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MICHAEL POST, CPA, CIA
HARRIS COUNTY AUDITOR

November 10, 2023

Dear Dr. Tina Petersen:

The Harris County Auditor's Office – Internal Audit Division has completed an audit of the Harris County Flood Control District's (Flood Control District) Professional Services Exemption process. The results of our audit are included in the attached report.

We appreciate the time and attention provided by your team. They will receive an email request to complete our Post Engagement Survey. We look forward to the feedback. If you have any questions, please contact me or Errika Perkins, Chief Assistant County Auditor, 713-274-5673.

Sincerely,

A handwritten signature in blue ink that reads "Michael Post".

Michael Post
County Auditor

Report Copies:

District Judges
County Judge Lina Hidalgo
Commissioners:
Lesley Briones
Rodney Ellis
Adrian Garcia
Tom Ramsey

Christian Menefee
Diana Ramirez
Bruce Haupt
Anthony Bacarisse



INTERNAL AUDIT REPORT
**FLOOD CONTROL DISTRICT PROFESSIONAL
SERVICES EXEMPTION AUDIT**

NOVEMBER 10, 2023

Executive Summary

OVERALL CONCLUSION

Internal controls over the professional services exemption process within the Flood Control District are generally effective. However, an opportunity was identified to improve documentation for the Flood Control District's vendor selection process, related to Texas Government Code 2254.004 (Subchapter A). An additional opportunity was identified to strengthen internal controls for conflict of interest (COI) certifications to comply with Texas Local Government Code Chapter 176. The issues were discussed with the Flood Control District, and management action plans were developed to address the issues by March 1, 2024.

SCOPE AND OBJECTIVE

The scope of the audit covered the period of January 1, 2022, to December 31, 2022. The objective was to evaluate the design and effectiveness of controls over procurement exemptions for professional services greater than \$50,000 to:

- Determine compliance with Texas Government Code Chapter 2254.004 and Texas Local Government Code Chapter 176,
- Compare Flood Control District's professional service procurement procedures to the Harris County (County) Procurement Policy and procurement best practices, and
- Validate that the Flood Control District's is using certified MWBE vendors.

SUMMARY OF AUDIT ISSUES

- While the Flood Control District maintains a qualifications-based selection process, it does not require Procurement Selection Committee members to document and retain scoring of the most qualified bidder.
- Testing of 13 Procurement Selection Committee members' conflict of interest (COI) certifications identified 10 that were over a year old and 2 that did not have the certification on file.

The audit issues, management's action plans to address the issues, and background information regarding this audit are discussed in more detail on the following pages.

AUDIT ISSUES

ISSUE 1: Procurement Selection Committee Members Are Not Documenting Scoring Of Most Qualified Bidder [HIGH]

What is the Issue: The Flood Control District does not require Procurement Selection Committee members to document and retain scoring of the most qualified bidder.

Why it Happened: While the Procurement Policy of the County approved by Commissioners Court in 2022 provides detailed guidance on the evaluation and scoring of proposals, the Policy states that the Flood Control District, along with the Office of County Engineering and Harris County Toll Road Authority/Harris County Toll Road Corporation can “administer their own procedures or may request the County Purchasing Agent’s Office (Purchasing Office) administer the Request for Qualifications (RFQ) process” because of a 1977 Commissioners Court order separating the professional service procurement process. Specific guidance on procedures were not embedded in the 1977 Commissioners Court order.

Why it Matters: Maintaining documentation of the scoring of vendors for professional services contracts provides transparency on the merit of a technical proposal or statement of qualification with respect to the evaluation and justification for selecting a vendor.

What is Expected: Per the Texas Government Code §2254.004 (a), “In procuring architectural, engineering, or land surveying services, a governmental entity shall: (1) first select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications; and (2) then attempt to negotiate with that provider a contract at a fair and reasonable price. (b) If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land surveying services, the entity shall: (1) formally end negotiations with that provider; (2) select the next most highly qualified provider; and (3) attempt to negotiate a contract with that provider at a fair and reasonable price. (c) The entity shall continue the process described in Subsection (b) to select and negotiate with providers until a contract is entered into.”

