TO: The Honorable Chairman and Members of the Board of County Commissioners

FROM: Ken Burke
Clerk of the Circuit Court
Ex Officio County Auditor

SUBJECT: Audit of Utilities and Public Works Engineering Consultant Selection Processes

DATE: October 14, 2010

For your review and filing in the Official Records, I am enclosing a copy of the report dated October 14, 2010 on the above-referenced audit.

cc: Peter J. Yauch, P.E., Director, Public Works & Transportation
    Kevin Becotte, P.E., Interim Director, Utilities
    Jan Herbst, P.E., Director, CIP & Production, Public Works
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AUDIT OF
UTILITIES AND PUBLIC WORKS
ENGINEERING CONSULTANT
SELECTION PROCESSES

Audit Services
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OCTOBER 14, 2010
REPORT NO. 2010-17

*Regulated by the State of Florida
**Accredited Office of Inspector General
By the Commission for Florida Law Enforcement Accreditation
October 14, 2010

The Honorable Chairman and Members
Of the Board of County Commissioners

We have conducted an audit of the Utilities and Public Works Departments’ selection processes for professional consultant services from the pools of firms that have already been approved by the County in accordance with the Consultants’ Competitive Negotiations Act (CCNA). Our audit objectives were to:

- Determine the compliance with laws, rules, and policies and procedures related to departmental selections of contractors approved by CCNA processes.
- Determine the adequacy of internal controls over departmental selections of contractors approved by the CCNA processes.
- Determine that departmental distributions of contract awards to contractors approved by the CCNA processes are equitable and fair.

We conclude that both the Utilities and Public Works Departments appear to be in compliance with laws, rules, policies and procedures related to departmental selection of consultants approved by CCNA processes under a consultant pool method. Public Works policies and procedures were adequate to detail the steps, methodology and criteria for selecting a firm from a pool of consultants for a project. However, improvement is needed in the Utilities procedures for the detail steps, methodology and criteria for selecting a consulting firm from the pool for a project.

It appears that internal controls are adequate over departmental selection of consultants approved by CCNA processes under a consultant pool method. However, controls could be improved by documenting and retaining reasons for why a firm was selected from the pool of consultants and other firms were not selected for a project. No written procedures for documenting and retaining these justifications exist. In addition, Public Works procedures for documentation of management approvals for the selection of the consultant from the pool for a project could be improved.

It appears that the Utilities and Public Works management distribution of contract awards to consultants approved by CCNA processes under a consultant pool method is equitable and fair.

Opportunities for Improvement are presented in this report.
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We appreciate the cooperation shown by the staffs of the Utilities and Public Works Engineering and Finance Departments during the course of this review. We commend management for their responses to our recommendations.

Respectfully Submitted,

[Signature]

Hector Collazo, Jr., Director
Audit Services, Division of Inspector General

Approved:

[Signature]

Ken Burke, CPA*
Clerk of the Circuit Court
Ex Officio County Auditor
*Regulated by the State of Florida
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INTRODUCTION

Synopsis

Pinellas County Utilities and Public Works Departments appear to be complying with laws, rules, policies and procedures relating to their selection of consultants approved by the Consultants’ Competitive Negotiations Act (CCNA) processes under the consultant pool method. Internal controls over departmental selection of consultants under the consultant pool method appear adequate. Also, it appears that distribution of contract awards by Utilities and Public Works management to consultants from the pool approved by the CCNA process is equitable and fair. However, no written procedures exist to require documenting and retaining the reasons why one firm is selected for a project and others are not selected. Procedures for documenting the detailed selection process and methodology for selection of the consultant from the pool for a project should be improved. In addition, procedures for documenting and retaining management approvals in Public Works for selection of a consultant from the pool for a project should be improved.

Scope and Methodology

We conducted an audit of the selection processes utilized to award architectural, engineering, surveying, and mapping service contracts for specific projects. Our scope covered the processes used by the Utilities and Public Works Departments to award purchase orders to firms that have already been approved and had contracts awarded by the County in accordance with the Consultants’ Competitive Negotiations Act (CCNA). Our scope included an evaluation of internal controls over this process.

