

DEKALB COUNTY GOVERNMENT
Purchasing and Contracting Department

FINAL REPORT



John L. Greene, CIA, CIG, CGAP, CGFM
Chief Audit Executive

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PURCHASING AND CONTRACTING AUDIT OF LOW BID PROCUREMENT PROCESS

What We Did

In accordance with the Office of Independent Internal Audit (OIIA) Audit Plan for fiscal year 2017, we conducted a performance audit of DeKalb County's Invitation to Bid (ITB) / formal "Low Bid" procurement process for goods and/or services with an estimated value of at least \$50,000. We examined a sample of 22 ITB files, totalling \$216 million in value, to assess compliance with the DeKalb County Purchasing Policy and applicable revision of Standard Operating Procedures (SOPs). Sampled ITBs reviewed, were either started or completed within the period from January 2015 to March 2017.

We reviewed the Federal Acquisition Regulations (FAR) and other Federal laws (the Code of Federal Regulations and US Codes), the Georgia Procurement Manual (GPM) and best practices from the National Institute of Governmental Procurement (NIGP) to identify opportunities to improve the effectiveness and efficiency of the Low Bid procurement process.

What We Found

We found that Purchasing and Contracting Department (P&C) has policies and procedures in place for the ITB process including procedures for solicitation development, advertising, bid submission, bid evaluation and award, and required approval thresholds.

We requested and were not provided with evidence to verify the completion of key required ITB activities for the sampled ITB files, such as the:

- Request for goods and services by User Department (UD) (memorandum or requisition)
- Pre-solicitation meeting and certification or approval of bid solicitations by the UD
- Advertisement of bid solicitations in the Champion Newspaper (County Legal Organ)
- Evaluation of bids for responsiveness and responsibility
- Approval of agenda item(s), ITB greater than \$100,000 by Board of Commissioners (BOC)
- Issuance of Notice to Proceed (NTP)

The user department's role and responsibility in the evaluation of vendor responsiveness and responsibility was not clearly understood by the selected UD's.

In addition, the County Purchasing Policy does not state the UD's role or responsibilities in the procurement process¹ as it relates to the ITB process.

What We Recommend

We recommend that the Chief Procurement Officer (CPO) of the P&C department should ensure:

1) Appropriate ITB related documentation is generated/obtained and maintained to help demonstrate that all key activities of the ITB procurement process were performed and compliant with stated policies and procedures; support contract close out processes, record retention requirements, open records requests and facilitate the resolution of potential bid protests. Examples of improvement strategies include but are not limited to the following:

- a) Incorporate a tracking mechanism/notation to indicate the temporary location of any relevant contract data not currently in the contract file and the name of the team/person in custody of the document
- b) Ensure sufficient documentation is maintained to demonstrate the evaluation of responsiveness and responsibility of bidders. This should include a summary of steps taken, all supporting documentation, a conclusion and justification for deeming a bidder non-responsive and/or not responsible. The documentation should clearly indicate the names/signatures of P&C and UD personnel that performed and approved the evaluation. Also, where the deemed responsibility and responsiveness of bidders and recommended vendor for selection by P&C is different from that of the UD, a justification should be provided with appropriate support.
- c) Ensure that sufficient evidence is maintained to demonstrate participation and collaboration with all key stakeholders/parties (e.g. Legal, Finance) and evidence of appropriate review and approval of ITBs by P&C and UD prior to advertisement. Examples of evidence of approval include but is not limited to physical signature, electronic signatures or e-mail communication(s).

2) Ensure the evaluation of vendor responsibility includes a check of the vendor's financial status/credit worthiness. In addition, consideration can be given to requiring proof of tax compliance status, etc.

3) P&C should update current Purchasing Policy and March 2017 Procedures Manual to ensure it reflects practiced exceptions to documented policy and procedures. P&C should first review current undocumented exemptions to determine if consistent with establish better practices.

4) Ensure that NTPs are issued for all contracts, agreements and purchase orders as per the County Purchasing Policy and Purchasing Procedures Manual. Consider modifying the existing purchasing policy to allow for an exception where the contract specifies a specific service performance start and end date.

¹ Clarification of roles and responsibilities of procurement stakeholders was also identified as an area needing improvement in our previous audit report# 2017-008-PC on the DeKalb County Purchasing Policy.

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BACKGROUND AND INTRODUCTION

The DeKalb County Department of Purchasing and Contracting (P&C) is responsible for establishing, implementing, and enforcing all purchasing procedures in accordance with Georgia law and the County policy. The CPO is responsible for the administration of all transactions governed by the County's purchasing policy and serves as the principal procurement officer of the County. The County utilizes various procurement methods to acquire goods and services including Competitive Sealed Bidding, which involves the formal advertising and issuance of an ITB for procurements with an estimated cost in excess of \$50,000. It allows qualified/responsible, responsive bidders to compete on the basis of price. P&C recommends sealed bids/vendors for award by appropriate parties, based on the lowest priced bid, most responsible and responsive bidder.

