



OFFICE OF INSPECTOR GENERAL PALM BEACH COUNTY

CONTRACT OVERSIGHT NOTIFICATION (2014-N-0133)

John A. Carey
Inspector General

ISSUE DATE: NOVEMBER 19, 2014

"Enhancing Public Trust in Government"

City of Riviera Beach Survey Projects

SUMMARY

What We Did

Pursuant to an anonymous citizen complaint, we reviewed the City of Riviera Beach's (City) practice of entering into contracts with "surveyor and mapper" (surveyor) firms without the benefit of a competitive procurement.

We reviewed thirteen projects initiated by the City that required professional survey and mapping services during the period of January 2012 through July 2014.

What We Found

We found that the City **complied** with the requirements of section 287.055 Florida Statutes – The Consultants' Competitive Negotiation Act (CCNA) when entering into contracts with engineering /architectural firms. However, it **did not comply** with this state law when entering into contracts with surveyor firms.

We identified three projects requiring survey and mapping services that were not competitively procured in accordance with the CCNA. To the City's credit, there were three other projects where, after being contacted by the Office of Inspector General (OIG), it took action to comply with the CCNA by assigning survey and mapping services to firms operating under contracts that were previously competitively procured. For the remaining seven projects, we did not identify any findings because either the estimated dollar values were under the CCNA

thresholds or the projects were in preliminary stages.

The three contracts that were not competitively procured as required by the CCNA **totaled \$9,674.**¹

What We Recommend

We recommend that the City comply with the requirements of the CCNA, which requires competitive procurement of surveyor firms when the basic construction cost of the project exceeds \$325,000; **or** when the professional services related to a planning or study activity exceed \$35,000.

In its response to this report, the City **agreed** with our recommendation and stated that it will "procure surveyors as provided in the Notification and continue to comply with Section 287.055, Florida Statutes."

¹ Under Inspector General guidelines these costs are termed "questioned costs." Questioned costs can include costs incurred pursuant to a potential violation of a provision of law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds, and/or a finding that such costs are not supported by adequate documentation, and/or a finding that the expenditure of funds for the intended purpose is unnecessary or unreasonable in amount. As such, not all questioned costs, as in this case, are indicative of potential fraud or waste.

BACKGROUND

Section 287.055, Florida Statutes (the CCNA) requires government entities to publicly advertise and competitively award contracts for professional services for construction projects that are estimated to cost more than \$325,000; or when professional services related to a planning or study activity will exceed \$35,000.

The City initiated a series of drainage and water quality improvement projects requiring the services of a surveyor firm. Surveyor firms identify and map the contours of the ground and existing features at the project site. Although the City procured professional services of architectural/engineering firms in compliance with the CCNA, the City advised us that it has not done so with surveyor firms.

FINDINGS

FINDING (1):

The City of Riviera Beach did not comply with the requirements of Section 287.055, Florida Statutes—Consultants’ Competitive Negotiation Act—when entering into contracts for services with surveyor and mapper firms.

OIG Review:

We reviewed thirteen projects initiated by the City that required professional survey and mapping services during the period of January 2012 through July 2014. We identified three projects where the City did not comply with the requirements of section 287.055, Florida Statutes, because it entered into contracts with surveyor firms without the benefit of the competitive procurement required by that law.

To acquire these services, the City solicited proposals by sending electronic communications to multiple surveyor firms. We were advised that the City selected these firms based upon previous work performed for the City, or from a list of “CCNA Certified Firms”² maintained by Palm Beach County. However, Palm Beach County’s “CCNA Certified Firms” list was not derived from a competitive procurement; rather it is a process whereby a firm is “certified” as being able to submit proposals in response to a competitive procurement. The certifying agency reviews factors such as, capability, adequacy of personnel, past record, experience, certification as a minority business enterprise and other factors. Once “certified” a firm can respond to a competitive procurement advertised by the agency.

The electronic communication sent by the City included a brief description of the project, scope of the survey, an aerial view of the project site and a cost opinion. After receiving a firm’s submission, the City ranked the proposals according to price and awarded a contract to the lowest cost provider. This process does not follow the CCNA procurement requirements. Specifically, section 287.055(3)(a)1, titled “PUBLIC ANNOUNCEMENT AND QUALIFICATION PROCEDURES” of the CCNA states:

(a)1. Each agency shall publicly announce, in a uniform and consistent manner, each occasion when professional services must be purchased for a

² Section 287.055(3)(c) states: “Any firm or individual desiring to provide professional services to the agency **must first** [emphasis added] be certified by the agency as qualified pursuant to law and the regulations of the agency. The agency must find that the firm or individual to be employed is fully qualified to render the required service. Among the factors to be considered in making this finding are the capabilities, adequacy of personal, past record, and experience of the firm or individual.”

project the basic construction cost of which is estimated by the agency to exceed the threshold amount provided in s. 287.017 for CATEGORY FIVE [\$325,000] **or** [Bold Added] for a planning or study activity when the fee for professional services exceeds the threshold amount provided in s. 287.017 for CATEGORY TWO, [\$35,000] except in cases of valid public emergencies certified by the agency head. The public notice must include a general description of the project and must indicate how interested consultants may apply for consideration.

