



**OFFICE OF INSPECTOR GENERAL
PALM BEACH COUNTY**

**CONTRACT OVERSIGHT NOTIFICATION
(2013-N-0006)**

ISSUE DATE: AUGUST 22, 2013

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Inspector General

"Enhancing Public Trust in Government"

Village of Palm Springs – Utility Department Sewer and Water Piggyback Contracts

SUMMARY

The Office of Inspector General received an inquiry from the Village of Palm Springs concerning their use of piggyback¹ contracts for construction projects. Because the piggyback contracting method for construction projects is unusual, the Office of Inspector General reviewed the Village of Palm Springs Code of Ordinances in conjunction with established policies/procedures and sound procurement practices.

The Office of Inspector General determined that neither the Village of Palm Springs Code of Ordinances nor sound procurement practices support the use of piggyback contracts for construction projects.

BACKGROUND

The Village of Palm Springs ("Village") has enacted ordinances that regulate the purchase of goods and services. Specifically, Village Code of Ordinances, Sections 2-281 through 2-283 regulates purchasing based on dollar amounts; and Sections 58-1 through 58-30 covers implementation of those regulations.

The purpose of the Village's purchasing regulations is "to provide a uniform means of acquiring goods and services in a manner which protects the interests of taxpayers..." The Village has implemented a process whereby goods and services purchased in excess of \$25,000 are acquired through a competitive sealed bidding process; however, the Code exempts the competitive sealed bid requirement when using piggyback contracts.

During the period of August 2010 through May 2013, the Village awarded piggyback contracts for the construction and installation of sanitary sewers, gravity sewers, water mains and storm drainage systems. The construction projects will increase the Village Utility Department's ability to offer water and sewer service outside the Village boundaries.

Our analysis included reviewing Village Code Sections 58-2., titled, "Purchases of \$25,000.00 or more" and 58-4., titled, "Piggy-back bids" in conjunction with established policies and procedures, where applicable.

¹ The National Institute of Governmental Purchasing defines "Piggyback (Piggyback Cooperatives)" as, "[a] form of intergovernmental cooperative purchasing in which an entity will be extended the pricing and terms of a contract entered into by a larger entity. Generally a larger entity will competitively award a contract that will include language allowing for other entities to utilize the contract which may be to their advantage in terms of pricing, thereby gaining economies of scale that they normally would not receive if they competed on their own."

FINDINGS**FINDING (1):**

Neither the Village of Palm Springs Code of Ordinances nor sound procurement practices support the use of piggyback contracts for construction projects.

Section 58-4. – Piggy-back bids:

Village Code contains an exemption from the requirement of competitively procuring goods and services. Specifically, Section 58-4., of the Village Code, titled, “Piggy-back bids.”, states, “If the goods to be purchased have been approved by the village manager and are included in the budget, the user department may “piggyback” any currently authorized public agency bid of the federal government, the state, or any local government within the state. The purchase order for these goods must refer to the current public agency bid number and the goods must have the same specifications as those in the bid documents.”

OIG Review:

Sound government procurement practices encourage awarding contracts through “fair and open competition”. In fact, The 2000 Model Procurement Code states, “Fair and open competition is a basic tenet of public procurement. Such competition reduces the opportunity for favoritism and inspires public confidence that contracts are awarded equitably and economically.” Additionally, a “fair and open” competitive process supports government’s effort to obtain the highest quality goods and services at the lowest possible price (cost).

The benefits of competition include, but are not limited to, receiving the best available marketplace price and terms; protecting the public’s interest; providing businesses with an opportunity to provide goods and services in a “fair and open” competition; and maximization of purchasing power.

Piggyback contracting is a term used in the purchasing profession to describe situations when a government entity contracts for goods and services from an existing contract competitively procured by another government entity. Under the piggyback contracting method, the price, terms and specifications of the existing contract remain the same for the “piggyback” contract. Due to this requirement, the Village’s use of piggyback contracts for construction projects poses several problems. First, construction projects are inherently unique and have different complexities of using materials and labor necessary to complete a project. For example, the requirements of constructing and installing sanitary sewers in the Village will not be the same in all municipalities. Second, although the original contracts² were competitively procured, they were for different projects, with different specifications, at different locations and time. Third, in August 2010, the Village Council approved a piggyback contract for a sanitary sewer; however, the original competitively procured contract, by Palm Beach County, had expired.

Additionally, using piggyback contracts to procure goods and services involves risk and does not promote “fair and open” competition. Specifically, piggyback contracts: (a) may result in higher costs than contracts competitively procured in current market conditions; (b) are not conducive to a transparent procurement process; and, (c) do not

² The Village of Palm Springs “piggybacked” from contracts procured by Palm Beach County (WUD 08-017; WUD 10-046; and Engineering and Public Works – Project #2011056) and the City of Boca Raton (Esterly Wastewater Infrastructure Improvements – Project #71-10-012).

provide businesses with an opportunity to compete for government contracts in a “fair and open” procurement process.

Based upon the foregoing analysis, by competitively procuring construction contracts in excess of \$25,000, the Village may benefit from the following:

- (a) Current marketplace terms and conditions;
- (b) Protecting the public’s interest;
- (c) Promoting “fair and open” competition;
- (d) Promoting transparency; and,
- (e) Supporting the Village’s public policy statement in Code Section 58-1., which states in part:

“The purpose of these purchasing regulations is to provide a uniform means of acquiring goods and services in a manner which protects the interests of taxpayers, provides guidelines to user departments and ensures that qualified vendors have access to the municipal market on a fair and equitable basis...”

RECOMMENDATION

The Village of Palm Springs should:

1. Review its construction project procurement practices to ensure compliance with its established procurement regulations.

RESPONSE FROM MANAGEMENT

On August 15, 2013, Mr. Richard J. Reade, Village Manager, submitted a response to the OIG recommendation that states, in part:

“The Village values and appreciates the OIG’s suggestion to more clearly define our piggy-back practices within the Village’s procurement code. Please note, prior to the OIG’s review, the Village has begun to comprehensively review our purchasing code to ensure that sound procurement practices are continued to be implemented.”

Mr. Reade’s complete response is included as Attachment A.

ACKNOWLEDGEMENT

The Inspector General’s Contract Oversight staff would like to extend our appreciation to the Village of Palm Springs’ 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 Joe Doucette, Chief of Operations, by email at inspector@pbcgov.org or by telephone at (561)233-2350.