



Wakulla County Board of County Commissioners Internal Audit Report Contract Management Audit

December 2023

The Internal Audit Department (IA) completed an audit of the contract management for Wakulla County (County) Board of County Commissioners (BOCC) and Clerk of the Court's (Clerk) Finance Department (Finance). Effective contract management is key for the County to achieve its goals, protect the interests of the residents, and ensure transparency and accountability in its operations. Contracts represent a significant financial and operational commitment and, as such, require effective management throughout their lifecycle.

County ordinances 2015-2 (adopted 3/23/15), 2018-10 (adopted 4/16/18), 2020-12 (adopted 6/15/20), and 2022-19 (adopted 4/18/22) set the County's purchasing policy. The County must also follow the parts of Florida Statute (FS) 255 that apply to construction contracts for counties. When federal awards are used for contracts Title 2 Code of Federal Regulations (CFR) Part 200 procurement standards apply as well.

The objective of this audit was to evaluate the compliance of contract management practices with relevant laws, regulations, and policies. Additionally, to assess the adequacy of controls in place to mitigate risks associated with contract management.

To evaluate this compliance a judgmental sample of seven construction contracts was selected from active and recently completed contracts. After the evaluation of these contracts was complete, all current contracts that required a payment and performance bond were checked for compliance with bond requirements.

The notes to the prior year finance statements were reviewed against Finance's contract log from the prior year. Finance maintains a log of contracts that is provided to the external audits so outstanding commitments of the County can be included in the notes as required under the Government Accounting Standards Board (GASB).

Interviews and walkthroughs with staff from the County and Finance were conducted to establish the process each follows for contract management. A high-level overview of the contract management process can be seen in the flowchart on the next page.

Observations and Recommendations:

The County has a clear policy on purchasing which is found in the County ordinance's Chapter 2, Article VI which is comprised of the ordinances listed in the second paragraph of this report. The policy has been written to also follow federal and state requirements. The procurement is handled by the County's Intergovernmental Coordination Department (IC) and there are very specific criteria that must be followed to stay in compliance.

This compliance includes specific advertising requirements and bidding procedures based on the expected cost of the project. There were no issues identified in this process when the

Wakulla County Contract Management Flowchart

A project needed by Wakulla County (County) is identified and those over \$50,000 are communicated to the Intergovernmental Coordination Department's Procurement and Contracts Coordinator (P&CC).

If the County is unable to specifically define the scope of work the P&CC does a request for proposals or an invitation to negotiate so the County can consider all options for accomplishing the project needed. Similarly, if consultants or other similar services are required there will be a request for qualifications. A consultant already under contract with the County may be issued a work authorization (WA) for the new project.

If the County is able to establish the specifications for the project needed the P&CC does a request for a quotation (RFQ) or an invitation to bid (ITB).

The P&CC, based on the estimated cost for the project needed, will place an advertisement in a newspaper with general circulation in the County (*Wakulla News* and *Tallahassee Democrat*) for 14, 21, or 30 calendar days prior to the due date for bids. Vendors on the County's active vendor list maintained by the P&CC are also notified and the details are posted on the County's website. The State's Department of Management Services and Department of Transportation, the City of Tallahassee, and Leon County are also notified in accordance with Minority Business Enterprise program requirements.

Responses to the request are evaluated using criteria outlined in the County's Purchasing Ordinance. These responses would include any concerns or comments the vendor has with the draft contract that was included in the procurement documents.

An intent to award is sent out to vendors via electronic mail by the P&CC and posted on the County's website within 24 hours of the selection of the winning bid. There is a 72-hour window after this time that a procurement challenge can be made.

After the challenge window expires, a notice of award is sent to the winning bidder. Contracts are signed by the department director, county administrator, or board chair and approved by the board depending on the contract amount as outline in the County's Purchasing Ordinance.