County procurement activities, including the competitive sealed bidding/low bid, are governed primarily by the Purchasing Policy dated August 6, 2014 and the Purchasing and Contracting SOPs, including:

- Purchasing Division SOPs, January 2009
- Contract Administration Division SOPs, January 2009
- Procedures Manual, dated May 2015, supersedes all prior SOPs
- The Procedures Manual was last revised March 2017

In addition to the SOPs revisions, P&C department underwent a major reorganization in 2014, which impacted how procurements were executed. The structure is now team based: Team A, Team B, Team C and Team (CIP) Capital Improvement Program, each focuses on procurements for different client departments. Prior to the reorganization, the P&C department was comprised of four divisions: Purchasing, Contracts, Compliance and Administration.

The key stages of an ITB procurement are generally consistent among the January 2009 SOPs and the revised May 2015 Procedures Manual. In addition, the naming conventions for some documents and specific steps used to complete key ITB stages may be different. Differences noted between both versions are highlighted as necessary throughout this report.

The diagram on the following page outlines some of the key stages of the ITB process.

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The following is a summary² description of the key Invitation to Bid (ITB) stages and relevant Standard Operating Procedures (SOPs) we used to evaluate the 22 sampled ITBs.

1. **Request for Goods/Services** – Typically, a request for initial goods and services is made by the UD. The January 2009 SOPs indicates that “if the request is a repetitive purchase or the bid is an annual agreement, the Purchasing Division Administrative Assistant prepares a review copy of the current bid for the buyer at least sixty (60) days prior to bid expiration. The buyer evaluates the current bid.” The 2015 Procedures Manual, however, does not address how repetitive or annual agreements are handled or initiated. It was confirmed through email by P&C that annual agreements are currently initiated by P&C.
2. **Pre-Solicitation Meeting/Solicitation Development** – Requirements for a pre-solicitation meeting are outlined in both the 2009 SOP and May 2015 Procedures Manual.

² The summary is not intended to be all-inclusive, please refer to the complete 2009 and 2015 SOPs versions

- The 2009 and 2015 SOPs indicates that the buyer (P&C) initiates the pre-solicitation meeting to review specifications. The 2015 SOPs provides a “pre-solicitation checklist” to be used as a guide to make sure vital information needed to complete the bid is covered in the meeting (i.e. funding source and contact person)
 - The 2009 SOP noted the invitees include the requisition preparer, specification analyst, project managers and departmental contract facilitators
 - Within both SOPs a draft ITB is sent to the UD to be finalized (2009) and for final approval (2015)
 - In the 2009 SOP, the UD is required to submit a final package with a memorandum from the UD Director certifying staff reviewed the documents (draft ITB and specifications) and ensures they comply with County standard requirements. In the May 2015 Procedures Manual, P&C staff receives written approval of the bid solicitation from the UD
3. **ITB Advertised** – ITB is publicly advertised in the Champion Newspaper, P&C website and other e-solicitation sites as necessary. Per the 2009 SOP, only advertisements signed by the P&C director can be forwarded for publication. The 2015 Procedures Manual addresses the preparation of an advertising report, which contains information for publication in the Champion Newspaper. In addition, the May 2015 Procedures Manual states a market research is conducted to increase potential bidders’ submission.
4. **Bid Submission and Opening** – Bids should be submitted by a specific date and time. Submitted bids are opened on a designated time and date. Per the May 2015 Procedures Manual, Market Surveys are completed if the five bid minimum requirement is not met.
5. **Bid Evaluation** – Once bids were opened, they are evaluated for responsiveness and responsibility. Responsiveness is evaluated to ensure the lowest bidder met specified requirements. Responsibility is evaluated to determine whether bidders were capable of performing the work or supplying the product. Per the May 2015 Procedures Manual, P&C was required to verify if bidders were debarred or suspended via the Federal Government’s website (<https://www.sam.gov>). Additionally, Certificate of Insurance, Prime, and LSBE Sub-Contractor Agreements were obtained from the proposed bidder.
6. **Award Notice** – Based upon the 2009 SOP, written notice of award letters for annual contracts are issued when the cost of the procurement is \$100,000 or less. Board of Commissioner (BOC) approval is required when the cost of the procurement exceeds \$100,000. The Director of Purchasing & Contracting is authorized to award contracts for expenditures up to and including \$100,000. If the BOC approves the item, the Contract Administrator prepares a Notice of Award. Thereafter, the Director of P&C or a designee signs the award letter.

After the bid is awarded, an informational meeting is scheduled. At that time, the contract is discussed with the successful bidder, including insurance requirements, bonds (if applicable) and the required signed contract return date. The contract is then prepared for the Chief Executive Officer’s signature (Pink Route Slip).

In the May 2015 Procedures Manual, an in-house award is completed and approved by the P&C Director for awards \$100,000 and under or an agenda item is submitted for BOC approval when awards exceed \$100,000. Upon BOC approval, the agent obtains a signed copy and BOC summary notes.

