



Lexington-Fayette Urban County Government
OFFICE OF INTERNAL AUDIT

MANAGEMENT ACTION PLAN PROGRESS REPORT

DATE: September 29, 2015

TO: Jim Gray, Mayor

CC: Sally Hamilton, Chief Administrative Officer
Glenn Brown, Deputy Chief Administrative Officer
Aldona Valicenti, Chief Information Officer
William O' Mara, Commissioner of Finance and Administration
Todd Slatin, Director of Purchasing
Phyllis Cooper, Director of Accounting
Susan Straub, Communications Director
Urban County Council Members
Internal Audit Board Members

FROM: Bruce Sahli, CIA, CFE, Director of Internal Audit
Jim Quinn, CIA, CISA, Internal Auditor

RE: Vendor Competition Process Management Action Plan Progress Report

EXECUTIVE SUMMARY

On December 12, 2013 the Office of Internal Audit issued the Vendor Competition Process Audit report. The 2013 report contained three findings related to the Vendor Competition Process. Findings included the absence of a process to verify the use of MBE/WBEs as indicated in the prime contractor bid, discrepancies between MBE/WBE participation reports and supporting documentation, and outdated CAO Policy and Purchasing Manual requirements regarding RFP cost thresholds. This follow-up review was conducted to evaluate controls put in place by management to address those specific findings from the December 2013 report.

This review is provided for management information only. It is not an audit and no opinion is given regarding controls or procedures. We interviewed Division of Purchasing staff, viewed updated policies and procedures, and obtained other audit evidence as necessary to complete our follow-up procedures. The period of review was from January 2014 through June 2015.

A summary of the findings from the original audit report and a summary of the results of our follow-up are provided in the table below. The original findings, management's original responses, and details of the results of this follow-up are contained in the **ORIGINAL AUDIT RESULTS AND FOLLOW-UP DETAILS** section of this report.

Finding	Summary of Original Finding	Follow-Up Results
Finding #1 Moderate Priority	Prime Contractor Use of MBE/WBEs is not Verified for Compliance or Reporting Purposes.	The Division of Purchasing is still using the percentages of planned or proposed use of subcontractor MBE/WBEs provided by the prime contractors in their job bids to compile MBE/WBE participation reports. There is no process in place to verify and measure the actual payments made to MBE/WBEs used as subcontractors on various LFUCG projects.
Finding #2 Moderate Priority	Discrepancies Noted in Comparison of MBE/WBE Participation Reports to Supporting Documentation.	The process for compiling these reports has not changed. As a result, they are still subject to the same timing issues and potential inconsistencies as mentioned in the previous audit.

Finding #3 Moderate Priority	CAO Policy and Purchasing Manual Requirements for RFP Cost Thresholds are Outdated.	CAO Policy #1 has been formally repealed and replaced by Ordinance #123-2013. This ordinance requires the formal RFP process to be followed for professional services purchases over \$20,000 or more. The Purchasing Manual, still references \$25,000 as the purchase dollar amount above which formal RFP processes are required for these types of purchases.
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ORIGINAL AUDIT RESULTS AND FOLLOW-UP DETAILS

Original Finding #1: Prime Contractor Use of MBE/WBEs is not Verified for Compliance or Reporting Purposes

Priority Rating: Moderate

Condition:

Prime contractors must indicate in their bid proposals the percentage and dollar amount of work they anticipate assigning to MBE/WBE subcontractors during the course of a project. Once the contract is awarded and the project begins, prime contractors are required to provide further information on payments made to MBE/WBE subcontractors for work they have performed (date paid, amount paid, purchase order number, etc.). This sub-contractor information is provided directly to the Division of Purchasing, or indirectly to the LFUCG Divisions working with these contractors.

We noted that insufficient MBE/WBE subcontractor payment information was being provided by the prime contractors either to the Division of Purchasing or the LFUCG Divisions working with these contractors for the period under review. It also appeared that insufficient follow-up was being performed by the Division of Purchasing to attempt to collect this information from the prime contractors and/or the Divisions working with them.

