

January 31, 2019

Michael L. Thurmond, Chief Executive Officer
DeKalb County
Maloof Administrative Building
1300 Commerce Drive, 6th Floor
Decatur, GA 30030

Dear Chief Executive Officer Thurmond:

We engaged the Hartman Firm, LLC (Hartman Firm) to work with Office of Internal Independent Audit (OIIA) and the DeKalb Board of Ethics Office to independently assess the County's procurement program, investigate various allegations which had been brought to OIIA's attention, and assess the County's susceptibility to waste, fraud, corruption, and abuse in its procurement program.

The engagement included over 40 interviews of Purchasing and Contracting Department of DeKalb County (P&C) personnel and over 20 interviews of personnel in user departments, including Department of Watershed Management (DWM), Sanitation Department, Roads and Drainage, and Recreation, Parks & Cultural Affairs. The Hartman Firm reviewed certain solicitations and procurement contracts and investigated issues that arose during the engagement.

In this report, they specifically defined fraud and corruption and the associated controls that can mitigate these risks. Below is a succinct summary of the work performed by the Hartman Firm.

Hard controls are the policies and procedures that guide employees through financial management, procurement, or the handling of assets. The test of hard controls can be done through auditing, and we have conducted several audits of P&C's policies and procedures that can be found in **Exhibits 1-5**. The Hartman Firm did not attempt to validate or replicate OIIA's audits: rather, they assessed hard controls through interviews of all P&C employees and those in the County's user departments, and through document review.

Soft controls are intangible factors derived from an organization's culture or a department's subculture that guide employees through their decision-making process. Key factors involve the strength of the organization's trust, competency, integrity, training, and shared values. In P&C, the stated values are: Productivity, Accountability, Communication, and Teamwork (PACT). The test of soft controls seeks to identify the gaps between the stated organizational values and the values that were practiced in reality.

Due to corruption's inherent collusive nature, hard controls alone cannot be relied upon to deter corruption. Accordingly, soft controls generally play a more significant role in creating a corruption-resistant organization. When hard and soft controls are strong, the organization is at low risk for waste, fraud, corruption, and abuse. When hard and soft controls are weak, the organization is at high risk for waste, fraud, corruption, and abuse.

The Hartman Firm found the hard controls to be weak. The hard controls for the County's P&C program is found in two places: the Purchasing Policy and the Procedures Manual. DeKalb County is not in compliance with House Bill 598, passed on May 12, 2015, because the County failed to adopt a Procurement Policy Ordinance. They concurred with the OIIA's audit findings that the current Policy has significant processes that can be improved (see **Exhibit 1**).

P&C implements its Policy through the processes found in the Procedures Manual. The Hartman Firm heard nearly universal complaints of the constantly changing Procedures Manual. Changing procedures during a procurement can raise the specter of corruption. In the absence of a controlling policy, a P&C official may be required to make a subjective decision that can favorably impact one vendor over another. The P&C does not follow its own Policy requiring Chief Executive Officer (CEO) approval for each of the myriad of changes to the Procedures Manual that have occurred since it was adopted.

During the Hartman Firm's engagement, P&C hired a consultant to review the Purchase and Procedures Manual. The Hartman Firm expressed that this review should occur after a Procurement Policy Ordinance has been approved by the Board of Commissioners.

The Hartman Firm reviewed the OIIA's audits which raised significant issues involving Low Bid Procurement Processes, Sole Source Contracting Processes, Emergency Purchases, and both Informal and Formal Procurements. The reader of this report is strongly encouraged to carefully review those audits.

A significant control failure is the failure to maintain documentation. Fundamental to the testing of any hard control is the ability to have accurate data to test. The failure to keep documentation means controls cannot be properly tested. The net effect is those charged with DeKalb County's governance cannot place any level of confidence in the control activities.

Vendor protests are not captured by DeKalb County. These protests can be a rich source of information for management to assess procurement irregularities. Due to the County's policies, vendors are actually discouraged from protesting.

The County has purchased a software solution to assist in its procurement program known as Oracle Advanced Procurement Suite (APS). APS was purchased in August of 2014. It has continued implementation delays and its costs greatly exceed \$2,438,820.83. The Hartman Firm believes that the exact and ongoing costs cannot be calculated because no one is tracking the expenses. The implementation requires sufficient resources in both P&C and the user departments, along with the leadership that is knowledgeable and can coordinate a difficult project through multiple DeKalb County

stakeholders. The Hartman Firm believes that the delay in the full implementation of the APS is a leadership failure.

The Hartman Firm found that the soft controls are extremely weak. The culture, morale and leadership in P&C is very problematic. They noted that the P&C Director inherited a department with a systemically-high employee turnover rate, a recent reorganization, and significant personnel issues. These issues may not be the Director's fault, but they are her responsibility to resolve them. Unfortunately, she has been unable to right the ship. They found that the Department, the Director, and others had won procurement related awards for their achievements.

There is a serious rift among P&C employees. The Director described the issue as having silos, or isolation between teams. A significant number of employees used the following terms to describe P&C: "toxic, hostile, dysfunctional, revolving door, clique, communication failure, changing processes, no direction, low morale, lack of training, and failure to cooperate."

The Director communicated to the Hartman Firm that she believed that the County's Policies and Procedures are hard to circumvent. She did not identify any weaknesses or lead information that could have assisted them in their engagement. The Director advised that neither she nor her staff had received training on awareness of fraud or corruption in the procurement process.

The free lunch is the "gateway drug" to corruption. A zero-tolerance rule that prohibits all County employees from accepting any meal or gift from a vendor doing business with the County should be adopted. There was evidence that County employees received meals from vendors doing business with the County. A 2014 Executive Order expressly permits merit exempt employees (senior officials) to receive meals and gifts from a vendor doing business with the County, while merit employees (lower-level employees) are prohibited. That Executive Order also appears to allow merit-exempt employees to receive unlimited meals and travel from a vendor doing business with the County during the attendance of conferences. This provision will likely be in direct conflict with the DeKalb County's Ethics Code when the gift giver is a vendor. The Ethics Code is controlling state law.

The Hartman Firm reviewed the results of the University of North Georgia's BB&T Center for Ethical Leadership's (Center) Ethical Culture Indicator which can be found in **Exhibit 6**. DeKalb County ranked extremely low on many indicators of an ethical culture. Unfortunately, their findings are consistent with the Center's report.

They found the P&C workload to be too high, which is directly attributable to the high attrition rate in the Department. P&C employees need more training, especially the new employees. Senior employees would benefit from additional professional development. This training should also extend to the user departments. We believe that the P&C should be given an adequate budget to accomplish these goals. The P&C has two auditors who report to the Director. These auditors' efforts have been significantly stymied due to DWM management's failure to provide, in a timely manner, audit evidence including contractor

invoices. They noted that the OIIA has the authority to correct this type of evasive conduct. The Hartman Firm found the auditors assigned to P&C are not independent because part of their audit work involves auditing P&C processes and the auditors do not have unimpeded access to those charged with DeKalb County's governance in order to report significant findings. Due to the number and magnitude of DWM contracts, we recommend that a minimum of two full-time auditors be assigned to audit DWM contracts. To resolve these independence and reporting issues, we recommend that the two auditor positions from P&C be reassigned to the OIIA.

The Hartman Firm believed that the hard controls over DeKalb County's procurement program are weak. In addition, they believe the soft controls over DeKalb County's procurement program are extremely weak and due to these weaknesses, DeKalb County's procurement program is at high risk for waste, fraud, corruption, and abuse.

They were also asked to review other issues and some matters that came to their attention which were of such concern that merited attention in the report.

The Hartman Firm found no evidence of P&C not complying with the Georgia Open Records Act and found no evidence of any P&C personnel obstructing an OIIA audit or intentionally hiding documentation from auditors. They do believe that P&C has lost an appreciable amount of its records; this can give the appearance of obstructing an audit.

They found that P&C employees need to be better informed on the County's reimbursement of expense policy so that they do not have to personally incur expenses. They found that the County mismanaged its contract with the operator of Mystery Valley Golf Course. DeKalb County may be owed significant sums under the contract, and the course is a liability to the County due to the risk of falling trees.

The Hartman Firm found issues associated with the DeKalb First Local Small Business Enterprise Ordinance. The P&C has not provided the CEO and Board of Commissioners (BOC) with specific information required by the Ordinance. They found that the ordinance has resulted in anti-competitiveness, low contractor participation, the delivery of substandard services, and higher prices for services.

Based on their findings, the Hartman Firm made a significant number of recommendations. Below are the recommendations by area:

Purchasing Ordinance & Purchase and Procedures Manual

1. In the drafting of a DeKalb County Purchasing Ordinance, all County stakeholders have a voice in the process, including P&C, OIIA, and County user departments.
2. The enactment of a Purchasing Ordinance be made a priority for DeKalb County.
3. After the enactment of a Purchasing Ordinance, the Purchasing Policy & Procedures Manual be updated and approved by the CEO.

Hard Controls

4. The following provision be added to DeKalb County's Purchasing Policy: The BOC

will not approve any contract in an amount of \$1 million or greater until the OIIA has been given the opportunity to issue a report. The OIIA may issue a written report to the BOC advising if the contract file is consistent with DeKalb County's Policy and Procurement Procedures and/or note areas of deficiencies. Upon request by the CEO, BOC, or on its own initiative, the OIIA may also review any solicitation of any dollar amount.

5. In order to implement the safeguard recommended in #4, above, the OIIA be funded to increase its staffing level by two auditors. This staffing enhancement is in addition to recommendation #21, below, regarding the reassignment of auditor positions.
6. P&C management reevaluate the use of procurement agents as voting members on the RFP committees.

Data Analysis

7. The Oracle Advanced Procurement Suite be programed to track emergency and sole source purchases and be equipped to assist with split-purchase analysis.
8. The OIIA conduct split-purchase analysis on a periodic basis.

Ethics

9. P&C adopt a written policy that departmental employees cannot receive gifts from those doing business with the County.
10. Executive Order No. 2014-4 be modified to prohibit merit-exempt employees from receiving gifts from "interested sources."
11. Executive Order 2014-4 be modified so that it is not in conflict with the Ethics Code §22A(c)(2)(A)(ii), (B)(i).
12. The University of North Georgia, BB&T Center for Ethical Leadership's survey results from the Ethical Culture Indicator (ECI) be used as a baseline, and that the ECI be administered in future years to track progress.
13. The ECI be mandatory for all employees.
14. The ECI results be broken down by each individual DeKalb County Department, so that the results can be more useful.

Workload

15. Management should consider flex-time and staggered work schedules for the purpose of retaining and attracting employees.

Training

16. The P&C University PowerPoint training presentation be updated. The implementation of a structured training program for new employees, including a procedure for management to track progress.
17. The use of a dedicated trainer to train P&C employees and the constituents in the many user departments, at least on a temporary basis.
18. The P&C Department be provided with an adequate training budget to bring in professional trainers, incentivize employees to obtain relevant credentials, and send employees to outside training where they can bring best practices back to the Department.

Workplace Conditions

19. P&C be provided with adequate storage space for files.

Department of Watershed Management

20. A minimum of two full-time auditors be assigned to audit payments to contractors in the DWM.
21. The auditor positions assigned to P&C be reassigned to OIIA for the purpose of establishing independence and reporting.

Use of DeKalb Vehicles; Expense Reimbursement

22. DeKalb County amend its policies to prohibit DeKalb County personnel from transporting non-DeKalb County personnel in a DeKalb County vehicle.
23. DeKalb County adopt a policy that requires any employee submitting a request for expense reimbursement sign a paper document or provide a secure electronic signature which certifies the truth and accuracy of their submission and provides a warning that an intentional violation of County policy will subject the employee to disciplinary action up to and including criminal prosecution.

Mystery Valley

24. DeKalb County's executive management initiate additional investigation based on the findings in this report.
25. We recommend that the County take immediate action to address the dead and leaning trees at Mystery Valley.

DeKalb First Local Small Business Enterprise Ordinance

26. A study be commissioned to conduct a cost-benefits analysis of the LSBE program.
27. P&C comply, in a timely manner, with the LSBE Ordinance's requirement to provide all seven categories of information to the CEO and BOC.

The Independent Assessment of DeKalb County Purchasing & Contracting Program performed by the Hartman Firm was submitted to the CEO's office for a written response to the 27 recommendations on **September 26, 2018**. The CEO's office provided the response on November 28, 2018, which is attached at the back of the report.

The OIIA and the Ethics Office made a joint reply to CEO's response to the Independent Assessment of DeKalb County Purchasing & Contracting Program performed by the Hartman Firm, which is attached at the back of the report.

The OIIA will be performing a six month follow-up on the status of corrective action taken by the CEO.

Sincerely,



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

cc: Nancy Jester, Board of Commissioners District 1
Jeff Rader, Board of Commissioners District 2
Larry Johnson, Board of Commissioners District 3
Steve Bradshaw, Board of Commissioners District 4
Mereda Davis Johnson, Board of Commissioners District 5
Kathie Gannon, Board of Commissioners District 6
Lorraine Cochran-Johnson, Board of Commissioners District 7
Harold Smith Chairperson, Audit Oversight Committee
Harmel Codi, Vice Chairperson, Audit Oversight Committee
Adrienne T. McMillon, Audit Oversight Committee
Claire Cousins, Audit Oversight Committee
Gena Major Audit Oversight Committee
Zachary L. Williams, Chief Operating Officer
Vivian Ernstes, County Attorney
La'Keitha D. Carlos, Chief Executive Officer Chief of Staff
Antwyn Brown, Board of Commissioners Chief of Staff
Stacey Kalberman, Ethics Officer, DeKalb Board of Ethics



Independent Assessment of DeKalb County Purchasing & Contracting Program

September 17, 2018

By The Hartman Firm, LLC

For DeKalb County Office of Independent Internal Audit

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EXHIBIT 1: Audit of DeKalb County Purchasing Policy

EXHIBIT 2: Audit of Low Bid Procurement Process

EXHIBIT 3: Audit of Sole Source Contracting Process

EXHIBIT 4: Audit of Emergency Purchases

EXHIBIT 5: Audit of Informal and Formal Procurements

EXHIBIT 6: UNG's BB&T Center for Ethical Leadership

EXHIBIT 7: Becoming a Fraud Resistant Organization

EXHIBIT 8: Executive Order No. 2014-4

EXHIBIT 9: Public Corruption: Causes, Consequences & Countermeasures

EXHIBIT 10: Audit of WSM ITB #16-100789

EXHIBIT 11: Travel Policy

EXHIBIT 12: Executive Order 09-03

EXHIBIT 13: Take-Home Vehicle Policy

EXHIBIT 14: DeKalb First LSBE Semi Annual Report 2017 (Jan-June)

1. EXECUTIVE SUMMARY

The DeKalb County Office of Internal Independent Audit (OIIA) engaged The Hartman Firm, LLC (Hartman Firm) to work with OIIA and the Office of the DeKalb Ethics Officer to independently assess the County's procurement program, investigate various allegations which had been brought to OIIA's attention, and assess the County's susceptibility to waste, fraud, corruption, and abuse in its procurement program. The Hartman Firm worked with other independent professionals with expertise in governmental investigations. As used throughout this report, the term "we" refers to the collaborative efforts and opinions of our team.

The Purchasing and Contracting Department of DeKalb County (P&C) has gone through significant changes in the last several years. A prior Director resigned under a corruption cloud; his replacement also resigned after a relatively short tenure. The P&C went through a significant reorganization in 2014, the implications of which are still being felt in the Department. DeKalb County has over 700,000 residents and a budget well in excess of \$1 billion. The County will soon be responsible for expenditures of an estimated \$388 million associated with the Special Purpose Local Option Sales Tax.

In this report, we have specifically defined fraud and corruption and the associated controls that can mitigate these risks.

Hard controls are the policies and procedures that guide employees through financial management, procurement, or the handling of assets. The test of hard controls can be done through auditing, and the OIIA has conducted several audits inside P&C that can be found in **Exhibits 1-5**. We did not attempt to validate or replicate OIIA's audits: rather, we assessed hard controls through interviews of all P&C employees and those in the County's user departments, and through document review.

Soft controls are intangible factors derived from an organization's culture or a department's subculture that guide employees through their decision-making process. Key factors involve the strength of the organization's trust, competency, integrity, training, and shared values. In P&C, the stated values are: Productivity, Accountability, Communication, and Teamwork (PACT). The test of soft controls seeks to identify the gaps between the stated organizational values and the values that were practiced in reality.

Due to corruption's inherent collusive nature, hard controls alone cannot be relied upon to deter corruption. Accordingly, soft controls generally play a more significant role in creating a corruption-resistant organization. When hard and soft controls are strong, the organization is at low risk for waste, fraud, corruption, and abuse. When hard and soft controls are weak, the organization is at high risk for waste, fraud, corruption, and abuse.

We found the hard controls to be weak. The hard controls for the County's P&C program are found in two places: the Purchasing Policy and the Purchase and Procedures Manual. DeKalb County is not in compliance with House Bill 598, passed on May 12, 2015, because they failed to adopt a Procurement Policy Ordinance. We concur with the OIIA's audit findings that the current Policy has significant processes that can be improved (see **Exhibit 1**).

DeKalb County implements its Policy through the processes found in the Purchase and Procedures Manual. We heard nearly universal complaints of the constantly changing Purchase and Procedures Manual. Changing procedures during a procurement can raise the specter of corruption. In the absence of a controlling policy, a P&C official may be required to make a subjective decision that can favorably impact one vendor over another. The P&C does not follow its own Policy requiring Chief Executive Officer (CEO) approval for each of the myriad of changes to the Purchase and Procedures Manual that have occurred since it was adopted.

During our engagement, P&C hired a consultant to review the Purchase and Procedures Manual. We believe that this review should occur after a Procurement Policy Ordinance has been approved by the Board of Commissioners.

We have reviewed the OIIA audits, which are a part of this report. They raise significant issues involving low bid procurement processes, sole source contracting processes, emergency purchases, and both informal and formal procurements. The reader of this report is strongly encouraged to carefully review those audits.

A significant control failure is the failure to maintain documentation. Fundamental to the testing of any hard control is the ability to have accurate data to test. The failure to keep documentation means controls cannot be properly tested. The net effect is those charged with DeKalb County's governance cannot place any level of confidence in the control activities.

Vendor protests are not captured by DeKalb County. These protests can be a rich source of information for management to assess procurement irregularities. Due to the County's policies, vendors are actually discouraged from protesting.

The County has purchased a software solution to assist in its procurement program known as Oracle Advanced Procurement Suite (APS). APS was purchased in August of 2014. It has continued implementation delays and its costs greatly exceed \$2,438,820.83. We believe that the exact and ongoing costs cannot be calculated because no one is tracking the expenses. The implementation requires sufficient resources in both P&C and the user departments, along with the leadership that is knowledgeable and can coordinate a difficult project through multiple DeKalb County stakeholders. We believe that the delay in the full implementation of the APS is a leadership failure.

We believe that P&C could better utilize data analysis to assist in their management.

We found that the soft controls are extremely weak. The culture, morale and leadership in P&C is very problematic. We note that the P&C Director inherited a department with a systemically-high employee turnover rate, a recent reorganization, and significant personnel issues. These issues may not be the Director's fault, but they are her responsibility to resolve them. Unfortunately, she has been unable to right the ship. We found that the Department, the Director, and others had won procurement related awards for their achievements.

There is a serious rift among P&C employees. The Director described the issue as having silos, or isolation between teams. A significant number of employees used the following terms to describe P&C: "toxic, hostile, dysfunctional, revolving door, clique, communication failure, changing processes, no direction, low morale, lack of training, and failure to cooperate."

The Director told us that she believed that the County's Policies and Procedures are hard to circumvent. She did not identify any weaknesses or lead information that could have assisted us in our engagement. The Director advised that neither she nor her staff had received training on awareness of fraud or corruption in the procurement process.

The free lunch is the "gateway drug" to corruption. A zero-tolerance rule that prohibits all County employees from accepting any meal or gift from a vendor doing business with the County should be adopted. There was evidence that County employees received meals from vendors doing business with the County. A 2014 Executive Order expressly permits merit-exempt employees (senior officials) to receive meals and gifts from a vendor doing business with the County, while merit employees (lower-level employees) are prohibited. That Executive Order also appears to allow merit-exempt employees to receive unlimited meals and travel from a vendor doing business with the County during the attendance of conferences. This provision

will likely be in direct conflict with the DeKalb County's Ethics Code when the gift giver is a vendor. The Ethics Code is controlling state law.

We have reviewed the results of the University of North Georgia's BB&T Center for Ethical Leadership's (Center) Ethical Culture Indicator which can be found in **Exhibit 6**. DeKalb County ranked extremely low on many indicators of an ethical culture. Unfortunately, our findings are consistent with the Center's report.

We found the P&C workload to be too high, which is directly attributable to the high attrition rate in the Department. The Department employees need more training, especially the new employees. Senior employees would benefit from additional professional development. This training should also extend to the user departments. We believe that the P&C should be given an adequate budget to accomplish these goals.

The P&C has two auditors who report to the Director. These auditors' efforts have been significantly stymied due to DWM management's failure to provide, in a timely manner, audit evidence including contractor invoices. We note that the OIIA has the authority to correct this type of evasive conduct. We find that the auditors assigned to P&C are not independent because part of their audit work involves auditing P&C processes. We also find that the auditors do not have unimpeded access to those charged with DeKalb County's governance in order to report significant findings. Due to the number and magnitude of DWM contracts, we recommend that a minimum of two full-time auditors be assigned to audit DWM contracts. To resolve these independence and reporting issues, we recommend that the two auditor positions from P&C be reassigned to the OIIA.

We believe that the hard controls over DeKalb County's procurement program are weak. We believe that the soft controls over DeKalb County's procurement program are

extremely weak. We believe that due to these weaknesses, DeKalb County's procurement program is at high risk for waste, fraud, corruption, and abuse.

We were also asked to review other issues. Some matters came to our attention which were of such concern that we thought they merited attention in our report.

We found no evidence of P&C not complying with the Georgia Open Records Act.

We found no evidence of any P&C personnel obstructing an OIIA audit or intentionally hiding documentation from auditors. We do believe that P&C has lost an appreciable amount of its records; this can give the appearance of obstructing an audit.

We found that P&C employees need to be better informed on the County's reimbursement of expense policy so that they do not have to personally incur expenses.

We found that the County has mismanaged its contract with the operator of Mystery Valley Golf Course. DeKalb County may be owed significant sums under the contract, and the course is a liability to the County due to the risk of falling trees.

We found issues associated with the DeKalb First Local Small Business Enterprise Ordinance. The P&C is not providing the CEO and Board of Commissioners (BOC) with specific information required by the Ordinance. We found that the ordinance has resulted in anti-competitiveness, low contractor participation, the delivery of substandard services, and higher prices for services.

Based on our findings, we have made a significant number of recommendations, which are included in this report.

2. ENGAGEMENT WORK

The OIIA engaged the Hartman Firm to work with the OIIA and the Office of the DeKalb Ethics Officer for the purpose of independently assessing DeKalb County's procurement program. This included investigating various allegations which had been brought to OIIA's attention, and assessing the County's susceptibility to waste, fraud, corruption, and abuse in its procurement program.

The engagement included over 40 interviews of P&C personnel and over 20 interviews of personnel in user departments, including Department of Watershed Management (DWM), Sanitation Department, Roads and Drainage, and Recreation, Parks & Cultural Affairs. We reviewed certain solicitations and procurement contracts and investigated issues that arose during the engagement. The Hartman Firm has also made references to best practices and recommendations where appropriate.

Pursuant to Georgia House Bill 599, DeKalb County OIIA has certain authorities to conduct its audit function, including access to employees, records and subpoena authority. OIIA ensured the Hartman Firm it would be given access to employees and documents needed to complete this engagement. This did, in fact, occur and the Hartman Firm was provided with complete, unlimited access to documents and personnel. The Hartman Firm's findings are independent.

The Hartman Firm's principal is Vic Hartman, a 25-year veteran of the Federal Bureau of Investigation where he served as a Special Agent and Chief Division Counsel. Now in private practice, Hartman is an attorney and Certified Public Accountant (CPA) who specializes in fraud and corruption related matters. He is also an adjunct professor and teaches a master's-level forensic accounting course at Georgia State University in Atlanta, Georgia and Fairfield

University in Fairfield Connecticut. He holds the following credentials: Certified Fraud Examiner (CFE) and Certified in Financial Forensics (CFF).

Hartman led a team of professionals during this engagement that included David Sawyer, Joe Robuck, and Don Kidd. David Sawyer is the principal of Black Diamond Consulting, a forensic firm with expertise in investigations of governmental organizations. Sawyer is also a CPA, CFE, Certified Information Technology Professional, Certified Internal Auditor, and Certified Anti-Money Laundering Specialist. Joe Robuck and Don Kidd are both veterans of the FBI who served 27 and 24 years respectively, and they are the principals of Gold Shield 1811. Both Robuck and Kidd held leadership roles involving complex investigations during their tenure with the FBI. Gold Shield 1811 is an Atlanta-based firm with expertise in complex investigations and corruption. Robuck is an attorney and has extensive government corruption experience. As used throughout this report, the term “we” refers to the collaborative efforts and opinions of Vic Hartman, David Sawyer, Joe Robuck and Don Kidd.

3. HISTORY OF P&C

Doyle Shaw was the Chief Procurement Officer (CPO) for the County's Purchasing and Contracting Department for approximately 30 years; he retired in 2006. The terms "Chief Procurement Officer" and "Director of P&C" will be used interchangeably throughout this report. Kelvin Walton served as CPO from 2006 to 2014. Scott Callan served as CPO from April 2014 through December 2015. Up until the time Callan reorganized the P&C department (effective October 27, 2014), the department was organized by separate divisions: administrative, purchasing, contracts, and compliance. Under that previous model (the Shaw model), the various divisions handled only a portion of the P&C functions. The new model (the Callan model) eliminated the divisions and created teams. Now, each County user department is assigned to a particular P&C team. Each team handles a procurement matter for a user department from cradle to grave. When Scott Callan reorganized the department, he made each P&C employee reapply for their job. That reorganization resulted in significant turnover of personnel in 2014.¹

Kelvin Walton was initially suspended, and he later resigned, due to his involvement in lying under oath and accepting gifts from County contractors. These facts came out during Walton's testimony in the trial for former DeKalb County CEO Burrell Ellis.² Scott Callan resigned from DeKalb County. Callan recommended to then-CEO Lee May that Warrick Sams replace Callan as the Interim Director of P&C. Instead, Lee May chose Talisa Clark to serve as

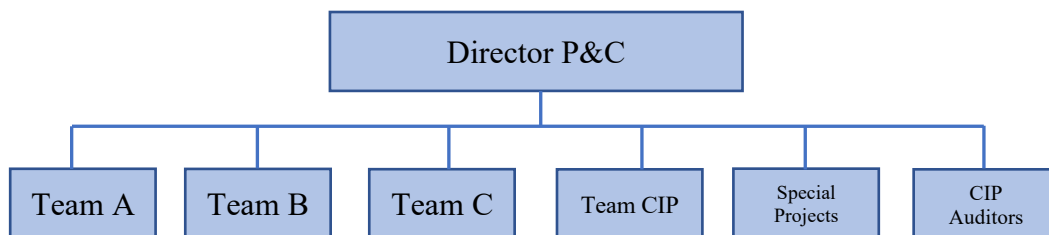
¹ CPO Talisa Clark advised that before the reorganization there were about 50 P&C employees. In the process of the reorganization, about 30 were terminated and 20 remained employed.

² After two trials, the last of which resulted in a conviction of Ellis, the Georgia Supreme Court overturned Ellis' conviction and the DeKalb County District Attorney's Office closed the case without further prosecution.

Interim CPO. When Michael Thurman became CEO, he appointed Talisa Clark CPO and Warrick Sams was dismissed.

DeKalb County has over 700,000 residents. The County's budget is well in excess of \$1 billion. In November 2017, DeKalb County voters approved a Special Purpose Local Option Sales Tax which will enable the County to spend an estimated \$388 million over the next six years. This will result in additional work for P&C.

During the review, we found the department to be organized as shown in the chart below. The department consisted of roughly 42 employees, although this number is in constant flux as the department continues to experience a high turnover of employees.



The Teams A, B, C, and Team CIP provide services to the following user departments:

Team A:

Roads & Drainage
Watershed Management (Operations)
Clerk of Superior Court
Planning & Sustainability
Property Appraisal
Workforce DeKalb
Human Services / Human Development

Team B:

311
District Attorney
Family & Children Services
Family Law Information Center
Fleet Management

Information Technology
Law Department
Magistrate Court
Medical Examiner
Probate Court
Public Works
Recorders Court
Sanitation
State Court
Superior Court

Team C:

Voter Registration & Elections
Animal Control
Community Development
Emergency Management
Facilities
Finance
Fire Rescue
Geographic Information System (GIS) Department
Homeland Security
Internal Audit
Marshall's Office
Police Services
Purchasing
Recreation Parks & Culture

Team CIP:

Watershed Management

4. FRAUD & CORRUPTION PREVENTION

All organizations, including private, non-profit, and governmental entities can be the victim of fraud and corruption. The lead organization for fraud prevention, detection, and training is the Association of Certified Fraud Examiners (ACFE), an international organization with more than 80,000 members.³ The ACFE has developed the Occupational Fraud and Abuse Classification System that divides all frauds into three distinct categories: misappropriation of assets, financial statement fraud, and corruption.

Misappropriation of assets is by far the most commonly committed fraud. This form of fraud is more easily detected than the others. Very common examples include p-card and travel expense fraud. These types of fraud are also the most easily prevented if appropriate controls are present and functioning.

Financial statement fraud is the least common of the three types of fraud, but when it occurs, it can result in significant damage to the organization. Although financial statement fraud is less common in governmental organizations due to a general lack of incentives for financial managers and those charged with governance, it has increased in recent years. The reason for this increase is that governmental entities have intentionally understated pension liabilities in order to obtain more favorable financing terms. Both misappropriation of assets and financial statement fraud were largely outside the scope of this engagement.

Corruption is the wrongful use of influence to procure a benefit for the actor or another person, contrary to the duty or rights of others. Conflict of interest is a subset of corruption and occurs when an agent has an undisclosed interest in a transaction that adversely affects their duty

³ Vic Hartman is the current President of the Georgia Chapter of the ACFE and has been a professional trainer for this international organization. David Sawyer is a past President of the Georgia Chapter.

of loyalty to the principal. Of the three categories of fraud, corruption is generally the most difficult to prevent, detect, and investigate. The difficulty is due to the personal relationships among the actors. Corruption often involves collusion between an outside vendor and an inside government employee. There may not be a paper trail, and if there is one, it is difficult to find or follow. The influence could be difficult-to-trace benefits like meals, gifts, trips, and cash or familial or personal relationships.

A governmental organization that has a real desire to minimize corruption will make very intentional efforts to ensure their control environment is comprised of robust hard and soft controls that are present and functioning. In order to provide assurance that the hard and soft controls are effective, these controls will be tested, and the results will be provided to those charged with governance so that they may correct control failures. A checklist of best practices for becoming a fraud resistant organization can be found in **Exhibit 7**.

Hard controls are the policies and procedures that guide employees through financial management, procurement, and the handling of assets. Common examples in the P&C department are sealed competitive bidding, the formation of committees to review complex procurement proposals, and BOC review when a procurement is over a set threshold. Hard controls can be tested through an audit, and the OIIA has conducted several audits inside P&C.

Soft controls are intangible factors derived from an organization's culture or a department's subculture that guide employees through their decision-making process. Key factors involve the strength of the organization's trust, competency, integrity, training, and shared values. In P&C, the stated values are: Productivity, Accountability, Communication, and Teamwork (PACT). The test of soft controls seeks to identify the gaps between the stated organizational values and the values that were practiced in reality. The DeKalb County Ethics

Officer has facilitated the engagement of experts from the University of North Georgia's BB&T Center for Ethical Leadership to conduct an analysis of DeKalb County's culture.

Due to corruption's inherent collusive nature, hard controls alone cannot be relied upon to deter corruption. Accordingly, soft controls generally play a more significant role in creating a corruption-resistant organization. When hard and soft controls are strong, the organization is at low risk for waste, fraud, corruption, and abuse. When hard and soft controls are weak, the organization is at high risk for waste, fraud, corruption, and abuse.

5. HARD CONTROLS: P&C POLICIES & PROCEDURES

The hard controls for the County's P&C program are found in the Purchasing Policy, the Purchase and Procedures Manual, and other DeKalb County policies.

OIIA Audits

We have reviewed the following OIIA audits:

1. Audit of DeKalb County Purchasing Policy, January 2018, **Exhibit 1**.
2. Audit of Low Bid Procurement Process, May 2018, **Exhibit 2**.
3. Audit of Sole Source Contracting Process, March 2018, **Exhibit 3**.
4. Audit of Emergency Purchases, February 2018, **Exhibit 4**.
5. Audit of Informal and Formal Procurements, April 2018, **Exhibit 5**.

Although we did not try to replicate the procedures or validate the findings, our findings are consistent with those in these audits. The audit findings are disturbing. They demonstrate weaknesses in both the Policy and its implementation. We will not restate all the audit findings in the body of this report. We strongly urge the reader to review those audits which are in the exhibits of this report.

The P&C personnel were largely unaware of OIIA's findings. Those who were aware of the findings thought that management should discuss the findings with P&C personnel so that corrective solutions could be discussed and implemented.

Purchasing Policy

On May 12, 2015, House Bill 598 amended DeKalb County's Organizational Act pertaining to purchases and contracts. This legislation states, in part: "The Chief Executive, subject to the approval of the Commission, shall establish rules to regulate purchasing for all county departments, offices, and agencies of the county government. . ." As of the date of this

report, DeKalb County is not in compliance with this law. The County's current purchasing policy is dated August 6, 2014 and has never been approved by the BOC.

DeKalb County's OIIA conducted an audit of the DeKalb County Purchasing Policy dated January 2018, Report No. 2017-008-PC; this can be found in **Exhibit 1**. We have reviewed that audit and agree with its conclusions. The audit benchmarked the County's policy against the Federal Acquisition Regulations, the Georgia Procurement Manual, the American Bar Association's Model Procurement Code for State and Local Governments, and procurement policies of other metropolitan Atlanta counties. The audit recommended 12 improvements and 10 key areas to address that are not included in the current policy.

We have observed that the City of Atlanta recently passed an ordinance requiring the City auditor to improve transparency and accountability by reviewing the City procurement process. Pursuant to that ordinance, the City auditor is required to review certain procurement processes and report to the City Council prior to its approval of contracts. We found the methodology of that ordinance compelling as it requires an independent auditor to review procurement policies and procures prior to a vote on contracts. We recognize this safeguard will also require additional resources by OIIA. We recommend DeKalb County's Purchasing Policy be changed to require that the BOC not approve any contract in an amount of \$1 million or greater until the OIIA has been given the opportunity to issue a report. The OIIA may issue a written report to the BOC advising if the contract file is consistent with DeKalb County's Policy and Purchase and Procedures Manual and/or note areas of deficiencies. Upon request by the CEO, BOC, or on its own initiative, the OIIA may also review any solicitation of any dollar amount. In order to implement this safeguard, we recommend OIIA be funded to increase its staffing level by two auditors.

We understand that the BOC is developing a Purchasing Ordinance. In the drafting of this ordinance, we recommend a collaboration of all DeKalb County stakeholders and that the OIIA's audit recommendations be considered. This process should include an evaluation of sister cities and counties' policies as well as industry best practices. At that time, procedures should then be drafted to execute the policy.

Purchase and Procedures Manual

We were provided with a copy of the Purchase and Procedures Manual (also known as the Desk Reference Manual) dated March 6, 2017, and an undated Purchase and Procedures Manual that was used before this 2017 version. Prior to the creation of the Purchase and Procedures Manual, "standard operating procedures" were used for the policy and procedures.

We heard significant criticism of the constantly changing written and unwritten procedures that procurement agents are required to follow. The criticism was nearly universal within the P&C and was also observed by officials in the user departments. The concern for the procurement agents is their uncertainty about the rules. The rules are communicated randomly through emails, supervisors, or changes to templates. The uncertainty about which procedures should be followed results in constant corrections to their work products by management and adds another level of stress for the agents. More significantly, we believe that constantly changing procedures give the appearance that the exercise of judgement enters into decision-making. Judgment calls may result in one vendor being selected over another. This can result in the appearance of impropriety, and it could enable a P&C official to steer a contract. We recognize that unique fact patterns will cause ad hoc decisions to be made. However, we believe the root of the problem is that management has failed to provide a sound Purchase and

Procedures Manual based on the Department's Policy, best practices followed in the procurement community, and pertinent rules, laws, and regulations.

The County's current Policy, Part 2, Section II states:

The Director is authorized to establish, implement and enforce written operational procedures relating to acquisitions and dispositions subject to this Policy. Such procedures shall, to the extent consistent with applicable law and this Policy, be based upon generally accepted public purchasing principles and practices and shall become effective *upon approval by the Chief Executive Officer* [emphasis added]. Additionally, these procedures may be revised, as necessary, through the same process used for their initial approval.

As it pertains to changes in the procedures, the County is not following its own Policy that requires the CEO to approve each of the myriad changes. Requiring the Director to obtain CEO approval for changes to procedures would likely decrease the number of changes and should result in a more deliberative process.

During our engagement, we learned that P&C issued a request for quotation⁴ for a vendor to assess P&C's Purchase and Procedures Manual. The solicitation appears to ask the vendor to make this assessment based on DeKalb County's Procurement Policy dated August 6, 2014. We think the Policy should be revised first, and then have the Purchase and Procedures Manual assessed and amended.

We recommend that the enactment of a Purchasing Ordinance and an updated Purchase and Procedures Manual be made a priority for DeKalb County.

Lost Documentation

A significant audit finding of the OIIA is that P&C does not properly maintain documentation in its files. We also noticed this when seeking specific documents in the files.

⁴ Request for Quotation No. 18-3003619 dated May 15, 2018.

The OIIA cannot properly assess a control activity without documentation. Accordingly, OIIA's tests of a number of control activities found significant failures, despite the fact that these control activities could actually be functioning. The net effect is those charged with DeKalb County's governance cannot place any level of confidence in those control activities.

In our interviews with P&C personnel, they noted that lost documentation was well known by all in the Department. They attributed the lost documentation to the high turnover rate, lack of training, and low morale. Some P&C employees suggested that the lost documentation could be the result of intentional acts by disgruntled outgoing employees.

Management is aware of the lost documentation problem. The Department has implemented stricter controls over its paper files. It has a policy of tracking all files on an Excel spreadsheet and keeping the files in a secure file room with limited access.

The P&C also keeps a portion of its files in an electronic format. Personnel informed us that they kept documents on the "Y-Drive." A common complaint was that the Y-Drive was disorganized. Important templates were also kept in an electronic format, but often were not updated when a procedure changed. This caused personnel to not follow appropriate procedures during a procurement.

Vendor Protest

All participants in the County's purchasing process should function in an environment where they feel comfortable disclosing potential irregularities to an appropriate authority. Fraud and corruption are most often discovered by someone close to the wrongful act. In the case of potential procurement irregularities, losing vendors may have knowledge of certain facts in the procurement process and are often motivated to seek remedial action.

Unfortunately, DeKalb County does not have a protest procedure to assist aggrieved vendors. A logical place to find a protest procedure is in the Procurement Policy. As noted in the OIIA report on DeKalb County's Purchasing Policy (see **Exhibit 1**), the National Institute of Governmental Purchasing (NIGP) advises that a procurement manual should provide guidance for protests. Such a policy should be both visible and encouraged. Public protest shines the light on corrupt actors, provides a remedy for aggrieved vendors, and discourages bad conduct going forward.

When protest procedures are absent, an aggrieved vendor might consider bringing a lawsuit to pursue their claims. If a vendor were to file such a lawsuit naming DeKalb County, the County's Policy is to place the vendor on an "Ineligible Source List," thus, that vendor would not be eligible to conduct business with the County.⁵ The net effect of the current policy is to actually discourage protests thereby depriving the county of a source of information that could lead to the discovery of irregularities in the procurement process.

The P&C does not keep a list of complainants, protestors or plaintiffs, which is also problematic. The maintenance of such a list can be a helpful source of information to those looking for irregularities in the procurement process. This information would also be helpful to management in tracking the frequency of complaints and the issues being raised.

Request for Proposal - Evaluation Committee Voting Procedures

The P&C's current Purchase and Procedures Manual requires a procurement agent to serve as chair and voting member on the request for proposal (RFP) committee.

⁵ See DeKalb County Procurement Policy, Part 6, Section II (D)(1)(h).

The Purchase and Procedures Manual dated March 6, 2017 states that the request for proposal evaluation committee should be comprised of the following members:

- Procurement Agent – Chair
- Procurement Technician – Note Taker
- Two User Department Representatives
- One impacted/Interested Representative
- One Non-impacted / Disinterested Representative
- An External Representative will be considered on a case-by-case basis (non-voting only).

We heard from several procurement agents that they felt uncomfortable serving as a voting member on some of the RFPs due to their lack of knowledge about the underlying subject matter. We heard this same observation from DWM where much of their procurement involves complex engineering matters. Advanced preparation for the participation in an RFP is time consuming. This function places additional time constraints on procurement agents. For complex RFPs, one solution may be to have more subject-matter experts from the user department and have the procurement agent abstain from voting.

We recommend that management reevaluate the use of procurement agents as voting members on the RFP committees.

Oracle Advanced Procurement Suite

The P&C Department purchased Oracle's Advanced Procurement Suite (APS) on August 29, 2014. The software implementation project was supposed to have been completed in the Spring of 2016. When fully implemented, APS should significantly enhance P&C's processes. APS is supposed to solve several of the problems we observed:

- Efficiency and effectiveness issues.
- Transparency. The system will track every change in the process and the party making a change.
- Open Records Act. Documentation will be readily identifiable for production.

- Missing Documentation. Documents will be stored electronically thereby solving the issue of lost documentation.

The systems will have four modules:

- I-supplier
- I-sourcing
- Services Procurement
- Contract Procurement

To date, only the I-supplier system has been implemented.

The software purchase price was \$774,651.70 in August 2014. In order to save money, an “out of the box” version was purchased so that customization would be limited. A vendor was still needed to integrate the software into P&C’s and user departments’ processes. The search for a vendor had a slow start as it took a series of RFPs before Enrich LLC was placed under a contract on September 3, 2015. After the expenditure of \$1,664,169.13, Enrich stopped its work on December 31, 2016. Because the software was still not implemented, vendor Oralab, Inc. has been used to work on the APS integration project. We were told that Oralab performs multiple functions for DeKalb County and its invoicing includes many projects. We have not been able to isolate the costs associated with this vendor for the APS project, which could be substantial. We do not believe the costs are being tracked by County management.

To date, the cost and implementation of Oracle APS, not including Oralab, Inc. is:

Oracle APS Software Purchase	\$774,651.70
Enrich, LLC, consulting services	\$1,664,169.13
Oralab, Inc., consulting services	UNKNOWN

Total Costs to Date: \$2,438,820.83+

We believe that the delay in the full implementation of the APS is a leadership failure. This expensive system has the potential to significantly increase both efficiency and transparency in the County’s P&C program. The rollout requires sufficient resources in both P&C and the

user departments, along with leadership that is knowledgeable and can coordinate a difficult project through multiple County stakeholders.

Data Analysis

Data analysis can assist with the detection of irregularities in the procurement process. For this process to be practical, the data must be timely, accurate, and in a format that can be easily analyzed. Management could use the data to assess the number and dollar amounts of contracts going to any particular vendor. The data could also be used to search for red flags by management or the OIIA.

Emergency and sole source purchases present corruption risks because they are not competitively bid. Ideally, the County's database management would capture these two categories of purchases. This would enable P&C management to conduct logical reviews and enable OIIA to conduct audits of the full population of purchases. We found that due to system limitations, the County cannot currently track emergency and sole source purchases by category. We recommend an assessment of Oracle APS's capabilities to determine if this type of data can be tracked. If not, existing system changes need to be made to track this data.

DeKalb County employees and their families should generally not have an interest in a contract in which the County is a party. There are two tests which might detect these interests. One is a comparison between the employees' addresses and all the County vendor addresses in order to identify common addresses. We learned that OIIA had recently conducted this test and are still investigating the results. Accordingly, we did not try to duplicate it. The second is a comparison between the County employees' bank account numbers and vendors' direct deposit account numbers in order to find common account numbers. We learned that the County encrypts bank account numbers, so this test could not be performed.

Split Purchases

The term “split purchases” refers to splitting a purchase into two orders to avoid a threshold for obtaining approval. For example, a \$120,000 purchase could be split into two \$60,000 purchases to avoid the need to obtain BOC approval.

We heard of many instances where user departments attempted to split a contract. The P&C personnel involved in these matters generally believed that split-purchase attempts were due to a lack of training in the user department.

The Director advised that splitting purchases could not occur in P&C because the purchase would be assigned to the same procurement agent and the attempt would be readily identified. The Director did not express an awareness that a P&C agent could collude with a user department or that an agent might just simply miss the two purchases. Managers in P&C advised that split purchases could easily occur for other reasons. Due to the turnover of employees, the split purchases could be assigned to the outgoing and incoming employees and thus remain undetected. Furthermore, due to workload, the same matter is not always assigned to the same agent.

There are procedures that can detect split purchases. However, the procedures require accurate data of all the purchases from a specific department during a specific timeframe. We were told that when Oracle APS is implemented, it will make such procedures easier to perform because the data would be captured in a user-friendly format.

We recommend that the OIIA perform split purchase testing procedures on a periodic basis.

6. SOFT CONTROLS: P&C PROGRAM CULTURE

The soft controls for the County's P&C program are found in the culture of the P&C and the user departments.

Awards

The County and individuals in the P&C Department have won procurement awards for their achievements:

- 2015 Manager of the Year - Governmental Procurement Association of Georgia, Talisa R. Clark, MBA, CPPO, Chief Procurement Officer.
- 2016 Excellence in Cooperative Purchasing - U.S. Communities Government Purchasing Alliance: DeKalb County Purchasing received the US Communities Customer Appreciation Award.
- 2017 Advancing Professionals Award - Annual Government Contract Management Symposium: Michelle Butler, Esq., CPCM, Procurement Manager Team CIP.
- Achievement of Excellence in Procurement from the National Procurement Institute (NPI), (2006 to 2017). NPI is a program designed to recognize organizational excellence in public procurement. This prestigious award is earned by those organizations that demonstrate excellence by obtaining a high score based on standardized criteria. The criteria are designed to measure innovation, professionalism, productivity, e-procurement, and leadership attributes of the procurement organization.

Culture, Morale & Leadership

There is a very serious rift among the employees in the P&C department. One group – probably a minority – is friendly with the Director. There is a significant group, probably a majority, which is unhappy with the Director. Some described these two groups as the “trusted group” and the “not-trusted group.” Others are very cognizant of these two factions and just strive to stay out of the fray.

The Director is aware of the challenges she faces, which she described as silos or isolation between teams. To enhance morale, she has adopted Fun-Fridays where the dress code is more relaxed and there are activities that encourage employees to interact in a fun environment.

Each P&C employee was asked about the culture of the organization. Several employees were extremely hesitant in expressing their opinions of the department for fear of retaliation. Most were glad that someone was asking serious questions about the department. A distinct minority of the employees had very positive things to say. This group was generally comprised of the newer hires, those in support positions, and personal friends of the Director. They informed us that the Director has an open-door policy and listens to employee concerns. They see that positive change is occurring.

Many other P&C employees raised very serious issues about their work environment.

Below are quotations from P&C personnel that developed into recurring themes:

- P&C's culture is toxic.
- The environment is very hostile, very toxic, and depressing.
- Things are just not right in the department.
- P&C is a dysfunctional family.
- Department is run like a clique.
- Constant change.
- P&C is like a revolving-door call center.
- We need a stable workforce to be successful.
- Failure to communicate purpose of constant changes.
- Communication within the department is the biggest issue.
- Changing procedures are a moving target.
- The Director needs to get out of the weeds and let the policies and procedures work.
- Too many unwritten rules.
- Management does not discuss Internal Audit's reports with P&C personnel.
- New ideas are shot down by management without consideration.
- The Director is just not willing to listen to the employees' input.
- P&C has no direction or defining goals.
- P&C leadership is inadequate.
- We do not know P&C's goals or which direction we are heading.

- The Director will not take input from the most educated, trained, and experienced staff members.
- The Director will only do things the “DeKalb Way.”
- Staff turnover is high, and morale is low.
- Too much negative gossiping by disgruntled employees.
- The workload is causing stress among department staff.
- No formal training for procurement agents.
- Better training for the department on a more consistent basis is needed.
- Teams are discouraged from cooperating, assisting, and training each other.

Values

An effective way to quantify an entity’s soft controls is to compare its stated values against the values that were practiced in reality. The Director’s stated values are: **Productivity, Accountability, Communication, and Teamwork** (PACT). None of the P&C employees referenced these values in any meaningful way when asked about the culture of the organization. Even the group that likes the Director generally did not find she had strong leadership skills. Almost everyone believed that she had fair-to-strong management skills and is very smart and knowledgeable about policy, procedures, and department matters.

We found significant discrepancies between the stated values and those we saw in practice. We did not attempt to quantify **productivity**, but we believe that the high attrition rate must negatively impact the number of resources it takes to complete P&C functions. The findings throughout this report — including the failure to produce a purchasing ordinance, the delayed implementation of the Oracle APS system, and the problematic culture in P&C — involved **accountability** among multiple parties including the Director, executive management, and the BOC. We see no evidence of accountability for the many shortcomings uncovered in this report. As was detailed in the interviews of all P&C personnel, positive **communication** and **teamwork** are significantly lacking in P&C.

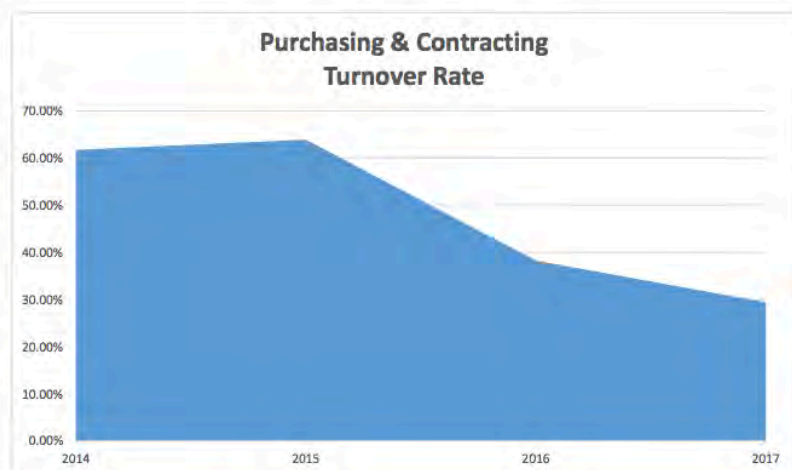
Attrition

Former P&C Director Scott Callan inherited the department from former Director Kelvin Walton, who resigned under a corruption cloud. By most accounts, Callan was a strong leader and a subject-matter expert in procurement and contracting. He reorganized the department, implemented new policies and procedures, and started the implementation of the Oracle Advanced Procurement Suite. The current Director was promoted to Deputy Director under Callan and continues to believe in the Callan model. During Callan's relatively short tenure, he essentially terminated all the P&C employees and made them compete for their jobs. This process significantly contributed to the 62% percent turnover rate in 2014 and placed significant stress on the department.

As can be seen in the chart below, the P&C employee turnover rate is very high. The high turnover has continued into 2018 and we believe that it will continue until the culture of the Department dramatically changes.

**Purchasing & Contracting
Position Detail Report Summary
2014 to 2017**

Year	Total Positions	Total Terminations/ Transfer	Turnover Rate
2014	47 ¹	29 ²	61.70%
2015	36	23 ³	63.89%
2016	34	13	38.24%
2017	34	10	29.41%



¹ Contains 4 mailroom staff; staff were transferred to Facilities Management Department in 2015

² Excluded Michelle Butler in the Total Transfer; she is currently a manager within Purchasing & Contracting

³ Subtracted the Mail Room staff that were transferred to Facilities Management

Note: The information does not include Purchasing and Contracting personnel that transferred within the department

We found the Director's description of the Department she inherited to be convincing. When she became the Director, the department had a high turnover rate and had just gone through a dramatic reorganization. She inherited the Department with significant personnel issues, including infighting. These issues may not be the Director's fault, but it is her responsibility to resolve them. Unfortunately, she has been unable to right the ship.

We believe that the current culture of P&C can be accurately described as very bad.

We believe that the high turnover rates merit significant attention by executive management. The constant turnover has very negatively affected morale. The revolving door of employees means a sizeable portion of the staff need training and cannot handle complex procurement matters. This creates a compounding issue. The work of the Department is being forced on the managers and senior procurement agents. This leaves inadequate time for knowledgeable personnel to train the less-experienced personnel. Teams have developed the habit of not cooperating or sharing information, as it distracts from their heavy workloads. This vicious cycle needs to be broken. We believe that the high turnover rate is a symptom of the problem, not the problem itself.

Failure to Appreciate Risk of Fraud and Corruption

We met with the Director at length on multiple occasions. We asked her to engage in game theory for the purpose of exploring vulnerabilities for fraud or corruption in the County's purchasing program, including the P&C department, user departments, high risk contracts, individuals, and vendors. The Director would not participate in this exercise; she stated that she does not believe it could occur in DeKalb County. The Director was unwilling or unable to

appreciate that fraud or corruption could actually occur in DeKalb County.⁶ She insisted that the County's policies and procedures are hard to circumvent.

We believe that the Director is the most knowledgeable person in DeKalb County government in regards to procurement and contracting matters. We endeavored to look for weaknesses, vulnerabilities, and potential corruption in all aspects of DeKalb County's procurement processes especially in user departments. We could have greatly benefitted from her knowledge and experience, but they were not forthcoming. The Director did advise that neither she nor her staff had received training on awareness of fraud or corruption in the procurement process.

Ethics and Gifts

There is no such thing as a free lunch. In fact, we believe that the free meals received by DeKalb County Officials may be extremely costly for taxpayers, as they could result in favoritism among contractors and undercut the fair bidding practices in the County's Policy and Procedures. We believe that DeKalb County should adopt a zero-tolerance policy that prohibits employees from receiving gifts from those trying to do business with the County.

The Rules

The DeKalb County Ethics Code prohibits any County official from receiving a gift in excess of \$100 from a vendor doing business with the County and from engaging in conflicts of interest.⁷ This rule applies to all merit and merit-exempt employees and Commissioners.

⁶ We note that the Director was working for former Director Kelvin Walton when he resigned under a corruption cloud. At the time of her interviews, the City of Atlanta was making regular headlines for the corruption in the City's P&C office. In fact, her counterpart at the City of Atlanta was sentenced in a federal bribery case in January 2018 for accepting more than \$40,000 in bribes.

⁷ Ethics Code §22A(c) provides, in part: Proscribed Conduct. No official or employee of DeKalb County shall: (continued on next page)

DeKalb County merit employees (lower-level employees) are subject to the Code of DeKalb County Section 20-20(i) (Personnel Code) which provides:

An employee may accept unsolicited gifts from a person or entity other than a prohibited source, having an aggregate market value of forty dollars (\$40.00) or less per source per occasion, provided that the aggregate market value of individual gifts received from any one source under the authority of this paragraph shall not exceed one hundred twenty dollars (\$120.00) in a calendar year.

A Prohibited Source is defined by Code of DeKalb County Section 20-20(j)(9) as: *Prohibited source* means any person or entity who:

- a. Is seeking official action by the employee or the employee's department;
- b. Does business or seeks to do business with the county or the employee's department;
- c. Conducts activities regulated by the employee or the employee's department;
- d. Has interest that may be substantially affected by performance or nonperformance of the employee's official duties; or
- e. Is an organization having a majority of its members as described in paragraphs (j)(9)a. through d. of this section.

Merit-exempt employees (higher-ranking officials) are not bound by the personnel code referenced above.

Prior to 2014, merit-exempt employees were not subject to gift restrictions except for provisions in the Ethics Code. Per Executive Order No. 2014-4 dated June 24, 2014, the gift acceptance rule for merit-exempt employees provides, in part:

Gifts. A CEO merit-exempt employee may accept gifts [footnote 2] from an Interested Source [footnote 3], having an aggregate market value of forty dollars

(1) By his or her conduct give reasonable basis for the impression that any person can improperly influence him or her or unduly enjoy his or her favor in the performance of his or her official acts or actions or that he or she is affected unduly by the rank or position of or kinship or association with any person;

(2)(A) Directly or indirectly request, exact, receive, or agree to receive a gift, loan, favor, promise, or thing of value for himself or herself or another person if:

(i) It tends to influence him or her in the discharge of his or her official duties; or

(ii) He or she recently has been, or is now, or in the near future may be, involved in any official act or action directly affecting the donor or lender.

(B) Subparagraph (A) of this paragraph shall not apply in the case of:

(i) An occasional nonpecuniary gift of value less than \$100.00;

(ii) An award publicly presented in recognition of public service; or

(iii) A commercially reasonable loan made in the ordinary course of business by an institution authorized by the laws of Georgia to engage in the making of such a loan; . . .

(\$40.00) or less per Interested Source per occasion, provided that the aggregate market value of individual gifts received from any single Interested Source shall not exceed one hundred twenty dollars (\$120.00) in a calendar year, except in the following circumstances, which are *exceptions to this rule* [emphasis added]:

a. *Meals*. CEO merit-exempt employees are allowed to accept reasonable meals and refreshments from an Interested Source furnished in connection with participation at a public, civic, charitable, or non-profit ceremony, event, *convention, or conference* [emphasis added].

b. *Travel*. CEO merit-exempt employees may accept “reasonable hosting expenses” from Interested Sources for travel, meals, lodging, and conference fees provided in connection with (1) teaching, (2) a speaking engagement, (3) participation on a professional or civic panel, or (4) *attendance at a conference in an official capacity* [emphasis added]. CEO merit-exempt employees may accept travel from other non-County sources for any official purpose, provided that they disclose the travel payments made or reimbursements received on a Travel Disclosure Report filed with either the Chief Integrity Officer, if created, or the Finance Director or his/her designee. CEO merit-exempt employees may accept travel reimbursements from a County contractor for training if it is part of the County’s contract or falls within the exception for gifts of travel to the County.

[Footnote 2]: “Gift” includes any gratuity, favor, discount, entertainment, trip, hospitality, loan, forbearance or other item having monetary value. It includes services as well as gifts of training, transportation, travel, lodging, meals, whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred. A gift does not include: modest items of prepared food and refreshments such as soft drinks, or coffee or donuts other than as part of a meal; loans from banks or other financial institution on terms generally available to the public, social invitations from persons or entities other than Interested Sources.

[Footnote 3]: “Interested Source” means any person or entity who: (a) is seeking official action by the employee or the employee’s department; (b) does business or seeks to do business with the county or the employee’s department; (c) conducts activities regulated by the employee or the employee’s department; (d) has interests that may be substantially affected by performance or nonperformance of the employee’s official duties; or (e) is an organization having a majority of its members as described in paragraphs (a) through (d).

Executive Order No. 2014-4 also has a rule that applies to contractors:

Contractors. To the extent that the Organizational Act, Section 22A, the Code of DeKalb County, and the rules in this Executive Order allow a gift, meal, travel, expense, ticket or anything else of value to be purchased for a CEO employee by a contractor doing business with the County, the contractor must provide written disclosure, quarterly, of the exact nature and value of the purchase to either the Chief Integrity Officer, if created, or the Finance Director or his/her designee. Additionally, every contractor who conducts business with the County will receive a copy of these ethical rules at the time of execution of the contract.

Executive Order No. 2014-4 can be found in its entirety in **Exhibit 8**.

The P&C has a practice of placing the language below in its solicitations:

Ethics Rules: Bidders are subject to the Ethics provision within the DeKalb County Purchasing Policy; the Organizational Act, Section 22A, the Code of DeKalb County; and the rules of Executive Order 2014-4. Any violations will be addressed, pursuant to these policies and rules. To the extent that the Organizational Act, Section 22A, the Code of DeKalb County, and the rules of Executive Order 2014-4 allow a gift, meal, travel expense, ticket, or anything else of value to be purchased for a CEO employee by a contractor doing business with the County, the contractor must provide written disclosure, quarterly, of the exact nature and value of the purchase to the Chief Integrity Officer, if created, or the Finance Director or his/her designee. Every contractor conducting business with the County will receive a copy of these ethical rules at the time of execution of the contract.

Application of the Rules

DeKalb County's gift rules enable all employees to receive gifts (or meals) with a value of up to \$40 per occasion and a \$120 per year cap, with some exceptions.

Merit employees (lower-level employees) are further prohibited from receiving anything of value from a Prohibited Source – those doing business with the County. In contrast, merit-exempt employees (high-level officials) are *not* prohibited from accepting meals from those doing business with the county. The irony is clear in this distinction because merit-exempt employees are generally in supervisory or director positions where their sphere of influence is significant, while merit employees, who are prohibited from receiving gifts from those doing

business with the County, work in lower-level positions where their sphere of influence is significantly less.

The DeKalb Ethics Code prohibits any County official from receiving a gift in excess of \$100 from a vendor doing business with the County. We believe that the appropriate rule would be that no employee can accept gifts of any value from those doing business with DeKalb County.

Even more problematic, Executive Order No. 2014-4 purports to allow vendors to pay for travel and meals (reasonable hosting expenses) of DeKalb County merit-exempt employees when they attend conventions and conferences. Such expenses could be in the hundreds or thousands of dollars. High-ranking DeKalb County officials, those yielding influence over which vendors obtain multimillion-dollar contracts, would appear to be open season for vendors at conventions and conferences. The Executive Order can be in conflict with the Ethics Code that prohibits any County official from receiving a gift in excess of \$100 from a vendor doing business with the county. Under these circumstances, we believe that the Ethics Code is controlling law, and any gift – including food, lodging, and travel – should be limited to \$100. As it stands now, a merit-exempt employee could be misled into violating the law.

Executive Order No. 2014-4 also requires vendors that provide meals, gifts, travel, etc., to County employees to disclose this fact to the DeKalb County Ethics Officer. Those vendors that have filed a disclosure can now be found on the DeKalb County Board of Ethics' website.⁸ Although most of these vendor filings indicate that they had no disclosures to report, we did find the following vendor disclosures:

1. Buck Head Products & Systems disclosed on February 2, 2017:
- Jelly beans and crackers

⁸ The earliest reported entry on this website was February of 2017, which was not too long after the newly constituted Board of Ethics appointed an Ethics Officer in DeKalb County.

2. Reeves & Associates Consulting and Training, Inc. disclosed on July 7, 2017:
 - Reception for CEO Michael Thurmond, \$250
 - Friends of Steve Bradshaw Reception, \$250

Noticeably absent from this list is any DeKalb County vendor that provided a meal to a DeKalb County employee.

The P&C has an unwritten policy of zero-tolerance for all Department employees. Almost all P&C employees were asked about their knowledge of the County's gift-receiving rules. Although very few could describe the County's actual policy, a strong majority stated that their Department did not allow employees to receive any gifts. We applaud the Director for this policy (although unwritten) and the effectiveness with which it has been communicated to all P&C employees.

In other Departments, we found evidence that officials did receive free meals from DeKalb County vendors.

We believe that the adoption and enforcement of strict rules, even pertaining to small gifts and meals from vendors, will have an impact on behavior. Our team has substantial experience in investigating corruption matters and debriefing governmental officials criminally charged for their conduct. In our experience, the free meal is the "gateway drug" to corruption.⁹ For further analysis on how officials become corrupt, see *Journal of Government Financial Management* article "Public Corruption: Causes, Consequences & Countermeasures" found in **Exhibit 9**.

We recommend that P&C adopt a written policy that disallows the receipt of gifts by

⁹ Social scientists James Wilson and George Kelling wrote an article in the March 1982 issue of *The Atlantic Monthly* entitled "Broken Windows." In this article, they argued that the monitoring and enforcement of smaller violations of the rules will create an atmosphere of law and order thereby preventing more serious offenses.

departmental employees from those doing business with the County. We recommend that Executive Order No. 2014-4 be modified to prohibit merit-exempt employees from receiving gifts from “interested sources.” We also recommend that the Executive Order be modified so that it is not conflict with the Ethics Code §22A(c)(2)(A)(ii), (B)(i).

University of North Georgia, BB&T Center for Ethical Leadership

The DeKalb Ethics Officer engaged the University of North Georgia’s BB&T Center for Ethical Leadership (Center) to assess the County’s ethical culture. The Center surveyed DeKalb County employees through the use of its Ethical Culture Indicator. The Ethical Culture Indicator is an instrument used to assess an organization’s ethical culture.

The Center’s process involved the collection of data from DeKalb County employees within 18 index categories including ethical standards, leadership confidence and ethical reporting. All responses were anonymous in order to encourage employees to provide accurate feedback.

The Ethical Culture Indicator survey was conducted during the period of March 1 – 27, 2017. The Center provided the following summary of its results:

Based on the results of the Ethical Culture Indicator for DeKalb County Government conducted in spring of 2017 ending on March 27th, 2017, it is our belief that the county focuses on several key areas related to Ethical Climate and Employee Engagement.

Due to the below average scores on indicators such as leadership confidence, perceptions of the county leadership’s ability to articulate a clear future and vision, employees understanding of the county’s values, and overall communication we recommend remediation for the county government and its employees.

Based on the survey data and open-ended responses, it is apparent that employees do not have a clear understanding of the county’s values, and do not believe that the county is doing an adequate job of clarifying those values or providing a clear

vision as to the future of the county. These issues stem from poor communication by the leadership perceived by the employees of DeKalb County Government.

The Center's report can be found in **Exhibit 6**.

We noticed that the results of this survey demonstrate significant challenges for DeKalb County. In the chart below are some of the Center's key findings on the County's culture, including vision, leadership, trust and willingness to report unethical practices. Unfortunately, the Center's findings are also consistent with the findings we obtained through direct interviews with County employees.

Ethical Culture Indicator Results	Positive	Negative
DeKalb County has an outstanding future.	32.1	33.4
DeKalb County's leadership has communicated a vision of the future that motivates me.	29.9	43.5
I trust the DeKalb County Leadership.	25.6	48
The leadership of this county shows a commitment to ethical business decisions and conduct.	31.2	36.6
There is open, honest, two-way communication in this county.	21.6	53.3
I rarely consider looking for a job outside of the DeKalb County Government.	28.7	52
I can report unethical practices without fear of reprisal.	49	27.8
I feel comfortable that the DeKalb County Government follows its stated values.	28.2	39.5

A significant limitation of the Center's Ethical Culture Indicator is that the results reflect the entire County's workforce and were not broken down by department. Had the results been segmented by department, there presumably would have been varying results, as employees in the County are divided by location, management, work environment, and job function. While the overall results are bad, they may not reflect the culture of any particular department. Accordingly, department heads desiring to improve their departments will not have key

information that could have been available to make necessary changes. We recommend that this survey be used as a baseline. The Ethical Culture Indicator should be administered in future years and the results should be broken down by individual departments. The survey should also be mandatory for all employees. This will engage employees in the process and ensure that the findings are accurate.

Workload

A consistent theme we heard discussed by P&C employees was the excessive amount of work placed on them. We think that the workload is directly related to the constant changing procedures and high turnover rate, which create a perpetual level of untrained employees.

We recommend that management consider flex-time and staggered work schedules for the purpose of retaining and attracting employees.

Training

We believe that training needs to be significantly enhanced in P&C. This is essential for the staff to perform their jobs; it will also help them develop professionally. One tool P&C uses to educate employees is P&C University. P&C University is a PowerPoint training presentation used to share information. Employees told us that these materials need to be updated as well as implemented more structurally to new employees. Employee training is left to the discretion of each manager and is not uniform throughout the Department.

The communication of best practices and changing processes between P&C and the user departments could be enhanced. The turnover of employees in both P&C and the user departments is exacerbating the problem. Poor communication results in failure to follow procedures, delays in the process, and frustration among the parties.

There are several professional credentials that procurement agents can obtain. There are also conferences and conventions where procurement professionals can gain knowledge and share best practices. The Director has requested funding for both professional credentials and outside training, but an adequate budget was not provided. According to the P&C employees, these professional credentials are required by the procurement agents for promotional consideration.

We recommend that the P&C University PowerPoint training presentation be updated and a structured training program be implemented for new employees. This should include management implementing a program to track the progress. We recommend the use of a dedicated trainer to train P&C employees and the constituents in the many user departments, at least on a temporary basis. We also recommend that the Department be provided with an adequate training budget to bring in professional trainers, incentivize employees to obtain relevant credentials, and send employees to outside training where they can bring best practices back to the Department.

Workplace Conditions

We heard complaints of the physical workplace conditions. It was said that the office space needed new carpet, fresh paint, and repairs.

We walked the entire premises of P&C with the Director. We found that most all personnel had sizeable offices and workspace. We found the aesthetics of the office to be adequate. We did note that the carpet was excessively worn and torn.

The Director advised that the department needs more space to store files. She has requested funds for more storage, but the request was denied.

We recommend the provision of adequate storage space for files in P&C.

7. USER DEPARTMENTS

We interviewed personnel from four user departments – Watershed Management; Sanitation; Roads & Drainage; and Recreation Parks & Cultural Affairs – to assess P&C’s service to these departments and to assess the potential for waste, fraud, corruption and abuse in the County’s procurement processes.

The current Public Works Director oversees Sanitation, Roads & Drainage, Transportation, and Fleet Management. This Director was relatively new to the job at the time of our interview. Accordingly, he did not have an opinion regarding P&C matters but welcomed our review of the departments he manages.

Many user department personnel were restrained in their comments with us. Some stated explicit fear of reprisal.

Watershed Management

Due to the nature of their work, the Department of Watershed Management is the largest DeKalb County department in terms of expenditure of funds.

The former Director of DWM was interviewed, and he advised that P&C lacks competence and is “horrible” compared to other municipalities where he had experience.¹⁰ He also noted that P&C would change the rules in the middle of the process. Employees assigned to Team CIP are term-limited, which complicates this issue. Thus, once they are hired, they need to start looking for a new job. The former Director also believes that the County does not hold vendors accountable to their contracts.

¹⁰ The former Director, Scott Towler, left his employment with DeKalb County in March of 2018.

On July 13, 2018, Scott Towler filed a lawsuit against DeKalb County under the Georgia Whistleblower Act, O.C.G.A. §45-1-4, *et seq.*¹¹ Towler was the Director of DWM at the time of his departure from DeKalb County. In his lawsuit, he alleges general and specific instances of corruption in DWM.

On March 15, 2018, Teresa Slayton filed a lawsuit against DeKalb County under the Georgia Whistleblower Act, O.C.G.A. §45-1-4, *et seq.*¹² Slayton was a former P&C procurement agent at the time of her departure from DeKalb County. In her lawsuit, she alleges fraud and corruption relating to DWM contracts.

We note that most of the allegations of waste, fraud, corruption, and abuse that came to our attention related to matters in the DWM.

The Interim Director of Watershed Management said his perception is that P&C is competent and professional.

A senior professional in DWM advised that P&C is not user-friendly and that there is a distrust between DWM and P&C personnel. Furthermore, this individual stated that the personnel lacked professionalism and lacked experience outside of DeKalb County. This same official added that P&C's culture is dysfunctional, has a high turnover rate, and lacks consistency in its processes, all of which put DeKalb County at risk for waste, fraud, and abuse.

There were multiple observations from senior DWM leadership that County employees were too comfortable with vendors. One DWM employee recalls other DWM employees

¹¹ *Scott A. Towler v. DeKalb County Georgia*, Superior Court of DeKalb County, 18CV7119.

¹² *Teresa Slayton v. DeKalb County Georgia*, Superior Court of DeKalb County, 18CV3085.

making verbal agreements with vendors and speaking with vendors during the bid period, although it could have been due to their lack of knowledge or training.¹³

A P&C insider knowledgeable of the fact alleges that a DWM vendor received insider information during the bid period. A detailed audit report which reviewed various issues associated with this solicitation can be found in **Exhibit 10**.

Internal Controls Over DWM Expenditures

DeKalb's DWM spends more county funds than any other user department.

We believe that the expenditure of funds by the DWM present the greatest risk of waste, fraud, corruption, and abuse for DeKalb County.

We heard from multiple sources that DWM is at risk for paying for services not rendered. Contractor services should be monitored by a DeKalb program manager, and this should include an inspection of the contractor's work that is appropriately logged. When a contractor submits an invoice, the logged performance should be compared against the invoice to ensure accuracy. Audits of this process are currently being performed to some extent by two auditors in P&C as well as through new efforts by the OIIA.

We find that the auditors assigned to P&C are not independent because part of their audit work involves auditing P&C processes.¹⁴ Furthermore, the auditors do not have unimpeded access to those charged with DeKalb County's governance in order to report significant findings.¹⁵ Additionally, the P&C auditors' efforts have been significantly stymied due to the

¹³ The bid period is the time between the deadline for submission of questions and the deadline for receipt of the bidders' responses. During this bid period, DeKalb employees (especially user department personnel) should not communicate with vendors.

¹⁴ International Standards for the Professional Practice of Internal Auditing, Section 1100, Independence and Objectivity: The Internal audit activity must be independent, and internal auditors must be objective in performing their work.

¹⁵ International Standards for the Professional Practice of Internal Auditing, Section 2440.A1: The chief audit executive is responsible for communicating the final results to parties who can ensure that the results are given due consideration.

failure of DWM management to provide, in a timely manner, audit evidence that includes contractor invoices. We note that the OIIA has the authority to correct this type of evasive conduct.

Due to the number and magnitude of the DWM contracts, we recommend that a minimum of two full-time auditors be assigned to audit payments to the contractors. All contracts in excess of pre-established thresholds should be audited and lower-dollar contracts should be audited at pre-determined thresholds.¹⁶ To resolve these independence and reporting issues, we recommend that the two auditor positions currently assigned to P&C be reassigned to the OIIA.

Sanitation

A senior official in the Sanitation Department described the quality of the P&C Department as “fair, pretty good, and has gotten better.” This official also advised that the department needs help. On a scale of 1-10 with 10 being the highest, P&C was around 7 or 8. They are getting the job done but could improve. The high turnover rate of employees in the P&C department negatively impacts their service.

Other employees found P&C to be helpful and serving the needs of the Sanitation Department. During the past year, a former employee left P&C and began working in the Sanitation Department which has been very valuable.

The Sanitation Department does accept gifts from vendors. A sanitation official told us that a large vendor contributed up to \$1,000 during a holiday season to defray the costs of an all-employee function. We found no evidence that this vendor disclosed its gift(s) to the DeKalb’s

¹⁶ By way of example only, all contract above \$5 million should be under continuous audit; 60% of contracts between \$1 – 5 million should be audited; and 10% of contracts under \$1 million should be audited.

Ethics Officer as required by Executive Order No. 2014-4. Department employees who attend conferences have been encouraged by department management to attend dinners which are paid for by vendors. These dinners were said to be attended by 10 to 15 employees.

Roads and Drainage

The Director of Roads and Drainage (R&D) has been in her current job for over 5 years, and in the department for 28 years. She advised that the P&C Department is tough with the rules and procedures. She indicated that the culture of P&C was responsive, attentive, and helpful.

The Director advised that she does not accept any gifts or meals from anyone involved in county business. Because of her zero-tolerance policy for herself, she could not recall the exact county policy on receiving gifts. She believes her Department is following the County's ethics policies.

Several R&D managers and other personnel were interviewed. Most of these individuals did not have enough contact with P&C to have an opinion about that department. Those who had some experience with P&C did not experience anything unusual and thought the procurement processes worked as designed.

Recreation, Parks & Cultural Affairs

We interviewed several employees in the Department of Recreation, Parks & Cultural Affairs. They were generally complimentary of P&C personnel and believed they receive really good service.

8. ANALYSIS OF THE CONTROL ENVIRONMENT

The P&C Department is responsible for effectively and efficiently managing a procurement program that is free of waste, fraud, corruption and abuse. P&C does its work both internally and through interactions with DeKalb County user departments.

Our review included an evaluation of the hard and soft controls in an effort to reach an opinion on whether or not the County's procurement program is at risk for waste, fraud, corruption, and abuse.

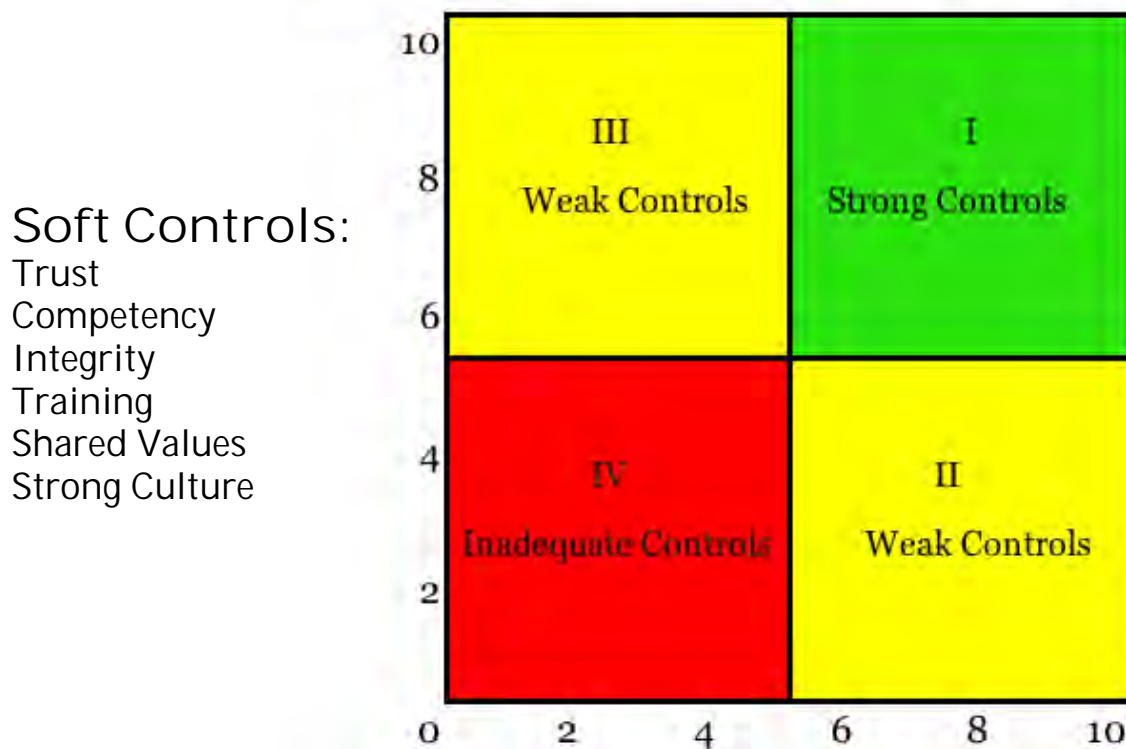
On the next page is a graph which can be used to visually evaluate DeKalb County's hard and soft controls. On the vertical axis are the soft controls: trust, competency, integrity, training, shared values, and a strong culture. On the horizontal axis are the hard controls: policies, procedures, consistency of application, strong database management, and internal controls (tested & effective). Upon evaluating these controls, a numerical rating can be assigned to both the soft and hard controls and plotted on the Control Environment Assessment. The intersection of the assigned numbers to the two controls will result in a data point falling into one of four (I – IV) boxes. We ask the reader to consider this as a theoretical model, as we did not associate a specific number to each vertex.

Analysis of Hard Controls

DeKalb County is not in compliance with House Bill 598 which became law on May 12, 2015. We recommend that an updated Policy be drafted in the form of a County ordinance and passed by the BOC as soon as is practical. After the Policy is enacted, we recommend that a Purchase and Procedures Manual be revised and approved by the CEO with a provision that subsequent revisions to the manual also be approved by the CEO. We note that P&C has

currently engaged a contractor to review its Purchase and Procedures Manual, and we believe that process may need to be revised after a Policy Ordinance has been approved by the Board of Commissioners.

Control Environment Assessment



Hard Controls:
Policies
Procedures
Consistency of Application
Strong Database Management
Internal Controls (Tested & Effective)

The P&C suffers from lost documentation in its files. This is a fundamental control weakness. The OIIA cannot evaluate many of P&C's functions due to a lack of audit evidence. Management is addressing the issue. Until this issue is resolved, we do not believe those charged with DeKalb County governance can rely on many of P&C's internal controls.

