



Audit of Consultants'
Competitive Negotiation Act
(CCNA) Contract Procurement

Office of the County Auditor

Bob Melton, CPA, CIA, CFE, CIG
County Auditor

Audit Conducted by:

Kathie-Ann Ulett, CPA, Deputy County Auditor
Jed Shank, CPA, CIA, Audit Manager
Kendall Ramsijewan, CPA, CIA Audit Senior
Marcello Mazzoncini, Audit Staff

Report No. 21-11
August 8, 2022



COUNTY AUDITOR

115 S. Andrews Avenue, Room 520 • Fort Lauderdale, Florida 33301 • 954-357-7590 • FAX 954-357-7592

August 8, 2022

Honorable Mayor and Board of County Commissioners

Pursuant to our Annual Audit Plan, we have conducted an Audit of Consultants' Competitive Negotiation Act (CCNA) Contract Procurements. The objectives of our audit were to determine whether CCNA procurements are made in accordance with laws, rules, and regulations and in accordance with generally accepted public procurement principles and whether use of CCNA contracts is in accordance with laws and generally accepted public procurement principles.

We conclude that CCNA procurements are made in accordance with laws, rules, and regulations and in accordance with generally accepted public procurement principles, and that use of CCNA contracts is in accordance with laws and generally accepted public procurement principles. Opportunities for Improvement are included in the report.

We conducted this audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient and 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.

We appreciate the cooperation and assistance provided by County Administration and the Purchasing Division throughout our audit process.

Respectfully submitted,

A handwritten signature in blue ink that reads "Bob Melton".

Bob Melton

County Auditor

cc: Monica Cepero, County Administrator
Andrew Meyers, County Attorney
Kevin Kelleher, Assistant County Administrator
George Tablack, Chief Financial Officer
Robert Gleason, Director, Purchasing Division

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TABLE OF CONTENTS

INTRODUCTION 1

 SCOPE AND METHODOLOGY 1

 OVERALL CONCLUSION 2

 BACKGROUND 2

OPPORTUNITIES FOR IMPROVEMENT 3

MANAGEMENT’S RESPONSE 3

INTRODUCTION

Scope and Methodology

The Office of the County Auditor conducts audits of Broward County's entities, programs, activities, and contractors to provide the Board of County Commissioners, Broward County's residents, County management, and other stakeholders unbiased, timely and relevant information for use in promoting government accountability and stewardship and improving government operations.

We conducted an audit of Consultants Competitive Negotiation Act (CCNA) Contract Procurement. The objectives of our audit were to determine whether:

1. CCNA procurements are made in accordance with laws, rules, and regulations and in accordance with generally accepted public procurement principles.
2. Use of CCNA contracts is in accordance with laws and generally accepted public procurement principles.
3. Any Opportunities for Improvements exist.

To determine whether CCNA procurements are made in accordance with laws, rules, and regulations and in accordance with generally accepted public procurement principles, we reviewed applicable sections of the Florida Statutes, County Procurement Code, and Administrative Code; public announcement of CCNA solicitations for services and vendor qualification documentation; scoring methodology and evaluation criteria; qualifications and appointments of selection committee members; and timeliness of the CCNA procurements.

To determine if the use of CCNA contracts is in accordance with laws and generally accepted public procurement principles, we reviewed negotiation processes and work authorizations for CCNA agreements.

We conducted this audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the review 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.

Our audit included such tests of records and other audit procedures, as we considered necessary in the circumstances. The scope of our audit was all CCNA solicitations posted for advertisement

during the period of October 1, 2018, to March 31, 2021, and subsequent procurement activity through December 31, 2021. However, transactions, processes, and situations reviewed were not limited by the review period.

Overall Conclusion

We conclude that CCNA procurements are made in accordance with laws, rules, and regulations and in accordance with generally accepted public procurement principles, and that use of CCNA contracts is in accordance with laws and generally accepted public procurement principles. Opportunities for Improvement are included in the report.

Background

The Consultants' Competitive Negotiation Act (CCNA), per Section 287.055, Florida Statutes, provides requirements for the procurement of architecture and engineering services (Consultants). The primary focus of the requirements is to ensure that such services are competitively procured based on qualifications. Pricing is addressed at the time of negotiation with the selected firm. Specific services covered by CCNA include architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of the state, or those performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with his or her professional employment or practice. The following points identify the primary requirements, and how such requirements are met within Purchasing Division's current processes:

