Memorandum #CW-F-050 is lacking in that it does not require department staff attending the Contract Review Committee meeting to have sufficient knowledge related to the project/contract paperwork, which has been submitted for approval.

Policy and Procedure Memorandum #CW-F-050:

Within certain authority limits, PPM #CW-F-050 delegates the approval of routine change orders and consultant services authorizations to the CRC and Lead Department Heads⁸ and is intended to apply to routine contract situations that can be efficiently handled by "County" staff. PPM #CW-F-050 further requires the CRC to review and approve final payment and final acceptance paperwork for all executed construction projects awarded by the Palm Beach County Board of County Commissioners.

OIG Review

The OIG reviewed PPM #CW-F-050 and identified that it does not contain language requiring "County" department staff, attending CRC meetings to have sufficient knowledge about the project/contract paperwork submitted for approval in order to be able to discuss the project details and answer the CRC's questions.

Requiring County department staffs to possess adequate knowledge of the project/contract paperwork will enhance the efficiency of the CRC's processes and enhance vendor relationships.

RECOMMENDATION: WATER UTILITIES DEPARTMENT

The Director of Water Utilities Department should ensure that staff attending the weekly Contract Review Committee meetings has sufficient knowledge concerning the project/contract paperwork submitted for approval.

Having knowledgeable staff in attendance will increase the efficiency and effectiveness of the Contract Review Committee and avoid unnecessary delays.

RESPONSE: WATER UTILITIES DEPARTMENT

On February 11, 2014, Bevin A. Beudet, Director, Water Utilities Department provided a response to this Notification (Attachment A). Mr. Beudet stated, in part,

"Water Utilities acknowledges that on occasion that there are errors in paperwork that are being submitted to the CRC for approval. The Department will work diligently to ensure that future paperwork errors are kept to a minimum.

The Department will also work to make sure that the staff most knowledgeable about an item attend the CRC meetings to answer questions. ...But in order to reduce future issues the Director of Engineering has been assigned to attend the CRC meetings when possible."

⁸ The Lead Departments are Airports, Engineering & Public Works, Environmental Resources Management, Facilities Development & Operations and Water Utilities.

RECOMMENDATION: OFFICE OF FINANCIAL MANAGEMENT & BUDGET

Amend Policy and Procedure Memorandum #CW-F-050 to included language requiring County department staff attending the Contract Review Committee meeting(s) to possess adequate knowledge concerning project/contract paperwork submitted for approval.

RESPONSE: OFFICE OF FINANCIAL MANAGEMENT & BUDGET

On February 10, 2014, Irwin L. Jacobowitz, J.D., Director, Contract Development & Control provided a response to this Notification (Attachment B). Mr. Jacobowitz stated, in part,

"We are in agreement that County departments should send representatives to the Contract Review Committee (CRC) meeting who are familiar with the projects and items being presented for consideration and approval of the CRC.

When looking at the totality of the circumstances, comparing the items presented, the departments represented, and recent actions taken, at this time we have determined that no changes to the PPM are needed.

... There has been improvement by the Water Utilities Department recently as to the quality of representation at CRC meetings, and in the documentation presented. If the CRC finds inadequate representation at meetings again, it will take action through Administration to correct."

ACKNOWLEDGEMENT

The Inspector General's Contract Oversight staff would like to extend our appreciation to the Palm Beach County Engineering & Public Works Department management for the cooperation and courtesies extended to us during the contract oversight process.

This report is available on the OIG website at: <http://www.pbcgov.com/OIG>. Please address inquiries regarding this report to Hank K. Nagel, Contract Oversight Manager, by email at inspector@pbcgov.org or by telephone at (561)233-2350.

**ATTACHMENT A
RESPONSE FROM WATER UTILITIES DEPARTMENT****PBC WATER UTILITIES DEPARTMENT
MEMORANDUM**

Date: February 11, 2014

To: Hank K. Nagel, Contract Oversight Manager
Office of Inspector General Palm Beach County

From: Bevin A. Beaudet, Department Director 

RE: **Contract Oversight Notification - Contract Review
Committee/Palm Beach County Water Utilities Department**

Water Utilities acknowledges that on occasion that there are errors in paperwork that are being submitted to the CRC for approval. The Department will work diligently to ensure that future paperwork errors are kept to a minimum.

The Department will also work to make sure that the staff most knowledgeable about an item attend the CRC meetings to answer questions. In most cases the questions are relevant to the item being presented for approval and are answered appropriately. But on several occasions questions were asked that were not relevant to the item being submitted for approval, for instance a construction manager was asked "how many engineering consultant do you have agreements with?" Clearly these type of questions cannot be answered by the construction manager. It would be wasteful for the Water Utilities Department to send additional staff to answer questions that may have no relevance to the item being presented for approval. But in order to reduce future issues the Director of Engineering has been assigned to attend the CRC meetings when possible.

If you have any questions, please contact me at (561) 493-6000.

ATTACHMENT B RESPONSE FROM OFFICE OF FINANCIAL MANAGEMENT AND BUDGET



**Office of
Financial Management & Budget
Contract Development & Control**

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**Palm Beach County
Board of County
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Priscilla A. Taylor, Mayor
Paulette Burdick, Vice Mayor
Hal R. Valeche
Shelley Vana
Steven L. Abrams
Mary Lou Berger
Jess R. Santamaria

County Administrator

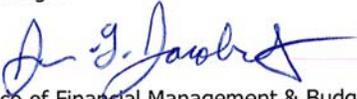
Robert Weisman

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Date: February 10, 2014

To: Hank K. Nagel, Contract Oversight Manager
Inspector General's Office

From: Irwin L. Jacobowitz, J.D., Director 
Contract Development & Control/Office of Financial Management & Budget

Re: Office of Financial Management and Budget Response to Inspector General
Contract Oversight Notification 2014-N-0003

We are in agreement that County departments should send representatives to the Contract Review Committee (CRC) meetings who are familiar with the projects and items being presented for consideration and approval of the CRC.

As PPMs are under the auspices of the County Administrator, it is within his purview to make changes to existing PPMs, and promulgating new PPMs. Therefore, I discussed the recommendation to change PPM CW-F-050 to add language requiring County department staff attending the CRC meetings to possess adequate knowledge concerning project/contract paperwork submitted for approval.

When looking at the totality of the circumstances, comparing the items presented, the departments represented, and recent actions taken, at this time we have determined that no changes to the PPM are needed.

When one looks at the concept of preparing an item for approval, whether it is to the Board of County Commissioners, other elected bodies, committees, etc., there is the innate presumption that the advocate for the item being presented has familiarity and knowledge regarding the item. Combining this premise with the underlying mandate in a companion Countywide PPM, CW-F-049, Contract Development and Contract Responsibility, it is clear that it is the promulgating department's responsibility to prepare items, which also means that they have knowledge regarding the item. This should also apply to items being presented to CRC.

As the other four departments that come to CRC do not seem to have the issues contained in this Contract Oversight Notification, changing PPM CW-F-050 does not seem warranted. There has been improvement by the Water Utilities Department recently as to the quality of representation at CRC meetings, and in the documentation presented. If the CRC finds inadequate representation at meetings again, it will take action through Administration to correct.

cc: Robert Weisman, P.E., County Administration
Liz Bloeser, Director, Office of Financial Management & Budget
Brian Shields, P.E., Deputy Director, Water Utilities