The findings in OIIA's audits demonstrate weak hard controls (see **Exhibits 1-5**).

P&C does not track vendors who complain, protest, or file lawsuits against the County.

This rich source of information is not tracked.

Oracle Advanced Procurement Suite is a software-driven solution for the management of the County's procurement program. The successful implementation of this software will mitigate many of P&C's issues. The project was supposed to have been completed in the Spring of 2016. We do not believe that the costs are being tracked County management. The current cost is well in excess of \$2,438,820.83 and growing.

Data analysis can be enhanced and used for both managerial and audit functions.

Analysis of Soft Controls

We found that the culture, morale, and leadership of P&C are extremely low. The P&C personnel expressed in great detail that their Department suffers from a very bad culture. Several employees used the word "toxic" to describe the P&C culture.

The Department's stated values of productivity, accountability, communication, and teamwork were not found in practice. We believe that the high attrition rate is caused by the challenging culture found in P&C.

Merit-exempt employees are high-ranking officials who can exert significant influence over a DeKalb County procurement. These employees are allowed to receive gifts from vendors.

The University of North Georgia's BB&T Center for Ethical Leadership (Center) assessed the County's ethical culture. The Center surveyed DeKalb County employees through the use of its Ethical Culture Indicator. The results demonstrate that the County has a tremendous growth opportunity.

We found that the workload is heavy due to the high attrition rate. We also found that the Department's personnel would greatly benefit from more training.

We believe that the expenditure of funds at the DWM present the greatest risk of waste, fraud, corruption, and abuse for DeKalb County.

Control Risks

We believe that the hard controls over DeKalb County's procurement program are weak. We believe that the soft controls over DeKalb County's procurement program are extremely weak. We believe that due to these weaknesses, DeKalb County's procurement program is at high risk for waste, fraud, corruption, and abuse.

9. OTHER ISSUES

Open Records Request Compliance

We asked most all P&C personnel if they were aware of any non-compliance with Georgia Open Records Acts request.

We found no evidence of P&C not complying with the Georgia Open Records Act.

Obstructing an OIIA Audit

We asked almost all P&C personnel if they were aware of any personnel obstructing an OIIA audit or intentionally hiding documentation from auditors.

We found no evidence of any P&C personnel obstructing an OIIA audit or intentionally hiding documentation from auditors. We do believe P&C has lost an appreciable amount of its records.

Use of DeKalb Vehicles; Expense Reimbursement

The County's policies involving vehicle use and travel reimbursement could be better articulated to P&C employees. Employees complained about the requirement to use their personal vehicle on County business without being reimbursed. We also heard complaints relating to a business trip taken by the Director.

Findings

Three P&C employees attended the Governmental Procurement Association of Georgia (GPAG), a chapter of the National Institute of Governmental Purchasing conference, in Jekyll Island, Georgia during the timeframe of April 25 – 28, 2017. The attendees had the opportunity to pursue over 40 different training classes in 8 different tracks and gain credits for re-

certification and professional credentialing. Two employees received a scholarship from GPAG that 1) paid for their registration and lodging and 2) covered travel reimbursement for the use of their separate personal cars.¹⁷

The Director was one of three P&C employees who attended this conference. She told us that she drove a DeKalb County vehicle to the conference. The passengers included her Mother, daughter, and grandchild. The Director told us that she was the sole driver of the car and that she stayed in a two-room villa. She also told us that she had approval for expenses incurred and was not aware of the violation of any County policy.

The Director stayed at the hotel called Villas by the Sea Resort & Conference Center at 1175 N. Beachview Drive, Jekyll Island, Georgia. The GPAG-negotiated hotel rates for attendees were as follows:

- Mini Villa/Studio (1-2 occupancy), island side, \$119 per night
- One Bedroom (1-2 occupancy), island side, \$129 per night
- One Bedroom (1-2 occupancy), ocean side, \$139

The Director's travel receipt indicated that she stayed in a two-bedroom oceanside room under the GPAG group rate and incurred a nightly room rate of \$139, a resort fee of \$6.95 and \$16.68 in taxes. The Director told us that when she made her room reservation, there were no single units available. Another employee confirmed this account, advising that the Director's travel availability was confirmed on short notice. Accordingly, the hotel upgraded her to a two-bedroom unit with no additional charge.

We were provided with screenshots of the County's electronic system for expense reimbursements. We saw electronic entries in which two of the Director's subordinates provided

¹⁷ Receipt of these scholarships could be in violation of Code of DeKalb County Section 20-20(a)(6) which provides that merit employees may not "Directly or indirectly solicit or accept any gift from a prohibited source or any gift given because of the employee's position."

travel expense information to the County's accounting services department on behalf of the Director. We saw an entry requesting reimbursement for an amount that included mileage for the trip. Mileage reimbursement would have been improper as the Director used the County vehicle. The documentation we were provided with showed that someone accurately calculated the mileage from the hotel to the Director's home address and applied the proper reimbursement rate, which resulted in an amount due of \$312. We saw a subsequent entry by a subordinate that requested the removal of the mileage expense for reimbursement. A DeKalb County check made payable to the Director's did not include the mileage expense. The Director told us that she was unaware at that time that anyone requested mileage expense reimbursement on her behalf, and this was confirmed by another individual.

The information we were provide with indicated that the County approving official for the Director's travel expense report was a manager in P&C who is a subordinate of the Director. We found that the accounting department did obtain her boss's approval before a final check was disbursed.

We called the hotel and learned that the Director was upgraded from a one-bedroom to a two-bedroom without additional charge. We also learned that the hotel would accept DeKalb County's Hotel/Motel Excise Tax Reporting Form, allowing a county employee to be exempt from state taxes.

DeKalb County's Travel Policy (**see Exhibit 11**) provides, in part:

- DeKalb County will only pay for any necessary and actual authorized travel and training expenses incurred while carrying out official duties for DeKalb County.
- County funds may not be spent for any personal purposes or expenses.
- Travelers must conserve County funds and choose the least expensive options that accommodate the traveler and the County.

- The County will pay for reasonably-priced lodging for overnight trips outside the Metro Atlanta at the single occupancy rate.
- Whenever appropriate, travelers should share the cost of travel with other colleagues (such as carpooling). The County will only pay for business expenses incurred while carrying out official County business.
- Travelers may use County vehicles for trips in Georgia when approved by an authorizing party.
- The traveler should present the Hotel/Motel Excise Tax Exemption Form at check-in. If they refuse to waive the tax, the County will reimburse the traveler for the tax.
- Non-employees may stay with the traveler but all added costs must be borne by the traveler.
- Guests and Companions may accompany a traveler at their own expense. The County will not reimburse any costs related to guest or companion travel.
- The authorizing party is a traveler's department director or the director's designee.
- The County COO approves travel for directors.
- Authorizing parties should review proposed expenses to determine that they are in the best interest of the County and comply with this policy.
- The County will only pay for expenses allowed by this policy, within the rates defined here and properly authorized.
- All parties subject to this policy agree to act at all times in a manner which will uphold the public trust, utilize public funds wisely, safeguard County resources and advance the best interest of the County.
- Any employee or Elected Official who knowingly submits a false claim for reimbursement will be responsible for restitution of any funds fraudulently received, and will be subject to disciplinary action up to and including criminal prosecution.

We spoke with the head of Risk Management for DeKalb County. We were provided with Executive Order 09-03 regarding DeKalb County's policy for take-home vehicles (**Exhibit 12**) and DeKalb County Policy/Procedure for Take-Home Vehicles (**Exhibit 13**), which personnel are to execute when assigned a vehicle.

We were told that the DeKalb County's insurance policies do not cover claims of non-DeKalb County personnel who are injured while being transported in a DeKalb County vehicle.¹⁸ Accordingly, DeKalb County and its personnel could be held liable when non-DeKalb County personnel, including friends and family, are injured while in a County vehicle. We were told, and the County's policies reflect, that the County does not have a stated prohibition from transporting non-DeKalb personnel in its vehicles. We recommend that DeKalb County amend its policies to prohibit DeKalb County personnel from transporting non-DeKalb County personnel in a DeKalb County vehicle.

We cannot determine if the Director stayed in the least expensive single-occupancy room per County policy. The least expensive room would have been \$119. The director told us that when she made her reservations, the single-occupancy rooms were no longer available, and she was upgraded without additional charge. However, if she requested the Mini Villa/Studio (1-2 occupancy), island side, the rate would have been \$119. She told us, and the hotel confirmed, that she was upgraded at no charge to a two-bedroom; this makes it likely that she initially requested the ocean-side one Bedroom (1-2 occupancy) at the rate of \$139. That choice would have been in violation of County policy, as it was not the least expensive. However, since we do not know if all single-occupancy units were sold out at the time of her reservations, we cannot reach a conclusive opinion on this issue.

We find that the Director did not present the DeKalb Hotel/Motel Excise Tax Reporting Form to the hotel to exempt taxes, which was in violation of DeKalb County Policy and thereby caused DeKalb to incur an unnecessary expense. We find that the Director had no knowledge that a request for mileage reimbursement was initially sought for an expense she did not incur.

¹⁸ We note there may be other provisions that apply to the DeKalb County Police Department for the transportation of non-DeKalb County personnel.

Our investigation of these issues was complicated by the fact that electronic records show that the Director's subordinates handled the reimbursement process. From our understanding of the County's reimbursement process, there is no requirement for an employee seeking expense reimbursement to provide an inked or secure digital signature on a DeKalb County form. Such a form should certify that the expense reimbursement they are requesting is true and accurate and include a warning that an intentional violation of County policy will subject the employee to disciplinary action up to and including criminal prosecution.

We recommend that DeKalb County adopt a policy which requires any employee submitting a request for expense reimbursement sign a paper document or provide a secure electronic signature, certifying the truth and accuracy of their submission and acknowledging a warning that an intentional violation of County policy will subject the employee to disciplinary action up to and including criminal prosecution.

Several P&C employees used their personal vehicles to travel on County business and were not aware of any procedure to obtain reimbursement from the County. One manager told a subordinate to incur mileage as a personal expense and then take a tax deduction. This type of misinformation along with rumors surrounding the Director's travel to Jekyll contributes to low employee morale.

10. NOTABLE CONTRACTS

Archer-Western

We were told that the award of ITB 14-100430, Snapfinger Advanced Wastewater Treatment Facilities Expansion – Phase 2, to Archer-Western was the result of a flawed procurement process. We were told that Archer-Western did not provide a copy of a Utility Foreman’s Certificate as is required by the ITB; this vendor should have been deemed non-responsive and should not have been considered for the bid. This ITB resulted in one of the largest County contracts (in excess of \$180 million).

We were provided with a copy of a document that purported to show an inventory of the contents of the documents that Archer-Western provided in response to the bid. A notation was made on this document indicating a that Utility Foreman’s Certificate was not included in the bid package. The comment section of this document indicates that this item is “required.” On page 10 of the ITB there was language that stated, “Failure to provide this license and necessary certificates in this format *may* [emphasis added] result in the proposed Bid being deemed non-responsive.”

On June 8, 2018, we reviewed the paper file of ITB 14-100430. The file did not contain the bids of any vendors for this ITB. P&C personnel advised that the original documents may have been lost. We asked the P&C Team-CIP leader for an electronic version of Archer-Western’s bid. In this version of the file, there was a PDF with only portions of the bid. Several licenses were provided; however, there was no Utility Foreman’s Certificate.

The procurement agent for this project was interviewed at the office of P&C. Although the agent is not certain, the agent believes that some of the licenses Archer-Western did provide in its bid information may be superior to the Utility Foreman’s Certificate, thereby making the

proof of this certificate unnecessary. The agent also noted that the ITB language states that the failure to include this certificate “may” result in the proposed bid being deemed non-responsive. Due to the use of the permissive word “may,” the Director of P&C would have the discretion to accept a verification of the certificate later in the procurement process if deemed appropriate.

We do not recommend further action on this matter. We do note that missing files can make the investigation of allegations difficult or impossible to resolve.

Mystery Valley Golf Course

DeKalb County owns Mystery Valley Golf Course (Mystery Valley) in Lithonia, GA. The County’s Department of Recreation, Parks and Cultural Affairs (RPCA) oversees the management of the golf course.

We received an allegation that a senior County official improperly interfered with an RFP while it was on the street (the period of time between the closing of questions and answers and the deadline for submissions or responses). While that allegation was not substantiated, we learned significant information about Mystery Valley that merits reporting.

The County has outsourced the management, maintenance, and operation of the golf course for nearly twenty years. DeKalb County Contract No. 12-800884, between DeKalb County and Georgia Golf Partners, LLC (GGP), was executed on February 1, 2012 in order for DeKalb County to outsource the operations of Mystery Valley Golf Club and Sugar Creek Golf & Tennis Club (Sugar Creek) to GGP. According to that contract, GGP was a joint venture between CGL of Savannah, Inc. and SydMar Golf Management, Inc.

DeKalb County did not pay GGP to manage, maintain, and operate Mystery Valley. Rather, GGP was compensated by receiving the gross revenue produced at Mystery Valley minus a percentage that was to be paid back to the County. That percentage was one percent in

2012 and gradually increased to three percent. GGP was also required to make annual capital contributions.

Failure to Pay Capital Contributions and Revenue Share

We were told that GGP (and/or its successor Cornerstone Golf Partners) is in arrears for the percentage of revenue due. GGP has argued that it need not pay its revenue percentage because it ran a net loss. We were told that despite RPCA's request, GGP/Cornerstone has refused to provide an accounting for expenses. The contract also appears to require GGP to contribute \$100,000 to a capital reserves account for each year of the contract. We were told that these payments have not been made and GGP/Cornerstone could be in arrears in the amount of \$600,000.

Missing Equipment

GGP's contract with the County allowed it to use the County's golf course maintenance equipment but also required GGP to maintain it. The contract provides that the County will not pay or reimburse GGP for the purchase of any equipment. Furthermore, the contract provides that if certain equipment cannot be repaired, GGP agrees to return it to the County. RPCA has a listing of property that is missing. The property was worth \$135,200 when purchased new in approximately 2006.

The contract, including annual renewals, had a potential life of ten years. In 2017, the County decided to seek a new vendor to run Mystery Valley due to significant issues with the management of the golf course. On a scale of 1-5, with 1 being the worst, the RPCA rated GGP's contract performance a 1.

RPCA worked with P&C in an attempt to obtain a new vendor to run Mystery Valley. P&C announced several RFPs for the management of various aspects of Mystery Valley and

Sugar Creek. A Principal of GGP/Cornerstone was in attendance at a pre-bid meeting and communicated to all in attendance, including several potential bidders, negative information about Mystery Valley. DeKalb County officials who heard this Principal speak thought the behavior was highly inappropriate and viewed it as a thinly veiled attempt to discourage others from participating in the solicitation.

Cornerstone Golf Partners was the only bidder on the RFP for the management of Mystery Valley. Cornerstone's bid was deemed nonresponsive as it did not meet the LSBE Ordinance requirements.

Additional Mismanagement

At this point, the County had essentially two options: (1) recontact the non-bidders and obtain criteria that would entice them to bid on a new RFP, or (2) negotiate a change order and allow Cornerstone to continue operating the course. DeKalb County chose the latter.

GGP/Cornerstone managed both Mystery Valley and Sugar Creek. Mystery Valley was a much more desirable property to manage because it threw off significantly more revenue. A Principal of GGP/Cornerstone met with County executive management and proposed changing the terms of the original agreement by creating a change order to the original contract. Executive management agreed. The new operating entity is Cornerstone Golf Partners. The 2017 Change Order to contract No. 12-800884 states that Cornerstone Golf Partners was formerly known as Georgia Golf Partners, LLC. The essence of the Change Order is that Cornerstone no longer has to manage Sugar Creek. The Change Order allows Cornerstone to manage Mystery Valley for four more years with the County having the right to terminate the contract with 120 days' notice.

Falling Tree Liability

GGP's contract required it to remove dead and diseased trees as necessary from the grounds of Mystery Valley.

DeKalb County Police Department incident report, Accident Number 16-007595, dated January 23, 2016, described an incident where someone was killed by a falling tree at Mystery Valley. The report documented that a United States Postal Worker was killed within the "confines of Mystery Valley" when "[a]n unhealthy tree broke at the base and fell on [the postal service vehicle he was driving.]" It was noted in the report that the weather was clear and dry, but windy ("15 to 20 MPH with gusts of 30 to 40 MPH").

RPCA has produced a report titled, "Summary of Mystery Valley Neglected Maintenance and Equipment," documenting that there are still numerous dead and leaning trees around the Mystery Valley Golf Course.

Mystery Valley's website currently reads in part as follows: "Mystery Valley's beautiful timber framed clubhouse is the home of Knickers' Grill. If you are looking for a picturesque setting for your organization's next group event, you will find what you are looking for at Mystery Valley. Our golf course and dining room facilities are lovely and will be perfect for that special event." We believe that none of this is true – in our opinion, Mystery Valley is in an eyesore and an embarrassment to the County.

We visited Mystery Valley on May 14, 2018. The clubhouse was in a general state of disrepair, had no concessions, and had no functioning air conditioning. There were a significant number of weeds observed in fairways. Many of the sand traps/bunkers were without sand but had plenty of rocks and vegetation. There were numerous very tall trees on the edges of fairways

that were leaning dramatically as if ready to fall. Cornerstone and DeKalb County government are certainly on notice regarding the dangers of dead and leaning trees.

We recommend that the County's executive management use our findings to initiate additional investigation. We believe that Mystery Valley has been badly mismanaged. The County may be owed significant sums under a contract, and Mystery Valley may be a liability to the County. We recommend that the County take immediate action to address the dead and leaning trees at Mystery Valley.

11. LSBE ORDINANCE

In September 2016, DeKalb County enacted the Local Small Business Enterprise Ordinance (LSBE Ordinance). The purpose of the enactment was to address some shortcomings in the previous LSBE ordinance. As stated in its preamble, the LSBE Ordinance's purpose is:

[A]n initiative that protects and enhances the economic development of the county and improves the financial well-being of its citizenry because the program creates local jobs and improves the county's economic base by helping DeKalb businesses grow. As DeKalb County businesses grow and expand tax revenue and fees paid by such businesses increase and opportunities for taxpayers to work in the county where they live increases . . . [E]nactment of this ordinance encourages local small businesses to remain in DeKalb County and grow and prosper thereby directly and indirectly increasing the financial stability of DeKalb County government . . .

The LSBE Ordinance provides that the Director of P&C shall have the primary responsibility to ensure that the LSBE Ordinance is effectively and equitably implemented in DeKalb County.¹⁹ The LSBE Ordinance requires that the program be evaluated on a semi-annual basis. It also requires, at a minimum, seven (7) categories of information.²⁰

We believe that these seven categories of information are important in assessing the effectiveness of the LSBE. If the information was provided by P&C, it would inform those charged with DeKalb County's governance about the number of participating contractors and the dollar amount under contract. These are all important metrics for assessing performance. They

¹⁹ Code of DeKalb, Section 2-202(b).

²⁰ Code of DeKalb, Section 2-202(b):

- (1) Number of LSBEs certified and de-certified;
- (2) Number and financial impacts of mentor protégé partnerships.
- (3) Evaluation of the effectiveness of the LSBE in relation to the achievement of DeKalb County's goals set forth under this article, including the utilization of LSBEs on contracts;
- (4) Number of LSBEs subcontracted by non-LSBE prime contractors;
- (5) Number of LSBEs contracted as a prime contractor;
- (6) Total LSBE contracted dollars and total contracted dollars, and
- (7) Other information about DeKalb First, if requested by the board of commissioners or the chief executive officer.

are indicators of the *benefits* of the LSBE. We were told that the only report published pursuant to the Ordinance's reporting requirement was the DeKalb First LSBE Semi-Annual Report 2017 (January – June); see **Exhibit 14**. As of the date of this report, we are not aware of the July – December 2017 Semi-Annual report being produced by P&C as required by the LSBE Ordinance.

The P&C's January – June 2017 Report provided only a portion of the data required by the seven categories in the LSBE Ordinance.

1. There are 272 small businesses certified under the LSBE Ordinance and none were decertified.
2. There were two mentor/protégé partnerships with a financial impact of \$7,170,300 and \$9,000,000.
3. There was no meaningful evaluation of the effectiveness of the LSBE in relation to the achievement of DeKalb County's goals set forth under this article, including the utilization of LSBEs on contracts.
4. The number of LSBEs subcontracted by non-LSBE prime contractors was not provided in the report.
5. The number of LSBEs contracted as a prime contractor appears to be 17.
6. The total LSBE contracted dollars and total contracted dollars were not provided.
7. We were not told if other information about the LSBE Ordinance was requested by the CEO or BOC.

We believe that to assess the effectiveness of the LSBE Ordinance, those in charge of DeKalb County's governance need to know both the *benefits* and *costs* of the program. The LSBE Ordinance primarily requires metrics of the program's benefits.²¹

Although the LSBE Ordinance does not require its reporting, there are two categories of costs associated with the LSBE Ordinance implementation: administrative costs and the costs of anti-competitiveness. The costs of anti-competitiveness include costs associated with low-contractor participation, the delivery of substandard services, and higher prices for services. We did not find anyone in DeKalb County attempting to track these costs or associate them with the benefits of the LSBE program for any type of cost-benefits analysis.

We found that there are costs associated with administering the LSBE Ordinance. As discussed below, due to the LSBE Ordinance's anti-competitive nature, problems arise when enforcing the LSBE Ordinance's provisions. The DeKalb County Administrator of the program described several of these problems. Subcontractors may not do the work or not do it well, and the prime contractors may not have subcontractors perform the work after winning the contract. There are issues with the prime contractors not paying the subcontractors. There are bureaucratic issues that arise, including LSBE certification requirements, vetting the small business licenses, and site visits. The administration of the LSBE Ordinance results in DeKalb County getting in the middle of the prime/subcontractor relationship. Accordingly, when disputes do arise, the LSBE Ordinance has a mediation provision that requires DeKalb County officials to spend time resolving the disputes. There are at least two P&C employees that spend

²¹ We do note that Code of DeKalb, Section 2-202(b)(3) requires P&C to evaluate of the effectiveness of the LSBE in relation to the achievement of DeKalb County's goals set forth under this article. We saw no evidence that P&C has tried to provide this analysis.

the majority of their time on the program; other P&C and user department personnel spend an unmeasured amount of time on the program as a result of the LSBE Ordinance's complications.

To assist with some of these bureaucratic functions, a County Administrator of the LSBE program told us that DeKalb County has a five-year contract with the Georgia Minority Supplier Development Council (GMSDC) in the amount of \$1.3 million. We were told that additional resources were needed to effectively handle the program but there was no budget for this.

Costs of Anti-Competitiveness

Program Administrator's Observations

The DeKalb County Administrator of the LSBE program described the program as having some challenges due in part to the fact that most procurement agents are not fully embracing it. They see it as just more work for the agents. They also believe that it reduces vendor competition.

The Administrator also said that some prime contractors just do not want to partner with an LSBE because they do not know the quality of work the LSBE may provide. The Administrator believes that is a legitimate concern. In some cases, a prime did not make the county aware that an LSBE was inferior because the prime just did not want to make waves. If DeKalb County knows the LSBE is substandard, it will help remove or replace the LSBE.

The Administrator further advised that a limited number of prime contractors feel like they need to inflate pricing to pay their LSBE partners. A few primes have paid LSBEs a nominal amount just to be the LSBE of record, but not actually provide any work. Other Primes may have the LSBEs do work, but it will be completely unrelated to the contract.

The Administrator said that, in his opinion, there are some very good LSBE participants and most of them perform as they are supposed to. However, there are a few LSBE's that feel it is an entitlement program through which they should just be given contracts.

The Administrator advised that the LSBE Ordinance is quite helpful in empowering small businesses to grow into prime vendors. He believes that LSBE opens doors with great opportunities for small businesses in DeKalb County and metropolitan Atlanta.

The Administrator pointed out that the LSBE review panel can limit, reduce, increase, or eliminate LSBE participation, if warranted. The panel is comprised of the P&C Director, Chief Operating Officer, and the User Department representative.

The Administrator stated that the LSBE Program needs more manpower due to the new LSBE ordinance that created more responsibilities, such as mediation and strong accountability, which cannot be farmed out to GMSDC.

We heard significant complaints throughout P&C and in the Department of DWM about the anti-competitive nature of the LSBE Ordinance and the negative impact it is having on DeKalb County.

Procurement Agents' Observations

Agents in P&C had the following observations about the LSBE Ordinance:

- *The LSBE requirement is hampering competition and increasing DeKalb County's costs. It needs to be relaxed, perhaps having a certain percentage of LSBE participation as a goal.*
- *The LSBE program is a great program, but at times, very restrictive. It drives up costs incurred by DeKalb County and reduces bidder competition. LSBE requirements should be waived for some solicitations, because there is not always the opportunity for vendors*

to partner with small businesses. P&C agents have recommended a change in policy to include waivers. As the policy stands now, vendors can document a good faith effort to comply with LSBE requirements if they can't find an appropriate small business partner. A waiver, however, would "happen up front" and could promote competition.

- *LSBE participation should be a 20-30% goal for DeKalb County contracts, not a mandatory requirement. Prime contractors that have a legacy company do not want to be forced to utilize a LSBE company when the prime knows nothing about their capabilities, potentially jeopardizing the reputation of their legacy. The LSBE requirement has certainly reduced the number of bidders for DeKalb County contracts.*
- *LSBE vendors feel like they are automatically entitled to a portion of county contracts. The LSBE ordinance is poorly written and a real hindrance to the entire process. Interested prime contractors are required to attend a LSBE meeting within two weeks after solicitations are released. This process is drastically reducing competition and increasing DeKalb County's costs. There is no monitoring of LSBEs and when they are vetted for the LSBE requirements by GMSDC, the vetting process does not take into consideration if the LSBE is actually qualified to provide the service. Prime contractors assume once the LSBE is vetted by DeKalb County, they must be qualified to assist the prime with the project. Many times, that is not the case.*
- *Vendors have to attend an LSBE meeting within a short window of the bid being released. This requirement has to be met every single time a vendor submits a bid. Many vendors refuse to subject themselves to this process, drastically reducing the bidding competition. Bid prices are inflated due to the mandatory requirement of utilizing an LSBE. DeKalb*

County should do away with the LSBE process and go back to the old LSBE policy of only having to show a good faith effort for utilizing an LSBE on a contractor's project.

- *It is crazy for vendors to have to attend a mandatory LSBE meeting during a 1 – 2 week timeframe, prior to bids being submitted. Vendors have stated that the process in DeKalb County for submitting a bid is not worth the effort.*
- *The LSBE requirement interferes with competition. Vendors often say that it is not worth their while to use an LSBE. If they don't use one, they are non-responsive and their bid or proposal is eliminated. Some contracts don't lend themselves to LSBE participation. It should not be mandatory.*
- *The LSBE Ordinance rules make it harder to find quality vendors. It is fairly common that vendors choose not to compete for contracts because LSBE is a "turn-off." It is often a lot of work for a vendor to identify an LSBE partner. Also, if a vendor finds out about a solicitation after it's been on the street for two weeks, they may have already missed a chance to attend the mandatory LSBE meeting; therefore, they cannot be responsive in their bid and will be disqualified.*
- *DeKalb County's reputation with vendors is bad. The LSBE Ordinance is "the biggest joke ever." Regarding LSBE, contractors are forced to hire people they don't know and put the reputations of their businesses at risk. Any manager in any user department will tell you that the bad work that is done on County contracts is usually done by LSBE partners.*
- *The LSBE program undermines competition. Sometimes it doesn't make sense for a big vendor to partner with an LSBE. Moreover, it is unclear as to what qualifies as participation. Sometimes all the revenue from a contract will go to the prime contractor,*

but the prime will get credit for LSBE participation. For example, the prime might get credit for LSBE participation when an LSBE is helping the prime with the general operation of the prime's business as opposed to helping the prime on the contract with DeKalb County. There was a county contract where the LSBE participant did something like pest control for the prime contractor which had nothing to do with the prime's DeKalb County contract. Whether the County counts that type of participation or not ought to be information that's available to the public. "There is not a systematic approach."

- *The LSBE Ordinance is detrimental to having the best qualified vendors participate in the DeKalb County's bid process because the prime contractor must relinquish 20% of project revenue to the LSBE vendor. In some bids, DeKalb County is losing money because only one vendor submits a bid and is awarded a contract. In one instance, a project should have cost \$500,000 ended up costing the County \$1.4 million.*

User Department Officials' Observations

Officials in the Department of DWM had the following observations about the LSBE Ordinance:

- *An official in DWM told us that we are "on the ground" and can see vendors that do not perform, and the County will not pursue damages against its vendors. This official also cited two vendors that will not conduct business in DeKalb County because of the LSBE Ordinance.*
- *An official in DWM told us that LSBE contractors take advantage of DeKalb County and the County pays more as a result of the LSBE Ordinance. Contractors will not work in*

DeKalb County because of the LSBE Ordinance and because of slow pay. As a result, there only a few qualified contractors who will submit bids.

- *An official in DWM told us that the LSBE Ordinance was “terrible.” Contractors do not want to work in DeKalb County because of the LSBE subcontractors “add nothing to the team.” The official observed that subcontractors receive 20% of the contract amount by performing with minimum effort. The ordinance narrows the field of competitive vendors when there is already difficulty in securing the minimum number of bidders. This official advised that DWM is stuck with bad vendors and can’t get new ones.*

A well-known citizen advocate, likely the next Representative for Georgia House District 87, is calling for an investigation of DeKalb County’s LSBE program. This citizen advocate made the request to DeKalb County Ethics Officer Stacey Kalberman and Chief Audit Executive John L. Greene in a 16-page memorandum dated January 15, 2018. We did not attempt to investigate these allegations. We do note that this an example of the LSBE Ordinance causing discontent in the community by the appearance of inappropriate implementation.

We found that the collective opinion of most P&C procurement agents, and of the several officials that we interviewed in DWM, is that the LSBE Ordinance requirements are reducing vendor competition, causing delivery of substandard services, and increasing costs to DeKalb County taxpayers.

We believe that the effectiveness of the LSBE Ordinance should be assessed by those charged with DeKalb County’s governance. We believe that the stated goals of the LSBE Ordinance are well-intentioned. We recommend that a study be commissioned to conduct a cost-benefit analysis of the LSBE program. The current LSBE Ordinance requires seven metrics that

track the benefits of the program. We recommend that P&C comply with the LSBE Ordinance's requirement to provide this information to the CEO and BOC in a timely manner.

12. RECOMMENDATIONS

Purchasing Ordinance & Purchase and Procedures Manual

1. In the drafting of a DeKalb County Purchasing Ordinance, we recommend that all County stakeholders have a voice in the process, including P&C, OIIA, and County user departments.
2. We recommend that the enactment of a Purchasing Ordinance be made a priority for DeKalb County.
3. After the enactment of a Purchasing Ordinance, we recommend that the Purchasing & Procedures Manual be updated and approved by the CEO.

Hard Controls

4. We recommend the following provision be added to DeKalb County's Purchasing Policy: The BOC will not approve any contract in an amount of \$1 million or greater until the OIIA has been given the opportunity to issue a report. The OIIA may issue a written report to the BOC advising if the contract file is consistent with DeKalb County's Policy and Procurement Procedures and/or note areas of deficiencies. Upon request by the CEO, BOC, or on its own initiative, the OIIA may also review any solicitation of any dollar amount.
5. In order to implement the safeguard recommended in #4, above, we recommend OIIA be funded to increase its staffing level by two auditors. This staffing enhancement is in addition to recommendation #21, below, regarding the reassignment of auditor positions.
6. We recommend that P&C management reevaluate the use of procurement agents as voting members on the RFP committees.

Data Analysis

7. We recommend that Oracle Advanced Procurement Suite be programed to track emergency and sole source purchases and be equipped to assist with split-purchase analysis.
8. We recommend that OIIA conduct split-purchase analysis on a periodic basis.

Ethics

9. We recommend that P&C adopt a written policy that departmental employees cannot receive gifts from those doing business with the County.

10. We recommend that Executive Order No. 2014-4 be modified to prohibit merit-exempt employees from receiving gifts from “interested sources.”
11. We recommend that Executive Order 2014-4 be modified so that it is not in conflict with the Ethics Code §22A(c)(2)(A)(ii), (B)(i).
12. We recommend that the University of North Georgia, BB&T Center for Ethical Leadership’s survey results from the Ethical Culture Indicator (ECI) be used as a baseline, and that the ECI be administered in future years to track progress.
13. When it is administered, we recommend that the ECI be mandatory for all employees.
14. We recommend that the ECI results be broken down by each individual DeKalb County Department, so that the results can be more useful.

Workload

15. We recommend that management consider flex-time and staggered work schedules for the purpose of retaining and attracting employees.

Training

16. We recommend that the P&C University PowerPoint training presentation be updated. We also recommend the implementation of a structured training program for new employees, including a procedure for management to track progress.
17. We recommend the use of a dedicated trainer to train P&C employees and the constituents in the many user departments, at least on a temporary basis.
18. We also recommend that the Department be provided with an adequate training budget to bring in professional trainers, incentivize employees to obtain relevant credentials, and send employees to outside training where they can bring best practices back to the Department.

Workplace Conditions

19. We recommend that P&C be provided with adequate storage space for files.

Department of Watershed Management

20. We recommend that a minimum of two full-time auditors be assigned to audit payments to contractors in the DWM.
21. We recommend that the auditor positions assigned to P&C be reassigned to OIIA for the purpose of establishing independence and reporting.

Use of DeKalb Vehicles; Expense Reimbursement

22. We recommend that DeKalb County amend its policies to prohibit DeKalb County personnel from transporting non-DeKalb County personnel in a DeKalb County vehicle.
23. We recommend that DeKalb County adopt a policy that requires any employee submitting a request for expense reimbursement sign a paper document or provide a secure electronic signature which certifies the truth and accuracy of their submission and provides a warning that an intentional violation of County policy will subject the employee to disciplinary action up to and including criminal prosecution.

Mystery Valley

24. We recommend that DeKalb County's executive management initiate additional investigation based on the findings in this report.
25. We recommend that the County take immediate action to address the dead and leaning trees at Mystery Valley.

DeKalb First Local Small Business Enterprise Ordinance

26. We recommend that a study be commissioned to conduct a cost-benefits analysis of the LSBE program.
27. We recommend that P&C comply, in a timely manner, with the LSBE Ordinance's requirement to provide all seven categories of information to the CEO and BOC.

13. ACRONYMS & ABBREVIATIONS

APS: Oracle's Advanced Procurement Suite
BOC: Board of Commissioners
CEO: Chief Executive Officer
CPA: Certified Public Accountant
DWM: Department of Watershed Management
GGAP: Georgia Procurement Association of Georgia
ITB: Invitation to Bid
LSBE: Local Small Business Enterprise
NIGP: National Institute of Governmental Purchasing
OIIA: DeKalb Office of Internal Independent Audit
P&C: Purchasing and Contracting Department of DeKalb County
R&D: Roads and Drainage Department
RFP: Request for Proposal

Exhibit

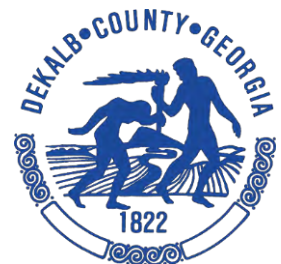
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Report No. 2017-008-PC
January 2018

DEKALB COUNTY GOVERNMENT

Purchasing and Contracting Department

FINAL REPORT



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

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AUDIT OF DEKALB COUNTY PURCHASING POLICY AUDIT REPORT NO. 2017-008-PC

What We Did

In accordance with the Office of Independent Internal Audit (OIIA) Audit Plan for fiscal year 2017, we conducted a performance audit on the DeKalb County Purchasing Policy. We examined the current purchasing policy and 2015 draft purchasing ordinance to determine whether it:

- Contained the key contracting processes and elements consistent with the principles of the National Institute of Governmental Purchasing (NIGP)
- Complied with the Official Code of Georgia Annotated (O.C.G.A.)

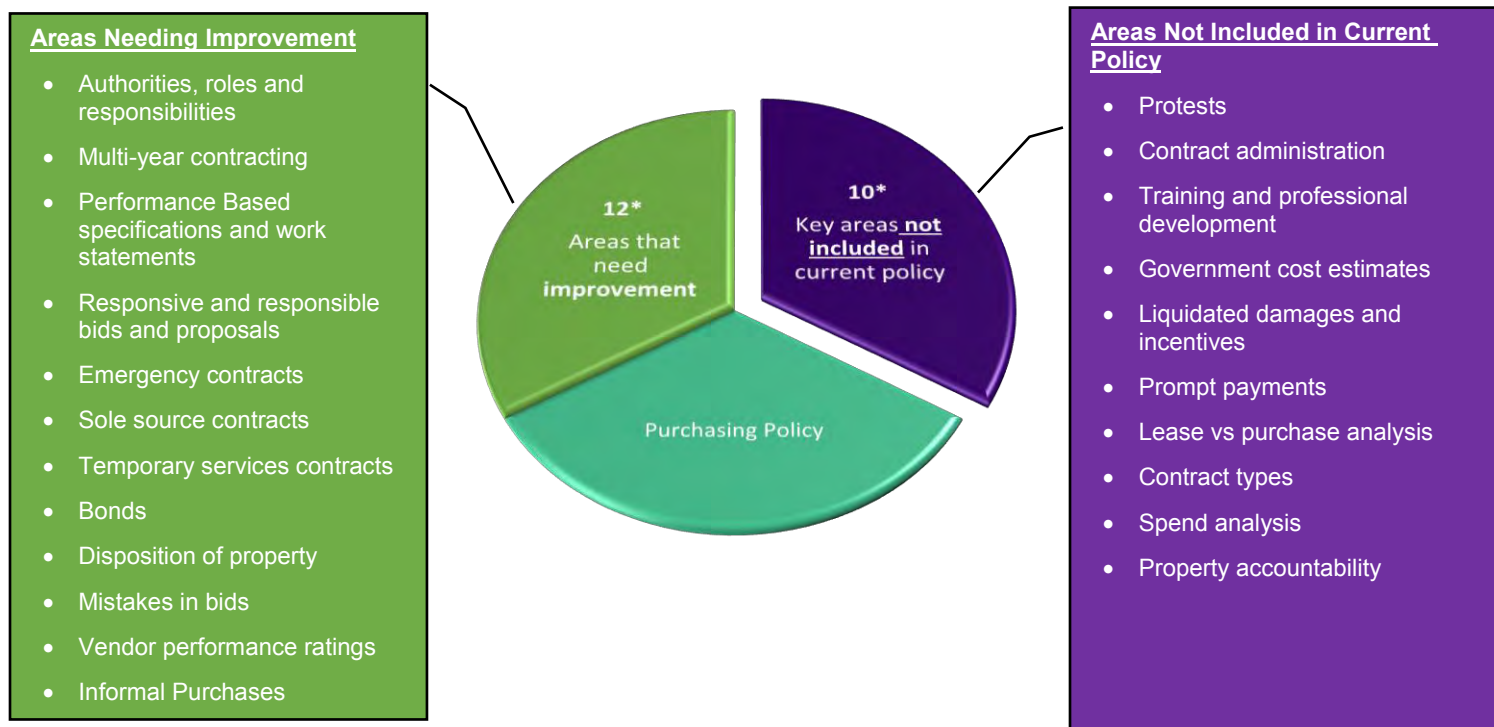
We benchmarked the policy to the Federal Acquisition Regulations (FAR) and other Federal laws (such the Code of Federal Regulations and US Codes) , the Georgia Procurement Manual (GPM), American Bar Association's (ABA) "Model Procurement Code for State and Local Governments" and procurement policies of other metro Atlanta counties throughout Georgia to identify better practices.

What We Found

We found that the DeKalb County Purchasing Policy needs improvement to address key contracting processes and functions prescribed in the NIGP and be consistent with the O.C.G.A. The County's purchasing policy does address several key areas that are consistent with the NIGP and guidance in the FAR, GPM, and other counties throughout Georgia such as ethics, source selection techniques (including sealed bids, sealed proposals, and informal purchases), prohibition of split purchases, cooperative purchases, disposition of surplus personal property, restrictive specifications and debarment actions.

In addition, the current policy does not contain several key contracting areas and some areas included in the current policy need to be strengthened to be fully consistent with the NIGP, O.C.G.A. and better practices. Please see the diagram on the following page that outlines the twelve areas that need improvements and ten key areas not included in current policy.

**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY**



What We Recommend

The Chief Procurement Officer (CPO) – Purchasing and Contracting Department, in consultation with the Purchasing Advisory Committee (PAC) and the County Law Department should:

- Revise the current purchasing policy to address the opportunities identified in this report, other key elements of the NIGP and ensure full conformance with the O.C.G.A.
- Review the FAR, GPM, NIGP, purchasing policies of similar counties and other best practices to identify other opportunities to further enhance the purchasing policy. Proposed revisions should be submitted to the DeKalb County Board of Commissioners (BOC) for review and approval
- Periodically review the purchasing policy to ensure the policy continues to effectively meet needs of the County

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BACKGROUND AND INTRODUCTION

The NIGP is a national, membership-based non-profit organization providing support to professionals in the public sector procurement profession. The NIGP prescribes the standards that public organizations should develop in their procurement manual. According to the NIGP “Principles and Practices of Public Procurement,” procurement organizations should develop a comprehensive policy manual that clearly defines authority, responsibility, and establishes guidelines for the organization and the procurement professional to follow when carrying out their responsibilities.

The O.C.G.A specifies procurement related laws, codes and statutes, applicable to the state of Georgia, counties and municipalities. The current purchasing policy mandates that the County shall conform to all applicable provisions of the laws of the United States and of the State of Georgia.

The FAR is the primary regulation for use by all Federal agencies in their acquisition of supplies and services with appropriated funds. It became effective on April 1, 1984, and provides for coordination, simplicity, and uniformity in the Federal acquisition process. The GPM, dated February 2011, is the official source for all administrative rules issued by the Georgia Department of Administrative Services to govern purchases made by certain state government entities. Both the FAR and GPM serve as relevant resources/guides for County purchasing policy and may be applicable to the County within the context of Federal and/or state grant funding requirements.

The 2000 ABA Model Procurement Code for State and Local Governments provides statutory principles and policy guidance for managing and controlling the procurement for public purposes, administrative and judicial remedies for the resolution of controversies relating to public contracts and the set of ethical standards governing public and private participants in the procurement process. The Code was approved by the policymaking body of the ABA (its House of Delegates) on July 11, 2000. The NIGP participated in the development of the ABA Model Procurement Code for State and Local Governments.

The DeKalb County Purchasing Policy, dated August 6, 2014, is the latest official purchasing policy within DeKalb County. A draft purchasing ordinance was prepared in 2015. Based on our review there was no significant difference from the official Purchasing Policy. In 2015, Section 18 of House Bill 598 was amended to include the Board of Commissioners (BOC) in the policy making process for all purchasing issues. Before this amendment, the Chief Executive Officer had the unilateral power to enact and amend the DeKalb County Purchasing Policy.

The DeKalb County Department of Purchasing and Contracting 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 shall serve as the principal procurement officer of the County.

“A PAC shall be established (by CPO - Purchasing and Contracting Department) and comprised of members selected from user departments by the County’s Chief Executive Officer, Executive Assistant/Chief Operating Officer, Director of Finance and the CPO and will serve for two year staggered terms. The Committee shall meet periodically (at least annually) to review purchasing

procedures and make recommendations for changes...”¹ The BOC will have the approval authority for the changes.

AUDIT RESULTS

During this engagement, the OIIA examined the NIGP and O.C.G.A. and benchmarked the DeKalb County Purchasing Policy to the FAR and other Federal laws (such the Code of Federal Regulations and US Codes) , GPM, ABA “Model Procurement Code” and procurement policies of other counties throughout Georgia to identify better practices.

As a result, we identified several opportunities to strengthen the current Purchasing Policy as outlined in our finding and recommendation below.

In addition, our audit identified some better practices for consideration in addressing the key procurement areas missing from the Purchase Policy (Appendix III) or areas needing improvement in the Purchasing Policy. (Appendix IV)

FINDING: SEVERAL KEY PROCUREMENT AREAS ARE NOT INCLUDED OR NEEDS IMPROVEMENT IN THE PURCHASING POLICY
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Objective: Determine if the DeKalb County Purchasing Policy contains the key elements to facilitate an effective procurement process that is consistent with the principles of the NIGP and in compliance with applicable sections of the O.C.G.A.

Criteria: According to the NIGP, procurement organizations should develop a comprehensive policy manual that clearly defines authority, responsibility, and establishes guidelines for the organization and the procurement professional to follow when carrying out their responsibilities.

Article 13 and Article 36 of the O.C.G.A. specifies the procurement laws for the state, counties, and municipalities of Georgia.

The FAR (and other Federal regulations and laws), GPM, ABA and other counties purchasing policies throughout Georgia provide guidance and serve as a basis for benchmarking better business practices.

Condition: The DeKalb County Purchasing Policy includes several key procurement areas that are addressed in the NIGP such as authority and role of the Chief Procurement Officer, types of source selection (sealed bids, proposals, and cooperative agreements), restrictive specifications, surplus disposition of personal property, prohibition of split purchasing, ethics, professional services and withdrawal of bids. Our examination identified several key procurement areas that are missing from the Purchasing Policy. In addition, some key contracting areas included in the purchasing policy need improvement to strengthen consistency with the NIGP and be compliant with the O.C.G.A. as highlighted in the table on following page.

¹ Dekalb County Purchasing policy, August 6, 2014 – Section IV

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Areas not included in current policy	Included areas that need improvement
<ul style="list-style-type: none">• Protests• Contract administration• Training and professional development• Government cost estimates• Liquidated damages and incentives• Prompt payments• Lease vs purchase analysis• Contract types• Spend analysis• Property accountability	<ul style="list-style-type: none">• Authorities, roles and responsibilities• Multi-Year contracting• Performance based specifications and work statements• Responsive and responsible bids and proposals• Emergency contracts• Sole source contracts• Temporary services contracts• Bonds• Disposition of property• Mistakes in bids• Vendor performance ratings• Informal purchases

Please see the Appendix III and IV for further details on areas that are missing and areas that need improvement.

OIIA noted that the Purchasing department is in the process of drafting a County Procurement Protest policy. We examined the draft document as of August 18, 2017 and noted that so far it does address some of the relevant key elements/better practices of a protest policy identified in Appendix III.

Consequence: A purchasing and contracting policy not consistent with the NIGP and non-compliant with the O.C.G.A. impairs the County's ability to (1) clearly define the roles and responsibilities of all parties involved in the contracting process, (2) mitigate risks to the County, (3) establish accountability for County personnel and (4) safeguard the County's assets.

Recommendation:

The CPO – Purchasing and Contracting Department, in consultation with the PAC and the County Law Department, should:

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- Revise the current purchasing policy to address the opportunities identified in this report, other key elements of the NIGP and ensure full conformance with the O.C.G.A.
- Review the FAR (and other Federal regulations and laws), GPM, NIGP, purchasing policies of similar counties and other best practices to identify other opportunities to further enhance the Purchasing Policy. Proposed revisions should be submitted to the BOC for review and approval
- Periodically review the purchasing policy to ensure the policy continues to effectively meet the needs of the County

APPENDIX

Appendix I- Purpose, Scope and Methodology

Purpose

The purpose of the engagement was to:

- Determine if the DeKalb County's purchasing policy contains the key elements to facilitate an effective procurement process that are consistent with the principles of the NIGP and in compliance with applicable sections of the O.C.G.A.
- Identify better practices to enhance the procurement and contracting processes of DeKalb County

Scope and Methodology

Our scope for the engagement was the current and draft DeKalb County Purchasing Policy. Our approach was to examine the Purchasing policy and compare it to the key contracting processes and elements prescribed in the NIGP and O.C.G.A. In addition, we benchmarked the policy to the Federal regulations and laws, the GPM, and other counties within Georgia to identify better practices to enhance the current policy.

Appendix II- Management Response



December 29, 2017

MEMORANDUM

TO: John L. Greene, Chief Audit Executive
FROM: Talisa R. Clark, Chief Procurement Officer
SUBJECT: Audit of the DeKalb County Purchasing Policy-Audit Report No 2017-008-PC

This memorandum will serve as official response to the Audit of the DeKalb County Purchasing Policy received on November 3, 2017. After review of the audit report, the Department of Purchasing and Contracting (P&C) provides the following responses for the audit recommendations listed below.

1. Revise the current purchasing policy to address the opportunities identified in this report, other key elements of the NIGP and ensure full conformance with the O.C.G.A.
 - a. **Already addressing through the development of a purchasing ordinance**
2. Review the FAR, GPM, NIGP, purchasing policies of similar counties and other best practices to identify other opportunities to further enhance the Purchasing Policy. Proposed revisions should be submitted to the DeKalb County Board of Commissioners (BOC) for review and approval
 - a. **Already addressing through the development of a purchasing ordinance**
3. Periodically review the purchasing policy to ensure the policy continues to effectively meet needs of the County
 - a. **Already addressing with the re-classification of the Procurement Projects Manager of the Special Projects Team to be responsible for the management and periodic review and updates to all procurement policies and procedures**

P&C concurs with the audit's findings and recommendations; and provided the same recommendations to the Procurement Ad Hoc Committee during a presentation regarding the current purchasing policy. The twelve (12) improvement recommendations will be addressed during the development of a purchasing ordinance. P&C is currently working with the Law Department to prepare a "draft" purchasing ordinance for the CEO's review and approval. Upon the CEO's approval, the purchasing ordinance will be presented to the BOC for approval per HB598. P&C recommend that it is important to include in the audit report that many of these recommendations were included in the County's previous purchasing policy.

The ten (10) recommendations of the excluded areas will also be addressed during the development of a purchasing ordinance. These areas have already been implemented or have been developed recently by P&C. With the Law Department's assistance, P&C has drafted a protest policy that will be included in the purchasing ordinance. Although several other areas identified in the audit, such as training and development, contract types, liquidated damages, contract administration, etc. was not specified in the current purchasing policy, P&C recommend that it is important to include in the audit report that many of these recommendations are best practices that are implemented, administered and/or included in the County's solicitations and executed contracts.

A set timeline is undetermined at this time, as the final approvals reside with the CEO and BOC Offices.

cc: Michael L. Thurmond, Chief Executive Officer
Zachary Williams, Chief Operating Officer
La'Keitha Carlos, Chief of Staff, CEO
Viviane Ernstes, Interim County Attorney
Terry G. Phillips, Senior Staff Attorney
Marian Adeiny, Assistant County Attorney

Appendix III- Better Practices Identified for Areas Missing from Purchasing Policy

*Superscript number(s) in the first column indicate the related reference(s) for the criteria/better practice.

Criteria/ Better Practices	References /Sources	Benefits of Revised Policy
<p>Protests</p> <p><u>Criteria:</u></p> <ul style="list-style-type: none"> The NIGP states that a procurement manual should provide guidance in regards to protests. It further states the policy be available publicly. At a minimum, the policy should state the: <ul style="list-style-type: none"> ✓ Rights of the party to protest ✓ Mandatory filing procedure such as timeframes to file protest ✓ Roles and responsibilities of procurement organization involved in protest ¹ <p><u>Better Practices:</u></p> <ul style="list-style-type: none"> All protests must be in writing ^{1,2,3,4,5,6,8} Define who can submit a protest - An interested party, in the context of administrative bid or proposal protest procedures, is “an actual or prospective bidder or proposer whose direct economic interest would be affected by the award 	<ol style="list-style-type: none"> “Principles and Practices of Public Procurement-Protest” – NIGP http://engage.nigp.org/acton/attachment/24793/f-004a/1/-/-/-/-/global-best-practice---protests.pdf Article V, Section 102-448 of <i>Fulton County Code of Ordinances</i> Section VII of <i>Douglas County Board of Commissioners Purchasing Department Procurement Guide</i> Section 6.5 of the <i>GPM</i> Section 200.05 of <i>Fayette County Policies and Procedures</i> Section 33.1 of <i>FAR</i> 	<ul style="list-style-type: none"> Implementing protest procedures into the County’s purchasing policy will: <ul style="list-style-type: none"> ✓ Enhance the transparency and accountability in the County’s procurement process and the bid protest process ✓ Protest decisions made public provide a high level of transparency into what is happening in the County’s procurement system ✓ Increase potential bidders’ confidence in the integrity of the procurement process leading more players to participate ✓ Help clarify the rights, roles and responsibilities of the all parties involved in the protest process including,

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<p>of a contract or by the failure to award a contract” 1,4,5,6,8</p> <ul style="list-style-type: none"> • Protest must not be prior to bid submittal ⁵ • Protester should provide details (and supporting documentation) of factual or legal basis for protest and specific relief sought ^{2,3,5} • Legal counsel should be made aware of and may advise on action regarding protests ^{1,6} • Specify a reasonable time period/limit for protest submission ^{1,2,3,4,5,8} • Indicate who has authority to settle /resolve any /all protests (e.g. Chief Procurement Officer) ^{3,4,6,7,8} • If protest received prior to contract award/purchase order, then contract should not be awarded until protest has been settled unless delay in award would substantially impact interest of county. Subject to BOC approval ⁸ • If protest received post award then it should also be considered by the PAC and BOC as required ³ • Specify reasonable time period, after receipt of protest, for informing the protestor of decision (e.g. 15 days after receipt of protest) ^{2,4,5,6} 	<p>7. Part 9 of Chatham County Purchasing Ordinance</p> <p>8. Paragraph 2-5-8.01, 2-5-8.02, 2-5-8.04 of Cherokee County Procurement Ordinance</p>	<p>County procurement officials and protesters</p>
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<ul style="list-style-type: none"> • Conducting a protest closeout assessment after a protest has been resolved supports continual improvement in the procurement process ¹ • If the vendor/protestor is not satisfied with the decision of the Chief Procurement Officer (CPO), the offeror may appeal to an independent authority, depending upon applicable law or the procedures of the entity ^{4,7,8} • Each step of the process should be accurately and thoroughly documented. Complete and maintained files serve to justify the protest decision, provide access to communication records, and ensure that the response to the protest is legally defensible ¹ • Specify which party is responsible for paying administrative expenses of protest submission ^{4,6} 		
<p>Contract Administration</p> <p><u>Criteria:</u></p> <ul style="list-style-type: none"> • NIGP states that a procurement manual should define the roles and responsibilities of the procurement organization and other activities in the area of oversight of contract requirements. Contract administration is a vital process that ensures contractors are providing the required services for payments rendered ¹ 	<ol style="list-style-type: none"> 1. “Principles and Practices of Public Procurement-Performance Management” <i>NIGP</i> http://engage.nigp.org/acton/attachment/24793/f-01d0/1/-/-/-/performancemanagement.pdf 2. Sections 7.2, 7.3, and 7.4 of GPM 	<ul style="list-style-type: none"> • The benefit of an effective contract administration policy is to ensure: <ul style="list-style-type: none"> ✓ All County personnel involved in the procurement process have a clear understanding of both the County’s and the contractor’s respective obligations for the roles and responsibilities of

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<p><u>Better Practices:</u></p> <ul style="list-style-type: none"> • Identify the organizations, along with their roles and responsibilities, for ensuring contract deliverables are executed for county contracts ¹ • Define in the solicitation the requirements for the contractor quality control plan ³ • Establish a quality surveillance or administration plan that identifies the key performance factors to evaluate, the methods for measuring performance, and the timeframes for reporting performance against the measures ^{2,4} • Measure and track performance against the established measures and objectives ¹ • Performance must be documented in writing ² • Establish the impact of contractor non – performance (payment deductions, poor vendor ratings, election not to exercise option year, etc.) in the contract or quality surveillance plan ⁵ • Assess performance results to evaluate performance measures and goals in future contracts ¹ 	<p>3. Section 46.103 of FAR</p> <p>4. Chapter 4 of <i>Office of Federal Procurement Policy Pamphlet Number 4</i></p> <p>5. Article V, Section 102-416 of <i>Fulton County Code of Ordinances</i></p>	<p>inspection of contract performance</p> <p>✓ The county is receiving the expected services/goods</p>
<p>Training and Professional Development</p> <p><u>Criteria:</u></p> <ul style="list-style-type: none"> • The NIGP states a procurement policy should outline the: 	<p>1. “Principles and Practices of Public Procurement-Developing a Procurement Policy Manual” NIGP</p>	<ul style="list-style-type: none"> • This inclusion will help: <ul style="list-style-type: none"> ✓ Ensure procurement personnel have the knowledge and understanding of

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<ul style="list-style-type: none"> ✓ Technical and professional qualifications for management and professional staff ✓ Orientation and training for new employees involved in the procurement process ✓ Certification and educational requirements of professional staff ¹ <p><u>Better Practices:</u></p> <ul style="list-style-type: none"> • Specify the qualifications for the Director/CPO position ³ • Specify the minimum training requirements for procurement personnel ⁴ • Director should establish policies and procedures for education, training, career development, and performance incentives of procurement personnel ⁵ • Director should develop special training programs to assist LSBEs to conduct business with county ³ • Encourage procurement personnel to maximize opportunities for available training courses ⁴ 	<p>http://engage.nigp.org/acton/attachment/24793/f-00d3/1/-/-/-/DEVELOPING%20PROCUREMENT%20MANUAL%20UPDATED.pdf</p> <ol style="list-style-type: none"> 2. Article 2, Section 503 of 2000 <i>American Bar Association Model for Procurement</i> 3. Article V, Sections 102-363 and 435(H) of <i>Fulton County Code of Ordinances</i> 4. Sections 1.4.3 of <i>GPM</i> 5. Section 1703, paragraph c of <i>US Code 41</i> 	<p>procurement processes needed to effectively execute procurement operations.</p> <ul style="list-style-type: none"> ✓ Accelerate the training process for newly assigned procurement personnel.
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Government Cost Estimates

Criteria:

- The NIGP states that procurement officials must investigate bids or proposals that appear abnormally low ¹

Better Practices:

- All user agencies shall prepare an independent cost estimate for each project. The purchasing agent shall utilize the independent cost estimates for the evaluation of cost proposals and to assist the department of purchasing and contract compliance and evaluation committee in determining if proposals/bids are reasonably priced ^{2,4}
- Through market analysis, a more reliable cost estimate for the goods and services can be developed. Pricing may be available through Internet research or suppliers may be willing to offer preliminary price quotes ³
- Other methods of estimating cost may include reviewing the price of recently awarded contracts for similar purchases or reviewing pricing on any applicable convenience statewide contracts ³
- Estimating the expected cost of the needed goods or services is necessary for at least two reasons:

1. **“Principles and Practices of Public Procurement-The Evaluation Process” NIGP**

<http://engage.nigp.org/acton/attachment/24793/f-01cb/1/-/-/-/TheEvaluationProcess.pdf>

2. **Section 102-367, paragraph b 1 and c of Fulton County Procurement Ordinances**
3. **Section 2.2.3.4 of GPM**
4. **Section 12 of the Douglas County Board of Commissioners Purchasing Department Procurement Guide**

- The benefit of including this is to emphasize to contracting officers/user departments the importance of including a well-supported cost estimate that help determine the:
 - ✓ Amounts to be budgeted / funding availability
 - ✓ Type of purchasing method to use (Request for proposals, Invitation to Bid, Informal Purchases, etc.)
 - ✓ Reasonableness of the proposal or bid, especially in sole source contracts

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<ul style="list-style-type: none"> ✓ 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 ✓ Estimating the expected cost of the needed goods or services is required to determine whether the entity possesses sufficient delegated purchasing authority to conduct the type of competitive solicitation ³ 		
<p>Liquidated Damages/Incentives</p> <p><u>Criteria:</u></p> <ul style="list-style-type: none"> • The NIGP prescribes that contracts should include, when appropriate, positive and negative incentives to induce better quality performance and reduce costs to government. Incentives: <ul style="list-style-type: none"> ✓ Should be used when they will induce better quality performance ✓ May be positive or negative, monetary or non-monetary, or a combination of both ✓ Should apply to the most important aspects of the work, rather than every individual task ✓ May vary depending on desired outcome and type of contract ¹ 	<ol style="list-style-type: none"> 1. Principles and Practices of Public Procurement- "Performance Based Contracting" NIGP http://engage.nigp.org/acton/attachment/24793/f-01ce/1/-/-/-/Performance%20based%20contracting.pdf 2. <i>O.C.G.A. Title 13, Chapter 10, Article 70</i> 3. <i>O.C.G.A. Title 36, Chapter 91, Article 24</i> 4. Section 11.501 of FAR 5. Section 16.402-3 of FAR 	<ul style="list-style-type: none"> • Inclusion of the Liquidated Damages clause along with the estimated damages provides: <ul style="list-style-type: none"> ✓ Both the contractor and government the knowledge that the local government will be reimbursed for contractor performance that leads to damages or additional cost to the government ✓ Contractors with greater incentives to finish construction projects quicker, which will improve stakeholders' satisfaction

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<ul style="list-style-type: none"> • O.C.G.A. Title 13, Chapter 10, Article 70 and O.C.G.A. Title 36, Chapter 91, Article 24 cite that public works construction contracts may include both liquidated damages provisions for late construction project completion and incentive provisions for early construction project completion. The terms of the liquidated damages provisions and the incentive provisions shall be established in advance as a part of the construction contract and included within the terms of the bid or proposal ^{2,3} <p><u>Better Practices:</u></p> <ul style="list-style-type: none"> • Liquidated damages rate must be a reasonable forecast for damages caused by late delivery or untimely performance of the particular contract ⁴ • Delivery incentives should be considered when improvement from a required delivery schedule is a significant Government objective. Incentive arrangements on delivery should specify the application of the reward-penalty structure in the event of Government-caused delays or other delays beyond the control, and without the fault or negligence, of the contractor ⁵ • Use a maximum amount or a maximum period for assessing liquidated damages if these limits reflect the maximum probable damage to the Government ⁴ • Public works construction contracts may include both liquidated damages provisions for late 	<p>6. Article V, Section 102-419 of <i>Fulton County Code of Ordinances</i></p>	<p>and possibly reduce contract costs</p>
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<p>construction project completion and incentive provisions for early construction project completion ^{2,3}</p> <ul style="list-style-type: none"> The purchasing agent shall issue a clause for liquidated damages to define the rights and responsibilities of the parties to the contract ⁶ 		
<p>Prompt Payments</p> <p><u>Criteria:</u></p> <p><u>Prompt payment discounts</u></p> <ul style="list-style-type: none"> NIGP guidelines state that when evaluating for lowest price, the evaluation panel should examine the submitted documentation to ensure that discounts are applied to the process ² <p><u>Payment terms</u></p> <ul style="list-style-type: none"> O.C. G. A. Title 13, Chapter 11, Article 7 states that: <ul style="list-style-type: none"> ✓ If payment to the prime contractor is delayed by more than 15 days and if the payments to the subcontractor is delayed by more than 10 days, then the government shall pay the prime contractor and the prime contractor shall pay the sub- contractor interest at a rate of one 	<ol style="list-style-type: none"> O.C.G.A. Title 13, Chapter 11, Article 7 “Principles and Practices of Public Procurement-The Evaluation Process” NIGP http://engage.nigp.org/acton/attachment/24793/f-01cb/1/-/-/-/TheEvaluationProcess.pdf Sections 32.903 and 32.904 of FAR Section 7.5.2 of GPM Section X, Paragraph B(3) of Douglas County Board of Commissioners Purchasing Department Procurement Guide 49 CFR 26.29 	<ul style="list-style-type: none"> Requiring the definition of payment terms and penalties in contracts allows the County greater flexibility in establishing more cost effective payment terms for the County

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<p>percent a month beginning on the date after the due date</p> <p>✓ Purchaser and vendor are allowed to define their own payment terms and penalty for late payment within the contract that supersedes the Code, payment terms and penalties ¹</p> <p><u>Better Practices:</u></p> <p><u>Bid evaluation - Prompt payment discounts</u></p> <ul style="list-style-type: none">• Agency heads must establish the policies and procedures necessary to implement prompt payment discount procedures ³• When drafting solicitations, contracting officers should define any applicable prompt payment discounts within the solicitation documents. This includes the percentage of the proposed discount required from contractor if payment is made within a specified period by the agency (e.g. 5% discount for payments made within 10 days of receiving invoice) ³• When evaluating for lowest price, the evaluation panel should examine the submitted documentation to ensure that discounts are applied ²		
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<p><u>Payment terms</u></p> <ul style="list-style-type: none"> • Require that payment terms be negotiated and stated in the contract / statement of work ^{1,4} • Agency procedures must ensure that, when specifying payment due dates, contracting officers give full consideration to time reasonably required by Government officials to fulfill their administrative responsibilities under the contract ³ • Must have a contract clause that requires primes to pay subcontractors for satisfactory performance of their contract work no later than 30 days from receipt of payment for such work from the grantee ^{5,6} • Specify withholding payments to contractors who fail to meet timeframes ^{5,6} 		
<p>Lease vs Purchase Analysis</p> <p><u>Criteria:</u></p> <ul style="list-style-type: none"> • The NIGP emphasizes that the procurement personnel should conduct proper analysis when making lease vs. purchase decisions. The NIGP suggests factors to consider include the purchase price, annual maintenance cost, estimated time period, value at end of contract period, and the annual lease cost. It also provides conditions in which leasing, lease-to-purchase, and purchasing are the most advantageous ¹ 	<ol style="list-style-type: none"> 1. “Principles and Practices of Public Procurement-Lease vs Purchase Decision” <i>NIGP</i> http://engage.nigp.org/acton/attachment/24793/f-01cc/1/-/-/-/Lease%20Purchase%20Decision.pdf 2. Section XIII, Paragraph B(3) of <i>Douglas County Board of</i> 	<ul style="list-style-type: none"> • Adding this to the County’s Purchasing Policy would require procurement officials to perform and document analysis to support purchase or lease decisions and potentially reduce contract costs

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Better Practices:

- In certain situations, equipment requirements may be more economically filled by rental or lease than by purchase. The decision to rent rather than purchase must be made on a case-by-case basis, and should only be used when it is in the county's best interest ^{2,3,4}
- A lease may qualify for capital assistance if it meets the following criteria:
 - ✓ The capital asset to be acquired is eligible for capital assistance
 - ✓ Leasing the capital asset is more cost-effective than purchase or construction of asset ²
- The following factors must be considered before leasing equipment:
 - ✓ Estimated and actual timeframe equipment usage is required
 - ✓ Financial and operating advantages of alternative types of equipment
 - ✓ Total rental/lease cost for the estimated period of use
 - ✓ Net purchase price, if acquired by purchase
 - ✓ Transportation and installation costs

*Commissioners Purchasing
Department Procurement Guide*

- 3. **Section 7.401** of *FAR*
- 4. **Section 200.03** of *Fayette County Policies and Procedures*

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<ul style="list-style-type: none">✓ Maintenance and other service costs✓ Trade-in or salvage value ^{1,2,3}• The cost-benefit analysis will help to identify and quantify the available contracting options. Purchasing may be the preferred option if the:<ul style="list-style-type: none">✓ Equipment is to be used for longer than three years✓ Agency does not have staff and systems to track assets and manage the lease with each supplier✓ Funding is uncertain so that the full term of the lease cannot be met ¹• Lease-purchasing may be the preferred option if the:<ul style="list-style-type: none">✓ Monetary value of the equipment is substantial and its useful life is longer than three years✓ Flexibility of spreading out payments would be beneficial ¹• Leasing may be the preferred option if:<ul style="list-style-type: none">✓ Replacement according to industry life cycles is needed✓ There is a business need for rapid technological change		
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<ul style="list-style-type: none"> ✓ Agencies are undergoing downsizing or reorganizing ✓ There is a business need for quick adoption of new technologies ✓ The flexibility of spreading out payments and using operating funds (rather than capital funds) would be beneficial ¹ 		
<p>Contract Types</p> <p><u>Criteria:</u></p> <ul style="list-style-type: none"> • The NIGP states that a procurement manual should provide guidance in regard to the appropriate type of contract to use ¹ <p><u>Better Practices:</u></p> <ul style="list-style-type: none"> • Contract types vary according to the degree and timing of the responsibility assumed by the contractor for costs of performance and amount and nature of the profit incentive offered to the contractor for achieving or exceeding specified standards or goals ² • Contracts resulting from sealed bidding shall be firm fixed-price contracts or fixed-price contracts with economic price adjustment ² 	<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 16.101, 16.102, and 16.103 of FAR 3. <i>Section XI of Douglas County Board of Commissioner Purchasing Department Procurement Guide</i> 	<ul style="list-style-type: none"> • Utilizing the proper contract type allows the procurement official the flexibility in acquiring services at lowest cost and can provide an incentive for efficient and economical performance of services

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<ul style="list-style-type: none">• Selecting the contract type is generally a matter for negotiation and requires the exercise of sound judgment. Negotiating the contract type and negotiating prices are closely related and should be considered together ²• The objective is to negotiate a contract type and price (or estimated cost and fee) that will result in reasonable contractor risk and provide the contractor with the greatest incentive for efficient and economical performance ²• A firm-fixed-price contract, which best utilizes the basic profit motive of business enterprise, shall be used when the risk involved is minimal or can be predicted with an acceptable degree of certainty. However, when a reasonable basis for firm pricing does not exist, other contract types should be considered, and negotiations should be directed toward selecting a contract type that will appropriately tie profit to contractor performance in particular ²• Each contract file shall include documentation to show why the particular contract type was selected. This shall be documented in the acquisition plan, or in the contract file if a written acquisition plan is not required by agency procedures ²• A time and materials type contract will only be used:	<p>4. Part 3, Section 4 of the <i>Chatham County Purchasing Ordinance</i></p>	
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<ul style="list-style-type: none"> ✓ After a determination that no other type contract is suitable ✓ If the contract specifies a ceiling price the contractor can exceed only at own risk ³ • The use of a cost-plus-a-percentage-of-cost contract is not allowed except with extenuating circumstances and approval of the Purchasing Director ⁴ • A cost-reimbursement contract may be used only when a determination is made in writing that such contract is likely to be less costly to the county than any other type or that it is impracticable to obtain the supplies, services, or construction required except under such a contract ⁴ 		
<p>Spend Analysis</p> <p><u>Criteria:</u></p> <p>The NIGP states:</p> <ul style="list-style-type: none"> • Procurement organizations should use spend analysis to leverage buying power, reduce costs, provide better management and oversight of suppliers, and to develop an informed procurement strategy • Spend analysis is the process of collecting, cleansing, classifying and analyzing expenditure 	<ol style="list-style-type: none"> 1. “Principles and Practices of Public Procurement-Spend Analysis” NIGP http://engage.nigp.org/acton/attachment/24793/f-01d5/1/-/-/-/-/sopspend-analysis.pdf 2. Section 2.2 of GPM 	<ul style="list-style-type: none"> • Requiring periodic spend analysis will better enable contracting officers to become aware opportunities to: <ul style="list-style-type: none"> ✓ Reduce supply and service costs ✓ Eliminate duplicate suppliers ✓ Improve contract compliance

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<p>data from all sources within the organization (i.e. purchasing card, eProcurement systems, etc.)</p> <ul style="list-style-type: none">• The process analyzes the current, past and forecasted expenditures to allow visibility of data by supplier, by commodity or service, and by department within the organization• Spend analysis can be used to support future management decisions by providing answers to such questions as: what was bought; when was it bought; where was it purchased; how many suppliers were used and how much was spent with each and how much was paid for the item ¹ <p><u>Better Practices:</u></p> <ul style="list-style-type: none">• Analyze historical purchases or usage by all local government entities. Reviewing historical purchases or usage will assist the procurement professional in identifying stakeholders. The procurement professional may also ask the individuals making the purchasing request to identify any similar program areas or similar need for the requested goods or services ²• Spend analysis should include the identification, automated collection, cleansing, grouping, categorization, and analysis of all spend data for the goods and services purchased for the organization ¹• Procurement should work to identify all spend data, internal and external, for the organization.		<p>✓ Use contract pricing to create savings</p>
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<p>Once spend data sources are identified, the data should be collected and automated ¹</p> <ul style="list-style-type: none"> Once data is collected, it should be cleansed to remove any duplicates or errors, grouped, and categorized to ensure accurate organization and correlation of spend data and to enable actionable analyses ¹ Regular analysis of collected spend data is necessary to support management decisions for the organization, and better oversight of supplier relationships ¹ 		
<p>Property Accountability</p> <p><u>Criteria:</u></p> <ul style="list-style-type: none"> The NIGP states that a procurement manual should provide guidance on special procurement programs such as Material Management which would include government property ¹ <p><u>Better Practices:</u></p> <ul style="list-style-type: none"> Generally, contractors are ordinarily required to furnish all property necessary to perform Government contracts. Contracting officers shall provide property to contractors only when it is clearly demonstrated to be in the Government's best interest or the overall benefit to the acquisition significantly outweighs the increased 	<ol style="list-style-type: none"> "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 Sections 45.102 and 45.105 of FAR Section 7.4.6 of GPM 	<ul style="list-style-type: none"> Incorporating this into a procurement policy would ensure that County owned equipment is properly accounted for and better safeguard the County's assets, reduce liabilities, and reduce the potential of fraud

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<p>cost of administration, including ultimate property disposal ²</p> <ul style="list-style-type: none">• All equipment items purchased, furnished, charged to or paid for by the government will remain the property of the agency. The contractor must hold such property for the benefit of the agency and upon the agency written request, or at the time of contract termination, deliver the property to the agency ³• Agencies shall specify government furnished property provided to contractors in the statement of work ⁴• The user activity responsible for contract administration shall ensure that the contractor properly accounts for government furnished property ²	<p>4. Chapter 3, par. 3 of Office of Federal Procurement Policy – Pamphlet Number 4.</p>	
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Appendix IV- Criteria/Better Practices/Sources/Benefits Identified for Areas Needing Improvement to Procurement Policy

**Superscript number(s) in the first column indicate the related reference(s) for the criteria/better practice.*

Criteria /Better Practices identified	References /Sources	Benefits of Revising Policy
<p>Authorities, Roles and Responsibilities</p> <p><u>Criteria:</u></p> <ul style="list-style-type: none"> 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 requirements ¹ <p><u>County Purchasing Policy:</u></p> <ul style="list-style-type: none"> The County's Purchasing Policy did address some of the general responsibilities and authorities of the Chief Procurement Officer of Purchasing and Contracting and the Purchasing Advisory Committee <p><u>Better Practices:</u></p> <ul style="list-style-type: none"> Detail the authorities, roles and responsibilities of the CPO ^{2,3} Outline the appointment and qualifications of the CPO ^{2,3} 	<ol style="list-style-type: none"> "Principles and Practices of Public Procurement-Developing a Procurement Policy Manual" NIGP http://engage.nigp.org/acton/attachment/24793/f-00d3/1/-/-/-/DEVELOPING%20PROCUREMENT%20MANUAL%20UPDATED.pdf Sections 1.602 and 1.604 of FAR Article V, Sections 102-363, 102-364, 102-365, 102-366, and 103-367 of Fulton County Code of Ordinances 	<ul style="list-style-type: none"> Clearly defining roles, responsibilities, and authorities for all organizations involved in the procurement process will: <ul style="list-style-type: none"> ✓ Enhance accountability for all organizations ✓ Codify assigned roles and responsibilities throughout the County ✓ Clearly identify the award and administration responsibilities

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<ul style="list-style-type: none"> 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>Multi-Year Contracting</p> <p><u>Criteria:</u></p> <ul style="list-style-type: none"> O.C.G.A. Title 36, Chapter 60, Article 13 states that each county in Georgia is authorized to enter into a multi-year lease, purchase, or lease purchase contract of all kinds of contracts ¹ The code also mandates that for option year contracts, the counties specify the amount to be obligated, termination provisions due to unavailability of funds, and requirements to terminate contracts at the close of the fiscal or calendar year in which the contract was executed and at the close of each calendar and fiscal year in which it is renewed ¹ <p><u>County Purchasing Policy:</u></p> <ul style="list-style-type: none"> The County's Purchasing policy did address renewals and extensions along with the requirement that the user activity must certify in writing to the Department of Purchasing and Contracting that the contractor performed satisfactorily. It also required approval by the Governing Authority for renewals where the total price of the contract (including the renewal amount) exceeds \$100,000. In addition, the policy defined multi-year contracts and stated 	<ol style="list-style-type: none"> O.C.G.A. Title 36, Chapter 60, Article 13 Section 17.104 of FAR Section 2-5-4.01 of <i>Cherokee County Procurement Ordinance</i> Section 3.6.2 of GPM 	<ul style="list-style-type: none"> Adding this to the policy would enhance the contracting officers' knowledge on when to implement multi-year contracting that would provide for: <ul style="list-style-type: none"> ✓ Lower costs ✓ Enhancement of standardization ✓ Reduction of administrative burden in the placement and administration of contracts ✓ Substantial continuity of production or performance, thus avoiding annual startup costs, preproduction testing costs, make-ready expenses, and phase-out costs ✓ Stabilization of contractor work forces ✓ Avoidance of the need for establishing quality control

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<p>they were permitted by O.C.G.A. Title 36, Chapter 60, Article 13</p> <ul style="list-style-type: none"> • However, the County policy needs to be strengthen to help guide when to utilize option or multi-year contracts, time limits (if applicable) for option year contracts, and requirements for exercising option years for the procurement and user activity organization <p><u>Better Practices:</u></p> <ul style="list-style-type: none"> • Counties should specify the amount to be obligated, termination provisions due to unavailability of funds, and requirements to terminate contracts at the close of the fiscal or calendar year of contract execution and at the close of each calendar and fiscal year in which it is renewed ¹ • Multi-year contracting is a special contracting method to acquire known requirements in quantities and total cost for up to 5 years unless otherwise authorized by statute ² • Prior to the utilization of a multi-term contract, the Purchasing Agent shall determine in writing that the contract: <ul style="list-style-type: none"> ✓ Requirements cover the period of the contract and are reasonably firm and continuing ✓ Will serve the best interests of the County by encouraging effective competition or otherwise promoting economies in County procurement ³ 		<p>techniques and procedures for a new contractor each year</p> <ul style="list-style-type: none"> ✓ Consistency in application of multi-year contracting methods for similar services
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<ul style="list-style-type: none"> When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent calendar/fiscal period, the contract shall be cancelled ^{1,3,4} 		
<p>Performance Based Specifications / Statement of Work</p> <p><u>Criteria:</u></p> <ul style="list-style-type: none"> The NIGP specifies that a procurement manual should provide guidance regarding specifications which the County policy does ¹ The NIGP also states that procurement organizations should seek to improve performance and lower costs with performance based contracts/statement of work. Performance based contracts should: <ul style="list-style-type: none"> ✓ Describe the requirements in terms of results required rather than specifying how the work is to be accomplished ✓ Set measurable performance standards ✓ Describe how the contractor's performance will be evaluated in a quality assurance plan, and ✓ Identify and use positive and negative incentives. It also states that performance work statements 	<ol style="list-style-type: none"> Principles and Practices of Public Procurement- "Performance Based Contracting" - NIGP http://engage.nigp.org/acton/attachment/24793/f-01ce/1/-/-/-/Performance%20based%20contracting.pdf Sections 37.602 and 37.603 of FAR Section 3.5.5.1.1 of GPM Office of Federal Procurement Policy, Para 1.3 Pamphlet Number 4, Supplement No. 2 to OMB Circular No. A-76 	<ul style="list-style-type: none"> The benefit of adding specific criteria pertaining to performance based specifications and statement of work to the purchasing policy is that it will: <ul style="list-style-type: none"> ✓ Enable the assessment of contractor's performance against measurable standards ✓ Improve the government's ability to determine performance incentives ✓ Encourage and reward contractors to initiate more productive methodologies

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- ✓ Be structured in contracts around the outcomes and timelines rather than how to perform it. The work statement should contain performance standards which are outcome-based and measurable ¹

County Purchasing Policy:

- The County Purchasing Policy did address the development of specifications to maximize competition, prohibition of restrictive specifications and appropriate specification types such as brand name or equal

Better Practices:

- Procurement organizations should seek to improve performance and lower costs through the use of performance based contracts that:
 - ✓ Describe the requirements in terms of results required rather than specifying how the work is to be accomplished
 - ✓ Set measurable performance standards
 - ✓ Identify and use positive and negative incentives that correspond to the performance standards set forth in the contract ^{1,2,4}
- Entities shall, to the maximum extent practicable:
 - ✓ Assess work performance against measurable performance standards