Departments conducting procurements independent of the County’s Purchasing Office should develop procedures to strengthen documentation and internal controls related to Texas Government Code §2254.004 (Subchapter A). Evidence of compliance with this statute should be retained by the department.

What Action(s) are Suggested: The Flood Control District should develop procedures to document the selection of the most highly qualified professional service vendor. Training and monitoring of vendor selection expectations should be included in the procedure.

Management should consider adopting procedures that are aligned with the County’s Procurement Policy to facilitate consistency and minimize the administrative effort of new procedures.



MANAGEMENT'S ACTION PLAN

Responsible Party: Bruce Haupt, Ph.D., Chief Finance & Administration Officer

The Harris County Flood Control District (HCFCD) maintains a qualifications-based selection process for Professional Services. Of note, while the audit identified an opportunity to strengthen documentation for evaluation, scoring, and selection processes, there was no evidence of non-compliance with Texas Government Code §2254.004 (Subchapter A).

The HCFCD's qualifications-based selection process involves the maintenance of a supplier registry for firms providing relevant professional services. When services are required, District staff review the qualifications of active, eligible firms in the registry to identify the most highly qualified firms.

The criteria for selecting the most qualified firms includes:

- Demonstrated competence and qualifications to perform the services
- Capacity of proposed resources to execute the project
- Past performance

With new leadership at the Harris County Flood Control District in 2022, the District identified opportunities to improve its professional services procurement processes and has a range of initiatives underway. This includes:

- Forming a centralized Procurement Department in early 2023 to oversee and manage procurement processes, and develop and maintain standards and documentation.
- Contracting a specialized consultant in August 2023 to process map and document the invitation to bid (ITB), request for proposal (RFP), request for qualifications (RFQ), and Professional Services procurement processes, including the development of a manual for each process, Standard Operating Procedures (SOPs), and checklists that will provide an opportunity to strengthen internal documentation as well as streamline processes (targeting quality, reduced variability, etc.)
- Continuing the implementation of the District's "Unifier" application, which provides workflow and review processes for the management of the District's substantial portfolio of projects, including engineering agreements and construction contracts.

Relevant to this audit issue, the District is currently redesigning the HCFCD qualifications-based selection process as part of its broader effort to improvement procurement processes (in alignment with the Procurement Policy of Harris County and peer agency policies and processes). This will include:

1. Review and improvement of HCFCD supplier registry processes and database
2. Review and improvement of Standard Operating Procedures (SOPs) and documentation for screening, identifying, and recommending a most qualified vendor (to include certification that involved staff have no Conflict of Information)

The District will have plans and documentation prepared by March 1, 2024, and implementation of new processes by August 1, 2024.



Due Dates:

March 1, 2024 – Follow-up to align on completion of all plans and documentation for redesigned qualifications-based selection process for professional services and deployment of new RFQ process.

August 1, 2024 – Follow-up on implementation of new policies and processes.



ISSUE 2: Untimely Conflict of Interest Certifications [MODERATE]

What is the Issue: Testing of 13 Procurement Selection Committee members' conflict of interest certifications identified 10 that were over a year old and 2 that did not have the certification on file. In addition, the current COI process does not account for new conflicts that may be introduced with new vendors.

Why it Happened: The Commissioners Court-approved Procurement Policy of the County states that the Flood Control District can “administer their own procedures or may request the County Purchasing Agent’s Office (Purchasing Office) administer the Request for Qualifications (RFQ) process” because of a 1977 Commissioners Court order separating the professional service procurement process.

The County's Procurement Policy requires all Evaluation Committee members to complete a COI certification to evaluate proposals or vendor statements of qualifications in accordance with the written criteria supplied in a solicitation document.

Why it Matters: Failure to have timely COI certifications increases the risk that the Procurement Selection Committee may fail to account for new conflicts of interest when making vendor selections. Credibility and public confidence are vital throughout the procurement process and require processes that reduce real or apparent COI.

What is Expected: Texas Local Government Code 176.001 - 176.003 defines a local government officer as an agent of a local government entity who exercises discretion in the planning, recommending, selecting, or contracting of a vendor and requires these officers to file a conflicts disclosure if a contract has been executed with the vendor or the local government is considering entering into a contract.