As outlined above, the CCNA requires a competitive procurement when **either** the estimated construction costs exceed \$325,000, **or** when professional services related to a planning or study activity exceed \$35,000. Because the estimated construction costs exceeded \$325,000, the professional services for the following three projects should have been competitively procured:

Purchase Order Date	Project	Estimated Construction Cost	Actual Professional Service Fee
February 2012	36 th Street (Ave. O - R)	\$621,000	\$1,950
November 2012	36 th Street (Ave. J - K)	\$363,232	\$3,900
January 2013	37 th Street (Ave. J - K)	\$353,000	\$3,824
Questioned Costs			\$9,674

As of the date of this Notification, the questioned costs total **\$9,674**. Questioned costs can include costs incurred pursuant to a potential violation of a provision of law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds, and/or a finding that such costs are not supported by adequate documentation, and/or a finding that the expenditure of funds for the intended purpose is unnecessary or unreasonable in amount. As such, not all questioned costs, as in this case, are indicative of potential fraud or waste.

It is noted that after being contacted by the OIG, the City took action to comply with the CCNA on the following three projects where the estimated construction cost exceeded the \$325,000 threshold:

Project Name	Estimated Construction Cost
W. 6 th Street Improvement	\$612,000
Avenue O – Extensions and Laterals	\$402,000
W. 18 th – W. 22 nd Street Lateral	\$715,000

To comply with the CCNA, the City stated that it would assign the required survey and mapping services to “one or more of our available continuing professional services contracts which have been procured through the CCNA process.”

RECOMMENDATION

The City of Riviera Beach should Comply with requirements of section 287.055, Florida Statutes, the Consultants' Competitive Negotiation Act, that surveyor and mapper firms be competitively procured when the estimated construction costs of the project exceed \$325,000, or when the professional services related to a planning or study activity exceed \$35,000.

RESPONSE FROM MANAGEMENT

On November 17, 2014, the City Manager of the City of Riviera Beach provided a response to the Notification (Attachment A). The City Manager **agreed** with our recommendation and stated, in part:

“Although the City views surveying as a planning activity, not an activity directly related to the cost of construction projects, the City will, in the future, procure surveyors as provided in the Notification and continue to comply with Section 287.055, Florida Statutes.”

QUESTIONED COSTS

Questioned Costs Total = \$9,674

ACKNOWLEDGEMENT

The Inspector General's Contract Oversight staff would like to extend our appreciation to the City of Riviera Beach's 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



OFFICE OF
CITY MANAGER

CITY OF RIVIERA BEACH

600 WEST BLUE HERON BLVD. • RIVIERA BEACH, FLORIDA 33404
(561) 845-4010 FAX (561) 840-3353

November 17, 2014

Mr. Hank K. Nagel, Contract Oversight Manager
Palm Beach County Inspector General
P.O. Box 16568
West Palm Beach, FL 33416

RE: Response to Contract Oversight Notification – CCNA Survey Projects (2014-N-0133)

Dear Mr. Nagel:

The City is in receipt of the November 7, 2014, Memorandum regarding "Contract Oversight Notification (2014-N-0133)" received on November 7, 2014. You have requested that the City respond to the above-referenced Notification.

The City has previously advised in its October 28, 2014 letter that the City considered surveying a planning activity, not to exceed \$35,000 under Category Two of Section 287.017, Florida Statutes. None of the surveying/planning activities that were solicited by the City exceeded the threshold under that category (Section 287.017(2)). Since, these survey services were considered a planning activity, Category Five (Section 287.071(5)), was not a consideration. The survey services/data assists the City in developing capital construction plans and subsequent project budgets.

Although the City views surveying as a planning activity, not an activity directly related to the cost of construction projects, the City will, in the future, procure surveyors as provided in the Notification and continue to comply with Section 287.055, Florida Statutes.

Thank you for your attention to this matter. Please do not hesitate to contact my office should you have any further questions.

Sincerely,

Ruth C. Jones
City Manager

RCJ/vs

ATTACHMENT A



CITY OF RIVIERA BEACH

2391 AVENUE "L"
(561) 845-4080

RIVIERA BEACH, FLORIDA 33404
FAX (561) 848-5491

October 28, 2014

Mr. Maximo M. Heredia, Contract Oversight Specialist
Palm Beach County Office of Inspector General
P.O. Box 16568
West Palm Beach, FL. 33416

Subject: Riviera Beach Survey Proposal Requests

Dear Mr. Heredia:

As discussed in our meeting on Monday October 27th 2014, the City's Engineering Department had traditionally requested survey proposal from local firms under section FS 287.055(3)(a):

PUBLIC ANNOUNCEMENT AND QUALIFICATION PROCEDURES.-

(a)1. Each agency shall publicly announce, in a uniform and consistent manner, each occasion when professional services must be purchased for a project the basic construction cost of which is estimated by the agency to exceed the threshold amount provided in s. 287.017 for CATEGORY FIVE or **for a planning or study activity** when the fee for professional services exceeds the threshold amount provided in s. 287.017 for CATEGORY TWO, except in cases of valid public emergencies certified by the agency head.

The survey services requested were to facilitate the planning, design scope development, and development of a capital construction plan for reconstruction of specific roads throughout the City. Under FS 287.017 category five has a threshold of \$325,000 and category two has a threshold of \$35,000. The survey services requested as a component of the planning process did not exceed category two's \$35,000 threshold.

Thank you for your continued cooperation and support in this matter. If you need additional information, please do not hesitate to contact my office.

Sincerely,

A handwritten signature in blue ink that reads "T. Bailey".

Terrence Bailey, LEED AP, P.E.
City Engineer

RIVIERA BEACH, FLORIDA.... "The Best Waterfront City In Which To Live, Work & Play"