Section 287.005 of the Florida Statutes, known as the Consultants’ Competitive Negotiations Act (CCNA), was adopted in 1973 to require public entities to procure architectural, professional engineering, landscape architecture, or registered surveying and mapping services in a restricted fashion. The statute requires that initial selections be based primarily on qualifications, and that price and cost should only become an issue later with the most qualified firm for the project.

To meet the objectives, we interviewed department staff and management and reviewed supporting procedures to obtain a clear understanding of the processes. We evaluated the adequacy of procedures and internal controls over the selection process for several selected pools of engineering consultants. We also tested, on a sample basis, the effectiveness of the internal controls over the selection process.
The objectives of the audit were to:

1. Determine the compliance with laws, rules, and policies and procedures related to departmental selections of contractors approved by CCNA processes (under a consultant pool method).
2. Determine the adequacy of internal controls over departmental selections of contractors approved by the CCNA processes.
3. Determine that the departmental distributions of contract awards to contractors approved by the CCNA processes are equitable and fair.

As stated above, our scope only covered the processes used by the Utilities and Public Works Departments to award purchase orders to firms that have already been approved and had contracts awarded by the County in accordance with the Consultants' Competitive Negotiations Act (CCNA).

Our audit was conducted in accordance with the International Standards for the Professional Practice of Internal Auditing and the Standards for Offices of Inspector General, and accordingly, included such tests of records and other auditing procedures, as we considered necessary in the circumstances. The audit period was October 1, 2007 through July 31, 2009. However, transactions and processes reviewed were not limited by the audit period.

**Overall Conclusion**

Both the Utilities and Public Works Departments appeared to be in compliance with laws, rules, policies and procedures related to departmental selection of consultants approved by CCNA processes under a consultant pool method. Public Works policies and procedures were adequate to detail the steps, methodology and criteria for selecting a firm from a pool of consultants for a project. However, improvement is needed in the Utilities procedures for the detailed steps, methodology and criteria for selecting a consulting firm from the pool for a project.

It appears that internal controls are adequate over departmental selection of consultants approved by CCNA processes under a consultant pool method. However, controls could be improved by documenting and retaining reasons for why a firm was selected from the pool of consultants and other firms were not selected for a project. No written procedures for documenting and retaining these justifications exist. In addition, Public Works procedures for documentation of management approvals for the selection of the consultant from the pool for a project could be improved.

It appears that the Utilities and Public Works management distribution of contract awards to consultants approved by CCNA processes under a consultant pool method is equitable and fair.
Background

Pinellas County Utilities Engineering:

The Utilities Engineering Department maintains a pool of 18 engineering consultant firms from which to select for engineering design projects. The 18 consultants can be used for the Utilities’ project areas of:

- Water
- Sewer
- Reclaimed Water
- Solid Waste

The mission of the Utilities Engineering Division states that it is committed to providing quality, cost effective engineering services to all our customers by planning, developing, overseeing, and designing for new construction, renewal, and replacement of:

1. Wastewater Collection and Transmission Systems
2. Wastewater Treatment and Disposal Facilities
3. Water Production Facilities
4. Water Distribution Systems
5. Solid Waste Facilities

For each engineering project, the Director of Engineering makes a selection of a consultant firm from a list of 18 engineering consultant firms that were the top 18 from the CCNA ranking process. The Director will select a firm that matches the work scope need (and with available dollars in the contract) and will ask the firm to meet and provide a proposal. The ranking process of firms was completed about August 24, 2006 and three year contracts were initially executed for each of these 18 engineering consultant firms for $1.5 million each (total $27 million). Also, initially a three year contract for each consultant was executed with each contract having the same authorized amount. Utilities has extended the contracts to a 4th year totaling for a $36 million total authorized amount. The Utilities plan is to go through a reselection and scoring process once the contract term for a fifth year has been extended and
completed. The authorized amount for the contracts will total $45 million through the fifth and final year of the contract term.

The Utilities Director has authorized about $14 million to these 18 consultants for spending from August 24, 2006 through September 9, 2009 using 81 projects (work assignments).