We also noted during our review of MBE/WBE Participation reports prepared by the Division of Purchasing that most of the MBE/WBE subcontractor participation

information contained within them was based on projected MBE/WBE subcontractor activity provided by prime contractors in their bid proposal or contract documents, and not on actual payments made to the MBE/WBE subcontractors.

Effect:

LFUCG prime contractors employment of MBE/WBE subcontractors is a key component of successful MBE/WBE participation in LFUCG purchasing activity. It is therefore important to compare proposed MBE/WBE subcontractor work to such work actually provided to MBE/WBEs over the course of a project. Preliminary bid proposal information is an incomplete metric of MBE/WBE subcontractor participation in LFUCG purchase activity, and does not sufficiently monitor a prime contractor's fulfillment of their MBE/WBE obligation. The use of projected MBE/WBE subcontractor payments in the Participation reports does not give a true measure of MBE/WBE subcontractor participation in LFUCG purchases and contracts.

Recommendation:

The Division of Purchasing should develop a process whereby actual MBE/WBE subcontractor payments are obtained from the prime contractor and monitored for compliance with contractual MBE/WBE requirements. Other LFUCG Divisions should be required to assist Purchasing in obtaining this financial information, since the other Divisions would typically work more closely with the contractors performing work on their behalf. The actual MBE/WBE subcontractor payments should be used in compiling MBE/WBE Participation reports.

Director of Purchasing Response:

Prior to 2010 the participation of MBE/WBE subcontractors was not being captured or recorded. In 2010, the Division began a manual system of recording MBE/WBE subcontractor activity by examining the bid, proposal and quote documents submitted by prime contractors and using this data to calculate MBE/WBE subcontractor activity. In 2012, the Division began developing a more automated system to track MBE/WBE subcontractor activity using the capabilities of our procurement website, Economic Engine. With the help of programmers at Economic Engine, the Division has implemented on a beta basis, a tracking system capable of more effectively capturing MBE/WBE subcontractor activity. This system is in the initial stages of testing with live data and testing is expected to continue for an additional 3 to 6 months. To date, the Division has not incurred additional expenses as a result of this system development.

However, this improved system only captures one piece of the data requested as a result of the audit which is the intent or planned MBE/WBE subcontractor participation of the selected prime contractor. To provide a more complete picture as requested in the audit, additional resources will be required to track the actual spend or payments of prime

contractors to MBE/WBE subcontractors. The additional resources would come in the form of personnel used to record, monitor and verify the payments of prime contractors to MBE/WBE subcontractors for approximately 300 awarded contracts annually. The Division estimates that one additional administrative specialist position at a loaded cost of approximately \$50,000 annually would be required to administer this verification program.

Commissioner of Finance and Administration Response:

Concur with the response by the Director. The additional staff would need to be reviewed against a cost benefit analysis and competing budget requests.

Follow-Up Detail Results:

The Division of Purchasing is still using the percentages of planned or proposed use of subcontractor MBE/WBEs provided by the prime contractors in their job bids to compile MBE/WBE participation reports. There is no process in place to verify and measure the actual payments made to MBE/WBEs used as subcontractors on various LFUCG projects. The Director of Purchasing reiterated that they would need an additional full-time staff person to fulfill this function. The Director mentioned the possibility of purchasing a new procurement software system which would provide a more robust means of verifying and measuring actual MBE/WBE subcontractor payments, but said that this system would have to be included in the FY 2017 budget proposal and would be competing with other Division budget requests. The Director of Purchasing estimated the cost of the new software would be \$30,000.

Council Resolution 167-91 supported the adoption of the administration plan for a 10% minimum goal for disadvantaged business enterprise participation in LFUCG construction and professional service contracts. We recommend due consideration be given to seek funding for the new procurement software the Director of Purchasing stated would provide a more robust means of verifying and measuring actual MBE/WBE subcontractor payments.