What Action(s) are Suggested: A COI procedure should be developed to ensure Procurement Selection Committee members are required to complete a COI certification as new professional services vendors are contracted or considered for a contract. Training and monitoring of COI certification expectations should be included in the procedure.

Management should consider adopting procedures that are aligned with the County's Procurement Policy to facilitate consistency and minimize the administrative effort of new procedures.



MANAGEMENT'S ACTION PLAN

Responsible Party: Bruce Haupt, Ph.D., Chief Finance & Administration Officer

The Harris County Flood Control District (HCFCD) has an existing personnel policy that requires employees to notify their supervisor of any potential for conflict of interest. In addition, licensed engineers are required to disclose any potential conflicts of interest per the Texas Board of Professional Engineers and Land Surveyors Professional Conduct and Ethics requirements. However, to improve documentation related to conflict of interest, HCFCD will begin using a form to certify that there is no Conflict of Interest on all HCFCD managed professional services procurement processes.

These enhancements to District conflict of interest processes will be embedded into refreshed Personnel Guidelines, be included in refreshed HCFCD onboarding process, and be part of HCFCD professional services procurements.

Due Dates:

January 15, 2024 – Follow-up to align on all planned changes to Conflict of Interest processes.

August 1, 2024 – Follow-up on implementation of new policies and processes.



BACKGROUND

FLOOD CONTROL DISTRICT

The Flood Control District is a special purpose district created in 1937 by the Texas Legislature and governed by the County Commissioners Court. It was created in response to devastating floods that struck the region in 1929 and 1935. Funding for the Flood Control District is mainly provided by property taxes, federal and state grants, cost sharing agreements, and funding set aside by Commissioners Court.

The Flood Control District performs the procurements for professional services greater than \$50,000 independent of the Purchasing Office. The Purchasing Office procures the Flood Control District's professional services funded with federal dollars. The Flood Control District has an online professional services registry that accepts and maintains a registry of Architect-Engineer Qualifications (Standard Form 330). The Standard Form 330 assists the Flood Control District in assessing a firm's capabilities, its key personnel, and its relative experience. Each Standard Form 330 is required to include resumes of key personnel and the services each firm is qualified to perform.

The Flood Control District utilizes Unifier as their project management system for housing data, managing consultant agreements and engineering contracts and managing the workflow of projects. The system is used in addition to PeopleSoft/STARS for project initiation, requisitions, budgeting, etc.