- Public Announcement - CCNA solicitations must be publicly announced in a uniform and consistent manner. The Purchasing Division utilizes a software platform, Periscope2G, which publicly advertises all solicitations (including Requests for Proposals (RFP) and Request for Letters of Interest (RLI)) and notifies interested vendors. The Purchasing Division website also includes links to currently advertised solicitations.
- Competitive Selection - CCNA services must be competitively selected. Under current processes, for all CCNA solicitations, an appointed Selection/Evaluation Committee (Committee) reviews all qualifications and submittals of Consultants responding to solicitations. The Committee ranks the Consultants, considering competitive factors such as the Consultant's capabilities, experience, adequacy of professional personnel, past performance, and other factors.
- Competitive Negotiation – CCNA services must be negotiated with the most qualified firm at a compensation determined to be fair, competitive, and reasonable. Following the approval of the Committee's ranking, the County follows a formal negotiation process

with the highest ranked firm to establish compensation for services, at an amount determined by the County to be fair, competitive, and reasonable. Such determinations are made based on cost analyses of the professional services with consideration for the scope and complexity of the services. If the County is unable to negotiate a satisfactory contract with the first-ranked firm, negotiations may be undertaken with the second-ranked firm. At the successful conclusion of negotiations, a contract, prepared or reviewed by the Office of the County Attorney, is awarded.

Project Specific and Continuing Term Contracts

There are two primary agreement types for CCNA services “project specific” and “continuing term” contracts. Most County CCNA contracts are project specific agreements, pertaining to services for a single project. For example, a project specific agreement may be executed for engineering design services for the construction of a new County building. CCNA regulations also allows government entities to utilize continuing term contracts. A continuing contract is an open-ended contract for professional services that may be used for multiple small projects rather than an agreement for a single, large-scale project. This allows for the timely and ‘continuous’ provision of services without the ongoing need to perform separate solicitations for each individual project. According to CCNA statutes, the estimated construction cost (total construction costs inclusive of the professional services fees) of each individual project under a continuing contract may not exceed \$4 million (increased from \$2 million on January 1, 2021) or, for a consulting study activity or work of a specified nature, the fee for professional services for each individual study under the contract may not exceed \$500,000 (changed from \$200,000 on January 1, 2021).

Active Contracts

We identified thirty-three CCNA procurements that were posted for advertisement during our audit period, which were used by nine different County agencies. Twenty-five were project-specific agreements and eight were continuing term contracts.

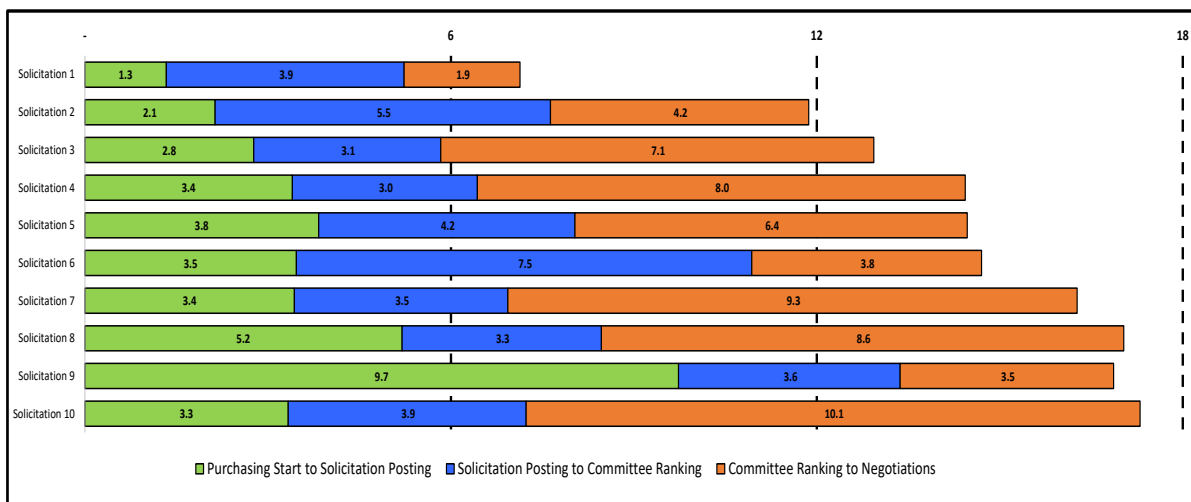
OPPORTUNITIES FOR IMPROVEMENT

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

1. Improvements are Needed to Reduce CCNA Procurement Times

The CCNA procurement process is not completed in a timely manner. As shown in Figure 1, it took over one year to complete the procurement process for 8 out of 10 sampled procurements.

