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Inspector General

**OFFICE OF INSPECTOR GENERAL
PALM BEACH COUNTY**



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“Enhancing Public Trust in Government”

Contract Oversight Report

CA-2017-0100

Municipality Contract Monitoring Follow Up City of Boynton Beach

February 20, 2018

Insight – Oversight – Foresight



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CONTRACT OVERSIGHT REPORT CA-2017-0100

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MUNICIPALITY CONTRACT MONITORING FOLLOW UP CITY OF BOYNTON BEACH

SUMMARY

WHAT WE DID

The Office of the Inspector General (OIG) conducted a Contract Oversight Review (Review) in 2014 to assess the contract monitoring policies and procedures for the municipalities in Palm Beach County. The results of the survey and the on-site sampling were summarized in the Review document.¹

The purpose of the Review was to provide Palm Beach County municipalities with information to consider when developing a robust contract monitoring policy/procedure.

The OIG selected the City of Boynton Beach (City) as one of the several municipalities surveyed to conduct an on-site follow-up to the Review to verify the answers provided by the City and to assess the extent and depth of contract monitoring policies and procedures used by the City.

WHAT WE FOUND

The City staff managing the contracts reviewed were fully versed in contract

deliverables, and ensured that the City received the services specified in the contracts. However, while the sampled contracts were being adequately monitored, the absence of written policies and procedures present a risk to the City.

The City does not have a contract risk assessment tool or procedure. As a result, staff resources for contract monitoring are not focused in an efficient and effective manner that would mitigate potential risks to satisfactory contract performance.

In the contract sample selected for review, we did not find any questioned costs.

WHAT WE RECOMMEND

Our report contains three (3) findings and three (3) recommendations

We recommend that the City implement written policies and procedures for contract monitoring that include adequate training of staff assigned contract management responsibilities.

The City accepted all three recommendations.

¹ Contract Oversight Review, 2014-R-0002 issued on March 31, 2014. http://pbcgov.com/oig/docs/reports/03-31-14_Municipality_Contract_Monitoring_2014-R-0002.pdf

BACKGROUND

There are three generally accepted phases of public procurement: Pre-Award, Award, and Post-Award. The Pre-Award phase consists of the determination of need, the development of the requirements package, and selection of the contracting method. The Award phase consists of the solicitation of vendors/sources, receipt of responses, evaluation of responses, and contract award. The Post-Award phase or contract administration phase includes contract monitoring, ensuring the contractor adequately delivers the contracted goods and or services, and contract closeout.

Contract monitoring is part of the Post-Award procurement phase. A contract monitoring system is the structure, policies and procedures used to ensure that the objectives of a contract are accomplished and contractors meet their responsibilities. Contract monitoring activities, where applicable, occur in the following areas: quality control, scheduling of deliverables, accepting deliverables, contract changes, contractor performance, and assessing the risk of contract failure.

The importance of contract monitoring increases when contracts are of high dollar value and when the terms and conditions of the contract are complex. "Monitoring the performance of the contractor is a key function of proper contract administration. The purpose is to ensure that the contractor is performing all duties in accordance with the contract and for the agency to be aware of and address any developing problems or issues."² This is consistent with recognized best practices used by government agencies throughout the country.

The follow-up to the original Review began with the OIG requesting the City to provide a list of all contracts that were in effect from October 1, 2016 through April 30, 2017. The City provided us with a list of fifty-four (54) contracts in effect during the review period. The OIG selected a judgmental sample of six (6) contracts for review across several City departments. The City departments included in the review were: City Administration (Human Resources), Community Standards-Code Compliance, Fire Rescue, and Utilities.

The sample contracts included procurement of goods and service contracts. Prior to our on-site review, we requested and received information from the City such as copies of the contracts and any amendments. The contract managers for the six (6) contracts we reviewed were interviewed. Several interview questions related to the Review Tool elements set forth below.

REVIEW TOOL ELEMENTS

The OIG used the following Review Tool elements to assess the level of contract monitoring the City performs:

- (1) Contract Name
- (2) Specific Staff Assigned to Monitor the Contract
- (3) Milestones Confirmed in Writing
- (4) Specific Staff Confirming Receipt of Deliverables

² "State of Texas Contract Management Guide", [[http://comptroller.texas.gov/procurement/pub/contract guide/](http://comptroller.texas.gov/procurement/pub/contract%20guide/)], September 1, 2015, 82.