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<ul style="list-style-type: none"> ✓ Rely on the use of measurable performance standards and financial incentives in a competitive environment to encourage competitors to develop and institute innovative and cost-effective methods of performing work ² • Performance standards establish the performance level required by the Government to meet the contract requirements. The standards shall be measurable and structured to permit an assessment of the contractor's performance ^{1,2,3,4} 		
<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: 	<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. <i>O.C.G.A. Title 36 Chapter 91 Article 23</i> 3. Sections 5.6.2.1 and 5.6.2.2 of GPM 4. Section 9.104-1 of FAR 	<ul style="list-style-type: none"> • The benefit of amending this section will help to ensure that contracting officers and vendors have a clear understanding of specifically the criteria for determining bidders and proposers responsive and responsible

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<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✓ 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><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		
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Better Practices:

- Responsive means the bidder or proposer has submitted a timely offer, which materially conforms to the requirements and specifications of the solicitation. The response must be considered responsive to be eligible for status as a qualified contractor ³
- Responsible means the company has appropriate legal authority to do business in the state of Georgia, a satisfactory record of integrity, appropriate financial, organizational and operational capacity and controls, and acceptable performance on previous governmental and/or private contracts ³
- Provide examples of non-responsible. Examples of non-responsibility include:
 - ✓ History of non-performance or performance problems on other contracts
 - ✓ Record of financial difficulty or business instability
 - ✓ Criminal or civil sanctions and/or tax delinquency. A supplier's unreasonable failure to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a determination of non-responsibility ^{1,4}

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<ul style="list-style-type: none"> The issuing officer on a case-by-case basis taking into consideration the unique circumstances of the individual procurement will determine non-responsibility. A non-responsibility determination must be put in writing and maintained as part of the procurement file ³ 		
<p>Emergency Contracting</p> <p><u>Criteria:</u></p> <ul style="list-style-type: none"> O.C.G.A. Title 36, Chapter 69, Article 2 defines the conditions for an emergency. Local emergency means the existence of conditions of extreme peril to the safety of persons and property within the territorial limits of a political subdivision of the state caused by natural disasters, riots, civil disturbances or other situations present in major law enforcement and other public safety problems ² The NIGP states that emergency contracting procedures be addressed as a key topic under the source selection process ¹ <p><u>County Purchasing Policy:</u></p> <ul style="list-style-type: none"> The policy states that an emergency exists when there is an imminent threat to the health, welfare, or safety of people or property, or when there is a material loss of essential government services. The policy also states that competitive processes should be followed as circumstances reasonably permit. It also requires documentation from the user 	<ol style="list-style-type: none"> “Principles and Practices of Public Procurement-Developing a Procurement Policy Manual” NIGP http://engage.nigp.org/acton/attachment/24793/f-00d3/1/-/-/-/DEVELOPING%20PROCUREMENT%20MANUAL%20UPDATED.pdf <i>O.C.G.A. Title 36, Chapter 69, Article 2</i> Source: Section 200.01, Procedure I of Fayette County Policies and Procedures Page 9 of Rockdale County Purchasing and Procurement Policy Number 2010-1-8 	<ul style="list-style-type: none"> Revising the policy will specify when user activities can properly classify circumstances as emergencies, which would potentially increase competition, lower prices, and assist the county in meeting LSBE goals

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<p>department to be submitted to the Department of Purchasing and Contracting. In addition, emergency purchases of \$100,000 or greater must be ratified by the Governing Authority</p> <ul style="list-style-type: none">• However, the criteria for emergency contracts needs strengthening to specify what constitutes an emergency <p><u>Better Practices:</u></p> <ul style="list-style-type: none">• Conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision of the state and which require the combined forces of other political subdivisions to combat ²• A state of emergency may be declared by the Governor, or determined to exist by the county governing authority. During times of declared emergency, procedures for emergency procurement will be in effect, as authorized in the Policy and Procedures Manual or other official documents ³• An emergency may be caused by an unexpected and urgent situation, but which does not rise to the level of a declared state of emergency. For procurement purposes, this level of emergency is described as an unexpected situation, which requires rapid response outside of established purchasing procedures. It may involve danger to health, life or property. It may involve an unexpected delay in delivery, depleted inventory, or		
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<p>an unusually high volume of work, depending on the situation ³</p> <ul style="list-style-type: none"> Care must be taken that adequate planning is done so that these situations do not occur when avoidable ⁴ 		
<p>Sole Source Contracts</p> <p><u>Criteria:</u></p> <p>The NIGP prescribes that a procurement policy manual include guidance for sole-source procurement. ¹</p> <p><u>County Purchasing Policy:</u></p> <ul style="list-style-type: none"> The purchasing policy did address sole-source purchasing and requires that sole source contracts be utilized when: <ul style="list-style-type: none"> ✓ Only one supplier is able to fill requirements for the intended use ✓ Standardization exists from past performance ✓ Written justification is signed by the Department Director and submitted to Purchasing and Contracting for evaluation The guidance needs to be revised to potentially enhance competition 	<ol style="list-style-type: none"> “Principles and Practices of Public Procurement-Developing a Procurement Policy Manual” NIGP http://engage.nigp.org/acton/attachment/24793/f-00d3/1/-/-/-/DEVELOPING%20PROCUREMENT%20MANUAL%20UPDATED.pdf Section 2.3.2.2 of GPM Article V, Section 102-384 (c) of Fulton County Code of Ordinances Section 12 of the Douglas County Board of Commissioners Purchasing Department Procurement Guide Section 6-303-2(b) of FAR 	<ul style="list-style-type: none"> The benefit of adding this criteria and practice would be to potentially enhance competition, reduce prices for the services desired, and reduce sole-source contracts in future

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Better Practices:

- To determine the appropriateness of a sole-source purchase, research must be conducted to determine if other goods or service providers exist and can satisfy procurement requirements ²
- The procurement professional must provide public notice of the intended sole-source purchase through a posting to the GPR for a minimum of five (5) business days. The purpose of publicizing the sole-source notice is to offer other possible suppliers an opportunity to respond by submitting a protest stating they can provide the specified good or service ²
- All intended sole source acquisitions shall be advertised on the county's bid board/internet for a minimum of five business days ³
- Sole source justifications shall include a description of the supplies and services to include a cost estimate or price or cost analysis ⁵
- It is critical that contracts in which no price competition exists (e.g sole source contracts) include an independent cost estimate to determine the reasonableness of the bid ⁴

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Temporary Services Contracts

Criteria:

- The NIGP states that a procurement manual should provide guidance for the use of special public procurement programs since temporary contracts is a special procurement program ¹

County Purchasing Policy:

- The County's Purchasing Policy includes guidance for use of professional services along with the award procedures from the user activity and procurement office. Professional services can include temporary help services
- The policy needs to be amended to reflect the conditions, rules, and limitations for temporary help services contracts

Better Practices:

- An agency may enter into a contract with a temporary firm for the brief or intermittent use of the skills of private sector temporaries, when the following exists:
 - ✓ An employee is absent for a temporary period because of a personal need including emergency, accident, illness, parental or family responsibilities, or mandatory jury service

1. **"Principles and Practices of Public Procurement-Developing a Procurement Policy Manual" NIGP**

<http://engage.nigp.org/acton/attachment/24793/f-00d3/1/-/-/-/DEVELOPING%20PROCUREMENT%20MANUAL%20UPDATED.pdf>

2. *Title 5 Code of Federal Regulations (CFR), Section 300.503*
3. *Title 5 CFR, Section 300.504*

- Adding this to the County policy will assist the procurement official in determining appropriate times and usage of temporary service contracts and the limitations on their use

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<ul style="list-style-type: none">✓ An agency must carry out work for a temporary period, which cannot be delayed in the judgment of the agency because of a critical need. The need cannot be met with current employees or through the direct appointment of temporary employees ²• No employer-employee relationship is created by an agency's use of private sector temporaries under these regulations. Services furnished by temporary help firms shall be performed by their employees who shall not be considered or treated as county employees for any purpose, shall not be regarded as performing a personal service, and shall not be eligible for employee benefits ³• To avoid any appearance of an employer-employee relationship, agencies shall observe the following time limit requirements:<ul style="list-style-type: none">✓ An agency may use a temporary help service firm(s) in a single situation initially for no more than 120 workdays. The agency may extend its use of temporary help services up to the maximum limit of 240 workdays✓ An individual employee of any temporary help firm may work at a major organizational element of an agency for up to 120 workdays in a 24-month period. The 24-month period begins on the first day of assignment✓ An agency may make an exception for an individual to work up to a maximum of 240		
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<p>workdays only when the agency has determined that using the services of the same individual for the same situation will prevent significant delay ³</p>		
<p>Bonds</p> <p><u>Criteria:</u></p> <ul style="list-style-type: none"> O.C.G.A. Title 36, Chapter 91, Article 50 requires bid bonds for all public works construction contracts with estimated bids or proposals over \$100,000 and that governmental entities may require a bid bond for projects with estimated bids or proposals of \$100,000 or less ¹ O.C.G.A. Title 36, Chapter 91, Article 70 requires performance bonds for all public works construction contracts with an estimated contract amount greater than \$100,000. Governmental entities may require a performance bond for public works construction contracts that are estimated at \$100,000 or less ² <p><u>County Purchasing Policy:</u></p> <ul style="list-style-type: none"> The DeKalb County Purchasing Policy does require bid bonds and performance bonds. However, it does not specify a minimum dollar requirement of the contract to require bonding, but rather specifies when required <p><u>Better Practices:</u></p> <ul style="list-style-type: none"> Governmental entities: 	<ol style="list-style-type: none"> O.C.G.A. Title 36, Chapter 91, Article 50 O.C.G.A. Title 36, Chapter 91, Article 70 Part 5, Section III of <i>Chatham County Purchasing Ordinance</i> Article V, Section 102-412 of <i>Fulton County Code of Ordinances</i> 	<ul style="list-style-type: none"> Adding this to the policy increases the consistency of application of the requirement and helps mitigate risk for larger contracts

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<ul style="list-style-type: none"> ✓ Shall require bid bonds for all public works construction contracts with estimated bids or proposals over \$100,000 ✓ May require a bid bond for projects with estimated bids or proposals of \$100,000 or less ✓ Shall require performance bonds for all public works construction contracts with an estimated contract amount greater than \$100,000 ✓ May require a performance bond for public works construction contracts that are estimated at \$100,000 or less ^{1,2, 3} 		
<p>Disposition of Real Property</p> <p><u>Criteria:</u></p> <ul style="list-style-type: none"> • O.C.G.A. Title 36, Chapter 9, Article 3 cites the Georgia's counties requirements for disposal of real property. The code specifies requirements for award procedures (for both sealed bids and auctions) and publication notices of the property for disposal. It specifies that any county disposing of any real property shall: ✓ Make all such sales to the highest responsible bidder, either by sealed bids or by auction, after due notice has been given 	<ol style="list-style-type: none"> 1. "Principles and Practices of Public Procurement-Developing a Procurement Policy Manual" NIGP http://engage.nigp.org/acton/attachment/24793/f-00d3/1/-/-/-/DEVELOPING%20PROCUREMENT%20MANUAL%20UPDATED.pdf 2. <i>O.C.G.A. Title 36, Chapter 9, Article 3</i> 3. Part 8, Section 1, Paragraphs A and B of 	<ul style="list-style-type: none"> • Incorporating this into the policy will protect the county's interest and assist in obtaining higher prices when disposing of real property

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<ul style="list-style-type: none"> ✓ Publicize not less than 15 days nor more than 60 days preceding the day of the auction or, if the sale is by sealed bids, preceding the last day for the receipt of proposals ✓ Retain all bids and keep available for public inspection for a period of not less than 60 days from the date on which such bids are opened ² • NIGP states that a procurement manual should provide guidance for the use of special public procurement program including surplus disposition. The DeKalb County Purchasing Policy did include provisions for the disposition of surplus personal property but could be improved by also including procedures for real property as well ¹ <p><u>County Purchasing Policy:</u></p> <ul style="list-style-type: none"> • The DeKalb County Purchasing Policy did include provisions for the disposition of surplus personal property. However, the policy needs to add provisions for the disposition of real property as well <p><u>Better Practices:</u></p> <ul style="list-style-type: none"> • The governing authority of the county disposing of any real property shall make all such sales to the highest responsible bidder and have the right to reject any and all bids or cancel any proposed sale ^{2,4} • The governing authority of the county shall cause notice to be published not less than 15 days nor more (if sale is by sealed bid) preceding the last day for the receipt of proposals ^{2,4} 	<p><i>Chatham County Purchasing Ordinance</i></p> <p>4. Article V, Section 102-387 of <i>Fulton County code of Ordinances</i></p>	
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<ul style="list-style-type: none">• If the sale is by sealed bids, the notice shall also contain an invitation for proposals and shall state the conditions of the proposed sale, the address at which bid blanks and other written materials connected with the proposed sale may be obtained, and the date, time, and place for the opening of bids^{2,4}• Bids received in connection with a sale by sealed bidding shall be opened in public at the time and place stated in the legal notice^{2,4}• A tabulation of all bids received shall be available for public inspection following the opening of all bids and be retained and kept available for public inspection for a period of not less than 60 days after bid opening^{2,4}• Disposition of real property rules do not apply to redemption of property held by any county under a tax deed; the granting of easements and rights of way; the sale, conveyance, or transfer of road rights of way; the sale, transfer, or conveyance to any other body politic; and any sale, transfer, or conveyance to a nonprofit corporation in order to effectuate a lease-purchase transaction pursuant to O.C.G.A. Title 36, Chapter 60, Article 13^{2,3}		
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Mistakes in Bids

Criteria:

- The NIGP also prescribes that contracting officials should examine the submitted documentation to ensure arithmetical errors are corrected and recorded, unless they are substantive to the bid ¹

County Purchasing Policy:

- The DeKalb County Purchasing Policy did include guidance outlining the mistake in bid process. It stated that any clerical mistake patently obvious on the face of a bid may be corrected upon written request and verification submitted by the bidder. While this is adequate, our review shows other guidance specifies that the contracting officer can check for mistakes in bids and notify the bidders of any detected potential mistake in bid

Better Practices:

- After opening of bids, the Purchasing Director will examine all bids for mistakes. In cases of apparent mistakes, and in cases where there is reason to believe that a mistake may have been made, he/she will request from the bidder a verification of the bid, calling attention to the suspected mistake ^{1, 2,3}
- Prior to award, the Purchasing Director may correct any clerical mistake apparent on the face of a bid, if

1. **“Principles and Practices of Public Procurement-The Evaluation Process” NIGP**

<http://engage.nigp.org/acton/attachment/24793/f-01cb/1/-/-/-/TheEvaluationProcess.pdf>

2. **Sections 14.407-1 of FAR**
3. **Section VI, Paragraph C 2(n) of Douglas County Board of Commissioners Purchasing Department Procurement Guide**
4. **Article V, Section 102-373, Paragraph (h)(1) of Fulton County Code of Ordinances**
5. **Sections 14.407-2 of FAR**

- Revising the policy to reflect this would place additional emphasis on contracting officers to thoroughly review bids and proposals for mistakes, which could potentially reduce contract prices

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<p>he/she has first obtained from the bidder, verification of the bid actually intended ^{4,5}</p> <ul style="list-style-type: none"> • Examples of such apparent mistakes are obvious: <ul style="list-style-type: none"> ✓ Error in placing decimal point ✓ Reversal of price f.o.b. destination and the price f.o.b. factory ✓ Error in destination of unit ✓ Correction will be reflected in the award document ² 		
<p>Vendor Performance Ratings</p> <p><u>Criteria:</u></p> <ul style="list-style-type: none"> • The NIGP states that past performance evaluations should be used to determine whether a bidder or offeror is qualified in the award process ¹ <p><u>County Purchasing Policy:</u></p> <ul style="list-style-type: none"> • The County Purchasing Policy states the CPO is authorized to establish a vendor performance rating system for use in eliminating those suppliers who fail to perform or who perform unsatisfactorily and that rating systems can be used may be used for evaluation and award purposes. However, the vendor performance rating system is currently not mandatory 	<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. Article V, Section 102-416(f) of <i>Fulton County Code of Ordinances</i> 3. Sections 17.207(c, 42.1501(a) and 42.1502(b) of <i>FAR</i> 	<ul style="list-style-type: none"> • Amending the policy to require vendor ratings will benefit the contracting officer in determining whether a potential contractor is “responsible” and whether an existing contractor should be granted a renewal on an option year contract

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Better Practices:

- The user agency shall monitor and review the performance of contractors/vendors that provide goods and services to the county. Regular performance appraisals shall be documented once every calendar quarter, or once every 60 days where the total contract period is six months or less. This shall not take the place of, but shall be in addition to the mandatory contract performance report required at the end of each contract ²
- The contract administrator is responsible for ensuring that the performance of contractors/vendors is recorded on the contractor performance report and submitted into the Department of Purchasing and Contracting centralized database ²
- The contracting officer may exercise options only after determining that the contractor's performance on this contract has been acceptable ³
- Past performance information (including the ratings and supporting narratives) is relevant information, for future source selection purposes, regarding a contractor's actions under previously awarded contracts ³
- Agencies shall prepare evaluations of contractor performance for each contract that exceeds the simplified acquisition threshold ³

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Informal Purchases

Criteria:

- The NIGP cites that public entities should include source selection procedures such as small purchase orders (or informal purchases) in their procurement manual. The County utilizes a procurement method similar to this referred to as a “punch out list” in which user activities purchase items respectively from a list of vendors with catalogued items and prices ¹

County Purchasing Policy:

- The County policy did adequately address informal purchase procedures to include dollar thresholds, quotation and documentation by dollar thresholds, and prohibition of splitting informal purchases
- However, it needs to add provisions for the use of “punch out list” contracts

Better Practices:

- Define the “Punch out” catalogue contract process. (i.e. A method of filling out repetitive by establishing accounts with qualified vendors)
- Require that user activities ensure funding is available prior to purchasing

1. **“Principles and Practices of Public Procurement-Developing a Procurement Policy Manual”** *NIGP*

<http://engage.nigp.org/acton/attachment/24793/f-00d3/1/-/-/-/DEVELOPING%20PROCUREMENT%20MANUAL%20UPDATED.pdf>

2. **Section 13.303** of *FAR*

- The benefit of incorporating this procurement method is that user activities would gain insight as to when to utilize the “punch out list.

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<ul style="list-style-type: none">• Specify the commodity groups of supplies available for purchase for this contract• Require user activity organizations to identify their authorized buyers and approval authorities points of contact• Specify the required documentation (invoices, sales tickets, etc.) to accompany the purchases• Specify the organizations responsible for reviewing the purchases along with the frequency of review ²		
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OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF DEKALB COUNTY PURCHASING POLICY

PROJECT TEAM

This report submitted by:

John M. Lipham

John Lipham
Senior Internal Auditor
Office of Independent Internal Audit

January 12, 2018

Date

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January 12, 2018

Date

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Chief Audit Executive
Office of Independent Internal Audit

January 12, 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 HB599, 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.

Exhibit #2

OFFICE OF INDEPENDENT INTERNAL AUDIT

Audit of Low Bid Procurement Process

Report No. 2017-004-PC
May 2018

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</u> adequate support for activity.	2009 SOPs / 2015 Procedures Manual Reference
1. Request for Goods/Services <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>
2. Pre Solicitation Meeting/Solicitation Development <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>
3. ITB Advertised <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>
4. Bid Submission and Opening <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>
5. Bid Evaluation <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		
6. Award Notice - ITBs Greater Than \$100,000 Did Not Contain BOC Regular Meeting Summaries (Meeting Minutes) In The File <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) 	8 out of 8 (2014) 10 out of 10 (2015)	Page 74-chpt 6 (Jan 2009) Page 15-4.1 (8) (May 2015)
7. Notice to Proceed <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 	4 out of 8 (2014) 8 out of 14 (2015)	Page 13-Chpt 7 (Jan 2009) Page 17-4.1 (9) (May 2015)

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 \(GPM\)](#) - I.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

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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

2 - Pre-Solicitation										
1 Meeting/Solicitation					3	5 - Bid Evaluation			6	7
ITB #	Vendor Name	Request for Goods/Services	Pre-Solicitation Meeting	Review/Approval	ITB Advertised	Responsiveness	Responsibility	Debarment/ Suspension	Completed Agenda/ Summary Items Over \$100,000 for BOC	NoticeTo Proceed
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

2 - Pre-Solicitation											
		1 Meeting/Solicitation Development			3	4	5 - Bid Evalution			6	7
Invitation To Bid #	Vendor Name	Request for Goods/Services	Pre-Solicitation Meeting	Review/Approval	ITB Advertised	Bid Submission and opening (Market Survey done where less than 5)	Responsiveness	Responsibility	Debarment/ Suspension	Completed Agenda/ Summary Items Over \$100,000 for BOC Approval	NoticeTo Proceed
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
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
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PROJECT TEAM

This report submitted by:

Clenty C. Hinten

Clenty Hinten
Internal Auditor
Office of Independent Internal Audit

5/11/2018

Date

This report reviewed by:

Lavois Campbell

Lavois Campbell, CIA, CFE, CGA
Performance Internal Audit Manager
Office of Independent Internal Audit

5/11/2018

Date

The report approved by:

John Greene

John Greene, CIA, CIG, CGAP, CGFM
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.

Exhibit

#3

OFFICE OF INDEPENDENT INTERNAL AUDIT

Sole Source Contracting Process

Audit Report No. 2017-005-PC
March 2018

DEKALB COUNTY GOVERNMENT Purchasing and Contracting Department



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

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John Greene
Chief Audit Executive

PURCHASING & CONTRACTING DEPARTMENT SOLE SOURCE PROCUREMENT PROCESS AUDIT REPORT NO. 2017-005-PC

What We Did

In accordance with the Office of Independent Internal Audit (OIIA) Annual Audit Plan for fiscal year 2017, we conducted a performance audit of the DeKalb County sole source procurement process to assess compliance with Purchasing and Contracting's sole source policy and procedures.

In addition, we benchmarked the County's sole source procurement processes to the Federal Acquisition Regulations (FAR), US Code of Federal Regulations, United States Government Accountability Office (GAO) Resources (Green Book/Blue Book) and the Georgia Procurement Manual to identify opportunities for strengthening the effectiveness and efficiency of the sole source procurement process.

What We Found

We noted that Purchasing and Contracting (P&C) has established control activities for sole source procurement, such as policies and procedures, to mitigate risks that can occur in the administration of sole source procurement process. However, we observed instances of noncompliance regarding the policy and procedures, as summarized below:

- Insufficient maintenance of supporting documentation for sole source procurement
- Incomplete sole source vendor request applications
- Inadequate or missing evidence to validate the status of the requested vendor as a sole source vendor
- Insufficient evidence of proper approval of sole source requests
- Inadequate evidence of Board approval on sole source requests over \$100,000 and subsequent change orders

What We Recommend

We recommend the Purchasing Director/Chief Procurement Officer consider:

- Implementation of controls to ensure required documentation, such as NCPR (Non-Competitive Procurement Request) forms, supporting documentation, etc., are consistently available in the sole source vendor files
- Disapprove incomplete sole source requests to ensure established controls are operating properly
- Provide countywide training for all parties responsible for completing the NCPR form to ensure effective and efficient processing/maintenance of the sole source vendor request

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- Communicate formal notification to User Departments and vendors regarding the County's requirement of sole source vendor declaration letter
- Revise the NCPR form to include 'print name' lines to clearly identify preparer/approvers on sole source requests
- Implement a standard form to document evaluation/verification research performed by P&C staff to validate the sole source vendor's status
- Require direct evidence of the Board of Commissioners' (BOC) approval, such as BOC meeting minutes, on sole source awards over \$100,000 and applicable change orders

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BACKGROUND AND INTRODUCTION

“A ‘sole source’ procurement can be defined as any contract entered into without a competitive process, based on a justification that only one known source exists or that only one single supplier can fulfill the requirements. Although states generally do not permit non-competitive procurements by statute, exceptions are allowed where competition is not feasible.”¹

DeKalb County Purchasing Policy states that, “all sole source purchases must be authorized by the Director [Chief Procurement Officer]. Prior to authorization, written justification must be signed by [User] Department Director and submitted to Purchasing and Contracting for evaluation.”

The County’s Purchasing Policy further states, “based upon evidence that a particular commodity or service may be obtained from only one source and no similar commodity or service available from a different source will adequately meet an acquiring office’s requirements and specifications, the Director [Chief Procurement Officer] may decide that the commodity or service be purchased sole source or by reference to a brand name based upon supporting documentation from the requesting department. All such purchases where cost is in excess of \$100,000.00 shall be approved by official action of the Governing Authority [Board of Commissioners].”

The County’s procedures for processing sole source Purchase Request as depicted in the Purchasing Desk Reference Procedures Manual [and augmented with input received from P&C Management] are described below:

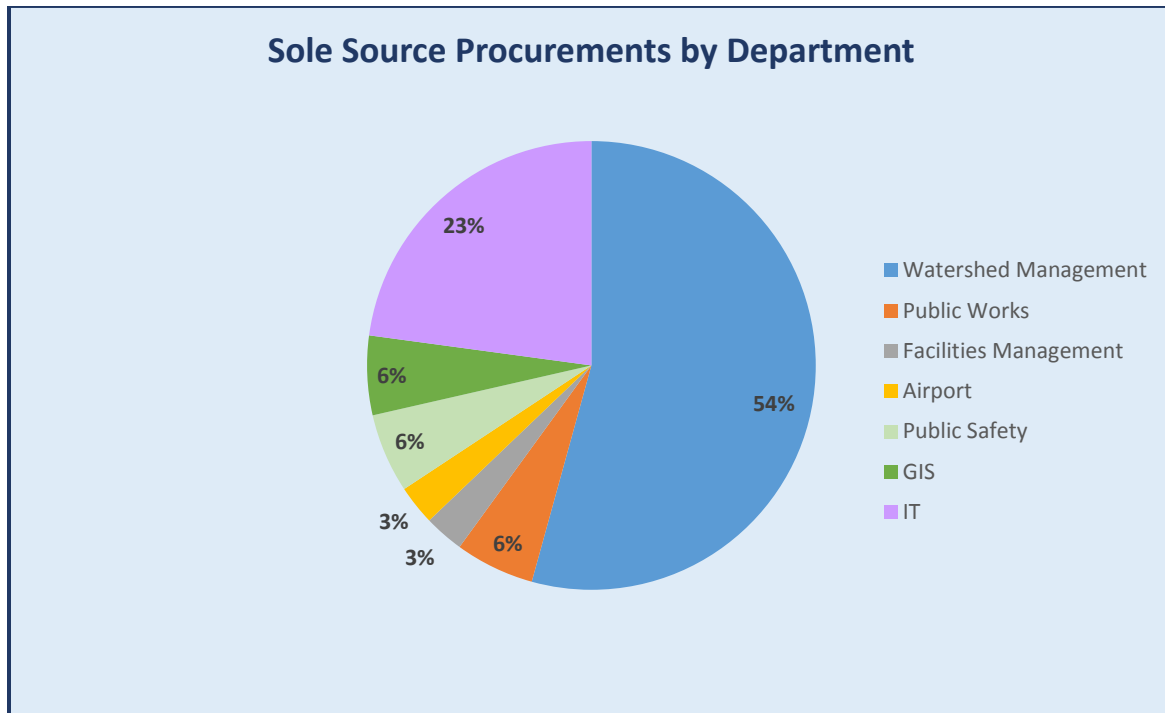
The process is initiated via email, requisition or paper memo containing the Non-Competitive Purchase Request from the User Department. The P&C Agent/Tech reviews the NCPR form for explanation, justification and User Department Director’s signature. If NCPR is complete, the P&C Agent/Tech conducts evaluation/verification research of requested vendor’s Sole Source status, which includes Internet searches, previous vendor procurement history and spend amount. The Agent/Tech obtains a valid Sole Source letter signed by a company representative with the knowledge of the product or service on the company’s letterhead and a quote. The Agent/Tech makes written recommendation to include the supporting Sole Source vendor evaluation/verification research, initials the NCPR Form and forwards the documentation to the Agent/Tech’s immediate Manager for review and concurrence. The immediate Manager initials concurrence and forwards to Director [Chief Procurement Officer] for final approval and signature. If the Sole Source request is greater than \$100,000.00, the Agent/Tech prepares an agenda item to submit the request to the Board of Commissioners for approval. Upon approval, the Agent/Tech processes a Purchase Order (PO)/or other agreement. The Agent/Tech attaches the NCPR form and other supporting documentation to the PO or agreement and uploads all documents to Oracle.

¹ http://www.naspo.org/SoleSourceProcurement/7-Question_Sole_Source_Procurement_briefing_paper-1-13-15.pdf

AUDIT RESULTS

During this engagement, OIIA examined 35 sole source files where we identified instances of noncompliance with the established policies and procedures, as detailed below in our findings. The corresponding recommendations to the findings will assist P&C in its mission to provide excellent and transparent procurement services to stakeholders and all others.

Based on the 35 files randomly selected for this audit, the chart below depicts the percentage of sole source procurements by department for period the January 1, 2014 to March 31, 2017:



Our engagement identified some better practices for consideration in addressing the sole source procurement requirements in **Appendix III**.

FINDING 1- INSUFFICIENT MAINTENANCE OF DOCUMENTATION FOR SOLE SOURCE VENDOR REQUEST

Objective: To assess compliance of the sole source procurement process with the Purchasing and Contracting's policy and procedures.

Criteria: Per Purchasing & Contracting Desk Reference Procedures Manual (page 5) and interviews with the Chief Procurement Officer (CPO) and Procurement Managers, "to initiate the request for a sole source vendor, the user department must complete the NCPR (Non Competitive Purchase Request) form."

P&C Management further stated that processed NCPR Forms and supporting documentation are uploaded and maintained in the Oracle financial system.

Condition: Of the 35 sampled files reviewed, 20 percent (7 out of 35) of the NCPR forms were missing from the sole source vendor files. In addition, none of the vendor files reviewed in Oracle

were complete. Thirty-four vendor files contained some documentation and one vendor file had no information.

Cause (where identifiable): In one case, the Procurement Manager explained that the sole source vendor request was processed in error, prior to approval and no documentation was maintained.

Consequence: Failure to require properly maintained sole source vendor files may lead stakeholders and other open record requesters to infer inconsistent adherence to the County's Purchasing policy, procedures, lack of transparency, and lack of management oversight regarding the processing of sole source requests.

Recommendation:

We recommend that the CPO implement oversight controls to ensure the required documentation, such as NCPR forms, supporting documentation, and, etc., are maintained in the sole source vendor files to allow for proper work trails and accountability when processing sole source procurements.

FINDING 2- INCOMPLETE SOLE SOURCE VENDOR REQUEST APPLICATION

Objective: To assess compliance of the sole source procurement process with the Purchasing and Contracting policy and procedures.

Criteria: DeKalb County Purchasing Desk Reference Procedure Manual (page 5-step 2) states, "Review NCPR form for explanation, justification & Department Director's signature." The Purchasing Policy (page 12) states that, "All source purchases must be authorized by the Director, prior to authorization, and written justification must be signed by the Department Director."

Condition: We examined thirty-five (35) sole source files and found 57 percent (20 out of 35) contained incomplete NCPR forms. The discrepancies that we found are listed below:

- Two different forms were being used for sole source request by user departments in 2014
- The general description of requested product/services completed by user departments was inadequate and did not allow for proper research by P&C staff to verify the sole source vendor
- Eleven percent of the NCPR forms were not signed by user department director
- Forms signed by staff, such as the user department deputy director or the manager, did not include documentation signifying signatory authority by user department director

Cause (where identifiable): The NCPR form does not list an effective date; hence, P&C staff was unaware of the effective date of the NCPR form.

P&C staff did not ensure completeness of the NCPR form before processing the sole source request.

Consequence: Incomplete sole source vendor requests forms can increase the risk of fraud, which can result in collusion with a vendor and can create inefficiencies in processing sole source requests. In addition, it could lead stakeholders reviewing the documents to assume that sole source purchases were unjustified and/or improperly awarded without competition or prior review.

Recommendation:

When forms are updated or revised, we recommend that forms within P&C be controlled through the version number and effective date denoted at the header or footer of each page.

Furthermore, forms updated on the P&C's website should inform online users that the form has been updated and the effective date.

P&C staff should not process incomplete NCPR forms. In addition, the CPO should consider countywide training on completing the NCPR form and processing/maintenance of the sole source vendor request. All training sessions should include an employee training attendance sheet, which certifies by signing the attendance sheet that the employee has received training, understands, and agrees to their responsibilities for completing the NCPR form.

During this engagement, the P&C staff were briefed on the recommendations and began taking immediate corrective action to post the NCPR form to the County's intranet site with an effective date of September 21, 2017. We commend P&C staff for their initiative to take corrective action.

FINDING 3- INADEQUATE EVIDENCE TO VALIDATE SOLE SOURCE VENDOR'S STATUS

Objective: To assess compliance of the sole source procurement process with the Purchasing and Contracting's policy and procedures.

Criteria: Per P&C's Desk Reference Procedure Manual (page 5) and interviews with P&C staff, [Procurement Agent] conducts and signs off on research performed on proposed sole source vendors using internet search engines, previous spend history, and contact with other agencies. The Procurement Agent obtains a valid signed sole source letter on company letterhead and quote from the manufacturer/supplier prior to processing the sole source vendor request.

Condition: Of the thirty-five files we examined, none contained sufficient or adequate evidence to validate the requested vendor's sole source status. Our examination revealed the following:

- Six percent of the files (2 out of 35) contained unsigned research information making it difficult to determine whether P&C or the user department performed the research. Eighty-six percent of the files (30 out of 35) contained no evidence of research to validate vendor's sole source status
- Forty-three percent (15 out of 35) of the files contained sole source declaration letters signed by vendor's sales, parts service, or unidentified personnel. In addition, we observed sole source vendor letters requested by and addressed to the user department, not P&C
- Forty-nine percent (17 out of 35) of the files were missing the sole source declaration letter
- Twenty-nine percent (10 out of 35) were missing the vendor's quote to validate vendor's ability to meet unique specifications for the sole source request

Cause (where identifiable): P&C staff did not ensure compliance with their internal procedural manual for sole source requests.

Consequence: The absence of required documentation to validate the sole source status of the proposed vendor could lead to the public perception of favoritism and bias in awarding of sole source procurements.

Recommendation:

We recommend CPO consider:

- Establish a standard form for use by P&C staff when performing evaluation research to validate the status of the requested sole source vendor
- Communicate formal notification to the user departments and vendors regarding the County's requirement of sole source vendor declaration letter
- Obtain the declaration of sole source status and quotation on a signed letterhead from corporate marketing (not sales representative), president, authorized agent, or authorized company representative

FINDING 4- INSUFFICIENT EVIDENCE OF APPROVAL PROCESS OF SOLE SOURCE REQUESTS

Objective: To assess compliance of the sole source procurement process with the Purchasing and Contracting's policy and procedures.

Criteria: Per P&C's Desk Reference Procedure Manual (page 5) and interviews with P&C staff, the Procurement Agent makes recommendation and signs the [NCPR] form, then forwards it to the immediate Procurement Manager who initials and submits the form to P&C Director for approval (signature).

Condition: We observed that the CPO did not sign twenty-one percent (6 out of 28) of the NCPR forms. Seven of the 35 files examined were missing the NCPR form and thus unavailable for examination. In addition, no 'print name' line exists to verify who signed the form, when the signature is not legible. The recommendation box on the NCPR form contained initials but it was difficult to decipher the owner of the initials without a 'print name' line.

Consequence: Improper or missing authorization could signify lack of staff accountability and management oversight that might lead to the risk of loss or fraud.

Recommendation:

We recommend CPO revise the NCPR form to include a line for the printed names and signatures of the Procurement Agent (preparer), Procurement Manager (reviewer) and the P&C Director (approver) to clearly identify the appropriate preparer/approver. In addition, P&C should consider converting the NCPR form to a file type that would allow for electronic signature approvals and proper accountability trail.

We commend the P&C staff for taking the initiative to take corrective action by revising the NCPR form to include printed name blocks, signatures, and the effective use date for the new form.

FINDING 5- INADEQUATE EVIDENCE OF BOARD APPROVAL ON SOLE SOURCE REQUESTS OVER \$100,000 AND CHANGE ORDERS

Objective: To assess compliance of the sole source procurement process with the Purchasing and Contracting's policy and procedures.

Criteria: Per DeKalb County Purchasing Policy (page 21) and the P&C Desk Reference Procedure Manual (page 5, step 8), "All such purchases [sole source] where cost is in excess of \$100,000.00 shall be approved by official action of the Governing Authority [Board of Commissioners (BOC)]."

Additionally, per DeKalb County Purchasing Policy (page 29), "If the original contract or purchase order price does not exceed \$100,000.00, but the Change Order will make the total price of the contract exceed \$100,000.00, then the change order requires approval by official action of the Governing Authority [Board of Commissioners (BOC)]."

Condition: Based on the above criteria for sole source requests requiring BOC approval, 69 percent (11 out of 16) of applicable files contained inadequate evidence of BOC approval. Seventy-three percent of the eleven files included the BOC agenda item with the CPO's signature and BOC approval date affixed by the P&C Department, which does not lend itself to adequate evidence of BOC approval since these documents are produced in the P&C Department. The remaining 27 percent contained no documentation of BOC approval.

Consequence: The lack of adequate evidence showing BOC approval on awards over \$100,000 could lead to an incorrect assumption by stakeholders and others that noncompliance exist regarding County's policies and procedures to effectively control and safeguard assets.

Recommendation:

We recommend CPO require direct evidence of BOC approval on sole source awards over \$100,000, such as the BOC Summary documents. In addition, adequate support for other change orders or other modification of the contract term approved by the BOC should be maintained in the vendor's file.

APPENDIX

Appendix I – Purpose, Scope and Methodology

Purpose

The purpose of this engagement was:

- To assess compliance with sole source procurements with the DeKalb County's Purchasing and Contracting policies and procedures
- Identify, where applicable, opportunities to strengthen the effectiveness and efficiency of the sole source procurement process

Scope and Methodology

The scope of this engagement was to examine documentation relative to the sole source vendor selection process from January 1, 2014 to March 31, 2017.

The methodology included but was not limited to the following:

- Discuss and obtain prior audit reports, if any
- Reviewing the DeKalb County purchasing policy and procedures
- Reviewing sole source contracts and agreements
- Examining supporting documentation to determine whether sole source contracts were in accordance with Purchasing and Contracting's sole source procedures
- Interviewing appropriate county personnel and external parties
- Reviewing any other applicable documentation and information

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Appendix II – Management Response



March 13, 2018

MEMORANDUM

TO: John L. Greene, Chief Audit Executive
FROM: Talisa R. Clark, Chief Procurement Officer *Talisa Clark*
SUBJECT: Audit of the Sole Source Purchases-Audit Report No 2017-005-PC

This memorandum will serve as the official response of the audit conducted on January 31, 2018 of the Department of Purchasing and Contracting (P&C or Department) Sole Source Purchases policy and procedures. After a thorough review of the audit report regarding Sole Sources, P&C responds as follows:

1. Finding: Insufficient maintenance of documentation for sole source vendor request

Recommendation: The CPO should implement oversight controls to ensure the required documentation, such as (Non-Competitive Procurement Request) NCPR forms, supporting documentation, and, etc., are maintained in the sole source vendor files to allow for proper work trails and accountability when processing sole source procurements.

Management Response: P&C made improvements in 2016 to the maintaining of sole source procurements. The supporting documentation (NCPR form, etc.) is attached to the created purchase order (PO) and an electronic file is created on the Department's Y-drive for easy access.

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

2. Finding: Incomplete sole source vendor request application

Recommendation: When forms are updated or revised, the forms within P&C be controlled through the version number and effective date denoted at the header or footer of each page. Furthermore, forms updated on the P&C's website should inform online users that the form has been updated and the effective date. P&C staff should not process incomplete NCPR forms. In addition, the CPO should consider countywide training on completing the NCPR form and processing/maintenance of the sole source vendor request. All training sessions should include an employee training attendance sheet, which certifies by signing the attendance sheet that the employee has received training, understands, and agrees to their responsibilities for completing the NCPR form. During this engagement, the P&C staff was briefed on the recommendations and began taking immediate corrective action to post the NCPR form to the County's intranet site with an effective date of September 21, 2017. We commend P&C staff for their initiative to take corrective actions.

Management Response: P&C made improvements in 2017 to add the form revision date to the NCPR form. P&C will inquire with IT about the capability of forms being updated on the P&C's website to inform online users that the form has been updated and the effective date. P&C currently provides training to user departments and cover the appropriate completion of P&C forms. The NCPR form also has an instruction page for the user departments to follow prior to submission to P&C for processing.

3. Finding: Inadequate evidence to validate sole source vendor's status

Recommendation: The CPO should consider: Establish a standard form for use by P&C staff when performing evaluation research to validate the status of the requested sole source vendor. Communicate

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AUDIT OF SOLE SOURCE PROCUREMENT PROCESS**



formal notification to user departments and vendors regarding the County's requirement of sole source vendor declaration letter. Obtain declaration of sole source status and quotation on signed letterhead from corporate marketing (not sales representative), president, authorized agent, or authorized company representative.

Management Response: P&C made improvements in 2017 and created an evaluation research form to post for advertising to the P&C website to serve as communication to user departments and vendors. The sole source letters from the sole source vendors must be issued to P&C, dated and signed by an authorized company representative on the company's letterhead and kept in the electronic file.

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

4. **Finding:** Insufficient evidence of approval process of sole source requests

Recommendation: The CPO should revise the NCPR form to include a line for the printed names and signatures of the Procurement Agent (preparer), Procurement Manager (reviewer) and the P&C Director (approver) to clearly identify the appropriate preparer/approver. In addition, P&C should consider converting the NCPR form to a file type that would allow for electronic signature approvals and proper accountability trail. We commend the P&C staff for taking the initiative to take corrective action by revising the NCPR form to include printed name blocks, signatures, and the effective use date for the new form.

Management Response: P&C made improvements in 2017 to revise the NCPR to include a print and signature and date line for the Procurement Agent, Procurement Manager and P&C Director. P&C will inquire with IT about the capability of converting the NCPR form to a file type that would allow for electronic signature approvals.

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

5. **Finding:** Inadequate evidence of Board approval on sole source requests over \$100,000 and change orders

Recommendation: The CPO requires direct evidence of BOC approval on sole source awards over \$100,000, such as the BOC Summary documents. In addition, adequate support for other change orders or other modification of a contract term approved by the BOC should be maintained in the vendor's file.

Management Response: P&C will consider including the BOC summary documents to the vendor's file, but has concern due to size, potential ramifications and duplicative record maintenance. At a minimum, P&C will continue to reference the Logistar Agenda Item Number, the separate electronic system maintained by the Clerk for the CEO/BOC approvals, minutes and summary documents can be retrieved at any time.

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

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

cc: Michael L. Thurmond, Chief Executive Officer
La'Keitha Carlos, Chief of Staff, CEO
Zachary Williams, Chief Operating Officer
Viviane Ernest, Interim County Attorney
Marian Adcimy, Assistant County Attorney
Terry G. Phillips, Supervising County Attorney
ShaTana Edwards, Procurement Projects Manager - Operations

Appendix III – Better Practices Identified for Sole Source Procurement Requirement

Criteria/ Better Practices	References /Sources
<p>Vendor Performance Evaluation</p> <p>Criteria:</p> <ul style="list-style-type: none"> The County Purchasing Policy provides for the establishment of a vendor performance rating system for use in eliminating those suppliers who fail to perform or who perform unsatisfactorily. It further states that the rating systems may be used for evaluation and award purposes. The Federal Transit Administration advises that performance reports can be an important reference point for future source-selection decisions in which past performance is a stated evaluation criteria <p>Better Practice(s):</p> <ul style="list-style-type: none"> Expand the vendor performance rating system to include sole source vendors to ensure that vendors who are expected to fulfill unique service and/or product specifications satisfactorily complied 	<ul style="list-style-type: none"> DeKalb County Purchasing Policy, page 27, “Vendor Performance Rating” Federal Transit Administration, Best Practices Procurement & Lessons Learned Manual, Section 5.65 - Contractor Performance Report https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/funding/procurement/8286/fta-best-practices-procurement-and-lessons-learned-manual-2016.pdf
<p>Ethics Policy/Conflict of Interest Statement</p> <p>Criteria:</p> <ul style="list-style-type: none"> The Federal Code of Regulations advises that a Conflict of Interest Certification be provided in all solicitations <p>Better Practice(s):</p> <ul style="list-style-type: none"> To promote and encourage ethical behavior among vendors and employees and to avoid the appearance of biased vendor selection, include the Conflict of Interest Certification with all sole source solicitations, signed by all involved parties, and maintained in applicable sole source vendor file 	<ul style="list-style-type: none"> 48 CFR 3452.209-70 – Conflict of Interest Certification https://www.gpo.gov/fdsys/pkg/CFR-2012-title48-vol7/pdf/CFR-2012-title48-vol7-sec3452-209-70.pdf
<p>Intent to Award Sole Source Procurements</p> <p>Criteria:</p> <ul style="list-style-type: none"> The NIGP (National Institute of Governmental Purchasing, Inc.) prescribes that a procurement policy manual include guidance for sole-source procurement. The County Purchasing Policy did address sole-source purchasing and requires that sole source contracts be utilized when: 	<ul style="list-style-type: none"> “Principles and Practices of Public Procurement- Developing a Procurement Policy Manual” NIGP http://engage.nigp.org/acton/attachment/24793/f-00d3/1/-/-/-/DEVELOPING%20PROCUREMENT%20MANUAL%20UPDATE_D.pdf

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- Only one supplier is able to fill requirements for the intended use
- Standardization exists from past performance
- Written justification is signed by the Department Director and submitted to Purchasing and Contracting for evaluation

Better Practice(s):

- To determine the appropriateness of a sole-source purchase, research must be conducted to determine if other goods or service providers exist and can satisfy procurement requirements
- The procurement professional must provide public notice of the intended sole-source purchase through a posting to the County's website and /or other public forum for a minimum of five (5) business days. The purpose of publicizing the sole-source notice is to offer other possible suppliers an opportunity to respond by submitting a protest stating they can provide the specified good or service
- All intended sole source acquisitions shall be advertised on the county's bid board/internet for a minimum of five business days

Independent Cost Estimate/Analysis

Criteria:

- Regardless of the justification for a sole source contract, the Federal Transit Administration supported by the Federal Code of Regulations requires the performance of an independent cost estimate/analysis to ensure the reasonableness of the proposed contract price

Better Practice(s):

- The implementation of an independent cost estimate/analysis as part of the sole source due diligence research will assist procurement professionals in seeking a fair and reasonable price for non-competitive purchases

- **Section 3.2** of GPM , Item 6(c), Page 21
- **Article V, Section 102-384, Item (c)** of Fulton County Code of Ordinances

- **Federal Transit Administration, "FAQ"**
<https://www.transit.dot.gov/funding/procurement/third-party-procurement/independent-cost-estimate>
- **24 CFR 85.36- Procurement, (f) Contract Cost and Price**
<https://www.gpo.gov/fdsys/pkg/CFR-2012-title24-vol1/pdf/CFR-2012-title24-vol1-sec85-36.pdf>

DISTRIBUTION

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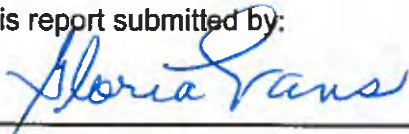
Antwyn Brown, Chief of Staff, Board of Commissioners

Stacey Kalberman, Ethics Officer, DeKalb Board of Ethics

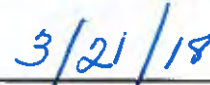
**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF SOLE SOURCE PROCUREMENT PROCESS**

PROJECT TEAM

This report submitted by:



Gloria Evans, CPA, CIA
Internal Auditor
Office of Independent Internal Audit



Date

This report reviewed by:

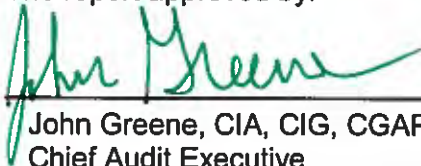


Cornelia Louis
Financial Internal Audit Manager
Office of Independent Internal Audit

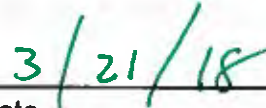


Date

The report approved by:



John Greene, CIA, CIG, CGAP, CGFM
Chief Audit Executive
Office of Independent Internal Audit



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 / Section 10A – Independent Internal Audit. 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.

Exhibit

#4

Report No. 2017-006-PC
February 2018

DEKALB COUNTY GOVERNMENT
Purchasing and Contracting



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

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PURCHASING AND CONTRACTING AUDIT OF EMERGENCY PURCHASES AUDIT REPORT NO. 2017-006-PC

What We Did

In accordance with the Office of Independent Internal Audit (OIIA) Annual Audit Plan for 2017, we conducted a performance audit of the Emergency Purchase (EP) process. We examined EPs executed from January 1, 2015 to March 31, 2017 to determine whether Purchasing and Contracting (P&C) department complied with the DeKalb County Purchasing Policy and Procedures and to identify opportunities to strengthen the effectiveness and efficiency of the EP procurement process.

What We Found

P&C did not always comply with Emergency Purchase procedures, specifically:

- Seventy-nine percent (22 out of 28) of EPs examined were improperly categorized as EPs due to inadequate planning by the user departments
- The Board of Commissioners (BOC) did not approve 2 of 5 sampled EPs that exceeded \$100,000
- Ninety-six percent of EP forms were approved by Chief Procurement Officer (CPO) and 100% were approved by the Procurement Manager; however, only few Procurement Agents approved the forms

In addition, we identified the following control deficiencies within the EP procurement process:

- Lack of accurate reporting of Emergency Purchases
- Lack of compensating controls when segregation of duties is inadequate
- Ineffective procedures to communicate contract information prior to expiration
- Inconsistent language between Purchasing Policy and Procedures manual

What We Recommend

We recommend the CPO should consider several opportunities to strengthen the EPs and procurement process as summarized below:

- P&C Policy and Procedures should emphasize that inadequate planning is not justification for utilization of EPs and provide illustrations of qualifying EPs
- P&C Management should implement more efficient controls to ensure all EPs over \$100,000 are ratified by BOC
- P&C Management should ensure all Procurement Agents and Procurement Managers consistently initial and date Non-Competitive Purchase Request (NCPR) forms

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AUDIT OF EMERGENCY PURCHASES**

- P&C Management should develop and implement automated controls to track and report all EPs
- P&C Management should implement compensating controls when segregation of duties is inadequate
- P&C Management should implement an effective communication tool to inform County departments and/or agencies of upcoming expiring contracts
- P&C Management should reconcile the language between the Purchasing Policy and the Procedures Manual to ensure that P&C activities are consistent

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BACKGROUND AND INTRODUCTION

The Purchasing and Contracting (P&C) Department oversees all procurements of goods and services using competitive bid process, when possible, with a goal to implementing fair, effective, and efficient procurement system that offers best value for goods and services to DeKalb County (County). To this end, P&C strives to achieve customer service experiences that add value to DeKalb County procurement process. P&C is responsible for the design and implementation of efficient and effective internal controls to manage significant risks and ensure the department and County met their goals. The Chief Executive Officer (CEO) shall enforce compliance with P&C's procurement policy and procedures for all departments, offices, or agencies, except the Tax Commissioner, Clerk of Superior Court, District Attorney, and the Sheriff (Georgia House Bill 700).

The DeKalb County Purchasing and Contracting Policy and the Procedures Manual specifies the following five procurement methods:

1. Competitive Sealed Bidding
2. Competitive Sealed Proposal
3. Informal Purchase
4. Sole Source
5. Emergency Purchase

EP is "used when there is a need for goods or services due to an unexpected and urgent request (emergency) constituting an imminent threat to public health or safety or the loss of an essential government service."¹ The user department acquire goods or services using EP procurement method by following the guidelines stipulated in the P&C Policy and Non Competitive Purchase Request (NCPR) form. The guidelines specify that the:

- Emergency must exist due to health, welfare, or safety of people or property, or cost a material loss of essential government services
- User departments must complete and submit NCPR form to make requests for EPs; the form must include an explanation as to why the competitive process cannot be used
- CPO must approve all EPs regardless of the time of emergency occurrence and the amount of the request
- A "competitive process should be followed whenever possible as long as the ability to address the emergency is not seriously impaired."²
- All EPs that exceed \$100,000 must be "ratified by official action of the Governing Authority at a future Board of Commissioners' meeting and the reason for the emergency must be contained in the minutes of the meeting."³

"When a situation exists where time does not permit involvement of the Purchasing and Contracting Department, the Department Director is authorized to purchase necessary commodities or make necessary repairs."⁴

¹ P&C Procedures Manual, dated March 6, 2017, pg. 5

² DeKalb County Purchasing Policy, dated August 6, 2014, pg. 12

³ DeKalb County Purchasing Policy, dated August 6, 2014, pg. 12

⁴ DeKalb County Purchasing Policy, dated August 6, 2014, pg. 22

AUDIT RESULTS

During this engagement, the OIIA examined twenty-eight EPs totaling approximately \$1.4 million to evaluate compliance with P&C's Policy and Procedures for EPs. We tested for accuracy and completeness of the EPs by comparing computerized data provided by the Department of Innovation and Technology (DoIT) with the EP listing provided by P&C. The P&C team provided the supporting documents for EPs. In addition, we examined other Metro Atlanta jurisdictions to identify opportunities to strengthen the effectiveness and efficiency of the EPs and procurements process.

In performing our examination, the OIIA relied on computer-processed data extracted from the Oracle Financial System. Since there is no mechanism to track EPs, we extracted EPs based on key words and verified with P&C staff about the accuracy of the information.

Based on the current system capabilities, P&C's controls over the procurement of goods and services for EPs are properly designed as it relates to written and unwritten procedures. Our tests of 28 EPs demonstrated existing controls were implemented and applied in accordance with the procedures. Specifically, we observed that 96% of EPs were approved by the CPO or signatory authority and effective system notification tools are in place to track expiring contracts.

As a result, we identified several opportunities to strengthen the EPs and procurement process as outlined in our findings and recommendations below.

Our engagement identified some better practices for consideration in addressing the EPs requirements in **Appendix IV**.

FINDING 1- USE OF EMERGENCY PURCHASES AS AN ALTERNATIVE FOR LACK OF PLANNING AND RISK MANAGEMENT

Objective: To test for compliance with P&C's Emergency Purchase Policy and Procedures by assessing whether approved EPs met the criteria for EP.

Criteria: According to the EP Policy and Procedures, EP should be used when goods and services are due to unexpected and urgent conditions, where health and safety or the conservation of public resources is at risk.

Condition: We examined 28 EPs and found that 22 or 79% were primarily due to lack of proper planning by the user departments.

Watershed Management used at least 6 EPs to continue an expired contract for lease of repair equipment until the contract was replaced. Sunbelt Rentals, Inc.'s contract for ongoing repairs and maintenance activities by Watershed Management expired on December 31, 2015. Rather than re-soliciting the bid, Watershed Management utilized the Emergency Purchase to lease equipment from the former contractor, Sunbelt Rentals, Inc., for nonemergency work.

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The following table provides a summary of emergency purchases by other County departments:

EMERGENCY PURCHASES VARIOUS DEPARTMENTS January 1, 2015 – March 31, 2017			
DEPARTMENT	REASON FOR EMERGENCY PURCHASE	AMOUNT	TOTAL PURCHASE ORDERS
Recreation, Parks, and Cultural Affairs	Resurfacing of seven (7) gym floors	\$127,447.94	1
Roads & Drainage	Emergency Repair for Bridges	\$434,582.15	4
Fire & Rescue	Moving services for Fire Rescue	\$40,936.35	1
Police Services-Animal Services	Heating at the Animal Shelter 11/25/15 - 3/24/16	\$55,100.00	1
Community Development	Housing repair, Civil engineering services, repair at Brookside Park	\$239,043.00	3
Facilities Management	Toshiba 1600XP1 UPS Replacement for East Precinct & Prime Site; New AX JACE and map all existing graphics to Delta system. Old system is malfunctioning and obsolete	\$67,878.10	2
Watershed Management	Scott Candler electrical Switch Geer, Transfer pump; rental equipment due to expired contract	\$223,511.14	9
Finance Department	RFP was later to allow TAN to be completed in May 2015	\$15,000.00	1
Total		\$1,203,498.68	22

Cause: DeKalb County P&C Policy and Procedures do not emphasize that a lack of adequate planning is no justification for utilizing an EP. In most cases, the condition described on the NCPR form, which justified the EPs, occurred due to lack of planning and risk mitigation strategies by the user departments. In other situations, EPs resulted in failure to solicit bids and execute a new contract prior to expiration of the existing contract.

Consequence: Improperly categorizing contracts as emergency services or allowing non-emergency contract to continue on an emergency basis caused by inadequate planning circumvents the competitive process. This practice reduces competition for services, which may

potentially result in higher costs to remedy the conditions. In addition, it could expose the County to possible negative publicity and collusion with vendors.

Recommendation:

We recommend the P&Cs Policy and Procedures should:

- Emphasize that inadequate planning is no justification for utilization of EPs
- Provide detail description or illustrations of qualifying EPs
- P&C Management should obtain the approval of senior management prior to approving EPs that are not within the requirements of the policy and procedures, due to inadequate planning

In addition, senior management should encourage County departments or agencies to develop strategic plans to perform routine maintenance on facilities to reduce emergency conditions.

FINDING 2- EMERGENCY PURCHASES WERE NOT RATIFIED BY THE BOC

Objective: To test for compliance with P&C's Emergency Purchase Policy and Procedures by assessing if EPs over \$100,000 were ratified by the BOC.

Criteria: P&C's Policy and Procedures states that all EPs greater than \$100,000 must be ratified by the BOC. The BOC's approval is a control activity, which provides the BOC with information needed to exercise their oversight responsibility for internal control.

Condition: Among the 28 EPs sampled, two of five (40%) EP files exceeding \$100,000, we examined, did not contain documents to support the ratification of the EPs by the BOC.

Cause: Inadequate controls exist to ensure all EPs greater than \$100,000 are presented to BOC for ratification.

Consequence: By not presenting EPs to the BOC for approval, the risk that excessive or unauthorized purchases will go undetected is increased. In addition, the lack of ratification could encourage collusion between staff and vendors that offer goods and services.

Recommendation:

The CPO should ensure all EPs that exceed \$100,000 are presented to the BOC for ratification, and should maintain appropriate documentation to verify approval. In addition, the CPO should establish automated controls to track and report EPs with such attributes. Tracking and reporting of such EPs within Oracle (Advanced Procurement Systems 'APS') may be preferable to reduce the risk of human error and to increase efficiency.

FINDING 3- IMPROVEMENT IN THE APPROVAL PROCESS OF THE NON COMPETITIVE PURCHASE REQUEST FORM

Objective: To test for compliance with P&C's Emergency Purchase Policy and Procedures, we assessed whether individuals involved in EP approval process approved the NCPR form.

Criteria: P&C Procedure Manual requires a Procurement Agent to comment and initial NCPR form upon completion and the manager to review, initial, and date the form before CPO's final

approval. The purpose of the approval is an independent check to ensure the EP requests are appropriate and comply with the P&Cs policy and procedures. The signature and date on the NCPR form provides evidence of timely review and approval of the form.

Condition: Ninety-six percent of NCPR forms examined were approved by the CPO. The Procurement Agents who processed EP requests, that we examined, did not consistently initial or date the NCPR forms. The managers initialed the NCPR forms that we examined but did not date the form.

Cause: Lack of proper review by P&C Management when NPCR forms are forwarded to them for approval.

Consequence: By not initialing and dating the forms, established internal controls procedures become ineffective to signify the workflow of NPCR forms and ensure accountability of EP process.

Recommendation:

The CPO should ensure all P&C staff and managers consistently follow P&C's Policy and Procedures as it relates to review and approval of the NCPR forms. P&C should consider the use of electronic signatures for the NCPR forms.

During this engagement, the P&C staff were briefed on the recommendations and began taking immediate corrective action to revise the NCPR form to include a line for all signatures and dates. We commend P&C staff for their initiative to take corrective actions.

FINDING 4- LACK OF ACCURATE REPORTING OF EMERGENCY PURCHASES

Objective: To identify opportunities to strengthen the effectiveness and efficiency of the EP process and assess the accuracy and completeness of reporting information.

Criteria: A well-designed system of internal controls should include obtaining, generating, or using "relevant quality information to support internal controls and to communicate with internal and external partners on a regular basis about matters affecting the internal controls."⁵

Condition: The report provided by P&C staff did not include all EP purchase orders (PO) approved during the audit period. At least 12 EPs identified in Oracle were not included in the report provided to the OIIA.

Cause: P&C staff mentioned that there was no mechanism within the current Oracle system to identify and report all approved EPs. Therefore, the data P&C downloaded from Oracle did not clearly identify EPs.

Consequence: Spreadsheets are prone to undetected errors that will have an effect on the data. In addition, spreadsheets cannot provide an automated audit trail of changes made and the users who made the changes.

⁵ <https://www.coso.org/Pages/default.aspx>

Recommendation:

P&C should develop and implement an automated process for tracking and reporting all EPs through the Advance Procurement Suites system to identify procurements by type.

FINDING 5- LACK OF COMPENSATING CONTROLS WHEN SEGREGATION OF DUTIES ARE INADEQUATE

Objective: To identify opportunities to strengthen the effectiveness and efficiency of the EP process and assess whether internal controls are present, efficient, and effective to ensure departmental goals are achieved.

Criteria: The P&C Policy and Procedures states that a Procurement Agent shall process requests for EPs, comment, initial and date the NCPR form, and submit to team Procurement Manager for review. The Procurement Manager reviews the file, initials, date the form, and submits to the CPO for final review and approval. The various levels of approval within the Oracle system segregates duties in the approval process.

While the CPO is out on leave, the CPO gives permission of signature authority to the Procurement Manager. "If segregation of duties is not practical [when the Procurement Manager approves his/her own work on behalf of the CPO] within an operational process because of limited personnel or other factors, management designs alternative control activities to address the risk of fraud, waste, or abuse in the operational process."⁶

Condition: For instances where the Procurement Manager served as the CPO, no other Procurement Manager participated in the review and approval process. In addition, the CPO did not perform high-level reviews of the transactions of the authorized signatory [Procurement Manager] afterwards.

A Procurement Manager approved four of 28 EPs or (15%) on behalf of CPO. In some instances where the Procurement Manager signed for CPO, we did not see evidence that another Procurement Manager had previously initialed and dated the NCPR form.

Cause: P&C approval procedures do not include compensating controls when segregation of duties are inadequate.

Consequence: When segregation of duties is inadequate and lack of compensating controls exist, the condition may lead to an abuse of authority, which can result in inappropriate authorization of transactions or collusion with County personnel and vendors.

Recommendation:

For instances where the approval process is not adequately segregated, the CPO should develop and implement compensating controls to ensure risks are reduced to appropriate level. The compensating controls can include a high-level review of transactions completed by the Procurement Manager that were not adequately segregated.

⁶ GAO-14-704G Federal Internal Control Standards (COSO, principle 10.14), pg. 51

FINDING 6- INEFFECTIVE PROCEDURES TO COMMUNICATE CONTRACT INFORMATION PRIOR TO EXPIRATION

Objective: To identify opportunities to strengthen the effectiveness and efficiency of the Emergency Purchase process by assessing whether controls are effective to monitor and communicate contract information prior to expiration.

Criteria: P&C management team receives the following periodic email alerts from Oracle system:

- Contract agreement(s) that are about to expire
- Contract Release \geq 85% of Contract Amount

Once the P&C personnel receive the email, the information is communicated to departments via phone, email, or during monthly management meetings.

Condition: As mentioned in Finding 1, Sunbelt Rentals, Inc.'s contract for ongoing repairs and maintenance activities by Watershed Management expired on December 31, 2015. Due to the expired contract, Watershed Management used EPs to rent equipment from the former contractor, Sunbelt Rentals, Inc., in order to continue its regular repairs and maintenance activities. This resulted in Watershed Management utilizing six EPs, totaling \$115,633, which lead to the BOC's ratification of the emergency purchases.

Oracle email alerts sent to P&C Management team should have prevented the use of EPs when the contract expired.

P&C Procedures Manual lack communication and follow-up/escalation procedures to ensure effective communication method to alert departments or agencies of upcoming expiring contracts.

Cause: Due to the numerous contracts listed in the sample email we observed, it is ineffective to communicate such high volume of contracts via phone or during monthly meetings.

Consequence: Allowing existing contracts to expire without a replacement caused the County to retain and use the service of the previous contractor beyond the contract term. This practice could result in higher procurement costs to the County.

Recommendation:

The CPO should implement a formal communication process and include in the P&C's Procedures Manual a process for communicating upcoming expiring contracts or contract expenditures that are greater or equal to 85% of contract amount to departments and/or agencies. The formal communication process should include a standard form or template that conveys pertinent contract information to all departments/agencies. Additionally, the procedures should outline the responsible personnel within the user departments or agencies who shall receive the notification.

Once the communication procedures have been implemented, management should periodically evaluate the department's methods of communication so that appropriate tools are utilized to communicate key information throughout the County on a timely basis.

FINDING 7- INCONSISTENCY BETWEEN THE POLICY AND PROCEDURES MANUAL

Objective: To identify opportunities to strengthen the effectiveness and efficiency of the Emergency Purchase procurement process.

Criteria: The **DeKalb County Purchasing Policy** states, “All emergency purchases must be authorized by the Director. Emergency purchases of **\$100,000.00 or greater** must be ratified by official action of the Governing Authority at a future Board of Commissioners’ meeting and the reason for the emergency must be contained in the minutes of the meeting.”

The **Procedures Manual** states, “All Emergency Purchases **over \$100k** must be ratified by the BOC.”

Condition: The language was not consistent between the Purchasing Policy and the Procedures Manual regarding Emergency Purchases.

Consequence: The inconsistency between the language in the Purchasing Policy and the Procedures Manual can lead to inconsistent practices among P&C personnel and user departments.

Recommendation:

We recommend that P&C reconcile the language between the Purchasing Policy and the Procedures Manual to ensure that P&C activities are consistent.

ADDITIONAL ITEM FOR CONSIDERATION

ENFORCEMENT FOR RATING FORMS FOR CONTRACTORS, PROVIDERS, AND LSBES

P&C’s Rating Form for Contractors, Providers, and LSBEs requires the user departments to fill out the form “with each delivery, payment, invoices, or other milestones in the lifecycle of any good or services for which DeKalb County pays a third party. This allows the County to document and assess the performance of the contractor and evaluate them for the purposes of awards, or recommendation for awards, or future procurements.”⁷

Lack of evaluating contractors upon completion of EP services prevents the County from obtaining assurance that highly rated vendors receive future emergency services contracts.

The P&C Department should:

- Incorporate into DeKalb County Purchasing and Contracting Policy and Procedures for EP a mandatory requirement for user departments to complete and submit the P&C’s rating forms for Contractors, Providers, and LSBEs for each EP purchase order issued.
- Ensure that user departments receive and complete the rating form for each EP through an automated process
- Ensure the rating information is tracked in the system to provide historical data in evaluating contractors for future EP services

⁷ http://indekalb/departments/purchasing/pdf/rating_form_for_contractors.pdf

Currently, P&C is implementing the Advance Procurement Suites (Oracle Component), which has the capability to send out the rating form to the user departments through automated processes.

APPENDIX

Appendix I - Purpose, Scope and Methodology

Purpose

The purpose of the engagement was to:

- Asses compliance of the Emergency Purchase and Procurements with the DeKalb County's Emergency Purchase policies and procedures
- Identify opportunities to strengthen the effectiveness and efficiency of the emergency purchases and procurement process

Scope and Methodology

The scope of this engagement is to examine documentation relative to Emergency Purchase policies and procedures from January 1, 2015 to March 31, 2017. **We did not assess compliance with the grant expenditures for Emergency Purchases.**

The methodology included, but not limited to the following:

- Reviewing DeKalb County's Emergency Purchase procurement policy and procedures
- Examining supporting documentation to assess compliance with established procedures
- Examining controls over the effectiveness and efficiency of Emergency Purchase procedures
- Interviewing appropriate personnel and external parties
- Reviewing other applicable documentation

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Appendix II - Management Response



February 2, 2018

***REVISED* MEMORANDUM**

TO: John L. Greene, Chief Audit Executive
FROM: Talisa R. Clark, Chief Procurement Officer *Talisa R. Clark*
SUBJECT: Audit of the Emergency Purchases-Audit Report No 2017-006-PC

This memorandum will serve as the official response of the audit conducted on November 28, 2017 of the Department of Purchasing and Contracting (P&C) Emergency Purchases (EP) policy and procedures. After a thorough review of the audit report regarding EPs, P&C responds as follows:

1. **Finding:** Use of emergency purchases as an alternative for lack of planning and risk management

Recommendation: P&C Policy and Procedures should emphasize that inadequate planning is no justification for utilization of EPs. Provide detail description or illustrations of qualifying EPs and P&C Management should obtain the approval of senior management prior to approving EPs that are not within the requirements of the policy and procedures, due to inadequate planning

Management Response: P&C will propose adding language to the Purchasing Policy to emphasize that inadequate planning is not justification for utilization of EPs. Additionally, P&C will continue to work with departments to ensure there is sufficient availability of on-call vendors should an emergency arise. P&C will continue to train County employees in the components of effective procurement methods through its multiple classes, workshops and educational seminars.

2. **Finding:** Emergency purchases were not ratified by the BOC

Recommendation: The CPO should ensure all EPs that exceed \$100,000 are presented to the BOC for ratification, and should maintain appropriate documentation to verify approval. In addition, the CPO should establish automated controls to track and report EPs with such attributes. Tracking and reporting of such EPs within Oracle (Advanced Procurement Systems 'APS') may be preferable to reduce the risk of human error and to increase efficiency.

Management Response: P&C agrees that all EPs that exceed \$100,000 are presented to the BOC for ratification. The two purchases identified during the audit were for emergency bridge repairs in April 2016, which were completed in 2016. Future procurements of this nature will be presented to the Board of Commissioners (BOC) for ratification to ensure proper approval and expense recognition.

As of 2017, purchasing staff has been instructed to prepare all needed ratification agenda items within the Legistar agenda software package and submit it with the emergency request documentation for CPO approval. Staff has also been instructed to select the emergency option in the drop-down flex field within Oracle when processing EPs. This will allow for proper tracking and reporting of emergency purchases.

The purchasing procedures manual will be updated to include this process within the next 30 days.

3. **Finding:** Improvement in the approval process of the non-competitive purchase request form

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Recommendation: The CPO should ensure all P&C staff and managers consistently follow P&C's Policy and Procedures as it relates to review and approval of the NCPR forms. P&C should consider the use of electronic signatures for the NCPR forms. During this engagement, the P&C staff was briefed on the recommendations and began taking immediate corrective action to revise the NCPR form to include a line for all signatures and dates. We commend P&C staff for their initiative to take corrective actions. P&C Management should ensure all Procurement Agents and Procurement Managers consistently initial and date Non Competitive Purchase Request (NCPR) forms

Management Response: P&C made improvements to the approval process of the non-competitive purchase request form in September 2017 based on the departmental procedures and will contact the Department of Innovation Technology to advise us on the feasibility of electronic signature capabilities to the NCPR form. Staff has been notified that deviations from the Purchasing Policy and Procedures are not acceptable.

The purchasing procedures manual will be updated to include this process within the next 30 days.

4. Finding: Lack of adequate reporting of emergency purchases

Recommendation: P&C should develop and implement an automated process for tracking and reporting all EPs through the Advance Procurement Suites system to identify procurements by type. P&C Management should develop and implement automated controls to track and report all EPs

Management Response: P&C made improvements to ensure adequate reporting of emergency purchases. The existing Oracle system allows for the emergency selection option when creating the Purchase Order (PO).

Staff has been instructed to select the emergency option in the drop-down flex field within Oracle when processing EPs. This will allow for tracking and reporting of emergency purchases.

The purchasing procedures manual will be updated to include this process within the next 30 days.

5. Finding: Lack of compensating controls when segregation of duties are inadequate

Recommendation: For instances where the approval process is not adequately segregated, the CPO should develop and implement compensating controls to ensure risks are reduced to appropriate level. The compensating controls can include a high-level review of transactions completed by the Procurement Manager that were not adequately segregated.

Management Response: P&C made improvements to ensure that compensating controls are in place when segregation of duties is assigned. The CPO has instructed managers who are temporarily delegated CPO signature authority to obtain another manager's review and signature approval for their team's work submissions.

The purchasing procedures manual will be updated to include this process within the next 30 days.

6. Finding: Ineffective procedures to communicate contract information prior to expiration

Recommendation: The CPO should implement a formal communication process and include in the P&C's Procedures Manual a process for communicating upcoming expiring contracts or contract expenditures that are greater or equal to 85% of contract amount to departments and/or agencies. The formal communication process should include a standard form or template that conveys pertinent contract information to all departments/agencies. Additionally, the procedures should outline the responsible personnel within the user departments or agencies who shall receive the notification. Once the communication procedures have been implemented, management should periodically evaluate the

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department's methods of communication so that appropriate tools are utilized to communicate key information throughout the County on a timely basis.

Management Response: P&C has several communication methods established when communicating upcoming expiring contracts and will include these methods in the purchasing procedures manual.

Currently, P&C disburses information to County clients regarding upcoming expiring contracts six months prior to the contract's expiration and will consider the implementation of additional measures to improve County-wide notification and follow-through effectiveness.

The purchasing procedures manual will be updated to include this process within the next 30 days.

7. Finding: Inconsistency between the policy and procedures manual

Recommendation: We recommend that P&C reconcile the language between the Purchasing Policy and the Procedures Manual to ensure that P&C activities are consistent

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

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
Zachary Williams, Chief Operating Officer
Viviane Ernestes, Interim County Attorney
Marian Adeimy, Assistant County Attorney
Terry G. Phillips, Senior Staff Attorney
ShaTausa Edwards, Procurement Projects Manager - Operations

Appendix III - Definitions and Abbreviations

Acronyms and Abbreviation

COSO	Committee of Sponsoring Organizations of the Treadway Commission
GAO	Government Accountability Office

Key Definitions

Committee of Sponsoring Organizations of the Treadway Commission: “a joint initiative of the five private sector organizations listed on the left and is dedicated to providing thought leadership through the development of frameworks and guidance on enterprise risk management, internal control, and fraud deterrence.”⁸

Control Activities: “actions management establishes through policies and procedures to achieve objectives and respond to risks in the internal control system, which includes the entity’s information system.”⁹

Segregation of Duties: “Management divides or segregates key duties and responsibilities among different people to reduce the risk of error, misuse, or fraud. This includes separating the responsibilities for authorizing transactions, processing and recording them, reviewing the transactions, and handling any related assets so that no one individual controls all key aspects of a transaction or event.”¹⁰

Compensating Control: “An activity that, if key controls do not fully operate effectively, may help to reduce the related risk. Such controls also can back up or duplicate multiple controls and may operate across multiple processes and risks. A compensating control will not, by itself, reduce risk to an acceptable level.”¹¹

Contract Release: total amount paid of the approved contract total

Signature Authority: “permission to execute transactions up to limits established by relevant [DeKalb County] policies and permission to approve transactions for execution. This approval attests to the appropriateness of the transaction within the [DeKalb County’s] program objectives and budgetary authorizations.”¹²

⁸ <https://www.coso.org/Pages/default.aspx>

⁹ GAO-14-704G Federal Internal Control Standards, pg. 44

¹⁰ GAO-14-704G Federal Internal Control Standards, pg. 47

¹¹ <https://na.theiia.org/certification/Public%20Documents/Glossary.pdf>

¹² http://daf.csulb.edu/admin_guidelines/policies/sig_auth.html

Appendix IV - Better Practices identified for Emergency Purchases

Criteria/ Better Practices	References /Sources
<p><u>Criteria:</u></p> <ul style="list-style-type: none"> • O.C.G.A Title 36, Chapter 69, Article 2 defines the conditions for an emergency. Local emergency means the existence of conditions of extreme peril to the safety of persons and property within the territorial limits of a political subdivision of the state caused by natural disasters, riots, civil disturbances or other situations present in major law enforcement and other public safety problems • The NIGP states that emergency contracting procedures be addressed as a key topic under the source selection process <p><u>Better Practices:</u></p> <ul style="list-style-type: none"> • Conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision of the state and which require the combined forces of other political subdivisions to combat • A state of emergency may be declared by the Governor, or determined to exist by the county governing authority. During times of declared emergency, procedures for emergency procurement will be in effect, as authorized in the Policy and Procedures Manual or other official documents • An emergency may be caused by an unexpected and urgent situation, but which does not rise to the level of a declared state of emergency. For procurement purposes, this level of emergency is described as an unexpected situation, which requires rapid response outside of established purchasing procedures. It may involve danger to health, life or property. It may involve an unexpected delay in delivery, depleted inventory, or an unusually high volume of work, depending on the situation • Care must be taken that adequate planning is done so that these situations do not occur when avoidable 	<ul style="list-style-type: none"> • “Principles and Practices of Public Procurement-Developing a Procurement Policy Manual” NIGP http://engage.nigp.org/acton/attachment/24793/f-00d3/1/-/-/-/DEVELOPING%20PROCUREMENT%20MANUAL%20UPDATED.pdf • <i>O.C.G.A. Title 36, Chapter 69, Article 2</i> • Source: Section 200.01, Procedure I of Fayette County Policies and Procedures • Page 9 of Rockdale County Purchasing and Procurement Policy Number 2010-1-8

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Vivian Ernstes, Interim County Attorney

La'Keitha D. Carlos, CEO's Chief of Staff

Antwyn Brown, Chief of Staff, Board of Commissioners

Stacey Kalberman, Ethics Officer, DeKalb Board of Ethics

John Matelski, Chief Information Officer/Director of Innovation & Information Technology

OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF EMERGENCY PURCHASES

PROJECT TEAM

This report submitted by:



Ralph Igwedibie, CPA, CGMA
Internal Auditor, Senior
Office of Independent Internal Audit

2/21/2018
Date

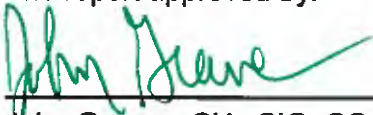
This report reviewed by:



Cornelia Louis
Financial Internal Audit Manager
Office of Independent Internal Audit

2/21/2018
Date

The report approved by:



John Greene, CIA, CIG, CGAP, CGFM
Chief Audit Executive
Office of Independent Internal Audit

2/21/18
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 Section 10A- Independent Internal Audit. 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.

Exhibit

#5

OFFICE OF INDEPENDENT INTERNAL AUDIT

Audit of Informal and Formal Procurements

Audit Report No. 2017-007-PC
April 2018

DEKALB COUNTY GOVERNMENT Purchasing and Contracting Department



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

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John Greene
Chief Audit Executive

PURCHASING AND CONTRACTING INFORMAL AND FORMAL PROCUREMENTS AUDIT REPORT NO. 2017-007-PC

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 the County's Informal and Formal Procurement Competitive Process. We reviewed contracts and purchase orders to determine compliance with DeKalb County Procurement Policy and Procedures Manual as it relates to the competitive process. We performed data analytics to obtain samples from purchase orders with procurement thresholds of \$5,001-\$25,000 (Informal Written Quotes) and \$25,001-\$50,000 (Request for Quotes). We examined a sample of 60 purchases orders for the period of January 1, 2014 to March 31, 2017. In addition, we examined a sample of 10 contracts to determine whether the proper approvals were obtained when the contracts were awarded or if the renewal options were exercised.

What We Found

We determined that neither the user departments nor Purchasing and Contracting (P&C) fully complied with the DeKalb County's Purchasing Policy and Procedures in relation to informal purchases. In some instances, the user departments did not obtain the required quotes as outlined in the Procedures Manual. Moreover, when P&C procured the items required, quotes were not obtained. Of the 60 purchase orders sampled, we found 42 (70%) did not have the required quotes (13 of 25 were Informal Written Quotes and 29 of 35 were Request for Quotes).

We found the language was not consistent between the Purchasing Policy and the Procedures Manual regarding the Informal Written Quote process. In addition, there was one instance where the exemption policy was misapplied for mailing and postage service; the vendor continued to provide services beyond the contract agreement period. The total amount spent beyond the agreement period was approximately \$3,370,377.