7. **Notice to Proceed (NTP)** – Per the 2009 SOP, the Contract Administrator prepares the Notice to Proceed. A kick-off meeting is scheduled after the executed contract is received and the signed NTP is ready for distribution.

Per the May 2015 Procedures Manual, a NTP meeting is held and relevant topics are discussed. In addition, a NTP packet is prepared, which contains the following forms: NTP letter, award letter and bid submission (contract), accounts payable information sheet and Supplier Rating form.

AUDIT RESULTS

P&C has documented policies and procedures in place for the ITB process including procedures for solicitation development, advertising, bid submission, bid evaluation, award and required approval thresholds. We randomly selected a sample of 22 ITBs with a combined value of over \$216 million awarded during the period January 2015 through March 2017. We examined the sample ITBs and related documents to determine if key stages/activities were performed as per relevant 2009 SOPs (applicable to eight sampled ITBs) and/or May 2015 Procedures Manual (applicable to 14 sampled ITBs). Based on our examination, we were unable to obtain sufficient evidence/documentation to confirm the completion of all key stages for each sampled ITB. We also identified a control deficiency relating to unclear roles and responsibilities.

Our findings and corresponding recommendations outlined below will support P&C in achieving its objectives in continued improvement of the ITB process.

In addition, our engagement identified some better practices for consideration in improving the efficiency and effectiveness of the ITB process (Appendix IV).

FINDING 1 – Insufficient Documentation to Verify Performance of Key ITB Activities/ Compliance with Policies and Procedures

Objective: To assess compliance of Low Bid procurement process with the DeKalb County Purchasing Policy and Procedures.

Criteria: The following 2009 SOPs were used to execute specific steps in the procurement process for items evaluated before May 2015: P&C SOP chapter 6 (Purchasing Division) and chapter 7 (Contract Administration Division). The May 2015 Purchasing & Contracting Procedures Manual, section 4.0, 4.1, 4.2, 4.3, 5.0, 5.1, 5.2 and 5.3 stipulate how specific activities related to the ITB process should be executed for ITBs initiated from May 2015 to March 2017.

Condition: Based on our examination of 22 completed ITB contract files, we were not provided with sufficient evidence to confirm completion of all required key activities for sampled ITBs examined.

The table on the next page shows the number of instances where sufficient documentation was either not maintained in the ITB file **or** not provided upon request to support key ITB activities. In addition, the table highlights the applicable section of the 2009 SOP or May 2015 Procedures Manual.

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Key ITB Activities – Conditions Observed	# of ITB files examined <u>without adequate support</u> for activity.	2009 SOPs / 2015 Procedures Manual Reference
<p>1. Request for Goods/Services</p> <ul style="list-style-type: none"> 19 ITBs lacked documented evidence to support User Department’s initial request for goods and/or services P&C advised that requisitions/memorandum are not required when renewing an annual contract. These exceptions are not stated in past or current revisions of the Policy, SOP or procedures manual 	<p>7 out of 8 (2014)</p> <p>12 out of 14 (2015)</p>	<p>Page 7-chpt 7 (Jan 2009)</p> <p>Page 10-4.1(1)(May 2015)</p>
<p>2. Pre Solicitation Meeting/Solicitation Development</p> <ul style="list-style-type: none"> 16 ITBs had insufficient documentation (e.g. meeting minutes, pre-solicitation checklist -2015, etc) to confirm the occurrence of a pre-solicitation meeting and individuals in attendance OIIA was unable to substantiate P&C management’s review and oversight of the 22 ITB solicitation(s). In addition, OIIA did not obtain verification of written certification (2009) or approval (2015) by the User Department for final ITBs 	<p>5 out of 8 (2014)</p> <p>11 out of 14 (2015)</p> <p>8 out of 8 (2014)</p> <p>14 out of 14 (2015)</p>	<p>Page 65-66-chpt 6 (Jan 2009)</p> <p>Page 11-4.1 (3) (May 2015)</p>
<p>3. ITB Advertised</p> <ul style="list-style-type: none"> We were provided cut/tear sheets³ for 12 ITBs as support for advertisement but OIIA did not receive sufficient documentation on the remaining 10 ITBs to verify prior approval(s) and advertisement of solicitation(s) in the Champion Newspaper (County Legal Organ). In addition, we did not receive copies of the advertising reports applicable to the 2015 samples. 	<p>6 out of 8 (2014)</p> <p>4 out of 14 (2015)</p>	<p>Page 66-chpt 6 (Jan 2009)</p> <p>Page 11-4.1 (4) (May 2015)</p>
<p>4. Bid Submission and Opening</p> <ul style="list-style-type: none"> Sufficient documentation was not provided in 5 ITBs that verifies market survey(s) were performed when less than five bid solicitations were received (2015 only) 	<p>5 out of 10 (2015)</p>	<p>Page 12-4.1 (5)</p>
<p>5. Bid Evaluation</p> <p>Debarment or Suspension</p> <ul style="list-style-type: none"> 22 ITBs had insufficient documentation to determine if the Debarment or Suspension status of vendors was verified by P& C via the Federal Government’s website (https://www.sam.gov) <p>Responsibility and Responsiveness</p> <ul style="list-style-type: none"> Although documents (for example, contractor & subcontractor reference form, bid acknowledgement form, contractor & subcontractor affidavit, LSBE information, certifications, insurance and licenses) were observed in the sampled ITB contract files. Twenty-one (21 or 96%) of sampled ITBs had insufficient evidence (e.g. sign-offs and or summary of results of evaluation/checks) to demonstrate or verify actual review of documents/work performed by the agent to determine vendor responsibility and responsiveness. There was no indication that the <i>credit worthiness</i> of bidder was 	<p>8 out of 8 (2014)</p> <p>14 out of 14 (2015)</p> <p>7 out of 8 (2014)</p> <p>14 out of 14 (2015)</p>	<p>Page 74-chpt 6 (Jan 2009)</p> <p>Page 15-4.1 (7) (May 2015)</p>