**Pinellas County Public Works Engineering:**

The Public Works Engineering Department manages two different types of consulting agreements:

1. Large project specific (e.g. a large road project) agreements
2. General engineering project agreements, which are for smaller projects

For the large project specific agreements, Public Works uses the CCNA process for solicitation, competitive selection and negotiation. Public Works maintains several pools of general engineering consulting agreements for the smaller projects. In the general engineering project agreements, a list of consultants is established from the first part of the CCNA process. For the consultants on this list, Public Works has contract purchase agreements executed for these consultants and then uses the agreements on a work order basis. The amount of the contract purchase agreement is not encumbered, but instead there is a "not to exceed" amount for the contract purchase agreement. The selection of the firm is done by the Public Works Division Engineer.

Public Works maintains 10 pools of general engineering consulting agreements, which include:

- General Engineering
- Survey & Mapping
- Geo-Technical
- Others

Each pool has different:

- Agreement term dates
- Renewal option periods
- Number of consultants

Initial terms are for three years before considering the renewal options. Expiration dates vary for the pool agreements from 2010 through 2012. The total amount awarded under these 10
pools of agreements equals about $106 million and the amount spent on these agreements through November 24, 2009 is about $16.3 million.

The Public Works' mission is to serve the citizens and visitors of Pinellas County by providing, implementing, operating and maintaining transportation and surface water programs in a professional manner which supports economic and community growth. Public Works plays a major role in developing and maintaining the County’s transportation and surface water management programs. It also provides engineering and construction services to other Pinellas County Departments:

- **Parks & Recreation Department**

- **Community Development**

Public Works is comprised of multiple major departments:

1. CIP and Production
2. Transportation
3. Operations
4. Financial Services

The Public Works Financial Services Division is responsible for the oversight and monitoring of the fiscal, clerical and administrative activities of the Public Works department. This Division performed administrative functions associated with Professional Services Consultant Selection for all County departments until October 1, 2009 when the County Purchasing Department took over responsibility for all facets of the Capital Improvement Program/CCNA procurement process and facilitated the selection of consultants for design projects. In addition, this Division has direct responsibility for the fiscal and financial affairs of Public Works. This includes accounting for the costs of directing and organizing all support functions of the Capital Improvement Program within the department.
OPPORTUNITIES FOR IMPROVEMENT

Our audit disclosed certain policies, procedures and practices that could be improved. Our audit was neither designed nor intended to be a detailed study of every relevant system, procedure or transaction. Accordingly, the Opportunities for Improvement presented in this report may not be all-inclusive of areas where improvement may be needed.

1. **Public Works Procedures For Documenting Selections And Management Approvals Should Be Improved.**

A. **Public Works Outside Consultant Procedures Related To Documenting Selection of Firms Should Be Developed.**

Public Works management has not established a formal written procedure requiring the selection justification to be documented or retained. In addition, Public Works management does not document and retain the justification for selecting engineering consulting firms from the pool. Millions of dollars of project work are being awarded annually to engineering consulting firms under continuing contracts with Public Works.

We selected two pools of Public Works engineering consultants for review, the Construction Engineering & Inspection (CEI) pool and the Professional Services pool. We discussed with Public Works Engineering management whether they document why one firm is selected over another firm for a project. Public Works Engineering management stated they do not document and retain reasons for why a particular engineering firm was selected over others from the pool for a project. Also, they do not document and retain the reasons why a particular engineering firm with less dollars used was not selected for the project. However, management agrees they can perform this procedure going forward.

For the two Public Works pools selected for review, Public Works Engineering management uses checklists to address some steps in the process and has some procedural guidance. Although the checklists and procedural guidance address criteria to be used in selecting a firm for a project, the written procedural guidance does not require documenting and retaining the justification for the firm selected for the project and the firms not selected for the project.