Per Florida Statute new construction or construction repair contracts over \$200,000 require payment and performance bonds. A certified recorded copy of these bonds must accompany the contract for work to begin and any payment to be authorized. A copy of the contract and the certified recorded copy of the bond are sent to the Clerk of the Court's Finance Department (Finance) by the P&CC. For contracts that are approved by the BOCC the copy of the contract is received with the BOCC final agenda which is sent to the Clerk to Board Deputy Clerk.

Finance retains a copy of the contract and the certified recorded copy of the bond. Contract details are added to Finance's contract log and bonds are added to the bond log. As payments are processed in Finance, they are added to the contract log and subtracted from the contract amount. Any change orders are updated on the logs.

The contract log is provided to the external auditors so the County's outstanding obligations at the end of the fiscal year can be included in the notes to financial statements as required.

The P&CC tracks the contract deadlines as outlined in the contract terms and is updated by the County's project manager and the outside consultant (if applicable) as the project progresses. The P&CC will be notified of any change orders needed. Any changes orders are sent to Finance.

As the terms are met, the vendor will submit payment requests. Progress on construction projects is typically verified by a consultant hired by the County. Payment requests are processed through this consultant and sent to the P&CC or the Grant Manger (GM) if the contract is related to grants.

The P&CC or the GM will complete a disbursement request (DR) to make a payment to the vendor. The DR is reviewed by the Fiscal Operations Director prior to being sent to Finance for payment.

samples were reviewed. The required language was included in the contracts to comply with Appendix II to Part 200 of the contract provisions of the CFR.

The only issue identified in the process related to bonds. The County ordinance refers to 2 CFR § 200.325 in reference to bonds, however the code was recently changed and now CFR § 200.326 refers to bonds. Additionally, in 2012 FS 255.05 was amended to state that vendors what were required to obtain payment and performance bonds must provide a certified copy of a recorded bond to the County before work can begin on a project and payment can be made. This step has not been added to the contract process and most construction bonds have not been recorded into the public record.

Of the seven samples selected none of the bonds had been recorded. However, the original bonds were sent to Finance in accordance with the process that was in place. Finance would retain the bond and include the details on their bond log. The original bond was in Finance for five of the seven contract samples. One of the two missing bonds was sent to Finance when it was found to be missing during the audit. The other one was for contract that had already ended so the bond was not sent to Finance. A copy of this bond was with the scanned contract so the contractor had obtained a bond.

Because of the missing bonds in the sample selection testing was expanded to review all active contracts that required a bond. Nineteen active contracts were reviewed for this expanded testing. Of these two original bonds had not been sent to Finance but a copy was included with the copy of the contract that was part of the BOCC final agenda package maintained by the Clerk's Clerk to Board deputy clerk. Two of the nineteen bonds were recorded into the public record in the Clerk's Recording Office (Recording). Four of these contracts had change orders that should have had bonds amended to include the increased contract amount per the contracts. This may also be required per FS 255.05. None of these contractors submitted certified copies of the recorded bonds, even the contractor that did record two bonds.

The seven contract samples were also evaluated on payment amounts and completion dates. Overall, these were tracked accurately to ensure change orders to be submitted for any construction delays or changes to cost. There was one contract that a change order was unable to be located. The contract change order would have been submitted around the time of staffing changes in IC and it cannot be confirmed whether or not it was received. There were no liquidated damages assessed on the contracts that were audited.

Payments to contractors goes through a multi-step process. The County has a Construction, Engineering, and Inspections consultant (CEI) that oversees many of the construction projects to confirm work is done appropriately and reviews payment requests before sending it to the County. There is also a project manager within the County that oversees the work from the department the project is related to. After the request for payment is processed by the CEI, if applicable, it is sent to the County project manager or the Contract Coordinator from IC. The payment request is sent to the Fiscal Operations Director who reviews it prior to it being submitted to Finance for payment. In reviewing the payment request documentation, there were examples of missing requirements or incorrect payment amounts

not being identified until it was reviewed by the Fiscal Operations Director.