³ Cut/tear sheets – a page cut or torn from a publication to prove to the client that the advertisement was published

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checked as part of the evaluation by the purchasing agent, as per the Purchasing Policy definition of a "Responsible" bidder		
<p>6. Award Notice - ITBs Greater Than \$100,000 Did Not Contain BOC Regular Meeting Summaries (Meeting Minutes) In The File</p> <ul style="list-style-type: none"> BOC Regular Meeting Summaries (meeting minutes), indicating approval, were not available in the file for 18 ITBs valued at greater than \$100,000. However, the files did contain either an agenda or an agenda affixed with the CPOs signature, BOC approval date and an ITB award notice. After further research, OIIA was able to verify the BOC approval for all 18 ITBs in DeKalb County's website (BOC Legistar system) 	<p>8 out of 8 (2014)</p> <p>10 out of 10 (2015)</p>	<p>Page 74-chpt 6 (Jan 2009)</p> <p>Page 15-4.1 (8) (May 2015)</p>
<p>7. Notice to Proceed</p> <ul style="list-style-type: none"> NTP documentation was not available on file or upon request for 12 of 22 ITBs. P&C management indicated that NTP documentation was not required for all items (e.g. one-time purchases and construction contracts). We were unable to verify these stated exception in the department's documented SOPs or Procedures Manual 	<p>4 out of 8 (2014)</p> <p>8 out of 14 (2015)</p>	<p>Page 13-Chpt 7 (Jan 2009)</p> <p>Page 17-4.1 (9) (May 2015)</p>

Cause: Based on our examination of files and interviews with the Purchasing and Contracting department personnel and the CPO, supporting information/documentation for ITB files could not be located/made available for the following reasons:

- Reorganization of Purchasing & Contracting Department in October 2014 through November 2015
- Information stored on work computer(s) of former employees work computer(s)
- Untimely filing of documentation by procurement agent (s)

Consequence: Failure to maintain documentation/evidence to support/verify that key ITB activities were performed, reviewed, and received the appropriate approval in a timely manner makes it difficult to assess whether key risks in the ITB process were mitigated, including but limited to the following:

- Request for Goods/Services
 - Requisition of service/goods may not have been properly authorized or approved by appropriate level(s) within user department prior to sending the request to P&C
 - Inability to adequately verify if the UD performed their due diligence in determining an *estimated* cost of services before initial requisition
- ITB Pre-solicitation/Solicitation Development meeting
 - Critical requirements may have been omitted or eliminated from draft solicitations
 - Key stakeholders may not have participated or engaged in the creation of the bid solicitation process
 - Adequate documentation or audit evidence may not exist to support the UD concerns or bid solicitation requirements
 - Solicitation may not have been approved (by UD and P&C – 2009) or reviewed by P&C management

3. ITB Advertised

- Bid may not have been properly advertised in County Legal Organ
- Solicitations may not have been properly approved or authorized by appropriate persons prior to advertisement

4. Bid Submission and Opening

- If market survey(s) (2015 Procedures Manual only) were not done where less than five bids received, reasons for low bids may not have been timely identified

5. Bid Evaluation

- The County may engage in contractual agreement with vendors that are excluded from or ineligible to participate in Federal, State and County assistance programs or activities
- The vendor may not possess the ethical standard(s), financial status, capability, experience and credit worthiness to ensure good faith performance

6. Award Notice - ITBs Greater Than \$100,000 Did Not Contain BOC Regular Meeting Summaries (Meeting Minutes) In The File

- Not maintaining the BOC Summaries on file, may make it difficult to verify that the appropriate BOC approval (s) were obtained prior to award of ITBs

7. Notice to Proceed

- No documented evidence of communication of notice to proceed to vendor may make it difficult to determine the agreed upon contract start date, if contract was completed in a timely manner and any applicable liquidated damages

8. Other Impacts

- Insufficient information in the file or not available upon request will not allow an independent reviewer to determine if all key stages of ITB were performed adequately, in timely manner and with appropriate approvals
- In the event of a lawsuit or protest, requested contract files /supporting documents may not be readily available for review and to demonstrate that County complied with the prescribed process
- Inability to fully comply with Open Records Act Requests, if requested documents are not available