Director of Purchasing Response:

The Division of Central Purchasing is continuing to investigate systems capable of the ability to track payments vs. planned expenditures. There are several new players in this arena and we have begun the process of reviewing demos and investigating the cost of these systems. Based on the results of this investigation, the Division will request the appropriate funds for FY17 and if approved proceed with implementation of a new tracking system.

Commissioner of Finance and Administration Response:

Commissioner concurs with Director's response.

Original Finding #2: Discrepancies Noted in Comparison of MBE/WBE Participation Reports to Supporting Documentation

Priority Rating: Moderate

Condition:

We examined two MBE/WBE Participation reports addressing calendar year 2012 activity, and an annual report addressing all MBE/WBE activity during calendar year 2011. The reports were compiled by the Division of Purchasing, primarily from PeopleSoft Financials queries and Excel spreadsheets derived from MBE/WBE participation source documents on LFUCG bid, RFP, and formal quote projects.

We compared summary data contained in these reports to the supporting documentation and noted some discrepancies. We also reviewed these reports for accurate reporting when information was reported for comparative time periods and noted some inconsistencies. Purchasing personnel attributed inconsistencies to timing issues with the supporting PeopleSoft queries and to the need for report updates and corrections as new information became available.

Effect:

Discrepancies between the Participation reports and supporting source documentation and the inconsistencies between reporting time periods impacts the accuracy and reliability of the MBE/WBE Participation reports. This may affect Purchasing's ability to determine the full extent to which the 10% MBE/WBE goal is being met.

Recommendation:

Purchasing should retain all source documentation used in compiling MBE/WBE Participation reports to support the data and conclusions therein, and should strive to collect payment data in a timelier fashion directly from the prime contractors or from the LFUCG Divisions working with these contractors to reduce the need for report updates and corrections.

Director of Purchasing Response:

The Participation reports are a snapshot in time, accurate on the day they are created. As new data is entered into the system, typically in the form of change orders or cancellation of PO's, the participation percentages will change accordingly.

Purchasing will work with the Division of Enterprise Solutions to improve the efficiency, accuracy and ease of use of the PeopleSoft queries used in creating the MBE/WBE Participation reports with regards to purchase orders and Pro-Card expenditures. To

incorporate more accurate and timely prime contractor payment information into the MBE/WBE participation report, the Division would require the addition of a dedicated resource (See Director of Purchasing Response to Finding #1) for this task.

Commissioner of Finance & Administration Response:

Concur with the response by the Director. The additional staff would need to be reviewed against a cost benefit analysis and competing budget requests.

Follow-Up Detail Results:

No new MBE/WBE participation reports have been officially published since the 2013 audit report. We requested and received a participation report from Purchasing for the calendar year 2014 for testing purposes. As confirmed with the Director of Purchasing and our review of the supporting documentation, the process for compiling these reports has not changed. They are still subject to the same timing issues and potential inconsistencies as mentioned in our previous audit.

As noted in the Follow-Up Results for Finding #1, Council Resolution 167-91 supported the adoption of the administration plan for a 10% minimum goal for disadvantaged business enterprise participation in LFUCG construction and professional service contracts. We recommend due consideration be given to seek funding for the new procurement software the Director of Purchasing stated would provide a more robust means of verifying and measuring actual MBE/WBE subcontractor payments.

We also noted that the MBE/WBE participation rate indicated in the 2014 report was 9.65%, which is very close to the stated MBE/WBE participation rate goal of 10%. The 2014 MBE/WBE spend summary report provided by the Division of Purchasing is included in Appendix A at the end of this report.

Director of Purchasing Response:

Same Response as Finding #1. The Division of Central Purchasing is continuing to investigate systems capable of the ability to track payments vs. planned expenditures. There are several new players in this arena and we have begun the process of reviewing demos and investigating the cost of these systems. Based on the results of this investigation, the Division will request the appropriate funds for FY17 and if approved proceed with implementation of a new tracking system.