The notes to the financial statements for fiscal year 2021-2022 were reviewed and compared to the contracts log maintained in Finance. Based on the information on the log, the notes showed more outstanding commitments for the County than it should have. The contract log was overall difficult to follow from an outside view. The note is designed to show construction and other significant commitments at the end of the fiscal year as required by GASB. The contract log included all contracts and agreements the County had during the year. Some that had ended prior to the start of the fiscal year and some ended during the year but the contract amount and payment amount did not zero out so it appeared to still be an outstanding commitment. Several entries on the log represented small amounts remaining on the contract but the contract had actually ended.

The contract policy is solidly defined within the County's purchasing ordinance. Most of the issues identified during the audit relate to staffing changes in both IC and Finance. These staffing changes were occurring at the same time and made a smooth transition difficult, especially without written procedures for each step of the process.

Based on the observations during this audit IA has the following recommendations:

1. During the next update to the purchasing ordinance, update the reference to CFR § 200.325 to CFR § 200.326 or change the language to a more general statement referencing bond requirements in CFR § 200.
2. Schedule a meeting between Finance, IC, and Fiscal Operations for all staff that play a role in contract management to discuss what everyone's role in the contract management is since each plays a role in protecting the County's interests in compliance. Ongoing communication between Finance and the contract coordinator from the BOCC will help ensure the financial statement notes are presented accurately. A quarterly meeting could help with this communication. When staffing changes occur for either the BOCC or Finance, the people responsible for the contract management should meet and discuss how the departments work together. IA can help facilitate the first meeting if desired.
3. Finance should update the contract log to provide information in a more effective format to the external auditors. Finance has already started incorporating recommendations made by IA for this purpose and also been in contact with the external auditors to help ensure the log is updated in a way that will help them present accurate information in the financial statements for the County. Finance was able to get clear guidelines on how to break up the contracts so that all contracts and agreements can be tracked by Finance but that the construction and other significant contracts are tracked separately. It is also recommended that written procedures are incorporated into the contract management process. Staffing changes and department restructuring can impact the effectiveness of contract management.
4. IC should establish written procedures for each step of the contract process. This includes how to do the advertising through disbursement request requirements for different fund sources. Checklists can be a valuable tool with these procedures including procurement

steps, contractor requirements, and payment requests for different funding sources. The policy is strong but how to accomplish the requirements of the policy will help with consistency throughout. Many of the issues identified in this audit appear to have occurred because there were staff changes. Having a written procedure to follow will prevent this type of issue in the future if there are any staff changes.

5. A method of tracking the assessment of liquidated damages should be implemented so the County has a way of evaluating this for future decision making.
6. Provide information to the contractors on the bond requirements of recording the bond and providing a certified copy of the recorded bond to the contract coordinator. Recording can assist with the review of this information to confirm it is accurate. IA can provide contact information.
7. Update contract templates to include bond requirements. This includes recording the bond and providing a certified copy to the contract coordinator. Additionally, the current template states that bonds must be amended if there are any change orders that increase the contract price. Consult legal on whether this should be updated in the contract template or if contractors need to provide updated bonds even if partial release has been provided to the County after payments have been made. The procedure should comply with FS 255.05. The certified recorded copy should be sent to Finance instead of the original bond.
8. It is recommended that FS 255 is reviewed annually and for this review to be part of the written procedure to ensure any changes are caught, even if a staff change occurs. CFR § 200 should also be reviewed at least annually so any changes to the code can be identified and reflected in the County purchasing policy.

Management Response:

Management from both IC and Finance responded to the recommendations and concurred with the observations. Below are the responses from each department to the recommendation pertaining to their departments.

1. The current Procurement Ordinance addresses bonds as follows:

Bid Bonds (Sec. 2.255(e)): The county administrator and/or the procurement office shall determine if bid bonds/deposits shall be prescribed. All contracts for construction or facility improvements governed by 2 CFR § 200.325, shall require bid bonds/deposits in accordance therewith for such projects exceeding the simplified acquisition threshold in 2 CFR § 200.88. If required, a bid bond/deposit shall be for five percent of the amount of the bid. Unsuccessful bidders shall be entitled to full return of their bid bond/deposit. Upon determination by the board, the successful bidder shall forfeit this bid bond/deposit or a portion thereof, upon failure to enter into a contract or act on the purchase order issued within ten working days of the notice of award and presentation of a contract by

the county, whichever occurs later.

