



Florida Department of TRANSPORTATION

Office of Inspector General
Robert E. Clift, Inspector General

A handwritten signature in blue ink, reading "Robert E. Clift".

Audit Report No. 17C-6002
Non-Professional Services

January 5, 2018

What We Did

The Office of Inspector General conducted an audit of the process of adding Non-Professional Services (NPS) amendments to Standard Professional Services Agreements to:

- determine if non-professional services added to professional services contracts were incidental to and necessary for accomplishing the scope of the original contracts;
- determine the integrity of the data maintained within the Contract Approval Tracking System for Professional Services – Amendments for Non-Professional Services Sub-consultants; and
- determine if the procurement of non-professional services complied with laws, rules, regulations, and department procedures.

What We Found

We determined the NPS amendments tested were incidental and necessary for accomplishing the scope of the original contracts. However, opportunities exist for the Office of Procurement to enhance oversight of the procurement of NPS.

We found:

- the Office of Procurement has not issued a formal procedure for the Contract Approval Tracking System for Professional Services – Amendments for Non-Professional Services Sub-consultants submission and approval process; and
- District and Central Office personnel did not complete the required Request for Supplemental Amendment form prior to amendment execution in 21 percent of the amendments tested.

What We Recommend

We recommend the Office of Procurement Manager:

- develop a procedure to establish a method for submission to and approval within the Contract Approval Tracking System for Professional Services – Amendments for Non-Professional Services Sub-consultants; and
- ensure completion of the required Request for Supplemental Amendment form prior to amendment execution.

**Office of Inspector General
Florida Department of Transportation**

TABLE OF CONTENTS

BACKGROUND AND INTRODUCTION	3
RESULTS OF REVIEW	5
Finding 1 – Contract Approval Process and Database	5
Finding 2 – Non-Compliance with Documentation Requirement	6
APPENDIX A – Purpose, Scope, and Methodology	9
APPENDIX B – Management Response	10
DISTRIBUTION	12
PROJECT TEAM	13
STATEMENT OF ACCORDANCE	13
ATTACHMENT 1 – Contract Approval Database E-mail Notification to Districts	14
ATTACHMENT 2 – Chief of Staff Partner Site Guidelines	16

BACKGROUND AND INTRODUCTION

The Office of Procurement identified Non-Professional Services (NPS) contract amendments as a risk during the annual risk assessment for fiscal year 2016-2017. The risk identified was that professional services contracts were being amended to add non-professional services which were not incidental to the original scope of work. Additionally, management expressed concern for the possibility that non-professional services were being procured outside of the competitive procurement process.

The Florida Department of Transportation (department) Office of Procurement is responsible for acquiring professional services (engineering, architecture, landscape architecture, surveying & mapping, planning, and right of way acquisition), contractual services, and commodities related to the state highway systems.

As of September 15, 2017, the department had approved¹ 753 firms to provide Professional Services throughout the State of Florida. The department had active contracts with 269 (or 36 percent) of these firms.

In addition, non-technically qualified or non-professional services consultants may be added to Professional Services contracts, via the amendment process, to provide additional services necessary for the completion of the contract scope. The department has approved 158 firms to provide NPS.

Governance

Procedure No. 375-030-010-d, Amendments and Task Work Orders for Professional Services Agreements, defines an amendment as any document used to modify the terms of an original agreement. Amendments may be used for supplements to scope of services; raising or lowering fee limits; time extensions; changes in method of compensation or rates; changes to names, addresses, or project identification data; scope of services clarifications; and any other change in contract terms.

To ensure the rates NPS consultants utilize on professional services contracts are fair, reasonable, and competitive, the Office of Procurement negotiates in accordance with the Negotiation Handbook using one of the following methodologies:

- Prime consultants shall request at least two quotes from qualified NPS consultants and will utilize the lowest rates²; or
- NPS consultants will submit the Simplified Self-Certification³ for Non-Professional Services Firms, Form No. 375-030-92, Attachment M; or

¹ Approved firms have completed the department's prequalification process and are legally permitted by law to provide Professional Services as defined in Sections 287.055, 337.107, and 337.1075, F.S.

