

**MARYLAND-NATIONAL CAPITAL PARK & PLANNING
COMMISSION**

**Professional Services Contracts
Report Number: CW-002-2016**

March 2, 2016

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Professional Services Contracts
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I. EXECUTIVE SUMMARY

A. Overall Perspective

Upon recommendation from the Purchasing Manager, the Secretary-Treasurer established the Maryland-National Capital Park and Planning Commission's (M-NCPPC or Commission) purchasing procedures (i.e. Purchasing Manual), which were subsequently approved by the Executive Director. A key responsibility of the Purchasing Manager is to ensure compliance with all purchasing policies and procedures.

The Commission follows three principles of public purchasing:

- equal and fair competition;
- maximization of competition; and
- best value at the lowest price.

The Commission's contract management is a field of responsibility that is overseen by the applicable Division Chief and/or Department Head; while the Purchasing Division has day-to-day responsibility for overseeing the purchasing function throughout the Commission.

The Commission's Purchasing Manual provides the following definitions for Professional Services:

- A professional service is defined as a service performed by an independent Contractor that requires specialized knowledge and training.
- Professional services are professional, technical, or consultant services predominantly intellectual in character.
- Professional services include work performed within the scope of practice of accounting, architecture, land surveying, landscape architecture, programming services and analysis, law, dentistry, medicine, optometry, pharmacy, or professional engineering.

B. Audit Scope, Objectives, and Methodology

The objective of this audit was to assess the adequacy of the design and operational effectiveness of internal controls surrounding professional service contracts, and assess compliance with Commission procurement rules, regulations and laws as applicable.

The scope for the audit included, but was not limited to, the following audit procedures:

- obtaining and reviewing a judgmental sample of all professional service contracts issued between July 1, 2012 and June 30, 2015 (3 years);
- identifying and analyzing key attributes of the contracts, (e.g. competitive bidding or sole source, contract approvers, and number and amount of each change order, etc.); and
- reviewing M-NCPPC's policies and procedures relating to contract approval.

Sample Selection – We obtained a list of all professional service contracts from the Purchasing Department executed between July 1, 2012 and June 30, 2015. The list contained 61 contracts. We judgmentally selected 16 contracts (26%) for review. Selection criteria focused on high dollar contracts. As the selection was judgmental, the results cannot be used to extrapolate or draw conclusions on the whole population.

This audit was conducted 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 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.

The period covered in this review was July 1, 2012 to June 30, 2015 (3 years).

C. Major Audit Concerns

The results of our evaluation and testing procedures indicated no major audit concerns.

D. Overall Conclusions

The results of our evaluation and testing procedures indicate no major weaknesses in the design or operation of internal controls for professional services contracts. On an overall basis, we consider the controls to be satisfactory.

We wish to express our appreciation to the Department of Finance, Prince George's County Department of Parks and Recreation and Planning Department, and Montgomery County Department of Parks and Planning Department's management and staff for the cooperation and courtesies extended during the course of our review.



Renee M. Kenney, CPA, CIA, CISA
Chief Internal Auditor

March 2, 2016

Conclusion Definitions

Satisfactory	No major weaknesses were identified in the design or operation of internal control procedures.
Deficiency	A deficiency in the design or operation of an internal control procedure(s) that could adversely affect an operating unit's ability to safeguard assets, comply with laws and regulations, and ensure transactions are properly executed and recorded on a timely basis.
Significant Deficiency	A deficiency in the design or operation of an internal control procedure(s) which adversely affects an operating unit's ability to safeguard assets, comply with laws and regulations, and ensure transactions are properly executed and reported. This deficiency is less severe than a material weakness, yet important enough to merit attention by management.
Material Weakness	A deficiency in the design or operation of an internal control procedure(s) which may result in a material misstatement of the Commission's financial statements or material impact to the Commission.

II. DETAILED COMMENTARY AND RECOMMENDATIONS

1. Document Procedures for Foundation Awards

Issue: One of the professional services contracts reviewed was issued to WLK Consulting, LLC. The initial contract was in the amount of \$10,000 for project management support, the contract was not competitively bid. Per Commission Practice No. 4-10, *Purchasing Policy*, competitive bidding is required for purchases over \$10,000.

Change order number one extended the services of WLK and increased the contract amount to \$25,000. The contract was awarded as a sole source based on the vendors experience with the establishment of Foundations.

Change order number two increased the contract by \$27,500 for a total of \$52,500. The second change order included:

- \$5,000 payment to WLK Consulting to retain an attorney for the Prince George's County Parks and Recreation Foundation;
- \$15,000 payment to WLK to retain an accountant/bookkeeper who was experienced in non-profit bookkeeping; and
- a \$7,500 increase in WLK's fees.

The OIA identified this contract as an exception to the Commission's Purchasing Policy for two reasons:

- i. The selection of WLK Consulting does not appear to meet the sole source criteria defined below; and
- ii. legal and accounting services are being identified for the Foundation by WLK and are not subject to a competitive process.

In addition, the Commission does not have adequate guidance on the awarding of contracts on behalf of Commission Foundations (501(c)). Due to their separate legal status, it is unclear whether they should be held to the requirements in the Commission's Purchasing Manual.

Risk/Criteria: Per the Commission's Purchasing Manual, "The Executive Director or the Purchasing manager is authorized to waive competition, upon a written determination and verification that the goods or services to be purchased are only available from a single source...the purpose of the Sole Source purchases is to expedite the purchasing process where competition does not make sense because only one source is available to provide the goods or services." The following criteria is considered when approving a sole source contract:

- **One-of-a-kind** – The good or service has no comparative product.

- **Compatibility** – The good or service must match existing brand of equipment.
- **Replacement Part** – The commodity is a replacement part for a specific brand of existing equipment.
- **Standardization** – the directed purchase of particular goods, equipment or supplies is necessary for uniformity or interchangeability of parts or otherwise in the Commission’s best interest.
- **Confidentiality** – The service or item must remain confidential to protect the Commission’s interests.

Competitive bidding helps ensure the Commission obtains services that are in the best interest of the Commission. In addition, competitive bidding, in lieu of sole source, may limit potential bid protests and possible reputational damage.

Issue Risk: Medium

Recommendation: We recommend that Commission management document procedures for the Foundation’s purchasing contracts (i.e. adoption of the Commission’s Purchasing Policy or distinctive requirements supporting Foundation procurements).

Management Response: The WLK Consulting contract was an unusual and time sensitive situation. It was essential to establish a Foundation responsible for accepting donations on behalf of the Commission. Management agrees that Commission funding for all future services, acquisitions, and procurements will follow the Commission’s *Purchasing Policy*. In addition, Parks and Recreation Foundation management will develop internal procedures and/or a memorandum of understanding (MOU) with the Commission that will require the approval of the Commission’s Secretary-Treasurer for Foundation procurements subject to the Commission’s competitive bidding provision’s detailed in the *Purchasing Policy*.

Expected Completion Date: April 30, 2016

Follow-Up Date: May 2016