Commissioner of Finance and Administration Response:

Commissioner concurs with Director's response.

Original Finding #3: CAO Policy and Purchasing Manual Requirements for RFP Cost Thresholds are Outdated

Priority Rating: Moderate

Condition:

Professional service purchase procedures and purchase dollar amount thresholds as outlined in the Purchasing Manual and in CAO Policy #1 are incorrect and need to be revised. The Purchasing Manual currently states that CAO Policy #1 will be used by Purchasing to solicit proposals through the formal RFP (request for proposal) process for professional service purchases of \$25,000 or above. CAO Policy #1 also currently references \$25,000 as the purchase dollar amount threshold above which formal RFP processes are required. However, current purchasing procedures in use and as stated in revised Purchasing Regulations require formal RFP procedures be followed for professional services purchases of \$20,000 or more.

Effect:

Outdated and conflicting policies and procedures can result in non-compliance with senior management's directives.

Recommendation:

CAO Policy #1 and the Purchasing Manual should be updated to reflect the current RFP requirements.

Director of Purchasing Response:

The Division of Purchasing recommends that CAO Policy #1 be formally repealed as it has been replaced by Ordinance #123-2013 which is an ordinance approving and adopting an amendment to the Division of Purchasing revised regulations for the procurement of personal/professional services. This ordinance formally recognizes the \$20,000 threshold for professional service purchases. In addition, the Division of Purchasing will modify and update the Purchasing Manual to reflect the changes approved by Ordinance #123-2013.

Commissioner of Finance & Administration Response:

Commissioner concurs with Director's response.

Chief Administrative Officer Response:

I intend to review CAO Policy #1 to make sure it is up to date and make any necessary changes.

Follow-Up Detail Results:

CAO Policy #1 has been formally repealed and replaced by Ordinance #123-2013. This ordinance requires the formal RFP process to be followed for professional services purchases over \$20,000 or more. However, the Purchasing Manual still incorrectly references \$25,000 as the purchase dollar amount above which formal RFP processes are required for these types of purchases. Therefore, outdated and conflicting purchasing policies still exist.

We recommend the Purchasing Manual be corrected to reflect the approved process for purchases of professional services, and to be consistent with the Division of Purchasing's Revised Regulations and LFUCG Ordinance #123-2013. The Director of Purchasing informed us that he plans to present a comprehensive, revised version of purchasing regulations to either the Budget and Finance Committee or the General Services Committee of the Urban County Council in mid-August with the hope that it would go before the full Council for approval in September.

Director of Purchasing Response:

The Purchasing Manual has been revised to reflect the \$20,000 professional services threshold and the presentation to Council of the comprehensive, revised Procurement Regulations is still planned for the fall of 2015.

Commissioner of Finance and Administration Response

Commissioner concurs with Director's response.

Appendix A.

2014 MBE/WBE Spend Summary							
	Dollars Spent	MBE Spend	WBE Spend	MBE/WBE Spend	Percentage MBE/WBE	Percentage MBE	Percentage WBE
PO Only Spend	\$122,977,312	\$2,268,652	\$8,143,899	\$ 10,412,551	8.47%	1.85%	6.62%
MBE Subcontractor Spend		\$ 95,913		\$ 95,913			
WBE Subcontractor Spend			\$1,458,529	\$ 1,458,529			
ProCard Spend	\$ 2,862,917				6.24%	1.74%	4.50%
MBE ProCard Spend		\$ 49,920		\$ 49,920			
WBE ProCard Spend			\$ 128,706	\$ 128,706			
Total Spend	\$125,840,229	\$2,414,485	\$9,731,134	\$ 12,145,619	9.65%	1.92%	7.73%

Source: LFUCG Division of Purchasing.