² This is to be used for equipment rates, court reporters, corrosion inspection and testing, aerial photography, and maintenance of traffic.

³ Adequate support includes payroll registers or evidence of draws. Copies of approved self-certified overhead rates for NPS consultants are maintained by Central Office Procurement.

**Office of Inspector General
Florida Department of Transportation**

- Rates supported by competitively procured contractual services contracts where price was a factor in selection, can be used; or
- Procurement staff will utilize available comparable salary survey information.

Central Office Oversight

On June 11, 2015, the Assistant Secretary for Engineering and Operations emailed department personnel notifying of the newly implemented Contract Approval Process and Database (Attachment 1). The guidelines from the email are currently available on the Chief of Staff's Partner Site (Attachment 2), which states:

The Department has implemented a contract approval process and database, similar to a dashboard for monitoring all contracts issued by the Department. Eventually, all contracts regardless of dollar value will require CO [Central Office] Executive Level review and approval through the database, prior to final execution....

The CO executive level review will be performed using the information in the database.... A contract cannot be fully executed by the originating District or Central Office until CO Executive level review has been completed and is marked as Yes in the database. The Districts will need to review the database for Executive Level approval before fully executing the contract. District Procurement staff will need to be informed of the database, since they will need to review for approval prior to executing agreements.

In February 2016, the manager of the Office of Procurement verbally notified department personnel of the implementation of the Non-Professional Services Amendments to Professional Services contracts database.

RESULTS OF REVIEW

We determined the NPS amendments tested were incidental and necessary for accomplishing the scope of the original contracts. However, opportunities exist for the Office of Procurement to enhance oversight of the procurement of NPS. The report contains two findings, concerning:

- issuance of a formal procedure; and
- submittal of required documentation prior to amendment execution.

Finding 1 – Contract Approval Process and Database

We determined the Office of Procurement has not issued a formal procedure for the Professional Services Contract Amendment – Non-Professional Services Sub-consultants SharePoint site submission and Central Office approval process.

Section 20.23(3)(a), Florida Statutes states:

The central office shall establish departmental policies, rules, procedures, and standards and shall monitor the implementation of such policies, rules, procedures, and standards in order to ensure uniform compliance and quality performance by the districts and central office units that implement transportation programs.

The Chief of Staff Partner Site states:

Eventually, all contracts regardless of dollar value will require CO [Central Office] Executive Level review and approval through the database, prior to final execution.... Contract information for professional services and design-build contracts entered in PSI will be exported into the [SharePoint] database and will not require manual input. Contract Managers responsible for other contract categories will be required to complete all requested data fields prior to review and approval.... A contract cannot be fully executed by the originating District or Central Office until CO Executive level review has been completed and is marked as Yes in the database.

As part of our audit we tested 24 NPS sub-consultants that are part of Professional services agreements, of which 10 were added to Professional services agreements after the implementation of the Non-Professional Services approval database. Based on the guidelines above, we found 7 of the 10 NPS sub-consultants that are part of Professional services agreements were not submitted to the database for approval. Subsequently, the Office of Procurement clarified that the intent of the SharePoint approval database was to review and approve only amendments adding new NPS sub-

consultants. Therefore, we modified our test results to report only 1 of the 7⁴ NPS amendments in question required submission to the SharePoint database.

The audit found the information entered into the Contract Approval Database is accomplishing the department's objectives. However, without a formal procedure, the intended objectives and overall process are not clear. The Office of Procurement stated the full process will be clearly explained in a forthcoming procedure.

We recommend the Office of Procurement manager develop a procedure to establish a method for submission to and approval within the Contract Approval Tracking System for Professional Services – Amendments for Non-Professional Services Sub-consultants.

Finding 2 – Non-Compliance with Documentation Requirement

We determined District and Central Office personnel, overall, did not complete the required Request for Supplemental Amendment form prior to amendment execution.

Procedure No. 375-030-010-d (section 1.1.1.3), Amendments and Task Work Orders for Professional Service Agreements, states:

The Project Manager will complete a ***Form 375-030-1A, Request for Supplemental Amendment***. The request will be approved by the management level determined by District or Office policy. The consultant's proposal, along with any of the Requesting Unit's review and negotiation comments, if any, will be attached to the Request for Supplemental Amendment form. In addition, a scope of services providing detailed specifications for the supplemental services and in-house estimate where appropriate will be attached.