- (5) Specific Staff Confirming Milestones being Reached
- (6) Specific Staff Approving Payments
- (7) Contract File - Log of Payments
- (8) Change Orders and/or Amendment Maintained in File

Additionally, the OIG asked each contract manager whether the department for which he/she worked had any type of documented policy/procedure for contract monitoring.

As part of this contract monitoring follow up with the City, the OIG reviewed and discussed the City's answers given to the thirty-one (31) questions from the original survey with the City's Assistant City Manager and the Purchasing Manager to find out if answers to the questions changed since completion of the survey in 2014. The categories addressed in the original survey were as follows:

- a) Documented policy/procedure for contract monitoring
- b) Contract monitoring
- c) Dedicated file maintenance for each contract
- d) Risk assessment tool

Within these broad categories, there were subsequent questions about important components, including degree of staff training, process for dispute resolution, and specific contract monitoring tasks.

FINDINGS

FINDING (1):

The City did not have adequate policies or procedures for contract monitoring. Lack of adequate policies and procedures increased the likelihood of City funds being expended inappropriately.

OIG Review

None of the departments sampled had a written policy/procedure for contract monitoring. However, the contract managers within the Human Resources and Utilities departments have developed their own extensive systems to manage and monitor the contracts for which they are responsible. Additionally, contract managers within these departments have either a computerized or paper file system they use to store contract information such as contracts, purchase orders, payment request, and invoices.

In the Community Standards and Fire Rescue Departments, the City staff managing the contracts reviewed were fully versed in the contract requirements and deliverables, and ensured that the City received the services specified in the contracts. All City staff interviewed were seasoned employees with significant experience in the subject matter of the contracts for which they were responsible.

Generally, the departments used a process by which milestones were confirmed in writing and identified a person who confirmed that milestones were being reached. Typically, the

departments identified a person(s) within the department who confirmed the receipt of deliverables and specific staff approved payments.

While the City staff interviewed adequately monitor contracts, the absence of written policies and procedures present a risk to the City that staff turnover and/or attrition may disrupt the continuity of current contract monitoring practices or that new staff may lack the knowledge and experience to adequately monitor the department's contracts.

During our exit meeting at the conclusion of our fieldwork, the Assistant City Manager provided a copy of Contract Administration Procedures contained in the City's Administrative Policy Manual that was effective March 4, 1992. While we were pleased to find the City did have some written policy, its lack of providing this documentation in response to our initial request for documents and the lack of staff awareness that this document existed, only further reflected problems in this area.

In this procedure, it states that the Department of Administration will serve as contract compliance monitor to ensure and assist compliance by both the City and the contractor for all contracts, excluding construction, and the Utilities Department. It further states that compliance check sheets will be designed and utilized by the Department of Administration to confirm specific criteria of the contract is being met. User departments assigned as contract administrators will be responsible for the execution of the provisions of the contract. The compliance monitoring role assumed by the Department of Administration served only as an additional check for compliance. The Administrative Policy Manual provided that the departments managing the contracts remained responsible for ensuring that the contract requirements were met.

During the OIG fieldwork, the City provided no evidence that the Department of Administration utilized compliance check sheets or actively fulfilled its role as compliance monitor.

A policy provides a plan or course of action and generally includes authorities granted and limitations or prohibitions. A procedure includes the specific methods used to implement the policy in day-to-day operations. A contract monitoring policy serves as a guide to staff to ensure a consistent, effective, and efficient contract monitoring process. Established documented procedures provide detailed, specific direction to agencies and personnel to ensure clarity, consistency, and quality control in the monitoring program. Procedures specify the steps and tools used in the monitoring process, and methods of communicating monitoring results. Procedures generally include, but are not limited to, staff roles and responsibilities, contract correspondence, reports detailing monitoring efforts, documentation of contract administration actions and decisions, contract completion activities, guidance on handling disputes, and professional development of staff. In addition, procedures clarify for those in monitoring roles what is expected of them while conducting on-site visits/desk reviews and interacting with vendors. Simply stated, procedures detail what is to be done, by whom, when, and how it is to be accomplished and documented.