The Purchasing Manual Section 10 contains general procedures for the normal CCNA process to create a qualified list of firms county-wide, identify a short list and ranking of firms for a project (Competitive Selection Procedures) and Competitive Negotiation with a selected firm. Although it lists criteria (paragraph B3 and B.4.B of the Purchasing procedure) from the CCNA statute (F.S. 287.055) to be considered in competitive selection, which are also used in the pool concept of firms (Multiple year/Multiple Work Order Continuing Engineering Consultant Services), the procedure does not address all the detail steps, methodology and criteria used by Public Works management in selecting firms from the pool of consultants.
The lack of documented policies and procedures can result in functions not being consistently performed in compliance with best practices or County objectives. Documenting and retaining justification for awarding project work to engineering consultants helps provide support for compliance with legal requirements on equitable distribution of work among qualified firms and selection of the most highly qualified firms. Documenting and retaining justification for selection of a firm for project work also provides a clearer framework for public accountability.

Written policies and procedures are always considered an important tool used to ensure adequate internal controls. Written procedures:

- Provide guidance necessary to properly and consistently carry out departmental activities at a required level of quality.
- Provide opportunity for management to ensure that adequate processing of internal controls have been established.
- State the level of management review and approval for the various functions to be performed.

It is management's responsibility to establish written internal procedures covering key departmental processes. The procedures should be current and in sufficient detail to provide standard performance criteria and reduce the risk of misunderstanding and/or unauthorized deviations that could cause processing errors. The development of the procedures could prevent the establishment of unnecessary controls or steps that negatively affect productivity. The procedures also support the cross-training and back-up for key staff functions.

We Recommend Public Works management:

A. Establish written procedures for the process of documenting justification of why one firm was selected over other firms from the pool of engineering consultants.

B. Going forward, document in writing and retain in the applicable project file, a justification for selection of the firm. It should include why one firm is selected over another firm from the pool for a project and reasons why other engineering firms with less dollars used were not selected for the project.

C. Establish formal written procedures for the process of the detail steps, methodology and criteria used by Public Works Engineering Management in selecting firms from each pool of consultants for project work.

Management Response:

A. Management concurs and has formalized the procedure.

B. Management agrees and has included this in the formalized procedure.

C. Management agrees and has established a formal procedure.
B. Procedures For Public Works Management Approval Documentation For Consultant Selection Should Be Improved

Public Works management should improve department procedures for engineering consultant selection to address the required format and retention responsibility of the management approval documentation for the selection from the pool.

One of the pools of engineering consultants we reviewed was the Construction Engineering & Inspection (CEI) pool. We discussed with Public Works Engineering management the process for management approval of the CEI consultant selection.

The contracts for the Public Works Construction Engineering & Inspection pool have a term which started on December 16, 2008. We selected two projects from the Purchase Order (PO) Summary report of the Resident Construction Manager (RCM) to determine whether documentation of two levels of management approvals existed for these two projects. Management had indicated in previous discussions that approval of the CEI Selection Committee (comprised of three members of Public Works Engineering management) would be noted on copies of emails from the committee members that the RCM keeps in the project files.

The two projects we selected to review for approvals were:

(1) PO# 231773 to Consultech for $294,112
(2) PO# 229829 to Mactec for $1,931,838

We met with Public Works management and readily obtained documentation of two levels of management approvals from the CEI Committee for the selection of Consultech. Public Works management was able to provide documentation of management approvals from the CEI Committee for the selection of Mactec, but it was after a couple of weeks from the request and from another division within Public Works (not the RCM). There was uncertainty which member of management retained a copy of the documentation of the management approval for the selection of the consultant. It does not appear that a formal process for retention of approval documentation is working effectively.

In addition, we noted that the Public Works Construction Engineering & Inspection Consultant selection procedure mentions the CEI Selection Committee, but does not address the required format and retention responsibility of the management approval documentation.

The existing Public Works Consultant CEI contract written procedure selection process is not clear on the method of documentation for management approval of the consultant selection from the CEI pool or how it is to be retained and by whom. However, it does include some guidance.
It states:

A selection committee is established to review and approve recommendations for CEI consultant assignments by the Resident Construction Manager (RCM).

They should meet monthly or may also convene at their own schedule and email their concurrence of the recommendation to the RCM.

It recommends:

Members of management be on the CEI Selection Committee. Without clear procedures and retention of documentation of two levels of management approvals for the selection, there is limited assurance that the selection process meets management’s objectives and intent. Documenting and retaining approvals of two levels of management for selection of a consulting firm for project work also provides a clearer framework for public accountability.