As part of our audit, we tested 24⁵ amendments for the completion of the Request for Supplemental Amendment form. We determined 19 forms, or 79 percent, were completed and approved.

⁴ The NPS sub-consultants on the remaining 6 amendments were included on the original professional services agreement approved sub-consultant list.

⁵ The 24 amendments represent our sample for district and Central Office amendments. District 7 had no applicable amendments. Central Office amendments were selected independently of the aggregate of amendments executed by the districts. See Table 1 of this report.

**Office of Inspector General
Florida Department of Transportation**

Table 1: Request Form Test

Request for Supplemental Amendment Form Test of Completion			
District	Number of Amendments Sampled	Completed Request for Supplemental Amendment <i>Form 375-030-1A</i>	Percentage of Completion
1	1	0	0%
2	2	2	100%
3	7	7	100%
4	1	1	100%
5	7	5	71%
6	2	2	100%
7	-	-	-
Turnpike	1	0	0%
Central Office	3	2	67%
Total	24	19	79%

Source: OIG Tested Amendments

Upon audit inquiry, department staff expressed concerns that high turnover, and lack of training and knowledge of the contract amendment procedures contributed to the reason the amendment request form was not completed. Additionally, staff expressed there were instances when the execution process needed to be expedited, and as a result, the completion of certain required documentation was overlooked.

Based on audit inquiry, the Office of Procurement modified the Request for Supplemental Amendment form to improve internal controls over the process. Specific changes include the enhancement of the justification field to include an explanation for not utilizing the competitive procurement process. Additionally, a note was added under the Managerial Approval (at minimum, Cost Center level) signature line stating, "All non-professional services amendment requests will require executive management approval through the Central Office SharePoint. District or Central Office Procurement will coordinate. Management signature indicates concurrence with approval being sought through Central Office Executive level approval." (See Figure 1)

**Office of Inspector General
Florida Department of Transportation**

Figure 1: Excerpt from updated Request for Supplemental Amendment Form

Managerial Approval (minimum cost center level)	<div style="border-bottom: 1px solid black; height: 15px; width: 100%;"></div> <div style="text-align: center; font-size: small;">Name</div>	<div style="border-bottom: 1px solid black; height: 15px; width: 100%;"></div> <div style="text-align: center; font-size: small;">Date</div>
<div style="border-bottom: 1px solid black; height: 15px; width: 100%;"></div> <div style="font-size: small;">Signature</div> <div style="font-size: x-small;">All non-professional services amendment requests will require executive management approval through the Central Office SharePoint. District or Central Office Procurement will coordinate. Management signature indicates concurrence with approval being sought through Central Office executive level approval.</div>		

Source: Department Form No. 375-030-1A

The approval of the Request for Supplemental Amendment form is a key internal control for ensuring that procurement of NPS complies with applicable laws, rules, regulations and department procedures.

We recommend the Office of Procurement manager ensure completion of the required Request for Supplemental Amendment form prior to amendment execution.

APPENDIX A – Purpose, Scope, and Methodology

Section 20.055, Florida Statutes, requires the OIG to conduct audits, examinations, investigations, and management reviews related to programs and operations of the department. This audit was performed as part of the OIG’s mission to promote accountability, integrity, and efficiency for the citizens of Florida by providing objective and timely audit and investigative services.

The **purpose** of this engagement was to determine:

- if non-professional services added to professional services contracts were incidental to and necessary for accomplishing the scope of the original contract;
- the integrity of the data maintained within the Contract Approval Tracking System for Professional Services – Amendments for Non-Professional Services Sub-consultants; and
- if the procurement of non-professional services complied with laws, rules, regulations, and department procedures.

The **scope** of this engagement included an examination of Non-Professional Services amendments executed between January 1, 2015 and March 20, 2017. Amendments were randomly chosen for testing based on proportion of the total number of NPS amendments statewide.

The **methodology** included:

- interviewing Central Office and District Procurement personnel;
- testing professional services contracts with NPS amendments;
- testing the Contract Approval Tracking System for Professional Services – Amendments for Non-Professional Services Sub-consultants; and
- reviewing relevant laws, rules, regulations, and department procedures.