FINDING (2):

The City does not have a policy or procedure regarding the manner in which contract files should be maintained. A clear policy and procedure would assist the contract managers in locating, using, managing, and maintaining contract information.

OIG Review

Authorized staff can access information related to contract payments in the City's computer software system. The actual contracts and amendments are maintained by the City Clerk. The City does not require contract managers to maintain a copy of the contracts. Accordingly, in some departments, an actual contract file that contained the contract, amendments, change orders, and payment log and documents was not maintained.

The City does not have a contract file system that contains a copy of the contract itself and any amendments thereto, payment log, contract expiration date, and approved change orders in one location. Having a centralized contract file system would benefit the City by reducing the risk of overpayment and improve contract monitoring compliance and other contract management activities.

Having all contract information integrated and easily accessible allows important elements, including the scope, approved/budgeted amounts, deliverable dates, milestones, contract expiration dates and payments made, change orders, and amendments to be readily available to the contract manager. Such information is critical for efficient contract management.

FINDING (3):

There is no citywide risk assessment tool/model in use by the City departments. Therefore, staff resources available for contract monitoring are not focused in an efficient and effective manner.

OIG Review

Most government entities have limited resources and those resources should be used efficiently and effectively in order to maximize positive outcomes. "A thorough risk analysis considers factors such as: fraud potential, financial mismanagement or theft, public perception of agencies and services, quality of services, monitoring reports, and vendor performance history."³

A risk assessment tool should be designed to be effective for the type of contracts being monitored. Generally, a risk assessment tool is designed to take into account the types of risks specific to the type of contract being monitored. There are commonalities in a risk assessment tool such as the dollar value of the contract and the complexity of the scope of services, but there are important differences depending upon the type of contract being considered. For example, in a construction contract, the degree of innovation in the design

³ "Office of the Inspector General, Palm Beach County, Florida, Contract Oversight Manual" May 27, 2014.

and products being used could be key risks, while in a contract for code enforcement services the staff qualifications and experience may be critical.

One sample of a risk assessment model is one developed for the Florida Department of Juvenile Justice, which includes the following criteria:

1. Type of Services for the Contract/Grant – Weights are assigned to the type of service depending upon the risk associated with each service category.
2. Annual Dollar Amount of the Contract/Grant – The higher the annual contract/grant dollar figures, the higher the risk the Department assumes in contracting with a provider.
3. Substantiated Incidents – The presence and/or the higher number of substantiated incidents from the Department's listing of reportable incidents, the higher the risk the Department assumes in contracting or continuing to contract with a provider. For a City, these incidents could include missed deadlines, failure to properly submit an invoice or not in a timely manner, an inordinate number of requests for change orders, etc.
4. Prior Performance on Contract/Grant Monitoring Visit/Desk Review – Providers who have previously had serious financial, administrative or program deficiencies or difficulty in being responsive to Department requirements should be considered to present a higher risk than those who have not.
5. Prior Performance on QA Review – Providers who have previously failed to meet established minimum thresholds should be considered to present a higher risk than those who have not.
6. Staffing Issues – The presence of staff turnover of key staff or an administrator, or key staff or the presence of any staffing vacancy increases the risk the Department assumes in contracting with a provider.⁴

This is just an example of a thorough risk assessment tool designed for human services contracts. What works for one contract, or jurisdiction may not work for another, so careful consideration should be given to the development of criteria to be used.

RECOMMENDATIONS

- (1) Implement a thorough citywide contract monitoring policy/procedure and provide staff training.

At a minimum, the policy and/or procedure should address the following components:

- (a) Use a Contract Monitoring Plan

An effective plan will identify, but not be limited to, the following: an analysis of risk factors, the scope of review, staff assigned, date(s) of review, schedule, tools/guides, type of monitoring procedures and processes for conducting monitoring, corrective action plans and documentation of results.

⁴ "State of Florida, Department of Juvenile Justice Contract Management and Program Monitoring Implementation Guidelines", [http://www.djj.state.fl.us/docs/policies/contract_monitoring_guidelines], April 2010, 43-44.

(b) Use a Standardized Monitoring Guide

The consistent use of a standardized and comprehensive guide provides consistency throughout the monitoring process.

(c) Address Corrective Action Plan

A clearly defined procedure will detail when corrective action plans are required; how they are to be developed; how and where to record them in contract files; how they are to be reported to the appropriate staff; and the process of following up on them.