HARRIS COUNTY'S PROCUREMENT PROCESS

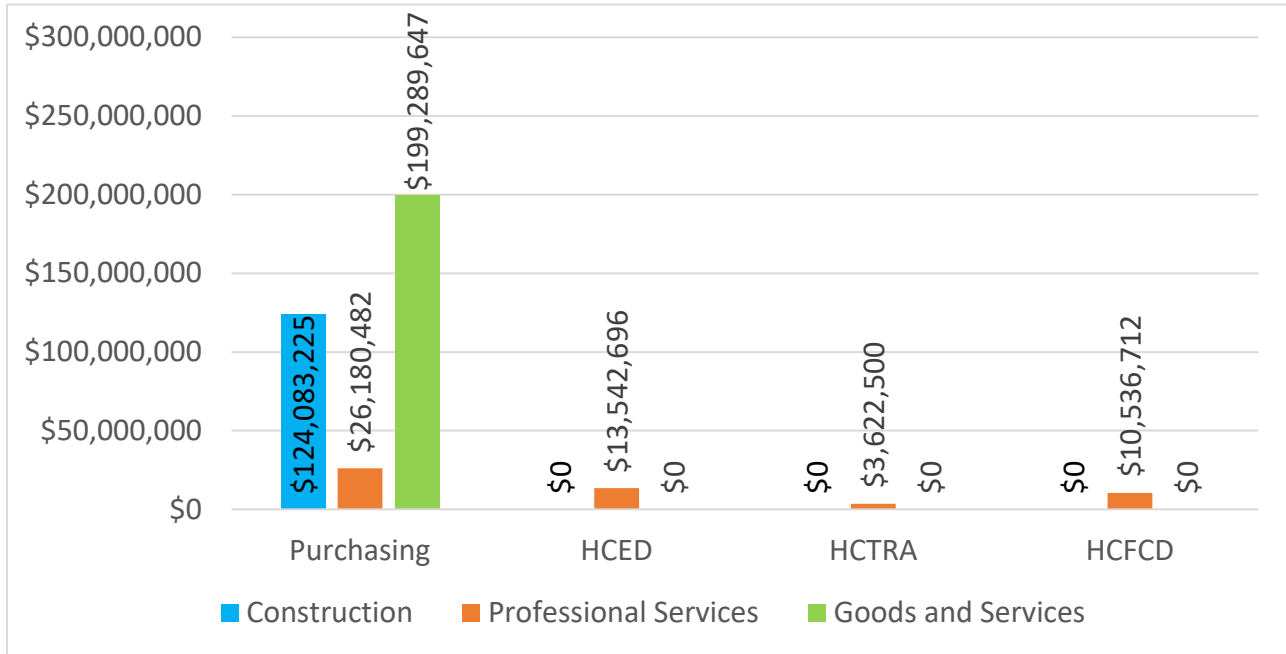
The Purchasing Agent is appointed by a board of 3 district judges and 2 commissioners as required by Texas Local Government Code Section 262.011. In 1977, Commissioners Court approved an order adopting a "Policy on Specifications to go Out for Sealed Bids (Policy)." The Policy stated the Purchasing Agent has the responsibility of writing specifications for all County items except construction, road construction and maintenance, and motorized equipment for Parks and Road and Bridge.

On January 4, 2022, Commissioners Court approved the Purchasing Agent's Procurement Policy of the County. The policy states, "The Office of County Engineering, Harris County Flood Control District, and Harris County Toll Road Authority/Harris County Toll Road Corporation also conduct RFQs and make recommendations to Commissioner Court for selection of Professional Services. Each division administers their own procedures or may request the Purchasing Office administer the RFQ process." The Procurement Policy requires all Evaluation Committee members to independently evaluate and score the proposals or statements of qualifications using only the evaluation factors that were published in the solicitation when selecting a vendor.

As a result of these departments procuring their professional services greater than \$50,000 independent of the Purchasing Office, there is currently no central tracking of the County's professional services. Tracking of these awards is determined by each department. **Figure 1** was manually compiled by the Department of Economic Equity and Opportunity (DEEO) and depicts the contracts awarded by each department from October 2022 – March 2023. Note: HCED stands for the County's Engineering Department. The Purchasing Office accounts for slightly less than 50% of total professional service procurements.



Figure 1: Procurement Types by Dept. Source: DEEO M/WBE Utilization FY23 Mid-Year Report



Professional Service Procurement Survey of other Counties

Internal Audit interviewed the five counties below and learned that Harris County is the only county that procure professional services independent of their Purchasing office. **Figure 2** below summarizes the responses from the five counties regarding the handling of professional services.

Figure 2: Procurement Benchmark Poll for Various Counties in Texas

	Harris County	Denton County	Tarrant County	Travis County	Bexar County	Collin County
Are professional services exemptions (RFQs/Engineer/Architect) required to go through the Purchasing Agent for procurement/supplier selection?	No	Yes	Yes	Yes	Yes	Yes
Are there any instances where procurement for professional services (RFQs/Engineer/Architect) is delegated to a County Department?	Yes	No	No	No	No	No
Can Commissioners choose which vendor they prefer?	Yes	No	No	No	Yes	No



ACCOUNTABILITY

We conducted our audit in accordance with the International Standards for the Professional Practice of Internal Auditing (Standards). The Standards require that we comply with the Code of Ethics and obtain reasonable assurance that significant risks to the activity are minimized to an acceptable level.

The engagement's scope did not include a detailed inspection of all transactions. There is a risk that fraud or errors were not detected during this engagement. Therefore, the official retains the responsibility for the accuracy and completeness of their financial records and for ensuring sufficient controls are in place to detect and prevent fraud, errors, or omissions.