**Office of Inspector General
Florida Department of Transportation**

APPENDIX B – Management Response

Office of Procurement management provided the following response to the Preliminary and Tentative report on January 4, 2018:

INTEROFFICE MEMORANDUM

TO: KRISTOFER B. SULLIVAN, DIRECTOR OF AUDIT

FROM: CARLA M. PERRY, PROCUREMENT MANAGER

SUBJECT: PRELIMINARY & TENTATIVE (P&T) REPORT NO. 17C-6002 (NON-PROFESSIONAL SERVICES)

DATE: 1/01/18

CC: STEPHANIE ILIFF, DIRECTOR OF ADMINISTRATION

In response to the Office of Inspector General (OIG) findings referenced in the Preliminary & Tentative (P&T) Report No. 17C-6002 (Non-Professional Services), the Procurement Office offers the following responses:

Finding 1 – Contract Approval Process and Database

Finding: We determined the Office of Procurement has not issued a formal procedure for the Professional Services Contract Amendment – Non-Professional Services Sub-consultants SharePoint site submission and Central Office approval process.

Recommendation: We recommend the Office of Procurement manager develop a procedure to establish a method for submission to and approval within the Contract Approval Tracking System for Professional Services – Amendments for Non-Professional Services Sub-consultants.

Response to Finding: We concur with the finding; however, an alternative correction will be taken.

Corrective Action: Procurement will develop an all-inclusive Contract Approval Procedure that addresses all contract actions requiring executive level approval through the Contract Approval Tracking System. Amendments for professional services contracts will be addressed within this single procedure.

Estimated Completion Date: 6 months

Finding 2 – Non-Compliance with Documentation Requirement

Finding: We determined District and Central Office personnel, overall, did not complete the required Request for Supplemental Amendment form prior to amendment execution.

Recommendation: We recommend the Office of Procurement manager ensure completion of the required Request for Supplemental Amendment form prior to amendment execution.

Response to Finding: We concur with the finding; however, an alternative correction will be taken.

Corrective Action:

It is not possible to monitor conformance with the Request for Supplemental Amendment form using the Quality Assurance Review process prior to amendment execution. Compliance will be monitored through the professional services Quality Assurance Monitoring Plan after amendment execution. The Quality Assurance checklist will be updated to incorporate this new requirement.

Estimated Completion Date: 6 months

**Office of Inspector General
Florida Department of Transportation**

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Florida Department of Transportation**

PROJECT TEAM

Engagement was conducted by:
Kyle F. Erickson, Auditor

Under the supervision of:
Amy K. Slack, Senior Audit Supervisor
William B. Pace, Audit Manager
Kristofer B. Sullivan, Director of Audit

Approved by:
Robert E. Clift, Inspector General

STATEMENT OF ACCORDANCE

The department's mission is to provide a safe transportation system that ensures the mobility of people and goods, enhances economic prosperity, and preserves the quality of our environment and communities.

The Office of Inspector General's mission is to promote integrity, accountability, and process improvement in the Department of Transportation by providing objective, fact-based assessments to the DOT team.

This work product was prepared pursuant to section 20.055, Florida Statutes, in accordance with the Association of Inspectors General *Principles and Standards for Offices of Inspector General*, and conforms with The Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing*.

Please address inquiries regarding this report to the department's Office of Inspector General at (850) 410-5800.

**Office of Inspector General
Florida Department of Transportation**

ATTACHMENT 1 – Contract Approval Database E-mail Notification to Districts

From: Blanchard, Brian
Sent: Thursday, June 11, 2015 8:18 AM
To: FDOT-DISTSEC; FDOT-DISTPROD; FDOT-DISTOPS
Cc: Perry, Carla M.
Subject: New Central Office Contract Approval Process and Database for "B" Contractual Services Contracts

The Department has implemented a Central Office (CO) Contract Approval process and database. Eventually, all contracts regardless of dollar value will require CO executive level review and approval through the database, prior to execution. The pilot started with Professional Services and Design-Build contracts. Contract information for professional services and design-build will continue to be exported into the Contract Approval database from the Professional Services Information System.