(d) Address Resolution of Vendor Disputes

A clearly defined procedure(s) that outlines steps taken to resolve vendor disputes in a timely manner will help to minimize the risk that the contract being monitored will fall short of its goals and objectives.

(e) Address Monitoring Staff Training and Qualifications

The reliability and validity of the monitoring results are contingent upon appropriately trained monitors who also meet the qualifications for knowledge, skills, and ability.

(f) Address Access and Storage of Contract Documents and Files

A standard file format developed and implemented for the layout of contract documents, correspondence, monitoring reports, outcome reports and checklists provide uniformity in contract files and ease of review by management.

(g) Address Closing Out Contracts

Formal written procedures ensure that important administrative, contractual and program elements are not overlooked when closing out contracts.

The Office of Inspector General recognizes that each municipality has different operating capacities. However, the City of Boynton Beach is a midsize municipality in Palm Beach County with an expense budget of \$177,700,000 for fiscal year 2017. Therefore, it is critical that the City implement a robust contract monitoring policy/procedure and process.

(2) Address, in a policy and/or procedure, a uniform method by which contract files shall be maintained.

It is important to be able to access information about a contract in a timely manner. At a minimum, a contract file should include a copy of the contract, all amendments, change orders, and information about payments authorized and paid. Maintaining information in an easily accessible and uniform manner allows authorized employees to access information when needed, especially when the designated contract manager is absent.

(3) Develop and implement a contract monitoring risk assessment tool.

Use of a risk assessment tool allows the governmental entity to focus its resources on contracts that potentially have a higher risk of implementation issues. Staff resources are limited, so a risk assessment tool can be useful, for example, to determine which contracts should be monitored using a site visit versus those that can be monitored through a desk review.

RESPONSE FROM MANAGEMENT

On February 14, 2018, the City Administrator provided a response to the Report (Attachment A). The response stated, in part,

The City is pleased that your report did not note any questioned or identified cost issues, and the City concurs with the three (3) recommendations. The City is going to begin updating the policies and procedures for contract monitoring, disseminate procedures for developing and maintaining contract files, and will be reviewing possible risk assessment solutions.

ACKNOWLEDGEMENT

The Inspector General's Contract Oversight staff would like to extend our appreciation to the City of Boynton Beach 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 the Contract Oversight Manager by email at inspector@pbcgov.org or by telephone at (561) 233-2350.

ATTACHMENT A – CITY OF BOYNTON BEACH RESPONSE

The City of Boynton Beach

OFFICE OF CITY MANAGER
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P.O. Box 310
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February 14, 2018

Karen Mayer
Contract Oversight Manager
Office of Inspector General
P.O. Box 16568
West Palm Beach, FL 33416

RE: Contract Oversight Report, Municipality Contract Monitoring Follow Up

Dear Ms. Mayer:

This is in response to the above mentioned Contract Oversight Report letter dated January 30, 2018 relating to your on-site review of the City's contract monitoring policies, procedures and processes. After reviewing the notification, I would like to provide the following response in regards to the findings and recommendations contained in the notification:

Findings:

1. The City did not have adequate policies or procedures for contract monitoring. Lack of adequate policies and procedures increased the likelihood of City funds being expended inappropriately.
2. The City of Boynton Beach does not have a policy or procedure regarding the manner in which contract files should be maintained. A clear policy and procedure would assist the contract managers in locating, using, managing, and maintaining contract information.
3. There is no citywide risk assessment tool/model in use by the City departments. Therefore, staff resources available for contract monitoring are not focused in an efficient and effective manner.

Recommendations:

1. Implement a thorough citywide contract monitoring policy/procedure and provide staff training.
2. Address, in a policy and/or procedure, a uniform method by which contract files shall be maintained.
3. Develop and implement a contract monitoring risk assessment tool.

The City is pleased that your report did not note any questioned or identified cost issues, and the City concurs with the three (3) recommendations. The City is going to begin updating the policies and procedures for contract monitoring, disseminate procedures for developing and maintaining contract files and will be reviewing possible risk assessment solutions.

Please contact me if you need any further information on this matter.

Sincerely,

Lori LaVerriere
City Manager

America's Gateway to the Gulfstream