What We Recommend

We recommend that a detailed review of the quotes should be completed before purchase orders are created. Written explanation of missing quotes should be attached in Oracle. Furthermore, P&C should reconcile the language between the Purchasing Policy and the Procedures Manual to ensure that P&C activities are consistent.

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BACKGROUND AND INTRODUCTION

The DeKalb County Purchasing and Contracting Department (P&C) for Informal Purchases does not require formal sealed bid/proposals for informal procurements of \$50,000 or less. Procurements of this type, however, do involve competition consistent with the anticipated cost and the best interest of the County as determined by the user Department Director or relevant Department Head, as appropriate. Procedures for informal purchases are established at the discretion of the Chief Procurement Officer (CPO). Certain goods and services are exempted from competition such as legal services, items for resale and grant awards or agreements that require certain firms or individuals to perform the work.

The ***Procedures Manual*** requires that *Informal Verbal Quotes (Up to \$5,000), with a Cycle Time of 1 Day*, that the user department should obtain at least one verbal quote; and competition is not required for purchases of these amounts. In addition, the User Department must verify that the commodity or service is not on an existing contract. If a commodity or service is on a contract, then enter contract number on requisition and process the purchase order. If the commodity or service is not included on an existing contract, a requisition is reviewed and the Standard Purchase Order is processed.

For *Informal Written Quotes (\$5,001 - \$25,000) with a Cycle Time 1-3 Days*, the User Department must obtain at least three written quotes. The quotes must be attached to the requisition. The quote that is the lowest, responsive and responsible must be selected. Justification must be provided to P&C for review, evaluation and concurrence of award decision, if the lowest, responsive and responsible quote is not selected.

If P&C Procurement Agent procures for items, a minimum of five written quotes must be obtained or attempted via competitive process. The P&C Agent must verify that the commodity or service is not included on an existing contract. A purchase order is processed if the commodity or service is included on an existing contract. If the commodity or service is not included on an existing contract, P&C should follow the procedures for the Request for Quotations.

For *Request for Quotation (RFQ) (\$25,001 - \$50,000) with a Cycle Time 7-10 Days*, the User Department must obtain or provide minimum specifications and/or scope of work. The User Department must verify that the commodity or service is not included on an existing contract. If commodity or service is included on contract, include the contract number on the requisition and process the Standard Purchase Order. If the requested items are not included on a contract, the following procedures are conducted:

- Five written quotes must be obtained or a Market Research Survey must be conducted
- Obtain RFQ solicitation number in Oracle
- Advertise on DeKalb County P&C website for 3 to 5 days
- Send the completed/approved RFQ document in PDF form along with completed matrix to the Special Projects Team for posting to the website

The following is an excerpt of the formal procurement process.

For Contract Award Approvals (\$50,001 and up), the following must take place:

- Route to Chief Operating Officer (COO) signature for contracts \$50,001 to \$75,000
- Route to Chief Executive Officer (CEO) for signature for contracts \$75,001 to \$100,000
- Complete agenda item for Board of Commissioners (BOC) approval over \$100,000
 - After review and approval, the Procurement Manager submits to the CPO's office for management agenda review and final approval for submission to the COO's Office to be placed on the next available BOC agenda meeting
 - Upon BOC approval, obtain CPO's signed copy and the BOC summary

The **Purchasing Policy** states, "Each user department is granted the authority, at the discretion of the Department Director, to handle purchases where the cost is less than \$25,000. Three telephone quotations are required for purchases where cost is \$5,000.00 or greater but less than \$25,000.00."¹

AUDIT RESULTS

Based on the results of this performance engagement, we determined the following:

- Neither the user departments nor Purchasing and Contracting (P&C) fully complied with the DeKalb County's Purchasing Policy and Procedures for informal purchases
- No occurrences of split purchases were identified based on samples selected for testing
- P&C's use of the website for advertisement of the Request for Quotes process is a good measure for competition

In addition, we identified the following findings and recommendations relating to the competitive process compliance with Purchasing and Contracting's policy and procedures.

FINDING 1- INADEQUATE QUOTES

Objective: To determine whether the purchase orders created for Informal Written Quotes (\$5,001-\$25,000) and Request for Quotes process (\$25,001-\$50,000) complied with the policy and procedures as it pertains to the competitive process.

Criteria: According to the May 2015 DeKalb County Purchasing and Contracting Procedures Manual, Informal Written Quotes require user departments to obtain a minimum of three written quotes to be attached to the requisition before a purchase order is created. Additionally, the Request for Quotes process requires P&C to obtain five quotes. Based on discussions with management, "quotes must be in the file and attached to the requisition in Oracle for P&C review. Also, P&C should confirm the lowest responsive, responsible bidder was selected," before a purchase order is created.

In addition, we referred to the 2009 DeKalb County Purchasing and Contracting Standard Operating Procedures for purchase orders processed during January 1, 2014 thru April 30, 2015, Chapter 6, for guidance on purchase orders. The 2009 Standard Operating Procedures require one quote for purchases up to \$10,000, two quotes from \$10,000 to \$25,000, and three quotes for \$25,000 to \$50,000.

Condition: We noted purchase orders were created without the required minimum quotes and there was no explanation within Oracle when quotes were insufficient. We examined a sample of

¹ DeKalb County Purchasing Policy, pg. 21

**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF INFORMAL AND FORMAL PROCUREMENTS**

60 purchase orders. Of the sample, 25 purchase orders requiring Informal Written Quotes (\$5,001- \$25,000), we found that 13 (52%) samples did not have the required quotes. Of the remaining 35 purchase orders we examined required Request for Quotes; we found 29 (82%) items that did not have sufficient quotes.

When P&C does not obtain sufficient quotes, a Market Research Survey is forwarded to potential vendors for a follow-up regarding the lack of response. The following are a few of our sampled purchase orders that did not include the required quotes:

SAMPLE OF PURCHASE ORDERS JANUARY 1, 2014 - MARCH 31, 2017						
Purchase Order Number	Purchase Order Amount	Creation Date	Approval Date	Vendor	Quotes Obtained	Required Quotes
968702	\$ 28,014	5/20/2015	5/20/2015	VION CORPORATION	1 quote	5 Quotes Required
964313	\$ 40,194	4/14/2015	6/9/2015	THE PACIFIC INSTITUTE	No quotes	3 Quotes Required
946322	\$ 33,563	10/28/2014	12/4/2014	PETTUS CONSTRUCTION COMPANY INC	1 quote	3 Quotes Required
1005021	\$ 32,926	3/8/2016	3/11/2016	LAYNE INLINER LLC	3 quotes	5 Quotes Required
995452	\$ 34,425	12/17/2015	1/25/2016	INTERNATIONAL OZONE SERVICES	No quotes	5 Quotes Required
993079	\$ 32,000	12/1/2015	12/1/2015	SCICOM INFRASTRUCTURE SERVICES INC	No quotes	5 Quotes Required
981049	\$ 37,523	8/26/2015	8/27/2015	DELTA MUNICIPAL SUPPLY COMPANY INC	4 quotes	5 Quotes Required
997620	\$ 10,151	1/12/2016	1/12/2016	CS TRUCK & TRAILER REPAIR SERVICES INC	1 quote	3 Quotes Required
993700	\$ 24,966	12/7/2015	12/7/2015	O'NEIL SOFTWARE	No quotes	3 Quotes Required
1000990	\$ 7,722	2/5/2016	2/5/2016	COWART MULCH PRODUCTS INC	No quotes	3 Quotes Required
979317	\$ 20,225	8/14/2015	8/14/2015	SYTECH CORPORATION	No quotes	3 Quotes Required
979316	\$ 6,240	8/14/2015	8/14/2015	SYTECH CORPORATION	No quotes	3 Quotes Required
971272	\$ 19,573	6/11/2015	6/11/2015	MARTIN-ROBBINS FENCE COMPANY INC	No quotes	3 Quotes Required
968904	\$ 21,400	5/21/2015	5/21/2015	SPECIALTY CARTRIDGE	No quotes	3 Quotes Required
968857	\$ 19,355	5/21/2015	5/21/2015	MR SYSTEMS INC	2 quotes	3 Quotes Required
1013388	\$ 7,377	5/10/2016	5/10/2016	BLACKJACK PAVING SEALCOATING AND STRIPING LLC	No quotes	3 Quotes Required
1012033	\$ 10,880	5/2/2016	5/2/2016	TRANE COMPANY	No quotes	3 Quotes Required

Cause (where identifiable): Insufficient review and subsequent follow-up by P&C management regarding the required quotes.

Consequence: When quotes are not obtained, the risk of purchasing goods and services at inflated or premium prices is increased. In addition, the lack of quotes may result in the selection of bidders that were not the lowest, responsive and responsible bidders; resulting in expenditures that are not fiscally prudent to the County. Processing purchase orders without sufficient quotes may lead to collusion between vendors and staff within the user department.

Recommendation:

P&C should:

- 1) Ensure thorough review of quotes and support submitted by the user departments
- 2) Conduct follow-up with the user departments regarding explanation of missing quotes

- 3) Require the user departments to submit explanations when the quotes cannot be obtained
- 4) Conduct periodic review/audits of user department activities
- 5) Review support of P&C Procurement Agent that are performing informal purchasing duties

FINDING 2- INCONSISTENT POLICIES AND PROCEDURES

Objective: To identify opportunities to strengthen the effectiveness and efficiency of the competitive process.

Criteria: Per the DeKalb County Purchasing Policy, “**three telephone quotations** are required for purchases where cost is \$5,000.00 or greater but less than \$25,000.00.” The procedures manual states that **three (3) written quotes** must be obtained for quotes of (\$5,001-\$25,000).

Condition: The language was not consistent between the Purchasing Policy and the Procedures Manual regarding Informal Written Quotes process.

Consequence: The inconsistency between the language in the purchasing policy and the procedures manual can lead to inconsistent practices among user departments.

Recommendation:

We recommend that P&C reconcile the language between the Purchasing Policy and the Procedures Manual to be consistent.

FINDING 3- INAPPROPRIATE APPLICATION OF EXEMPTIONS AND VENDOR PERFORMANCE ON EXPIRED CONTRACTS

Objective: To determine whether there was any evidence of split purchases and if the application of the exemption policy for certain goods and services was accurate.

Criteria: The original contract for the item tested was outside the audit scope, therefore we examined the policies and procedures that were applicable to the contract scope of 2009. The 2009 Purchasing Administration Policy lists postage as service of a “unique and highly specialized nature, and that as such they cannot be considered normal purchasing type items.” Section 3.2 of the 2009 Purchasing and Contracting Department Standard Operating Procedures states, “Contract extensions are authorized according to DeKalb County Policy if deemed the best interest of the County. The Director of Purchasing and Contracting authorizes the Administrative Operations Supervisor to contact the suppliers and determine if they are willing to extend the existing contract. A Purchasing Assistant prepares a contract extension letter that is signed by the Director of Purchasing and Contracting, or his designee.”²

Condition: One of the samples tested for exemption from competition did not meet the requirements. Purchase order 939255 (September 2014), for vendor Envelopes & Forms Inc., was classified as exempt from competition. Per response from the CPO, postage and mailings are exempt from competition. Although, the purchase was classified as exempt from competition, there were two solicitations for this type of service in the past, Invitation to Bids (ITBs) No. 3000225 during 2005 and No. 3001312 during 2009. The original terms of the contract was from May 20, 2009 through October 31, 2010 with a contract amount not to exceed \$1,500,000. After

² 2009 Purchasing and Contracting Department Standard Operating Procedures, pg. 371

the initial contract expiration date, the vendor continued to provide services through November 2015. Payments disbursed to the vendor from November 2010 to November 2015 totaled \$3,370,377. We found no approval by the governing authority (Board of Commissioners) for the additional payments that exceeded the contract amount.

Consequence: The misapplication of the exemption policy may result in purchasing goods at inflated prices from bidders that are not the lowest, responsive and responsible bidders. Furthermore, when P&C allows vendors to perform past the contract expiration date, the County is vulnerable to increased liabilities brought on by the vendor and potential lawsuits.

Recommendation:

CPO should:

- Ensure accurate and consistent application of the exemption policy
- Provide training and communication updates of the exemption policy to user departments and P&C staff
- Ensure that contracts are monitored to avoid vendor performing past expiration date
- Ensure that all contract extensions have the proper BOC approval
- Ensure that vendors do not provide further services to the County after contracts have expired

ADDITIONAL ITEM FOR YOUR CONSIDERATION

PROCUREMENT THRESHOLDS CATEGORY
--

Based on our research of purchasing policies and procedures from Metro Atlanta counties of comparable size and our data analysis of the purchase order thresholds from January 1, 2014 thru March 31, 2017 presented below, we suggest that you consider the following changes:

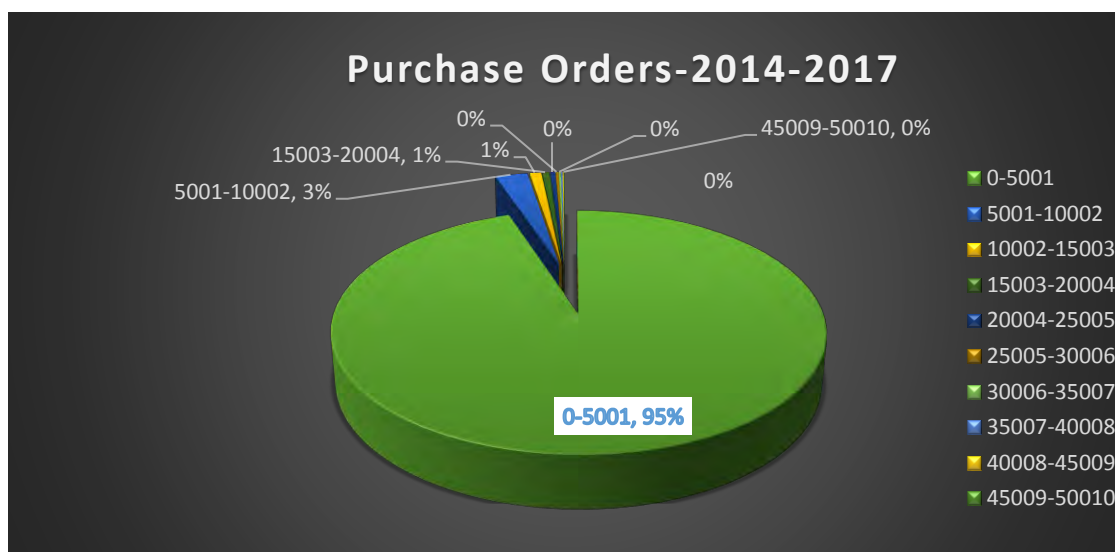
- 1) Reclassify procurements thresholds from \$5,001-\$25,001 into thresholds of \$5,001-\$10,000; \$10,001-\$15,000 and \$15,001-\$25,000 for user department procurements
- 2) Require user departments to submit one quote for \$5,001-\$10,000; two quotes for \$10,001-\$15,000 procurements; and three quotes for \$15,001-\$25,000
- 3) Procurement thresholds of \$25,001-\$50,000 should require P&C to obtain three quotes

Below is the data analysis of purchase orders for the audit period:

Large volumes of purchases were in the range of \$1-\$5,000 with a total value of \$71,827,699 that accounted for 94% of the total purchase orders for the period under audit. Purchase orders valued between \$5,001 and \$25,000 accounted for 4% of total purchase orders. Purchase orders with values ranging from \$25,001 to \$50,000 accounted for less than 1% of total purchase orders.

**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF INFORMAL AND FORMAL PROCUREMENTS**

PURCHASE ORDERS BY THRESHOLD JANUARY 1, 2014 - MARCH 31, 2017			
Purchase Order Amount	Count of Purchase Order Numbers	Sum of Purchase Order Amount	Percent of Total Purchase Orders
0-5001	106,610	\$ 71,827,689	94.85%
5001-10002	2,900	\$ 20,683,185	2.58%
10002-15003	1,030	\$ 12,660,299	0.92%
15003-20004	659	\$ 11,576,539	0.59%
20004-25005	461	\$ 10,496,989	0.41%
25005-30006	252	\$ 6,959,795	0.22%
30006-35007	189	\$ 6,158,494	0.17%
35007-40008	129	\$ 4,877,316	0.11%
40008-45009	78	\$ 3,315,089	0.07%
45009-50010	85	\$ 4,115,478	0.08%
Grand Total	112,393	\$ 152,670,874	100%



APPENDIX

Appendix I - Purpose, Scope and Methodology

Purpose

The purpose of the engagement was:

- To determine whether contracts and purchase orders are in compliance with Purchasing and Contracting policy and procedures as it relates to the competitive process
- To identify opportunities to strengthen the effectiveness and efficiency of informal and formal procurement

Scope and Methodology

The scope of the engagement is to examine contracts and purchase orders within procurement thresholds to determine whether the competitive process is in compliance for period January 1, 2014 through March 31, 2017.

The methodology included but was not limited to the following:

- Review of the DeKalb County purchasing and contracting policies and procedures manual
- Interviewing appropriate personnel
- Perform data analytics for purchase orders and contracts
- Examine supporting documentation to determine whether the competitive process is compliant
- Review other applicable documentation

**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF INFORMAL AND FORMAL PROCUREMENTS**

Appendix II - Management Response



April 13, 2018

MEMORANDUM

TO: John L. Greene, Chief Audit Executive
FROM: Talisa R. Clark, Chief Procurement Officer *Talisa R. Clark*
SUBJECT: Audit of the Informal and Formal Procurements-Audit Report No 2017-007-PC

This memorandum will serve as the official response of the audit conducted on January 31, 2018 of the Department of Purchasing and Contracting (P&C) Informal and Formal Procurements. After a thorough review of the audit report regarding Informal and Formal Procurements, P&C responds as follows:

I. Finding: Inadequate quotes

Recommendation: P&C should:

- 1) Ensure thorough review of quotes and support submitted by the user departments
- 2) Conduct follow-up with the user departments regarding explanation of missing quotes
- 3) Require user departments to submit explanations when the quotes cannot be obtained
- 4) Conduct periodic review/audits of user department activities
- 5) Review support of P&C Procurement Agent that are performing informal purchasing duties

Management Response: Ten (10) out of seventeen (17) purchase orders identified in the Auditor's sample listed on page 6 of the audit were processed prior to the appointment of the current Chief Procurement Officer (CPO) in December 2015.

The 2014 Purchasing Policy states that three (3) telephone quotations are required for purchases where cost is \$5,000.00 or greater but less than \$25,000.00. Each Department Director shall keep written documentation of applicable phone quotations and receipts for each purchase in separate files for auditing purposes, and copies of all such documentation shall be forwarded to the Purchasing and Contracting Department annually before January 10 for each prior calendar year. The 2014 Purchasing Policy states that purchasing staff shall obtain commodities and services competitively through written quotations where cost is \$25,000.00 to \$50,000.00. A minimum of five (5) written quotations are required unless adequate source supply is not available.

The current CPO has identified and implemented, enhanced, executed and enforced policies and procedures to eliminate these types of deficiencies.

In 2017, P&C conducted annual audits for purchases where cost is \$5,000.00 or greater but less than \$25,000.00 for various randomly selected user departments to ensure that supporting documentation and quotes were obtained. Any findings of non-compliance was communicated to the user department Director and recommended training be provided to the departments' staff.

Procurement Managers are required to review purchasing staff work to ensure that policy and procedures are followed and manage/train staff when necessary. Purchasing staff has been instructed to attach all received quotes to the Oracle system, conduct market surveys when less than five (5) quotes are received and maintain the documentation in the central electronic y-drive file.

**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF INFORMAL AND FORMAL PROCUREMENTS**



2. Finding: Inconsistent policies and procedures

Recommendation: P&C reconcile the language between the Purchasing Policy and the Procedures Manual to be consistent.

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

3. Finding: Inappropriate application of exemptions and vendor performance on expired contracts

Recommendation: CPO should:

- 1) Ensure accurate and consistent application of the exemption policy
- 2) Provide training and communication updates of the exemption policy to user departments and P&C staff
- 3) Ensure that contracts are monitored to avoid vendor performing past expiration date
- 4) Ensure that all contract extensions have the proper BOC approval
- 5) Ensure that vendors do not provide further services to the County after contracts have expired

Management Response: The auditor's example noted in finding #3 was completed by the user department in August 2014 prior to the implementation of the current Purchasing Policy and Procedures manual.

Since this time, the current CPO has made improvements to ensure the following:

1. Accurate and consistent application of the exemption policy through the elimination of the requisitioning of Financial Payment Requests (FPRs)
2. Provides training and communication updates to user departments and P&C staff regarding procurement policies and procedures
3. Monthly monitoring of contracts to avoid vendors performing past contract expiration
4. All contract extensions are presented to the BOC for approval
5. All contracts are proactively renewed and/or rebid through the competitive procurement process

P&C conducts monthly Oracle iProcurement training, Visual Information about Procurements (VIP) workshops and provides online instructional videos on various Oracle and procurement processes that are accessible to all County departments and staff.

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
Zachary Williams, Chief Operating Officer
Viviane Ernestes, Interim County Attorney
Marian Adeimy, Assistant County Attorney
Terry G. Phillips, Senior Staff Attorney
ShaTausa Edwards, Procurement Projects Manager - Operations

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Kathie Gannon, Board of Commissioners District 6

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La'Keitha D. Carlos, CEO's Chief of Staff

Antwyn Brown, Chief of Staff, Board of Commissioners

Stacey Kalberman, Ethics Officer, DeKalb Board of Ethics

**OFFICE OF INDEPENDENT INTERNAL AUDIT
DEKALB COUNTY GOVERNMENT
AUDIT OF INFORMAL AND FORMAL PROCUREMENTS**

PROJECT TEAM

This report submitted by:



Shavarl Rolle, CPA
Internal Auditor
Office of Independent Internal Audit

4.23.18

Date

This report reviewed by:



Cornelia Louis
Financial Internal Audit Manager
Office of Independent Internal Audit

Date

4/23/2018

The report approved by:



John Greene, CIA, CIG, CGAP, CGFM
Chief Audit Executive
Office of Independent Internal Audit

Date

April 23, 2018

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.

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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.

Exhibit #6



UNIVERSITY of NORTH GEORGIA

BB&T CENTER FOR ETHICAL LEADERSHIP

Date: May 17, 2017

To: Stacey Kalberman, Chief Ethics Officer, DeKalb County

From: Dr. Bryan Dawson and R. Perry Tomlinson

Subject: Ethical Culture Indicator; DeKalb County Government

Based on the results of the Ethical Culture Indicator for DeKalb County Government conducted in spring of 2017 ending on March 27th, 2017, it is our belief that the county focuses on several key areas related to Ethical Climate and Employee Engagement.

Due to the below average scores on indicators such as leadership confidence, perceptions of the county leadership's ability to articulate a clear future and vision, employees understanding of the county's values, and overall communication we recommend remediation for the county government and it's employees.

Based on the survey data and open-ended responses, it is apparent that employees do not have a clear understanding of the county's values, and do not believe that the county is doing an adequate job of clarifying those values or providing a clear vision as to the future of the county. These issues stem from poor communication by the leadership perceived by the employees of DeKalb County Government.

We present the following recommendations for DeKalb County Government.

- 1. Create a coherent set of values and consistently communicate them clearly to employees. Develop leadership processes that make the organization's values a high priority and ensure that all employees are acting consistently with those values.**
- 2. Outline policies and procedures to hold individuals accountable for unethical behavior and provide clear guidelines on reporting unethical behavior. Ethics training should be conducted for all levels of leadership to ensure that ethical behavior is supported from the top.**
- 3. Engage in transparent discussions with departments regarding their perceptions of fair treatment, communication, and recognition of employee contributions.**
- 4. We further recommend that the Ethical Culture report be shared with all employees with an explanation of the correlation between employee engagement and an ethical culture. Leadership should also lead an effort to improve employee engagement. Employees need to see that their voice, as provided in the ECI, is heard and is being acted upon by all levels of leadership in the county.**

UNG Mike Cottrell
College of Business

UNIVERSITY *of* NORTH GEORGIA™

BB&T CENTER FOR ETHICAL LEADERSHIP

Ethical Culture Indicator Results

Data Collected March 1-27th 2017



DeKalb County
G E O R G I A

PARTICIPATION RATE: BELOW AVERAGE

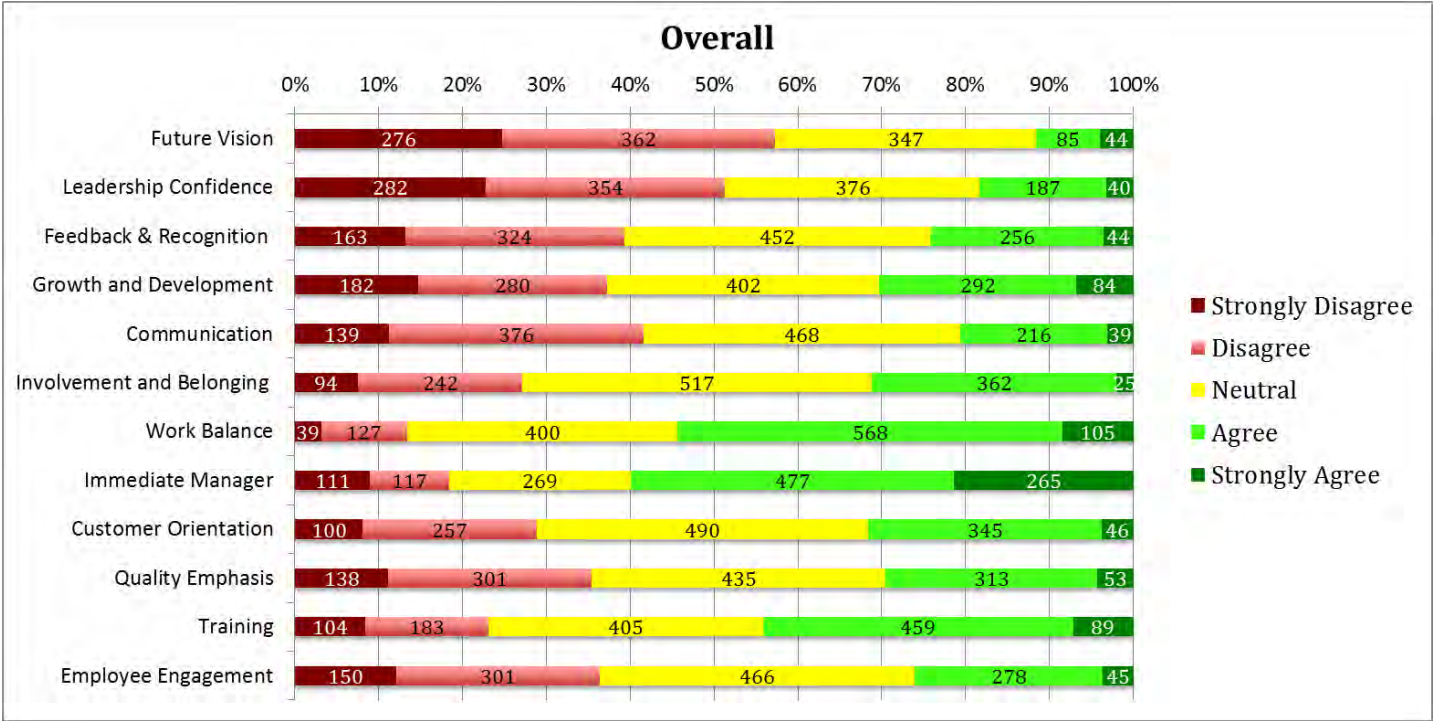
Participation Rate of approx. 25%

BIG PICTURE ISSUES

DeKalb County Government BIG PICTURE ISSUES			
AREAS FOR IMPROVEMENT			
Dimension	Average	% Agree	%Disagree
Leadership Confidence	2.75	18	51
Future Vision	2.78	11	57
Values (Ethics)	3.00	18	44
Communication	3.01	21	41
Feedback Recognition	3.05	24	38
AREAS TO SUSTAIN			
Dimension	Average	%Agree	%Disagree
Work Balance	3.77	54	13
Immediate Manager	3.77	60	18
Immediate Manager (Ethics)	3.52	42	23
Awareness of Ethical Standards	3.51	45	20
Training	3.46	45	23

CATEGORIES: DEKALB CO. GOVERNMENT OVERALL

DEKALB CO. GOVERNMENT: ENGAGEMENT OVERALL



DEKALB CO. GOVERNMENT: ETHICS OVERALL



SUBJECTIVE FEEDBACK

Summary Comments for DeKalb Co. Government ECI

In what area(s) has the DeKalb County Government excelled as it relates to honest and ethical business practices with employees and customers?

It has not excelled	24%
Customer priority	7.6%
Adequate Training	6.1%
Communicating Ethical Standards	5.7%
Improving of Ethics	4.9%
Dealing with corruption	4.1%

What suggestions or strategies would you offer to improve how DeKalb County handles open and honest business practices and violations?

Transparency	10.2%
Punish poor behavior	8.8%
Training	8.3%
Honesty	7.5%
Accountability	7.2%
Communication	6.4%
Fair treatment	6.4%
Leadership should set the example	5.1%
Consider employee suggestions	4.6%

SUBJECTIVE FEEDBACK

Summary Comments for DeKalb Co. Government ECI

In what area(s) is there an opportunity for growth and improvement relating to honest and ethical business practices?

Management	11.5%
Communication	10.6%
Specific Departmental Issues	9.9%
Training	9.2%
Leadership	8.7%
Honesty	7.2%

Identify the top three values that are important to you as an employee of DeKalb County.

Honesty	36%
Integrity	22%
Respect	11.5%
Fairness	8.8%
Transparency	6.5%
Communication	6.0%
Accountability	5.7%

BEST OPPORTUNITY FOR GAIN

Dimension	Item	Rating	Relation to Engagement
Communication	There is open, honest two-way communication in this county.	2.68	0.602
Leadership Confidence	I trust the DeKalb County leadership.	2.78	0.611
Involvement & Belonging	My ideas and suggestions matter to this county.	2.81	0.589
Future/Vision	Our county is making appropriate changes to remain competitive.	2.83	0.534
Future/Vision	DeKalb County's leadership has communicated a vision of the future that motivates me.	2.86	0.638
Values	I feel comfortable that the DeKalb County Government follows its stated values.	2.89	0.628
Values	Our leaders are held accountable for acting according to our county's values.	2.89	0.572
Leadership Confidence	DeKalb County's leadership is able to deal with the challenges we face.	2.91	0.608
Feedback & Recognition	Our county's leadership values my contribution.	2.92	0.638
Values	Our leaders are held accountable for acting according to our county's values.	2.93	0.557
Quality Emphasis	Quality and improvement are top priorities in our county.	2.95	0.572
Commitment to Ethics	The leadership of this county shows a commitment to ethical business decisions and conduct.	2.95	0.586
Feedback & Recognition	Productive people are recognized by this county.	2.96	0.547
Values	The behavior of senior leadership is consistent with the county's values.	2.97	0.533
Future/Vision	DeKalb County has an outstanding future.	2.99	0.665
Leadership Confidence	The leadership of the DeKalb County Government is committed to ethical business decisions and conduct.	3.00	0.584
Ethical Standards	When decisions are made or actions are taken in my county, the ethical implications are adequately considered.	3.03	0.569
Growth & Development	There is a promising future for me at this county.	3.04	0.719
Ethical Standards	The leadership of my county provides effective communication about ethical standards.	3.10	0.515
Growth & Development	This county provides me the opportunity for growth and development.	3.12	0.548
Ethical Standards	Where I work, ethical issues and concerns can be discussed without negative consequences.	3.13	0.496
Quality Emphasis	This county is committed to providing high quality products and services to citizens.	3.18	0.615
Values	The county's values are consistent with my own.	3.20	0.507
Reporting	I can report unethical practices without fear of reprisal.	3.21	0.459

These Items were highly related to Engagement but rated lower than the Median overall. These areas offer the best opportunity for improving engagement.

Median Rating = 3.23

Median Relation to Engagement = .450

BEST OPPORTUNITY TO MAINTAIN

Dimension	Item	Rating	Relation to Engagement
Quality Emphasis	Where I work, we set clear performance standards for product/service quality.	3.36	0.447
Customer Orientation	There is a strong emphasis on customer service in this county.	3.37	0.457
Involvement & Belonging	I feel that I am part of a team.	3.41	0.515
Work/Balance	I enjoy my job.	3.64	0.546

These Items were highly related to Engagement and rated above than the Median overall. These are areas in which improvement could help some, but are a secondary focus.

Median Rating = 3.23 Median Relation to Engagement =.450

est Opportunity for Gain

Dimension	Item	Rating	Relation to Engagement
Communication	There is open, honest two-way communication in this county. COACHING MODEL	2.68	0.602
Leadership Confidence	I trust the DeKalb County leadership. TRUST	2.78	0.611
Involvement & Belonging	My ideas and suggestions matter to this county. COACHING MODEL	2.81	0.589
Future/Vision	Our county is making appropriate changes to remain competitive. TRUST	2.83	0.534
Future/Vision	DeKalb County's leadership has communicated a vision of the future that motivates me. COACHING MODEL	2.86	0.638
Values	I feel comfortable that the DeKalb County Government follows its stated values. VALUES	2.89	0.628
Values	Our leaders are held accountable for acting according to our county's values. VALUES	2.89	0.572
Leadership Confidence	DeKalb County's leadership is able to deal with the challenges we face. TRUST	2.91	0.608
Feedback & Recognition	Our county's leadership values my contribution. COACHING MODEL	2.92	0.638
Values	Our leaders are held accountable for acting according to our county's values. VALUES	2.93	0.557
Quality Emphasis	Quality and improvement are top priorities in our county. TRUST	2.95	0.572
Commitment to Ethics	The leadership of this county shows a commitment to ethical business decisions and conduct. TRUST	2.95	0.586
Feedback & Recognition	Productive people are recognized by this county. COACHING MODEL	2.96	0.547
Values	The behavior of senior leadership is consistent with the county's values. VALUES	2.97	0.533
Future/Vision	DeKalb County has an outstanding future. TRUST	2.99	0.665
Leadership Confidence	The leadership of the DeKalb County Government is committed to ethical business decisions and conduct. TRUST	3.00	0.584
Ethical Standards	When decisions are made or actions are taken in my county, the ethical implications are adequately considered. TRUST	3.03	0.569
Growth & Development	There is a promising future for me at this county. COACHING MODEL	3.04	0.719
Ethical Standards	The leadership of my county provides effective communication about ethical standards. COACHING MODEL	3.10	0.515
Growth & Development	This county provides me the opportunity for growth and development. COACHING MODEL	3.12	0.548
Ethical Standards	Where I work, ethical issues and concerns can be discussed without negative consequences. COACHING MODEL	3.13	0.496
Quality Emphasis	This county is committed to providing high quality products and services to citizens. TRUST	3.18	0.615
Values	The county's values are consistent with my own. VALUES	3.20	0.507
Reporting	I can report unethical practices without fear of reprisal. TRUST	3.21	0.459

These Items were highly related to Engagement but rated lower than the Median overall. These areas offer the best opportunity for improving engagement.

Median Rating = 3.23

Median Relation to Engagement = .450

ACHING MODEL		9				
VALUES		5				
TRUST		10				
TOTAL		24				
LEADERSHIP CONFIDENCE	ALL	3	100%	TRUST		
CULTURE/VISION	ALL	3	100%	TRUST	COACH	
GROWTH & DEVELOPMENT	ALL	2	100%		COACH	
VALUES	5 OF 7	5	71%			VALUES
FEEDBACK & RECOGNITION	2 OF 3	2	67%		COACH	
QUALITY EMPHASIS	2 OF 3	2	50%	TRUST		
ETHICAL STANDARDS	3 OF 6	3	50%	TRUST	COACH	
COMMITMENT TO ETHICS	1 OF 2	1	50%	TRUST		
REPORTING	1 OF 2	1	50%	TRUST		
COMMUNICATION	1 OF 3	1	33%		COACH	
INVOLVEMENT & BELONGING	1 OF 5	1	20%		COACH	
TOTAL		24				

Data Collected March 1st -27th, 2017

Overall Frequencies: Tenure – Page 1

	Overall		M		Percentage of Agree or Strongly Agree Responses by Tenure					
	Positive Response	Negative Response								
Total Number of Survey Respondents (1246)					Less than one year (124)	1-2 years (147)	3-5 years (153)	6-10 years (252)	11-20 years (381)	Over 20 years (187)
Future/Vision			2.78							
DeKalb County has an outstanding future.	32.1	33.4			58.5	35.2*	32.2*	26.3*	26.9*	30.4*
DeKalb County's leadership has communicated a vision of the future that motivates me.	29.9	43.5			53.7*	34.7*	35.9*	22.3*	24.3*	27.2**
Our county is making appropriate changes to remain competitive.	30.2	47.2			49.2*	35.9*	31.4*	28.4**	24.1**	27.2**
Leadership Confidence			2.75							
I trust the DeKalb County leadership.	25.6	48			54.5*	27.4*	22.2*	20.7**	20.1**	25.9**
DeKalb County's leadership is able to deal with the challenges we face.	31.9	40.9			52.5	32.9*	35.9*	26.2*	29.0*	28.1*
The leadership of this county shows a commitment to ethical business decisions and conduct.	31.2	36.6			49.6	37.2*	34.2*	26.9*	25.4*	29.5*
Feedback & Recognition			3.05							
Our county's leadership values my contribution.	30.3	38.1			48.8*	32.2*	30.3*	28.8*	24.3*	30.8*
Productive people are recognized by this county.	34.9	38.8			48.8*	40.0*	36.6*	27.5*	32.8*	34.4*
My manager gives me useful feedback about my performance.	61.3	23.9			71.9	56.3	60.8*	62.4*	57.7*	64.7*

* = 15% or more disagreed, **50% or more disagreed

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Data Collected March 1st -27th, 2017

Overall Frequencies: Tenure – Page 2

	Overall		M		Percentage of Agree or Strongly Agree Responses by Tenure					
	Positive Response	Negative Response			Less than one year (124)	1-2 years (147)	3-5 years (153)	6-10 years (252)	11-20 years (381)	Over 20 years (187)
Total Number of Survey Respondents (1246)										
Growth and Development			3.06							
There is a promising future for me at this county.	35.1	31.4			57.3	36.6*	32.2*	32.0*	29.3*	37.4*
This county provides me the opportunity for growth and development.	45.9	33.5			57.4*	43.8*	43.8*	44.4*	43.3*	49.2*
Communication			3.01							
There is open, honest two-way communication in this county.	21.6	53.3			50.4*	26.0**	18.3**	16.3**	17.7**	16.8**
Employees are well-informed about issues facing our county.	33.4	44.7			51.6*	37.7*	39.9*	31.9*	28.8*	23.9*
My direct supervisor listens to my concerns and ideas.	70.1	17.4			74.8	67.8*	67.3*	70.1*	68.3*	74.5*
Involvement and Belonging			3.37							
My ideas and suggestions matter to this county.	24.8	44			43.8*	28.1*	21.1*	20.8*	21.9**	23.8*
Employees are encouraged to participate in making decisions that affect their work.	43.1	38.7			54.5	46.5*	47.1*	40.5*	35.4*	48.9*
The people I work with cooperate to get the job done.	78.2	10.1			71.8	74.0*	76.3	82.4	77.2	83.7
I feel that I am part of the team.	62.2	21.7			73.2	60.7*	58.2*	63.5*	57.0*	68.6*
My direct supervisor cares about my well-being.	67.8	17.3			77.2	64.1*	65.1	68.5*	66.1*	69.0*

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Data Collected March 1st -27th, 2017

Overall Frequencies: Tenure – Page 3

	Overall		M		Percentage of Agree or Strongly Agree Responses by Tenure					
	Positive Response	Negative Response			Less than one year (124)	1-2 years (147)	3-5 years (153)	6-10 years (252)	11-20 years (381)	Over 20 years (187)
Total Number of Survey Respondents (1246)										
Work/Balance			3.77							
I enjoy my job.	73.5	9.7			77.2	72.7	71.2	71.7	71.5	79.6
My job makes use of my skills and abilities.	68.1	20.5			73.8*	60.7*	68.6*	65.9*	65.4*	78.5*
I am able to balance my work and family/personal responsibilities.	71	16.2			74	72.2*	58.6*	70.3*	71.4*	78.5
Immediate Manager			3.77							
I have a relationship of trust with my direct supervisor.	64.2	19.9			69.1	60.0*	60.5*	65.7*	63.8*	65.8*
My direct supervisor treats me with respect.	76.1	12.8			83.1	71.0*	71.1	79.7	74.3	78.4
I have respect for my supervisor as a leader.	69.2	19.1			82.1	66.4*	68.6*	70.5*	66.8*	66.3*
Customer Orientation			3.26							
We regularly use customer feedback to improve our processes.	37.5	32.4			44.2*	32.4*	37.2*	39.7*	35.9*	37.9*
Customer problems get corrected quickly.	48.8	23.2			49.2*	44.4*	50.0*	47.6*	51.2*	47.8*
There is a strong emphasis on customer service in this county.	56.9	20.1			61.8	50.3*	57.5*	55.2*	59.0*	55.9*

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Data Collected March 1st -27th, 2017

Overall Frequencies: Tenure – Page 4

	Overall		M		Percentage of Agree or Strongly Agree Responses by Tenure					
	Positive Response	Negative Response			Less than one year (124)	1-2 years (147)	3-5 years (153)	6-10 years (252)	11-20 years (381)	Over 20 years (187)
Total Number of Survey Respondents (1246)										
Quality Emphasis			3.17							
This county is committed to providing high quality products and services to citizens.	46.3	28			59.3	47.6*	49.7*	42.2*	43.0*	45.9*
Where I work, we set clear performance standards for product/service quality.	59.8	23.7			67.5*	52.8*	60.1*	57.0*	58.6*	65.9*
Quality and improvement are top priorities in our county.	37.2	42.6			55.3*	36.3*	35.9*	35.2*	33.8*	36.8*
Training			3.46							
Employees are getting the training they need to keep up with customer demands.	47.4	26.8			54.0*	41.0*	37.6*	41.9*	52.0*	53.8*
New employees receive the training they need to perform the work expected of them.	60.4	20.6			53.7*	50.0*	53.3*	61.5*	62.4*	73.5*
I have received the training I need to perform my job well.	68.1	16.8			62.3*	58.3*	64.5*	68.1*	70.9	76.8

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Numbers shown in the positive response column represent the percentage of respondents that answered “Strongly Agree” or “Agree.” The negative response column reflects the "Disagree" and "Strongly Disagree" responses.

Data Collected March 1st -27th, 2017

Overall Frequencies: Tenure – Page 5

	Overall		M		Percentage of Agree or Strongly Agree Responses by Tenure					
	Positive Response	Negative Response								
Total Number of Survey Respondents (1246)					Less than one year (124)	1-2 years (147)	3-5 years (153)	6-10 years (252)	11-20 years (381)	Over 20 years (187)
Employee Engagement			3.19							
Overall, I am very satisfied working in the DeKalb County Government.	47	28			66.9	46.6*	43.8*	43.8*	41.8*	51.6*
I rarely consider looking for a job outside of the DeKalb County Government.	28.7	52			39.5*	23.8**	24.2**	23.8**	25.5**	42.2*
I am proud to work for the DeKalb County Government.	53.7	18.1			69.1	50.3	53.6*	49.4*	52.0*	55.4*
I would recommend the DeKalb County Government as an employer.	41.5	31			62.9	40.7*	39.9*	41.4*	36.1*	40.3*
I am motivated to put forth extra effort in my job.	64	19.4			70.2	62.8*	60.5*	60.8*	63.1*	69.9*
Awareness of Ethical Standards			3.51							
This county clearly communicates its expectations for ethical behavior.	52.5	22.1			55.3	56.2*	55.3*	50.6*	49.6*	54.1*
I am aware of my county's values.	66	16.2			66.4	65.1*	64.5*	61.8*	67.6*	70.3*
I understand this county's values.	62.7	16.2			69.9	60.7*	60.5*	60.0*	61.8*	67

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Data Collected March 1st -27th, 2017

Overall Frequencies: Tenure – Page 6

	Overall		M		Percentage of Agree or Strongly Agree Responses by Tenure					
	Positive Response	Negative Response			Less than one year (124)	1-2 years (147)	3-5 years (153)	6-10 years (252)	11-20 years (381)	Over 20 years (187)
Total Number of Survey Respondents (1246)										
Commitment to Ethics			3.06							
The leadership of this county shows a commitment to ethical business decisions and conduct.	31.2	36.6			49.6	37.2*	34.2*	36.9*	25.4*	29.5*
Employees within my county show a commitment to ethical behavior in their day-to-day activities.	48.2	22.9			59	39.0*	49.7*	43.8*	49.6*	50.3*
Ethical Standards			3.38							
I feel responsible for taking corrective action if I observe unethical behavior.	77.8	6.9			70.7	80.8	73.3	72.5	81.2	83.7
Pressure to meet performance goals does not result in unethical conduct.	51	16.6			55.4	48.6*	45.3*	49.4*	52.2*	54.4
The behavior and actions of the employees in my area demonstrate high ethical standards.	66.5	14.2			65	59.6*	64.2*	64.1	67.5	75.7
When decisions are made or actions are taken in my county, the ethical implications are adequately considered.	31.8	28.3			46.3	35.9*	34.4*	29.4*	27.8*	27.9*
Where I work, ethical issues and concerns can be discussed without negative consequences.	45.3	32.2			59.8*	41.8*	40.5*	42.5*	41.8*	53.8*
The leadership of my county has communicated clear ethical standards.	46	34.4			65.9*	47.6*	47.1*	44.2*	39.6*	46.2*

* = 15% or more disagreed, **50% or more disagreed

To protect the anonymity of your employees we do not report data back that might identify respondents.

Numbers shown in the positive response column represent the percentage of respondents that answered “Strongly Agree” or “Agree.” The negative response column reflects the "Disagree" and "Strongly Disagree" responses.

Data Collected March 1st -27th, 2017

Overall Frequencies: Tenure – Page 7

	Overall		M		Percentage of Agree or Strongly Agree Responses by Tenure					
	Positive Response	Negative Response			Less than one year (124)	1-2 years (147)	3-5 years (153)	6-10 years (252)	11-20 years (381)	Over 20 years (187)
Total Number of Survey Respondents (1246)										
Immediate Manager (Ethics)			3.52							
I feel I can raise issues with my manager without fear of retaliation.	57.8	27.3			66.9	57.5*	51.6*	58.4*	55.9*	60.3*
My immediate manager keeps his or her commitments.	64.6	17.3			72.6	60.3*	65.1*	65.6*	62.9*	64.5*
My immediate manager demonstrates ethical and honest behavior.	71.9	13			75	66.2*	75	72	72.3	71.0*
My management does not ignore activities that violate the county's ethics.	64.5	14.9			69.7	58.0*	69.5	66.7	61.5*	64.9*
The leadership of my county provides effective communication about ethical standards.	41.9	31.5			20.8*	39.0*	45.1*	40.2*	34.9*	45.4*
Reporting			3.46							
I can report unethical practices without fear of reprisal.	49	27.8			52.1*	42.5*	48.0*	49.2*	47.1*	56.5*
I know how to report suspected unethical business practices.	70.6	16			66.9*	63.0*	68.0*	66.1*	73.8*	80.9

* = 15% or more disagreed, **50% or more disagreed

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Numbers shown in the positive response column represent the percentage of respondents that answered “Strongly Agree” or “Agree.” The negative response column reflects the "Disagree" and "Strongly Disagree" responses.

Data Collected March 1st -27th, 2017

Overall Frequencies: Tenure – Page 8

	Overall		M		Percentage of Agree or Strongly Agree Responses by Tenure					
	Positive Response	Negative Response								
Total Number of Survey Respondents (1246)					Less than one year (124)	1-2 years (147)	3-5 years (153)	6-10 years (252)	11-20 years (381)	Over 20 years (187)
Values			3.00							
The county's values are consistent with my own.	44.4	24.3			55.4	49.3*	47.4*	41.4*	40.7*	42.9*
I believe in the values of the DeKalb County Government	55.1	19			68	58.2	55.6*	50.4*	52.9*	54.3*
I feel comfortable that the DeKalb County Government follows its stated values.	28.2	39.5			53.7*	30.1*	29.4*	23.1*	24.5*	23.2*
The behavior of senior leadership is consistent with the county's values.	34.4	37			54.9	34.2*	33.6*	29.8*	31.0*	34.6*
Where I work, people do not "get ahead" unless their behavior demonstrates company values.	32.3	38.6			37.5*	27.5*	36.8*	32.8*	30.7*	31.4*
Our leaders are held accountable for acting according to our county's values.	29.6	40.3			49.6*	33.3*	29.4*	24.7*	26.0*	28.1*
Employees are held accountable for acting according to our county's values.	51.8	24.9			57.3*	54.8*	52.9*	48.6*	50.1*	52.7*

* = 15% or more disagreed, **50% or more disagreed

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Exhibit

#7

Fraud Checklist: Becoming a Fraud Resistant Organization

The most cost-effective way to limit fraud losses is to prevent fraud from occurring. This checklist is designed to help organizations test the effectiveness of their fraud prevention measures.

1. Is ongoing anti-fraud training provided to all employees of the organization?

- Do employees understand what constitutes fraud?
- Have the costs of fraud to the organization and everyone in it — adverse publicity, job loss, and decreased morale and productivity — been made clear to employees?
- Do employees know where to seek advice when faced with uncertain ethical decisions, and do they believe that they can speak freely?
- Has a policy of zero-tolerance for fraud been communicated to employees through words and actions?

2. Is an effective fraud reporting mechanism in place?

- Have employees been taught how to communicate concerns about known or potential wrongdoing?
- Does the policy include an escalation protocol?
- Is there an anonymous reporting channel, such as a third-party hotline, available to employees?
- Do employees trust that they can report suspicious activity anonymously and/or confidentially and without fear of reprisal?
- Has it been made clear to employees that reports of suspicious activity will be promptly and thoroughly evaluated?
- Do reporting policies and mechanisms extend to vendors, customers and other outside parties?

3. To increase employees' perception of detection, are the following proactive measures taken and publicized to employees?

- Is possible fraudulent conduct aggressively sought out, rather than dealt with passively?
- Does the organization send the message that it actively seeks out fraudulent conduct through fraud assessment questioning?
- Are surprise fraud audits performed in addition to regularly scheduled audits?
- Is continuous auditing software used to detect fraud and, if so, has the use of such software been made known throughout the organization?

4. Is the management climate/tone at the top one of honesty and integrity?

- Are employees surveyed to determine the extent to which they believe management acts with honesty and integrity?
- Are performance goals realistic?
- Have fraud prevention goals been incorporated into the performance measures against which managers are evaluated and that are used to determine performance-related compensation?
- Has the organization established, implemented and tested a process for oversight of fraud risks by the board of directors or others charged with governance?

5. Are fraud risk assessments performed to proactively identify and mitigate the company's vulnerabilities to internal and external fraud?

6. Are strong anti-fraud controls in place and operating effectively, including the following?

- Proper separation of duties
- Use of authorizations
- Physical safeguards
- Job rotations
- Mandatory vacations

7. Does the internal audit department, if one exists, have adequate resources and authority to operate effectively and without undue influence from senior management?

8. Does the hiring policy include the following (where permitted by law)?

- Past employment verification
- Criminal and civil background checks
- Credit checks
- Drug screening
- Education verification
- References checks

9. Are employee support programs in place to assist employees struggling with addiction, mental/emotional health, family or financial problems?

10. Is an open-door policy in place that allows employees to speak freely about pressures, providing management the opportunity to alleviate such pressures before they become acute?

11. Are anonymous surveys conducted to assess employee morale?

Exhibit

#8



Office of Interim Chief Executive Officer

DeKalb County, Georgia

Lee N. May
Interim CEO

Executive Order No. 2014-4 New Ethics Policy

WHEREAS, the citizens of DeKalb County, Georgia are entitled to have complete confidence and the highest degree of trust in their County government; and

WHEREAS, ethical conduct is a key ingredient to sustaining trust with DeKalb County, Georgia residents; and

WHEREAS, the Organizational Act and Code of DeKalb County include rules to ensure ethical conduct by officials and employees; and

WHEREAS, reminding employees of the existing ethical rules and management's need to monitor employee's compliance with those rules shall help to ensure that government conducts itself in an open, honest, and fair manner; and

WHEREAS, training employees annually of the existing ethical rules shall further help to ensure that government continues to conduct itself in an open, honest, and fair manner; and

WHEREAS, the Interim Chief Executive Officer of DeKalb County is charged with the responsibility of ensuring that the County employees serve the best interests of the public at all times; and

WHEREAS, the Interim Chief Executive Officer of DeKalb County believes it is in the best interests of the citizens of DeKalb County to prevent fraud and abuse of office in government;

NOW THEREFORE, I, Lee N. May, Interim Chief Executive Officer of DeKalb County, by virtue of the authority vested in me, do hereby issue the following Executive Order:

June 24, 2014

Section 1: Scope of this Order and Reminder of Existing Rules

This Executive Order applies to all merit-exempt and merit employees subject to the supervisory and administrative control of the Chief Executive Officer (hereinafter referred to as "CEO employees").¹ CEO employees shall adhere to all applicable ethical rules listed in Section 22A of the Organizational Act and the Code of DeKalb County. A copy of Section 22A and the relevant ethics provisions of the Code of DeKalb County referenced by this Executive Order are attached. Violations of these Rules shall not be tolerated.

CEO employees shall adhere to the ethical rules listed in Organizational Act, Section 22A, and the Code of DeKalb County applicable to them. All merit-exempt CEO employees shall comply with the Organizational Act, Section 22A, which includes, but is not limited to the Conflicts of Interest provisions in sections 22A(c)(1), (c)(5), (c)(6), and (e); the Gifts and Gratuities provisions governed by section 22A(c)(2)(a.); Disclosure of Confidential Information covered by section 22A(c)(3); and the Disclosure of Interests provisions of section 22A(d).

All CEO employees in departments under the merit system, as provided in Chapter 20 of the Code of DeKalb County shall comply with that chapter which includes, but is not limited to the ethics rules of Section 20-20, Conflicts of Interest and Section 20-20.1 regarding Financial Disclosure Reports.

Section 2: New Ethical Rules for CEO Merit-Exempt Employees

In addition to the existing ethical rules identified above, all CEO merit-exempt employees shall adhere to the following rules governing each specific area listed below. While Section 20-20 of the Code of DeKalb County contains specific monetary limits for merit employees, the Organizational Act does not contain such specific limits. These new rules are designed to impose specific monetary limits on merit-exempt employees. To the extent that any rule in this Executive Order conflicts with Section 22A of the Organizational Act or applicable provisions of the Code of DeKalb County, the Organizational Act and the applicable provisions of the Code of DeKalb County shall apply. To the extent any rule below is stricter than Section 22A of the Organizational Act and the applicable provisions of the Code of DeKalb County, the stricter rules below shall govern.

1. *Gifts*. A CEO merit-exempt employee may accept gifts² from an Interested Source³, having an aggregate market value of forty dollars (\$40.00) or less per Interested Source

¹This Executive Order cannot and does not apply to employees of the Board of Commissioners and deputies and employees of other elected officers of DeKalb County. This Executive Order does not apply to campaign contributions, donations and any activities a person conducts during the course of seeking nomination or election to any public office as those activities and campaign contributions and donations are regulated by applicable state and federal law.

² "Gift" includes any gratuity, favor, discount, entertainment, trip, hospitality, loan, forbearance or other item having monetary value. It includes services as well as gifts, of training, transportation, travel, lodging, meals, whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred. A gift does not include: modest items of prepared food and refreshments such as soft drinks, or coffee or donuts other than as part of a meal; loans from banks or other financial institution on terms generally available to the public; social invitations from persons or entities other than Interested Sources.

per occasion, provided that the aggregate market value of individual gifts received from any single Interested Source shall not exceed one hundred twenty dollars (\$120.00) in a calendar year, except in the following circumstances, which are exceptions to this rule:

- a. *Meals.* CEO merit-exempt employees are allowed to accept reasonable meals and refreshments from an Interested Source furnished in connection with participation at a public, civic, charitable, or non-profit ceremony, event, convention, or conference.
- b. *Travel.* CEO merit-exempt employees may accept "reasonable hosting expenses" from Interested Sources for travel, meals, lodging, and conference fees provided in connection with (1) teaching, (2) a speaking engagement, (3) participation on a professional or civic panel, or (4) attendance at a conference in an official capacity. CEO merit-exempt employees may accept travel from other non-County sources for any official purpose, provided that they disclose the travel payments made or reimbursements received on a Travel Disclosure Report filed with either the Chief Integrity Officer, if created, or the Finance Director or his/her designee. CEO merit-exempt employees may accept travel reimbursements from a County contractor for training if it is part of the County's contract or falls within the exception for gifts of travel to the County.
- c. *Tickets.* CEO merit-exempt employees may accept tickets to concerts, plays, athletic or other entertainment events from an Interested Source only when performing an official duty at the event.
- d. *Honoraria.* CEO merit-exempt employees may not accept personal honoraria from an Interested Source.
- e. *Awards, other exceptions.* CEO merit-exempt employees may accept awards, plaques, certificates, mementos, novelties, or similar items given in recognition of public service; nominal gifts from representatives of other governments; gifts from family members; and gifts accepted on behalf of the County.

Section 3: Chief Executive Officer

As Chief Executive Officer, I am governed by the ethical rules in the Organizational Act of DeKalb County. As such, those rules do not contain specific monetary limits on gifts, and I believe it is important that I set an example for the employees who are under my supervisory and administrative control. As a result, I am choosing to be governed by the ethical rules governing gifts stated in Section 2 of this Executive Order, and I will abide by the rules in Section 2 of this

³ "Interested Source" means any person or entity who: (a) is seeking official action by the employee or the employee's department; (b) does business or seeks to do business with the county or the employee's department; (c) conducts activities regulated by the employee or the employee's department; (d) has interests that may be substantially affected by performance or nonperformance of the employee's official duties; or (e) is an organization having a majority of its members as described in paragraphs (a) through (d).

Order, in addition to all other applicable provisions and exceptions of this Executive Order, and local and state ethical rules and law.

Section 4: Training

All CEO employees shall comply with these ethical rules and shall receive annual ethics training regarding these rules. Additionally, every CEO employee shall receive a copy of these ethical rules, shall be required to read the rules and sign a form acknowledging his/her obligation to comply with the ethical rules and the potential penalties for failing to do so. Those penalties may include civil action, criminal prosecution, and/or disciplinary action, up to and including termination of employment.

Section 5: Contractors and CEO-sponsored events

1. *Contractors.* To the extent that the Organizational Act, Section 22A, the Code of DeKalb County, and the rules in this Executive Order allow a gift, meal, travel expense, ticket or anything else of value to be purchased for a CEO employee by a contractor doing business with the County, the contractor must provide written disclosure, quarterly, of the exact nature and value of the purchase to either the Chief Integrity Officer, if created, or the Finance Director or his/her designee. Additionally, every contractor who conducts business with the County will receive a copy of these ethical rules at the time of execution of the contract.
2. *CEO-sponsored events.* No violation of Section 2 of this Executive Order has occurred for any solicited sponsorship⁴ from an Interested Source for official events, functions, luncheons, breakfasts, or meetings to honor employees, or further or discuss an official policy or other related County issue of concern to the Chief Executive Officer, so long as within 30 days of the event the Interested Source and/or the Chief Executive Officer discloses in writing to either the Chief Integrity Officer, if created, or the Finance Director or his/her designee, the exact nature and value of each solicited sponsorship. No solicited sponsorship(s) received from any single Interested Source shall exceed ten thousand dollars (\$10,000.00) in a calendar year.

Section 6: Support of the Ethics Board of DeKalb County

I am recommending a midyear budget adjustment to fund the creation of a full-time Chief Integrity Officer ("Integrity Officer"), investigator, and administrative assistant to serve the Ethics Board of DeKalb County ("Ethics Board"). If these additional positions are funded their exact duties will be determined by the Ethics Board. I recommend the Integrity Officer perform the following duties and functions:

1. Educating and training all County elected officials, employees and County officials to have an awareness and understanding of the mandate for and

⁴ A "solicited sponsorship" means a sponsorship that would not have been offered or given had the County employee or official not held the status, authority or duties associated with his/her County position.

enforcement of ethical conduct and advising of the provisions of the code of ethics of the County;

2. Meeting with and supporting the Ethics Board as necessary;
3. Advising County elected officials, employees and County officials regarding disclosure statements and reviewing same to ensure full and complete financial reporting;
4. Urging compliance with the code of ethics by calling to the attention of the Ethics Board any failure to comply or any issues, including the furnishing of false or misleading information, that the Integrity Officer believes should be investigated by the Ethics Board of so that the Board may take such action as it deems appropriate;
5. Monitoring, valuating and acting upon information obtained from an "ethics hotline" which shall be a County telephone number for the receipt of information about ethical violations. Each complaint, as of the time it is reported, whether by telephone or otherwise, shall be deemed to be a separate pending investigation of a complaint against a public officer or employee as provided by the Georgia Open Records Act;
6. Notifying the subject of a report of any alleged violation of the ethics code, whether the report is anonymous, made by an identified individual or is written. Such notice shall be given in writing, by facsimile or hand delivery, to the subject of the complaint at the same time and in the same form that any disclosure of information is required by the Georgia Open Records Act;
7. Notifying the Ethics Board of any report of an alleged violation of the ethics code received by the Integrity Officer;
8. Reporting, as appropriate, suspected ethical violations to the Ethics Board;
9. Reporting, as appropriate, suspected criminal violations to state or federal law enforcement agencies; and
10. Filing with the Ethics Board, the Chief Executive Officer and the Board of Commissioners each January a written report describing the activities of the Integrity Officer in carrying out the goals of his or her office and the code of ethics and reporting on the ethical health of the County.

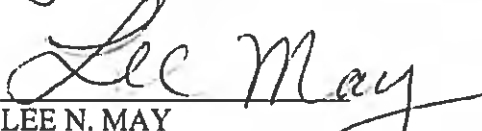
Section 7: Comprehensive and Updated Ethical Rules

While it is understood that amendment to the Code of Ethics in Section 22A of the Organizational Act requires action by the Georgia General Assembly, the newly instituted Government Operations Task Force also is reviewing the ethical standards for County employees and elected officials and will make recommendations for improved rules, if necessary. If and when such recommendations are received, the County Attorney and Executive Assistant are directed to consider such recommendations and to determine if the ethical rules governing DeKalb County need updating or revision. If revisions by the General Assembly are necessary, the County Attorney and Executive Assistant are directed to have such revisions ready to be included in the County's 2015 legislative package. If after such review, the ordinances of DeKalb County also need revision and updating, the Executive Assistant and County Attorney are directed to simultaneously submit such an ordinance to the Chief Executive Officer and each member of the Board of Commissioners for review and possible adoption.

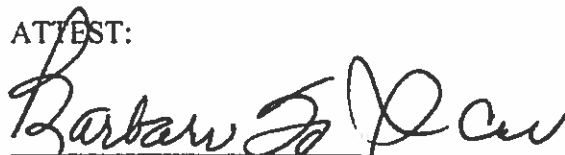
Section 8: Compliance and Effective Date

All CEO employees are hereby directed to comply with the terms of this Executive Order. This Executive Order shall take effect immediately upon signature and publication

SO ORDERED this 25th OF June, 2014.


LEE N. MAY
Interim Chief Executive Officer

ATTEST:


BARBARA H. SANDERS, CCC
Clerk to the Chief Executive Officer
and Board of Commissioners

This Executive Order shall remain in the custody of the County Clerk. Certified copies are available upon request.

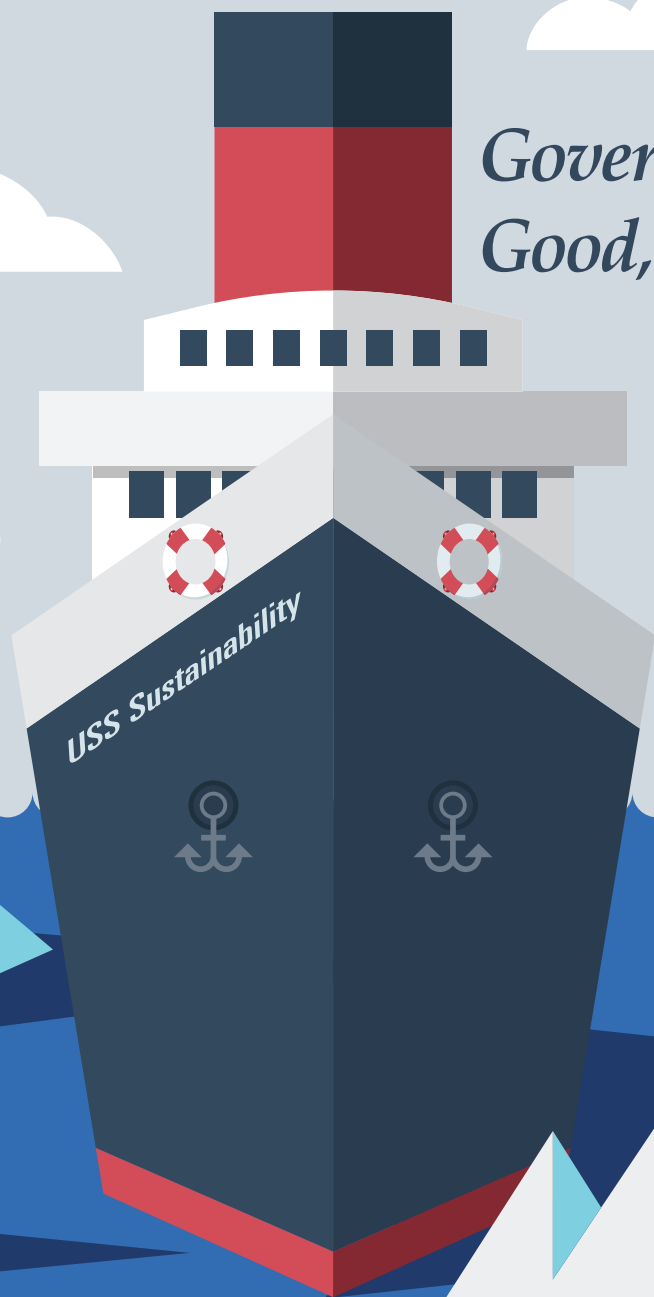
Exhibit

#9

Journal

OF GOVERNMENT FINANCIAL MANAGEMENT SPRING 2016 VOL. 65, NO. 1

*Government Debt:
Good, Bad or Ugly?*





Public Corruption: Causes, Consequences & Countermeasures

By: Victor Hartman, JD, CPA, CFE, CFF; and Sridhar Ramamoorti, Ph.D., CGFM, CPA, CIA, CITP, CFE, CFF, CFSA, CGAP, CGMA, CRMA, CRP, MAFF

Corruption continues to make the headlines of our newspapers. For instance, Sheldon Silver, the Speaker of the New York Assembly, was not only accused of steering real estate developers to a law firm that paid him kickbacks, but also for funneling state grants to a Columbia University doctor who referred asbestos claims to a second law firm that then paid Silver referral fees.¹ Less than a decade ago, FBI Special Agent Robert Grant, announcing corruption charges against then Illinois governor Rod Blagojevich, said “if [Illinois] isn’t the most corrupt state in the United States, it is one hell of a competitor.”² According to the 2014 Association of Certified Fraud Examiners (ACFE) Report to the Nations global survey of fraud, 36.2 percent of all corruption schemes were found in government and public administration. Corruption seems to be the most compatible with other fraud scheme types, and resulted in a median loss of \$200,000 per incident. Further, that 37 percent of corruption cases were attributed to unusually close associations with the vendor or customer suggests conflicts of interest and corruption.³

Yet those who investigate fraud know that corruption and conflicts of interest are notoriously difficult to investigate and even more challenging to prosecute

successfully. Beyond the financial and reputational costs, corruption can change the face of a community. Consider the assertion: “Over and over, for several decades, some Chicago aldermen have given away public benefits, like zoning rights and city-owned land, to real estate developers who, in turn, have lined the aldermen’s pockets and campaign purses.”⁴ Although corruption does significant damage to public institutions and the private sector, fraud prevention experts, government accountants and academics know relatively little about its origins and causes. There is a dearth of understanding of why corruption seems rampant and how corruption actually comes about and ensnares its victims.

Corruption and conflicts of interest, along with asset misappropriation, and fraudulent statements, appear in the ACFE “Fraud Tree.” Before turning to what can be done to mitigate the harmful effects of corruption, let us first define and understand it, and recognize the difficulty of detection and the underlying causes of this very human phenomenon.⁵

The formidable challenge of detecting corruption is frustrating to law enforcement. For other types of fraud, victims generally learn of their loss and are highly motivated to report it, even sue to be made whole. Conversely, consider the career politician who develops strong bonds with the vendors that help put him in office. When that elected official receives lunches, trips, gratuities, or possibly cash, both parties are complicit, and therefore neither has an incentive to expose the “other’s” wrongdoing. Corruption, by its very nature, breeds complicity because even

Corruption, by its very nature, breeds complicity because even when one or more parties realizes it is wrong, perhaps even shameful, the need for discretion and “saving one’s own skin” imposes secrecy on those involved.

when one or more parties realizes it is wrong, perhaps even shameful, the need for discretion and “saving one’s own skin” imposes secrecy on those involved.

While direct damages of public corruption may be calculable, the secondary effects of anger and mistrust by the constituents at large are not only incalculable, they can actually encourage other participants to engage in this conduct out of fear of being locked out of the system. On a larger, societal scale the erosion of trust among interacting parties has long-term consequences that increase transaction costs in markets and society, as a whole. For instance, the unsavory activities and reputations of career politicians discourage many otherwise competent and well-intentioned citizens from ever seeking political office.

What can be done to stop corruption and conflicts of interest? Is this malfeasance an inevitable product of the human condition? First, let’s examine the causes.

Root Causes: Understanding the Social Compact of Reciprocity

For those law enforcement officials who have spent their careers debriefing corrupt public officials, a clear pattern becomes evident. While this information is helpful to assist investigators gathering evidence and interviewing participants, and

it may even be helpful to the judge sentencing a defendant, this information is rarely shared with entities that could actually use it to educate or deter someone from engaging in corruption.

So what are the root causes of corruption? What are law enforcement officials seeing that could actually help prevent corruption? The simple fact is that corruption is a human act — something we have all seen and can understand intuitively.⁶ “Ethical erosion” is characterized by a series of small, sometimes unnoticed acts that erode ethical behavior, with each act providing a foundation for even further erosion.⁷ However, when the slow, deliberative but nevertheless ethically corrosive process is happening to the elected official or corporate executive, they are unaware of what is taking place, or may have a misplaced confidence in their internal, psychological defenses. In reality, before they realize what is occurring, it’s too late, the trap has been sprung, and the unsuspecting victim has walked right into it.

So what is it? Let’s begin by understanding the relationships between government or corporate officials and those trying to obtain influence; this is best understood as a sales and persuasion game. The seller of a good or service, or “lobbyist,” is trying to obtain influence with the official who holds power. Whether they know it by this name or not, those influence-peddlers understand only too well the underlying principle and sociocultural construct, i.e., “the social compact of reciprocity.” Indeed, the most remark-

able aspect of reciprocity with its accompanying sense of obligation is its pervasiveness in human culture.⁸

Social psychologists and anthropologists have studied the concept of reciprocity for decades. Indeed, some scholars have attributed the very nature of humans to reciprocity.⁹ They claim humans survived because our ancestors learned to share goods and services “in an honored network of obligation.” Thus, the idea that humans are indebted to repay gifts and favors is a unique aspect of human culture. Cultural anthropologists support this idea in what they call the “web of indebtedness” where reciprocity is viewed as an adaptive mechanism to enhance survival. Interestingly, there is social pressure exerted on those who receive but don’t give back; they are disparagingly called “moochers,” “free riders” or “social loafers.”

Government and corporate officials are decision-makers. They make purchasing decisions for products and services, they decide where roads will be built, they are constantly making zoning decisions, and they have the power to expand or contract government services. How can a vendor influence the decision-makers to purchase their product or service?

Some of the best information of how vendors exploit officials has been learned through their cooperation with law enforcement. After a plea agreement, while cooperating with the government, defendants may recount their methods and tactics;



and a common, predictable scenario gets revealed:

When the politician saw me coming, he knew he was getting something. The first encounter may just be me giving my business card, but I always made sure his hand was out and I could see his palm. The next encounter might be a pen or book, but he was going to walk away with something that he knew was from my firm. This gift-giving escalates to meals and entertainment. Eventually, the relationship looks more like a friendship than a business transaction. Trips to the family home, an outing to Vegas, or a quick trip on the corporate jet, it's all about giving the official something. What you're developing is the ace in hole. You never know when you need to call it, but you know it is there. And when you do call in your chit, this is when it gets beautiful. You both know you just straight-up own him. You can now ply him with envelopes of cash and everyone pretends like nothing is happening.

Those attempting to gain access will have different *modus operandi*, but effectively they all exploit the social compact of reciprocity. Conversely, it is enlightening to understand the thought process of those officials charged with corruption. Many have a difficult time admitting they did anything wrong.

For those officials who pleaded guilty and cooperated, their story goes something like this:

I have always done what is in the best interest of my constituents. I work very hard at this job and have done a lot of good. This job is difficult. There are a lot of campaign rules and I don't always pay attention to details. Sure, people gave me money, but I assumed it was campaign contributions. And yes we go to a lot of dinners, but that's how business is done in the real world. As for the gifts and trips, it was relatively insignificant and we always accomplished a lot

of good on those trips. We may have met in the political world, but we are really good friends. In hindsight, I can see this looks bad. When my wife asked me why I always paid in cash and where was the money coming from, it finally hit me: I had somehow sold my office.

Jack Abramoff, arguably the most corrupt lobbyist in U.S. history, was the master of this craft until FBI agents arrested him. At the height of Abramoff's corruption machine, he was giving out an unimaginable number of skybox tickets, pricey restaurant meals and golf junkets to government officials. He even established his own high-end restaurant near Capitol Hill called "Signatures" where he regularly treated elected and appointed federal officials and their staffers. The ingenuity behind and efficiency of this setup was that he could sit at his favorite table and peddle influence on a large scale.¹⁰

The social compact of reciprocity works in tandem with the slippery slope principle. The slippery slope helps explain how one rationalizes wrongdoing. Fraudsters, or corrupt public officials, resort to rationalization as the human psyche does not allow oneself to wake up, look in the mirror, and see a fraudster looking back; the fraudster or corrupt public official inevitably rationalizes his or her conduct.

When the influence-peddler is using the social compact of reciprocity to gain influence, the things of value need to be given incrementally. A vendor handing a briefcase full of cash to a government official on the first meeting would likely be too abrupt, too brazen, and would neither be expected nor tolerated. Therefore, the corrupting process is slow and deliberate. This allows the official to incrementally rationalize each gratuity being received. It is like the proverbial frog in a heated pot: If you throw the frog into a boiling pot of water, he will jump out. If you put the frog in cool water and gradually turn up the heat, you can cook him to death. It is the same process with officials. You have to give the official time to rationalize each incremental gift. Once he starts down that slippery slope, speed gathers, and there is no getting back up the hill. This "boiled frog" logic explains the nature and life-cycle of the relationship.

Government entities and mature corporations have policies in place to prevent corruption. Government entities likely have both ethics rules and criminal statutes that prevent the receiving of gifts, monetary or otherwise. Corporations typically have a code of conduct, antifraud policies, and a conflicts-of-interest policy. Public officials and company executives know these rules and know they will be presumed to have known these rules if caught and challenged.



The human psyche does not allow oneself to wake up, look in the mirror, and see a fraudster looking back; the fraudster or corrupt public official inevitably rationalizes his or her conduct.



This is where their rationalization process is critical. The official needs to convince himself, as well as justify to others, that receiving the thing of value does not violate these rules. Each incremental gift received must somehow be explained and rationalized. The official may rationalize that the gifts are part of a friendship or that the official is just such a likable person that people want to bestow gifts without any expectation of reward. Regardless of the thought process, it cannot be viewed as something of value received in their official capacity because that is a violation of the rules. Ego trumps common sense and becomes a fatal blind spot in such cases.

Prevention and Deterrence Strategies

Corruption is the most difficult type of fraud to be detected because the victims are generally unaware of its occurrence. Accordingly, prevention has to play a much more prominent role in mitigating harm.

Government officials generally come into office for the right reasons. Elected officials resonate with their peers, their message appeals to their constituents and they truly want to bring about positive change. Appointed officials may also choose

government service for altruistic reasons. Officials presumably do not enter office with the idea of wanting to profit from bribes. Even corporate executives who engage in corruption and take advantage of conflict-of-interest situations, probably did not set out to engage in this conduct from the start.¹¹

The problem with policies is the lack of implementation by those charged with governance. Writing a policy or passing an ethics ordinance is easy. Creating continued awareness, instruction, and training of the policies is resource-intensive and costly. More complicating is the fact that no official views himself or herself as corrupt. Whereas those in charge of governance may fund an ethics awareness program for their organization, they are also just as likely to find themselves too busy to attend. Such an attitude smacks of hypocrisy.

Leaders and management must strive to model appropriate behaviors, and thus lead by example in communicating the proper tone from the top. Their commitment to a strong, fraud-resistant culture should be manifest, and education on fraud and ethics awareness should be the norm. Codes of conduct should be regularly revisited and updated, and ethics hotlines should be emphasized. Swift action should be taken to deal with ethical lapses, especially when senior executives are involved because there is no room for the perception of a “double-standard” within an operation. It is important to create a perception of detection, which can be a most useful strategy for deterrence and fraud prevention.

Newly appointed officials should be required to attend a program called *Ethics Awareness for Newly Elected Officials*. They should see and hear from officials-turned-convicted-felons, including from videos of testimonies, and stories reported in the TV program, *American Greed*, etc. These former officials provide the narrative of how they transitioned from working for the people to receiving cash from the people — describing the “boiled frog” public corruption syndrome in a detailed fashion with real-world examples. Former law enforcement officials also provide real-world examples based on relative experience.

If such programs are implemented, an official would have a greater awareness of constantly being in the crosshairs of lobbyists and influence-peddlers. They could more fully appreciate the behaviors of others. The official could make a conscious decision to refuse the initial gratuity and thus nip the corrupting process in the proverbial bud. In other words, they could jump out of the “hot water” before it cooks them. ■

Endnotes

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10. Abramoff, Jack. (2011). *Capitol Punishment: The Hard Truth About Washington Corruption From America's Most Notorious Lobbyist*. Washington, D.C.: WND Books.

11. See Endnote 6.



Victor Hartman, JD, CPA, CFE, CFF, is the founder of *The Hartman Firm, LLC*; and previously was with the *Federal Bureau of Investigation* where he served as a "Street Agent,"

Supervisory Special Agent, and Chief Division Counsel for 25 years. He supervised an FBI squad specializing in public corruption and now, in the private sector, works with governmental organizations to design fraud and corruption resistant organizations. Hartman is an Adjunct Professor at Georgia State University, where he teaches forensic accounting, and also serves on Georgia Southern University's Forensic Accounting Advisory Board. He is the current President of the Georgia Chapter of the Association of Certified Fraud Examiners.



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currently an Associate Professor in the School of Accountancy and a Director, Corporate Governance Center at Kennesaw State University. A member of the Standing Advisory Group of the PCAOB, he is the past Chairman of FEI's Committee on Governance, Risk & Compliance, as well as a Board member of the Institute for Truth in Accounting and Ascend. Ramamoorti was the inaugural Chairman of the Academy for Government Accountability, and twice received the AGA National President's Award, in 2004 and 2006 respectively.