Performance and Payment Bonds (Sec. 2.257(a)):

a. The county administrator and/or procurement office shall determine if payment and performance bonds shall be required. All contracts for construction or repairs of public buildings and public works require payment and performance bonds in accordance with F.S. § 255.05. All contracts for construction or facility improvements governed by 2 CFR § 200.325, require payment and performance bonds in accordance therewith for such projects exceeding the simplified acquisition threshold in 2 CFR §200.88. Any required bond(s) will be noted in the competitive procurement documents, if applicable. Vendors are not required to secure a surety bond from a specific agency or bonding company.

b. All contracts that require payment and performance bonds from a surety company shall require approval by the board. Payment and performance bonds shall be at least 100 percent of the contract price. At the discretion of the county administrator or board, an entity entering into a contract that is for \$200,000.00 or less, may be exempted from executing payment and performance bonds.

c. A contractor or vendor shall provide a surety bond from a surety company authorized to do business in the State of Florida to guarantee the full and faithful performance of his contractual obligations and the payment of labor and material expended pursuant to the contract whenever and in such amounts as is deemed necessary by the procurement office. Alternative surety devices, such as letters of credit, may be authorized by the board.

While both of these sections address 2 CFR 200.325 and 2 CFR 200.326 by reference, staff will update these sections in Wakulla County's Procurement Ordinance to specifically address 2 CFR 200.326 the next time the ordinance is updated.

2. IC Staff would like to encourage meetings with Finance and FO to ensure all parties communicate items such as staffing and policy changes, updates to current construction projects, and if there are any issues as the projects move forward. IC staff would be interested in bimonthly meetings.

Finance will work with IC and FO to organize meetings to make sure there is open communication between all people involved.

3. Finance has already adopted a revised contract log that makes the format more effective for all users. Finance will work on procedures for using the contract log.
4. IC will establish written procedures that address each step of the contract process. The written procedures will include all steps from the beginning of when a procurement is requested to when the project and contract close. Several checklists outlining each step have been developed, however a standard operating procedure has not. The Assistant County Administrator of Administration will work with the Contract and Procurement Coordinator as well as the Grant Manager to establish these written procedures.

5. It is a good time to reevaluate imposing liquidated damages (LDs) on those contractors who are unable to complete the project as estimated. IC staff will work closely with the engineer of record to get the most accurate days for substantially and fully complete to assess LDs. IC staff will communicate with the county's designated project manager or engineer of record to determine if the contractor is close to exhausting the contracted days. The project manager and/or the engineer of record are responsible for determining if delays are out of the contractor's control or they are due to the contractor's negligence. If delays are out of the contractor's control, the project manager will initiate the change order process. If it is determined that the contractor is negligent, the county will impose LDs. Staff will identify the process to impose LDs in the written standard operating procedures (Item #4).
6. IC staff conferred with legal counsel regarding updated language for payment and performance bond requirements. Legal counsel provided updated language and it is identified in the Intent and General Information Appendix B - DRAFT AGREEMENT in each bid solicitation. The same language is in the contract sent to the awarded contractor. This language is a departure from how Wakulla County has been processing payment and performance bonds so staff will announce this change during the pre-commencement meeting as well as provide a memo outlining the requirement to record and provide a certified copy of the payment and performance bids along with the other contract documents.
7. Please see Item #6. Additionally, IC staff contacted legal counsel and were advised the contractor will need to amend and re-record their bond if the project's original cost is increased by a change order. It is the contractor's discretion to amend the performance and payments bonds and re-record them if there was a deductive change order.
8. IC staff will review F.S. 255 and 2 CFR 200 as recommended to ensure any changes made are reflected in the current Procurement Policy and Standard Operating Procedures.

End of Report