Recommendation:

We recommend that the Chief Procurement Officer (CPO) of the P&C department should ensure:

1) Appropriate ITB related documentation is generated/obtained and maintained to help demonstrate that all key activities of the ITB procurement process were performed and compliant with stated policies and procedures; support contract close out processes, record retention requirements, open records requests and facilitate the resolution of potential bid protests. Examples of improvement strategies include but are not limited to the following:

- a) Incorporate a tracking mechanism/notation to indicate the temporary location of any relevant contract data not currently in the contract file and the name of the team/person in custody of the document
 - b) Ensure sufficient documentation is maintained to demonstrate the evaluation of responsiveness and responsibility of bidders. This should include a summary of steps taken, all supporting documentation, a conclusion and justification for deeming a bidder non-responsive and/or not responsible. The documentation should clearly indicate the names/signatures of P&C and UD personnel that performed and approved the evaluation. Also, where the deemed responsibility and responsiveness of bidders and recommended vendor for selection by P&C is different from that of the UD, a justification should be provided with appropriate support.
 - c) Ensure that sufficient evidence is maintained to demonstrate participation and collaboration with all key stakeholders/parties (e.g. Legal, Finance) and evidence of appropriate review and approval of ITBs by P&C and UD prior to advertisement. Examples of evidence of approval include but is not limited to physical signature, electronic signatures or e-mail communication(s).
- 2) Ensure the evaluation of vendor responsibility includes a check of the vendor's financial status/credit worthiness. In addition, consideration can be given to requiring proof of tax compliance status, etc.
- 3) P&C should update current Purchasing Policy and March 2017 Procedures Manual to ensure it reflects practiced exceptions to documented policy and procedures. P&C should first review current undocumented exemptions to determine if consistent with establish better practices.
- 4) Ensure that NTPs are issued for all contracts, agreements and purchase orders as per the County Purchasing Policy and Purchasing Procedures Manual. Consider modifying the existing purchasing policy to allow for an exception where the contract specifies a specific service performance start and end date.

FINDING 2 – The User Department Role and Responsibilities in the Bid Evaluation Process Needs to be Clarified

Objective: To determine if control weaknesses exist within the Low Bid procurement process in regards to the bid evaluation activity.

Criteria: Purchasing policy and procedures should clearly define the roles and responsibilities of all stakeholders involved in the procurement process, including procurement agents, contract inspectors, and user departments.

Condition: In addition to P&C, the UD also participates in determining the responsibility and responsiveness of bidders. P&C staff submits a document of memorandum to user department(s), requesting them to evaluate solicitations for responsiveness, responsibility and to provide justification for recommended vendor. Per discussion with UD personnel from sampled ITBs, it was noted that guidelines for the evaluation process could be made clearer. While the terms “responsibility” and “responsiveness” are defined in the Purchasing Policy, the selected UD’s commented that the terms were not clearly understood. OIIA examined selected memorandums and observed that the terms “responsibility” and “responsiveness” were not consistently explained.

Cause: P&C Purchasing policy does not define or state the UD’s role and responsibilities in the procurement process, including the ITB process⁴. The memorandum provided to UD’s does not outline minimum guidelines for evaluating responsiveness and responsibility of vendors.

Consequence: As a result, we found that there were inconsistent approaches in how evaluation (s) were performed within a department and across separate departments.

Recommendation:

The CPO should work with the CEO and BOC to ensure that the roles and responsibilities of all key stakeholders, including the UD, are clearly defined in any revised Purchasing Policy and/or ordinance. The CPO should provide minimum guidelines, in the memorandum provided to UD, on determining responsiveness and responsibility of vendor(s), for example, minimum number of reference checks, suggested questions/areas to ask vendor references. In addition, consideration should be given to consistently restating the definition (or referencing the location of definitions in Purchasing Policy) of responsiveness and responsibility within the body of the memorandum submitted to the UD.

ADDITIONAL ITEMS FOR YOUR CONSIDERATION:

Conflict of Interest

“The procurement professional should avoid any actions, relationships, or business transactions that conflict with the lawful interests of the employer or otherwise create conflicts of interests that taint the procurement process and the reputation of the state entity and the state of Georgia.”⁵

All County employees sign a general conflict of interest declaration during commencement of employment. In addition, all RFP evaluation committee members are required to disclose any conflict of interest and commit to confidentiality request when participating in a Request for Proposal (RFP) procurement. However, employees who managed ITB procurements, including performing evaluation of bid solicitations are not required to disclose potential conflicts of interest or confidentiality prior to the evaluation of ITB bids received.

Not determining the potential or actual conflict of interests prior to the evaluation of ITB bids could result in an actual or perceived bias in the ITB procurement favoring specific bidder(s).

The CPO should consider implementing a process, for example a Conflict of Declaration form, to identify if P&C employees and or user department personnel have any potential or real conflict of interest prior to evaluation of bids received. Consequently, if a potential conflict or appearance of conflict of interest exist, employees should seek guidance from appropriate County personnel, such as the Ethics officer.