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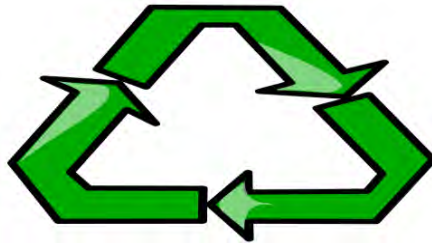
Exhibit #10

INTERNAL AUDIT REPORT

DeKalb County Government
Department of Watershed Management – CIP Projects



Department of Purchasing & Contracting



PRELIMINARY AUDIT REPORT

Major Gravity Sewer Line Capacity Restoration

ITB #16-100789

INTERNAL AUDIT REPORT

DeKalb County Government
Department of Watershed Management – CIP Projects

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EXECUTIVE SUMMARY

Background

In order to continue the efforts of the County's wastewater collection and transmission system (WCTS) as established in the Consent Decree (CD) entered into with the United States Environmental Protection Agency (USEPA) the County has implemented a program for continuous sewer assessment, maintenance and rehabilitation aimed at minimizing sanitary sewer overflows (SSOs). The Department of Watershed Management (DWM) is focusing on the assessment of the sanitary sewer system and subsequent cleaning in order to restore the capacity of the WCTS major gravity sewer lines and associated manholes. A critical part of this assessment is to identify structural and maintenance deficiencies throughout the sewer system by using Totally Integrated Sonar and Camera Inspection Techniques (TISCIT).

To complete the efforts of this project, DWM requested Purchasing and Contracting (P&C) to initiate a solicitation in the form of an Invitation to Bid (ITB). The Scope of Work (SOW) will concentrate on sanitary sewer assessments of approximately 800,000 linear feet of major gravity sewer mains in addition to 2,240 manholes throughout various locations within the WCTS. ITB #16-100789 should support the County's ongoing commitment to improve the sanitary sewer collection system's performance as it relates to SSO reduction along with fostering the County's existing sewer assessment program.

Objective and Approach

Our main goal is to audit for compliance as it relates to P&C policy and procedures regarding the Invitation to Bid (ITB) solicitation process. The following ITB #16-100789 was reviewed along with all relevant documents used throughout the evaluation process.

Please see **Appendix A** for a detailed explanation of this engagement scope and approach.

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Summary of Observations

The following observations were made after reviewing the evaluation process for ITB #16-100789:

1. ITB #16-100789 for Major Gravity Sewer Line Capacity Restoration opened on December 7, 2016; there were a total of five (5) bidders that submitted proposals for this solicitation
2. The five (5) bidders were:
 - Compliance Envirosystems (CES), LLC
 - Layne Inliner, LLC
 - Metals and Materials Engineering (MM&E)
 - Southeast(SE) Pipe Survey
 - Woolpert, Inc.
3. According to P&C ITB policy and procedures, the established service level agreement (SLA) time for an ITB with a Pre-Bid Meeting and/or site visit is sixty (60) to ninety (90) calendar days
4. The tentative procurement schedule established for this project was one hundred two (102) days
5. Per the ITB policy and procedure, the Agent should have completed the following at the time of the bid opening:
 - Verified that all bids were received by 3pm
 - Opened each bid and read the Unit Prices
 - Concluded the bid opening after reading cost
 - Prepared the bid tabulation which included vendor name, item number, quantities shown on the price schedule, description of goods/services listed on the price schedule, unit price/hourly rate or total
 - After completion of the bid tabulation, prepared to post to County website and evaluated each proposal for **responsiveness** (includes Local Small Business Enterprise (LSBE) requirements)

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6. DWM created a bid evaluation chart that was used to compare and contrast if all the respective bidders were responsible as set forth in the solicitation. DWM's evaluation determined that Woolpert was non-responsive
7. The Agent used DWM's responsible evaluation instead of P&C's approved template to determine the following:
 - Woolpert was non-responsive for not submitting the following information as stated in the solicitation:
 - Successfully **completed** at least three (3) large diameter gravity collection system cleaning projects within the last ten (10) years for governmental clients in the United States (US) with a minimum of \$5million
 - Successfully **completed** at least three (3) large diameter gravity collection system assessment projects within the last seven (7) years for governmental clients in the US with a minimum of \$2million
8. Before the Agent forwarded the completed responsive evaluations to DWM, the CIP Procurement Manager (PM) along with the Agent reviewed all five (5) bids to confirm that Woolpert was non-responsive. That determination did coincide with DWM's evaluation deeming Woolpert non-responsive
9. The Agent determined the other four (4) bidders – (SE Pipe, CES, Layne Inliner and MME) were responsive
10. The agent sent DWM both **non-responsive** and **responsive** bids
11. According to P&C policy and procedures, the User Department (UD) should have **only** received the bid tabulation (includes LSBE preference) and the bid packages for **responsive** bidders to help evaluate if the **responsive** bidders were **responsible**
12. On January 6, 2017, the Director of DWM sent an email to the Interim Chief Procurement Officer (ICPO) requesting that Woolpert provide the missing information identified in the attached file **prior** to making a recommendation for award

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13. On January 9, 2017, the ICPO asked the PM to provide an update regarding the above mentioned request, the PM responded to the ICPO and the Agent by stating, “Woolpert did not meet the aforementioned qualifications, they neglected to submit several required documents, We should not allow Woolpert a second chance to respond to our responsive and responsible requirements that are detailed in the solicitation. We will be submitting the “none” letters to you (ICPO) shortly.”
14. On January 10, 2017, the following events occurred:
- The Agent drafted a non-responsive letter and forwarded to the PM for review; the non-letter stated the following:
 - Failure to provide documentation of experience within the last ten (10) years on three (3) large diameter gravity collection system cleaning projects for governmental clients in the United States (US), with a minimum of cost of \$5 million dollars, on large diameter gravity sewer pipes 18-inch or above specified on the Bidder’s Qualification Form, page 24; and
 - Failure to provide documentation of the contractor, or their subcontractor, not the parent company or a related company, experience of having cleaned a minimum of 300,000 linear feet (LF) of sewer mains of the sizes involved for this contract in the past two years and the documentation shall include locations, references (including names and phone numbers), pipe sizes and linear footages of those sizes
 - The PM hand delivered the first draft of the non-responsive letter to the ICPO for signature and/or approval
 - The ICPO determined the non-letter was not drafted on an approved P&C template and verbally communicated to the PM some errors found within the letter that needed to be addressed before final signature and/or approval
 - The PM revised the non-letter and then forwarded the draft of the non-responsive letter along with the bidder’s bid and a mark-up of justifications showing why Woolpert was being deemed non-responsive to the ICPO for signature and/or approval

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15. On January 17, 2017, a non-responsive letter was sent to the Vice President of Woolpert stating that their bid was deemed non-responsive for failure to provide the required documentation of experience under the Bidder's Qualification Form – section II Company Experience – Similar Projects (page 24)
16. The following events occurred on January 20th:
- The Vice President of Woolpert sent an email to the Agent requesting the ICPO's email address to set up a meeting
 - The ICPO responded by directing the PM to contact the Vice President of Woolpert and schedule a debriefing meeting regarding the Major Gravity Sewer solicitation
17. On January 26, 2017, the PM and Agent held a debriefing meeting with the Vice President of Woolpert to further explain the reason(s) why their bid was deemed non-responsive. During that meeting, the Vice President of Woolpert provided additional documentation that should have been provided with the initial bid submission. In addition, P&C addressed other discrepancies found throughout Woolpert's bid submission. For example:
- Project no.1 – Woolpert submitted a project that valued \$5.7million instead of \$10million along with not providing the requested liner feet (LF) for sizing
 - Project no.2 – Woolpert submitted a project value of \$1.5million instead of \$2million and again the LF was not provided or the sizing
 - Project no.3 – there was a discrepancy with the duration of the project and the actual dollar value of the project at the time of completion
18. The following events occurred on February 13, 2017:
- The ICPO instructed the PM to provide an update on Major Gravity Sewer Line Capacity Restoration, asap
 - The PM responded by indicating, as of February 9th, the UD had not provided a recommendation for award for the four (4) responsive bidders. Five (5) bids were received on December 7th and DWM received the recommendation memo on December 21st
 - After the ICPO was briefed, the PM was instructed to set-up a meeting with DWM to discuss and clear up any discrepancies with the Major Gravity Sewer project

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19. Before P&C met with DWM on February 15th, the Consent Decree Program Manager (CDPMT) forwarded an email to the PM and Agent with a brief overview regarding Capacity Restoration and items to discuss during the meeting. The following were cited:
- Woolpert provided three (3) reference projects
 - All three (3) projects were assessment related and none of the projects met the requirements associated with three (3) large diameter **cleaning** projects worth \$5million
 - Woolpert submitted an ongoing Priority Area Sewer Assessment (PASARP) project as a reference project where cleaning of trunk lines had been assigned, however, nothing was completed to date as related to gravity mains greater than 18inches
 - The CDPMT made a recommendation to DWM as follows: ***“As such, it is recommended for P&C to review our findings and request the missing qualifications for us to provide a complete review of this submission.”***
 - At the request of DWM, the CDPMT reviewed the four (4) remaining bids against qualifications and all firms required some level of clarification or additional information in order for the UD to successfully complete a review
20. On February 15, 2017, the PM, Agent & CIP Auditor met with DWM’s Director and other DWM staff members in order to determine the project next steps. The following were discussed and/or concluded during that meeting:
- DWM needed further clarification from the **“bidders”** not the provided **“references”** because the **“references”** were not able to provide the level of detail they were looking for
 - The PM and Agent agreed to send the **“bidders”** the questions to gain clarification but also stated that the clarification questions would only be sent to the four (4) remaining responsive bidders
 - DWM stated that they would email questions to the Agent that required additional **“clarification”**
 - Once the Agent received the questions they were going to re-send the information to the **“bidders”** that were responsive
 - DWM emailed the same questions that were used to determine if the bidders were responsible the Agent. The Agent re-sent the questions to the four (4) remaining responsive bidders

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21. On February 24, 2017, the following occurred:

- DWM sent another request via email asking the PM if P&C could go back to the five (5) bidders and request each of them to submit one (1) project scope, definition, and cost that demonstrates \$5million of large diameter sewer pipe cleaning
- The PM responded by stating that this particular request needed to be forwarded to the ICPO by way of the Director of DWM outlining the basis of the request. It was also communicated that this request would be discussed with the P&C team
- The Director of DWM did send an email to the ICPO requesting the following:
 - If P&C could contact all five (5) bidders on ITB #16-100789 – Major Gravity Sewer Line Capacity Restoration to request submission of one (1) project scope, definition and cost that demonstrates \$5million of large diameter sewer pipe cleaning
 - DWM also recommended a period of three (3) full working days from the time of the request to receive the information

22. The ICPO provided a response to the Director of DWM via email on February 24th, by stating:

- P&C can complete this request as long as all the bidders are on the same playing field and still remain responsive on all other requirements set forth in the solicitation
- The ICPO expressed that they were a little confused because they thought we (P&C) had already went back to the **responsive bidders** for further clarification and that information had been provided
- The ICPO also wanted to know why were we going back yet again and this type of back and forth could indicate that the solicitation may not have been clear and thorough

23. On February 24, 2017, The Director of DWM sent another email responding to the ICPO stating, “This approach was recommended rather than rebidding the entire work.”

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24. On February 25, 2017, the Agent created and forwarded a document to be reviewed by DWM staff members, the document was titled Project(s) Verification Form and requested that the bidders include the following:
- One (1) project scope, definition and cost that demonstrates \$5,000,000 (\$5million) of large diameter sanitary sewer gravity pipe cleaning completed within the last ten (10) years. Large diameter sanitary sewer gravity pipes shall be defined as pipes with diameters of 18-inch or above
25. On February 27, 2017, an email between DWM staff indicated that P&C was only going to send the **“new”** request to four (4) bidders instead of five (5). It was also stated by DWM that P&C is planning to exclude Woolpert and that wasn't fair since the project experience requirement for large diameter cleaning was being reduced from three (3) projects to one (1) project

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26. On February 28th, the ICPO was in the BOC meeting, the following email conversations transpired between the ICPO, Director of DWM, and the Agent:

- The ICPO asked the Director of DWM if they had submitted the requested information and informed them that P&C needed to release it today to the four (4) vendors so we (P&C) could get it back within three (3) business days to keep our service level agreement (SLA) commitment of agenda submission to March 28, 2017 for BOC approval
- The Director of DWM responded by stating, “Last week we agreed to send the information to all five (5) bidders, who changed this direction?”
- The Agent responded to the Director of DWM, “We did not meet last week; we met the week of February 13th, on February 15th.” “In that February 15th meeting we discussed the four (4) bidders, their submitted information, timeline concerns, DWM additional request and agreement to send out a second request to the actual bidders to complete not the provided references.” “Woolpert, who remains non-responsive was not discussed or contacted in this second request for information from the bidders.” “If you met last week with P&C, please advise who so we can discuss the outcome of that meeting.”
- The ICPO responded to the Director of DWM, “I was not in the meeting, so I cannot confirm if this was agreed to by all parties.” “I have spoken to my staff and was informed that additional clarification was needed by DWM and **all responsive bidders** would be afforded to provide the information needed for clarification.” “Woolpert was deemed non-responsive for failure to submit required documentation responsive to the solicitation.” “I will speak with my team to obtain full and clear information about this request and determine any available options available to assist DWM with their request.”

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27. On February 28th, the following occurred:

- The BOC meeting ended around 3pm, when the ICPO returned from that meeting, an impromptu meeting was held with the PM, Agent and CIP Auditor
- The PM expressed his concerns regarding DWM trying to **“dumb down”** their specifications in order to obtain a better pool of bidders which would change the material content of the SOW in the **“new”** request
- The PM was trying to determine if DWM could change their specifications as stated in the ITB under the Bidder’s Qualification Form section III. – Rights Reserved which states, **“The County reserves the right to reject any or all Bids, to waive formalities, and to re-advertise.”** The methodology around this statement would determine if changing the SOW was a “formality” change
- The ICPO directed the Agent to rescind the **“new”** request because we cannot change the material content of a solicitation
- At 3:56pm, the Agent sent the **“new”** request via email to the **four (4) bidders** that were responsive
- At 4:01pm, The PM responded to the Agent’s email by stating, “That we (P&C) did not agree to send this change.” “Did we?”

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28. On March 1, 2017, the ICPO held a meeting with the PM, Agent and CIP Auditor.

The following were discussed:

- The PM informed the ICPO that Woolpert emailed a “protest” letter to P&C asking P&C to consider rescinding their determination for disqualification because they were aware that the other bidders have provided additional documentation they were not afforded to provide
- The Agent used DWM’s checklist instead of an approved P&C template during their responsive/responsible verification
- The ICPO stated that the exact language should have been included in the non-responsive letter that included the component **“successfully completed”**
- The PM & the Agent provided a detailed explanation to the ICPO regarding details from the February 15th meeting to include:
 - DWM was told that only questions regarding **“clarification”** would be sent to the four (4) remaining responsive bidders
 - Sending a **“new”** request was never mentioned by DWM
 - The PM agreed to send the clarification questions to the bidders at the request of the UD
- The ICPO reviewed the questions that were submitted to P&C from DWM to gain further insight of DWM’s need to request additional information. The ICPO concluded:
 - The same questions that were sent to the bidders references were the questions that needed additional clarification
- The ICPO asked the PM why they didn’t stand firm on P&C’s position **not** to request additional information from the bidders. The PM responded, **“They were trying to please the UD.”**
- The ICPO said **“We are not in the pleasing business. We are in the business of procuring based on policy and procedures.”**
- The ICPO told the PM to provide the response to Woolpert’s protest letter.

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- A meeting would be held with DWM to discuss a final resolution and/or recommendation on how to move forward with this project
 - The ICPO sent an email to the PM and Agent directing them to complete the evaluation using the approved ITB evaluation checklist in order to ensure that P&C's information was accurate, detailed and clear before meeting with DWM
29. After the meeting with the ICPO on March 1st, the Auditor and PM discussed the **“perception”** surrounding whether or not rescinding the **“new”** request would appear as if P&C was rescinding solely on Woolpert sending a protest letter. Based on the following statement included in Woolpert's protest letter, “Since their meeting (January 26th) **it had come to their attention** that DeKalb requested additional information from other bidders. Woolpert was not offered this opportunity prior to being deemed non-responsive.”
30. On March 2, 2017, P&C received an open records request (ORR) from Woolpert
31. On March 3, 2017, the ICPO met with the PM, Agent and CIP Auditor before meeting with DWM to ensure that P&C was clear on their approach on how to move forward with this project. During that meeting the following were discussed and/or concluded:
- The Agent admitted that the **“new”** request had not been rescinded as directed by the ICPO on February 28th
 - The ICPO directed the Agent to rescind the forwarded request immediately following the meeting and not to open or consider any received responses that come in from the bidders
 - The ICPO asked the Agent why they didn't follow the directive. The Agent stated that they (Auditor, PM and Agent) decided not to rescind the request due to the received protest
 - P&C (PM & Agent) recommended to the ICPO to cancel this solicitation and re-advertise
 - The Agent presented a draft of how P&C could fast track this solicitation and still meet CD time and guidelines if the solicitation is cancelled

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32. On March 3, 2017, P&C (ICPO, PM, Agent & CIP Auditor) met with the Director of DWM along with other DWM staff members to discuss how to move forward with this project. The following were concluded:

- DWM needed more information from the **bidders** that submitted on this project because the references were not able to provide answers to some of the questions
- DWM needed the **bidders** to provide the dollar value of large diameter cleaning
- Out of the four (4) responsive bidders two (2) did not meet the requirements, one (1) bidder responded and provided answers to the questions that DWM requested additional “**clarification**” for during the February 15th meeting, the last bidder (CES) did meet all the requirements as outlined in the solicitation
- CES was DWM’s recommendation for award
- Although CES submitted the highest bid, DWM suggested that P&C offer them a best and final offer (BAFO) giving them an opportunity to lower their price
- If CES price still exceeded the County’s budget for this project, the contingency plan was to cancel the ITB and re-advertise as a Request for Proposal (RFP)

33. DWM also disclosed the following during the meeting held on March 3rd:

- **None of the bidders** initially submitted any of the required information that was requested in the solicitation **specifically on large diameter cleaning**
- The need to change the SOW would make more bidders responsible
- The value of LF should have been included as part of the Company Experience
- Upon conclusion of the meeting the following were confirmed:
 - Woolpert remained non-responsive
 - Three (3) other bidders were deemed non-responsive
 - One (1) bidder (CES) was the lowest, responsive and responsible. However, CES price exceeded the county’s budget and the UD along with the ICPO agreed to send CES a best and final offer letter (BAFO)

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34. After the ICPO, Agent, and another PM confirmed what bidders were non-responsible, three (3) bidders received non-responsible letters
35. The following occurred regarding the BAFO letter
- On March 16th, P&C sent the BAFO letter to CES
 - On March 23rd, CES provided their BAFO which was \$7,170,300
 - P&C prepared an agenda item for BOC approval
 - On April 11th, the BOC approved and awarded Majority Gravity Sewer Line Capacity Restoration project to CES in the amount of \$7,170,300

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Listed below is a timeline of important dates and/or events and/or information regarding the solicitation and evaluation process for ITB #16-100789 – Major Gravity Sewer Line Capacity Restoration Project. The detailed information gives an in-depth synopsis of all the email(s) that transpired between P&C and DWM staff during the evaluation process.

DATE	EVENT / INFORMATION
1. December 7, 2016	Bid Opening for ITB #16-100789
2. December 21, 2016	P&C Provided a Letter of Recommendation, all bids and bid tabulation to DWM – Roadhaven Location
3. December 21, 2016	An email was sent to DWM & the CDPMT to review attachments and provide a recommendation in order to complete the required form
4. December 27, 2016	Questions amongst DWM surfaced regarding if P&C needed a CDPMT to review the actual bid documents to confirm qualifications and experience. DWM responded on the same day by stating that they were going to review the actual bid packages
5. December 28, 2016	The CDPMT was in receipt of the bid packages to evaluate the apparent low bidder's submission to identify if qualification and experience requirements set forth in the ITB documents were met
6. January 4, 2017	At DWM's request, the CDPMT evaluated the apparent low bidder's submission to identify if qualifications and experience requirements had been met as set forth in the solicitation. DWM was able to confirm that the proper certification and project experience was provided for the ASSESSMENT portion of the work identified on the Bidder's Qualifications Form; however, <i>it was not apparent that ANY of the LARGE DIAMETER CLEANING experience requirements had been met as set forth in both the Instructions to the Bidders and the Bidder's Qualifications Form</i>
7. January 9, 2017	The ICPO directed the PM to see the findings, review and provide an update on January 9 th

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8. January 9, 2017	The PM followed the directive and replied via email stating, "Woolpert did not meet the aforementioned qualifications because they neglected to submit several required documents. We (P&C) could not allow Woolpert a second chance to respond to our responsive and responsible requirements that are detailed in the solicitation. The non-letters are being provided to you (ICPO) shortly."
9. January 10-17, 2017	The non-responsive letter was drafted by the Agent and forwarded to the PM for review; the PM provided the non-responsive letter to the ICPO; however, the letter was incorrect and the ICPO returned it for correction. The PM re-submitted the non-letter to the ICPO and for approval
10. January 17, 2017	The non-responsive letter was sent to Vice President of Woolpert
11. January 18, 2017	The agent emailed the Vice President of Woolpert their non-responsive letter for ITB #16-100789
12. January 20, 2017	The agent received a response from the Vice President of Woolpert asking for the ICPO's email address because they wanted to arrange a meeting with the ICPO; On the same day, the ICPO directed the PM to contact the Vice President to schedule a debriefing meeting regarding the solicitation
13. January 26, 2017	The PM and Agent held a debriefing meeting with the Vice President from Woolpert; Woolpert provided additional information to P&C that was not provided with their initial bid submission; P&C did receive the documents, however, informed Woolpert that the information would not be considered only used to add to the bidders folder and debriefing notes
14. February 3, 2017	PM sent ICPO an email wanting to discuss findings after debriefing meeting
15. February 13, 2017	The ICPO asked the PM to provide an update on the status on the Major Gravity Sewer Line Capacity Restoration Project ; A response was provided by the PM that same day; however the status update was not the same for DWM and P&C.

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(continued)	PM stated that P&C was waiting on DWM to return the award recommendation form and DWM stated that they were waiting on P&C to provide additional information
16. February 15, 2017	The ICPO verbally requested a meeting was held with DWM Director, DWM staff members, PM, Agent & CIP Auditor - DWM stressed the need to obtain more information from the bidder's in order to determine the most qualified bidder for this project. P&C asked if the questions were different and DWM stated they were the same questions provided to the references because the references were unable to provide the level of detail needed to determine the most responsible bidder
17. February 24, 2017	An email was sent to the PM from a member of DWM requesting that <i>P&C go back to each of the five (5) bidders that submitted on this ITB</i> and request for them to submit one (1) project scope, definition and cost that demonstrates \$5million of large diameter sewer pipe cleaning
18. February 24, 2017	The PM responded to DWM by indicating that the above mentioned request needed to be sent from the Director of DWM to the ICPO. The request should include an outline for the basis of this request. It was also communicated that the request would be discussed amongst P&C
19. February 24, 2017	The Director of DWM sent an email to the ICPO which stated that DWM wanted P&C to contact all five (5) bidders on ITB #16-100789 Major Gravity Sewer Line Capacity Restoration to request submission for one (1) project scope, definition, and cost that demonstrates \$5million of large diameter sewer pipe cleaning
20. February 24, 2017	The ICPO responded to the Director of DWM by stating that P&C can complete the request as long as all the bidders were on the same playing field and still remain responsive on all other requirements set forth by the solicitation. It was also communicated to DWM that the ICPO's understanding of receiving further clarification from responsive bidders had already been provided to us (P&C)
21. February 24, 2017	The Director of DWM responded to the ICPO by stating, "This approach was recommended rather than rebidding the entire work".

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22. February 25, 2017	The P&C agent sent an email to DWM with an attachment of a “draft” form requesting one (1) project scope, definition and cost demonstrating \$5million of large diameter sewer pipe cleaning. The Agent asked that DWM review the form and add any revisions before sending it out to the four (4) responsive bidders
23. February 27, 2017	An email between DWM staff stated that P&C will only send the “new” request to four (4) bidders not all five (5) bidders. DWM stated that P&C planned to exclude Woolpert and since the project experience requirement for large diameter cleaning was being reduced from three (3) projects to one (1) project and new project information is being requested from the firms to meet this project experience requirement, it would seem that ALL of the bidders should be given the opportunity to provide this information
24. February 28, 2017	The ICPO sent an email to the Director of DWM to inquire if DWM submitted the requested information to the Agent. It was also reiterated that P&C needed to release the information today to the four (4) vendors in order to keep our SLA commitment and agenda submission for BOC approval on March 28 th (email time 12:23pm)
25. February 28, 2017	The Director of DWM replied to the Agent via email and stated that “we” agreed to send the information to all five (5) bidders (email time 12:41pm)
26. February 28, 2017	The Agent responded to the Director of DWM by stating, “in our February 15 th meeting we discussed; four (4) bidders, their submitted information, timeline concerns and DWM’s additional request and agreement to send out a second request to the actual bidders to complete and not the provided references. Woolpert who remains non-responsive was not discussed or contacted for the second request.” (email time 1:02pm)
27. February 28, 2017	The Director of DWM also sent the ICPO an email stating, “Last week we agreed to send the information to all five (5) bidders.” “When and who changed this direction?” (email time 1:07pm)

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28. February 28, 2017	The ICPO replied to the Director of DWM's email by stating, "I was not in the meeting and cannot confirm what was agreed to by all parties (P&C & DWM)." "I have spoken to my staff and was informed that additional clarification was needed by DWM and all the responsive bidders would be afforded to provide any additional information needed for clarification." "Woolpert was deemed non-responsive for failure to submit required documentation responsive to the solicitation." "To maintain transparency and fairness to the procurement process, we cannot go back and change requirements or waive them after bids have been opened, reviewed and/or evaluated." (email time 1:41pm)
29. February 28, 2017	The ICPO also informed the Director of DWM that they would reach out to them once they were briefed by their staff and would follow-up once they received all necessary information
30. February 28, 2017	The ICPO met with the Agent, PM and CIP Auditor to determine if the request of one (1) project scope, definition and cost demonstrating \$5million of large diameter cleaning had been sent to the four (4) responsive bidders. During the meeting, the PM manager verbally communicated to the ICPO that it appears that DWM has "dumb downed" the specifications changing the material content of the SOW outlined in the initial solicitation. The PM further expressed that per the terms of the contract under the Bidder's Qualification Form section III – Rights Reserved, the County reserves the right to reject any or all Bids, to waive formalities, and to re-advertise. (page 24)
31. February 28, 2017	The ICPO stated this was a material change and not a formality that could be waived and directed the Agent to rescind the request that had been sent via email to all four (4) responsive bidders once it was discovered that the additional request for information was changing the material content of the SOW
32. February 28, 2017	At 3:56pm , the Agent sent the four (4) responsive bidders the document with the "new" requested information (material change in SOW)

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33. February 28, 2017	At 4:01pm , the PM sent an email to the Agent and stated, “We did not agree to send this change.” “Did we?”
34. March 1, 2017	The ICPO met with the PM, Agent and CIP Auditor to discuss details of this project
35. March 1, 2017	Woolpert emailed a protest letter to the Agent. The letter was given to the ICPO during the meeting. The ICPO directed the PM to prepare the response
36. March 3, 2017	ICPO met with PM, Agent and CIP Auditor to ensure that P&C was ready to move forward with a resolution and confirm that the request that changed the material content of the SOW had been rescinded from the four (4) responsive bidders
37. March 3, 2017	P&C (ICPO, PM, Agent, CIP Auditor) met with DWM Director and other DWM staff members; DWM recommended a BAFO from the one (1) remaining responsive/responsible bidder (CES) since their proposed price for this project exceeded the County’s budget

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Overall Recommendation(s)

After reviewing the solicitation and evaluation process for ITB #16-100789 – Major Gravity Sewer Line Capacity Restoration, the CIP auditor was able to determine that the CIP team did make errors throughout the evaluation process that is not aligned with established P&C processes and procedures. It is evident that there was a lack of communication and understanding amongst P&C and DWM staff. The CIP auditor recommends that the ICPO address the following items with the CIP team and provide corrective action(s) as needed:

1. DWM receiving both non-responsive and responsive bids
2. P&C not clearly communicating to DWM that the only submission to the four (4) responsive bidders should have been requested requiring additional **“clarification”**
3. Not utilizing P&C’s approved templates and creating an unauthorized document
4. Making unauthorized decision(s) outside of management(s) approval
5. Lack of effective communication from CIP team to ICPO and DWM

Although it was clearly communicated to DWM on various occasions that Woolpert would not be able to submit any additional information due to them being deemed non-responsive, DWM continued to make countless efforts to ensure that Woolpert would be included in the recommendation for award. The CIP auditor recommends that DWM ensure their specifications are clear and concise before the advertisement of a solicitation in order to prevent the elimination of qualified bidders and to alleviate future delays with the processing of a solicitation. The CIP auditor also recommends that DWM take an active interest in understanding, learning and familiarizing themselves with P&C policy and procedures.

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Summary of Management Response

The ICPO agrees with the CIP auditor's Summary of Observations and Overall Recommendation(s). In addition, the ICPO recommends that P&C along with DWM provide a response addressing the recommendations outlining what actions will be taken to implement any agreed upon recommendations or justification for not taking the recommended action(s). In addition, the ICPO would like to add that they were approving the request to gather additional information from the bidders for "clarification" purposes only. The ICPO was not aware that the requested information was changing the material nature of the solicitation. The initial verbiage in the solicitation reads, within the last ten (10) years, the Bidder shall have **successfully completed** at least **three (3)** large diameter gravity collection system cleaning projects for governmental clients in the US with a minimum cost of \$5million. The information provided to P&C was to submit **one (1)** project scope, definition and cost that demonstrate \$5million. By DWM eliminating three (3) key components of their request, (**successfully completed three (3)**) projects one can assume that DWM wanted to deviate from a transparent solicitation process and include a bidder that was clearly non-responsive.

Furthermore, the ICPO would like to add, that P&C takes pride in ensuring a transparent solicitation process and any alternations from established processes and procedures will not be tolerated and will be handled in conjunction with the HR policy.

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Recommendation(s) in response to Summary of Observation no.7 & 8:

During the evaluation process the Agent used an evaluation summary completed by DWM to help determine which bidder was responsive/responsible. According to P&C policies and procedures, the agent should have completed the following:

- Evaluated the lowest bidder for responsiveness and responsibility
- If the bidder was non-responsive/responsible send out a non-responsive/responsible letter and move to the next lowest bidder
- Completed those steps and/or process until the lowest, responsive and responsible bidder was determined by P&C

Once the PM realized that the Agent used a document created and provided by DWM they did intervene and assist the Agent in determining all responsive/responsible bidders. The PM should have known or made sure that the Agent was well prepared and understood that they needed to use an approved P&C evaluation template to determine responsive/responsible bidders. The CIP Auditor recommends that the ICPO provide the manager responsible for this oversight either a corrective action or discipline in conjunction with the HR policy. It is management's responsibility to maintain and ensure that all staff members are adhering to established policy and procedures.

Recommendation(s) in response to Summary of Observation no.10 & 11:

As stated in the Summary of Observations, per P&C policy and procedure, the Agent should have **only** forwarded the UD the bid tabulation (includes LSBE preference) and the bid packages for responsive bidders. The CIP auditor recommends that management conduct a process overview with the Agent since this was their first solicitation with DeKalb County. The process overview will help minimize future deviations from P&C policy and procedures.

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Recommendation(s) in response to Summary of Observation no.13 & 14:

During the progression of this project, the ICPO had to do an extreme amount of probing in order to receive vital updates regarding the status of this project. The CIP auditor recommends that management understands the severity of adhering and informing the ICPO of pertinent updates, in the event the ICPO notices and/or becomes aware of management not providing timely updates the manager should be disciplined in accordance to the HR policy.

Recommendation(s) in response to Summary of Observation no.15 & 16:

According to P&C ITB policy and procedure bid evaluation report, the Agent should have completed the following steps:

1. Completed an evaluation of the apparent low bid concurrent with the UD evaluation
2. If bid was determined to be non-responsive or non-responsible, the UD should be notified immediately then move to the next low bid
3. Upon receipt of the UD recommendation of award, review and resolve issues if different than your recommendation
4. If necessary, prepare and send non-letters to the bidders

Although the policy does not state when to send out the non-responsive/responsible letters, the non-responsive bidder should have received their non-responsive letter before January 17th once it was determined that Woolpert was non-responsive/responsible in December 2016. As of March 2017, P&C has revised their ITB policy and procedure to state:

1. Evaluate the lowest bidder for responsibility, if the bidder is non-responsive/responsible, prepare the non-responsive/responsible letter ***immediately***
2. The non-responsive/responsible letter requires Manager's review, approval and initials before submission to Director for signature
3. Move to the next lowest bidder and complete process until the lowest, responsive and responsible bidder is determined

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Recommendation(s) in response to Summary of Observation no.15 & 16 continued:

The CIP auditor does not have a recommendation regarding any revisions to the policy because P&C has already revised their ITB policy and procedure to state when the non-responsive/responsible letters should be sent out.

One of reasons the ICPO returned the non-responsive letter to the PM was for not utilizing the correct letterhead template. P&C has revised the letterhead template to reflect the most current DeKalb County logo, however, it was determined that Team CIP created their own template versions and was not complying with using standard templates. The CIP auditor recommends that management ensure that all Agents are compliant and utilize the correct and approved departmental templates, once management becomes aware of a deviation, the Agent should be disciplined in conjunction with the HR policy.

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Recommendation(s) in response to Summary of Observation no.20:

During the February 15th meeting, DWM requested for P&C to obtain additional information from the “**bidders**” instead of the provided “**references**” because the “**references**” were unable to provide the level of detail needed in order to determine which bidder was most responsible. DWM stated that they would forward the Agent the questions that needed “**clarification**”. According to P&C, the bidders could receive any additional requests for information to clarify responsibility. The Agent reminded DWM that the additional information would “**only**” be sent to the four (4) remaining responsive bidders. At that time, the PM nor the Agent was aware of any request that would change the material content of the SOW. However, if minutes would have been taken during the meeting as outlined in Conducting DeKalb County Business, the communication between P&C and DWM would have been clear and future project expectations would have been documented alleviating all the unnecessary back and forth between P&C and DWM.

Going forward, the CIP auditor recommends that the ICPO continue to reiterate to management the importance of adhering to existing and established P&C policies and procedures. The preventive measures that are already in place are designed to discourage these types of errors or irregularities. Management must make sure that the ICPO is kept abreast of all critical projects and/or potential issues surrounding a project in order for the ICPO to make sound, effective and reasonable decision(s) as it relates to the solicitation process.

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Recommendation(s) in response to Summary of Observation no.21:

When DWM forwarded their request to the PM manager asking if P&C would go back to the five (5) bidders and request that they submit one (1) project scope, definition and cost that demonstrated \$5million of large diameter sewer pipe cleaning the PM responded by stating, “This request should be sent to the ICPO by the Director of DWM outlining the basis of the request.” The PM also stated, “This request would be discussed with the P&C team.” The PM did provide accurate instructions to DWM which was to forward the request to the ICPO.

However, the CIP auditor can provide an opinion as to what the PM could have done as a preventive measure to stop DWM’s continued efforts to add Woolpert back into the recommended pool of bidders.

1. Advised DWM that P&C could not go back to the five (5) bidders because Woolpert had been deemed non-responsive which is a violation of P&C policy and procedures
2. Made sure that the meeting was held with P&C’s team to quickly resolve any pending issues that were present with this solicitation
3. Had a verbal conversation with the ICPO expressing their concerns with the “**new**” request from DWM

Recommendation(s) in response to Summary of Observation no.23:

After careful review of the email(s) that transpired throughout the evaluation process, the CIP auditor is unable to confirm that P&C staff recommended to DWM the request to ask all five (5) bidders to submit one (1) project scope, definition and cost demonstrating \$5million. The CIP auditor was able to confirm that P&C did notify DWM on numerous occasions that any additional information would be requested “**only**” from the four (4) remaining responsive bidders. The CIP auditor recommends that DWM provide a written response explaining “**who**” made this recommendation.

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Recommendation(s) in response to Summary of Observation no.24:

During the transmission of emails between P&C and DWM, it was unclear to the Agent, that the requested information was changing the material content of the solicitation. The Agent created a document and included the material change and forwarded to DWM to make revisions before sending the document to the four (4) responsive bidders.

Although the Agent did not forward the request to the non-responsive bidder (Woolpert) they still acted outside of P&C policy and procedures because they did not utilize an approved P&C template nor did they seek clarification and/or approval from their immediate manager or the ICPO.

The CIP auditor recommends management emphasize the importance of Agent's using the approved P&C templates. If management observes multiple instances of unauthorized documents being used and/or created without management's (**ICPO**) approval the agent(s) should be disciplined in conjunction with the HR Policy.

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Recommendation(s) in response to Summary of Observation no.27:

The conversations regarding DWM relaxing their own specifications did not surface until February 28th when the ICPO held a meeting with the PM, Agent and Auditor. It was during that meeting when the PM stated that it was apparent that DWM was trying to **“dumb down”** their specifications in order to add Woolpert back in. It was also discussed if the **“dumb down”** of the specifications could be constituted under section III – Bidders Qualification Form – Rights Reserved (page 24) which reads, The County reserves the right to reject any or all Bids, to waive formalities, and to re-advertise. The ICPO expressed that relaxing and/or changing the SOW was not a formality and we (P&C) would not explore that methodology.

After careful review, the CIP auditor was able to conclude that the PM had an idea that DWM was still trying to include Woolpert when they sent a **“new”** request reducing the project experience requirement for large diameter cleaning. The CIP auditor cannot determine if the Agent sent the **“new”** request before or after the impromptu meeting with the ICPO. Based on the email correspondence between the PM and the Agent (**see email no. 33 & 34**) once the PM realized the Agent sent the request their immediate response was, **“We did not agree to send this change.” “Did we?”** The PM response indicates the Agent sent the **“new”** request without their approval.

However, the ICPO asked the Agent during that meeting if the **“new”** request had been sent, the Agent replied, “yes”. Once the ICPO was aware that the **“new”** request had been sent to the four (4) remaining bidders the ICPO directed the Agent to recall the email if time was permitted or rescind the request immediately.

The CIP auditor was able to conclude that the PM did not notify the ICPO that the Agent acted outside of management’s approval because the PM only sent their response to the Agent (**see attachment email no. 34**). The CIP auditor was also able to conclude that the Agent was not disciplined for this serious oversight.

Going forward, the CIP auditor recommends when management is aware that an Agent has made a serious project error and/or oversight the ICPO is notified immediately in writing and disciplinary action is served within forty-eight (48) hours.

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Recommendation(s) in response to Summary of Observation no.29:

The CIP auditor cannot confirm if DWM is providing and/or sharing confidential information with potential bidders, however, the CIP auditor was able to conclude that information related to this solicitation was comprised based on the following statement included in Woolpert's protest letter

1. "Since their meeting (January 26th) it has come to our attention that DeKalb has requested additional information from other bidders."

According to the timeline of events, the "**new**" request was emailed at 3:56pm on February 28th; Woolpert emailed the Agent their protest letter on March 1st.

The PM had voiced their concerns to the ICPO that DWM may be communicating with vendors during a projects procurement process. The ICPO later shared those concerns with Executive Leadership and the Director of DWM informing them that a breach of confidentiality is a serious violation of procurement policy. The CIP auditor recommends the following:

1. Appropriate staff at DWM sign a confidentiality agreement before the start of the solicitation process
2. If determined that pertinent information has been disclosed to potential bidder(s) during any phase of the solicitation process, that bidder is deemed non-responsible and if determined that any members of DWM staff were and/or involved in assisting and/or providing procurement specifics that individual is removed from working on that project

DeKalb County P&C Department is dedicated on ensuring a transparent solicitation process. All employees (P&C & DWM) involved with the procurement process should be steadfast in making sure that this goal is met. The CIP auditor recommends that any instances reported and/or observed that is a breach of solicitation confidentiality is handled at an Executive level of Management.

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APPENDIX A - ENGAGEMENT OBJECTIVES AND SCOPE

Engagement Objectives

The objective is to review the Major Gravity Sewer Line Capacity Restoration solicitation for ITB # 16-100789. The purpose is to determine if the evaluation process has been in accordance with P&C policy and procedures. To complete the objective we will review the following:

- 1) ITB #16-100789 – Major Gravity Sewer Line Capacity Restoration

Engagement Scope & Approach

In order to meet the engagement objectives, we reviewed ITB #: 16-100789 and all other relevant ITB documents. Our scope only covers the preliminary stages of the solicitation and evaluation process for ITB #16-100789.

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APPENDIX B - DEFINITIONS AND ABBREVIATIONS

Acronyms and Abbreviation

BOC	Board of Commissioners
BAFO	Best and Final Offer
CD	Consent Decree
CDPMT	Consent Decree Program Manager
DWM	Department of Watershed Management
ITB	Invitation to Bid
ORR	Open Records Request
P&C	Purchasing and Contracting
PM	Procurement Manager
SLA	Service Level Agreement
SOW	Scope of Work
SSO	Sanitary System Overflow
TISCIT	Totally Integrated Sonar and Camera Inspection Technique
UD	User Department
USEPA	United States Environmental Protection Agency

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Key Definitions

Invitation to Bid	A formal procurement process; this method of procurement should contain clear specifications or scope of work for goods and/or services requested.
Scope of Work	The Scope of Work (SOW) is the area in an agreement where the work to be performed is described. The SOW should contain any milestones, reports, deliverables, and end products that are expected to be provided by the performing party. The SOW should also contain a timeline for all deliverables.
TISCIT	Technology utilizing sonar and CCTV technologies together to create a unique and valuable inspection

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APPENDIX C – LIST OF ATTACHMENTS

Please see attached emails submitted as additional supporting documentation. All attached emails substantiate events and/or information that occurred during the solicitation and evaluation process for ITB #16-100789 – Major Gravity Sewer Line Capacity Restoration Project that is outlined in the timeline of events.

1. Email No. 2
2. Email No. 4
3. Email No. 6
4. Email No. 7
5. Email No. 8
6. Email No. 10
7. Email No. 11
8. Email No. 12 and 13
9. Email No. 14
10. Email No. 15
11. Email No. 16
12. Email No. 18
13. Email No. 19
14. Email No. 20
15. Email No. 21
16. Email No. 22
17. Email No. 23
18. Email No. 24
19. Email No. 25
20. Email No. 26 and 27
21. Email No. 28
22. Email No. 29
23. Email No. 30
24. Email No. 33 and 34
25. Email No. 36

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APPENDIX C – DISTRIBUTION LIST

This report has been distributed to the following individuals:

Talisa Clark, Chief Procurement Officer (CPO)
Zachary Williams, Chief Operating Officer (COO)
William E. (Ted) Rhinehart, Chief Operating Officer (COO) – Infrastructure
Scott A. Towler, Principal Engineer (P.E.) – Director, Department of Watershed Management (DWM)
Margaret Tanner, P.E. – Deputy Director, DWM
Michelle Butler, Interim Procurement Manager – (CIP)

Exhibit

#11

DEKALB COUNTY

Travel Policy

All County Employees and Elected Officials



6/1/2016



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DeKalb County, Georgia

Travel & Reimbursement Policy



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Policy Statement

DeKalb County will only pay for any necessary and actual authorized travel and training expenses incurred while carrying out official duties for DeKalb County.

Purpose

To provide rules and procedures governing travel, training and expenses in DeKalb County in order to protect public funds, outline a fair system for travelers, facilitate efficient operations, provide information on spending decisions and data on travel frequency and type, promote fiscal transparency and encourage ethical behavior.

Scope

This policy applies to all DeKalb County elected officials, employees, and others who receive authorization to travel for official County business. This policy is mandatory and sets the standard for all travel expenses.

Certain grant funded projects may have additional requirements. The terms of a particular grant or contract should be referred to for specific guidance on expenditures allowed.

Authorized Expenses

This policy covers the direct costs of travel and the cost of a person's travel related needs. Travelers must conserve County funds and choose the least expensive options that accommodate the traveler and the County. Travelers should make reservations well in advance and secure any government discounts. Whenever appropriate, travelers should share the cost of travel with other colleagues (such as carpooling). The County will only pay for business expenses incurred while carrying out official County business.

Registration, Training, Tuition, Etc.

Employees and elected officials will be allowed reimbursement for registration of training fees when representing the County on PRE APPROVED professional / education.

Registration Receipts and Proof of Attendance are required for reimbursement.

Transportation

Personal Use Vehicles

Authorizing parties may approve use of a personal vehicle for business travel when it is the most economical method. They must receive approval for anticipated mileage in advance. The County will not pay for personal vehicle or trip insurance. However,

DeKalb County, Georgia

Travel & Reimbursement Policy



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it is the responsibility of the vehicle owner to carry adequate insurance to cover their protection and the protection of all passengers.

Mileage reimbursement is limited to the first 1650 miles driven per employee per month. The County will reimburse at \$0.50 per mile.

Reimbursable mileage equals the miles between origin and destination. Personal side trips are not eligible. The traveler may leave from their home or duty station. If leaving from home, claim only the trip mileage minus the normal commuting distance to work.

A statement of mileage from www.mapquest.com or an equivalent site is required as a receipt.

Airfare, Rail

The County will pay for coach or economy class air or rail tickets when necessary. Travelers should choose the least expensive option. Choosing connecting flights over nonstop is optional, but should be considered if savings are significant. The County will pay baggage fees for one personal bag and any bags for County business. All other upgrades must be justified by a documented medical issue or disability.

Travelers must finalize bookings 30 days prior to travel to guarantee payment. Frequent flyer miles shall accrue to the traveler. If involuntarily bumped from a flight, travelers may keep any compensation. A traveler may volunteer to be bumped, if County business isn't affected, but only those involuntarily bumped will be reimbursed for resulting expenses.

Business Class and first Class domestic travel will not be reimbursed unless an approved letter from the Executive Assistant / COO explains the medical reasons or extenuating circumstances of the needed upgrade.

Actual receipts and boarding pass are required for reimbursement.

Intermediate Transportation

The County will cover reasonable intermediate transportation between sites. The least expensive reasonable option (shuttles, taxis and public transportation, etc.) should be chosen. Travelers should not use a rental car unless it is more economical. Include a justification in iExpense if a rental car is used. Share transportation whenever possible.

Actual receipts are required for reimbursement.

County Vehicles

Travelers may use County vehicles for trips in Georgia when approved by an authorizing party. County vehicle used outside of Georgia requires preapproval by the County



Executive Assistant / COO. Employees and officials must have a valid driver's license to drive a County vehicle.

Lodging / Accommodation

The County will pay for reasonably priced lodging for overnight trips outside of Metro Atlanta at the single occupancy rate. The traveler should present the *Hotel/Motel Excise Tax Exemption* (<http://indekalb/forms.htm>) form at check-in. If they refuse to waive the tax, the County will reimburse the traveler for the tax.

Extra lodging nights may be authorized if the airfare savings of traveling on an off day is greater than the added lodging and per diem costs of an extended stay. Non-employees may stay with the traveler but all added costs must be borne by the traveler.

It is the traveler's responsibility to notify the hotel with whom the reservation is made to cancel a room reservation and receive a cancellation number or receipt. "No Show" charges are not reimbursable unless there are mitigating circumstances beyond the traveler's control.

Original receipts are required for all lodging expenses.

Per Diem vs Meals

Travelers on trips outside of Metro Atlanta are eligible for \$36.00 per day per diem. The County reimburses at the full rate only for full day, out of town, overnight trips.

Breakfast \$ 6.00 including tax and gratuity (only if departure is prior to 6:30am)

Lunch \$10.00 including tax and gratuity

Dinner \$20.00 including tax and gratuity (only if return is later than 7:30pm)

Occasionally, due to the location of the travel, the \$36 per diem may be insufficient. Reimbursement in excess of \$36 per day will be considered only when supported by receipts clearly indicating additional and reasonable cost was incurred. The amount covered will be determined at the current rate set by the U.S.

GSA <http://www.gsa.gov/portal/category/104711>.

As a general rule gratuity should not exceed 20%.

A traveler will receive Per Diem or Actual Meals for each trip not both.



Unauthorized Expenses

Miscellaneous

Alcoholic beverages, personal items, entertainment, lost property, insurance, and personal vehicle repairs and maintenance are not authorized expenses. County funds may not be spent for any personal purposes or expenses, only on official business.

Guests and Companions

Guests and Companions may accompany a traveler at their own expense. The County will not reimburse any costs related to guest or companion travel.

Cancellations and Late Fees

The traveler must notify the hotel, airline, etc. of a cancellation and obtain all possible refunds. Fees caused by factors beyond the traveler's control will be reimbursed. Traveler must provide a detailed explanation of all cancellation fees.

Exceptions for Medical, Disability & Health Issues

When approved in advance by the Executive Assistant / COO, the County will pay for the accommodation of disabilities, the travel expenses of a companion accompanying the traveler to provide care for a proven medical issue, and the travel of small children who must accompany their parent.

Travel Pre-Authorization Procedure

Appropriation

Money for travel and training must be appropriated through the budget process and available for use before expenses or obligations can be authorized.

Authorization

The authorizing party is a traveler's department director or the director's designee. The County COO approves travel for directors. The Executive Assistant and elected officials approve their own travel expenses but must still submit all required forms to Accounts Payable. Authorizing parties should review proposed expenses to determine that they are in the best interest of the County and comply with this policy.

Pre -Trip Documentation

The traveler should submit an *Travel Authorization 2016* form documenting the approved expenses to the Travel Administrator, who will check that funds are available and that expenses are in compliance. The traveler and authorizing party should both sign the *Travel Authorization 2016* form to indicate approval of expenses and intent to comply with this policy.



Information about Travel Advances and 3rd Party Prepayments are explained below.

The *Travel Authorization 2016* form is located (<http://indekalb/forms.htm>),

Payment and Reimbursement Procedure

The County will only pay for expenses allowed by this policy, within the rates defined here, and properly authorized. Only the actual cost of a traveler's expenses, incurred for County business, will be reimbursed. Each expense should be claimed only once, by one person.

Accounts Payable will issue advance payments to vendors and employees. Travelers must submit the *Travel Authorization 2016* form (<http://indekalb/forms.htm>), signed by their authorizer, to the Travel Administrator 30 days before travel for prepayments and advances. The form should specify the items an advance is being requested.

PrePayments

The County will prepay expenses for Registration, Accommodations, and Air or Rail Fares. The *Travel Authorization 2016* serves both as an authorization and a request for PrePayment. Include the Supplier Name and Number as well as any confirmation numbers needed for Accounts Payable to process a payment to the Supplier. PrePayments require thirty (30) days to process.

Advances

The County recognizes travel can be a burden to the traveler's budget. Therefore, an advance is available to request. The *Travel Authorization 2016* serves both as an authorization and an advance request. \$100.00 is the minimum amount to request for a Travel Advance.

Any portion of an advance not spent on approved, actual, necessary travel expenses must be returned. A check or money order in the amount of the unused or unjustified amount must be sent with the iExpense report to Accounts Payable. Travelers must return outstanding advances within seven (7) days of the completion or cancellation of the travel.

Proof

Travelers must provide original, itemized receipts for all expenses, whether pre-paid, advanced or claimed for reimbursement, except for per diem expenses. Supporting documents that verify travel should also be included when relevant. Receipts and other documents should be attached to the iExpense report. Support claims for vehicle mileage with documentation of the trip, including a map of the route that shows the total miles driven. Unjustified or unproven expenses will not be accepted or reimbursed.

Employees are required to maintain copies of all travel expenses for a period of five (5) years.



Expense Reports

Within seven (7) days of completed travel, the traveler must complete the iExpense report at http://itfmisap.co.dekalb.ga.us:8002/OA_HTML/AppsLocalLogin.jsp. Log into Oracle and choose the responsibility *DeKalb IEX Reporter* create and submit an expense report to their authorizing party. All expenses need to be itemized. Any unapproved expenses must be justified on the report. The authorizing party approves the report and sends it to Accounts Payable within seven (7) days of the end of travel, first checking that expenditures are charged to the right cost center, that expenses were for County business and that claims are accurate.

For personal vehicle mileage reimbursement, submit both an iExpense report and a *County Mileage Form* to Accounts Payable. Submit only one mileage report per month, covering any miles driven from the first working day to the last working day of each month. The County will not reimburse mileage expenses older than three months.

If a travel advance was received, the iExpense will ask the user to match the Advance with the Expense Report.

Payments

All payments to employees and elected officials will be made via ACH, electronic funds directly to the traveler's bank account. Physical checks will no longer be printed.

An Authorization Agreement for Employee Expense ACH is available on the Forms section of the County Intranet.

Settlement of Travel Advance

Every travel advance must be matched to an Expense Report. If the travel advance was greater than the actual expenses incurred, a check, money order, or certified check in the amount of the unused portion of the advance must accompany a copy of the Expense Report sent to Accounts Payable within seven (7) days following the completion of the approved travel.

Accountability and Control

Approval

An authorizing party must approve travel plans and advances 30 days ahead of travel. Authorizers must also approve post trip expense reports. The Travel Administrator checks reports for proper documentation, matches receipts to expenses, and reviews expenses for compliance with this policy. If expenses are in compliance, the Travel Administrator will log those expenses into Oracle. Accounts Payable will then issue a check to the traveler for reimbursement. Incorrect reports will be returned for revision before reimbursement is made.



Audit

DeKalb County will audit receipts and expense forms for compliance with County Policies. Travel expenses will be included in the testing performed by the County's independent auditors as part of the annual audit required by IOMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations. The Internal Audit Division of the Department of Finance may also review travel expenses as part of their departmental oversight function.

Compliance and Penalties

Failure to comply with this policy may result in the suspension of a department's travel budget. Any employee or elected official who knowingly submits a false claim for reimbursement or payment will be responsible for restitution of funds fraudulently received, and will be subject to disciplinary action up to and including dismissal and prosecution.

Ethics and Transparency

All parties subject to this policy agree to act at all times in a manner which will uphold the public trust, utilize public funds wisely, safeguard County resources and advance the best interest of the County. All persons will strive to avoid conflicts of interest, act impartially, promote fairness and equity amongst employees, and conform to the standards of law through conscientious decision-making and scrupulous honesty.

Requests for information on expense spending and reimbursement will be fully accommodated in accordance with the GA Open records act, O.C.G.A. 50 18 70 et seq.

Exceptions for Emergencies and Disasters

The County will reimburse additional expenses resulting from emergency/disaster situations. Reasonable expenses incurred to provide for the wellbeing of a traveler in an emergency are allowed. Document and justify such expenses on the expense report. Prior approval of emergency expenses is preferred but not required if circumstances prohibit obtaining it.

Failure to Comply

Failure to comply with the DeKalb County Travel Policy and Procedures may result in the Employee, Elected Official, or Department travel budget being suspended.

Any employee or Elected Official who knowingly submits false claim for reimbursement will be responsible for restitution of any funds fraudulently received, and will be subject to disciplinary action up to and including criminal prosecution.

Exhibit #12

Executive Order 09-03
DeKalb County, Georgia's Policy
For County Take-Home Vehicles

WHEREAS, DeKalb County desires to become more fiscally and environmentally responsible with regard to use of county property; and

WHEREAS, the use of county vehicles should be tied to a legitimate purpose.

NOW, THEREFORE, the Chief Executive Officer hereby establishes procedures that will govern DeKalb County employees' use of county take-home vehicles, or compensation in lieu of same, as follows:


1. The Chief Executive Officer, or his designee, shall determine which employees may use county take-home vehicles or receive compensation in lieu of same.
2. Within 30 days of this order, the Fleet Management Division of the Public Works Department shall submit a report to the Chief Executive Officer detailing the legitimate business purpose of every county take-home vehicle. This report will also outline the Fleet Management Division's recommendation of which county take-home vehicles should be removed from the County's fleet based on legitimate business purposes.
3. Within 30 days of this order, every employee who currently uses a county take-home vehicle, or who receives compensation in lieu of same, must complete and submit to the Chief Executive Officer a Request for County Take-Home Vehicle form, which is attached hereto so the Chief Executive Officer, or his designee, can determine an employee's eligibility to use a county take-home vehicle or receive compensation in lieu of same.
4. For those employees who currently drive county take-home vehicles and are subsequently found to be ineligible for a county take-home vehicle, they must immediately surrender possession of the vehicle to the Fleet Management Division of the Public Works Department.
5. All future requests for county take-home vehicles must be submitted to the Chief Executive Officer on the Request for County Take-Home Vehicle form.
6. Each employee who has been issued a county take-home vehicle shall submit to the Chief Executive Officer a Request for County Take-Home Vehicle form on an annual basis.
7. If an employee is eligible for a county take-home vehicle, the employee must sign an acknowledgement that they have read and reviewed the county vehicle rules promulgated by the Fleet Management Division of the Public Works Department.
8. Smoking is prohibited in county vehicles.

9. No employee residing more than thirty-five (35) miles outside the county line shall be eligible to use a county take-home vehicle.
10. No employee who is not required to work outside of normal business hours, as determined in the sole discretion of the Chief Executive Officer, shall be eligible to use a county take-home vehicle.
11. Any exceptions to this order must be submitted to and approved in writing by the Chief Executive Officer, or his designee.

NOW, THEREFORE, BE IT RESOLVED by the Chief Executive Officer that all DeKalb County Departments adhere to the aforementioned policy as it relates to county take-home vehicles.

This order is effective immediately.

So issued this 1 day of May, 2009.



W. BURRELL ELLIS, JR.
Chief Executive Officer
DeKalb County, Georgia

Exhibit #13

DeKalb County Policy/Procedure**Take-Home Vehicle****Purpose:**

The purpose of this policy is to govern and establish standards for use of Take Home Vehicles assigned to DeKalb County Employees.

Scope:

This policy applies to all individuals under the Administration of the Chief Executive Officer.

Requirements:

- County Vehicles used as Take Home Vehicles must be based on a legitimate County purpose and justification must be submitted in writing detailing the legitimate business purpose for the County Take-Home Vehicle.
- The Chief Executive Officer, or his designee, shall determine which employee (s) may use a County Take-Home Vehicle.
- Every employee who currently uses a County Take-Home Vehicle, or who receives compensation in lieu of same, must complete and submit to the Chief Executive Officer a Request for County Take-Home Vehicle Form. The Chief Executive Officer, or his designee, will determine an employee's eligibility to use a County Take-Home Vehicle or receive compensation in lieu of same.
- Employees who currently drive a County Take-Home Vehicle and are subsequently found ineligible for a County Take-Home Vehicle must immediately cease from taking the vehicle home and surrender possession of the vehicle to the Fleet Management Division, if applicable.
- The County Take-Home Vehicle Request Form must be submitted to the Chief Executive Officer on an annual basis for employees currently assigned Take Home Vehicles and immediately for new assignments.
- The Assigned Driver is responsible for adhering to the maintenance and repair schedules outlined by Fleet Management.
- No employee residing more than thirty-five (35) miles outside of the County line shall be eligible for a County Take-Home Vehicle.
- No employee who is not required to work outside of normal business hours, as determined in the sole discretion of the Chief Executive Officer, shall be eligible to use a County Take-Home Vehicle.
- Smoking is prohibited in County Vehicles.

- Employees are responsible for abiding by Federal, State, County and City regulations, policies and procedures. Traffic violations/ citations and cost incurred from traffic violations, including parking violations, are the responsibility of the employee.

Note: Any exceptions must be submitted and approved in writing by the Chief Executive Officer, or his designee.

Acknowledgement of Receipt of Policy and Procedures

DeKalb County provides Take-Home Vehicles for business purposes and personal use is explicitly prohibited except in cases of emergencies. The Department requesting the use of a Take-Home vehicle for employee is responsible for monitoring and governing that the Take-Home Vehicle County Policy and Procedures are followed in the proper use of the vehicle or other actions as deemed necessary by the department.

By signing this receipt, the user acknowledges the following:

- I have read and been provided with a copy of the DeKalb County Take-Home Vehicle Policy.
- I understand that the County Take-Home Vehicle is only authorized for official DeKalb County business use.
- I understand and agree to comply with the DeKalb County Take-Home Policy and Procedures.

Print User Name

User Signature

Date

Department Head/Designee Signature

Date

Exhibit

#14



“DeKalb First” LSBE Semi Annual Report 2017 (Jan- June)

Talisa R Clark, MBA, CPPO | Director/Chief Procurement Officer
Felton B. Williams, Procurement Projects Manager – DeKalb First LSBE Program

Summary of Events held by the DeKalb First LSBE Program

The “DeKalb First” LSBE Ordinance (Local Small Business Enterprise) was enacted on September 27, 2016 by the DeKalb County Board of Commissioners with the intention of providing earned revenue to local certified businesses through our competitive bid process. The success of local small businesses remains a permanent goal of the County; therefore some major changes were made to the Ordinance.

During the first six (6) months , the Department of Purchasing and Contracting DeKalb First LSBE Program has hosted networking events as well as participated in metropolitan areas outreach events, networking and marketing opportunities to encourage potential vendors to do business with DeKalb County.

The below grid represents the number of participants who have attended “How to do Business with DeKalb County Clinics” within the last six months. The clinics purpose is to educate current and future vendors on the “DeKalb First LSBE Ordinance; Navigate iSupplier and the on-line Certification/Compliance Module

Date	Number of Attendees
February 10, 2017	102
March 10, 2017	72
April 14, 2017	23
May 12, 2017	64
June 9, 2017	18

In recognition of Purchasing Month we implemented the “1st Annual Reverse Trade Show. Our internal User Departments setup a table with representatives to engage with LSBE and discuss current and future projects; thus allowing them to market their services.

Date	Number of Attendees
March 30, 2017	64

Mandatory Prime(s)/LSBE(s) Meetings occurs each Wednesday at the Department of Watershed Management; 4572 Memorial Drive, Decatur, GA. Primes/LSBE have an opportunity to attend in person or via video conference at 10:00 a.m. to 11:00 a.m. or 2:00 p.m. to 3:00 p.m. within two (2) weeks of issuance of a qualified sealed solicitation; The below grid represents the number of attendees within the past six (6) months.

Date	Number of Attendees	Number of LSBE Attendees
January	11	6
February	41	7
March	130	26
April	88	29
May	97	23
June	54	13

Outreach Events within the MSA (Metropolitan Statistical Areas):

Date	Number of Attendees to stop by DeKalb County Table
2017 American Express OPEN for Government Contracting: Success Series Atlanta, GA January 31, 2017	50
2017 Clayton County Central Services Matchmaking Event Clayton County, GA March 16, 2017	25
GMSDC - Business Opportunity Exchange 2017 Event Atlanta, GA April 26, 2017	42

DeKalb First Mentor Protégé Participants:

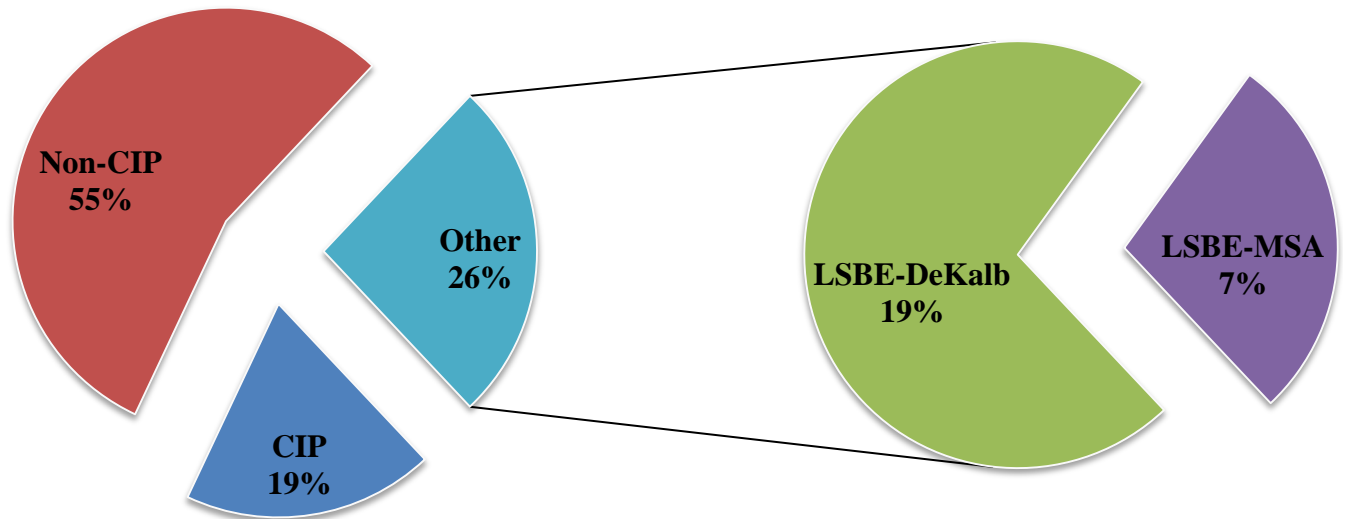
- Number of participants – 2

CPA #	Project Description	Prime Vendor	LSBE Sub-Contractor	Contract Amount
1057016	ITB 16-100789 Major Gravity Sewer Line Capacity Restoration	Compliance EnviroSystems, LLC	Integrated Construction Management, Inc.	\$7,170,300.00
1063844	ITB 17-100810 Annual Water & Sewer Construction	GS Construction	KC Trucking	\$9,000,000.00

DeKalb First Mediation Meetings (Purpose: To address issues and concerns between the Prime and LSBE, i.e., payment and performance issues as well as conflict resolution.)

- Number of meetings – 4
 - February 13, 2017 between The Corbett Group and D&L Contractors
 - February 14, 2017 between Cole Technology and McCall Enterprise
 - February 28, 2017 between All-Star Fire, LLC and Hayes Security Services.
 - March 2, 2017 between Exercise At Any Age, LLC and Professional Office Solutions, LLC

Active Contracts



Note: 69% of the vendors are on track for meeting their 20% benchmark; 31% are meeting their benchmark goals based upon their monthly utilization reporting. (Primes **not** meeting their goals through monthly utilization reporting are notified via email and follow-up telephone calls. Issues and concerns are addressed via teleconference and face-to-face mediation as needed for effective resolutions)

Listed below are the certified LSBE's that are contracted as a Prime vendor.

Company Name	Certification Type
F.M. Shelton, Inc.	LSBE-MSA
Sol Construction	LSBE-DEKALB
Corporate Environmental Risk Management	LSBE-DEKALB
Materials Managers and Engineers	LSBE-DEKALB
SD & C, Inc.	LSBE-DEKALB
The Renee Group, Inc.	LSBE-MSA
Site Engineering, Inc.	LSBE-DEKALB
Accura Engineering and Consulting Services, Inc.	LSBE-DEKALB
River To Tap, Inc.	LSBE-DEKALB
MatterMax, LLC	LSBE-DEKALB
Smart Talk Seminars and Events	LSBE-DEKALB
Neil Engineering, Inc.	LSBE-DEKALB
HEH Paving, Inc.	LSBE-DEKALB
Hawk Construction Company	LSBE-MSA
Crawford Enterprises, Inc.	LSBE-DEKALB
South DeKalb Towing & Transport, Inc.	LSBE-DEKALB
Diversified Technologies, LLC	LSBE-MSA

Currently we have 272 small businesses certified under the DeKalb First LSBE Program. The vendors

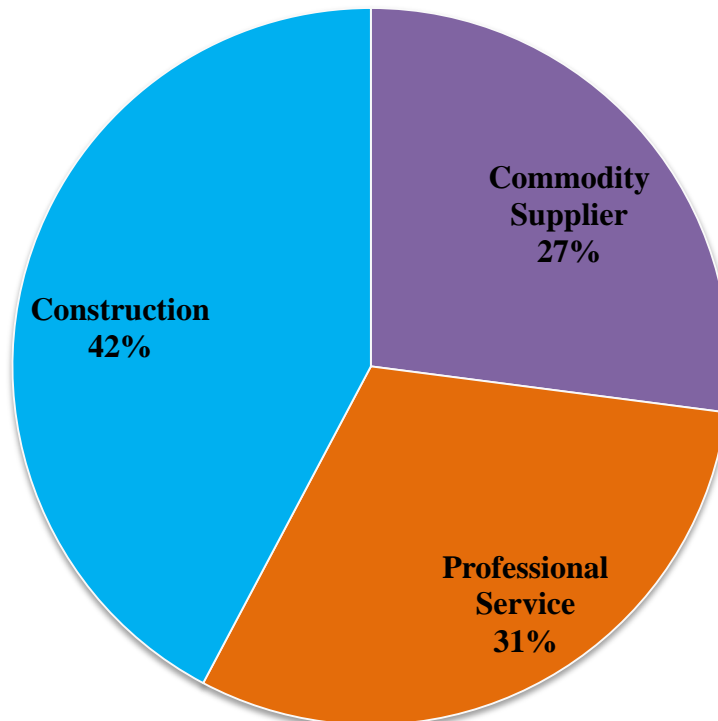
are broken up into LSBE-DeKalb or LSBE-MSA and they are filed under three (3) Business Categories; Construction, Professional Service, and Commodity Supplier.

- DeKalb LSBE - 155
- MSA LSBE – 119
 - Construction Firm - 83
 - Professional Service Firm - 178
 - Commodity Supplier - 11

Since January 2017 to June 2017, we have not decertified any LSBE.

The chart below represents the number of LSBEs on active contracts that are in the categories of Commodity Supplier, Professional Service, and Construction.

Catorgies of Active Projects



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The CEO acknowledges the contributions of the Board of Commissioners and all County staff in the continuing effort to restore trust in County government.

Scope & Methodology

The Purchasing Assessment includes recommendations based on incorrect facts and statements that are uncorroborated allegations from unnamed or former employees.² Without proper verification to confirm the truth of the allegations, it is premature and ill-advised to change policy, procedure or practice. Worse yet, where the allegations are simply false, there is no reason to take any action or make any changes. For example, recommendation #9 provides that a written policy prohibiting the acceptance of gifts needs to be adopted, but it is inaccurate. In fact, DeKalb has both law and an ordinance that prohibit employees from accepting gifts from vendors or vendors seeking to do business with the County that might influence their behavior. It is further memorialized in the Purchasing Department's Employee Handbook.³

Another example of a clear factual error is the assertion that CEO Thurmond failed to address a 2014 Executive Order, when the Order was pre-empted by the 2015 amendment to the Ethics Code enacted by the General Assembly and approved by DeKalb County voters, as explained in more detail in response to the Ethics recommendations.

Risk Mitigation

Since January 2017, the Administration has focused on restoring trust and accountability in County government. To achieve this mission, risk mitigation has been included in each priority and action completed by the Thurmond Administration.

The Purchasing Assessment fails to document and consider risk mitigation initiatives, policies and personnel changes that have been instituted since January 2017. Instead, the Purchasing Assessment calculates risk based almost exclusively on occurrences and allegations from 2014 through 2016.

Ironically, the risk mitigation assessment fails to acknowledge that in 2015 the General Assembly created the DeKalb Office of the Independent Internal Auditor. Since that time, the Internal Auditor has audited the Purchasing Department on five different occasions. It is all but

² The Purchasing Assessment does not identify by name any current or former employees that raise allegations to form the basis of recommendations. Furthermore, the Assessment includes allegations made in pending lawsuits which have not been adjudicated.

³ Relevant excerpts of the Ethics Code enacted and amended by the General Assembly in 2015, the Conflict of Interest provisions in DeKalb County Code, § 20-20, and the Purchasing Department's Employee Handbook are attached in the specific response to Recommendation #9.

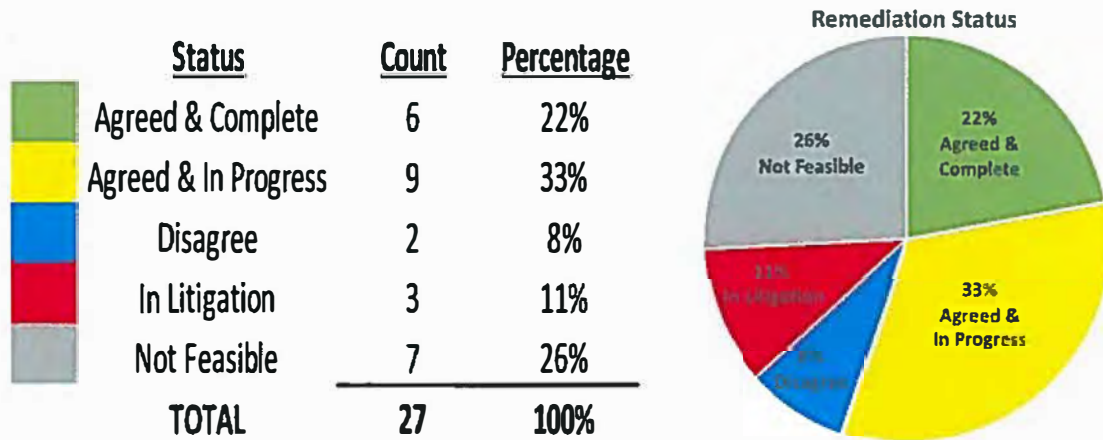
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inconceivable that the risk of fraud, waste and abuse has increased under the watchful eye of the Independent Internal Auditor.

Management Responses

The Purchasing Assessment provided twenty-seven (27) specific recommendations. The response to each specific recommendation is summarized below. Each response includes one of the labels listed as follows:

- **Agreed and Complete** – Recommendation completed.
- **Agreed and In Progress** – Recommendation in progress.
- **Disagree** – Management disagrees with the recommendation.
- **In Litigation** – Recommendation matter currently in litigation.
- **Not Feasible** – Recommendation considered by Management and determined not feasible.



Purchasing Ordinance & Purchase and Procedures Manual

1. In the drafting of a DeKalb County Purchasing Ordinance, we recommend that all County stakeholders have a voice in the process, including Purchasing, Internal Audit, and County user departments.

RESPONSE: **Agreed and Complete** The law requires the Chief Executive Officer to establish rules to regulate Purchasing, subject to the approval of the Board of

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Commissioners.⁴ The current process involves all relevant parties and the administration agrees that all County stakeholders should be involved in the process.

2. We recommend that the enactment of a Purchasing Ordinance be made a priority for DeKalb County.

RESPONSE: **Agreed and Complete.** It is a high priority of the Thurmond Administration.

3. After the enactment of a Purchasing Ordinance, we recommend that the Purchasing & Procedures Manual be updated and approved by the CEO.

RESPONSE: **Agreed and In Progress.** In 2018, Purchasing retained an independent consultant to draft an updated/new version of the Policy and Procedures Manual and the consultant is in the process of completing their recommended manual. Once submitted, Purchasing can review it, revise (if necessary), and make a recommendation to the CEO.

Hard Controls

4. We recommend the following provision be added to DeKalb County's Purchasing Policy: The BOC will not approve any contract in an amount of \$1 million or greater until the Internal Auditor has been given the opportunity to issue a report. The Internal Auditor may issue a written report to the BOC advising if the contract file is consistent with DeKalb County's Policy and Procurement Procedures and/or note areas of deficiencies. Upon request by the CEO, BOC, or on its own initiative, the Internal Auditor may also review any solicitation of any dollar amount.

RESPONSE: **Not Feasible.** This request, as written, changes the powers and duties of the CEO and the Board of Commissioners; thus it would require an amendment by the General Assembly to the Organizational Act and approval by the voters.⁵ In the absence of legislative action, the CEO remains committed to an appropriate system of checks and balances. The CEO will continue to manage and ensure that the County's day to day operations are conducted in an effective and efficient manner.⁶

⁴ The law provides that the Chief Executive Officer, subject to the approval of the Board of Commissioners, shall establish rules to regulate Purchasing. (See Attachment 1. 1981 Ga. Laws p. 4304 as amended and codified in the DeKalb County Organizational Act as section §18(a).) However, the law was passed by the Georgia General Assembly without the affirmative vote of the voters of DeKalb County.

⁵ See Attachment 2. 1981 Ga. Laws p. 4304 as amended and codified in the DeKalb County Organizational Act as section § 23.

⁶ This recommendation as written would require a legislative change however the compliance monitoring of procurements will continue to be executed by the Administration via the purchasing staff. CEO Thurmond acknowledges the need for strict compliance with each competitive procurement process. He is committed to assigning

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5. In order to implement the safeguard recommended in #4, above, we recommend Internal Audit be funded to increase its staffing level by two auditors. This staffing enhancement is in addition to recommendation #21, below, regarding the reassignment of auditor positions.

RESPONSE: **Not Feasible.** The reassignment of the positions is contingent upon the legislative change as stated in the County's response to Recommendation #4. As this answer is contingent upon #4, which is not feasible, this recommendation is also not feasible. The Office of Independent Internal Audit controls its own budget and staffing requests. The County encourages the Independent Internal Auditor to submit any and all budget requests through the proper channels and procedures. The Administration is open to any budget requests or suggestions that follow the normal process.

Related to the reassignment request made in Recommendation #21, the two (2) CIP/Consent Decree Auditors serve a vital role in providing the Purchasing Department's internal controls in the procurement process. Management is responsible for providing internal controls which include effective monitoring, review, and approval of transactions, and proper segregation of duties. The use of both management review, along with internal and external auditors, collectively form an effective comprehensive control framework. The County believes removing the Purchasing auditors focused on contract compliance and related matters would severely weaken the existing internal controls that are effectively operating within the County. Therefore, Purchasing will continue to utilize the two (2) CIP/Consent Decree auditors to complete procurement and related compliance matters.

6. We recommend that Purchasing management reevaluate the use of procurement agents as voting members on the Requests for Proposal selection committees.

RESPONSE: **Agreed and In Progress.** The County agrees that procurements agents should not be voting members on Request for Proposal evaluation committees. The CEO will direct Purchasing staff to make the appropriate changes to their participation and any affected procedures to effect this change.

Data Analysis

7. We recommend that Oracle Advanced Procurement Suite be programed to track emergency and sole source purchases and be equipped to assist with split-purchase analysis.

staff as compliance monitors, including Auditors within the Purchasing Department, to observe requests for proposals and bid openings to ensure that the process is conducted in accordance with the law and applicable rules. These staff members will report any deviation from the proper process and procedure directly to the CEO's office. As always, he remains open to any suggestions and supportive of the use of the normal process to ensure fiscal stability, transparency and integrity.

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RESPONSE: **Agreed and In Progress.** The Oracle software is currently programmed to follow a process and procedure to avoid split-purchases. Specifically, once a vendor has received purchase orders in excess of \$25,000, the system automatically requires a manual intervention by Purchasing staff for additional orders that may constitute split-purchases. The Purchasing staff is required to contact user departments to investigate and when appropriate, initiate a competitive procurement to avoid such split-purchases. Another point to consider is that changes to major software systems are guided by the Information Systems Department, so the Purchasing Assessment is misguided in directing this recommendation to the Purchasing team. The Oracle software that is used already has the functionality to track procurement types, including emergency and sole source. Additionally, Management remains on track with their three (3) phase implementation of Oracle Advance Procurement Suites (APS) system which included completion of Phase 1 in February 2017 for online supplier registration under the current DeKalb Executive Leadership team.

8. We recommend that Internal Auditor conduct split-purchase analysis on a periodic basis.

RESPONSE: **Agreed and Complete.** The County welcomes periodic audits by the Internal Auditor regarding split purchases and any other procurement.

Ethics

As a preliminary matter, this section includes a fundamental error that warrants correction. The Purchasing Assessment alleges Purchasing Employees may receive gifts and meals from vendors and this constitutes a "gateway drug" to corruption. However, the "gateway" to corruption has been closed.

Recommendations 9, 10 and 11 in the Purchasing Assessment are based on an alleged "unwritten" purchasing policy governing Purchasing Department employees and suggests revisions to a 2014 Executive Order issued by former Interim CEO, Lee May. These conclusions in the Purchasing Assessment are factually incorrect and ignore the two primary provisions of law governing ethics in DeKalb County as follows:

- The state local law, referred to as the "2015 Ethics Code", was first enacted by the Georgia General Assembly and approved by the voters in 1990 and amended in 1992 and 2015. (See Attachment 3 a copy of the 2015 Ga. Laws p. 3811 codified as Section 22A of the Organizational Act of DeKalb County.
- The conflict of interest ordinance is located in Section 20-20 of the personnel chapter of the Code of DeKalb County, as Revised in 1988, which in most instances, addresses conduct by merit protected employees. (See Attachment 4, a copy of Section 20-20).

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- The Purchasing Department's written handbook recites Section 20-20 of the Code so there is in fact a written law and a written policy governing the acceptance of gifts by purchasing department employees. (See Attachment 5 Purchasing Handbook, pages 9-12).
- During each holiday season, this prohibition is reiterated to vendors. (See Attachment 6, a copy of the holiday letter).