“B” contracts (contractual services contracts) have been selected as the next group of contracts to require the CO Contract Approval process. **Effective immediately, all “B” contract solicitations/procurements that have not yet been executed must be manually entered into the CO Contract Approval database for CO executive level approval prior to execution. This will be the process moving forward for “B” contracts.** (Note; Agreements in MFMP are not subject to the CO Contract Approval process).

The required fields of information in the CO Approval database are:

Advertisement Date (or Date Entered on spreadsheet if no advertisement);
Vendor Name;
Contract Manager;
Contract Category (Contractual Services);
Advertisement Type- ITB#/RFP#/ITN#/Single Source#/NA;
Advertisement Number
District- County/Counties;
Contract Short Description- Provide a short description of the project;
Scope- Plain language summary of scope (2- 3 lines);
Est Contract Start Date;
Est Contract End Date;
Federal Funds;
Estimated Contract Amount;
Approved by Executive Office (Y/N)

The intent is not to hold up contract executions. The CO executive level review will be performed once all fields of information including the Vendor have been entered into the database. However, the contract cannot be fully executed by the originating District or Central Office until CO executive level review has been completed and is marked as **Yes** on the master Approval list. The Districts or Central Office will need to look to the master Approval list for CO approval before fully executing the contract.

All fields of information should be entered into the Contractual Services Contract Approval database at the time of advertisement, with the exception of the vendor which is unknown at that time. Once the vendor is known (and all fields of information have been completed), that will trigger the Central Office executive level review. The vendor should be entered into the CO Contract Approval database immediately after posting the Notice of Intent to Award. The CO executive level review should be accomplished in 3 days or less. Central Office will mark the contract with either “Y” or “N” in the column “Approved by Executive Office” on the master Approval List. You may not execute the contract unless the column is marked with a “Y”.

Access to the Contractual Services Contract Approval Database and the master Approval List will be provided by Amanda Lewis, Central Office. Please e-mail Amanda Lewis or Central Office Procurement with your requests for access.

The Contract Approval database will be available from the following link:

http://fdotsp.dot.state.fl.us/sites/executive/cos/_layouts/15/start.aspx#/SitePages/Home.aspx

**Office of Inspector General
Florida Department of Transportation**

Please note; this new CO Contract approval review process does not replace the Contract Attestation process. Contract Attestation reviews will continue on as usual.

Thanks and let me know if you have questions.

Brian A. Blanchard, P.E.
Florida Department of Transportation
Assistant Secretary for Engineering and Operations
Phone: (850) 414-5220



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ATTACHMENT 2 – Chief of Staff Partner Site Guidelines



Chief of Staff Partner Site

Quick-Links

[Department Contacts](#)
[Department Resources](#)
[Public Notices](#)

Home

Notebook

Documents

Contractual Services
Contract Approval

Prof Services Contract
Amendment Approval -
Non-Professional Services
Subs

Design Build Contract
Approval

Professional Services
Contract Approval

Purchase Order

Site Contents

Recycle Bin

Contract Approval Process & Database

The Department has implemented a contract approval process and database, similar to a dashboard for monitoring all contracts issued by the Department. Eventually, all contracts regardless of dollar value will require CO Executive Level review and approval through the database, prior to final execution.

The pilot phase started with professional services and design-build contracts, additional contract types are being phased into the database until all contracts are included. Contract information for professional services and design-build contracts entered in PSI will be exported into the database and will not require manual input. Contract Managers responsible for other contract categories will be required to complete all requested data fields prior to review and approval.

The CO executive level review will be performed using the information in the database, once all data fields are complete. A contract cannot be fully executed by the originating District or Central Office until CO Executive level review has been completed and is marked as Yes in the database. The Districts will need to review the database for Executive Level approval before fully executing the contract. District Procurement staff will need to be informed of the database, since they will need to review for approval prior to executing agreements.

Access to the spreadsheet will be provided by Amanda Carpenter, Central Office. CO Procurement will coordinate access to the spreadsheet for District Procurement staff.

Please note; this new contract approval process and database does not replace the Contract Attestation process. Contract Attestation reviews will continue on as usual.