Figure 1 – Procurement Timeline (Months)

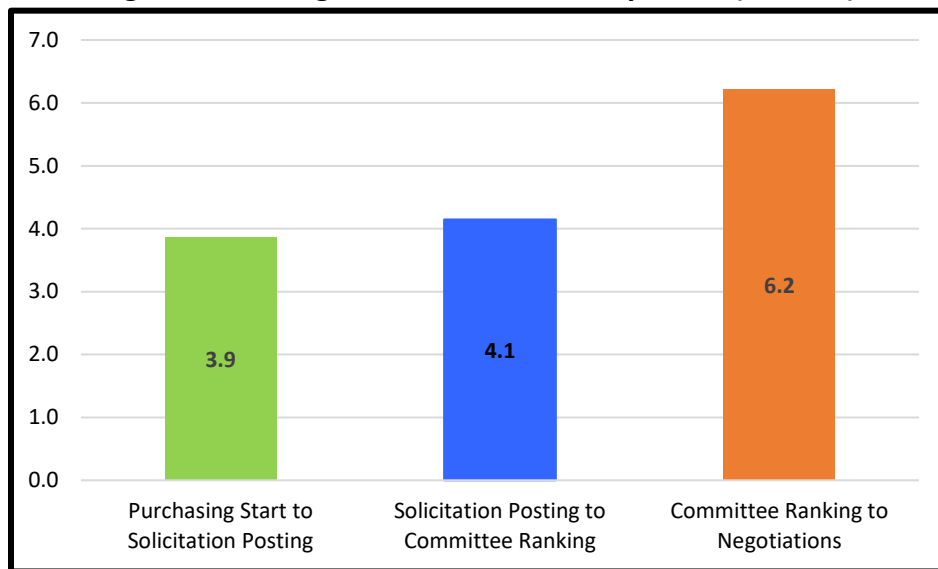


Source: Office of the County Auditor analysis of Contract Central procurement records for sampled procurements

Note: Solicitations 3 and 4 also incurred an additional 4.2 and 3.2 months of negotiation and final contract execution time due to vendor protests and/or Board agenda pulls for further review; however, these outlier events have been excluded from the presented timeline for comparability purposes.

We further analyzed the components of the procurement process for each of the 10 sampled procurements and, as shown in Figure 2, found that it took an average of approximately four months from initiation to being posted for advertising, an additional four months to committee ranking, and an additional 6 months for negotiations and final contract execution.

Figure 2 – Average Procurement Time by Phase (Months)



Source: Office of the County Auditor analysis of Contract Central procurement records for sampled procurements.

Lengthy procurement times may result in delays or failure in providing needed public services or improvements to County operations. Further, extended procurements result in an increased number of procurements open at any one time requiring additional project management resources and inefficiencies.

Procurements should be completed from start to finish in a timely manner. The Purchasing Division maintains an internal objective of completing the negotiation component of procurements within three months (from final ranking to Board approval of agreement/contract).

We interviewed Purchasing Division managers to further identify reasons for extended procurements. Overall, extended negotiation times could not be directly attributed to any single common factor or set of factors. However, the following challenges were noted which impacted more than one of the negotiations and for which extended times can be partially attributed:

- Agenda Lead Times– Agenda lead times impact each phase of the procurement. Approximately 10 weeks (2.5 months) of each procurement is attributable to lead times for placing items on the Board agenda. Each solicitation generally goes to the Board two times – once for RFP approval and once for contract approval. According to submittal deadline calendars provided by Purchasing, each agenda placement requires an approximate five-week lead time from the time the agenda item is submitted by the Purchasing Agent to the time of the Board meeting.

- Hourly Rate Supporting Documentation - Consultants are required to submit recent copies of their Federal Acquisition Regulation (FAR) Audits which identify overhead costs and are used in determining billable hourly rates. In some instances, the Consultants did not have the most current FAR Audits available at the time of negotiations, resulting in a delay in establishing billing rates. This extended the negotiation time for two of the ten procurements we reviewed.
- Updated Contract Language Requirements - Contract language addressing consultant hourly rates needed to be updated to address considerations for the impact of the federal “Payroll Protection Program” on allowable consultant overhead costs and resultant hourly rates. This occurred during the latter half of 2021. As a result, negotiations were delayed while this contract language was developed. This extended the negotiation time for the same two procurements referenced above.
- More than one vendor - Two of the ten procurements involved selection of more than one vendor requiring additional meetings, contract preparation, etc. These two procurements resulted in 8 contracts. In some situations, contracts are not executed until all are ready.

We recommend management:

- A. Review policies and procedures to identify opportunities to reduce the length of time solicitations remain open from inception to final approval, including procedures and lead times for placing items on the Board agenda.
- B. Further investigate completed and outstanding procurements to identify additional factors causing extended negotiation times including:
 - i. Analyzing start date, end date, and time required for various sub tasks and,
 - ii. Gathering additional input from using agencies.