Specifically, most employees in the Purchasing Department are merit protected and must comply with the 2015 Ethics Code and Section 20-20. Section 20-20 of the Code already prohibits all merit protected employees, including purchasing department employees, from taking any pecuniary gift or meal from a "prohibited source" which includes all vendors **regardless** of the dollar amount.

The Ethics Code further prohibits all employees with certain exceptions from "...[d]irectly or indirectly request[ing], exact[ing], receiv[ing], or agree[ing] to receive a gift, loan, favor, promise, or thing of value for himself or herself or another person if: (i) It tends to influence him or her in the discharge of his or her official duties; or (ii) He or she recently has been, or is now, or in the near future may be, involved in any official act or action directly affecting the donor or lender" **regardless** of the dollar amount.

Instead, the Purchasing Assessment focuses on dollar limits and the 2014 Executive Order. The Purchasing Assessment fails to recognize that the provisions of the 2015 Ethics Code preempts the 2014 Executive Order. Changes to the 2015 Ethics Code require action by the General Assembly and may require approval by the DeKalb voters.

9. We recommend that Purchasing adopt a written policy that departmental employees cannot receive gifts from those doing business with the County.

RESPONSE: **Agreed and Complete.** Again, as reflected in Attachments 3 and 4, Purchasing has a written law that employees cannot receive gifts from those doing business with the County and the auditors were simply mistaken about the facts reported in their Assessment.

10. We recommend that Executive Order No. 2014-4 be modified to prohibit merit-exempt employees from receiving gifts from "interested sources."

RESPONSE: **Not Feasible.** See response to Ethics recommendations.

11. We recommend that Executive Order 2014-4 be modified so that it is not in conflict with the Ethics Code §22A(c)(2)(A)(ii), (B)(i).

RESPONSE: **Not Feasible.** See response to Ethics recommendations.

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12. We recommend that the University of North Georgia, BB&T Center for Ethical Leadership's survey results from the Ethical Culture Indicator (ECI) be used as a baseline, and that the ECI be administered in future years to track progress.

RESPONSE: **In Litigation.** While the County values the idea of a survey, given current litigation, where the authority of the Ethics Board to act is at issue, there is an inherent question of whether the appointment of the Ethics Officer, by that Board, was legally authorized.⁷ Furthermore, the issues in litigation call into question any previous action taken by the Ethics Officer or Ethics Board, and the Court will rule on the legitimacy of the past actions of the Ethics Officer and Ethics Board. The Court may deem any and all actions void. Given the DeKalb County Ethics Board's concession that it cannot act until a legislative remedy is provided, the Thurmond Administration will assess whether this survey should be administered and who should administer the appropriate plan as a baseline. In light of the legal cloud around the issue, the County believes a competitive procurement process should be used to select an appropriate vendor to carry out the spirit of this recommendation.

13. When it is administered, we recommend that the ECI be mandatory for all employees.

RESPONSE: **In Litigation.** Again, given the DeKalb County Ethics Board's concession that it cannot act until a legislative remedy is provided, the County must remain open to changes generated by any legislative remedy. The CEO and his executive management team will strongly encourage every employee to participate by contributing their voice to constructive feedback for improvement throughout the County. It is believed that this type of messaging will provide the strongest results.

14. We recommend that the ECI results be broken down by each individual DeKalb County Department, so that the results can be more useful.

RESPONSE: **In Litigation.** While the current DeKalb County Ethics Board cannot act until a legislative remedy is provided, DeKalb Executive Leadership remains open to changes generated by any legislative remedy. Analysis of this survey and appropriate next steps are appropriate measures for Executive Leadership. However, the use of additional surveys, vendors, and the establishment of a baseline will not be limited to this survey or the recommendation. While considered, the need for an unlimited view of the

⁷ In Sutton v. Stacey Kalberman, et al. (Civil Action File No. 17-CV-3557-2), the Court has been asked to dissolve the Ethics Board entirely, restrain the Ethics Board and Ethics Officer from conducting any official business, and vacate all past acts of the Ethics Board, which would include the appointment of the Ethics Officer. The Court has issued a "Consent Order as to Declaration of Vacancy" providing that the DeKalb Board of Ethics shall conduct no official business and take no official action of any kind pending a legislative cure or pending further order of the Court.

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next steps is the best approach for continued improvement and restoration of trust in County government, with a willingness to adjust to any legislative remedies.

Workload

15. We recommend that management consider flex-time and staggered work schedules for the purpose of retaining and attracting employees.

RESPONSE: [REDACTED] A comprehensive assessment of recruiting and retaining employees was conducted, including consideration of flex-time and staggered schedules. CEO Thurmond proposed and the Board of Commissioners approved a three percent (3%) raise in 2018 to assist in the recruiting and retention of employees, so he respectfully disagrees with this recommendation for Purchasing at this time. As a servicing department, Purchasing must be accessible to customers during the established County operating/working hours, Monday through Friday.

Training

16. We recommend that the Purchasing University PowerPoint training presentation be updated. We also recommend the implementation of a structured training program for new employees, including a procedure for management to track progress.

RESPONSE: Agreed and In Progress. The County agrees that consistent updated training should be provided to all employees, including those in Purchasing.

17. We recommend the use of a dedicated trainer to train Purchasing employees and the constituents in the many user departments, at least on a temporary basis.

RESPONSE: Agreed and Complete. Purchasing has a dedicated training schedule that provides the following training sessions:

- a.** Monthly Oracle iProcurement for all county employees – SPT Staff
 - b.** VIP Workshops for user departments – CPO and/or Team Procurement Managers.
 - c.** Coordinate with HR, Innovation & Technology and outside procurement agencies for various training courses for staff.
 - d.** How to do Business with the County and LSBE program for vendor community.
18. We also recommend that the Department be provided with an adequate training budget to bring in professional trainers, incentivize employees to obtain relevant credentials, and send employees to outside training where they can bring best practices back to the Department.

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RESPONSE: **Agreed and In Progress.** – The County has already increased the Purchasing budget substantially, with close to double the amount allocated to training. Specifically, Purchasing's total budget increased from \$3,088,577 in 2017 to \$3,389,834 in 2018 and the training budget increased from \$6,425 in 2017 to \$12,243 in 2018, a 90.6 percent increase. This was done without increasing the size of the staff. The budget process is followed to ensure that these types of considerations are properly submitted and addressed. Compliance with the budgeting process and the law ensures that the Board of Commissioners exercise their legal authority to set the Department's budget within the County's overall budget. This budgeting process is a necessary component of addressing this recommendation on an ongoing basis. Annually, Purchasing requests a training budget as part of departmental annual budget requests. As appropriate, Purchasing's training budget should include the cost to sponsor outside training, national certification reimbursement, and any other requested training expense. Purchasing will continue to engage training on the awareness of fraud or corruption for department employees, as well as select user department personnel.

Workplace Conditions

19. We recommend that Purchasing be provided with adequate storage space for files.

RESPONSE: **Agreed and In Progress.** Purchasing has requested funding in its 2019 budget request and it is being considered through the normal process and procedure.

Department of Watershed Management

Two preliminary matters in this area warrant comment: First, the Assessment includes a flawed basis for the recommendations and does not resolve the inherent inconsistency between County rules and the recommendations in the Purchasing Assessment. Recommendations Nos. 5, 20, and 21 are based on "allegations" that have been investigated by the Auditors, but the investigations have not documented a single instance of corruption. The managerial decisions recommended in these areas should be based on fact and not mere unverified allegations from current or former employees. In addition, the reassignment of staff and/or increase in the number of positions allocated to a given department must be executed through the appropriate County process and procedure.

20. We recommend that a minimum of two full-time auditors be assigned to audit payments to contractors in the DWM.

RESPONSE: **Not Feasible.** This request is contingent upon Recommendation #4, which as written, would require an amendment by the General Assembly to the Organizational

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Act and may require approval by the voters. As written, the Administration believes this recommendation is premature. However, given the allegations, it is CEO Thurmond's intent to continue to investigate these issues which were brought to his attention previously. If the County assesses any verifiable issues, the CEO will decide what appropriate actions need to occur which may include staffing changes, increased auditing, or other checks and balances to ensure payment compliance. As such, the CEO will continue to follow the law and the appropriate procedures governing the day-to-day operations of the County. The CEO welcomes the opportunity to engage in further collaboration regarding scoping, audit procedures, and the frequency of sharing audit observations between Purchasing and Internal Audit should be considered going forward.

21. We recommend that the auditor positions assigned to Purchasing be reassigned to Internal Audit for the purpose of establishing independence and reporting.

RESPONSE: Not Feasible. See response to recommendation #5.

Use of DeKalb Vehicles; Expense Reimbursement

22. We recommend that DeKalb County amend its policies to prohibit DeKalb County personnel from transporting non-DeKalb County personnel in a DeKalb County vehicle.

RESPONSE: Not Feasible. DeKalb County currently has a policy on "Take-Home Vehicles that was updated in October 2011. The County believes implementing this recommendation would be ineffective and negatively impact service delivery and customer service. The County is responsible for transporting citizens/non-DeKalb personnel in County vehicles to complete various job functions. Examples include private citizens transported in County-owned ambulances or police vehicles, transporting seniors and children in County-owned vehicles for recreational activities, and allowing citizens to participate in ride-alongs with public safety officers. The County will consider whether there are other best management practices to improve monitoring and use of vehicles.

23. We recommend that DeKalb County adopt a policy that requires any employee submitting a request for expense reimbursement sign a paper document or provide a secure electronic signature which certifies the truth and accuracy of their submission and provides a warning that an intentional violation of County policy will subject the employee to disciplinary action up to and including criminal prosecution.

RESPONSE: Agreed and In Progress. The current travel policy is under review by both the CEO and COO staff and will incorporate relevant updates related to this matter. The

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DeKalb County Code expressly lists as a cause for discipline, including termination, falsifying any official record or document.⁸

Mystery Valley

24. We recommend that DeKalb County's executive management initiate additional investigation based on the findings in this report.

RESPONSE: **Agreed and In Progress.** Whether certain areas are evaluated or addressed at all is a matter of the County's day-to-day operations and do not warrant comment in response to an "assessment" of the Purchasing Department. To the extent specific operations and the outsourcing of services are evaluated and addressed, the County reserves comment until such matters are completed.

25. We recommend that the County take immediate action to address the dead and leaning trees at Mystery Valley.

RESPONSE: **Agreed and Complete.** The County removed the trees prior to the receipt of the Purchasing Assessment.

DeKalb First Local Small Business Enterprise Ordinance

26. We recommend that a study be commissioned to conduct a cost-benefits analysis of the LSBE program.

RESPONSE: **Disagree.** The CEO respects the authority of the Board of Commissioners to adopt ordinances, but continues an ongoing analysis of operations and best practices to increase participation, and prevent any manipulation of the intended program purpose. The LSBE Ordinance was overhauled and revised in 2016 in order to encourage the government to "utilize local businesses" thereby allowing the funds to be re-invested in the local County economy. (A description of the full legislative purpose is found in Attachment # 7).⁹

27. We recommend that Purchasing comply, in a timely manner, with the LSBE Ordinance's requirement to provide all seven categories of information to the CEO and BOC.

RESPONSE: **Agreed and In Progress.** Compliance with ordinances is always required and expected. Management continues to monitor such compliance as a part of the ongoing day-to-day operations of the County.

⁸ DeKalb County Code, Chapter 20, §20-191(12).

⁹ See Attachment 7, a copy of the 2016 LSBE Ordinance.

ATTACHMENT 1

DEKALB COUNTY – PURCHASING; PROCEDURES; LIMITATIONS;
DISCLOSURES; PUBLICATIONS.

No. 205 (House Bill No. 598).

AN ACT

To amend an Act revising, superseding, and consolidating the laws relating to the governing authority of DeKalb County and creating a chairman and board of commissioners of said county, approved March 8, 1956 (Ga. L. 1956, p. 3237), as amended, particularly by an Act approved April 9, 1981 (Ga. L. 1981, p. 4304), and an Act approved May 23, 2007 (Ga. L. 2007, p. 4073), so as to provide for the manner of purchasing by DeKalb County; to provide for procedures and limitations; to provide for certain disclosures and publications; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

An Act revising, superseding, and consolidating the laws relating to the governing authority of DeKalb County and creating a chairman and board of commissioners of said county, approved March 8, 1956 (Ga. L. 1956, p. 3237), as amended, particularly by an Act approved April 9, 1981 (Ga. L. 1981, p. 4304), and an Act approved May 23, 2007 (Ga. L. 2007, p. 4073), is amended by revising Section 18 as follows:

SECTION 18.

Purchases; contracts.

(a) The Chief Executive, subject to the approval of the Commission, shall establish rules to regulate purchasing for all county departments, offices, and agencies of the county government, with exception of the tax commissioner, clerk of the superior court, district attorney, and sheriff. Formal sealed bids, after notice of same has been published one time in the official organ of DeKalb County, must be obtained on all purchases exceeding \$50,000.00.

(b) Except for contracts of employment, the Commission shall authorize all contracts involving the expenditure of county funds in excess of \$100,000.00.

(c) No more than one contract involving the expenditure of county funds during a fiscal year may be made with any vendor without approval of the Commission.

(d) Subdividing a proposed contract which is for an amount above the threshold specified in subsection (a) or (b) of this section into smaller contracts or subcontracts for the purpose of avoiding the requirement of subsection (a) or (b) of this section shall be prohibited and such contracts or subcontracts shall be void ab initio.

(e) Except for contracts of employment, all contracts for purchase shall be published on the county website within 30 days of approval of such contracts."

SECTION 2.

All laws and parts of laws in conflict with this Act are repealed.

NOTICE OF INTENTION TO INTRODUCE LOCAL LEGISLATION

Notice is given that there will be introduced at the regular 2015 session of the General Assembly of Georgia a bill to amend an Act revising, superseding, and consolidating the laws relating to the governing authority of DeKalb County and creating a chairman and board of commissioners of said county, approved March 8, 1956 (Ga. L. 1956, p. 3237), as amended, particularly by an Act approved April 9, 1981 (Ga. L. 1981, p. 4304), and an Act approved May 23, 2007 (Ga. L. 2007, p. 4073), so as to provide for the manner of purchasing by DeKalb County; to provide for procedures and limitations; to provide for certain disclosures and publications; to provide for related matters; and for other purposes.

GEORGIA, FULTON COUNTY

Personally appeared before me, the undersigned authority, duly authorized to administer oaths, Scott Holcomb, who on oath deposes and says that he is the Representative from District 81 and further deposes and says that the attached Notice of Intention to Introduce Local Legislation was published in the Champion which is the official organ of DeKalb County on January 15, 2015, and that the notice requirements of Code Section 28-1-14 have been met.

s/ SCOTT HOLCOMB
Scott Holcomb
Representative, District 81

Sworn to and subscribed before me,
this 9th day of March 2015.

s/ JENNIFER BURGESS
Jennifer Burgess
Notary Public, Fulton County, Georgia
My Commission Expires December 29, 2018
(SEAL)

Approved May 12, 2015.

(B) If the local bill amends the charter of a municipality or the enabling Act of the governing authority of a county or consolidated government, then a copy of the Notice of Intention to Introduce Local Legislation was mailed, transmitted by facsimile, or otherwise provided to the governing authority of such municipality, county, or consolidated government:

- (i) During the calendar week in which the Notice was published in the official organ; or
- (ii) During the seven days immediately following the date of publication of such Notice.

s/ RANDY NIX
Affiant

Sworn to and subscribed at the
State Capitol in Atlanta, Georgia,
This 14th of March in the year 2016,
Before me:

s/ JENNIFER BURGESS
Jennifer Burgess
Notary Public, Fulton County, Georgia
My Commission Expires December 29, 2018
(SEAL)

Approved May 3, 2016.

DEKALB COUNTY – REGULATION OF LAND USE;
AUDIT; PURCHASES.

No. 590 (House Bill No. 1146).

AN ACT

To amend an Act revising, superseding, and consolidating the laws relating to the governing authority of DeKalb County and creating a chairman and board of commissioners of said county, approved March 8, 1956 (Ga. L. 1956, p. 3237), as amended, particularly by an Act approved April 9, 1981 (Ga. L. 1981, p. 4304), so as to provide for the regulation of land use; to provide for the completion of an audit by an outside auditor; to provide for purchases without sealed bid through an existing contract or schedule with a county, municipality, the

State of Georgia or the federal government; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

An Act revising, superseding, and consolidating the laws relating to the governing authority of DeKalb County and creating a chairman and board of commissioners of said county, approved March 8, 1956 (Ga. L. 1956, p. 3237), as amended, particularly by an Act approved April 9, 1981 (Ga. L. 1981, p. 4304), is amended by revising paragraph (10) of subsection (a) of Section 9 as follows:

"(10) To regulate land use by the adoption of a comprehensive development plan and by the adoption of other planning and zoning ordinances which relate reasonably to the public health, safety, morality, and general welfare of the county and its citizens; provided, however, that no planning or zoning ordinances shall become effective unless approved, prior to consideration and adoption by the governing authority, by the member or members of the Commission representing the district or super district in which the subject property is located."

SECTION 2.

Said Act is further amended by revising subsection (c) of Section 10 as follows:

"(c) The outside auditor shall complete the audit in compliance with Article 1 of Chapter 81 of Title 36 of the Official Code of Georgia Annotated each year, and, within ten days after its completion, the auditor shall deliver a copy of the audit to each commissioner, the Chief Executive, and the grand jury of the DeKalb County superior court then in session."

SECTION 3.

Said Act is further amended by revising subsection (a) of Section 18 as follows:

"(a) The Chief Executive, subject to the approval of the Commission, shall establish rules to regulate purchasing for all county departments, offices, and agencies of the county government, with the exception of the tax commissioner, clerk of the superior court, district attorney, and sheriff. Except as hereinafter provided, formal sealed bids, after notice of same has been published one time in the official organ of DeKalb County, must be obtained on all purchases exceeding \$50,000.00. Purchases exceeding \$50,000.00 may be made without formal sealed bids from any vendor who, at the time of purchase, has an existing contract or schedule with a county or municipality if such contract was procured by a competitive process, or the State of Georgia or the federal government so long as all such purchases are made pursuant to the price, terms, and conditions of said contract and if the county receives all the benefits of such contract."

SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.

NOTICE OF INTENTION TO INTRODUCE LOCAL LEGISLATION

Notice is given that there will be introduced at the regular 2016 session of the General Assembly of Georgia a bill to amend an ++Act revising, superseding, and consolidating the laws relating to the governing authority of DeKalb County++ and creating a chairman and board of commissioners of said county, approved March 8, 1956 (Ga. L. 1956, p. 3237), as amended; and for other purposes.

AFFIDAVIT

GEORGIA, FULTON COUNTY

I, Dar'shun Kendrick, Representative from District 93, state on oath as follows:

- (1) I am the author of the local bill to which this affidavit is attached.
- (2) In accordance with O.C.G.A. § 28-1-14, the notice requirements for the local bill to which this affidavit is attached have been satisfied, including but not limited to the following:
 - (A) The Notice of Intention to Introduce Local Legislation which is attached to such local bill was published in the Champion, which is the official organ of DeKalb County, on the 10th of March in the year 2016; and
 - (B) If the local bill amends the charter of a municipality or the enabling Act of the governing authority of a county or consolidated government, then a copy of the Notice of Intention to Introduce Local Legislation was mailed, transmitted by facsimile, or otherwise provided to the governing authority of such municipality, county, or consolidated government:
 - (i) During the calendar week in which the Notice was published in the official organ; or
 - (ii) During the seven days immediately following the date of publication of such Notice.

s/ DAR'SHUN KENDRICK
Affiant

Sworn to and subscribed at the
State Capitol in Atlanta, Georgia,
This 14th of March, 2016,
Before me:

s/ JENNIFER BURGESS
Jennifer Burgess
Notary Public, Fulton County, Georgia
My Commission Expires December 29, 2018
(SEAL)

Approved My 3, 2016.

CITY OF BYRON - BYRON CONVENTION AND VISITORS BUREAU
AUTHORITY; STAFF; APPOINTMENT AND DUTIES
OF DIRECTOR.

No. 591 (House Bill No. 1147).

AN ACT

To amend an Act to create the Byron Convention and Visitors Bureau Authority, approved April 4, 1997 (Ga. L. 1997, p. 3921), as amended, particularly by an Act approved May 11, 2009 (Ga. L. 2009, p. 4149), so as to revise the provisions regarding staff of the authority; to provide for the manner of appointment of a director; to provide for the duties of the director; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

An Act to create the Byron Convention and Visitors Bureau Authority, approved April 4, 1997 (Ga. L. 1997, p. 3921), as amended, particularly by an Act approved May 11, 2009 (Ga. L. 2009, p. 4149), is amended by revising Section 4 as follows:

*SECTION 4.

The authority shall have the power to employ administrative employees, excluding a director, to staff its office and welcome center in order to respond to telephone and walk-in inquiries as may be necessary in the operation of the authority's activities. All other authority and responsibility to properly administer the business of the authority and its agencies as created in this Act, or as may be amended, shall be vested in a director to be

ATTACHMENT 2

Sworn to and subscribed before me,
this 9th day of January 2012.

s/ DEANA MOSHER

Deana Mosher

Notary Public, Henry County, Georgia

My Commission Expires Aug. 25, 2015

(SEAL)

Approved April 4, 2012.

DEKALB COUNTY - BOARD OF COMMISSIONERS; REDISTRICTING;
MANNER OF ELECTION; AMENDMENTS.

No. 439 (Senate Bill No. 518).

AN ACT

To amend an Act establishing the form of government of DeKalb County and fixing the powers and duties of the officers constituting the governing authority of DeKalb County, approved April 9, 1981 (Ga. L. 1981, p. 4304), as amended, so as to change the description of commissioner districts; to provide for definitions and inclusions; to provide for election and terms of office of subsequent members; to revise provisions relating to amending the Act; to provide for related matters; to provide for submission of this Act for preclearance under the federal Voting Rights Act of 1965, as amended; to provide for effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

An Act establishing the form of government of DeKalb County and fixing the powers and duties of the officers constituting the governing authority of DeKalb County, approved April 9, 1981 (Ga. L. 1981, p. 4304), as amended, is amended by revising subsections (b), (c), and (d) of Section 2 as follows:

"(b) For purposes of electing members of the board of commissioners, DeKalb County is divided into seven commissioner districts. One member of the board shall be elected from each such district.

(c)(1) Commissioner Districts 1, 2, 3, 4, and 5 shall be and correspond to those five numbered districts described in and attached to and made a part of this Act and further

identified as 'Plan: dekalbcc-import1-02092012 Plan Type: local Administrator: dekalbcc User: bak'.

(2) When used in such attachment, the term 'VTD' (voting tabulation district) shall mean and describe the same geographical boundaries as provided in the report of the Bureau of the Census for the United States decennial census of 2010 for the State of Georgia.

(3) The separate numeric designations in a district description which are underneath a VTD heading shall mean and describe individual Blocks within a VTD as provided in the report of the Bureau of the Census for the United States decennial census of 2010 for the State of Georgia. Any part of DeKalb County which is not included in any such district described in that attachment shall be included within that district contiguous to such part which contains the least population according to the United States decennial census of 2010 for the State of Georgia.

(4) Any part of DeKalb County which is described in that attachment as being in a particular district shall nevertheless not be included within such district if such part is not contiguous to such district. Such noncontiguous part shall instead be included within that district contiguous to such part which contains the least population according to the United States decennial census of 2010 for the State of Georgia.

(5) Except as otherwise provided in the description of any commissioner district, whenever the description of such district refers to a named city, it shall mean the geographical boundaries of that city as shown on the census map for the United States decennial census of 2010 for the State of Georgia.

(6) Paragraphs (2) through (5) of this subsection shall only be applicable with respect to Commissioner Districts 1, 2, 3, 4, and 5.

(d)(1) Commissioner Districts 6 and 7 shall be and correspond to those two numbered districts described in and attached to and made a part of this Act and further identified as 'Plan Name: deksuperdist4 Plan Type: LOCAL User: Gina Administrator: CNTY-DEKALB'.

(2) When used in such attachment, the terms 'Tract' and 'BG' (Block Group) shall mean and describe the same geographical boundaries as provided in the report of the Bureau of the Census for the United States decennial census of 2000 for the State of Georgia. The separate numeric designations in a Tract description which are underneath a BG heading shall mean and describe individual Blocks within a Block Group as provided in the report of the Bureau of the Census for the United States decennial census of 2000 for the State of Georgia. Any part of DeKalb County which is not included in any such district described in that attachment shall be included within that district contiguous to such part which contains the least population according to the United States decennial census of 2000 for the State of Georgia. Any part of DeKalb County which is described in that attachment as being in a particular district shall nevertheless not be included within such district if such part is not contiguous to such district. Such noncontiguous part shall instead be included within that district contiguous to such part which contains the least population according to the United States decennial census of 2000 for the State

of Georgia. Except as otherwise provided in the description of any commissioner district, whenever the description of such district refers to a named city, it shall mean the geographical boundaries of that city as shown on the census map for the United States decennial census of 2000 for the State of Georgia. This paragraph shall only be applicable with respect to Commissioner Districts 6 and 7.

SECTION 2.

Said Act is further amended by revising Section 3 as follows:

*SECTION 3.

- (a) Commissioner Districts 1, 2, 3, 4, and 5, as they exist on January 1, 2012, shall continue to be designated as Commissioner Districts 1, 2, 3, 4, and 5, respectively, but as newly described under this Act, and such members of the board serving from those former commissioner districts shall be deemed to be serving from and representing their respective districts as newly described under this Act. Commissioner Districts 6 and 7 as they exist on January 1, 2012, shall continue to be designated as Commissioner Districts 6 and 7 as described under this Act and in effect on January 1, 2012.
- (b) Those members of the Board of Commissioners of DeKalb County who are serving as such on January 1, 2012, and any person selected to fill a vacancy in any such office shall continue to serve as such members until the regular expiration of their respective terms of office and until the election and qualification of their respective successors. The successor to each such member shall be elected as provided in this section.
- (c) The first members for new Commissioner Districts 1, 4, and 5 and the member from Commissioner District 6 shall be elected at the general election on the Tuesday next following the first Monday in November, 2012. Those members of the board elected thereto from new Commissioner Districts 1, 4, and 5 and from Commissioner District 6 in 2012 shall take office the first day of January immediately following that election and shall serve for initial terms of office which expire December 31, 2016, and upon the election and qualification of their respective successors.
- (d) The first members for new Commissioner Districts 2 and 3 and the member from Commissioner District 7 shall be elected at the general election on the Tuesday next following the first Monday in November, 2014. Those members of the board elected thereto from new Commissioner Districts 2 and 3 and from Commissioner District 7 in 2014 shall take office the first day of January immediately following that election and shall serve for initial terms of office which expire December 31, 2018, and upon the election and qualification of their respective successors.
- (e) Those and all future successors to members of the board whose terms of office are to expire shall be elected at the time of the state-wide general election immediately preceding the expiration of such terms, shall take office the first day of January immediately following that election, and shall serve for terms of office of four years each. Members of

the board shall serve for the terms of office specified therefor in this subsection and until their respective successors are elected and qualified."

SECTION 3.

Said Act is further amended by revising Section 23 as follows:

"SECTION 23.

Pursuant to the authority of an amendment to the Constitution ratified at the 1978 general election as set forth in Georgia Laws 1978, pages 2370-2372, which amendment authorized the General Assembly to provide by law for the form of government of DeKalb County and to provide for the various officers, bodies, branches, or agencies by or through which the county's governmental powers shall be exercised, any law adopted pursuant to such authority shall be conditioned on the approval of a majority of the qualified electors of DeKalb County voting at elections held for such purpose when any such law affects the DeKalb County government in any one or more of the following ways:

- (1) Changing the number of members, terms of office, or the manner of electing the members of the governing body of DeKalb County;
- (2) Changing the term of office or the method of electing the chief executive officer of DeKalb County;
- (3) Establishing the powers and duties of the executive or legislative branch of the DeKalb County government; or
- (4) Changing the powers and duties of the executive or legislative branch of the DeKalb County government when such powers and duties have been established by Acts of the General Assembly, pursuant to the authority of the amendment to the Constitution ratified at the 1978 general election as set forth in Georgia Laws 1978, pages 2370-2372."

SECTION 4.

It is the purpose of this Act to reapportion Commissioner Districts 1, 2, 3, 4, and 5 from which members of the Board of Commissioners of DeKalb County are to be elected in the November, 2012, general election, as applicable, and in subsequent general elections, and this Act results from changes in population based on the United States decennial census of 2010. It is not the intention of the General Assembly to affect the membership of current members of the board, their terms of office, or the manner in which their successors shall be elected, and such matters shall remain as provided by law on the effective date of this Act until otherwise amended by law, except to the extent of reapportioning the districts represented by such members.

SECTION 5.

The Board of Commissioners of DeKalb County shall through its legal counsel cause this Act to be submitted for preclearance under the federal Voting Rights Act of 1965, as amended; and such submission shall be made to the United States Department of Justice or filed with

the appropriate court no later than 45 days after the date on which this Act is approved by the Governor or otherwise becomes law without such approval.

SECTION 6.

This section and Section 3 of this Act and those provisions of this Act necessary for the election of members of the Board of Commissioners of DeKalb County in 2012 shall become effective upon the approval of this Act by the Governor or upon its becoming law without such approval. The remaining provisions of this Act shall become effective January 1, 2013.

SECTION 7.

All laws and parts of laws in conflict with this Act are repealed.

Plan: dekalbcc-import1-02092012

Plan Type: local

Administrator: dekalb cc

User: bak

District 001

DeKalb County

VTD: 089AD - AUSTIN

VTD: 089AG - ASHFORD DUNWOOD

VTD: 089AH - ASHFORD PARKSIDE

VTD: 089BD - BRIARLAKE ELEMENTARY

VTD: 089BF - BROCKETT ELEMENTARY

VTD: 089BH - BROCKETT

021805:

1000 1001 1002 1003 1004 1005 1006 1007 1008 1011 1012

021806:

1005

021809:

2038 2039 2040

VTD: 089CE - CHAMBLEE (CHA)

VTD: 089CH - CHESNUT ELEMENTARY

VTD: 089DA - DORAVILLE NORTH

VTD: 089DB - DORAVILLE SOUTH

VTD: 089DF - DUNWOODY

VTD: 089DG - DUNWOODY HIGH SCHOOL

VTD: 089DI - DUNWOODY LIBRARY

VTD: 089EC - EMBRY HILLS

VTD: 089EF - EVANSDALE ELEM

VTD: 089GD - GEORGETOWN SQ

VTD: 089HC - HENDERSON MILL
 VTD: 089HF - HUNTLEY HILLS ELEM
 VTD: 089HG - HUGH HOWELL
 VTD: 089KB - KINGSLEY ELEM
 VTD: 089LV - LAWRENCEVILLE HIGH SCHOOL
 VTD: 089MH - MIDVALE ELEM
 VTD: 089MQ - MOUNT VERNON EAST
 VTD: 089MS - MOUNT VERNON WEST
 VTD: 089MU - MONTGOMERY ELEM
 VTD: 089MW - MIDVALE ROAD
 VTD: 089NA - NANCY CREEK ELEM
 VTD: 089NF - NORTH PEACHTREE
 VTD: 089OB - OAKCLIFF ELEM
 VTD: 089PB - PEACHTREE MIDDLE SCHOOL
 VTD: 089PF - PLEASANTDALE ELEM
 VTD: 089PK - PLEASANTDALE ROAD
 VTD: 089SH - SMOKE RISE
 VTD: 089TF - TUCKER
 VTD: 089TG - TILLY MILL ROAD
 VTD: 089TH - TUCKER LIBRARY
 VTD: 089WI - WARREN TECH
 VTD: 089WL - WINTERS CHAPEL

District 002

DeKalb County

VTD: 089AB - ASHFORD PARK ELEMENTARY
 VTD: 089BC - BRIAR VISTA ELEMENTARY
 VTD: 089BE - BRIARWOOD
 VTD: 089BG - BRIARCLIFF
 VTD: 089BI - BROOKHAVEN
 VTD: 089CI - CLAIREMONT WEST
 VTD: 089CJ - CLAIRMONT HILLS
 VTD: 089CO - CROSS KEYS HIGH
 VTD: 089CV - CLAIREMONT EAST
 VTD: 089CW - CORALWOOD
 VTD: 089DC - DRESDEN ELEM
 VTD: 089DH - DRUID HILLS HIGH SCHOOL
 VTD: 089EE - EPWORTH (ATL)
 VTD: 089EG - EMORY SOUTH
 VTD: 089ER - EMORY ROAD
 VTD: 089FB - FERNBANK ELEM

VTD: 089GA - GLENNWOOD (DEC)
VTD: 089HB - HAWTHORNE ELEM
VTD: 089HD - HERITAGE ED
VTD: 089JA - JOHNSON ESTATES
VTD: 089LA - LAKESIDE HIGH
VTD: 089LB - LAVISTA ROAD
VTD: 089LC - LAVISTA
VTD: 089LE - MARY LIN ELEM
VTD: 089MG - MEDLOCK ELEM
VTD: 089MJ - MONTCLAIR ELEM
VTD: 089MP - MARGARET HARRIS
VTD: 089ND - NORTHLAKE
VTD: 089OA - OAK GROVE ELEM
VTD: 089OK - OAKHURST (DEC)
VTD: 089PG - PONCE DE LEON
VTD: 089RD - REHOBOTH
VTD: 089RN - RENFROE MIDDLE
VTD: 089SA - SAGAMORE HILLS
VTD: 089SB - SCOTT
VTD: 089SE - SILVER LAKE
VTD: 089SF - SKYLAND
VTD: 089WF - WINNONA PARK ELEM
VTD: 089WJ - WOODWARD ELEM

District 003

DeKalb County

VTD: 089AF - HOOPER ALEXANDER
VTD: 089BB - BOULEVARD (ATL)
VTD: 089BL - BOULDERCREST RD
VTD: 089BR - BURGESS ELEMENTARY
VTD: 089CA - COLUMBIA DRIVE
VTD: 089CB - CANBY LANE ELEMENTARY
VTD: 089CC - COLUMBIA ELEMENTARY
VTD: 089CD - CEDAR GROVE ELEMENTARY
VTD: 089CG - CHAPEL HILL ELEMENTARY

023425:

1000 1001 1002 1003 1004 1005 1006 1010 1013 1017 1018 1019
1020 1021 1022 1023 1026 1031
VTD: 089CL - CLIFTON ELEMENTARY
VTD: 089CM - COLUMBIA MIDDLE
VTD: 089CN - COAN MIDDLE

VTD: 089CQ - CANDLER
VTD: 089CR - CEDAR GROVE MIDDLE
VTD: 089CS - CEDAR GROVE SOUTH
VTD: 089EA - EAST LAKE ELEM
VTD: 089EB - EASTLAND
VTD: 089FC - FLAT SHOALS ELEM
VTD: 089FE - FLAT SHOALS PARKWAY
VTD: 089FJ - FLAT SHOALS
VTD: 089FK - FLAKES MILL FIRE
VTD: 089FL - FLAT SHOALS LIBRARY
VTD: 089GC - GRESHAM PARK ELEM
VTD: 089HH - NARVIE J HARRIS
VTD: 089KA - KELLEY LAKE ELEM
VTD: 089KC - KELLEY CHAPEL
VTD: 089KE - KNOLLWOOD ELEM
VTD: 089ML - MEADOWVIEW ELEM
VTD: 089MO - MIDWAY ELEM
VTD: 089MP - MCNAIR MIDDLE
VTD: 089MR - BOB MATHIS ELEM
VTD: 089MT - METROPOLITAN
VTD: 089OV - OAK VIEW ELEM
VTD: 089PA - PEACHCREST ELEM
VTD: 089PN - PINEY GROVE
VTD: 089RA - RAINBOW ELEM
VTD: 089SG - SNAPPFINGER ELEM
VTD: 089SR - SNAPPFINGER ROAD
VTD: 089TA - TERRY MILL ELEM
VTD: 089TB - TILSON ELEM
VTD: 089TC - TONEY ELEM
VTD: 089WA - WADSWORTH ELEM
VTD: 089WB - WESLEY CHAPEL SOUTH
VTD: 089WE - WHITEFOORD ELEMENTARY

District 004

DeKalb County

VTD: 089AA - ALLGOOD ELEMENTARY
VTD: 089AE - AVONDALE (AVO)
VTD: 089AM - AVONDALE MIDDLE

VTD: 089BH - BROCKETT

021805:

1015 1018 1019 1020 1021 1022 1023 1024 1025 1026 2000 2001
2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013
2014 2015 2016 2017 2018 2019 2020 2021 2022 3019

021810:

3023 3030 3031 3034 3035

022009:

3007 3008

VTD: 089CK - CLARKSTON (CLA)

VTD: 089CT - COVINGTON HWY L

VTD: 089DE - DUNAIRE ELEM

VTD: 089FD - FORREST HILLS ELEM

VTD: 089FM - FREEDOM MIDDLE

VTD: 089HA - HAMBRICK ELEM

VTD: 089IA - IDLEWOOD ELEM

VTD: 089IB - INDIAN CREEK ELEM

VTD: 089JB - JOLLY ELEM

VTD: 089MA - ELDRIDGE L MILL

VTD: 089ME - MCLENDON ELEM

VTD: 089MK - MONTREAL

VTD: 089MM - MEMORIAL NORTH

VTD: 089MN - MEMORIAL SOUTH

VTD: 089NB - NORTH DECATUR

VTD: 089NC - NORTH HAIRSTON

VTD: 089PE - PINE LAKE (PIN)

VTD: 089RE - ROCKBRIDGE ELEM

VTD: 089RI - ROCKBRIDGE ROAD

VTD: 089RJ - ROWLAND ROAD

VTD: 089SC - SCOTTTDALE

VTD: 089SD - STN MTN ELEMENTARY

VTD: 089SI - STN MTN MIDDLE

VTD: 089SJ - STONE MILL ELEM

VTD: 089SK - SHADOW ROCK ELEM

VTD: 089SN - SHAMROCK MIDDLE

VTD: 089SO - SOUTH DESHON

VTD: 089SP - STN MTN CHAMPION

VTD: 089SQ - STONE MTN LIBRARY

VTD: 089ST - STEPHENSON MIDDLE

VTD: 089SU - SOUTH HAIRSTON

VTD: 089SV - STEPHENSON HIGH

VTD: 089VB - VALLEY BROOK
VTD: 089WN - WYNBROOKE ELEM

District 005

VTD: 089AC - ATHERTON ELEMENTARY
VTD: 089BJ - BROWN'S MILL ELEMENTARY
VTD: 089BM - BETHUNE MIDDLE
VTD: 089CF - MURPHEY CANDLER
VTD: 089CG - CHAPEL HILL ELEMENTARY

023426:

1000 1004 1026 1027 2000 2001 2002 2003 2004 2005 2006 2007
2008 2009 2010 2011 2012 2013 2014 2016 2017 2018 2019 2020
2021 2022 2023 2024 2025 2026 2027 2028 2029

VTD: 089CP - CROSSROADS
VTD: 089FA - FAIRINGTON ELEM
VTD: 089FG - FLAT ROCK ELEM
VTD: 089GB - GLENHAVEN
VTD: 089GE - GLENHAVEN ELEM
VTD: 089KD - ML KING JR HIGH
VTD: 089LD - LITHONIA (LIT)
VTD: 089LH - LITHONIA HIGH SCHOOL
VTD: 089MC - MARBUT ELEM
VTD: 089MF - MCWILLIAMS
VTD: 089MI - MILLER GROVE MIDDLE SCHOOL
VTD: 089MV - MILLER GROVE ROAD
VTD: 089MZ - MILLER GROVE HIGH
VTD: 089PC - PRINCETON ELEM
VTD: 089PH - PANOLA
VTD: 089PI - PANOLA WAY ELEM
VTD: 089PR - PANOLA ROAD
VTD: 089RC - REDAN ELEM
VTD: 089RF - ROCK CHAPEL ELEM
VTD: 089RG - ROWLAND ELEM
VTD: 089RH - REDAN-TROTTI
VTD: 089RK - REDAN ROAD
VTD: 089RL - ROCK CHAPEL ROAD
VTD: 089RM - REDAN MIDDLE
VTD: 089SL - STONEVIEW ELEM
VTD: 089SM - SALEM MIDDLE
VTD: 089SS - SNAPPFINGER ROAD
VTD: 089WD - WOODROW ROAD

VTD: 089WG - WOODRIDGE ELEM

VTD: 089WK - WHITE OAK

VTD: 089YA - YOUNG ROAD

NOTICE OF INTENTION TO INTRODUCE LOCAL LEGISLATION

Notice is given that there will be introduced at the regular 2012 session of the General Assembly of Georgia a bill to amend an Act establishing the form of government of DeKalb County and fixing the powers and duties of the officers constituting the governing authority of DeKalb County, approved April 9, 1981 (Ga. L. 1981 p. 4304), as amended, so as to change the description of the commissioner districts; to provide for definitions and inclusions; to provide for related matters; to provide for submission of this Act for preclearance under the federal Voting Rights Act of 1965; as amended; and for other purposes.

GEORGIA, FULTON COUNTY

Personally appeared before me, the undersigned authority, duly authorized to administer oaths, Emanuel Jones, who on oath deposes and says that he is the Senator from District 10 and further deposes and says that the attached Notice of Intention to Introduce Local Legislation was published in the Champion which is the official organ of DeKalb County on March 1, 2012, and that the notice requirements of Code Section 28-1-14 have been met.

s/ EMANUEL JONES
Emanuel Jones
Senator, District 10

Sworn to and subscribed before me,
this 5th day of March 2012.

s/ LAURA E. HURD
Laura E. Hurd
Notary Public, Clayton County, Georgia
My Commission Expires Aug. 14, 2015
(SEAL)

Approved April 4, 2012.

PAULDING COUNTY - BOARD OF EDUCATION; REDISTRICTING;
MANNER OF ELECTION; QUALIFICATIONS;
EXPENSE ALLOWANCES.

No. 440 (House Bill No. 839).

AN ACT

To amend an Act to provide for the election of the members of the Paulding County Board of Education, approved March 21, 1968 (Ga. L. 1968, p. 2381), as amended, particularly by an Act approved April 25, 2002 (Ga. L. 2002, p. 4151), so as to revise the districts for the election of members of the board of education; to provide for definitions and inclusions; to provide for the manner of election; to provide for qualifications; to provide for payment of expense allowance for attendance at meetings; to provide for submission of this Act for preclearance pursuant to Section 5 of the federal Voting Rights Act of 1965, as amended; to provide effective dates and for automatic repeal under certain circumstances; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

An Act to provide for the election of the members of the Paulding County Board of Education, approved March 21, 1968 (Ga. L. 1968, p. 2381), as amended, particularly by an Act approved April 25, 2002 (Ga. L. 2002, p. 4151), is amended by striking Section 1 in its entirety and inserting in lieu thereof a new Section 1 to read as follows:

SECTION 1.

- (a) The Board of Education of Paulding County shall be composed of seven members. Any person, in order to be eligible for membership on the board, must be registered and eligible to vote for members of the General Assembly from Paulding County, must have resided in Paulding County for at least one year immediately preceding the date of election, and must reside in the education district from which such person offers as a candidate for at least six months immediately preceding the date of election. The members of the board shall be elected by the qualified electors of the entire county. The members of the board shall be a resident of Paulding County and shall be elected by the qualified voters of the entire county and shall represent District 7 which shall be composed of the entire county.
- (b) For the purpose of electing the six members of the board from education districts, Paulding County shall be divided into six education districts. One member of the board shall be elected from each such district. Those districts shall be and correspond to those six numbered districts described in and attached to and made a part of this Act and further

ATTACHMENT 3

DEKALB COUNTY – BOARD OF ETHICS; JURISDICTION; MANNER
OF APPOINTMENT; TERMS; QUALIFICATIONS;
FUNDING; REFERENDUM.

No. 204 (House Bill No. 597).

AN ACT

To amend an Act revising, superseding, and consolidating the laws relating to the governing authority of DeKalb County and creating a chairman and board of commissioners of said county, approved March 8, 1956 (Ga. L. 1956, p. 3237), as amended, particularly by an Act approved April 9, 1981 (Ga. L. 1981, p. 4304), an Act approved March 20, 1990 (Ga. L. 1990, p. 3900), and an Act approved April 13, 1992 (Ga. L. 1992, p. 6137), so as to change the jurisdiction of the Board of Ethics of DeKalb County; to change the manner of appointment of the members of the board; to provide for terms of office of members of the board; to provide for qualifications of members of the board; to provide funding for the board; to provide for a referendum; to provide for contingent effective dates; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

An Act revising, superseding, and consolidating the laws relating to the governing authority of DeKalb County and creating a chairman and board of commissioners of said county, approved March 8, 1956 (Ga. L. 1956, p. 3237), as amended, particularly by an Act approved April 9, 1981 (Ga. L. 1981, p. 4304), an Act approved March 20, 1990 (Ga. L. 1990, p. 3900), and an Act approved April 13, 1992 (Ga. L. 1992, p. 6137), is amended by repealing Section 22A in its entirety and inserting in lieu thereof a new Section 22A to read as follows:

*SECTION 22A.
Code of Ethics

(a) Purpose.

(1) It is essential to the proper administration and operation of the DeKalb County government that its officials and employees be, and give the appearance of being, independent and impartial, that public office not be used for private gain, and that there be public confidence in the integrity of DeKalb County officials and employees. Because the attainment of one or more of these ends is impaired whenever there exists in fact, or appears to exist, a conflict between the private interests and public responsibilities of officials and employees, the public interest requires that the General Assembly protect

against such conflicts of interest by establishing by law appropriate ethical standards with respect to the conduct of the officials and employees of DeKalb County in situations where a conflict may exist.

(2) The General Assembly recognizes that an appropriate and effective code of ethics for appointed officials and employees of DeKalb County is also essential for the proper administration and operation of the DeKalb County government.

(b) Definitions. As used in this section, the term:

(1) 'Agency' means any board, bureau, body, commission, committee, department, or office of DeKalb County to which the governing authority has appointment powers.

(2) 'Business' means any corporation, partnership, organization, sole proprietorship, and any other entity operated for economic gain, whether professional, industrial, or commercial, and entities which for purposes of federal income taxation are treated as nonprofit organizations.

(3) 'Confidential information' means information which has been obtained in the course of holding public office, employment, acting as an independent contractor, or otherwise acting as an official or employee and which information is not available to members of the public under state law or other law or regulation and which the official, independent contractor, or employee is not authorized to disclose.

(4) 'Contract' means any claim or demand against or any lease, account, or agreement with any person, whether express or implied, executed or executory, verbal or in writing.

(5) 'Emergency situation' means any circumstance or condition giving rise to an immediate necessity for the execution of a contract by and between DeKalb County and an official or employee or between DeKalb County and a business in which an official or employee has an interest and where, to the satisfaction of the Chief Executive, it is shown that there is no one other than such persons with whom the contract could have been made and that the necessity was not brought about by such persons' own fault or neglect.

(6) 'Immediate family' means an official or employee and his or her spouse, parents, brothers, sisters, and natural or adopted children.

(7) 'Interest' means any direct or indirect pecuniary or material benefit held by or accruing to the official or employee as a result of a contract or transaction which is or may be the subject of an official act or action by or with DeKalb County. Unless otherwise provided in this section, the term 'interest' does not include any remote interest. An official or employee shall be deemed to have an interest in transactions involving:

(A) Any person in the official's or employee's immediate family;

(B) Any person, business, or entity that the official or employee knows or should know is seeking official action with DeKalb County, is seeking to do or does business with DeKalb County, has interests that may be substantially affected by performance or nonperformance of the official's or employee's official duties, or with whom a contractual relationship exists whereby the official or employee may receive any payment or other benefit;

(C) Any business in which the official or employee is a director, officer, employee, shareholder, or consultant; or

(D) Any person of whom the official or employee is a creditor, whether secured or unsecured.

(8) 'Official or employee' means any person elected or appointed to or employed or retained by DeKalb County or any agency, whether paid or unpaid and whether part time or full time. This definition includes retired employees or former county employees during the period of time in which they are later employed or retained by the county or any agency. This definition does not include superior and state court judges and their immediate staffs, the district attorney, the solicitor of the state court, the clerks of the superior and state courts, magistrates, judges of the recorders court, the judge of the probate court, and their respective staffs.

(9) 'Official act or action' means any legislative, administrative, appointive, or discretionary act of the Commission, the Chief Executive, or a commissioner.

(10) 'Paid' means the receipt of, or right to receive, a salary, commission, percentage, brokerage, or contingent fee.

(11) 'Participate' means to take part in official acts, actions, or proceedings personally as an official or employee through approval, disapproval, decision, recommendation, investigation, the rendering of advice, or the failure to act or perform a duty.

(12) 'Person' means any individual, business, labor organization, representative, fiduciary, trust, or association, whether paid or unpaid, and includes any official or employee of DeKalb County.

(13) 'Property' means any property, whether real or personal or tangible or intangible, and includes currency and commercial paper.

(14) 'Remote interest' means the interest of:

(A) A nonsalaried director, officer, or employee of a nonprofit organization;

(B) A holder of less than 5 percent of the legal or beneficial ownership of the total shares of a business;

(C) Any person in a representative capacity, such as a receiver, trustee, or administrator; or

(D) Any person who, by determination of the Board of Ethics, is deemed to have such an interest.

(15) 'Transaction' means the conduct of any activity that results in or may result in an official act or action of an official or employee of DeKalb County.

(c) Proscribed Conduct. No official or employee of DeKalb County shall:

(1) By his or her conduct give reasonable basis for the impression that any person can improperly influence him or her or unduly enjoy his or her favor in the performance of his or her official acts or actions or that he or she is affected unduly by the rank or position of or kinship or association with any person;

(2)(A) Directly or indirectly request, exact, receive, or agree to receive a gift, loan, favor, promise, or thing of value for himself or herself or another person if:



- (i) It tends to influence him or her in the discharge of his or her official duties; or
 - (ii) He or she recently has been, or is now, or in the near future may be, involved in any official act or action directly affecting the donor or lender.
- (B) Subparagraph (A) of this paragraph shall not apply in the case of:
- (i) An occasional nonpecuniary gift of value less than \$100.00;
 - (ii) An award publicly presented in recognition of public service; or
 - (iii) A commercially reasonable loan made in the ordinary course of business by an institution authorized by the laws of Georgia to engage in the making of such a loan;
- (3) Disclose or otherwise use confidential information acquired by virtue of his or her position for his or her or another person's private gain;
- (4) Appear on his or her own personal behalf, or represent, advise, or appear on the personal behalf, whether paid or unpaid, of any person before any court or before any legislative, administrative, or quasi-judicial board, agency, commission, or committee of this state or of any county or municipality concerning any contract or transaction which is or may be the subject of an official act or action of DeKalb County or otherwise use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself or herself or other persons;
- (5) Engage in, accept employment with, or render services for any agency, private business, or professional activity when such employment or rendering of services is adverse to and incompatible with the proper discharge of his or her official duties;
- (6) Acquire an interest in any contract or transaction at a time when he or she believes or has reason to believe that such an interest will be affected directly or indirectly by his or her official act or actions or by the official acts or actions of other officials or employees of DeKalb County; or
- (7) Engage in any activity or transaction that is prohibited by law now existing or hereafter enacted which is applicable to him or her by virtue of his or her being an official or employee of DeKalb County.
- (d) Disclosure of interests. An official or employee who has an interest that he or she has reason to believe may be affected by his or her official acts or actions or by the official acts or actions of another official or employee of DeKalb County shall disclose the precise nature and value of such interest by sworn written statement to the Board of Ethics and ask for the board's opinion as to the propriety of such interest. Every official or employee who knowingly has any interest, direct or indirect, in any contract to which DeKalb County is or is about to become a party, or in any other business with DeKalb County, shall make full disclosure of such interest to the Chief Executive and the Commission and to the ethics officer and the Board of Ethics. The information disclosed by such sworn statements, except for the valuation attributed to the disclosed interest, shall be made a matter of public record by the Board of Ethics.

(e) Participation in contracts.

(1) An official or employee shall disqualify himself or herself from participating in any official act or action of DeKalb County directly affecting a business or activity in which he or she has any interest, whether or not a remote interest.

(2) DeKalb County shall not enter into any contract involving services or property with an official or employee of the county or with a business in which an official or employee of the county has an interest. This subsection shall not apply in the case of:

(A) The designation of a bank or trust company as a depository for county funds;

(B) The borrowing of funds from any bank or lending institution which offers the lowest available rate of interest for such loans;

(C) Contracts for services entered into with a business which is the only available source for such goods or services; or

(D) Contracts entered into under circumstances which constitute an emergency situation, provided that a record explaining the emergency is prepared by the Chief Executive and submitted to the Board of Ethics at its next regular meeting and thereafter kept on file.

(3) DeKalb County shall not enter into any contract with, or take any official act or action favorably affecting, any person, or business represented by such person, who has been within the preceding two-year period an official or employee of DeKalb County.

(f) Reporting violations. Any person who witnesses or becomes aware of a violation of this section may complain of the violation as follows:

(1) A complaint may be communicated anonymously to the ethics officer. Such complaint shall be made in good faith and with veracity and sufficient specificity so as to provide the ethics officer with salient and investigable facts. The ethics officer may require the anonymous complaint to be made in a manner and form that is intended only to obtain relevant facts related to the alleged violation of this section and that is not designed to reveal the identity of the complainant.

(2) A sworn written complaint may be filed with the ethics officer of the Board of Ethics, as described in this paragraph. All written complaints to be considered by the Board of Ethics and the ethics officer shall contain the following, if applicable:

(A) The name and address of the person or persons filing the complaint;

(B) The sworn verification and signature of the complainant;

(C) The name and address of the party or parties against whom the complaint is filed and, if such party is a candidate, the office being sought;

(D) A clear and concise statement of acts upon which the complaint is based along with an allegation that such facts constitute one or more violations of law under the jurisdiction of the Board of Ethics;

(E) A general reference to the allegedly violated statutory provision(s) of the code of ethics within the jurisdiction of the Board of Ethics; and

(F) Any further information which might support the allegations in the complaint including, but not limited to, the following:

- (i) The names and addresses of all other persons who have first-hand knowledge of the facts alleged in the complaint; and
 - (ii) Any documentary evidence that supports the facts alleged in the complaint.
- (3) Upon receipt of a complaint, whether by the ethics officer or by the Board of Ethics, the ethics officer or the secretary of the Board of Ethics shall send a written notice to the subject of the complaint by the next business day. Both this notice and any subsequent documents shall be subject to Article 4 of Chapter 18 of Title 50 of the O.C.G.A.
- (4) Upon receipt of a written, nonanonymous complaint which does not conform to the applicable requirements of paragraph (2) of this subsection, the ethics officer shall by letter acknowledge receipt of the complaint and advise the complainant of the defect in the complaint and that the complaint will not be considered by the Board of Ethics unless the defect is corrected.
- (g) Enactment.
- (1) This section shall be construed liberally to effectuate its purpose and policies and to supplement such existing laws as may relate to the conduct of officials or employees.
- (2) The propriety of any official act or action taken by or transaction involving any officials or employees immediately prior to the time this section shall take effect shall not be affected by the enactment of this section.
- (3) The provisions of this section are severable, and if any of its provisions shall be held unconstitutional or invalid by a court of competent jurisdiction, the decision of the court shall not affect or impair any of the remaining provisions.
- (h) Board of Ethics.
- (1)(A) There is created the Board of Ethics of DeKalb County to be composed of seven citizens of DeKalb County to be appointed as provided in paragraph (2) of this subsection.
- (B) Each member of the Board of Ethics shall have been a resident of DeKalb County for at least one year immediately preceding the date of taking office and shall remain a resident of the county while serving as a member of the Board of Ethics.
- (C) No person shall serve as a member of the Board of Ethics if the person has, or has had within the immediately preceding two-year period, any interest in any contract, transaction, or official act or action of DeKalb County.
- (D) No member of the Board of Ethics shall be a member of an agency or an official or employee of DeKalb County or shall have served in such a capacity in the two-year period immediately preceding such person's appointment to the Board of Ethics.
- (E) No person shall serve as a member of the Board of Ethics if the person has been a candidate for, or was elected to, public office in the immediately preceding three-year period. Filing for an elective office shall constitute a resignation from the Board of Ethics on the date of filing.
- (F) Appointees to the Board of Ethics shall have professional knowledge or expertise in matters of ethics, finance, governance, or the law.

(G) All proposed appointments to the Board of Ethics shall be subject to an education and employment background check as well as a criminal history check. Persons proposed to be appointed to the Board of Ethics shall execute all releases necessary for the appointing authority to accomplish such checks. If the nominee is determined to have committed a felony, the nomination shall be withdrawn.

(2)(A) The members of the Board of Ethics in office on the effective date of this section shall serve until December 31, 2015, and then their terms shall terminate. A new board shall be appointed as provided in this paragraph to take office on January 1, 2016, and to serve for the terms prescribed in this paragraph.

(B) Not later than December 31, 2015, the members of the new Board of Ethics shall be selected as follows:

(i) One member shall be appointed by the DeKalb Bar Association, chosen from the attorney members of the association;

(ii) One member shall be appointed by the DeKalb County Chamber of Commerce, which member shall not be an attorney;

(iii) One member shall be appointed by a majority vote of the DeKalb County legislative delegation;

(iv) One member shall be appointed by the judge of the Probate Court of DeKalb County;

(v) One member shall be appointed by Leadership DeKalb;

(vi) One member shall be appointed by the six major universities and colleges located within DeKalb County (Agnes Scott College, Columbia Theological Seminary, Emory University, Georgia State University, Mercer University, and Oglethorpe University), which member shall not be an attorney; and

(vii) One member shall be appointed by the chief judge of the Superior Court of DeKalb County.

(C) The members shall each serve for terms of three years; provided, however, that the initial terms of the first DeKalb County Chamber of Commerce appointee, the first Leadership DeKalb appointee, and the first DeKalb County legislative delegation appointee shall be two years; and provided, further, that the initial terms of the six major institutes of higher learning within DeKalb County appointee and the judge of the Probate Court appointee shall be one year.

(D) Successors to all members of the Board of Ethics and future successors shall be appointed by the respective appointing authorities not less than 30 days prior to the expiration of each such member's term of office, and such successors shall take office on January 1 following such appointment and shall serve terms of three years and until their respective successors are appointed and qualified.

(3) If a member of the Board of Ethics ceases to be a resident of DeKalb County, that member's position on the Board of Ethics, by operation of law, shall become vacant upon the establishment of the fact of such nonresidency, if contested, by a court of competent jurisdiction. A vacancy in the Board of Ethics shall exist by reason of death, the

disability or incapacity of a member for more than 90 days, resignation, or loss of residency as described in this paragraph. A member of the Board of Ethics may be removed from office during a term if the member becomes ineligible to hold civil office within the meaning of Code Section 45-2-1 of the O.C.G.A. and that ineligibility is established by decision of a court of competent jurisdiction which declares the office vacant because of such ineligibility or for good cause by a majority vote of the Board of Ethics. The ethics officer shall notify the appointing authority of a vacancy upon its occurrence, and such vacancy shall be filled for the unexpired term by the respective appointing authority.

(4) The members of the Board of Ethics shall serve without compensation and shall elect from their own membership a chairperson and otherwise provide for their own internal organization. The Commission shall provide adequate office and meeting space and pay all administrative costs, including those specifically stipulated in this section, pertaining to the operation of the Board of Ethics. The Board of Ethics shall be authorized to employ its own staff and clerical personnel and contract for the services of a competent court reporter, an attorney, and a private investigator as it deems necessary. The members of the Board of Ethics shall have the authority to propose the budget of the board and shall recommend the budget to the Commission, who shall fund it as a priority. In the event that the proposed budget is in excess of \$300,000.00, the Commission shall have the authority to authorize the additional funds requested in accordance with standard budgetary procedures and requirements. The Board of Ethics shall be completely independent and shall not be subject to control or supervision by the Chief Executive, the Commission, or any other official or employee or agency of the county government.

(5) The Board of Ethics shall have the following duties:

(A) To establish procedures, rules, and regulations governing its internal organization and the conduct of its affairs;

(B) To render advisory opinions with respect to the interpretation and application of this section to all officials or employees who seek advice as to whether a particular course of conduct would constitute a violation of the standards imposed in this section or other applicable ethical standards. Such opinions shall be binding on the Board of Ethics in any subsequent complaint concerning the official or employee who sought the opinion and acted in good faith, unless material facts were omitted or misstated in the request for the advisory opinion;

(C) To prescribe forms for the disclosures required in this section and to make available to the public the information disclosed as provided in this section;

(D) To receive and hear complaints of violations of the standards required by this section over which it has personal and subject matter jurisdiction;

(E) To make such investigations as it deems necessary to determine whether any official or employee has violated or is about to violate any provisions of this section; and

(F) To hold such hearings and make such inquiries as it deems necessary for it to carry out properly its functions and powers.

(2) Ethics officer.

(1) There is hereby created as a full-time salaried position an ethics officer for DeKalb County. The ethics officer must be an active member of the Georgia Bar Association in good standing with five years' experience in the practice of law. The ethics officer shall be appointed by a majority of the members of the Board of Ethics, subject to confirmation by a majority of the Commission and approval by the Chief Executive, for a period not to exceed six years. Removal of the ethics officer before the expiration of the designated term shall be for cause by a majority vote of the members of the Board of Ethics. The ethics officer need not be a resident of the county at the time of his or her appointment, but he or she shall reside in DeKalb County within six months of such appointment and continue to reside therein throughout such appointment.

(2) The ethics officer shall not be involved in partisan or nonpartisan political activities or the political affairs of DeKalb County.

(3) The duties of the ethics officer shall include, but not be limited to, the following:

(A) Educating and training all city officials and employees to have an awareness and understanding of the mandate for and enforcement of ethical conduct and advising them of the provisions of the code of ethics of DeKalb County;

(B) Maintaining the records of the Board of Ethics as required by Article 4 of Chapter 18 of Title 50 of the O.C.G.A.;

(C) Meeting with the Board of Ethics;

(D) Advising officials and employees regarding disclosure statements and reviewing the same to ensure full and complete financial reporting;

(E) Urging compliance with the code of ethics by calling to the attention of the Board of Ethics any failure to comply or any issues, including the furnishing of false or misleading information, that the ethics officer believes should be investigated by the Board of Ethics so that the Board of Ethics may take such action as it deems appropriate;

(F) Monitoring, evaluating, and acting upon information obtained from an 'ethics hotline' which shall be a city telephone number for the receipt of information about ethical violations. Each complaint, as of the time it is reported, whether by telephone or otherwise, shall be deemed to be a separate pending investigation of a complaint against a public officer or employee as provided by Article 4 of Chapter 18 of Title 50 of the O.C.G.A.;

(G) Notifying the subject of a report of any alleged violation of the ethics code, whether the report is anonymous, made by an identified individual, or is written. Such notice shall be given in writing, by facsimile, or hand delivered to the subject of the complaint at the same time and in the same form that any disclosure of information is required by Article 4 of Chapter 18 of Title 50 of the O.C.G.A.;

- (H) Notifying the Board of Ethics of any report of an alleged violation of the ethics code received by the ethics officer;
 - (I) Reporting, as appropriate, suspected ethical violations to the Board of Ethics;
 - (J) Reporting, as appropriate, suspected criminal violations to state or federal law enforcement agencies; and
 - (K) Filing with the Board of Ethics, the Chief Executive, and the Commission on the first Tuesday of each February a written report describing the activities of the ethics officer in carrying out the goals of his or her office and the code of ethics and reporting on the ethical health of DeKalb County.
- (j) Investigations and hearings. The Board of Ethics shall conduct investigations into alleged violations of the code of ethics, hold hearings, and issue decisions as prescribed in this subsection:
- (1) The proceedings and records of the Board of Ethics shall be open unless otherwise permitted by state law.
 - (2) Upon request of the Board of Ethics, the Solicitor of DeKalb County or any attorney representing the office of the Solicitor of DeKalb County, or in the event of a conflict any attorney who shall be selected by a majority vote of the Board of Ethics, shall advise the Board of Ethics.
 - (3) A complaint may be filed by the ethics officer, any resident, or a group of residents of DeKalb County by submitting to the office of the ethics officer a written, verified, and sworn complaint under the penalty of perjury or false swearing. The complaint shall specifically identify all provisions of the DeKalb County code of ethics which the subject of the complaint is alleged to have violated, set forth facts as would be admissible in evidence in a court proceeding, and show affirmatively that the complainant or affiant (if in addition to or different from the complainant) is competent to testify to the matter set forth therein. All documents referenced in the complaint as well as supporting affidavits shall be attached to the complaint.
 - (4) Upon receipt of the complaint, the ethics officer shall conduct a preliminary investigation to determine whether it meets the jurisdictional requirements as set forth in this section. If in the opinion of the ethics officer the complaint fails to meet these requirements, the ethics officer shall notify the person who filed the complaint and he or she shall have ten days from the date of notice to correct and refile the complaint directly with the ethics officer. A complaint which fails to satisfy the jurisdictional requirements as established by this section and by the rules and procedures established by the Board of Ethics shall be dismissed by the Board of Ethics no later than 30 days after the complaint is filed with the office of the ethics officer, unless extended by a majority vote of the Board of Ethics.
 - (5) The ethics officer will report his or her findings and recommendation to the Board of Ethics and advise whether there is probable cause for belief that the code of ethics has been violated, warranting a formal hearing. If the Board of Ethics determines, after the preliminary investigation of a complaint by the ethics officer, that there does not exist

probable cause for belief that this section has been violated, the Board of Ethics shall so notify the complainant and the subject of the investigation, and the complaint will be dismissed. If the Board of Ethics determines, after a preliminary investigation of the complaint by the ethics officer, that there does exist probable cause for belief that this section has been violated, the Board of Ethics shall give notice to the person involved to attend a hearing to determine whether there has been a violation of this section.

(6) For use in proceedings under this section, the Board of Ethics shall have the power to issue subpoenas to compel any person to appear, give sworn testimony, or produce documentary or other evidence. Any person who fails to respond to such subpoenas may be subjected to the penalties set forth in subsection (k) of this section.

(7) All hearings of the Board of Ethics pursuant to this section shall be as follows:

(A) All testimony shall be under oath, which shall be administered by a member of the Board of Ethics. Any person who appears before the Board of Ethics shall have all of the due process rights, privileges, and responsibilities of a witness appearing before the courts of this state. Any person whose name is mentioned during a proceeding of the Board of Ethics and who may be adversely affected thereby may appear personally before the Board of Ethics on such person's own behalf or may file a written sworn statement for incorporation into the record to be made part of all proceedings pursuant to this subsection.

(B) The decision of the Board of Ethics shall be governed by a preponderance of the evidence standard.

(C) At the conclusion of proceedings concerning an alleged violation, the Board of Ethics shall immediately begin deliberations on the evidence and proceed to determine by a majority vote of members present whether there has been a violation of this section. The findings of the Board of Ethics concerning a violation and the record of the proceedings shall be made public by the ethics officer as soon as practicable after the determination has been made.

(k) Violations; appeals.

(1) Any intentional violation of this section, furnishing of false or misleading information to the Board of Ethics or the ethics officer, failure to follow an opinion rendered by the Board of Ethics, or failure to comply with a subpoena issued by the Board of Ethics pursuant to this section shall subject the violator to any one or more of the following:

(A) Administrative sanction of not more than \$1,000.00 assessed by the Board of Ethics;

(B) Public reprimand by the Board of Ethics; and

(C) Prosecution by the DeKalb County Solicitor in municipal court and, upon conviction, a fine of up to \$1,000.00 per violation and up to six months imprisonment, whether the official or employee is elected or appointed, paid or unpaid. Nothing in this section shall be interpreted to conflict with state law. An action for violation of this section or the furnishing of false or misleading information or the failure to comply

with a subpoena issued by the Board of Ethics must be brought within two years after the violation is discovered.

(2) With regard to violations by persons other than officials or employees, in addition to the remedies in paragraph (1) of this subsection, the Board of Ethics may recommend to the Chief Executive and the Commission any one or more of the following:

(A) Suspension of a contractor; and

(B) Disqualification or debarment from contracting or subcontracting with DeKalb County.

(3) The decision of the Board of Ethics after a hearing shall be final; provided, however, that such proceeding shall be subject to review by writ of certiorari to the DeKalb County Superior Court. The designee of the Board of Ethics shall be authorized to acknowledge service of any such writ and shall, within the time provided by law, certify and cause to be filed with the clerk of the superior court a record of the proceedings before the Board of Ethics, the decision of the Board of Ethics, and the notice of the final actions of the Board of Ethics."

SECTION 2.

The election superintendent of DeKalb County shall call and conduct an election as provided in this section for the purpose of submitting this Act to the electors of DeKalb County for approval or rejection. The election superintendent shall conduct that election on the Tuesday next following the first Monday in November, 2015, and shall issue the call and conduct that election as provided by general law. The election superintendent shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date thereof in the official organ of DeKalb County. The ballot shall have written or printed thereon the words:

"() YES Shall the Act be approved which revises the Board of Ethics for DeKalb
() NO County?"

All persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on such question are for approval of the Act, Section 1 of this Act shall become of full force and effect immediately. If the Act is not so approved or if the election is not conducted as provided in this section, Section 1 of this Act shall not become effective, and this Act shall be automatically repealed on the first day of January immediately following that election date. The expense of such election shall be borne by DeKalb County. It shall be the election superintendent's duty to certify the result thereof to the Secretary of State.

SECTION 3.

Except as otherwise provided in Section 2 of this Act, this Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.

NOTICE OF INTENTION TO INTRODUCE LOCAL LEGISLATION

Notice is given that there will be introduced at the regular 2015 session of the General Assembly of Georgia a bill to amend an Act revising, superseding, and consolidating the laws relating to the governing authority of DeKalb County and creating a chairman and board of commissioners of said county, approved March 8, 1956 (Ga. L. 1956, p. 3237), as amended, particularly by an Act approved April 9, 1981 (Ga. L. 1981, p. 4304), an Act approved March 20, 1990 (Ga. L. 1990, p. 3900), and an Act approved April 13, 1992 (Ga. L. 1992, p. 6137), so as to change the manner of appointment of the members of the Board of Ethics of DeKalb County; to provide for terms of office of members of the board; to provide for qualifications for members of the board; to provide funding for the board; to provide for a referendum; to provide for contingent effective dates; to provide for related matters; and for other purposes.

GEORGIA, FULTON COUNTY

Personally appeared before me, the undersigned authority, duly authorized to administer oaths, Scott Holcomb, who on oath deposes and says that he is the Representative from District 81 and further deposes and says that the attached Notice of Intention to Introduce Local Legislation was published in the Champion which is the official organ of DeKalb County on January 15, 2015, and that the notice requirements of Code Section 28-1-14 have been met.

s/ SCOTT HOLCOMB
Scott Holcomb
Representative, District 81

Sworn to and subscribed before me,
this 9th day of March, 2015.

s/ JENNIFER BURGESS
Jennifer Burgess
Notary Public, Fulton County, Georgia
My Commission Expires December 29, 2018
(SEAL)

Approved May 12, 2015.

ATTACHMENT 4

ganization or purpose. Employees may make voluntary financial contributions to a political party or organization or candidate.

(Code 1976, § 2-3007)

Sec. 20-19. Persons advocating overthrow of government prohibited from employment.

No person shall be employed under the merit system who advocates or has ever advocated, or who is or who ever has been a member of any organization that advocates the overthrow of the government of the United States by force or violence.

(Code 1976, § 2-3008)

Sec. 20-20. Conflicts of interest.

(a) No employee covered by the provision of this chapter shall:

- (1) Engage in any business or transaction or have a financial interest or other personal interest, direct or indirect, which is incompatible with the proper discharge of official duties or which would tend to impair independence of judgment or action in the performance of official duties;
- (2) Engage in or accept private employment or render services for a private interest when such employment or service is incompatible with the proper discharge of official county duties or would tend to impair independence of judgment or action in the performance of official duties;
- (3) Disclose confidential information concerning the property, governmental body or affairs of the county without proper legal authorization, or use such information to advance the employee's financial or other private interests or that of others;
- (4) Participate in the negotiation or the making of any contract with any business or entity in which the employee has a financial interest.
- (5) Solicit contributions from another employee for a gift or donation to an employee or elected official in a superior

official position, or, if in a superior position, accept a gift presented as a contribution from an employee.

- (6) Directly or indirectly solicit or accept any gift from a prohibited source or any gift given because of the employee's official position.
- (7) Directly or indirectly give, offer, promise, demand, seek, receive, accept, or agree to receive anything of value to influence any official act.
- (8) Except as provided by law for the proper discharge of official duties, directly or indirectly, give, offer promise, demand, seek, receive, accept, or agree to accept anything of value for or because of any official act performed or to be performed, or for or because of any testimony given or to be given before an individual or other entity, tribunal or proceeding authorized to hear evidence or take testimony.
- (9) Accept gifts from the same or different sources on a basis so frequent that a reasonable person would be led to believe the employee is using his/her public office for private gain.
- (10) Accept a gift in violation of any local, state or federal statute.
- (11) Accept vendor promotional training contrary to applicable regulations, policies or guidance relating to the procurement of supplies and services for the county.

(b) No employee shall receive any compensation, salary or supplementation of his/her county salary, from any entity other than the county or as may be contributed by law out of the treasury of any state, county, or municipality, for his/her services to the county.

(c) No employee shall by his or her conduct give reasonable basis for the impression that any person can improperly influence him or her or unduly enjoy his or her favor in the performance of official acts or actions or that he or she is affected unduly by the kinship, rank, position or association with any person.

(d) No employee shall by virtue of his or her position with the county, directly or indirectly attempt to influence the decision of any county employee who must act to further any county procurement, policy, regulation, inspection or transaction.

(e) No employee shall engage in or accept employment with or render services for any private business or professional activity when such is adverse to and incompatible with the proper discharge of his or her official duties.

(f) Employees shall not knowingly solicit or make solicited sales to other employees who are junior in classification or position, or to the family members of such employees, within or without work hours. In the absence of coercion or intimidation, this does not prohibit the sale or lease of an employee's noncommercial personal or real property or commercial sales solicited and made in a retail establishment during non-working hours. This prohibition includes, without limitation, the solicited sale of insurance, stocks, mutual funds, real estate, cosmetics, household supplies, vitamins, and other goods or services. Both the act of soliciting and the act of selling as a result of soliciting are prohibited. In both cases, however, a solicitation is necessary for a violation to occur. While the standard prohibits a superior from making a solicited sale to a subordinate or to the subordinate's family, sales made because a subordinate approaches the superior and requests the sale to be made are not prohibited, absent coercion or intimidation by the superior. The posting of an advertisement in accordance with county policies does not constitute solicitation for purposes of this subsection.

(g) Where an employee knows that a particular matter involving specific parties is likely to have a direct and predictable effect on the financial interest of a member of his/her household, or knows that a person with whom he/she has a covered relationship is or represents a party to such a matter, and where the circumstances would cause a reasonable person with knowledge of the relevant facts to question his/her impartiality in the matter, the employee should not participate in the matter.

(h) An employee shall be disqualified for two (2) years from participating in any particular matter in which a former employer is a party or represents a party. The two-year period of disqualification begins to run on the date the employee left the employ of the former employer.

(i) An employee may accept unsolicited gifts from a person or entity other than a prohibited source, having an aggregate market value of forty dollars (\$40.00) or less per source per occasion, provided that the aggregate market value of individual gifts received from any one source under the authority of this paragraph shall not exceed one hundred twenty dollars (\$120.00) in a calendar year.

(j) Definitions.

(1) *Covered relationship.* An employee has a covered relationship with:

- a. A person with whom the employee has or seeks a business, contractual or other financial relationship that involves other than a routine consumer transaction;
- b. A person who is a member of the employee's household, or who is within the third degree of relationship with of the employee;
- c. A person for whom the employee's spouse, parent or child is serving or seeking to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee;
- d. Any person for whom the employee has, within the last year, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; or
- e. An organization, other than a political party, in which the employee is an active participant.

(2) *Direct and predictable effect* means a particular matter will have a direct effect if there is a close causal link between any decision or action to be taken in the matter and any effect on a financial interest.

An effect may be direct even though it does not occur immediately. A particular matter will not have a direct effect on a financial interest, however, if the chain of causation is contingent upon the occurrence of events that are speculative or that are independent of, and unrelated to, the matter. A particular matter will have a predictable effect if there is a real, as opposed to a speculative, possibility that the matter will affect a financial interest. It is not necessary, however, that the magnitude of the gain or loss be known, and the dollar amount of the gain or loss is immaterial.

- (3) *Former employer* includes any person or entity which the employee served as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee.
- (4) *Gift* includes any gratuity, favor, discount, entertainment, trip, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of training, transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred. A gift does not include:
 - a. Modest items of prepared food and refreshments, such as soft drinks, or coffee and donuts, offered other than as part of a meal;
 - b. Greeting cards and items with little intrinsic value, such as plaques, certificates, and trophies, which are intended solely for presentation;
 - c. Loans from banks and other financial institutions on terms generally available to the public;
 - d. Social invitations from persons or entities, other than prohibited sources. An employee may accept food, refreshments and entertainment, not including travel or lodgings, at a social event attended by several persons where the invitation

is from a person or entity that is not a prohibited source and no fee is charged to any person in attendance.

- (5) *Imputed interests* means the financial interests of the following persons will serve to disqualify an employee to the same extent as if they were the employee's own interests:
 - a. The employee's spouse/domestic partner;
 - b. The employee's child;
 - c. An organization or entity which the employee or his/her spouse serves as officer, director, trustee, general partner or employee; and
 - d. A person with whom the employee is negotiating for or has an arrangement concerning prospective employment.
- (6) *Market value* means the retail cost the employee would incur to purchase the gift. An employee who cannot ascertain the market value of a gift may estimate its market value by reference to the retail cost of similar items of like quality. The market value of a gift of a ticket entitling the holder to food, refreshments, entertainment, or any other benefit shall be the face value of the ticket.
- (7) *Particular matter* encompasses only matters that involve deliberation, decision, or action that is focused upon the interests of specific persons, or a discrete and identifiable class of persons. The particular matters covered by this subpart include, but are not limited to, a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation or arrest.
- (8) *Personal and substantial* means the direct and active supervision of the participation of a subordinate in the matter. To participate substantially means that the employee's involvement is of significance to the matter. Participation may be substantial even though it is not determinative of the outcome of the particular mat-

ter. However, it requires more than official responsibility, knowledge, perfunctory involvement, or involvement on administrative or peripheral issues. A finding of substantiality should be based not only on the effort devoted to a matter, but also on the importance of the effort.

(9) Prohibited source means any person or entity who:

- a. Is seeking official action by the employee or the employee's department;
- b. Does business or seeks to do business with the county or the employee's department;
- c. Conducts activities regulated by the employee or the employee's department;
- d. Has interests that may be substantially affected by performance or non-performance of the employee's official duties; or
- e. Is an organization having a majority of its members as described in paragraphs (j)(9)a. through d. of this section.

(10) A gift is *solicited or accepted* because of the employee's official position if it is from a person other than an employee and would not have been solicited, offered, or given had the employee not held the status, authority or duties associated with his/her county position. A gift which is solicited or accepted indirectly includes a gift:

- a. Given with the employee's knowledge and acquiescence to his/her parent, sibling, spouse, child (included adopted and step-children), or dependent relative because of that person's relationship to the employee, or
- b. Given to any other person, including any charitable organization, on the basis of designation, recommendation, or other specification by the employee.

(11) *Third degree of relationship.* The following persons are relatives within the third degree of relationship: great-grandparent, grandparent, parent, uncle, aunt, brother, sister, child, grandchild, great-grandchild, nephew or niece.

(12) *Vendor promotional training* means training provided by any person or entity for the purpose of promoting its products or services. It does not include training provided under a county contract or by a contractor to facilitate use of products or services it furnishes under a county contract.

(h) Any employee who violates the provision of this section shall be guilty of misconduct and subject to appropriate disciplinary action, including immediate dismissal.

(Code 1976, § 2-3010; Ord. No. 10-02, Pt. I, 11-27-01)

Sec. 20-20.1. Financial disclosure reports.