Written policies and procedures are always considered an important tool used to ensure adequate internal controls. A key control that should be included in policies and procedures is the required various levels of management approvals for the various steps of the process. Policies and procedures not only describe what the objectives are, they usually describe in detail how the function should be performed. The lack of sufficiently documented policies and procedures can result in functions not being consistently performed in compliance with best practices or stated objectives.

**We Recommend** Public Works management:

Update and improve the clarity of the written CEI Consultant Selection procedures for the process to include the detail of the steps and forms for Public Works Engineering management to document and retain two levels of management (CEI Committee management) approvals for each selection decision of a consultant from the pool for a project. It should also indicate and clarify which member of management or department should retain the documentation of the approvals for each selection decision.

**Management Response:**

Management agrees and has improved the related procedures.
Utilities Outside Consultant Procedure On Documenting Selection Of Firms Should Be Developed.

Utilities management:

- Has not established a formal written procedure requiring the selection justification to be documented or retained.
- Does not document and retain the justification for selecting engineering consulting firms from the pool.
- Do not have a written procedure for the methodology and criteria used by Utilities Engineering Management in selecting firms from their pool of consultants for project work.

Millions of dollars of project work are being awarded annually to engineering consulting firms under continuing contracts.

We discussed with Utilities Engineering management whether they document why one firm is selected over another firm for a project. Utilities Engineering management stated they do not document and retain reasons for why a particular engineering firm was selected over others from the pool for a project. Also, they do not document and retain the reasons why a particular engineering firm with less dollars used was not selected for the project. However, management agrees they can perform this procedure going forward.

In addition, Utilities management stated they have not developed formal written procedures to address all the detail steps, methodology and criteria used by Utilities Engineering management in selecting firms from their pool of engineering consultants for project work. The existing Utilities Outside Consultant Coordination procedure lists steps once the firm is selected from the short list or other selection process. However, it does not list the methodology or criteria Utilities management uses to select the firm to award the work/project. The Purchasing Manual Section 10 contains general procedures for the normal CCNA process to create a qualified list of firms County wide, identify a short list and ranking of firms for a project (Competitive Selection Procedures) and Competitive Negotiation with a selected firm. Although it lists criteria (paragraph B3 and B.4.B of the Purchasing procedure) from the CCNA statute to be considered in competitive selection, which are also used in the pool concept of firms (Multiple year/Multiple Work Order Continuing Engineering Consultant Services), the procedure does not address all the detail steps, methodology and criteria used by Utilities management in selecting firms from the pool of consultants.

The lack of documented policies and procedures can result in functions not being consistently performed in compliance with best practices or County objectives. Documenting and retaining justification for awarding project work to engineering consultants helps provide support for compliance with legal requirements on equitable distribution of work among qualified firms and
selection of the most highly qualified firms. Documenting and retaining justification for selection of a firm for project work also provides a clearer framework for public accountability.

Written policies and procedures are always considered an important tool used to ensure adequate internal controls. Written procedures:

- Provide guidance necessary to properly and consistently carry out departmental activities at a required level of quality.
- Provide opportunity for management to ensure that adequate processing of internal controls have been established.
- State the level of management review and approval for the various functions to be performed.

It is management’s responsibility to establish written internal procedures covering key departmental processes. The procedures should be current and in sufficient detail to provide standard performance criteria and reduce the risk of misunderstanding and/or unauthorized deviations that could cause processing errors. The development of the procedures could prevent the establishment of unnecessary controls or steps that negatively affect productivity. The procedures also support the cross-training and back-up for key staff functions.

We Recommend Utilities management:

A. Establish written procedures for the process of documenting justification of why one firm was selected over other firms from the pool of engineering consultants.

B. Going forward, document in writing and retain in the applicable project file, a justification for selection of the firm. It should include why one firm is selected over another firm from the pool for a project and reasons why other engineering firms with less dollars used were not selected for the project.

C. Establish formal written procedures for the process of the detail steps, methodology and criteria used by Utilities Engineering Management in selecting firms from the pool of consultants for project work.

Management Response:

A. Management concurs and has formalized the procedure.

B. Management agrees and has included this in the formalized procedure.

C. Management agrees and has established a formal procedure.
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