⁴ Clarification of roles and responsibilities of procurement stakeholders was also identified as an area needing improvement in our previous audit report# 2017-008-PC on the DeKalb County Purchasing Policy.

⁵ [Georgia Procurement Manual \(GPM\)](#) - 1.4.4.5. Avoiding Conflicts of Interest

APPENDIX

Appendix I – Purpose, Scope and Methodology

Purpose

The purpose of this engagement was to:

- Assess compliance of Low Bid procurements with DeKalb County's purchasing and contracting policies and procedures
- Identify opportunities to strengthen the effectiveness and efficiency of the Low Bid procurement process

Scope and Methodology

The scope of this engagement is to examine documentation relative to the Low Bid procurement process from January 1, 2015 to March 31, 2017.

The methodology included, but was not limited to the following:

- Reviewing DeKalb County's policies and procedures surrounding the Low Bid, ITB process
- Consideration of relevant Georgia's statutes, laws, rules and regulations
- Interviewing appropriate County personnel and external parties
- Research of related best practices
- Reviewing applicable documentation and information

Appendix II – Management Response



May 4, 2018

MEMORANDUM

TO: John L. Greene, Chief Audit Executive
FROM: Talisa R. Clark, Chief Procurement Officer *Talisa R. Clark*
SUBJECT: Audit of the Low Bid Procurements-Audit Report No 2017-004-PC

This memorandum will serve as the official response of the audit conducted on March 5, 2018 of the Department of Purchasing and Contracting (P&C) Low Bid Procurements. After a thorough review of the audit report regarding Low Bid Procurements, P&C responds as follows:

1. **Finding:** Insufficient Documentation to Verify Performance of Key ITB Activities/Compliance with Policies and Procedures

Recommendation: P&C should:

- 1) Appropriate ITB related documentation is generated/obtained and maintained to help demonstrate that all key activities of the ITB procurement process were performed and compliant with stated policies and procedures; support contract close out processes, record retention requirements, open records requests and facilitate the resolution of potential bid protests. Examples of improvement strategies include but are not limited to the following:
 - a) Incorporate a tracking mechanism/notation to indicate the temporary location of any relevant contract data not currently in the contract file and the name of the team/person in custody of the document
 - b) Ensure sufficient documentation is maintained to demonstrate the evaluation of responsiveness and responsibility of bidders. This should include a summary of steps taken, all supporting documentation, a conclusion and justification for deeming a bidder non-responsive and/or not responsible. The documentation should clearly indicate the names/signatures of P&C and UD personnel that performed and approved the evaluation. In addition, where the deemed responsibility and responsiveness of bidders and recommended vendor for selection by P&C is different from that of the UD, a justification should be provided with appropriate support.
 - c) Ensure that sufficient evidence is maintained to demonstrate participation and collaboration with all key stakeholders/parties (e.g. Legal, Finance) and evidence of appropriate review and approval of ITBs by P&C and UD prior to advertisement. Examples of evidence of approval include but are not limited to physical signature, electronic signatures or e-mail communication(s).
- 2) Ensure the evaluation of vendor responsibility includes a check of the vendor's financial status/credit worthiness. In addition, consideration can be given to requiring proof of tax compliance status, etc.
- 3) P&C should update current Purchasing Policy and March 2017 Procedures Manual to ensure it reflects practiced exceptions to documented policy and procedures. P&C should first review current undocumented exemptions to determine if consistent with establish better practices.
- 4) Ensure that NTPs are issued for all contracts, agreements and purchase orders as per the County Purchasing Policy and Purchasing Procedures Manual. Consider modifying the existing purchasing policy to allow for an exception where the contract specifies a specific service performance start and end date.

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Management Response: Many of the low bid Invitation To Bid solicitations used in the Auditor's example was procured prior to the current Chief Procurement Officer's (CPO) appointment. Since this time, the CPO has made improvements to ensure the following:

1. Central online y-drive project file system for each Procurement Team
2. Retooling of centralized filing system of all County contracts
3. Monitoring, maintaining and tracking of contracts' files by Special Projects Team
4. Creation of new checklist forms and revision to existing forms utilized in the solicitation process

The recommendation request form indicates the role of the user department for the evaluation of vendor responsibility. In addition, P&C conducts monthly meetings with user departments and communicates this responsibility.

Procurement Managers are required to review procurement files to ensure that staff is completing all required procedural steps and manage/train staff when necessary. Purchasing staff has been instructed to complete contract file close-out.

P&C is in the process of addressing inconsistency between the policy and procedures manual through the development of a purchasing ordinance.

The purchasing procedures manual is currently being updated to include this process.