The chief executive officer, executive assistant, county attorney and assistant county attorneys, chief of staff, assistant county administrators, clerk to the board of commissioners, board of tax assessors, department heads, deputy, assistant and associate department heads/directors and economic development department personnel, shall file annually with the clerk to the board of commissioners a report disclosing the sources of any income, whatever its nature, in excess of one thousand dollars (\$1,000.00) derived from any one (1) source for the proceeding calendar year. Such report shall be filed on or before April 30 of each year for the prior calendar year in a format determined by the director of finance. Failure of any such person to file such disclosure statement shall be reflected in the minutes of the next regularly scheduled meeting of the board of commissioners following the April 30 deadline, with a copy of the list of such persons presented to the chairperson of the DeKalb County Board of Ethics for appropriate action. The reports shall be considered public documents upon filing. Each report shall contain the following information:

- (1) The source of each of the following items received or accrued during the preceding

calendar year by such person reporting or his/her spouse, including the name and address of the source:

- a. Any income for services rendered of one thousand dollars (\$1,000.00) or more;
 - b. Any interest or dividend income of one thousand dollars (\$1,000.00) or more;
 - c. Reimbursement for expenses of one thousand dollars (\$1,000.00) or more in each instance;
 - d. Honoraria from a single source in the aggregate amount of five hundred dollars (\$500.00) or more, except as otherwise reported under the state statute covering financial disclosure statements;
 - e. Any gift in the aggregate amount or value of five hundred dollars (\$500.00) or more from any single source received during the preceding year.
- (2) The name, address and type of organization in which the person reporting or his/her spouse is an officer, director, partner, proprietor, or employee, or serves in any advisory capacity from which income of one thousand dollars (\$1,000.00) or more was derived.
 - (3) Each creditor, including the name and address, to whom the person reporting or his/her spouse was indebted for a period of ninety (90) consecutive days or more during the preceding calendar year in an amount of seven thousand five hundred dollars (\$7,500.00) or more, except for retail installment debt, or the purchase or sale of real property.
 - (4) Failure to file a financial disclosure report, as required by this section, may result in the referral of such violation to the DeKalb County Board of Ethics for punitive action, or may result in disciplinary action, including dismissal.
- (Ord. No. 09-02, Pt. I, 11-27-01)

Sec. 20-21. Disposition of special fees and rewards.

Special fees and rewards received by any employee by reason of the performance of any act required of such employee by the county and such employee's duties, whether paid by an individual or by a public authority, shall be deemed the property of the county and no employee shall accept for private use and benefit this fee or reward.

(Code 1976, § 2-3011)

Sec. 20-22. Full-time service; outside employment.

The county shall be entitled to the full-time services of all employees whose positions are on a full-time basis. All outside employment must be approved in advance by the department head. No outside employment which interferes with the employee's scheduled county work time shall be allowed, nor shall any outside employment be allowed which may create a conflict, or apparent conflict, between private interest of the individual and official county duties and responsibilities.

(Code 1976, § 2-3122)

Sec. 20-23. Physical examination.

Before entering employment and as often as the head of the department may deem necessary for the performance of work assigned, an applicant or employee shall undergo a physical examination by a licensed physician to determine the physical fitness of the employee for the job sought or duty assigned. Such examination shall be conducted by the county physician or the county physician's designee and paid for by the county. The standard of physical fitness requirements related to job duty shall be established by each department head with due consideration given to the duties to be performed. Before becoming effective, such physical standards shall be submitted to and approved by the director and shall be furnished to the physician conducting the physical examination. No otherwise qualified handicapped individual shall be excluded from county employment solely by reason of handicap, unless such handicap prohibits such individual from performing job-related duties or places such hand-

icapped person or county employee in unsafe conditions likely to result in bodily injuries to the handicapped person or other county employee. If a county employee does not agree to submit to a physical examination, such refusal shall be grounds for dismissal, suspension or leave without pay. (Code 1976, § 2-3127)

Secs. 20-24—20-40. Reserved.

ARTICLE II. COMPENSATION PLAN

Sec. 20-41. Salary increases.

A salary increase shall not be considered as an automatic and routine right due an employee. All salary increases shall be based upon quality and quantity of work as reflected by performance appraisal and other recorded ratings, giving due consideration to length of service. (Code 1976, § 2-3031)

Sec. 20-42. Holiday pay.

All full-time employees shall be paid for a normal workday for each legal holiday established by the board of commissioners. Part-time employees shall be paid the pro rata part of a normal workday based on hours per day normally worked. Temporary employees, whether part-time or full-time, are not eligible for holiday pay. Employees required to work on a holiday shall be paid the regular day's pay. In addition, they may be given comparable time off at a subsequent date not later than twelve (12) months following the holiday or, upon approval of the chief executive or the chief executive's designee, may be paid for the holiday at a straight-time rate. (Code 1976, § 2-3032)

Sec. 20-43. Quality pay increase.

A quality pay increase is a pay increase equivalent to a step increase available to permanent full-time employees whose performance is of such superior quality above that ordinarily found in the type of position concerned that special pay recognition is warranted. (Code 1976, § 2-3033)

Sec. 20-44. Longevity pay.

Longevity pay is a benefit to employees for continued service to the county. Permanent employees shall receive additional compensation based upon satisfactory completion of successive years of service to begin after completion of eight (8) years of service. The method of compensation, as set forth in the administrative procedures to the personnel code, shall be determined by the chief executive with approval of funding by the board of commissioners. (Code 1976, § 2-3034)

Sec. 20-45. Separation pay.

(a) *Annual leave payout.* Upon separation from employment with the county, an employee who has completed at least six (6) months but less than ten (10) years of qualifying service may receive pay for accumulated unused annual leave up to a maximum of thirty (30) days at the employee's regular rate of pay. An employee who has completed at least ten (10) years of qualifying service may, upon separation from employment with the county, receive pay for accumulated unused annual leave up to a maximum of forty-five (45) days at the employee's regular rate of pay. No payment shall be made upon separation from employment for any amount of accumulated unused sick leave. (Note: Upon retirement after May 30, 1996, accumulated unused sick leave at the time of retirement shall be credited at the rate of twenty-one and one-half (21½) days for one-twelfth (1/12) year of service to determine total length of service for retirement benefit computation). Employees with annual leave reserve accounts created at the beginning of 2012 shall be subject to all terms and conditions of this section, except as specifically modified by subsection 20-165(g) of this chapter.

(b) *Annual leave payout; death of employee.* Upon the death of a permanent employee, the beneficiary of such employee shall be paid for accumulated unused annual leave and any other final pay and allowances in the manner of other separations as indicated above.

(c) *Temporary and emergency employees.* The appointment of any person as a temporary or emergency employee shall be automatically ter-

ATTACHMENT 5



DeKalb County
G E O R G I A

Purchasing & Contracting Department

Employee Handbook

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Chief Procurement Officer
July 2017

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Purchasing and Contracting Overview

The DeKalb County Department of Purchasing and Contracting (P&C) Employee Handbook (the "Handbook") has been developed to provide general guidelines about P&C policies and procedures for employees. It is a guide to assist you in becoming familiar with some of the privileges and obligations of your employment, including the County's policy of voluntary at-will employment. None of the policies or guidelines in the Handbook is intended to give rise to contractual rights or obligations, or to be construed as a guarantee of employment for any specific period of time, or any specific type of work. Additionally, apart from the voluntary at-will employment policy, these guidelines are subject to modification, amendment or revocation by the County at any time, without advance notice.

The personnel policies are established within the DeKalb County Personnel Code, Administrative Policies & Procedures in Accordance with the Personnel Chapter of the DeKalb County Code and the New Employee Orientation Booklet.

P&C will provide everyone a copy of this Handbook upon employment. All employees are expected to abide by it. The highest standards of personal and professional ethics and behavior are expected of all P&C employees. Further, P&C expects each employee to display good judgment, diplomacy and courtesy in their professional relationships and interaction with internal and external customers.

Non-Discrimination and Anti-Harassment

Staff should refer to Administrative Policies & Procedures in Accordance with the Personnel Chapter of the DeKalb County Code Article IX.

<\\\\isfcluster2\\HumanResources\\PSData\\HR InTRANet\\Employee Relations\\PersonnelCodeAdminProcedures\\Personnel Code.htm>

Equal Employment Opportunity

Staff should refer to DeKalb County Code, Personnel Chapter, Section 20-16.

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Any reported allegations of harassment, discrimination, or retaliation will be investigated promptly. The investigation may include individual interviews with the parties involved and, where necessary, with individuals who may have observed the alleged conduct or may have other relevant knowledge. Confidentiality will be maintained throughout the investigatory process to the extent consistent with adequate investigation and appropriate corrective action, and as otherwise provided by law.

Change Log:

1/17/2017 - Added the words “and salary” to Article II - COMPENSATION PLAN
ADMINISTRATION – Demotion – Voluntary Demotion

5/04/2017 - Added the words “and salary” under Section 20-126 - DEMOTION

Chapter 20 - PERSONNEL

Footnotes:

--- (1) ---

Cross reference— Officers and employees generally, § 2-41 et seq.; departments of county government, App. A; local laws relating to personnel, App. B, § 1001 et seq.

Organizational act reference— General authority of chief executive over county employees, § 13.

State Law reference— General constitutional grant of home rule powers, Ga. Const. art. IX, § II, ¶ II.

ARTICLE I. - IN GENERAL

Sec. 20-1. - Definitions.

The following words, terms and phrases, when used in this chapter and in any personnel rules and regulations adopted by the chief executive, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act or the Act or merit system act means Georgia Laws, 1956, p. 3111 [App. B, § 1052 et seq.], as amended.

Allocation means assignment of a pay grade to a class of positions.

Appeal means a request by an employee to have a hearing pursuant to this chapter.

Applicant means any person who has filed an application in accordance with this chapter.

Appointment means the employment of an applicant for county service.

Available means an individual on a register for a class of positions willing to accept appointment to a particular position of that class.

Base rate of pay means that salary paid an employee excluding any incentive, longevity or other compensation.

Certification means referring a list of names of qualified applicants for appointment or promotion.

Class means a group of positions sufficiently similar as to the duties performed, degree of supervision exercised or required, minimum requirements of training, experience and such other characteristics that the same title, the same tests of fitness, and the same schedule of compensation may be applied to each position in the group; and which has been recognized as such in the classification plan approved.

Classified service means all positions under the merit system. Each position is assigned to a classification and carries that specific job code and an individual position number. Exempt positions are not in the classified service.

Compensatory time means that time which may be granted an employee as off time as compensation for time worked in excess of the standard workweek applicable to that employee.

Council means the merit system council.

Demotion means the reduction of a permanent or working test employee to a position of a lower class. For this purpose, a lower class means any class of positions having a maximum rate of pay lower than the maximum rate of pay for the position in which the individual is employed.

Department means the internal administrative unit established by formal action of the chief executive and board of commissioners.

Department head means any county employee designated as the head or principal administrative officer of any department subject to the provisions of this chapter. This includes the chief executive who shall be considered the department head of department heads under the merit system.

Director means the director of the merit system and personnel administration department.

Disciplinary action means action taken for cause by the chief executive officer or department head that results in suspension, involuntary demotion or dismissal.

Eligible means an individual whose name appears on a register for a particular class of positions and who is not otherwise barred from consideration for appointment.

Emergency appointment means employment to fill an immediate need and that regular appointment methods cannot be followed.

Employee means an incumbent of a position, as hereinafter defined.

Examination means the designated method of evaluating the knowledge, skills and abilities of applicants for purposes of ranking and selection. Such methods could include but not be limited to written tests, oral interviews, evaluations of education and experience, etc.

Exempt position means a position designated as being exempt from the application of this chapter.

Merit system means the county merit system of personnel administration of employees covered under the act.

Minimum qualifications means those training, experience and other requirements that qualify an applicant or employee to be considered for examination and appointment.

Overtime means time wherein an employee is directed to continue work in excess of the standard workweek for that position, as hereinafter defined.

Part-time employee means any employee working on a continuous basis at least twenty (20) hours but less than the standard workweek, as hereinafter defined.

Permanent status employee means an employee who has successfully completed his or her probationary period and has been designated a permanent status employee by the department head and approved by the merit system director.

Position means the duties, tasks and responsibilities which comprise and constitute the work of an employee.

Probation means conditional employment; not regular; a trial or working test period.

Promotion means the filling of a vacancy by appointing an employee with permanent status to a position from a position of a lower class.

Protected classes means minorities, females, handicapped, older workers, and other classes designated by federal or state law for special employment consideration.

Public hearings means a meeting of the merit system council open to the public, held after at least five (5) days' notice has been given thereof, at which time any interested party may appear and be heard.

Public notice, unless otherwise expressly stated, means a written notice on a bulletin board accessible to the public during business hours, and other publicity as may be deemed necessary by the merit system council.

Qualifying service means all periods of county employment during which an employee was eligible to accrue annual leave under this chapter.

Reallocation means change in the pay grade assignment of a class of positions.

Reduction in force means the termination of an employee due to lack of work, lack of funds, abolishment of position, or for other material changes in duties or organization, or appropriation of funds.

Register means an official list of persons who have successfully competed in a merit system examination for a particular class of positions.

Roster of employees means a listing of employees of the county government which sets forth the name of each employee, the department by which the employee is employed, the class title of the position held by the employee, and the salary range assigned to the class title of the position held by the employee.

Salary adjustment means any change in salary, resulting from legislative or administrative action, and not constituting a salary advancement, as hereinafter defined.

Salary advancement means an increase in salary based on merit and length of service within the salary range prescribed for a particular class of positions.

Standard workweek means that number of hours constituting the full working time for a class of positions, as determined by a department head and as approved by the board of commissioners.

Standby time means that time when employees are required to leave work at their homes or with departmental officials where they may be reached in case of an off-duty call-out.

Temporary position means a position created for a designated period of time not to exceed six (6) months.

Time-limited appointment means employment to fill a position for a period of time designated by programs authorized by Congress or the state legislature.

Transfer means the filling of a vacancy by assigning a permanent or working test employee from another position of the same or a comparable class.

Vacancy means an unoccupied position that has been established through a job analysis and official delegation of duties, which has been properly allocated and adopted as part of the classification and pay plans, and for which funds are available.

Waiting time means that period of inactivity while on duty spent waiting for weather conditions to improve or contingency assignments to be made.

(Code 1976, § 2-3002; Ord. No. 00-75, § 1, 7-25-00; Ord. No. 11-08, Pt. I, 6-28-11)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 20-2. - Penalties for violation.

Any employee under the merit system who willfully violates any of the provisions of this chapter may be disciplined hereunder or may be required to forfeit the employee's position, subject to the appeals guidelines as set forth in article IX of this chapter.

(Code 1976, § 2-3009)

Sec. 20-3. - Applicability.

All positions, other than those exempt positions under this chapter or law, shall be filled only in accordance with this chapter. All departments under the merit system, as provided herein, shall administer their personnel in accordance with this chapter. All positions, except those listed as exempt, shall be collectively known as the classified service. Nothing in this chapter shall be construed to conflict with any state law or regulation that provides additional qualifications, duties or compensation levels of any employee who is also subject to the provisions of this chapter.

(Code 1976, § 2-3003; Ord. No. 93-02, § 2, 1-26-93)

Sec. 20-4. - Exempt positions designated.

The provisions of this chapter shall not apply to any exempt position. The exempt positions are the following:

(1) *Generally.*

- a. Chief executive and board of commissioners and the employees of the office of the chief executive and the board of commissioners.
- b. District attorney and employees of the office.
- c. Probate court judge and employees of the office.
- d. Sheriff and employees of the office.
- e. Solicitor of the state court and employees of the office.
- f. State court judges, clerks and employees of the offices.
- g. Superior court clerk and employees of the office.
- h. Superior court judges and employees of the office.
- i. Surveyor and employees of the office.
- j. Tax commissioner and employees of the office.
- k. All employees of the police department, including the police chief, who hold positions or classifications above the rank of captain. All positions above the rank of captain serve at the pleasure of the chief of police. If the chief of police removes an employee above the rank of captain for a reason other than for cause, the employee shall revert to the position of captain, or to the position previously held if less than captain, with equivalent changes in salary and benefits.
- l. All employees of the department of fire and rescue services who hold positions or classifications above the rank of captain. All positions above the rank of captain serve at the pleasure of the director of the department of fire and rescue services. If the director removes an employee above the rank of captain for a reason other than for cause, the employee shall revert to the position of captain, or to the rank previously held if less than captain, with equivalent change in salary and benefits.
- m. The head of the following departments: airport (Peachtree-DeKalb Airport); development; economic development; police services; fire and rescue services; geographical information systems; parks and recreation; physical plant management (facilities management); public works, including the assistant directors and associate directors of roads and drainage, water and sewer, sanitation, and fleet maintenance; purchasing and contracting; and workforce development.

(2) *Appointed official.*

- a. County attorney and employees of the office.
- b. Elections supervisor.
- c. Executive assistant.
- d. Juvenile court judges.
- e. Library director.
- f. Magistrate court judges.
- g. Public defender and employees of the office.

- h. Recorder's court judges, clerk, deputy clerks, and employees of the office (except marshals of the recorder's court appointed by the chief recorder).
 - i. Tax assessor board and chief appraiser.
 - j. Medical examiner.
 - k. Members of other appointed county agencies, boards, commissions and councils and the employees of the offices.
- (3) *Employees of state or other governmental agencies.*
- a. Extension service.
 - b. Family and children services.
 - c. Board of health.
 - d. Participants in special, time-limited programs; participants or beneficiaries of programs such as the Comprehensive Employment and Training Act, or similar programs authorized by Congress or the state legislature, whose employment is primarily for the purpose of training, or rehabilitation, and is time-limited in nature.

(Code 1976, § 2-3004; Ord. No. 93-02, § 1, 1-26-93; Ord. No. 12-02, § 1, 12-11-01; Ord. No. 09-12, Pt. I, 7-14-09 ; Ord. No. 12-13, Pt. I, 9-11-12)

Sec. 20-5. - Reserved.

Sec. 20-6. - Duties of merit system and personnel administration director.

The duties of the merit system director shall be to:

- (1) Attend all meetings of the merit system council and act as secretary to the council.
- (2) Establish and maintain a listing of all employees of the board of commissioners, including merit and nonmerit, which will set forth the names of employees, their class titles, their pay grades, their salaries or pay statuses, their employment statuses and other appropriate data deemed pertinent by the director.
- (3) Select a staff of assistants in accordance with this chapter and to assign and direct their work.
- (4) Advise and consult with the department heads in the development of a variety of training programs to improve performance of employees at all levels as needed and to coordinate the planning and scheduling of such training programs for efficient administration.
- (5) Assist the department heads in the development of a system of periodic performance appraisal of employees under the merit system to be administered by the department heads.
- (6) Make annual reports and such special reports as deemed advisable regarding personnel administration under the merit system, and to make recommendations for improvement therein.
- (7) Be responsible for the preparation and maintenance of the classification and compensation plans and, after consultation with department heads, to prepare and present to the board for adoption, class specifications and amendments thereto.
- (8) Recommend amendments to this chapter and to cause all rules and regulations to be published and copies thereof to be given to the department heads and the board, and to maintain copies in the office of the merit system department.
- (9) Prepare for review and approval by the chief executive, job classification and compensation, administrative procedures to be followed by employees, department heads and other officials in processing appeals and in carrying out other assigned responsibilities under this chapter.

- (10) Prepare annual budgets covering all the costs of operating the merit system, for adoption by the board.
- (11) Maintain all registers of eligible persons for appointment and to make certification from such registers.
- (12) Act as custodian of all records and properties in the office of the merit system director.
- (13) Make such regulations and other administrative memoranda as deemed necessary, not inconsistent with this chapter, relative to matters involved in the administration of this chapter.
- (14) Be responsible for overseeing an equitable and uniform system of discipline, administering the internal grievance and appeal procedure and maintaining the centralized records and coordinating the activities associated with appeals.

(Code 1976, § 2-3018)

Sec. 20-7. - Adoption of rules, regulations.

The chief executive shall adopt uniform rules and regulations pertaining to county recruitment activities, applications for examination, qualifications of applicants, administration of examinations, and all other matters necessary to accomplish the purpose of this chapter.

(Code 1976, § 2-3041)

Sec. 20-8. - Minutes of merit system council.

The date, time and place of each meeting of the merit system council, names of the councilmembers present, all official acts of the council and the votes of each member except when the acts are unanimous and, when requested, a councilmember's approval or dissent, with the reasons, shall be recorded in the minutes. The director shall cause the minutes to be prepared and presented to the council for approval or amendment. The adopted minutes, or a true copy thereof, certified by the director, shall be open to public inspection, and copies of pertinent sections thereof made available upon request to any department head or employee affected thereby.

(Code 1976, § 2-3015)

Sec. 20-9. - Record of appeal hearings.

A verbatim account of an appeal hearing will not be transcribed, unless requested by one (1) of the parties, and paid for by the requesting party. Either party shall have the right to have the proceedings recorded by a court reporter at the party's own expense.

(Code 1976, § 2-3016)

Sec. 20-10. - Public records, confidential records.

All merit system documents, records and information are the property of DeKalb County and shall remain confidential except when disclosure is required by the Georgia Open Records Act or other law.

(Code 1976, § 2-3012; Ord. No. 00-75, § 2, 7-25-00)

Sec. 20-11. - Access to records.

The director shall have access to all departmental personnel records, documents and papers in order to discharge the director's duties. The department heads shall have access to such records as deemed pertinent by the director to their department and the discharge of their duties. Performance rating reports shall be accessible to the department head concerned, the director, the merit system council, the board of commissioners and the employee involved. Such performance reports may be reviewed by other individuals only for official purposes on a need-to-know basis at the discretion of the director. The merit system council shall have access to all records necessary to discharge its duties. Other personnel information may be made available for official purposes at the discretion of the director. Information which is obtained by employees in the course of their official duties shall not be released or made available to anyone other than employees charged with this responsibility as part of their official duties.

(Code 1976, § 2-3013)

Sec. 20-12. - Preservation of records.

- (a) The following records shall be preserved in the offices of the merit system for the periods designated:
 - (1) Examination and testing records of appointees shall be kept permanently. Examination and testing records of other applicants shall be kept for one (1) year.
 - (2) Registers of certified eligibles shall be kept for one (1) year after expiration.
 - (3) A copy of each test form used and validation procedures employed shall be retained permanently.
 - (4) All other records related to examination and eligible lists, including correspondence, applications and examination papers, shall be kept for one (1) year.
 - (5) The employee's permanent personnel file shall be purged each three (3) years to remove appraisals and other documents related to performance, disciplinary actions and other materials over three (3) years of age which are no longer needed in the operation of the merit system.
 - (6) Personnel files of terminated employees shall be kept for three (3) years.
- (b) The above retention periods may be extended if required by federal or state law.
- (c) Records may be preserved in their original form or other duplicate form such as microfilm, at the discretion of the director.

(Code 1976, § 2-3014)

Sec. 20-13. - Position classification plan.

- (a) The classification plan provides a systematic arrangement and inventory of the positions in the classified service. The plan groups the various positions into classes with an appropriate title indicative of the range of duties and responsibilities, and the types of work performed.
- (b) The chief executive shall adopt rules and regulations for the implementation and administration of the classification plan within the budget approved by the board of commissioners.

(Code 1976, §§ 2-3021, 2-3022)

Sec. 20-14. - Maintenance of registers.

The chief executive shall adopt uniform rules and regulations pertaining to the maintenance of registers, including procedures for determining the adequacy of existing registers, the frequency of announcements of vacancies or examinations, the abolishment of registers, and the establishment of registers.

(Code 1976, § 2-3051)

Sec. 20-15. - Filling of vacancies.

All vacancies under the merit system must be filled either by probationary appointment, promotion, demotion, transfer, emergency appointment, reappointment, temporary appointment or part-time appointment. No vacancy may be filled until a valid requisition is received by the director from a department head.

(Code 1976, § 2-3061)

Sec. 20-16. - Equal opportunity employment.

- (a) The county is an equal opportunity employer. This effort will be an ongoing process. For affirmative action purposes, the director, in conjunction with the affirmative action officer, may institute voluntary programs that will facilitate this purpose and implement programs approved by the board of commissioners.
- (b) There shall be no discrimination against applicants or employees on the basis of race, color, religion, sex, national origin, political affiliation or opinion, age, handicap or other nonmerit factors with regard to appointment, promotion, demotion, dismissal, discipline, training or any other aspect of personnel administration. This shall not prevent the application of a particular requirement factor that is a bona fide occupational qualification.

(Code 1976, §§ 2-3005, 2-3161)

Sec. 20-17. - Political activities.

- (a) No person shall seek or attempt to use any political endorsement in connection with any appointment to a position under the merit system.
- (b) No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position under the merit system, or an increase in pay or any other advantage in employment in this position for the purpose of influencing the vote or political action of any person, or for any consideration.
- (c) No employee under the merit system shall be a candidate for nomination or election to any elective public office, or take part in the management or affairs of any political campaign, except to exercise the right as a citizen to express an opinion privately and to cast a vote.
- (d) Employees whose principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the United States or a federal agency are subject to the provisions of the Hatch Act.

(Code 1976, § 2-3006)

Sec. 20-18. - Political soliciting.

No employee under the merit system shall solicit or take part in soliciting any assessment, subscription or contribution for any political organization or purpose. Employees may make voluntary financial contributions to a political party or organization or candidate.

(Code 1976, § 2-3007)

Sec. 20-19. - Persons advocating overthrow of government prohibited from employment.

No person shall be employed under the merit system who advocates or has ever advocated, or who is or who ever has been a member of any organization that advocates the overthrow of the government of the United States by force or violence.

(Code 1976, § 2-3008)

Sec. 20-20. - Conflicts of interest.

(a) No employee covered by the provision of this chapter shall:

- (1) Engage in any business or transaction or have a financial interest or other personal interest, direct or indirect, which is incompatible with the proper discharge of official duties or which would tend to impair independence of judgment or action in the performance of official duties;
- (2) Engage in or accept private employment or render services for a private interest when such employment or service is incompatible with the proper discharge of official county duties or would tend to impair independence of judgment or action in the performance of official duties;
- (3) Disclose confidential information concerning the property, governmental body or affairs of the county without proper legal authorization, or use such information to advance the employee's financial or other private interests or that of others;
- (4) Participate in the negotiation or the making of any contract with any business or entity in which the employee has a financial interest.
- (5) Solicit contributions from another employee for a gift or donation to an employee or elected official in a superior official position, or, if in a superior position, accept a gift presented as a contribution from an employee.
- (6) Directly or indirectly solicit or accept any gift from a prohibited source or any gift given because of the employee's official position.
- (7) Directly or indirectly give, offer, promise, demand, seek, receive, accept, or agree to receive anything of value to influence any official act.
- (8) Except as provided by law for the proper discharge of official duties, directly or indirectly, give, offer promise, demand, seek, receive, accept, or agree to accept anything of value for or because of any official act performed or to be performed, or for or because of any testimony given or to be given before an individual or other entity, tribunal or proceeding authorized to hear evidence or take testimony.
- (9) Accept gifts from the same or different sources on a basis so frequent that a reasonable person would be led to believe the employee is using his/her public office for private gain.
- (10) Accept a gift in violation of any local, state or federal statute.
- (11) Accept vendor promotional training contrary to applicable regulations, policies or guidance relating to the procurement of supplies and services for the county.

- (b) No employee shall receive any compensation, salary or supplementation of his/her county salary, from any entity other than the county or as may be contributed by law out of the treasury of any state, county, or municipality, for his/her services to the county.
- (c) No employee shall by his or her conduct give reasonable basis for the impression that any person can improperly influence him or her or unduly enjoy his or her favor in the performance of official acts or actions or that he or she is affected unduly by the kinship, rank, position or association with any person.

- (d) No employee shall by virtue of his or her position with the county, directly or indirectly attempt to influence the decision of any county employee who must act to further any county procurement, policy, regulation, inspection or transaction.
- (e) No employee shall engage in or accept employment with or render services for any private business or professional activity when such is adverse to and incompatible with the proper discharge of his or her official duties.
- (f) Employees shall not knowingly solicit or make solicited sales to other employees who are junior in classification or position, or to the family members of such employees, within or without work hours. In the absence of coercion or intimidation, this does not prohibit the sale or lease of an employee's noncommercial personal or real property or commercial sales solicited and made in a retail establishment during non-working hours. This prohibition includes, without limitation, the solicited sale of insurance, stocks, mutual funds, real estate, cosmetics, household supplies, vitamins, and other goods or services. Both the act of soliciting and the act of selling as a result of soliciting are prohibited. In both cases, however, a solicitation is necessary for a violation to occur. While the standard prohibits a superior from making a solicited sale to a subordinate or to the subordinate's family, sales made because a subordinate approaches the superior and requests the sale to be made are not prohibited, absent coercion or intimidation by the superior. The posting of an advertisement in accordance with county policies does not constitute solicitation for purposes of this subsection.
- (g) Where an employee knows that a particular matter involving specific parties is likely to have a direct and predictable effect on the financial interest of a member of his/her household, or knows that a person with whom he/she has a covered relationship is or represents a party to such a matter, and where the circumstances would cause a reasonable person with knowledge of the relevant facts to question his/her impartiality in the matter, the employee should not participate in the matter.
- (h) An employee shall be disqualified for two (2) years from participating in any particular matter in which a former employer is a party or represents a party. The two-year period of disqualification begins to run on the date the employee left the employ of the former employer.
- (i) An employee may accept unsolicited gifts from a person or entity other than a prohibited source, having an aggregate market value of forty dollars (\$40.00) or less per source per occasion, provided that the aggregate market value of individual gifts received from any one source under the authority of this paragraph shall not exceed one hundred twenty dollars (\$120.00) in a calendar year.
- (j) Definitions.
 - (1) *Covered relationship.* An employee has a covered relationship with:
 - a. A person with whom the employee has or seeks a business, contractual or other financial relationship that involves other than a routine consumer transaction;
 - b. A person who is a member of the employee's household, or who is within the third degree of relationship with of the employee;
 - c. A person for whom the employee's spouse, parent or child is serving or seeking to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee;
 - d. Any person for whom the employee has, within the last year, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; or
 - e. An organization, other than a political party, in which the employee is an active participant.
 - (2) *Direct and predictable effect* means a particular matter will have a direct effect if there is a close causal link between any decision or action to be taken in the matter and any effect on a financial interest. An effect may be direct even though it does not occur immediately. A particular matter will not have a direct effect on a financial interest, however, if the chain of causation is contingent upon the occurrence of events that are speculative or that are independent of, and unrelated to, the matter. A particular matter will have a predictable effect if there is a real, as opposed to a speculative, possibility that the matter will affect a financial interest. It is not necessary, however,

that the magnitude of the gain or loss be known, and the dollar amount of the gain or loss is immaterial.

- (3) *Former employer* includes any person or entity which the employee served as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee.
- (4) *Gift* includes any gratuity, favor, discount, entertainment, trip, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of training, transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred. A gift does not include:
 - a. Modest items of prepared food and refreshments, such as soft drinks, or coffee and donuts, offered other than as part of a meal;
 - b. Greeting cards and items with little intrinsic value, such as plaques, certificates, and trophies, which are intended solely for presentation;
 - c. Loans from banks and other financial institutions on terms generally available to the public;
 - d. Social invitations from persons or entities, other than prohibited sources. An employee may accept food, refreshments and entertainment, not including travel or lodgings, at a social event attended by several persons where the invitation is from a person or entity that is not a prohibited source and no fee is charged to any person in attendance.
- (5) *Imputed interests* means the financial interests of the following persons will serve to disqualify an employee to the same extent as if they were the employee's own interests:
 - a. The employee's spouse/domestic partner;
 - b. The employee's child;
 - c. An organization or entity which the employee or his/her spouse serves as officer, director, trustee, general partner or employee; and
 - d. A person with whom the employee is negotiating for or has an arrangement concerning prospective employment.
- (6) *Market value* means the retail cost the employee would incur to purchase the gift. An employee who cannot ascertain the market value of a gift may estimate its market value by reference to the retail cost of similar items of like quality. The market value of a gift of a ticket entitling the holder to food, refreshments, entertainment, or any other benefit shall be the face value of the ticket.
- (7) *Particular matter* encompasses only matters that involve deliberation, decision, or action that is focused upon the interests of specific persons, or a discrete and identifiable class of persons. The particular matters covered by this subpart include, but are not limited to, a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation or arrest.
- (8) *Personal and substantial* means the direct and active supervision of the participation of a subordinate in the matter. To participate substantially means that the employee's involvement is of significance to the matter. Participation may be substantial even though it is not determinative of the outcome of the particular matter. However, it requires more than official responsibility, knowledge, perfunctory involvement, or involvement on administrative or peripheral issues. A finding of substantiality should be based not only on the effort devoted to a matter, but also on the importance of the effort.
- (9) *Prohibited source* means any person or entity who:
 - a. Is seeking official action by the employee or the employee's department;
 - b. Does business or seeks to do business with the county or the employee's department;
 - c. Conducts activities regulated by the employee or the employee's department;



- d. Has interests that may be substantially affected by performance or nonperformance of the employee's official duties; or
 - e. Is an organization having a majority of its members as described in paragraphs (j)(9)a. through d. of this section.
- (10) A gift is *solicited or accepted* because of the employee's official position if it is from a person other than an employee and would not have been solicited, offered, or given had the employee not held the status, authority or duties associated with his/her county position. A gift which is solicited or accepted indirectly includes a gift:
- a. Given with the employee's knowledge and acquiescence to his/her parent, sibling, spouse, child (included adopted and step-children), or dependent relative because of that person's relationship to the employee, or
 - b. Given to any other person, including any charitable organization, on the basis of designation, recommendation, or other specification by the employee.
- (11) *Third degree of relationship*. The following persons are relatives within the third degree of relationship: great-grandparent, grandparent, parent, uncle, aunt, brother, sister, child, grandchild, great-grandchild, nephew or niece.
- (12) *Vendor promotional training* means training provided by any person or entity for the purpose of promoting its products or services. It does not include training provided under a county contract or by a contractor to facilitate use of products or services it furnishes under a county contract.
- (h) Any employee who violates the provision of this section shall be guilty of misconduct and subject to appropriate disciplinary action, including immediate dismissal.

(Code 1976, § 2-3010; Ord. No. 10-02, Pt. I, 11-27-01)

Sec. 20-20.1. - Financial disclosure reports.

The chief executive officer, executive assistant, county attorney and assistant county attorneys, chief of staff, assistant county administrators, clerk to the board of commissioners, board of tax assessors, department heads, deputy, assistant and associate department heads/directors and economic development department personnel, shall file annually with the clerk to the board of commissioners a report disclosing the sources of any income, whatever its nature, in excess of one thousand dollars (\$1,000.00) derived from any one (1) source for the preceding calendar year. Such report shall be filed on or before April 30 of each year for the prior calendar year in a format determined by the director of finance. Failure of any such person to file such disclosure statement shall be reflected in the minutes of the next regularly scheduled meeting of the board of commissioners following the April 30 deadline, with a copy of the list of such persons presented to the chairperson of the DeKalb County Board of Ethics for appropriate action. The reports shall be considered public documents upon filing. Each report shall contain the following information:

- (1) The source of each of the following items received or accrued during the preceding calendar year by such person reporting or his/her spouse, including the name and address of the source:
 - a. Any income for services rendered of one thousand dollars (\$1,000.00) or more;
 - b. Any interest or dividend income of one thousand dollars (\$1,000.00) or more;
 - c. Reimbursement for expenses of one thousand dollars (\$1,000.00) or more in each instance;
 - d. Honoraria from a single source in the aggregate amount of five hundred dollars (\$500.00) or more, except as otherwise reported under the state statute covering financial disclosure statements;
 - e. Any gift in the aggregate amount or value of five hundred dollars (\$500.00) or more from any single source received during the preceding year.

- (2) The name, address and type of organization in which the person reporting or his/her spouse is an officer, director, partner, proprietor, or employee, or serves in any advisory capacity from which income of one thousand dollars (\$1,000.00) or more was derived.
- (3) Each creditor, including the name and address, to whom the person reporting or his/her spouse was indebted for a period of ninety (90) consecutive days or more during the preceding calendar year in an amount of seven thousand five hundred dollars (\$7,500.00) or more, except for retail installment debt, or the purchase or sale of real property.
- (4) Failure to file a financial disclosure report, as required by this section, may result in the referral of such violation to the DeKalb County Board of Ethics for punitive action, or may result in disciplinary action, including dismissal.

(Ord. No. 09-02, Pt. I, 11-27-01)

Sec. 20-21. - Disposition of special fees and rewards.

Special fees and rewards received by any employee by reason of the performance of any act required of such employee by the county and such employee's duties, whether paid by an individual or by a public authority, shall be deemed the property of the county and no employee shall accept for private use and benefit this fee or reward.

(Code 1976, § 2-3011)

Sec. 20-22. - Full-time service; outside employment.

The county shall be entitled to the full-time services of all employees whose positions are on a full-time basis. All outside employment must be approved in advance by the department head. No outside employment which interferes with the employee's scheduled county work time shall be allowed, nor shall any outside employment be allowed which may create a conflict, or apparent conflict, between private interest of the individual and official county duties and responsibilities.

(Code 1976, § 2-3122)

Sec. 20-23. - Physical examination.

Before entering employment and as often as the head of the department may deem necessary for the performance of work assigned, an applicant or employee shall undergo a physical examination by a licensed physician to determine the physical fitness of the employee for the job sought or duty assigned. Such examination shall be conducted by the county physician or the county physician's designee and paid for by the county. The standard of physical fitness requirements related to job duty shall be established by each department head with due consideration given to the duties to be performed. Before becoming effective, such physical standards shall be submitted to and approved by the director and shall be furnished to the physician conducting the physical examination. No otherwise qualified handicapped individual shall be excluded from county employment solely by reason of handicap, unless such handicap prohibits such individual from performing job-related duties or places such handicapped person or county employee in unsafe conditions likely to result in bodily injuries to the handicapped person or other county employee. If a county employee does not agree to submit to a physical examination, such refusal shall be grounds for dismissal, suspension or leave without pay.

(Code 1976, § 2-3127)

Secs. 20-24—20-40. - Reserved.

ATTACHMENT 6



DEKALB COUNTY HOLIDAY GIFT REMINDERS

Season Greetings,

The holiday seasons are here and DeKalb County would like to give all contractors and vendors a special reminder of our policies regarding gifts or gratuities.

DeKalb County strives to protect the integrity of the government and promote public trust by preventing conflicts of interest and providing fair and transparent public procurement processes.

Policy on Gift and Gratuities

No employee or official may receive gifts or any item of value from Prohibited sources.

Prohibited sources are any person, business or entity that currently conducts or anticipates conducting future business with the County. *Prohibited Sources* are also those individuals or entities that are regulated by the County or any division thereof and those seeking any official action from any employee or official of the County.

Therefore, while we appreciate the sentiment, please do not bring holiday gifts to our County employees or officials of any kind. DeKalb County appreciates all your business and looks forward to building partnerships and relationships with all its stakeholders.

If you wish to learn more about our Ethics Code, please visit:

<http://www.dekalbcountyethics.org/>

ATTACHMENT 7

HEARING TYPE
Action

DEKALB COUNTY
BOARD OF COMMISSIONERS
BUSINESS AGENDA / MINUTES

ITEM NO. 16

ACTION TYPE
Ordinance

MEETING DATE: September 27, 2016

SUBSTITUTE

SUBJECT: DeKalb First Local Small Business Enterprise Ordinance

DEPARTMENT: Purchasing and Contracting

PUBLIC HEARING: ☐ YES ☒ NO

ATTACHMENT: ☒ YES ☐ NO

INFORMATION
CONTACT: Talisa Clark

PAGES:

PHONE NUMBER: 404-687-3478

PURPOSE:

To consider adopting the attached "DeKalb First Local Small Business Enterprise Ordinance"

NEED/IMPACT:

This is a proposed revision to the current LSBE Ordinance. The success of local small businesses remains a permanent goal of the DeKalb County government. DeKalb County has a significant interest in fostering the success of its small resident businesses. Furthermore, because DeKalb County is a major purchaser of goods and services, it stands to gain from improvements in expanded business opportunities for local small businesses through the additional tax revenues thereby generated. DeKalb County Government is committed to ensuring that small businesses have adequate opportunities to succeed.

RECOMMENDATION(S):

To adopt the attached "DeKalb First Local Small Business Enterprise Ordinance", and authorize the CEO to execute all necessary documents.

ORDINANCE

AN ORDINANCE TO AMEND THE CODE OF DEKALB COUNTY, GEORGIA, PERTAINING TO THE ADMINISTRATION OF A LOCAL SMALL BUSINESS ENTERPRISE (LSBE) DEKALB FIRST PROGRAM, AND/OR OTHER PURPOSES

WHEREAS, Article 9, § 2, para. I (a) *et seq.* of the Constitution of Georgia empowers the governing authority of DeKalb County with the legislative power to adopt reasonable ordinances and/or resolutions relating to its property, affairs, and local government for which no provision has been made by general law and which are not inconsistent with the Constitution of Georgia;

WHEREAS, the County spends significant revenue on purchasing supplies, materials, and equipment, and retaining contractual and professional services;

WHEREAS, the dollars used in making these purchases are derived in some measure from taxes and fees paid by local businesses; thus, the Governing Authority has determined that funds generated in the community should, to the extent possible, be used to put “DeKalb First” thereby allowing the funds to be re-invested in the local County economy;

WHEREAS, the Governing Authority believes there is an inherent benefit in procuring services or goods from local small businesses who contribute to the County’s economy and tax base and thus there is a substantial reason to offer a portion of publicly funded contracting opportunities to those qualified local small businesses;

WHEREAS, “DeKalb First” means that whenever possible, appropriate and authorized by applicable law, the County intends to buy its materials, and procure services from certified, qualified local small businesses in DeKalb County and the metropolitan Atlanta area;

WHEREAS, to encourage larger contractors, vendors and professional firms to partner with such local small businesses, the County enacts this amended ordinance giving certain incentives to larger businesses if they use qualified, certified local small businesses or at least make a good faith effort to secure subcontracts with such local small businesses when performing services for or selling goods to the County;

WHEREAS, to incentivize larger contractors, professional firms and vendors to hire or make good faith efforts to hire local small businesses, the Governing Authority has determined that failure to achieve the “DeKalb First” goals or to submit proper documentation of good faith efforts to achieve those goals, shall result in a prime contractor or vendor’s qualified sealed solicitation being deemed non-responsive;

WHEREAS, the Governing Authority believes that “DeKalb First” is an initiative that protects and enhances the economic development of the County and improves the financial well-being of its citizenry because the program creates local jobs and improves the County’s economic base by helping DeKalb businesses grow. As DeKalb County businesses grow and expand tax revenue and fees paid by such businesses increases and opportunities for taxpayers to work in the County where they live increases;

WHEREAS, enactment of this ordinance encourages local small businesses to remain in DeKalb County and grow and prosper thereby directly and indirectly increasing the financial stability of DeKalb County government;

WHEREAS, the Governing Authority has determined that the structure and administration of “DeKalb First” will be enhanced and improved by the enactment of this amended ordinance; and

WHEREAS, the Governing Authority makes the success of local small businesses a permanent goal by implementing the DeKalb First: Local Small Business Enterprise Program (hereinafter referred to as “DeKalb First”);

NOW, THEREFORE, BE IT ORDAINED by the governing authority of DeKalb County, Georgia, that the Code of DeKalb County, Georgia, as Revised 1988, is hereby amended as follows:

PART I. ENACTMENT

By deleting Chapter 2, Article VI, of the Code of DeKalb County, Georgia, as Revised 1988, in its entirety and inserting a new article VI to read as follows:

ARTICLE VI.

"DEKALB FIRST"LOCAL SMALL BUSINESS ENTERPRISE PROGRAM

Sec. 2-200. Short title and purpose.

- (a) *Short title.* This article shall be known as the "DeKalb First ordinance" or the "LSBE ordinance" and may be cited as such.
- (b) *Purpose and intent.* The purpose of this article is to create the DeKalb First which requires vendors interested in doing business with the County to employ or make good faith efforts to employ local businesses to fulfill a portion of the work. The Constitution of Georgia empowers DeKalb County with the legislative power to adopt reasonable ordinances and/or resolutions relating to its property, affairs, and local government for which no provision has been made by general law and which are not inconsistent with the Constitution of Georgia. The County spends significant revenue on purchasing supplies, materials, and equipment, and retaining contractual and professional services. The dollars used in making these purchases are derived in some measure from taxes and fees paid by local businesses; thus, funds generated in the community should, to the extent possible, be used to "DeKalb First" thereby allowing the funds to be re-invested in the local County economy. There is an inherent benefit in procuring services or goods from local small businesses who contribute to the County's economy and tax base and thus there is a substantial reason to offer a portion of publicly funded contracting opportunities to those qualified local small businesses. "DeKalb First" means that whenever possible, appropriate and authorized by applicable law, the County intends to buy its materials, and procure services from certified, qualified local small businesses in DeKalb County and the metropolitan Atlanta area. To encourage larger contractors, vendors and professional firms to partner with such local small businesses, the County enacts this article giving certain incentives to larger businesses if they use qualified, certified local small businesses or at least make a good faith effort to secure subcontracts with such local small businesses when performing services for or selling goods to the County. "DeKalb First" is an initiative that protects and enhances the economic development of the County and improves the financial well-being of its citizenry because the program creates local jobs and improves the County's economic base by helping DeKalb businesses grow. As DeKalb County businesses grow and expand tax revenue and fees paid by such businesses increases and opportunities for taxpayers to work in the County where they live increases. Enactment of this ordinance encourages local small businesses to remain in DeKalb

County and grow and prosper thereby directly and indirectly increasing the financial stability of DeKalb County government.

Sec. 2-201. Definitions.

Words or phrases not defined in this chapter, but defined in applicable state law or the Code of DeKalb County, as Revised 1988, shall be given that meaning. All other words or phrases shall be given their common ordinary meaning unless the context requires otherwise. The following words, terms, and phrases, when used in this chapter shall have the meanings ascribed to them below except where the text clearly indicates a different meaning:

"Affiliate" means any business, including, but not limited to, a parent business, subsidiary business or a sibling business, that has any of the following relationships to another business:

- (1) Directly or indirectly owns or holds with the power to vote, five percent (5%) or more of the outstanding voting securities of such other business;
- (2) Five percent (5%) or more of whose outstanding voting securities are directly or indirectly owned or held with power to vote by such other business; or
- (3) Directly or indirectly controlling, controlled by, or under common control with such other business. For the purposes of this definition, the term "control" means the power to exercise a controlling influence over the management policies of a business.

"Business" shall mean any association, cooperative, corporation, individual, joint venture, limited liability Corporation (hereinafter referred to as "LLC"), partnership, sole proprietorship, trust or other legal entity.

"Business Concern" shall mean a business entity organized for profit interested in doing business with DeKalb County.

"Decertification Event" shall mean any occurrence, infraction, or event that causes a business to be decertified as an LSBE or denied recertification as an existing LSBE.

"Director" shall mean the Director of the DeKalb County Purchasing and Contracting Department or his/her designee.

"DeKalb County" shall mean DeKalb County, Georgia (hereinafter referred to as "DeKalb County" or "County").

"Invitation to Bid" shall mean the complete assembly of related documents, whether attached or incorporated by reference, furnished through advertisement to prospective bidders for the purpose of inviting bids.

"Local and Small Business Enterprise" (hereinafter referred to as "LSBE") shall mean a Business Concern, certified under the requirements of this article as a Local LSBE or a MSA LSBE.

"LSBE DeKalb firm" shall mean a business located and operated in DeKalb County, Georgia.

- (1) For the purposes of this definition, to be “located” in DeKalb County means to have a physical presence within the geographic boundaries of DeKalb County such as having office space, a plant, warehouse, or other physical business facility presence (not including a post office box), for at least one year prior to submitting an application for LSBE certification.
- (2) For the purpose of this definition, to “operate” in DeKalb County means to be the current holder of a valid business license issued by DeKalb County at least one year prior to submitting an application for LSBE certification.

“LSBE MSA firm” shall mean a business located and operated outside the geographical boundaries of DeKalb County, Georgia but within the MSA.

- (1) For the purposes of this definition, to be “located” in the MSA means to have a physical presence within the geographic boundaries of the Counties within the MSA, but outside of DeKalb County such as having office space, a plant, warehouse, or other physical business facility, but specifically excluding the existence of a post office box without any other physical presence, for at least one year prior to submitting an application for LSBE certification.
- (2) For the purposes of this definition, to “operate” in the MSA means to be the current holder of a valid business license issued by a local government within the MSA for at least one year prior to submitting an application for LSBE certification.

“LSBE Review Panel” shall mean a panel of decision makers comprised of the Director, the Executive Assistant, and the User Department Director or designee. If more than one User Department exists, the Director will select one representative to serve as the third panelist on the LSBE Review Panel.

“Metropolitan Statistical Area (MSA)” shall mean the geographical area consisting of Cherokee, Clayton, Cobb, Douglas, Fayette, Fulton, Gwinnett, Henry and Rockdale counties.

“Principal place of business” shall mean the business location where the business’ high level officers direct, control, and coordinate the business activities and where business records are kept.

“Prime Contractor” means (i) business concern, bidder or proposer who submits a qualified sealed solicitation to the County or (ii) a business concern that enters into a contract with the County.

“Protest Meeting” shall mean any meeting between an LSBE and the Executive Assistant in response to a possible or potential denial of certification or a Decertification Event.

“Public works construction” has the same meaning as it is given in state law, O.C.G.A. §36-91-2, now and as it may be amended hereafter.

“Purchasing and Contracting Department” (hereinafter referred to as “Department”) shall mean the DeKalb County Purchasing and Contracting Department.

“Qualified Sealed Solicitation” shall mean any Invitation to Bid or Request for Proposal issued by DeKalb County and released for response to bidders and proposers after the effective date of this article.

“Receipts” shall mean total income (or in the case of sole proprietorship, “gross income”) plus “cost of goods sold” as these terms are defined or reported on Internal Revenue Service (IRS) Federal tax return forms; Form 1120 for corporations; Form 1120S for Subchapter S corporations; Form 1065 for partnerships; and Form 1040, Schedule F for farm or Schedule C for sole proprietorships.

“Request for Proposals” shall mean the complete assembly of related documents, whether attached or incorporated by reference, furnished to prospective responders for the purpose of soliciting proposals.

“Small Business” shall mean an independently owned and operated business concern who meets the requirements of section 2-203.

“Subcontract” shall mean an agreement between a subcontractor and a contractor, pursuant to which the subcontractor will provide to the contractor equipment, goods, materials, services, or supplies.

“Subcontractor” shall mean a business providing equipment, goods, materials, service or supplies to a contractor.

Sec. 2-202. Program Administration.

- (a) The Director shall have the primary responsibility to ensure that DeKalb First is effectively and equitably implemented in DeKalb County.
- (b) The DeKalb First program shall be evaluated on a semi-annual basis. A written semi-annual report shall be compiled by the Director and shall compare the current year with the previous year. The semi-annual report shall be provided to the chief executive officer and each member of the board of commissioners. The semi-annual report should include, at a minimum:
 - (1) Number of LSBEs certified and de-certified;
 - (2) Number and financial impacts of mentor/protégé partnerships;
 - (3) Evaluation of the effectiveness of the LSBE in relation to the achievement of DeKalb County’s goals set forth under this article, including the utilization of LSBE’s on contracts;
 - (4) Number of LSBEs subcontracted by non-LSBE prime contractors;
 - (5) Number of LSBEs contracted as a prime contractor;
 - (6) Total LSBE contracted dollars and total contracted dollars; and

- (7) Other information about DeKalb First, if requested by the board of commissioners or the chief executive officer.
- (c) In order to encourage the participation of prime contractors, the Department shall create a trade-specific categorization of potential LSBE subcontractors and make it available via electronic and hard copy to all prime contractors who seek to participate in DeKalb County contracts.
- (d) The Department shall encourage other county departments to use LSBEs for emergency contracts although specific goal(s) shall not be set.
- (e) The Department will keep LSBEs aware of County solicitations by advertising and/or posting them on DeKalb County's website.
- (f) The Department shall implement a training program to provide quarterly seminars and workshops to LSBEs addressing how to do business with DeKalb County and encouraging participation in DeKalb County's solicitation process and affiliated programs.
- (g) The Department shall require every business concern who desires to submit a response to a qualified sealed solicitation to attend a mandatory LSBE meeting, in person or via video conference, with interested LSBE(s) in an effort to encourage partnerships and use of LSBEs. Such meeting shall occur at a designated place within a county building within two (2) weeks of issuance of the qualified sealed solicitation. Notice of the time, date, and location of such meeting shall be posted on the County's website at the time of the solicitation's posting. At the LSBE meeting, prime contractors shall provide relevant information about the plans, requirements, and specifications of the contract. Each LSBE will be allowed the opportunity to submit an email address to the prime contractor at the LSBE meeting and the prime contractor shall advise those LSBE's by email of any new relevant information, if any, at least 5 business days prior to submission of the prime contractor's bid or proposal.

Sec. 2-203. LSBE Certification.

- (a) *Criteria for LSBE Certification.* Through appropriately promulgated written procedures, the Director or his/her designee shall certify as an LSBE any business concern that meets the following criteria:
 - (1) The business concern must qualify as a LSBE as defined in this article;
 - (2) The business concern must be owned and controlled by individuals who are citizens or lawfully admitted permanent residents of the United States;
 - (3) The business concern must be a for-profit enterprise that performs a commercially useful function, including a sole proprietorship, partnership, joint venture, corporation, limited liability company, or any other business or professional entity;

- (4) The business concern owner(s) applying for certification must own at least 51% of the business and have maintained this ownership for at least one year prior to application;
- (5) If the business concern is publicly owned, the applicant owner must own at least 51% of all classes of stock;
- (6) The principal place of the business concern must be located in DeKalb County, Georgia or within the MSA, as defined in this article;
- (7) The business concern's average gross annual receipts from the prior three (3) fiscal years must not exceed the following amounts:
 - a. Construction: \$35,000,000.00
 - b. Professional Services: \$5,000,000.00
 - c. Commodity Suppliers: \$3,000,000.00

(b) *Qualifications.* The Director shall certify each LSBE in a particular area or areas of expertise. To obtain certification, the LSBE shall prove it is qualified in a demonstrated area of expertise, by providing certain information to the Director, including but not limited to, a resume and/or list of previous contracts or work in the LSBE's demonstrated area of expertise; references from individuals who have contracted with the LSBE in its demonstrated area of expertise; and all relevant licenses and certifications.

(c) *Prior Certification.* All businesses certified as a LSBE prior to the enactment of this article, shall remain certified until their current certification expires or a Decertification Event occurs.

Sec. 2-204. Benchmarks and Incentives.

- (a) To qualify for incentives under the DeKalb First ordinance, a prime contractor shall be a certified LSBE or submit written documentation showing that at least twenty percent (20%) of the total contract award will be performed by a LSBE(s) unless the prime contractor can demonstrate sufficient good faith efforts as set forth in this article
- (b) The LSBE Review Panel, stating the reason in writing, may waive, decrease, or increase this 20% benchmark for any particular contract prior to release of the qualified sealed solicitation or as an addendum to such solicitation. The Department shall grant lower incentives if the LSBE Review Panel lowers the LSBE benchmark for participation as outlined in this section. The percentage by which the benchmark is lowered shall be used to calculate the lower amount of incentive.

(c) The incentives are:

Requests for Proposals.

- (1) Ten (10) points in the initial evaluation of a response to a Request for Proposal for meeting the LSBE benchmark with a prime contractor who is a local LSBE or is a prime contractor using local LSBE(s);
- (2) Five (5) points in the initial evaluation of responses to any Request for Proposal for meeting the applicable LSBE benchmark with a prime contractor that is an MSA LSBE or a prime contractor utilizes MSA LSBE(s); and
- (3) Prime Contractors who demonstrate sufficient good faith efforts in accordance with the requirements of this article shall be granted two (2) points in the initial evaluation of responses to a Request for Proposal.

Invitations to Bid.

- (4) If a prime contractor who is deemed responsible and remains responsive to an Invitation to Bid because it is or has obtained 20% participation of an LSBE DeKalb or LSBE MSA firm, submits the lowest bid price in response to a qualified sealed solicitation, that prime contractor shall be deemed the lowest responsible and responsive bidder and submitted to the chief executive officer or the governing authority, whichever is appropriate under law, for award of the contract;
 - (5) In addition to meeting all other requirements for responsiveness, prime contractors who demonstrate sufficient good faith efforts in accordance with the requirements of this article shall be deemed responsive in the initial evaluation of responses to an Invitation to Bid.
 - (6) If a prime contractor who is deemed responsible and remains responsive to an Invitation to Bid because of its good faith efforts, submits a lower bid price than a prime contractor who actually achieves the 20% or otherwise required benchmark, then the prime contractor who actually met the benchmark will be given the opportunity to match the lowest bid price of the prime contractor who only made good faith efforts. If that prime contractor chooses NOT to match that bid price, the prime contractor who made the good faith effort will be deemed the lowest responsible responsive bidder and submitted to the chief executive officer or the governing authority, whichever is appropriate under law, for award of the contract.
- (d) Where a mixture of LSBE DeKalb and LSBE MSA firms are utilized, pro-rated points shall be granted by the Department based upon the utilization for each based upon the terms of the qualified sealed solicitation.
 - (e) If the prime contractor fails to meet the required benchmark for LSBE participation or fails to make sufficient good faith efforts as set forth in section 2-206 in response to an Invitation to Bid or a Request for Proposal, then the prime contractor's bid or proposal shall be

deemed nonresponsive. If the bid or proposal is deemed nonresponsive, the cost proposal shall not be considered.

Sec. 2-205. Calculation of LSBE Participation.

- (a) The entire amount of that portion of a subcontract that is performed by the LSBE shall be counted as its participation, including the cost of supplies and materials obtained by the LSBE for the work for the subcontract, and supplies purchased or equipment leased by the LSBE. Supplies and equipment the LSBE purchases or leases from the prime contractor or its affiliate shall not count as LSBE participation.
- (b) The entire amount of fees or commissions charged by a LSBE for providing a bona fide service, such as professional, technical, consultant or managerial services, or for providing bonds or insurance specifically required for the performance of a contract shall be counted as LSBE participation.
- (c) If an LSBE has a Decertifying Event during the term of a contract, the dollar value of work performed under a contract with that business after it is decertified shall not be counted toward the prime contractor's LSBE participation goal. No contractor shall be penalized as a result of the failure of a project to achieve the benchmarks set forth in its contract if the LSBE fails to meet the conditions of Section 2-207.
- (d) In determining the achievement of a benchmark, the participation of a LSBE shall not be counted until the dollar amount being counted has been received by that LSBE.
- (e) Achievement of benchmarks authorized by this article shall be evaluated after the project is 25%, 50%, and then 75% complete. Meeting or failing to meet contractual benchmarks may be used for evaluative and/or award purposes in considering the prime contractor and/or LSBE in future qualified sealed solicitations.

Sec. 2-206. Good Faith Efforts in Lieu of Meeting Benchmarks.

- (a) A prime contractor must meet the required LSBE benchmark of 20% (unless otherwise modified in the qualified sealed solicitation), unless it can demonstrate that good faith efforts yielded no qualified LSBEs and document those good faith efforts in writing.
- (b) Prime contractors are expected to make sufficient good faith efforts at the outset of preparing a response to a qualified sealed solicitation, so that LSBEs have an adequate opportunity to partner with prime contractors in response to a solicitation. Failure of any prime contractor to attend the mandatory LSBE meeting required in this article, in person or via video conference, shall mean that the prime contractor has not demonstrated sufficient good faith efforts and its bid or proposal, if submitted, shall be deemed non-responsive without any further review by the Department.

- (c) Factors for determining if sufficient good faith efforts were made, shall include but are not limited to the compilation of a contact log including the date of contact, name, address and contact number or email address used to contact the proposed LSBE subcontractors, the name and title of the person making the effort for the prime contractor; the nature of work requested and full detailed description of the scope of work for which a quote was requested; the amount of the quoted price, if one was obtained; and any additional LSBE subcontractor information as requested on forms promulgated by the Department. The Director also maintains the right to interview any proposed LSBE subcontractor included on the contact log to verify the effort made.
- (d) During the evaluation of the bid or proposal, the Director shall determine if sufficient good faith efforts were made by the prime contractor. If the determination is made that a prime contractor did not make sufficient good faith efforts, the bid/proposal will be deemed non-responsive and shall not receive any further review by the Department.
- (e) The Department of Purchasing and Contracting shall maintain documentation of all good faith efforts performed by a prime contractor, and a copy of these records shall be kept with the official bid/contract file, in compliance with all record retention laws or two (2) years, whichever is longer.
- (f) If all prime contractors for a particular qualified sealed solicitation fail to meet the required benchmark for LSBE participation and fail in making good faith efforts, as defined by this article, the LSBE benchmark requirement may be waived by the chief executive officer or designee.

Sec. 2-207. Prime Contractor Responsibility.

- (a) Any business concern may submit a response to a qualified sealed solicitation regardless of their certification status under section 2-203.
- (b) When subcontracting, every prime contractor must independently evaluate each LSBE and confirm qualifications, and previous practical, demonstrable experience in the area in which the LSBE intends to perform services and references prior to including the LSBE in a qualified sealed solicitation. Information obtained by the County in this regard may be provided to the prime contractor by the Director upon request, but each prime contractor understands that it must investigate, and independently verify an LSBE's qualifications and ability to perform the service or work at issue.
- (c) In each qualified sealed solicitation, all prime contractors shall identify a portion of the work available to LSBEs consistent with their previous demonstrable expertise, and shall submit a proposed work schedule that identifies the work to be completed by the LSBE(s) with their bid/proposal, if any. This proposed work schedule shall be finalized and submitted to the County within ten (10) days of the Notice to Proceed meeting. This work schedule shall become the basis for determining compliance with the terms of this article after execution of the contract.

- (d) The prime contractor shall attend the LSBE meeting in person or via video conference and shall provide interested LSBEs with timely, adequate information about the plans, specifications, and other such requirements of the qualified sealed solicitation to facilitate their bid or proposal submission and document all communications, in accordance with the requirements of this article.
- (e) The prime contractor shall submit a notarized Schedule of LSBE Participation detailing all LSBE businesses from which the prime contractor solicited bids. This schedule shall be submitted at the qualified sealed solicitation due date and time in order to be granted any preferential points.
- (f) Each prime contractor shall be required to sign an affidavit declaring under penalty of perjury its intention to comply fully with the provisions of this article and attesting to the truth and accuracy of all information provided to the County. All prime contractors and LSBEs must adhere to all Federal, State, and local law, and applicable provisions of this Code.

Sec. 2-208. LSBE Subcontractor Responsibilities.

- (a) A current LSBE certification letter and a signed letter of intent from all LSBEs describing the work, materials, equipment or services to be performed or provided by the LSBE and the agreed upon dollar value shall be submitted to the prime contractor to be included with the qualified sealed solicitation.
- (b) Post-award, the LSBE shall deliver a monthly report to the Department listing the work completed and payment received from the prime contractor. The report shall be supported by copies of checks, invoices and any other relevant documents to substantiate that payment has been received.
- (c) The LSBE shall review and comply with applicable Federal, State, and local law, and applicable provisions of this Code.

Sec. 2-209. Contract Performance Compliance.

- (a) At or around the time of award, but no later than the kickoff meeting, the Director shall verify that a subcontract for the agreed upon percentage or dollar amount of the total contract price adopted and approved by the Governing Authority, has been executed by the prime contractor and the LSBE(s), and the prime contractor shall provide each LSBE's subcontract and an email address for the LSBE for notification purposes, to the Director. Failure to provide the requisite subcontract(s) shall be grounds for rejection of a qualified sealed solicitation and/or termination of the prime contract.

- (b) The prime contractor cannot make changes to the notarized Schedule of LSBE Participation or substitute subcontractors named in the notarized Schedule of LSBE Participation without the prior written consent of the LSBE Review Panel. Unauthorized changes or substitutions shall be a violation of this section, and may constitute grounds for rejection of a qualified sealed solicitation or cause termination of the contract for breach. In such instances, DeKalb County may withhold payment and/or impose other sanctions. Written consent for changes shall not be unreasonably withheld from the prime contractor.
- (c) All requests for changes or substitutions of the subcontractors named in the notarized schedule of LSBE Participation shall be made in writing to the LSBE Review Panel and shall clearly and fully set forth the basis for the request, including documentary proof or affidavits of individuals, where necessary. The LSBE Review Panel will review the request and make a final decision. The facts supporting the request must not have been known nor reasonably should have been known by either party prior to the submission of the notarized Schedule of LSBE Participation. Post-award LSBE shopping is prohibited and may be cause for cancellation, rejection or other punitive remedies against the prime contractor.
- (d) Performance issues between the prime contractor and LSBE are governed by the subcontract between the prime contractor and the LSBE, and should be resolved by the LSBE and the prime contractor. If a prime contractor alleges poor performance by an LSBE and desires a substitution for that reason, the prime contractor shall submit a detailed written report with supporting documentation to the Director. The Director will meet with representatives from the prime contractor, the LSBE, and the County's user department with the goal of moving the project forward. If there is no meaningful resolution, the prime contractor may then submit a request to substitute LSBE(s) to the LSBE Review Panel.
- (e) If a prime contractor plans to hire a subcontractor on any scope of work that was not previously disclosed in the notarized Schedule of LSBE Participation the prime contractor shall inform the existing LSBE(s) of the new scope of work and if the LSBE(s) accepts the offer of work, the percent of work shall flow to the LSBE subcontractor in the same manner as outlined in the original contract. If the existing LSBE subcontractor declines the work, the prime contractor shall obtain the approval of the LSBE Review Panel to modify the notarized Schedule of LSBE Participation and must make good faith efforts to ensure that LSBEs have a fair opportunity to bid on the new scope of work.
- (f) Changes to the scopes of work shall be recorded and reported by the DeKalb County department responsible for overseeing the work to be performed at the time they arise, to establish the reasons for the change and the effect on achievement of the benchmarks identified in this article.
- (g) In the event a "stop work" order is issued to the prime contractor, the Director shall notify the LSBE(s) and provide the LSBE(s) with a copy of the stop work order via the email address provided in the LSBE subcontract.

- (h) In the event of non-payment by a prime contractor to any LSBE, the LSBE has the right to request a meeting with the Director. This meeting will include representatives from the prime contractor, the LSBE, the County's user department and the Director with the goal of payment for performance. A finding of repeated non-payment by any prime contractor without reasonable cause may be cause for contract cancellation for breach, and other administrative remedies as allowed under applicable County policy.
- (i) Each prime contractor shall deliver a monthly report form to the Director and to the LSBE, listing all work completed by the LSBE and payments made. The report shall be supported by copies of checks, invoices and any other documents to substantiate that work and payments to the subcontractor have been made. Failure to submit a report may result in declaring a contract in default and subsequent termination of the contract.

Sec. 2-210. Payment Obligations.

- (a) Upon award of a contract by DeKalb County that includes the applicable LSBE benchmarks identified in this article, the prompt pay obligations in DeKalb County's contract with the prime contractor, and the contract between the prime contractor and the subcontractors, become covenants of performance by the contractor in favor of DeKalb County. The applicable LSBE benchmarks shall be included as terms and conditions of the contract between DeKalb County and the contractor and failure to achieve or maintain the agreed upon applicable LSBE benchmarks may constitute a breach of the contract.
- (b) The Department shall require prompt payment for all contracts with DeKalb County for performance of work or procurement of goods.
 - (1) The Department shall ensure that all contracts covered by this article contain a provision requiring the prime contractor to certify in writing that all subcontractors and suppliers have been promptly paid for acceptable work and materials, no later than seven (7) calendar days from prime contractor's receipt of payment from DeKalb County.
 - (2) Upon request, such prompt pay certifications shall be emailed to any LSBE(s) at the email address listed in the LSBE subcontract. It is the prime contractor's sole and exclusive responsibility to pay the LSBE subcontractor promptly for acceptable work and materials.
- (c) The contractor shall provide a listing of all LSBEs and any other subcontractors to be used in the performance of the contract, with each request for payment submitted to DeKalb County. The Director shall monitor LSBE subcontractor participation during the course of the contract.

Sec. 2-211. Renewal of Certification.

- (a) All certifications issued under the LSBE program shall be reviewed every three (3) years and may be renewed by the Director.
- (b) Each LSBE must submit a complete recertification application to be reconsidered for the LSBE program. Failure to seek recertification within ninety (90) days of certification expiration shall result in decertification of the LSBE.
- (c) It is the responsibility of the LSBE to notify the Department of any change in its circumstances affecting its continued eligibility for the program. Failure to do so may result in the LSBE's decertification and preclusion from future participation in the LSBE program.

Sec. 2-212 Decertification, Denial and Protest Meeting for a LSBE.

- (a) The Director may, upon written notice to a business concern, deny LSBE certification, decertify a LSBE or deny re-certification of a LSBE for failing to comply with the LSBE program requirements and the applicable provisions of this article, this Code or state law.
- (b) A business concern that has been denied certification, recertification or has been decertified may protest the action, in writing, within thirty (30) days of receipt of notification of any of the aforementioned actions. Upon the filing of a protest, the decertification shall not become effective and the following shall occur:
 - (1) A Protest Meeting shall be scheduled with the business concern and the Executive Assistant at which time the business concern may present additional facts and evidence in support of its eligibility. The Director and the business concern may present up to two witnesses. The Director and the business concern have the right to be represented by a lawyer, at their own expense. The Director may request the business concern to produce documents relevant to the denial or decertification event. The business concern's failure to comply within ten (10) days of these requests may be grounds for denial of the protest at the discretion of the Executive Assistant.
 - (2) The Executive Assistant shall make the final determination based on the information presented at the Protest Meeting and supplemental information provided, if any, within ten (10) days of the Protest Meeting. However, the Executive Assistant may direct the business concern to cure any certification, recertification, or decertification matter within a set time period and issue a final determination within ten (10) days of the cure period.
 - (3) A business concern denied or found to be ineligible for certification or re-certification may not re-apply for certification for one (1) year after the effective date of the final determination issued by the Executive Assistant.

Sec. 2-213. Graduation.

- (a) The Director shall graduate a LSBE from eligibility, at the expiration of the certification period, if the LSBE grows to exceed the limits as specified in this Article.
- (b) If an LSBE graduates from the LSBE program and later becomes eligible for re-entry, it may reapply for certification under §2-203.

Sec. 2-214. Mentor-Protégé Initiative

- (a) In an effort to develop local small business talent and provide technical, administrative, and other assistance as required for contracting with DeKalb County, all projects valued over \$5,000,000.00 are required to be performed by entities who have engaged in a mentor-protégé partnership.
- (b) Prime Contractors must agree to become mentors and take on an LSBE protégé in an effort to enhance the potential of future LSBEs. These protégés will include all LSBEs on the certified LSBE list maintained by the County.
- (c) If participation in the mentor-protégé initiative is required to submit a bid or proposal, prime contractors must also comply with all other applicable sections of this Article including §2-204 and §2-206.
- (d) Qualifying projects shall be performed by both Mentor and Protégé through a subcontract between those parties.
- (e) The Protégé will perform an agreed-upon amount of the contract assuming full responsibility for and supervision of that portion of the work and should be given credit or acknowledgement as the prime contractor for that portion of the work in future solicitations.
- (f) During the term of the contract the Mentor and Protégé business must collectively provide to the Department, a quarterly summary of the skills provided to the Protégé, which shall include:
 - (1) The type of collaborations and training being provided to the Protégé to assist in the growth and development of their business. The areas of assistance that are encouraged include but are not limited to, bonding and insurance support, management and scheduling support;
 - (2) Names and titles of the individuals from the Mentor who are responsible for working directly with the Protégé in the areas identified above;

- (3) Names and titles of the individuals from the Protégé who are responsible for working directly with the Mentor in the areas identified above;
 - (4) The amount of time, nature and extent of managerial, technical, financial and bonding assistance provided;
 - (5) A summary and explanation of any projects bid on or undertaken by the Mentor-Protégé partnership in the private sector or for a governmental entity other than DeKalb County; and
 - (6) Any additional or further information required by the Director.
- (g) Protégés agree not to subcontract any of their work to other contractors without the written approval of the Director.

Sec. 2-215. Disclaimer.

By enacting this ordinance, DeKalb County is assuming an undertaking only to promote the general welfare of its citizens. By this enactment, DeKalb County, its officers, agents, or its employees are not to be considered joint employers with a contractor and do not control the relationship between a prime contractor and an LSBE. DeKalb County, its officers, agents, and employees shall not be liable to any person or business concern claiming that the enactment, enforcement or violation of this article caused injury or loss of any kind.

PART II. EFFECTIVE DATE

This article shall become effective within sixty (60) days after adoption by the Board of Commissioners and execution by the Chief Executive Officer.

PART III. SEVERABILITY

Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the ordinance as a whole nor any part thereof other than the part so declared to be invalid or unconstitutional. All ordinances or resolutions, or parts thereof, conflict with this ordinance are repealed.

September 20, 2016

ADOPTED by the DeKalb County Board of Commissioners, this

27 day of September
Larry Johnson

LARRY JOHNSON, MPH
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

September, 2016. APPROVED by the Chief Executive Officer of DeKalb County, this 29 day of

Lee May
LEE MAY
Interim Chief Executive Officer
DeKalb County, Georgia

ATTEST:

Barbara Sanders-Norwood
BARBARA SANDERS-NORWOOD, CCC, CMA
Clerk to the Board of Commissioners and
Chief Executive Officer
DeKalb County, Georgia

APPROVED AS TO SUBSTANCE:

Talisa Clark
TALISA CLARK
Interim Chief Procurement Officer/P&C Director
DeKalb County, Georgia

APPROVED AS TO FORM:

O.V. Brantley
O.V. BRANTLEY
County Attorney
DeKalb County, Georgia

JOINT REPLY TO COUNTY’S RESPONSE TO INDEPENDENT PURCHASING AND CONTRACTING ASSESSMENT

Introduction.

The Purchasing and Contracting Department is one of the most important departments in county government. It is the vehicle through which taxpayer money is distributed to third parties for the purpose of providing goods and services to the public. It is also the department which, if lacking in adequate controls, policies and procedures, is most susceptible to fraud, waste and abuse. DeKalb County government has a fiduciary duty to protect taxpayer money. Thus, it is incumbent upon DeKalb County to support the implementation of best practices in the public contracting process to ensure that taxpayer funds are properly and appropriately expended. The subject Purchasing Assessment was necessitated following the findings in five (5) separate purchasing audits conducted by the Office of Independent Internal Audit (“OIIA”) over the past year.¹ Each audit revealed significant procurement deficiencies in the Purchasing and Contracting Department. Further, both the OIIA and the Ethics Office have separately observed instances which raise substantial concerns about the County’s procurement practices, to include excessive change orders; change order abuse; vendors performing work outside of approved specifications; retroactive payment of unapproved work; retention of vendors performing substandard work; and improper assessment and evaluation of bid proposals.

We requested an independent assessment to evaluate what had been revealed in the internal audits, observed from public records and meetings, and alleged by citizens via the Ethics Hotline and otherwise. The results of this independent assessment should alert the County to the necessity of promptly addressing these matters. To be clear, these procurement deficiencies are current and ongoing.

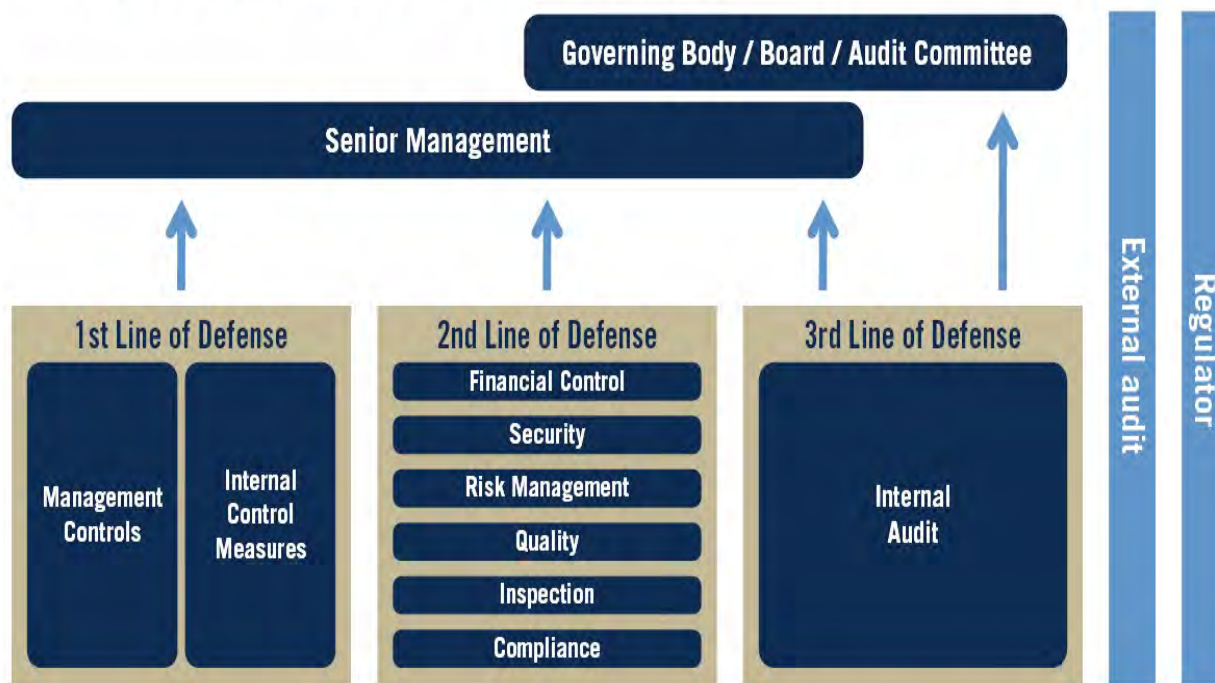
Risk Mitigation

The recommendations in the Purchasing Assessment are risk mitigation measures designed to address noted procurement deficiencies. Management has a key role in employing these critical measures. It is interesting that the Chief Executive Officer’s (CEO) response highlights internal audit as being the deterrent for fraud. Internal audit is not a control against fraud. Risk mitigation is principally a management

¹ The five (5) purchasing audits were: 1) Audit of DeKalb County Purchasing Policy (January 2018); 2) Audit of Emergency Purchases (February 2018); 3) Audit of Sole Source Contracting (March 2018); 4) Audit of Formal and Informal Procurements (April 2018); and 5) Audit of Low Bid Procurement Process (May 2018).

function, not an audit function. As shown in “The Three Lines of Defense Model” below², management control (via internal control measures) serves as the first line of defense in risk management. The various risk control and compliance oversight functions serve as the second line of defense; and independent assurance (i.e., internal auditing) is the final line of defense. Each “line” plays a critical role within an organization’s wider governance framework. To effectively combat fraud, each “line” must recognize and do its part: *“Without a cohesive, coordinated approach, limited risk and control resources may not be deployed effectively, and significant risks may not be identified or managed appropriately.”* (See Exhibit A at p. 1). To that end, we look forward to having a six (6) month follow-up meeting to discuss the risk mitigating strategies management has put forth to remedy the identified procurement deficiencies.

The Three Lines of Defense Model



Adapted from ECIIA/FERMA *Guidance on the 8th EU Company Law Directive, article 41*

² See white paper of Institute of Internal Auditors entitled “THE THREE LINES OF DEFENSE IN EFFECTIVE RISK MANAGEMENT AND CONTROL.” (Exhibit A attached).

³ Further clarification may be needed from the Administration as to the meaning and extent to which some of the agreed upon items are “in progress.” Nonetheless, we remain hopeful that all outstanding concerns will be appropriately acted upon.

Hard Controls

While it is promising that the Administration has agreed to implement more than one-half (55%) of the recommendations in the Purchasing Assessment³, there remain critical recommendations that have been deemed “not feasible” or rejected outright. Addressing those specific recommendations, we respond as follows:

Recommendation No. 4.

The CEO rejected the recommendation that the *existing* Purchasing Policy be revised to include the requirement that the Board of Commissioners (BOC) refrain from approving any contract proposal in an amount of \$1 million or greater until OIIA has reviewed whether the proposal is consistent with applicable procurement policies and procedures. The recommendation further suggests that OIIA similarly review such other contract proposals of lesser amounts at the request of the CEO, the BOC or on OIIA’s own initiative.