2. Existing Systems Should be Used to Track and Monitor CCNA Work Authorizations.

Tracking is not consistently performed using existing contract management and/or financial systems, and in many cases, agencies rely on multiple manual spreadsheets. Maintaining data in manual spreadsheets limits data accessibility and increases the risk of data loss and compromised data integrity (i.e., accuracy of data). Existing County contract management and financial systems such as Contracts Central and PeopleSoft provide better accessibility and protection over data. These systems may also provide features that would facilitate a more comprehensive approach to monitoring required compliance elements. Such elements are particularly important to continuing term contracts. For example, according to CCNA, the estimated construction cost (total construction costs inclusive of the professional services fees) of each individual project

under a continuing term contract may not exceed \$4 million (increased from to \$2 million on January 1, 2021).

We recommend management pursue tracking of Work Authorizations for CCNA contracts through existing systems such as PeopleSoft, Contracts Central, or other project management system.

MANAGEMENT'S RESPONSE

Audit of the Consultants Competitive Negotiation Act
(CCNA) Contracts within the Purchasing Division



KEVIN B. KELLEHER, Assistant County Administrator
115 S. Andrews Avenue, Room 409 • Fort Lauderdale, Florida 33301 • 954-357-7320 • FAX 954-357-7360

MEMORANDUM

TO: Robert Melton, County Auditor

FROM: Kevin Kelleher, Assistant County Administrator 

DATE: August 5, 2022

SUBJECT: **Management Response to the Office of the County Auditor's Report on the Audit of Consultants' Competitive Negotiation Act (CCNA) Contract Procurement**

The Finance and Administrative Services Department (FASD) and the Purchasing Division (Purchasing) have reviewed the Office of the County Auditor's Report on the Audit of Consultants' Competitive Negotiation Act (CCNA) Contract Procurement and submits the following as Management's response.

In summary, Management concurs with the Auditor's overall conclusion that CCNA procurements are made in accordance with laws, rules, and regulations and in accordance with generally accepted public procurement principals, and that CCNA contracts are used in accordance with laws and generally accepted public procurement principals. Further, Management acknowledges and appreciates the Auditor's recommended opportunities for improvement, and Purchasing has already implemented many new procedural enhancements and is working on others.

Below are detailed responses to each of the Auditor's opportunities for improvement and recommendations.

Opportunity for Improvement 1: Improvements are Needed to Reduce CCNA Procurement Times.

Recommendations:

- A. Review policies and procedures to identify opportunities to reduce the length of time solicitations remain open from inception to final approval, including procedures and lead times for placing items on the Board agenda.
- B. Further investigate completed and outstanding procurements to identify additional factors causing extended negotiation times including:
 - i. Analyzing start date, end date, and time required for various sub tasks and,

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(CCNA) Contracts within the Purchasing Division

August 5, 2022
Robert Melton, County Auditor
Management Response to Audit of CCNA Contract Procurement

ii. Gathering additional input from using agencies.

Management Response: *Agree and in progress*. The Purchasing Division has reviewed current policies and procedures as well as reviewed existing procurements to reduce the length of time solicitations remain open. The Purchasing Division is working with the Office of County Attorney to pursue Procurement Code changes to allow for approval to advertise committee-based procurements by notice to the Board instead of agenda reports. This will result in a reduction of the advertising approval lead times by four to six weeks. Additionally, the Purchasing Division is reviewing internal agenda submission deadlines to reduce overall agenda lead time which also will reduce the procurement process cycle timeline. Furthermore, the Purchasing Division is also developing a procurement manual to provide guidance in effective and efficient improvements to include monitoring and of adherence to milestones. This will include guidance on implementing procurement project management practices for use by procurement staff leading sourcing events. Such practices should better identify and manage additional factors that cause extended negotiation times with each procurement.

Opportunity for Improvement 2: Existing Systems Should be Used to Track and Monitor CCNA Work Authorizations

Recommendation: Management pursue tracking of Work Authorizations for CCNA contracts through existing systems such as Peoplesoft, Contracts Central, or other project management system.

Management Response: *Agree and in progress*. The Purchasing Division is working directly with ETS to improve functionality of the County's Enterprise Resource Planning system (PeopleSoft) which will include a better tracking mechanism. The implementation of the Strategic Sourcing module in Peoplesoft should reduce an agency's reliance on external systems and/or spreadsheets. The Strategic Sourcing module is anticipated to be implemented in early 2024. In the meantime, and concurrent with the Strategic Sourcing module implementation, Purchasing Division training on contract administration will include appropriate tracking for all Work Authorizations.

Thank you for the opportunity to respond and provide Management's comments to the Audit. If there are any additions, deletions/omissions, or other changes or modifications to Management's response, please provide us the opportunity to review prior to issuance. Should you have any questions, please do not hesitate to contact me or CFO George Tablack.

cc: Monica Cepero, County Administrator
Kimm Campbell, Assistant County Administrator
George Tablack, CFO
Bob Gleason, Director, Purchasing Division
Andrew Meyers, County Attorney