2. **Finding:** The User Department Role and Responsibilities in the Bid Evaluation Process Needs to be Clarified

Recommendation: The CPO should work with the CEO and BOC to ensure that the roles and responsibilities of all key stakeholders, including the UD, are clearly defined in any revised Purchasing Policy and/or ordinance. The CPO should provide minimum guidelines, in the memorandum provided to UD, on determining responsiveness and responsibility of vendor(s), for example, minimum number of reference checks, suggested questions/areas to ask vendor references. In addition, consideration should be given to consistently restating the definition (or referencing the location of definitions in Purchasing Policy) of responsiveness and responsibility within the body of the memorandum submitted to the UD.

Management Response: P&C is in the process of addressing inconsistency between the purchasing policy and procedures manual through the development of a purchasing ordinance. The Auditor's recommendations will be addressed during this process.

Please do not hesitate to contact me with any questions or need for additional documentation.

cc: Michael L. Thurmond, Chief Executive Officer
La'Keitha Carlos, Chief of Staff, CEO

Appendix III – Definitions and Abbreviations

Key Definitions

Responsive Bidder: A person who has submitted a bid or proposal that conforms in all material respects to the requirements set forth in the invitation to bids or request for proposals.

Responsible Bidder: A person who has the capability in all respects to perform fully the contract requirements, and the experience, reliability, capacity, facilities, equipment and credit, which will assure good faith performance⁶.

⁶ DeKalb County Purchasing policy - August 6, 2014, page 38

Appendix IV – Better Practices Identified for Invitation To Bids

Criteria/Better Practice	Reference/Sources
<p>Cost Estimates</p> <p><u>Criteria:</u></p> <p>It is important to estimate the expected cost of goods and services for the following reasons:</p> <ol style="list-style-type: none"> 1. Preliminary cost estimates will assist stakeholders in determining whether the needed goods or services are likely to be obtained within the entity’s budget or if an alternative procurement strategy will be necessary 2. Estimating the expected cost of the needed goods or services is required to determine whether the entity possesses sufficient purchasing authority to conduct the type of competitive solicitation¹ <p><u>County Practice:</u></p> <p>Currently Budgeted/Estimated Costs are not confirmed or verified by P&C staff for ITBs. In addition, documentation to support analysis/make up of total cost is not forwarded to P&C.</p>	<ol style="list-style-type: none"> 1. Section 2.2.3.4. of GPM
<p>Responsive and Responsible Bids and Proposals</p> <p><u>Criteria:</u></p> <ul style="list-style-type: none"> • The NIGP prescribes guidance for the selection criteria by which the resulting bids or proposals will be evaluated. One portion of the criteria is the determination of responsiveness and responsible bids and proposals ¹ • O.C.G.A. Title 36 Chapter 91 Article 23 specifies that for Invitation to Bids and Request for Proposals, no responsible bidder shall be disqualified or denied prequalification based upon a lack of previous experience with a job of the size for which the bid or proposal is being sought if the: <ul style="list-style-type: none"> ✓ Bid or proposal is not more than 30 percent greater in scope or cost from the responsible bidder's previous experience in jobs ✓ Responsible bidder has experience in performing the work for which bids or proposals are sought 	<ol style="list-style-type: none"> 1. Principles and Practices of Public Procurement- “Developing Evaluation Criteria” <i>NIGP</i> http://engage.nigp.org/acton/attachment/24793/f-01c9/1/-/-/-/-/DevelopingEvaluationCriteria.pdf 2. O.C.G.A. Title 36 Chapter 91 Article 23

<p>✓ Responsible bidder is capable of being bonded by a surety which meets the qualifications of the bid documents for a bid bond, a performance bond, and a payment bond as required for the scope of the work for which the bid or proposal is being sought ²</p> <p><u>County Purchasing Policy:</u></p> <ul style="list-style-type: none"> • The County policy does address responsive and responsible bids and proposals and provides examples of disqualifications for bids or proposal such as: <ul style="list-style-type: none"> ✓ Submitted without required bonds ✓ Incomplete in material and fact ✓ By entities on the Ineligible Source List ✓ Violating ethics rules • However, the County policy needs revision to detail the specific criteria pertaining to responsiveness and responsibility 	
<p>Roles and Responsibilities</p> <p><u>Criteria:</u></p> <p>The NIGP specifies that a procurement manual should establish guidance for the procurement organization that defines authorities, roles, appointments, and responsibilities of the central procurement office that includes reporting and oversight requirements¹ :</p> <ol style="list-style-type: none"> 1. Detail the authorities, roles and responsibilities of the CPO ^{2,3} 2. Outline the required qualifications of the CPO ^{2,3} 3. Define the roles and responsibilities of ALL stakeholders involved in the procurement process: contracting officers, contract inspectors, and user activities involved with contracts ^{2,3} <p><u>County Purchasing Policy:</u></p> <p>The County’s purchasing Policy did address some of the general responsibilities and authorities of the Chief Procurement Officer and the Purchasing Advisory Committee. However, it does not clearly outline the responsibilities of user departments and other stakeholders in the procurement process.</p>	<ol style="list-style-type: none"> 1. Principles and Practices of Public Procurement Developing a Procurement Policy Manual” <i>NIGP</i> http://engage.nigp.org/acton/attachment/24793/f-00d3/1/-/-/-/DEVELOPING%20PROCUREMENT%20MANUAL%20UPDATED.pdf 2. Sections 1.602 and 1.604 of FAR 3. Article V, Sections 102-363, 102-364, 102-365, 102-366, and 103-367 of Fulton County Code of Ordinances

**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF LOW BID PROCUREMENT PROCESS
FINAL REPORT**

Appendix V – Instances of Insufficient Documentation in the Sampled ITBs

Bid Solicitation documentation was not provided to support the performance of Key ITB Activities for items noted in the schedules below. The column category (4) is not presented in the 2014 schedule, as surveys were not required per the 2009 SOPs.