This recommendation was deemed “not feasible” by the CEO because it is allegedly at odds with the Organizational Act.⁴ However, this recommendation is not in conflict with the Organizational Act because it does not propose nor require a change to the powers and duties of either the CEO or the BOC. Instead, it proposes an *internal process* allowing for a level of objective and independent review of contract compliance and risk assessment of high dollar value expenditures prior to BOC approval. The process would involve OIIA issuing a written report advising whether the contract file is consistent with existing procurement policy and noting areas of deficiencies if it does not. In light of ongoing procurement deficiencies, such review will provide the BOC a level of comfort when considering whether to approve the expenditure of taxpayer funds of this magnitude.

To implement this recommendation, the *existing* Purchasing Policy need only be revised to include this review in the procurement process. This recommendation is not intended to compromise or upend the authority or process under the jurisdiction of the CEO or senior management. Rather, the intent is to assist the County in

³ Further clarification may be needed from the Administration as to the meaning and extent to which some of the agreed upon items are “in progress.” Nonetheless, we remain hopeful that all outstanding concerns will be appropriately acted upon.

⁴Per the Organizational Act, any change in the powers and duties of the CEO or BOC would require approval by way of voter referendum. We have carefully reviewed the Organizational Act at 1981 Vol. 2, p. 4304 (“the Act”). The Act recognizes the BOC as a “policy-making or rule-making body” [Section 9] and provides that the “[t]he Chief Executive shall carry out, execute and enforce the ... policies, rules and regulations of the Commission.” [Section 13]. (See Exhibit B attached). This policy revision is well within the existing authority of the CEO and BOC.

mitigating the risk in the procurement function and enhancing overall accountability to the taxpayer.⁵

Recommendation No. 5.

This recommendation is integral to the implementation of Recommendation No. 4. It suggests the addition of two (2) auditors to be staffed in OIIA to perform the high dollar contract file review referenced above. While the CEO has deemed this proposal “not feasible”, we urge the CEO to reconsider. The addition of these two (2) auditors would be essential to mitigating *current and ongoing* non-compliance with purchasing policy and procedures, thereby limiting risk exposures. These auditors will be value-added stakeholders because (a) their review would provide a level of objectivity and independence to the actions of the User Department and Purchasing and Contracting Department and (b) their review would foster greater compliance with purchasing policy and procedures for everyone involved in the procurement process.⁶

Ethics

Recommendation Nos. 10 – 11.

The CEO rejects the recommendation that Executive Order No. 2014-4 (“Executive Order”) be modified to prohibit merit-exempt employees from being allowed to receive gifts from “interested sources.”⁷ The CEO’s response principally addresses the actions of merit employees; namely, that merit employees are already prohibited from receiving gifts from “interested sources” under the Personnel Ordinance⁸ and purchasing policy. However, the gift prohibition in the Personnel Ordinance applies to merit employees, not *merit-exempt employees*. The distinction is critical to this

⁵“Risk and control functions operating at the different lines should appropriately share knowledge and information to assist all functions in better accomplishing their roles in an efficient manner.” (See Exhibit A at p. 7).

⁶ A recurring theme amongst Purchasing and Contracting employees is that rules and procedures are constantly changing from bid to bid. These complaints raise the specter of a more insidious problem suggestive of fraud or related improprieties. The procurement process should be static. It should not be operating in a constant state of flux. The newly created auditors would assist in ensuring stability and consistency with regard to high dollar solicitations and bid proposals.

⁷“Interested source” is defined as “any person or entity who: (a) is seeking official action by the employee or the employee’s department; (b) does business or seeks to do business with the county or the employee’s department; (c) conducts activities regulated by the employee or the employee’s department; (d) has interests that may be substantially affected by performance or nonperformance of the employee’s official duties; or is an organization having a majority of its members as described in paragraphs (a) through (d).”

⁸ The Personnel Ordinance uses the term “prohibited source” rather than “interested source”; however, there is no material difference between the two definitions. See Personnel Ordinance Section 20-20 (j)(9).

recommendation because the subject recommendation pertains to the actions of *merit-exempt employees*.

The Executive Order expressly allows interested sources to provide gifts to *merit-exempt employees*. *Merit-exempt* employees are high ranking, senior management employees many of whom report directly to the CEO. These employees are clothed with significant more authority and decision-making discretion than the rank and file merit employees whom they supervise or otherwise outrank. Significantly, *merit-exempt employees* play an essential role in the procurement process and are much more likely to be subjected to undue influence if they are permitted to accept gifts from those doing or seeking to do business with the County.⁹ It is strongly recommended that the CEO rescind this provision in favor of a clear and unequivocal gift prohibition applicable to *merit-exempt employees*. The end result will be a unified rule that **no county employee** is authorized to accept gifts from those doing or seeking to do business with DeKalb County.¹⁰

Finally, the CEO's response fails to address the *appearance* of undue influence and conflict of interest created by this Executive Order provision. *Merit-exempt employees* play a vital role in the procurement process. Any County policy that sanctions the granting of gifts to these employees by "interested sources" is bad policy. The foundation of good government rests in the trust and confidence of the people it serves. The public's confidence in government is negatively impacted whether a conflict of interest is actual or perceived. Public trust is eroded when actual or perceived conflicts of interest exist and even more so when such conflicts are condoned by government. If the CEO allows this Executive Order provision to stand, effective internal controls should be established to reduce this public harm. At minimum, *merit-exempt employees* should be required to provide contemporaneous written disclosure to the Ethics Office regarding the nature and circumstances of any gifts received from "interested sources".¹¹

⁹ For instance, solicitation requests are most often initiated by a senior management official (i.e., a *merit-exempt employee*) in the User Department. That official is intimately involved in the drafting of bid specifications. Such official has input into who sits on the selection committee to review and evaluate bid proposals. The official participates in the vote to select the successful vendor for recommendation to the BOC. After contract award, the official most often reviews contract performance and submits Purchase Orders to cause vendor invoices to be paid with taxpayer money.

¹⁰ The CEO is authorized to impose stricter gift standards than what may presently exist in the Ethics Code.

¹¹ The Ethics Office has finally obtained email addresses of County vendors, contractors and suppliers. There is an online link to allow these "interested sources" to disclose whether they have provided gifts to County employees. See vendor disclosure form at <http://www.dekalbcountyethics.org/contractor-vendor-filings/>. Requiring similar gift disclosure from *merit-exempt employees* would be a necessary and important corollary to this vendor disclosure requirement.

Recommendation Nos. 12 – 14.

These recommendations pertain to the Ethical Culture Indicator (ECI) survey and findings of the University of North Georgia, BB&T Center for Ethical Leadership (BB&T) as commissioned by the Ethics Department. The recommendations seek to have the ECI findings internally tracked for progress and build on the results in future years. The overarching goal of this ECI was to measure and improve employee engagement. It is well established that there is a direct correlation between employee engagement and an organization's ethical culture. The level of employee engagement is a significant indicator of the ethics risk inherent in an organization's culture. Disengaged employees are at much higher risk for committing ethics violations and cost the organization dearly in lower productivity. The ECI findings revealed a high percentage of employee disengagement in DeKalb County. To the extent allowed, the Ethics Office (via BB&T) has been working directly with senior management on ways to improve employee engagement through "coaching" training.

The Ethics Office is disappointed that the CEO's response diverts attention from this important issue by misstating the nature and extent of unrelated litigation against the Board of Ethics. To date, there has been no judicial determination that any of the actions of the Board of Ethics, including the appointment of the Ethics Officer, are invalid. Any reliance upon the one-sided arguments of the plaintiff's counsel in that litigation is simply misplaced.

Regardless of the status or outcome of the Board of Ethics litigation, the ECI has been and can continue to be a vital tool in benchmarking improvement in the ethical culture in DeKalb County government. The benefits of ongoing training in this vital area will result inure to the citizens of DeKalb County. An engaged workforce will be more productive and less likely to participate in unethical behavior, each of which increases the level of service provided to the citizens we serve at a lower cost. It would be an incredible step backwards in DeKalb's ethical growth if the ECI recommendations were summarily disregarded. It would be an incredible waste of taxpayer resources if follow-up training regarding these recommendations were abandoned. We urge the Administration to reconsider its response to these recommendations as there remains much work to be done.

Workload

Recommendation No. 15.

The CEO "disagree[s]" with the recommendation to consider allowing flex-time and staggered work schedules in the Purchasing and Contracting Department in order to

retain and attract quality employees. It should not go unnoted that between 2014 and 2017, the attrition rate in the Purchasing and Contracting Department averaged approximately 48%. The lack of a steady and constant workforce in this critical department places the County at risk for fraud, waste and abuse. The subject recommendation is a suggestion to improve morale and retain quality individuals. Retaining persons with relevant knowledge and subject matter expertise is essential to having a successful purchasing and compliance program. Where purchasing personnel have genuine issues with unrealistic workloads of delivering a quality work product within a regular work day/week coupled with a lack of training and/or inadequate transfer of information needed to accomplish tasks, a serious examination of the status quo is warranted. Increased pay alone will not rectify this problem. Existing employees expressed a strong desire in having a flex schedule. This desire is not unreasonable. Flex time and alternate work schedules are commonplace accommodations in today's workforce. This is especially the case with respect to positions heavily dependent upon computers and electronic communication as with purchasing and compliance. The Chief Procurement Officer can work out the details of an alternate work schedule to minimize any disruption in operations. We urge the Administration to reconsider its rejection of this recommendation.

Workplace Conditions

Recommendation Nos. 20 – 21.

The CEO rejected the recommendation to have two full-time auditors assigned to audit payments to contractors in the DWM.

We believe the addition of full-time auditors reporting to the OIIA, but functionally assigned to DWM will accomplish at minimum, each of the following:

- a) Provide an independent and objective assessment of contract monitoring performed by the county and provide for detective or preventive control measures to deter unwanted events.
- b) Audit change orders to make sure the requests are adequately supported.

It should not go unnoted that the existing audit functions within the Purchasing and Contracting Department are inadequate to ensure the type of objective oversight needed for effective monitoring and compliance. These auditors lack independence and having them reassigned to the OIIA will give them independence and the ability to perform audits in conformance with audit standards.

Reassigning the purchasing auditors to the OIIA will allow the audit reports to be published to the Purchasing and Contracting Department, the audit oversight committee, the CEO, the BOC and ultimately, the taxpayer. In addition, the auditors will perform follow-up on audit recommendations to determine if corrective action has been taken and publish the results of this follow-up to these valued stakeholders. DeKalb County government will operate better and more efficiently with this type of collaboration.¹²

Recommendation No. 22.

The CEO rejected the recommendation to prohibit DeKalb County personnel from transporting non-DeKalb County personnel in county vehicles. This suggestion seeks to have the County amend its personnel and/or travel policies to prohibit employees from transporting non-DeKalb County personnel on missions that are not connected to the employee's assigned job duties. Third party passengers in County vehicles for purely personal reasons should be forbidden. The intent of this recommendation is to limit liability and exposure to the taxpayer who will ultimately be responsible for paying damages in the event an incident occurs resulting in bodily harm to such third party passenger.

DeKalb First Local Small Business Enterprise Ordinance

Recommendation No. 26.

The CEO has rejected the recommendation that a study be commissioned to conduct a cost-benefit analysis of the Local Small Business Enterprise ("LSBE") program. The CEO offers scant explanation for the flat rejection of this recommendation other than to reference the purpose and goals of the program as cited in the ordinance. However, this recommendation does not challenge the well intentioned legislative purpose of the LSBE program, but rather the impact the program has on the procurement process. To the extent the LSBE program contributes to unnecessary and inflated costs to the taxpayer, such increased expenditures may outweigh the benefits of the program. Such unintended consequences call into question whether the goals of the program are actually being fulfilled and whether any changes to the program are warranted.

DeKalb County has a legal obligation to use taxpayer funds to acquire goods and services at the lowest, most responsive and responsible cost. This obligation is best fulfilled through competitive bidding. Any acts of DeKalb County, including those

¹² "There should be proper coordination among the separate lines of defense to foster efficiency and effectiveness." (See Exhibit A, p. 7).

involving the LSBE program, which create an operational or structural impediment to competitive bidding is antithetical to this legal mandate.

With near unanimity, Purchasing and Contracting employees have concerns about the LSBE program. Employees believe that the LSBE program hampers competition by imposing unreasonable deadlines for vendors (e.g., the turnaround time between attending mandatory LSBE meetings and bid submission deadline) in order to be eligible to submit a proposal. Also, the program forces larger businesses to “partner” with LSBE entities with whom the larger business may have no prior knowledge or relationship with and offers little opportunity for a fair evaluation of the qualifications of the LSBE. This can be discouraging to prime contractors submitting bids on large dollar projects as well as those projects requiring a high degree of specialized knowledge or technical expertise. Such businesses may have their own “team” which, if used, could result in a lower cost proposal. Although the LSBE ordinance allows for certain solicitations to be exempt from the program, there is no indication that solicitations are being reviewed for a determination as to whether the LSBE mandate is appropriate in any particular instance. Instead, every solicitation appears to carry this mandate regardless of impact to cost or quality.


It was communicated that potential vendors have expressed an unwillingness to submit bids in DeKalb because of the LSBE mandate. With decreased competition, the County can get “stuck with the same bad vendors” which may result in inflated costs for commodities or services. Ultimately, it is the taxpayer who suffers from the unintended effects of the LSBE program. First, the taxpayer pays for goods and services at a higher cost than would be paid in a truly competitive market with no 20% mandatory set aside. Second, the taxpayer becomes liable for paying to correct the deficiencies of problematic vendors who have been awarded contracts due to the sparse field of competition. Third, the taxpayer is deprived of goods and services caused by delays resulting from failed or strained relationships between LSBE entities and prime contractors.¹³

It bears repeating that the wisdom and goals of the LSBE program are not in question here. The issue is whether the LSBE program as currently administered frustrates the public contracting process in such a way that taxpayer funds are not being properly expended. A cost-benefit analysis may reveal that changes to the program are in order. The CEO should reconsider its rejection of this recommendation.

¹³ The 10-year contract to manage, operate and maintain Mystery Valley Golf Club and Sugar Creek Golf and Tennis Club approved on December 13, 2011, is a prime example of a mandated LSBE partnership gone awry and increased costs to the public. DeKalb taxpayers are now faced with significant costs to correct problems at Sugar Creek arguably caused by an LSBE not capable of fulfilling the terms of the contract. This facility was closed by the County in October 2017 due to deteriorating conditions. (See Exhibit C for relevant timeline of events regarding this public contract).

Respectfully Submitted:


John Greene, Chief Audit Executive


Stacey Kalberman, Ethics Officer

Attachments:

Exhibit A: "The Three Lines of Defense In Effective Risk Management and Control"

Exhibit B: DeKalb County Organizational Act, Ga. Laws 1981, p. 4304

Exhibit C: Relevant Timeline of Events Regarding Mystery Valley/Sugar Creek Golf RFP

EXHIBIT A

“The Three Lines of Defense In Effective Risk Management and Control”

IIA Position Paper:

THE THREE LINES OF DEFENSE IN EFFECTIVE RISK MANAGEMENT AND CONTROL

JANUARY 2013

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IIA POSITION PAPER: THE THREE LINES OF DEFENSE IN EFFECTIVE RISK MANAGEMENT AND CONTROL

INTRODUCTION

In twenty-first century businesses, it's not uncommon to find diverse teams of internal auditors, enterprise risk management specialists, compliance officers, internal control specialists, quality inspectors, fraud investigators, and other risk and control professionals working together to help their organizations manage risk. Each of these specialties has a unique perspective and specific skills that can be invaluable to the organizations they serve, but because duties related to risk management and control are increasingly being split across multiple departments and divisions, duties must be coordinated carefully to assure that risk and control processes operate as intended.

It's not enough that the various risk and control functions exist — the challenge is to assign specific roles and to coordinate effectively and efficiently among these groups so that there are neither “gaps” in controls nor unnecessary duplications of coverage. Clear responsibilities must be defined so that each group of risk and control professionals understands the boundaries of their responsibilities and how their positions fit into the organization's overall risk and control structure.

The stakes are high. Without a cohesive, coordinated approach, limited risk and control resources may not be deployed effectively, and significant risks may not be identified or managed appropriately. In the worst cases, communications among the various risk and control groups may devolve to little more than an ongoing debate about whose job it is to accomplish specific tasks.

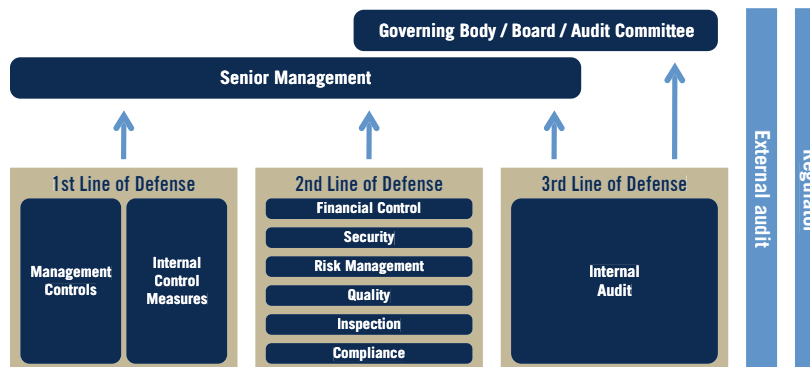
The problem can exist at any organization, regardless of whether a formal enterprise risk management framework is used. Although risk management frameworks can effectively identify the types of risks that modern businesses must control, these frameworks are largely silent about how specific duties should be assigned and coordinated within the organization.

Fortunately, best practices are emerging that can help organizations delegate and coordinate essential risk management duties with a systematic approach. The Three Lines of Defense model provides a simple and effective way to enhance communications on risk management and control by clarifying essential roles and duties. It provides a fresh look at operations, helping to assure the ongoing success of risk management initiatives, and it is appropriate for any organization — regardless of size or complexity. Even in organizations where a formal risk management framework or system does not exist, the Three Lines of Defense model can enhance clarity regarding risks and controls and help improve the effectiveness of risk management systems.

BEFORE THE THREE LINES: RISK MANAGEMENT OVERSIGHT AND STRATEGY-SETTING

In the Three Lines of Defense model, management control is the first line of defense in risk management, the various risk control and compliance oversight functions established by management are the second line of defense, and independent assurance is the third. Each of these three “lines” plays a distinct role within the organization’s wider governance framework.

The Three Lines of Defense Model



Adapted from ECIIA/FERMA *Guidance on the 8th EU Company Law Directive, article 41*

Although neither governing bodies nor senior management are considered to be among the three “lines” in this model, no discussion of risk management systems could be complete without first considering the essential roles of both governing bodies (i.e., boards of directors or equivalent bodies) and senior management. Governing bodies and senior management are the primary stakeholders served by the “lines,” and they are the parties best positioned to help ensure that the Three Lines of Defense model is reflected in the organization’s risk management and control processes.

Senior management and governing bodies collectively have responsibility and accountability for setting the organization's objectives, defining strategies to achieve those objectives, and establishing governance structures and processes to best manage the risks in accomplishing those objectives. The Three Lines of Defense model is best implemented with the active support and guidance of the organization's governing body and senior management.

THE FIRST LINE OF DEFENSE: OPERATIONAL MANAGEMENT

The Three Lines of Defense model distinguishes among three groups (or lines) involved in effective risk management:

- ❑ **Functions that own and manage risks.**
- ❑ **Functions that oversee risks.**
- ❑ **Functions that provide independent assurance.**

As the first line of defense, operational managers own and manage risks. They also are responsible for implementing corrective actions to address process and control deficiencies.

Operational management is responsible for maintaining effective internal controls and for executing risk and control procedures on a day-to-day basis. Operational management identifies, assesses, controls, and mitigates risks, guiding the development and implementation of internal policies and procedures and ensuring that activities are consistent with goals and objectives. Through a cascading responsibility structure, mid-level managers design and implement detailed procedures that serve as controls and supervise execution of those procedures by their employees.

Operational management naturally serves as the first line of defense because controls are designed into systems and processes under their guidance of operational management. There should be adequate managerial and supervisory controls in place to ensure compliance and to highlight control breakdown, inadequate processes, and unexpected events.

THE SECOND LINE OF DEFENSE: RISK MANAGEMENT AND COMPLIANCE FUNCTIONS

In a perfect world, perhaps only one line of defense would be needed to assure effective risk management. In the real world, however, a single line of defense often can prove inadequate. Management establishes various risk management and compliance functions to help build and/or monitor the first line-of-defense controls. The specific functions will vary by organization and industry, but typical functions in this second line of defense include:

- A risk management function (and/or committee) that facilitates and monitors the implementation of effective risk management practices by operational management and assists risk owners in defining the target risk exposure and reporting adequate risk-related information throughout the organization.
- A compliance function to monitor various specific risks such as noncompliance with applicable laws and regulations. In this capacity, the separate function reports directly to senior management, and in some business sectors, directly to the governing body. Multiple compliance functions often exist in a single organization, with responsibility for specific types of compliance monitoring, such as health and safety, supply chain, environmental, or quality monitoring.
- A controllership function that monitors financial risks and financial reporting issues.

Management establishes these functions to ensure the first line of defense is properly designed, in place, and operating as intended. Each of these functions has some degree of independence from the first line of defense, but they are by nature management functions. As management functions, they may intervene directly in modifying and developing the internal control and risk systems. Therefore, the second line of defense serves a vital purpose but cannot offer truly independent analyses to governing bodies regarding risk management and internal controls.

The responsibilities of these functions vary on their specific nature, but can include:

- ☐ **Supporting management policies, defining roles and responsibilities, and setting goals for implementation.**
- ☐ **Providing risk management frameworks.**
- ☐ **Identifying known and emerging issues.**
- ☐ **Identifying shifts in the organization's implicit risk appetite.**
- ☐ **Assisting management in developing processes and controls to manage risks and issues.**

- ❑ **Providing guidance and training on risk management processes.**
- ❑ **Facilitating and monitoring implementation of effective risk management practices by operational management.**
- ❑ **Alerting operational management to emerging issues and changing regulatory and risk scenarios.**
- ❑ **Monitoring the adequacy and effectiveness of internal control, accuracy and completeness of reporting, compliance with laws and regulations, and timely remediation of deficiencies.**

THE THIRD LINE OF DEFENSE: INTERNAL AUDIT

Internal auditors provide the governing body and senior management with comprehensive assurance based on the highest level of independence and objectivity within the organization. This high level of independence is not available in the second line of defense. Internal audit provides assurance on the effectiveness of governance, risk management, and internal controls, including the manner in which the first and second lines of defense achieve risk management and control objectives. The scope of this assurance, which is reported to senior management and to the governing body, usually covers:

- A broad range of objectives, including efficiency and effectiveness of operations; safeguarding of assets; reliability and integrity of reporting processes; and compliance with laws, regulations, policies, procedures, and contracts.
- All elements of the risk management and internal control framework, which includes: internal control environment; all elements of an organization's risk management framework (i.e., risk identification, risk assessment, and response); information and communication; and monitoring.
- The overall entity, divisions, subsidiaries, operating units, and functions — including business processes, such as sales, production, marketing, safety, customer functions, and operations — as well as supporting functions (e.g., revenue and expenditure accounting, human resources, purchasing, payroll, budgeting, infrastructure and asset management, inventory, and information technology).

Establishing a professional internal audit activity should be a governance requirement for all organizations. This is not only important for larger and medium-sized organizations but also may be equally important for smaller entities, as they may face equally complex environments with a less formal, robust organizational structure to ensure the effectiveness of its governance and risk management processes.

Establishing a professional internal audit activity should be a governance requirement for all organizations. This is not only important for larger and medium-sized organizations but also may be equally important for smaller entities, as they may face equally complex environments with a less formal, robust organizational structure to ensure the effectiveness of its governance and risk management processes.

Internal audit actively contributes to effective organizational governance providing certain conditions — fostering its independence and professionalism — are met. Best practice is to establish and maintain an independent, adequately, and competently staffed internal audit function, which includes:

- **Acting in accordance with recognized international standards for the practice of internal auditing.**
- **Reporting to a sufficiently high level in the organization to be able to perform its duties independently.**
- **Having an active and effective reporting line to the governing body.**

EXTERNAL AUDITORS, REGULATORS, AND OTHER EXTERNAL BODIES

External auditors, regulators, and other external bodies reside outside the organization's structure, but they can have an important role in the organization's overall governance and control structure. This is particularly the case in regulated industries, such as financial services or insurance. Regulators sometimes set requirements intended to strengthen the controls in an organization and on other occasions perform an independent and objective function to assess the whole or some part of the first, second, or third line of defense with regard to those requirements. When coordinated effectively, external auditors, regulators, and other groups outside the organization can be considered as additional lines of defense, providing assurance to the organization's shareholders, including the governing body and senior management. Given the specific scope and objectives of their missions, however, the risk information gathered is generally less extensive than the scope addressed by an organization's internal three lines of defense.

COORDINATING THE THREE LINES OF DEFENSE

Because every organization is unique and specific situations vary, there is no one "right" way to coordinate the Three Lines of Defense. When assigning specific duties and coordinating among risk management functions, however, it can be helpful to keep in mind the underlying role of each group in the risk management process.

FIRST LINE OF DEFENSE	SECOND LINE OF DEFENSE	THIRD LINE OF DEFENSE
Risk Owners/Managers	Risk Control and Compliance	Risk Assurance
<ul style="list-style-type: none"> operating management 	<ul style="list-style-type: none"> limited independence reports primarily to management 	<ul style="list-style-type: none"> internal audit greater independence reports to governing body

All three lines should exist in some form at every organization, regardless of size or complexity. Risk management normally is strongest when there are three separate and clearly identified lines of defense. However, in exceptional situations that develop, especially in small organizations, certain lines of defense may be combined. For example, there are instances where internal audit has been requested to establish and/or manage the organization's risk management or compliance activities. In these situations, internal audit should communicate clearly to the governing body and senior management the impact of the combination. If dual responsibilities are assigned to a single person or department, it would be appropriate to consider separating the responsibility for these functions at a later time to establish the three lines.

Regardless of how the Three Lines of Defense model is implemented, senior management and governing bodies should clearly communicate the expectation that information be shared and activities coordinated among each of the groups responsible for managing the organization's risks and controls. Under the *International Standards for the Professional Practice of Internal Auditing*, chief audit executives are specifically required to "share information and coordinate activities with other internal and external providers of assurance and consulting services to ensure proper coverage and minimize duplication of efforts."

RECOMMENDED PRACTICES:

- Risk and control processes should be structured in accordance with the Three Lines of Defense model.
- Each line of defense should be supported by appropriate policies and role definitions.
- There should be proper coordination among the separate lines of defense to foster efficiency and effectiveness.
- Risk and control functions operating at the different lines should appropriately share knowledge and information to assist all functions in better accomplishing their roles in an efficient manner.
- Lines of defense should not be combined or coordinated in a manner that compromises their effectiveness.
- In situations where functions at different lines are combined, the governing body should be advised of the structure and its impact. For organizations that have not established an internal audit activity, management and/or the governing body should be required to explain and disclose to their stakeholders that they have considered how adequate assurance on the effectiveness of the organization's governance, risk management, and control structure will be obtained.

All three lines
should exist in
some form at
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Risk management
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EXHIBIT B

DeKalb County Organizational Act

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Georgia Legislative Documents [Search](#) [Help](#)**Content of Act/Resolution**

Act/Resolution 2 of 2

LOCAL AND SPECIAL ACTS AND RESOLUTIONS OF THE GENERAL ASSEMBLY OF THE STATE OF GEORGIA 1981**LOCAL AND SPECIAL ACTS AND RESOLUTIONS OF THE GENERAL ASSEMBLY OF THE STATE OF GEORGIA 1981**

1981 Vol. 2 -- Page: 4304

Sequential Number: 384

Short Title: DeKALB COUNTY -- FORM OF COUNTY GOVERNMENT, REFERENDUM.

Law Number: No. 640

Origin: (Senate Bill No. 246).

Type: AN ACT

Full Title: To amend an Act revising, superseding and consolidating the laws relating to the governing authority of DeKalb County and creating a

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chairman and board of commissioners of said county, approved March 8, 1956 (Ga. Laws 1956, p. 3237), as amended, so as to establish the form of government of DeKalb County and to fix the powers and duties of the officers constituting the governing authority of DeKalb County and to revise extensively the aforesaid Act in connection therewith; to provide for other matters relative to the foregoing; to provide for a referendum; to provide effective dates; to provide for severability; to repeal conflicting laws; and for other purposes.

Be it enacted by the General Assembly of Georgia:

Section 1. An Act revising, superseding and consolidating the laws relating to the governing authority of DeKalb County and creating a chairman and board of commissioners of said county, approved March 8, 1956 (Ga. Laws 1956, p. 3237), as amended, is hereby amended by striking Sections 1 through 24 in their entirety and substituting in lieu thereof new Sections to read as follows:

"Section 1. Governing authority. (a) There is hereby created the Board of Commissioners of DeKalb County to be elected and organized as hereinafter provided. There is hereby created the office of Chief Executive Officer of DeKalb County, and said Chief Executive Officer, who shall not be a member of the Commission, shall be elected as hereinafter provided.

(b) The Board of Commissioners of DeKalb County, hereinafter referred to as the 'Commission,' and the Chief Executive Officer of DeKalb County, hereinafter referred to as the 'Chief Executive' shall constitute the governing authority of DeKalb County, and the respective powers and duties of the Commission and the Chief Executive shall be as provided in this Act.

Section 2. The Commission. (a) The Commission shall consist of seven members. There shall be five district commissioners and two at-large commissioners.

(b) For the purpose of electing the five district commissioners, DeKalb County shall be divided into five Commissioner Districts as follows:

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- Commissioner District 1 shall consist of the following Census Tracts of such county:
 - Tracts 211, 212.01, 212.02, 212.03, 212.04, 213.01, 213.02, 213.03, 213.04, 214.01, 214.02, 214.03, and 214.04.
- Commissioner District 2 shall consist of the following Census Tracts of such county:
 - Tracts 201, 202, 203, 204, 215, 216.01, 216.02, 216.03, and 217.01.
 - Tract 220 that portion north of State Mountain Freeway.
 - Tracts 221, 222, 223.01, 223.02, 224.01, 224.02, 224.03, 225, and 226.
- Commissioner District 3 shall consist of the following Census Tracts of such county:
 - Tracts 205, 206, 207, 208, 209, 227, 228, 229, 230, 234.01, 236, 237, 238.01, 238.02, and 238.03.
- Commissioner District 4 shall consist of the following Census Tracts of such county:
 - Tracts 217.02, 218.01, 218.02, and 219.
 - Tract 220 that portion south of Stone Mountain Freeway.
 - Tract 232 that portion north of Redan Road.
 - Tract 233 that portion north and east of Redan Road, Stone Mountain Lithonia Road.
- Commissioner District 5 shall consist of the following Census Tracts of such county:
 - Tracts 231.01, 231.02, 231.03, and 231.04.
 - Tract 232 that portion south of Redan Road.
 - Tract 233 that portion south and west of Redan Road, Stone Mountain Lithonia Road.
 - Tracts 234.02, 235.01, 235.02, and 235.03.

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For the purposes of this subsection, the term 'census tract' shall have the same meaning and describe the same geographical boundaries as provided in the U. S. Department of Commerce, Bureau of Census, report of the United States Decennial Census of 1980 for the State of Georgia. Any portion of DeKalb County not included in Commissioner Districts 1 through 5 described

above shall be included within that Commissioner District contiguous to such portion which contains the least population.

(c) Each commissioner shall be a citizen of this State at least 25 years of age and shall have been a resident of the respective Commissioner District, or a resident of the county in the case of an at-large commissioner, for at least two years immediately prior to taking office. Each district commissioner shall be elected by a majority of the electors voting within the respective Commissioner District. The at-large commissioners shall be elected by a majority of the electors voting from the county at large. Any commissioners who cease to be residents of their respective commissioner district, or residents of the county in the case of at-large commissioners, during their terms of office shall thereby vacate their seats on the Commission. All members of the Commission shall be nominated and elected pursuant to the provisions of Code Title 34, known as the 'Georgia Election Code,' as now or hereafter amended.

Section 3. Establishment of Commission. The Commission created by Sections 1 and 2 of this Act shall become effective on January 1, 1985. The initial and subsequent members of said Commission shall be as follows:

- (1) Effective January 1, 1985, the commissioners representing commissioner districts 2 and 3 and one at-large commissioner under Section 2 of this Act shall be the former commissioners representing commissioner districts 2 and 3 and the former at-large commissioner who were elected at the general election of 1982 under previously existing provisions of this Act, and said commissioners so elected shall serve for the terms of office to which they were elected, which shall expire on December 31, 1986. Their successors shall be elected at the general election of 1986 and shall take office on January 1, 1987, for terms of four years and until their successors are elected and qualified. Thereafter, successors shall be elected at the general election immediately

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preceding the expiration of the terms of office and shall take office on the first day of January immediately following their election for terms of four years and until their successors are elected and qualified.

- (2) The commissioners representing commissioner districts 1, 4, and 5 and the second at-large commissioner shall be elected at the general election of 1984 and shall take office on January 1, 1985, for terms of four years and until their successors are elected and qualified. Thereafter, successors shall be elected at the general election immediately preceding the expiration of terms and shall take office on the first day of January immediately following their election for terms of four years and until their successors are elected and qualified. The position of chairman of the Board of Commissioners which existed under previous provisions of this Act shall stand abolished on December 31, 1984.

Section 4. Running for other elective office creates vacancy. If any member of the Commission or the Chief Executive qualifies for nomination or election to any elective public office, other than to succeed oneself as a member of the Commission or as Chief Executive, the seat of the member of the Commission or the Chief Executive so qualifying shall thereby become vacant as of the date of such qualification.

Section 5. Chief Executive. (a) The Chief Executive of DeKalb County shall be a citizen of this State, at least 30 years of age and shall have been a resident of DeKalb County for at least five years immediately prior to taking office. The Chief Executive shall be elected by a majority of the electors voting from the county at large. The Chief Executive shall be nominated and elected pursuant to Code Title 34 known as the 'Georgia Election Code,' as now or hereafter amended.

(b) The first Chief Executive shall be elected as provided in subsection (a) hereof at the general election of 1984, and shall take office on the first day of January, 1985, for a term of four years. Future successors shall be elected at the general election immediately preceding the expiration of the term of office and shall take office on the first day of January immediately following the election for a term of four years. Each Chief Executive shall serve until the successor is elected and qualified.

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(c) Any person elected Chief Executive shall not be eligible to serve more than two consecutive full terms of office. In the event a person fills a vacancy in the office of Chief Executive as provided in Section 6 of this Act, such person shall be eligible for election to two full consecutive terms of office as Chief Executive. When a person has served two full consecutive terms of office as Chief Executive, such person shall not again be eligible to hold said office until such person has been out of office as Chief Executive for at least four years.

Section 6. Vacancies. (a) Vacancies on the Commission and in the office of Chief Executive occurring by reason of death, resignation, removal from the county or from the district from which elected or for any other reason shall be filled as provided in this Section.

(b) In the event a vacancy occurs on the Commission or in the office of Chief Executive when at least 180 days remain in the unexpired term of office, the election superintendent of DeKalb County, within 15 days after the vacancy occurs, shall issue the call for a special election to fill such vacancy for the unexpired term. Such special election shall be held not less than 29 nor more than 45 days after the issuance of the call, and shall be held and conducted in accordance with the provisions of Code Title 34, known as the 'Georgia Election Code,' as now or hereafter amended. If the vacancy is in the office of Chief Executive, the Presiding Officer of the Commission shall exercise the powers and duties of the Chief Executive, except as provided in subsection (e) of this Section, for the period beginning on the date the vacancy occurs and ending when the successor Chief Executive takes office for the unexpired term following the special election provided for herein.

(c) In the event a vacancy occurs in the office of Chief Executive when less than 180 days remain in the unexpired term of office, the Presiding Officer of the Commission shall exercise the powers and duties of the Chief Executive, except as provided in subsection (e) of this Section, for the unexpired term.

(d) In the event a vacancy occurs on the Commission when less than 180 days remain in the unexpired term of office, the remaining members of the Commission, shall appoint a qualified person to fill such vacancy for the unexpired term. Any person appointed by the Commission to fill a vacancy as provided herein shall possess the residency and other qualifications required for the office.

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(e) If the Presiding Officer of the Commission exercises the powers of Chief Executive pursuant to subsections (b) or (c) of this Section, the person serving as Chief Executive in either case shall not be authorized to discharge the Executive Assistant. A Presiding Officer serving as Chief Executive shall not be authorized to vote as a member of the Commission during such service.

Section 7. Oath and bond. Before entering upon the discharge of their duties, the Chief Executive and members of the Commission shall subscribe to an oath before the Judge of the Probate Court of DeKalb County for the true and faithful performance of their duties and that they are not the holders of any public funds unaccounted for. In addition the Chief Executive shall further give a satisfactory surety bond, as determined by the Judge of the Probate Court of DeKalb County, and payable to the Judge of the Probate Court of DeKalb County and filed in the office of the Judge of the Probate Court of DeKalb County, in the sum of \$50,000.00, conditioned upon the faithful performance of the duties of the office. Each member of the Commission shall give like bond in the sum of \$10,000.00. The costs of said bonds shall be paid from county funds.

Section 8. Compensation. (a) The members of the Commission shall receive the compensation specified for members of the Board of Commissioners of DeKalb County by an Act providing for the compensation of certain officers and officials of DeKalb County, approved March 31, 1976 (Ga. Laws 1976, p. 3986).

(b) The Chief Executive shall receive the compensation specified for the Chairman of the Board of Commissioners of DeKalb County by the same Act described in subsection (a) hereof.

Section 9. Powers and duties of the Commission. (a) The Commission shall have the power and authority to fix and establish, by appropriate resolution or ordinance entered on its minutes, policies, rules and regulations governing all matters reserved to its jurisdiction by this Act. The Commission shall exercise only those powers which are necessarily and properly incident to its function as a policy-making or rule-making body or which are necessary to compel enforcement of its adopted resolutions or ordinances, and any power or combination of powers vested in the Commission by this Act shall be subject to the limitations provided in Section 23 of this Act. The following powers are hereby vested in the Commission:

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- (1) To levy taxes.
- (2) To make appropriations.
- (3) To fix the rates of all other charges.
- (4) To authorize the incurring of indebtedness.
- (5) To authorize work to be done where the cost is to be assessed against benefited property and to fix the basis for such assessment.
- (6) To establish, alter, or abolish public roads, private ways, bridges and ferries, according to law, but the Chief Executive shall have the authority to accept subdivision plats when the requirements established by the Commission for subdivisions have been met.
- (7) To establish, abolish, or change election precincts and militia districts according to law.
- (8) To allow the insolvent lists for the county.
- (9) To authorize the acceptance for the county of the provisions of any optional statute where the statute permits its acceptance by the governing authority of a county.
- (10) To regulate land use by the adoption of a comprehensive development plan and by the adoption of other planning and zoning ordinances which relate reasonably to the public health, safety, morality and general welfare of the county and its citizens; provided,

however, no planning or zoning ordinance shall become law unless approved by the member of the Commission representing the district in which the subject property is located, or by one of the members of the Commission elected from the county at large.

- (11) To create and change the boundaries of special taxing districts authorized by law.
- (12) To fix the bonds of county officers where same are not fixed by statute.

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- (13) To enact any ordinances or other legislation the county may be given authority to enact.
- (14) To determine the priority of capital improvements.
- (15) To call elections for the voting of bonds.
- (16) To exercise, together with the Chief Executive Officer, all of the power and authority vested by law in the judge of the probate court when sitting for county purposes.
- (17) To exercise, together with the Chief Executive Officer, all powers now or hereafter vested in county governing authorities by the Constitution and general laws of this State.
- (18) To fix, levy and assess license fees, charges or taxes on all persons, firms and corporations engaging in or offering to engage in any trade, business, calling, avocation or profession in the area of DeKalb County, outside the incorporated limits of municipalities situated therein, except businesses which are subject to regulation by the State Public Service Commission, and to classify all such persons, firms and corporations according to the nature, manner and size of business conducted by such persons, firms and corporations and to fix, levy and assess different license fees, charges or taxes against different classes of trades, businesses, callings, avocations or professions. Such licenses shall be issued, annually or otherwise, and may be revoked, canceled or suspended after notice and a hearing, in accordance with rules prescribed by the Commission. Said Commission shall be further authorized to adopt ordinances and resolutions to govern and regulate all such trades, businesses, callings, avocations or professions, not contrary to regulations prescribed by general law, for the purpose of protecting and preserving the health, safety, welfare and morals of the citizens of said county, and to prescribe penalties for the violation of any such ordinances and resolutions, including the operation of such businesses without the obtaining of a license or when such license is revoked or suspended. Payment of said license fees, charges or taxes may be enforced by fi. fas. issued by the Commission and levied by any officer in said county authorized by law to levy fi. fas. for taxes, assessments, fines, costs or forfeitures due said county. The Commission shall be authorized, in its discretion, to require any and all persons, firms or corporations licensed pursuant to the authority herein granted to give a

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bond payable to DeKalb County and conditioned to pay said county or anyone else, suing in the name of said county and for their use, for injuries or damages received on account of dishonest, fraudulent, immoral or improper conduct in the administration of the business so licensed, such bond to be fixed and approved by the Commission. Such license fees, charges or taxes shall be in addition to all other taxes or assessments heretofore or hereafter levied by said county, and all funds received from same shall be paid into the county depository as general funds of said county.

- (19) To adopt rules regulating the operation of the Commission.

(b) In addition to the powers enumerated in subsection (a) of this Section, the Commission may adopt all such ordinances or regulations as it may deem advisable, not in conflict with the general laws of this State and of the United States, for the governing and policing of the county for the purpose of protecting and preserving the health, safety, welfare, and morals of the citizens of the county and for the implementation and enforcement of the powers and duties of the Commission, within the classes of subjects and areas of regulation enumerated below:

- (1) To control and regulate the operation of and running of bicycles, automobiles, motorcycles, motor scooters, buses, taxicabs, trucks, wagons and any and all kinds of vehicles operated in, upon, over and across the roads, streets, lanes, alleys, sidewalks, parks, plazas, squares and public places in said county and outside the corporate limits of municipalities situated therein, whether such vehicles are propelled by hand, foot, animal, steam, electric, gasoline or other motive power; to prescribe and fix speed limits and speed zones for all of the enumerated vehicles; to erect stop and warning signs and signals at dangerous intersections or places, at schools or other public places; to prescribe and establish lanes and directional signs, signals and markings to control the direction or flow of traffic for all such vehicles, including limitation of travel to one direction and including markings, signals and devices to control and regulate the manner of turning at intersections; to regulate and control, as well as to prohibit entirely, the parking, stopping and standing of all such vehicles on or adjacent to such streets and public places; to impound such vehicles involved in violations of traffic ordinances or regulations; to restrict and limit the size and weight of all such vehicles operated on such streets

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and public places; to regulate and establish routes to be followed by trucks and other heavy or slow-moving vehicles; to regulate and control, by permits or otherwise, and to prohibit entirely the times, routes and manner of conduct of parades, motorcades and other assemblages of all such vehicles, and public address systems or other noise-making devices on such streets and public places; to regulate and control the manner of operation of all such vehicles along, over and across all such streets and ways so as to prohibit and prevent the careless and reckless operation of same in such manner as would be hazardous to persons or property; to regulate and control in any and all of the foregoing respects all travel by pedestrians and equestrians along, over and across such streets, ways and public places; and to do any and all things to provide for the safety of persons and property using such roads, streets, lanes, alleys, sidewalks, parks, plazas, squares and public places and of persons and property situated adjacent thereto; and any and all things necessary or incident to accomplishment of any of the foregoing powers, including the authority to require registration of the enumerated vehicles and of their owners and to prescribe standards of mechanical safety for such vehicles and qualifications of operators thereof. To carry out all or any of the foregoing powers, the Commission is hereby authorized to adopt as county ordinances all or such portions of Code Title 68A, known as 'The Uniform Rules of the Road,' as to the Commission may seem appropriate and the Recorder's Court of DeKalb County may punish for violations thereof by fines or imprisonment or both not to exceed the limits set forth in said Code Title 68A, or in subsection (c) of this Section or in the ordinance adopting same, and the Commission may adopt such other additional ordinances and regulations, not in conflict with said Code Title 68A and prescribe punishment for violation of same not to exceed the limits set forth in subsection (c) of this Section.

- (2) To adopt rules and regulations for the promotion of health and quarantine in the unincorporated area of said county, as are authorized by law or not inconsistent with general laws or regulations of the State Department of Human Resources or the DeKalb County

Board of Health, and to prescribe penalties and punishment for violations thereof. It is not the purpose or intent of this paragraph to interfere with or restrict the operation of the Ellis Health Law or the DeKalb County Board of Health within the unincorporated area of DeKalb County, but to provide for the implementation of same through the ordinances of the Commission,

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and to promote more adequate health and quarantine provisions in said county, and to that end the Commission is authorized to adopt all or any portion of the regulations of said DeKalb County Board of Health, as the same may be amended from time to time, and to prescribe additional regulations not inconsistent therewith, and to prescribe penalties and punishment for violation of any such ordinances and regulations, which penalties and punishments may be enforced and imposed by the Recorder's Court of DeKalb County or other court having jurisdiction over offenses against county ordinances. Said health and quarantine powers shall extend to and embrace the health and quarantine of animals as well as persons.

- (3) To prevent dogs, horses, mules, cattle, hogs, sheep, goats, chickens and all other animals, or any one or more kinds of such animals, from running at large in the unincorporated area of said county; to prevent the keeping of any animal or animals or to regulate the manner and numbers in which they may be kept; to take up and impound any of such animals and to punish all owners or other persons keeping animals for failure or refusal to obey any such ordinance and to fix penalties and charges to be paid for release of such impounded animals; to provide for the sale or disposition of unclaimed animals impounded; to levy and collect a tax upon dogs kept in said county and to provide for registration of dogs; and to do any and all things necessary to carry out the purposes of this paragraph for the public interest.
- (4) To prescribe penalties and punishment for the violation of zoning ordinances, building codes (including electrical, plumbing, heating, and air-conditioning regulations) and all other lawful ordinances adopted by the Commission pursuant to this or any other law in force in said county.
- (5) To provide ordinances for the preservation and protection of county property and equipment and the administration and use of county facilities, such as parks, playgrounds and swimming pools, by the public, and to prescribe penalties and punishment for violations thereof.
- (6) To prescribe fire safety regulations not inconsistent with general law, relating to both fire prevention and detection and to fire fighting, and to prescribe penalties and punishment for violation thereof.

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- (7) To prohibit or regulate and control the erection and maintenance of signs, billboards, trees, shrubs, fences, buildings and any and all other structures or obstructions upon or adjacent to the rights-of-way of streets and roads within the unincorporated area of said county, and to prescribe penalties and punishment for violation of such ordinances.
- (8) To adopt ordinances and regulations for the prevention of idleness, loitering, vagrancy, disorderly conduct, public drunkenness and disturbing the peace in the unincorporated area

of said county and to prohibit the playing of lotteries therein, and to prohibit or regulate such other conduct and activities within said area of DeKalb County which, while not constituting an offense against the general laws of this State, is deemed by the Commission to be detrimental and offensive to the peace, good order and dignity of DeKalb County and to the welfare and morals of the citizens thereof.

(c) The Commission is hereby authorized to adopt ordinances prescribing penalties and punishment for violation of any and all ordinances adopted by the Commission to carry out any of the provisions of this Section or other provisions of this Act or of any other law, and to prescribe maximum penalties and punishment for violation of same, except that the same shall in no event exceed a fine of \$500.00, imprisonment in the county jail for 30 days, or labor on the work gang for 60 days for any single offense, or any combination thereof.

Section 10. Audits. (a) The Commission shall choose three of its members to serve as an audit committee. The term of members serving as the audit committee and their manner of selection shall be as determined by the Commission. The audit committee shall screen and recommend to the Commission an independent auditing firm to serve as an outside auditor of the county government to make an annual continuous general audit of all county finances and financial records.

(b) The outside auditor shall be employed pursuant to written contract to be entered upon the minutes of the Commission, and the contract shall state clearly and concisely the depth and scope of the audit and that it shall be conducted in accordance with the requirements of the Act providing uniform standards for audits of municipalities and counties within the State of Georgia, approved April 21,

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1967 (Ga. Laws 1967, p. 883), as amended, by an Act approved March 28, 1968 (Ga. Laws 1968, p. 464). The auditor shall immediately inform the Commission in writing of any irregularities found in the management of county business by an officer or department of the county government.

(c) The outside auditor shall complete the audit within 90 days after December 31 of each year, and, within ten days after its completion, the auditor shall deliver a copy to each commissioner, the Chief Executive and to the grand jury of the DeKalb County superior court then in session.

(d) The audit committee may also screen and recommend to the Commission an internal auditor whose function shall be to audit the various departments, offices, and agencies of the county government on a continuing basis. The internal auditor shall be employed by and serve at the pleasure of the Commission.

Section 11. Presiding Officer. (a) The Chief Executive Officer may, at such officer's discretion, preside at any regular or specially called meeting of the Commission, but shall have no vote unless the members of the Commission are equally divided.

(b) At the first regular meeting in January of each year, the Commission shall elect from its membership a Presiding Officer and a deputy presiding officer. The member serving as Presiding Officer or deputy presiding officer shall retain all rights, powers and duties as a member of the Commission.

(c) The Presiding Officer shall preside at meetings of the Commission, in the absence of the Chief Executive Officer, and shall have the following additional duties:

- (1) To convene such special meetings of the Commission as are deemed necessary, but all members shall be notified at least three days in advance of any such special meeting;
- (2) To appoint the members and chairmen of such committees of the Commission as the Commission, by its rules, may establish and fill vacancies therein, but any such appointments may be rejected by a majority vote of the total membership of the Commission;

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- (3) To compel the attendance of members at meetings of the Commission by subpoena, if necessary, subject to the policy of the Commission as established by its rules; and
- (4) To exercise such other powers and duties as may be assigned to the Presiding Officer by ordinance or rules and regulations of the Commission.

(d) In the event the office of the member serving as Presiding Officer becomes vacant for any reason, or in the event the Presiding Officer is absent for any reason, or in the event the Presiding Officer exercises the powers of the Chief Executive pursuant to subsections (b) or (c) of Section 6 of this Act, then the deputy presiding officer shall exercise the powers and duties of the Presiding Officer during the absence of the Presiding Officer or until a successor Presiding Officer is elected by the Commission at the first regular meeting held during the next succeeding January.

Section 12. Meetings. The Commission shall hold regular meetings on the second and fourth Tuesdays of each month at the county seat, which meetings shall be open to the public, and may hold such additional meetings as shall be necessary when called by the Chief Executive, the Presiding Officer or any four members of the Commission, but all members shall be notified at least three days in advance of any such additional meeting. No official action shall be taken by the Commission except in a meeting which is open to the public. The Presiding Officer and any three members of the Commission, or any four members of the Commission exclusive of the Presiding Officer, shall constitute a quorum, except that a lesser number shall be sufficient to recess or adjourn any meeting; but no official action shall be taken except upon the affirmative vote of at least four members of the Commission, or three members and the Presiding Officer. The Presiding Officer shall be entitled to the same voting rights as the Commission members on questions considered by the Commission.

Section 13. Powers and duties of the Chief Executive. (a) The Chief Executive shall have the exclusive power to supervise, direct and control the administration of the county government. The Chief Executive shall carry out, execute and enforce the ordinances, policies, rules and regulations of the Commission when such ordinances, policies, rules and regulations become effective. Members of the Commission shall deal solely through the Chief Executive or his Executive Assistant in all matters concerning the operation, supervision

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and administration of the various departments, offices, and agencies of the county government. No member of the Commission shall directly or indirectly order, instruct, or otherwise attempt to control the actions of county personnel subject to the administrative and supervisory control of the Chief Executive.

(b) Subject to the approval of the Commission, the Chief Executive shall have the power to change, consolidate, or abolish any departments, agencies, or offices over which the Chief Executive exercises supervision and control, except that the department of finance shall be

maintained at all times as a separate and distinct department and may not be abolished by the Chief Executive or by the Commission. Subject to the approval of the Commission, the Chief Executive may create other departments, agencies, and offices, which departments, agencies, and offices, when created, shall be under the supervision and control of the Chief Executive.

(c) Subject to confirmation by the Commission, the Chief Executive shall appoint the planning director, finance director, merit system director, and county attorney. No member of the Commission or the Commission itself shall be authorized to nominate these officials. Within budgetary limitations, the Chief Executive shall fix the compensation of the officers named in this subsection. All such officers shall serve at the pleasure of the Chief Executive and may also be discharged for cause by the affirmative vote of at least six members of the Commission.

(d) Subject to budgetary limitations and DeKalb County Merit System regulations, the Chief Executive shall have exclusive authority to appoint, remove, and fix the compensation of all employees and officials of the county, except employees of the Commission, and except that deputies and employees of the elected county officers of DeKalb County shall be subject to appointment, removal, supervision, and control of the respective elective county officers. The appointment, removal and compensation of persons filling offices and positions created by State statutes, when not otherwise prescribed by such statutes, shall be made and fixed by the Chief Executive within budgetary limitations.

(e) The Chief Executive may convene special meetings of the Commission when deemed necessary, but all members shall be notified at least three days in advance of any such special meeting.

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(f) The Chief Executive may compel the attendance of members at meetings of the Commission by subpoena, when deemed necessary, subject to the policy of the Commission as established by its rules.

(g) The Chief Executive shall have power to investigate the affairs, records and expenditures of the various authorities, boards, councils, commissions, committees, and similar bodies or agencies, whether created by ordinance of the Commission or by Acts of the General Assembly, relating to the affairs of the county and to report thereon to the Commission.

(h) The Chief Executive shall represent the county in inter-governmental matters and shall seek to promote and improve the government of the county and encourage the growth of the county and promote and develop the prosperity and well-being of the citizens of the county.

(i) The Chief Executive, within 120 days after the close of each fiscal year, shall prepare and submit to the Commission a complete annual report on the financial affairs and activities of the county for the immediately preceding fiscal year. The annual report shall show all income from all sources, including State, county, and federal funds, and all expenditures. The Chief Executive shall cause a summary of said annual report to be published in the official organ of DeKalb County. Said published summary shall state that a copy of the full report is available from the office of the Chief Executive. The Chief Executive shall also send copies of the full report to each branch of the county library. The Chief Executive shall also make financial reports during the year as may be required by the Commission.

(j) The Chief Executive may recommend, at any time, to the Commission for its formal consideration such measures or proposals as are deemed necessary or desirable to improve the administration of the affairs of the county.

(k) The Chief Executive shall devote full time to the duties of the office and shall have no other source of employment.

(l) The Chief Executive shall issue calls for agenda items and shall prepare and publish a listing of those items and the same shall serve as the agenda for the Commission unless superseded by the Commission.

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Section 14. Executive Assistant; administrators. (a) Subject to the qualifications for said office as hereinafter provided in this Section, the Chief Executive shall have exclusive power to appoint, remove from office, and, within budgetary limitations, fix the compensation of an Executive Assistant.

(b) The Executive Assistant shall be the chief administrative aide to the Chief Executive and shall be responsible to the Chief Executive for the proper administration of the affairs of the county. When directed to do so by the Chief Executive, the Executive Assistant may exercise any of the administrative duties and powers vested in the Chief Executive by law or by ordinances, rules and regulations adopted by the Commission.

(c) The Executive Assistant shall hold a college degree in public administration, political science, urban affairs, business administration, engineering, or a related field and must have at least five years of experience in a supervisory capacity as an employee, director, administrator, or manager of a city or county government or a state or federal agency or equivalent experience in the private sector or any combination thereof.

(d) No person shall be appointed or hold office as Executive Assistant to the Chief Executive if such person, within two years immediately preceding appointment, has:

- (1) Been a candidate for elective public office;
- (2) Been the holder of elective public office; or
- (3) Held a management position in the political campaign of any candidate for the office of Chief Executive, or any member of the Board of Commissioners of DeKalb County.

(e) After appointment, the Executive Assistant shall not take part in the management of any political campaign for any elective public office or hold office in any political party or body. If the Executive Assistant participates in political activities in violation of this subsection, such participation, by operation of law, shall result in the immediate discharge of the Executive Assistant, and the office of Executive Assistant shall be vacant.

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(f) The Chief Executive shall also have exclusive power to appoint, remove from office and, within budgetary limitations, fix the compensation of two administrators to assist the Executive Assistant in such manner as the Chief Executive shall direct.

Section 15. Veto power of Chief Executive. (a) Every ordinance or resolution adopted by the Commission shall be signed by the Presiding Officer of the Commission or, in the absence of the Presiding Officer, the deputy presiding officer shall sign the ordinance or resolution. Such

ordinance or resolution shall be certified by the clerk of the Commission and presented by said clerk to the office of the Chief Executive within two business days following its adoption by the Commission. The Chief Executive shall approve or veto the ordinance or resolution within eight business days after its adoption by the Commission, and, except as hereinafter provided, no ordinance or resolution shall become effective without the approval of the Chief Executive.

(b) If the Chief Executive vetoes an ordinance or resolution, the Chief Executive shall return it to the Commission within two business days after such veto along with a written statement of the reasons for the veto. If, at the meeting of the Commission next held after receiving the vetoed ordinance or resolution, the Commission shall again pass the ordinance or resolution by a two-thirds' vote of its total membership, such ordinance or resolution shall become effective without the approval of the Chief Executive. If the Chief Executive does not approve or veto an ordinance or resolution within eight business days after its adoption by the Commission, it shall become effective without the Chief Executive's approval.

(c) The Chief Executive may veto any item or items of any ordinance or resolution making appropriations, and the part or parts vetoed shall not become effective, except as provided by subsection (b) of this Section with respect to other ordinances or resolutions. Any part of an ordinance or resolution making appropriations not vetoed by the Chief Executive shall become effective.

(d) Nothing in this Section shall authorize the Chief Executive to exercise a veto over any zoning ordinance adopted by the Commission pursuant to its authority under paragraph (10) of subsection (a) of Section 9 of this Act, nor over any rule adopted by the Commission pursuant to its authority under paragraph (19) of subsection (a) of Section 9 of this Act.

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Section 16. Comprehensive Development Plan. (a) The Chief Executive shall from time to time present to the Commission a Comprehensive Development Plan which shall:

- (1) Consider the economic and social aspects of the county;
- (2) Set forth the comprehensive development goals, policies and objectives of the county, its specific geographic areas, communities and neighborhoods and the citizens thereof; and
- (3) In conformity with such development goals, policies and objectives, identify parks, recreation facilities, sites for public buildings and structures, utilities, transportation systems and facilities, housing, community facilities, manufacturing and industrial sites, future land use for all classifications and such other elements, features and policies as will promote the improvement of the county.

(b) In preparing or revising the Comprehensive Development Plan, the Chief Executive shall seek the views and opinions of citizens of the county and shall establish and publicize formal procedures to obtain such views and opinions.

Section 17. Budgeting; control of expenditures. (a) The Chief Executive shall submit to the board not later than August 15 of each year a revenue estimate for the following year, which shall not exceed ninety-nine percent of the previous year's total revenue.

(b) The Chief Executive shall submit to the board not later than October 15 of each year a proposed budget governing the expenditures of all funds expected to be available to the county for the following calendar year and shall include proposed expenditures for capital outlay and public

works projects. The Chief Executive shall submit to the Commission at the time the proposed budget is submitted a report containing information relating to the financial affairs of the county which is relevant to establishing the annual budget.

(c) At the time the proposed budget is submitted to the Commission, the Chief Executive shall cause to be published in the official organ of DeKalb County a copy of the proposed budget along with a notice to the public that a public hearing will be held on the proposed budget at a time and place certain, and the time shall not be less than ten days after the date of publication of the notice. It shall be the

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duty of the Commission to hold a meeting at the time and place specified in the notice for the purpose of conducting such public hearing. The Commission shall review the proposed budget at such public hearing and may adopt the same as submitted by the Chief Executive or make such amendments thereto as the Commission may deem necessary to maintain the county in sound financial condition. The Commission may continue the hearing on the proposed budget from time to time, but the time of and the place where the hearing is continued shall be publicly announced at the previous hearing. The Commission shall adopt the proposed budget as submitted or as amended by the Commission as the budget for the county for the following calendar year by not later than December 15.

(d) The final budget adopted by the Commission shall constitute the Commission's appropriations of all funds for the calendar year covered by the budget. The budget may be amended during the calendar year which it covers upon the Commission taking formal action for such purpose at a regular meeting of the Commission. Prior to taking such action, the Commission shall cause to be published in the official organ of DeKalb County a notice setting forth the proposed changes in the budget and a summary of the reasons therefor. Said notice shall also state the time and place of the regular meeting of the Commission at which action to amend the budget is to be taken. Said notice shall be published at least ten days prior to the date of the meeting. No increase in appropriations shall be made without provision also being made to finance such increase.

(e) A copy of the final budget adopted by the Commission and any amendment to or revision of the budget shall be transmitted by the Chief Executive to the grand jury of the superior court of DeKalb County then in session.

(f) No expenditure of county funds shall be made except in accordance with the county budget, or amendments thereto, adopted by the Commission. The Chief Executive shall enforce compliance with this requirement by all departments, offices or agencies of the county government, including elected county officers, and to this end shall institute, through the department of finance, a system of quarterly allotments of all monies appropriated and budgeted.

Section 18. Purchases; contracts. (a) The Chief Executive shall establish rules to regulate purchasing for all county departments, offices, and agencies of the county government. Except as hereinafter

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provided, formal sealed bids, after notice of same has been published one time in the official organ of DeKalb County, must be obtained on all purchases exceeding \$7,500.00. Purchases exceeding \$7,500.00 may be made without formal sealed bids from any vendor who, at the time of purchase, has an existing contract or schedule with the State of Georgia or the federal government if the purchase is made pursuant to the price, terms, and conditions of said contract and if the county receives all the benefits of such contract.

(b) Except for contracts of employment, the Commission shall authorize all contracts involving the expenditure of county funds in excess of \$12,500.00.

(c) The dollar limitations specified in subsections (a) and (b) above may be increased by ordinance of the Commission, but except for increasing such limitations, the provision of said subsections shall not be changed by the Commission.

Section 19. Department of finance. (a) The department of finance is hereby established as a permanent administrative unit of the county government. The department shall be under the control and supervision of the director of finance. The department of finance shall perform the following functions:

- (1) Keep and maintain accurate records reflecting the financial affairs of the county.
- (2) Compile the annual budget covering all county funds.
- (3) Make quarterly allotments of monies appropriated and budget to each department, office or agency of the county entitled to receive same.
- (4) Maintain current control accounts over the collection and deposit of monies due the county from taxes and other sources.
- (5) Examine all claims against the county and make recommendation as to payment.
- (6) Maintain budgetary control accounts showing encumbrances for obligations entered into, liquidation of such encumbrances, unencumbered balances of allotments, unexpended balances of appropriations.

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- (7) Maintain proprietary accounts of the current assets and of the liabilities of all county funds.
- (8) Prepare and issue quarterly financial reports of the operations of all county funds.
- (9) Maintain property control records of all county property, including equipment and stores, and supervise stores.
- (10) Plan and prepare for meeting the financial needs of the county, project financial requirements, recommend means of financing those requirements and advise the Chief Executive and the Commission on financial matters.
- (11) Perform such other duties as may be assigned by the Chief Executive.

(b) The director of finance shall certify to the Chief Executive and to the Commission on March 31, June 30, September 30 and December 31 of each year a statement of county finances which shall reflect the overall county financial position by individual funds as well as a comparison of cash revenue collections by source with the budget estimates of cash revenues by source and also a comparison of departmental expenditures with budget appropriations. The Chief Executive shall cause the June 30 and December 31 statements to be published in the official organ of DeKalb County one time and a copy posted on the county courthouse bulletin board within 30 days of each date.

(c) Except as hereinafter provided, the provisions of this Section are advisory only, and the Chief Executive, subject to the approval of the Commission, may provide for the organization or reorganization of the department of finance and may specify and provide for the powers and duties of the director of finance and other personnel of the department of finance in such manner as may be necessary or desirable for the efficient and effective operation of the department of finance. The department of finance and the office of director of finance shall not be abolished by the Chief Executive or the Commission.

Section 20. Records; minutes. The director of finance shall be ex officio clerk of the Chief Executive and the Commission and shall keep a proper and accurate book of minutes wherein shall appear all

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the acts, orders and proceedings of the Commission, in chronological order, and a similar book of minutes wherein shall appear, in chronological order, all acts, orders and proceedings of the Chief Executive. The minute books of the Chief Executive and the Commission shall be open to public inspection at all times during the regular office hours, and certified copies of any entries therein shall be furnished by the said clerk to any person requesting same upon payment of a reasonable fee, to be paid into the county treasury as other funds, to be assessed by the Commission in an amount sufficient to defray the cost of preparing same.

Section 21. Agreements of candidates. It shall be unlawful for any candidate, either for the office of Chief Executive or for membership on the Commission, or for nomination to either of such offices, to enter into any agreement or understanding with any person as to the disposal of any work or appointment which is or shall be under the control of the Chief Executive or the Commission, and any person so offending shall be guilty of a misdemeanor and upon conviction thereof shall be punished as for a misdemeanor.

Section 22. Officials not to be interested in contracts. Neither the Chief Executive nor any member of the Commission or other county officer empowered to use public or county funds for the purchase of goods, property, or services of any kind for public or county purposes shall be financially interested, directly or indirectly, in any contract to which the county is a party, either as principal, surety or otherwise; nor shall such officer, his partner, agent, servant, or employee of a firm of which he is a member or by whom he is employed purchase from or sell to the county any real or personal property, goods or services. Any contract made in violation of any of the foregoing provisions shall be void, and the officer so offending shall be removed from office upon proper proceedings instituted by any taxpayer in said county in accordance with the provisions of Section 23-1714 of the Code of Georgia of 1933. Provided, however, that the provisions of this Section shall not be applicable to any contract which has been approved, prior to execution, performance and payment thereon, by a majority of the Commission by a proper entry on the minutes of the Commission.

Section 23. How sections amended, limitations on powers. (a) Pursuant to the authority of an amendment to the Constitution ratified at the 1978 general election as set forth in Georgia Laws 1978, pages 2370-2372, which amendment authorized the General Assembly

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to provide by law for the form of government of DeKalb County and to provide for the various officers, bodies, branches, or agencies by or through which the county's governmental powers shall be exercised, it is the purpose of this Section to specify the exclusive method by which the various provisions of this Act may hereafter be amended and to limit the powers of the

Commission in connection therewith. The exclusive method of amendment of the various provisions of this Act shall be as follows:

- (1) Sections 1, 3, 4, 5, 6, 11, 13, 14, 15, 16, and 23 of this Act and subsections (a) and (c) of Section 2 of this Act and subsection (a) of Section 9 of this Act may be amended only by Acts of the General Assembly, and any such Act shall be conditioned for its effectiveness on the approval of a majority of the qualified electors of DeKalb County voting at an election held for such purpose.
- (2) Section 19 of this Act may be amended only by Acts of the General Assembly, except as otherwise provided by said Section 19, and any such Act shall be conditioned for its effectiveness on the approval of a majority of the qualified electors of DeKalb County voting at an election held for such purpose.
- (3) Subsection (b) of Section 2 of this Act, Sections 7, 8, 21, and 22 of this Act, and subsection (c) of Section 9 of this Act may be amended only by Acts of the General Assembly.
- (4) Section 18 of this Act may be amended only by Acts of the General Assembly, except as otherwise provided by said Section 18.
- (5) Subsection (b) of Section 9 of this Act and Sections 10, 12, 17, and 20 of this Act may be amended only by the Commission pursuant to the authority and requirements of Article IX, Section II, of the Constitution of Georgia of 1976.

(b) No power or combination of powers vested in the Commission by Section 9 or any other provision of this Act may be exercised in any manner to amend, change, supersede, or repeal, directly or indirectly, any powers vested in the Chief Executive by this Act."

Section 2. Referendum. It shall be the duty of the election superintendent of DeKalb County to issue the call for an election for the purpose of submitting this Act to the electors of DeKalb County

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for approval or rejection. The superintendent shall set the date of such election for the same date as the date of the general primary election of 1982. The superintendent shall issue the call for such election at least 30 days prior to the date thereof. The superintendent shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date thereof in the official organ of DeKalb County. The ballot shall have written or printed thereon the words:

☐ YES

☐ NO

Shall the Act establishing the form of government of DeKalb County and fixing the powers and duties of the officers constituting the governing authority of DeKalb County be approved?"

All persons desiring to vote for approval of the Act shall vote "Yes," and those persons desiring to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on such question are for approval of the Act, it shall become of full force and effect at the time and subject to the limitations provided in Section 3 of this Act, but otherwise it shall be void and of no force and effect.

The expense of such election shall be borne by DeKalb County. It shall be the duty of the superintendent to hold and conduct such election. It shall be the superintendent's further duty to certify the result thereof to the Secretary of State.

Section 3. Effective dates. If this Act is approved at the referendum provided by Section 2 above, it shall become effective as follows:

- (1) The provisions of this Act necessary to have members of the governing authority of DeKalb County elected pursuant to this Act shall be effective for the purpose of nominating and electing such members at the 1984 general election.
- (2) For all other purposes, this Act shall become effective on January 1, 1985.

Section 4. Severability. In the event any section, subsection, sentence, clause, or phrase of this Act shall be declared or adjudged

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invalid or unconstitutional, such adjudication shall in no manner affect the other sections, subsections, sentences, clauses, or phrases of this Act, which shall remain of full force and effect as if the section, subsection, sentence, clause, or phrase so declared or adjudged invalid or unconstitutional were not originally a part hereof. The General Assembly hereby declares that it would have passed the remaining parts of this Act if it had known that such part or parts hereof would be declared or adjudged invalid or unconstitutional.

Section 5. Conflicting laws repealed. All laws and parts of laws in conflict with this Act are hereby repealed.

Local Legislation.

Notice is hereby given that there will be introduced at the regular 1981 session of the General Assembly a bill to amend an Act revising, superseding, and consolidating the laws pertaining to the governing authority of DeKalb County and creating a Chairman and Board of Commissioners for said County, approved March 8, 1956 (Ga. Laws 1956, p. 3237) as amended, and for other purposes.

Robert H. Bell Senator, 5th District

Georgia, Fulton County.

Personally appeared before me, the undersigned authority, duly authorized to administer oaths, Robert H. Bell who, on oath, deposes and says that he/she is Senator from the 5th District, and that the attached copy of Notice of Intention to Introduce Local Legislation was published in the Decatur-DeKalb News/Era which is the official organ of DeKalb County, on the following dates: January 1, 8, 15, 1981.

/s/ Robert H. Bell Senator, 5th District

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Sworn to and subscribed before me, this 6th day of February, 1981.

/s/ Cathy Ann Walls
Notary Public, Georgia State at Large.
My Commission Expires Jan. 4, 1985.

(Seal).

Approval Date: Approved April 9, 1981.

Previous

EXHIBIT C

Mystery Valley Golf Club/Sugar Creek Golf and Tennis Club RFP Timeline

Mystery Valley Golf Club/Sugar Creek Golf and Tennis Club RFP Timeline

- Original RFP No. 10-800144 published on **February 25, 2010**.
 - Manage, operate and maintain Mystery Valley *and* Sugar Creek Golf Club
 - Initial Term: One (1) year term with 4 one year renewals.
 - Option to Renew: One (1) year term with 4 one year renewals.
 - RFP sought a single entity to manage both facilities.
 - Key financial requirements in RFP:
 - Vendor to set aside capital reserve fund of \$100K annually “for major maintenance” on the facilities.
 - Vendor to pay \$10K/month rent to County (to increase 5% per year).
 - Vendor to pay County a percentage share of annual gross revenues.
- Two vendors responded by **April 15, 2010** deadline:
 - **1. CGL of Savannah, Inc.**
 - CGL was already managing and operating Mystery Valley.
 - **2. SydMar Golf Management, Inc.** (also an existing LSBE)
 - Sydmar was already operating Sugar Creek.
- RFP Selection Committee ultimately selected CGL for award on **June 24, 2010**.
 - Pre-Interview Vendor Scores: CGL @ 209.1 vs. Sydmar @ 190.
 - Post-Interview Vendor Scores: CGL @ **236.9** vs. Sydmar @ 175.8.
 - Sydmar lost points following the interview with Committee.
 - Sydmar did not demonstrate required financial showing as specified in RFP.
 - CGL did not have 20% set aside for LSBE, but showed “good faith effort”.
 - Committee’s recommendation memo notes that CGL had 4.6% LSBE participation and “*contract compliance is still working on LSBE participation.*”
- On **December 12, 2010**, PC Director Kelvin Walton convened a meeting with CGL and Sydmar. Meeting later described by Walton as “*best and final negotiations*” with vendors.
 - On **December 21, 2010**, CGL sends letter to Walton announcing “intent” of CGL and Sydmar to submit a joint proposal to the RFP by January 14, 2011.
 - Per handwritten note in file County told the vendors to *joint venture* on this matter.
- On **March 28, 2011**, CGL and Sydmar submitted a revised joint proposal to PC Director Walton.
 - On **April 22, 2011**, the joint venture Georgia Golf Partners, LLC was created.
 - On **April 25, 2011**, the vendors submitted Org. Chart and other corp. docs to Walton. Per Operating Agreement:
 - Marie Dunovant (f/k/a Sydmar) would manage Sugar Creek; and
 - Alan Cale (f/k/a CGL) would manage Mystery Valley
- On **December 13, 2011**, BOC approved the RFP in favor of Georgia Golf Partners, LLC.
 - Commissioner Rader objected and voted “no” because the “revised” partnership arrangement would yield a worse return of investment (ROI) for County than originally solo:

- County would not get thousands of dollars in monthly rent as per original RFP.
 - County would not get increasing percentage of gross revenue as per original RFP.
 - New entity would pay County \$1.00 per year for rent (vs. \$10K/month).
 - See excerpt of December 13, 2011, BOC meeting:
 - http://dekalbcountyga.granicus.com/MediaPlayer.php?view_id=2&clip_id=322#.XD5LmLa4XHA.email
- Notice of award issued **December 22, 2011.**
 - Contract would be effective **February 1, 2012.** Contract No. 12-800884.
 - DeKalb County would “*not be responsible for any expenses incurred in the management, or operation*” of either facility.
 - Georgia Golf Partners enters into Operating Agreement effective same date.
 - Per Operating Agreement Sydmar and CGL would each be responsible for paying ½ of the \$100K capital reserve account.
- On **July 26, 2012**, Parks and Rec met with Georgia Golf Partners to discuss facilities.
 - Parks and Rec gave Mystery Valley an **A-**
 - Sugar Creek received a **D-** [“*overall condition of the course is very poor*”]
 - Among the reasons for poor condition were not enough workers; improper equipment; broken equipment; lack of equipment.
 - Also, an Irrigation Problem at Sugar Creek [dam needed repairing].
- On **September 13, 2012**, Parks and Rec sends notice to Georgia Golf Partners stating:
We do not have separate contracts for each golf course. Therefore, we view the issues at Sugar Creek as issues that need to be resolved by Georgia Golf Partners.”
- **October 25, 2012**, Parks & Rec notifies Georgia Golf Partners that the capital reserve account of \$100K needed to be established. Asks for \$75K since ¾ of year was left. Money was to be paid by November 1, 2012, with remainder \$25K by January, 31, 2013.
 - **October 31, 2012**, Alan Cale provides County proof of \$37,500 capital reserve account.
 - **November 7, 2012**, Marie Jackson reminded to establish her portion.
 - Same day, Marie Jackson promises to provide her portion by Nov. 25th.
 - **February 21, 2013**, Jackson provides a bank statement to County showing a \$50K available balance as of Feb. 15th.
- On **April 30, 2013**, County sends **notice of breach** letter to Georgia Golf Partners.
 - “Failure to maintain Sugar Creek” properly per contract.
 - “Failure to create” \$100K capital reserve account per contract.
 - County gave 30 days to cure the breach.
- On **May 22, 2013**, Alan Cale of CGL sends letter to business partner Marie Jackson of Sydmar, advising her to cure breach by contributing her \$50K towards the capital reserve account OR he would take over Sugar Creek.

- Notes in file state Cale and Jackson were actually scheduled to meet on May 21st, but Jackson changed the meeting to May 22nd.
- Jackson then called back to cancel the May 22nd meeting altogether. The two had heated words and Cale drafted the May 22, 2013 letter above referenced.
- Cale was so concerned about his exchange with Jackson he asked for police to be present at their scheduled meeting on May 22nd (which never occurred).
 - Cale went to Sugar Creek anyway in anticipation of Jackson showing up.
 - County park ranger and police officer met Cale at Sugar Creek.
 - Cale changed the locks to Sugar Creek.
 - Jackson later came behind him and changed the locks again.
- On **May 31, 2013**, the County convened a meeting with Alan Cale and Marie Jackson.
 - Cale and Jackson barely acknowledged each other (per County memo).
 - Jackson said she didn't have funds to complete treatment of the back nine (9).
 - Parks and Rec said the breach at Sugar Creek had not been cured.
 - Cale provided photos showing Jackson was not maintaining Sugar Creek. Cale offered two options:
 - Expel Jackson as per the Operating Agreement; OR
 - County amend the contract by making Cale responsible for Mystery Valley only and Jackson responsible for Sugar Creek.
- On **June 3, 2013**, PC Director Walton sends a detailed Memo to COO Zach Williams about breach issues.
 - July 15, 2013 COO Williams sends Memo to Interim CEO Lee May re: "Sugar Creek" "Potential Breach of Contract" outlining several options but no recommendation.
 - July 19, 2013, COO Williams recommends to Interim CEO May that County terminate contract effective October 31, 2013.
 - Each memo states that Sugar Creek golf course is "*in very poor condition.*"
- **July 22, 2013**, Marie Jackson sends County letter saying there had been "thunderstorms every day" in July and Sugar Creek was in a flood plain. Promised to do all she could to improve the property.
- On **November 6, 2013**, Parks and Rec Director Roy Wilson sends memo to PC Director Walton stating "*We are all aware that the Georgia Golf Partners relationship has not been an ideal partnership.*"
 - On this same date, Marie Jackson met with Deputy Procurement Officer Yolanda Broome to discuss the contract.
- On **November 11, 2013**, Marie Jackson sends new business proposal to County with two options:
 - Option 1: Return Sydmar to its original contract [Contract No. 03-901149; 03-9659].
 - Option 2: County reimburses "Company" for all maintenance fees plus a management fee; defer \$50K capital reserve account; develop a rain/weather clause; and "Company" gives County a % of revenue.
 - If partnership cannot be reached between "Sydmar" and DeKalb, the arrangement will end December 31, 2013.
 - NOTE: Alan Cale was NOT included in Jackson's letter.

- On **December 16, 2013**, Kelvin Walton replies that County would not incur any additional expenditure but would amend the existing contract:
 - Walton proposes new contract between County and “Sydmar Golf”;
 - Proposal “deleted in its entirety” the original contract terms and “revised the scope of work”.
 - New contract would have same Contract No. 12-800884 but would be titled “Amendment No. 2”.
 - Requests response from Jackson by December 20, 2013.
- On **December 19, 2013**, Marie Jackson rejected the proposed amendment saying “*we can [no] longer finance your facility. We have lost over \$300K in the past two years.*”
 - On **January 13, 2014**, Jackson emails Alan Cale she wants to dissolve partnership forming Georgia Golf Partners, LLC. County – Yolanda Broome – Deputy Procurement Officer- is copied on email.
 - Jackson was to vacate premises by January 17, 2014.

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- Numerous complaints were made by citizens regarding Sugar Creek conditions.
- In 2016, Cale began asking County to separate contract for the two facilities.
- In June/July 2017, a new RFP was issued to manage Sugar Creek only [RFP No.17-500446].
 - By the Fall of 2017, Sugar Creek was closed by the County due to its deteriorating condition.
 - Based upon an independent study prepared by National Golf Foundation Consulting (NGFC) as commissioned by the Administration, it will take millions of dollars to bring Sugar Creek to an appropriate level of service.
- On **August 24, 2017**, Georgia Golf Partners was administratively dissolved.
- On **December 12, 2017**, Purchasing presented BOC with a proposal to revise Contract No. 12-800884:
 - CHANGE ORDER REQUEST: “This request is to remove the Sugar Creek Golf & Tennis Club in its entirety” and changing name from Georgia Golf Partners to Cornerstone Golf Partners.”

End of Report