Purchasing & Contracting
Instances of Insufficient Documentation in the Sampled ITBs
Audit Period - 2014

ITB #	Vendor Name	2 - Pre-Solicitation Meeting/Solicitation			3 ITB Advertised	5 - Bid Evaluation			6 Completed Agenda/ Summary Items Over \$100,000 for BOC	7 Notice To Proceed
		1 Request for Goods/Services	Pre-Solicitation Meeting	Review/Approval		Responsiveness	Responsibility	Debarment/ Suspension		
14-100430	Archer Western construction	X	X	X		X	X	X		
3003463	Construction Works Inc	X		X	X	X	X	X		X
15-100486	Southern Security Professional	X		X	X	X	X	X		X
15-100453	Lichty Commercial Construction	X	X	X				X	X	
3003414	Stand Guard Aquatics Inc	X	X	X	X	X	X	X		
3003460	Ferguson Waterworks	X		X	X	X	X	X	X	X
3003423	Casey Tree Experts Inc	X	X	X	X	X	X	X		X
15-100485	Metals and Materials Engineers		X	X	X	X	X	X		

Insufficient Documentation 7 5 8 6 7 7 8 2 4

Legend
X - Lack of documentation to support key ITB Activities

Purchasing & Contracting
Instances of Insufficient Documentation in the Sampled ITBs
Audit Period - 2015

Invitation To Bid #	Vendor Name	2 - Pre-Solicitation Meeting/Solicitation Development			3 ITB Advertised	4 Bid Submission and opening (Market Survey done where less than 5)	5 - Bid Evaluation			6 Completed Agenda/ Summary Items Over \$100,000 for BOC Approval	7 Notice To Proceed
		1 Request for Goods/Services	Pre-Solicitation Meeting	Review/Approval			Responsiveness	Responsibility	Debarment/ Suspension		
15-100551	Gulf States Distributors Inc	X	X	X			X	X	X		X
15-100515	Clean Energy	X	X	X			X	X	X		
16-100794	Mann Mechanical Company Inc	X	X	X		X	X	X	X		
16-100786	SP Petroleum Transporters Inc	X		X			X	X	X		X
15-100578	Pye-Barker Fire Safety, Inc.	X		X			X	X	X		X
15-100559	Brown Management Services & Capital Contracting	X	X	X			X	X	X		
16-100675	Utility Service Compnay Inc		X	X		X	X	X	X	X	
15-100562	Peek Pavement Marking Inc	X	X	X		X	X	X	X		
16-100686	FM Shelton Inc	X	X	X			X	X	X		X
15-100598	Century Fire Protection	X	X	X		X	X	X	X		X
100735	Bell Restoration Services/Servpro of Stone Mt		X	X	X		X	X	X		X
100717	R2T Inc	X	X	X	X	X	X	X	X		X
15-100645	Mobile Communications Inc	X	X	X	X		X	X	X		
15-100636	Mobile Communications Inc	X	X	X	X		X	X	X		X

Insufficient Documentation 12 11 14 4 5 14 14 14 1 8

Legend
X - Lack of documentation to support key ITB Activities

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OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF LOW BID PROCUREMENT PROCESS
FINAL REPORT

PROJECT TEAM

This report submitted by:

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Internal Auditor
Office of Independent Internal Audit

5/11/2018
Date

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Chief Audit Executive
Office of Independent Internal Audit

5/11/2018
Date

STATEMENT OF ACCORDANCE

Statement of Accordance

The mission of DeKalb County is to make the priorities of the citizens of DeKalb County; the priorities of County government - by achieving a safer DeKalb, building stronger neighborhoods, creating a fiscally accountable and more efficient county government and uniting the citizens of DeKalb County.

The mission of the Office of Independent Internal Audit is to provide independent, objective, insightful, nonpartisan assessment of the stewardship or performance of policies, programs and operations in promoting efficiency, effectiveness and integrity in DeKalb County.

This performance audit was prepared pursuant to DeKalb County, Georgia - Code of Ordinances / Organizational Act Sec. 10A. - Independent Internal Audit, Georgia Statutes. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

This report is intended for the use of the agency to which it was disseminated and may contain information that is exempt from disclosure under applicable law. Do not release without prior coordination with the Office of Independent Internal Audit.

Please address inquiries regarding this report to the Office of Independent Internal Audit at 404-371-2765.