



Audit Follow-up Review:

Contract Monitoring and Compliance Audit

Durham County Internal Audit Department

March 7, 2021



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March 7, 2021

Mr. Wendell Davis,
County Manager

Dear Mr. Wendell Davis:

Internal Audit completed its audit follow-up of internal controls related to the Contract Monitoring and Compliance audit completed on March 1, 2018. In response to the audit, the Finance – Purchasing Department submitted a detailed corrective action plan to address twenty-six (26) findings. Based on our review, we determined twenty-two (22) recommendations were implemented, two recommendations are in-progress, and two (2) recommendations were not implemented.

Table 1 summarizes the implementation status of each finding and concern.

We classified the Department's implementation status as follows:

- **Implemented** – The Department has fully implemented the recommendation.
- **Partially Implemented** – The Department has partially implemented the recommendation.
- **In Progress** – The Department intends to fully implement the recommendation.
- **Not Implemented** – The Department has not implement the recommendation.

The audit team appreciates the CFO and her team's cooperation and assistance during this audit engagement.

Sincerely,

Darlana M. Moore

Darlana M. Moore,
Internal Audit Director

INTRODUCTION

The Audit Oversight Committee approved this review in the fiscal year 2020 Annual Audit Plan. The review was conducted to determine whether significant measures were taken to address the previous audit findings addressed in the March 1, 2018 report.

The Internal Audit Department (Policy B5.3) requires the department to perform follow-up reviews on all report recommendations. Policy B5.3 states:

"Management of the audited entity is primarily responsible for deciding the action to be taken on reported audit findings and recommendations. Auditors, however, have the responsibility of making quality recommendations and following up to see that action has been taken.¹"

"Follow-up on audit findings and recommendations is important to ensure that management has taken appropriate action to resolve deficiencies, and to ensure that intended results are achieved. The Internal Audit Department has implemented a follow-up process to determine the adequacy, effectiveness, and timeliness of management's actions on reported findings and recommendations.¹"

Audit Follow-up

"6.12 Auditors should follow-up on significant findings and recommendations from previous audits that could affect the audit objectives. They should do this to determine whether timely and appropriate corrective actions have been taken by auditee officials. The audit report should disclose the status of uncorrected significant findings and recommendations from prior audits that affect the audit objectives.²"

"6.13 Much of the benefit from audit work is not in the findings reported or the recommendations made, but in their effective resolution. Auditee management is responsible for resolving audit findings and recommendations and having a process to track their status can help it fulfill this responsibility. If management does not have such a process, auditors may wish to establish their own. Continued attention to significant findings and recommendations can help auditors assure that the benefits of their work are realized.²"

"Standard – 2500 Monitoring Progress – The chief audit executive must establish and maintain a system to monitor the disposition of results communicated to management.³"

"2500.A1 – The chief audit executive must establish a follow-up process to monitor and ensure that management actions have been effectively implemented or that senior management has accepted the risk of not taking action.³"

¹ Internal Audit Department Standard Operating Procedures, Section B5.3 – "Audit Follow-up," page 100. Approved April 21, 2020.

²Government Auditing Standards, Chapter 6 – "Fieldwork Standards for Performance Audits," page 68. Issued June 1994.

³ Institute of Internal Auditors – International Standards for the Professional Practice of Internal Auditing (Standards). Section 2500 Monitoring Progress. Page 18. Issued 2013.

BACKGROUND

Durham County departments execute contracts for goods and services to carry out certain departmental functions and to serve Durham County residents. The Finance Purchasing Division of the Finance Department oversees the procurement of goods and services, and it processes departmental contracts and fund requests encumbering the funds to satisfy the pre-audit for the contracts. In fiscal year 2017, the Finance Purchasing Division processed over 1300 contracts and fund requests. Out of the 1300, there were 889 written contracts executed by departments and performed by vendors for a total value of approximately \$41.5M.

County departments conduct business with numerous vendors, and the Finance Purchasing Division maintains a list of vendors. All vendors interested in conducting business with Durham County must submit an application along with required documentation to be listed as County vendors. Additionally, the County encourages minority and women business owners to engage in business opportunities through its Minority and Women Business Enterprises (M/WBE) program. The County awards some contracts to M/WBEs for the provision of construction or repair work, goods, and services based upon applicable statutes and approved policies and procedures. The Finance Purchasing Division is responsible for administering, monitoring, and enforcing M/WBE policies, standards, and procedures.

Durham County has contract policies and procedures which departments must follow. The Durham County Contract Control Manual guides departments through contract execution and monitoring processes. When departments execute contracts with vendors, departments must engage in contract monitoring. Contract monitoring is the process of ensuring that a vendor adequately performs a contracted service. Although the Finance Purchasing Division manages the County's procurement process, individual County departments are responsible for monitoring their contracts. Typically, departments assign at least one employee to be a contract administrator who shares the monitoring responsibilities with a project personnel, and who is responsible for documentation of contract monitoring. The Durham County Administrative Guide to Effective Contract Monitoring provides best practices and sample forms to assist departments with contract monitoring.

Departmental contract monitoring efforts should occur during the three major contract phases: pre-contract phase, contract phase, and post-contract phase. During the pre-contract phase, departments must ensure that contracts are properly executed, and they must obtain all required supplemental documentation. Depending on the type of contract and the dollar amount, certain contracts must be approved by the Board of County Commissioners (BOCC) prior to execution. Additionally, certain contracts require review and approval from the Durham County Attorney's Office (Legal). Furthermore, some vendors may have to engage in Durham County's competitive bidding process to be selected to provide goods or services. Departments must follow Durham County policies on BOCC approval, Legal review and approval, and bidding.

During the contract phase, departments must monitor vendors as work is performed to ensure that vendors are providing the contracted goods or services. Examples of monitoring tasks include on-site visits, on-going performance evaluations, progress reports, and meetings to discuss work progress. Many vendors submit invoices periodically as work is completed, so on-going monitoring tasks are necessary to verify work performed prior to paying invoices. During the post-contract phase, departments must evaluate vendors' performance and determine whether or not to award future contracts. Post-contract monitoring efforts may include end of contract performance evaluations or surveys. Departments must also verify that all contract deliverables are met prior to making final payments. Contract monitoring efforts should be documented and maintained in departments' contract files.

AUDIT OBJECTIVE

The objectives of the review were to determine whether significant measures were taken to resolve the findings and recommendations addressed in the March 1, 2018 report. We evaluated the Financing-Purchasing corrective action plan to validate the Department's progress as it relates to the administration of contract monitoring and compliance.

AUDIT SCOPE AND METHODOLOGY

The audit scope included activities that were completed during the fiscal year 2020 (July 1, 2019 - June 30, 2020). To conduct our review, we:

1. retested ten departments contracts (Cooperative Extension, Criminal Justice Resource Center, Finance, General Services, Information Services and Technology, Public Health, Social Services, Tax Administration, Veterans Services, and Youth Home),
2. reviewed Finance-Purchasing Contract Manual, recent training material, risk management procedures,
3. researched and reviewed laws governing contracts,
4. reviewed MyDCo for updated contract templates,
5. reviewed Durham County policies and procedures related to contract monitoring and vendor invoice payments.

We judgmentally selected two contracts to review for each department. We only focused on audit findings pertaining to contract monitoring, vendor payments, and the certificate of insurance.

CONCLUSIONS, FINDINGS AND RECOMMENDATIONS

	Findings	Recommendations	Corrective Action Plan	Current Status
1.	DocuSign Practice for Contract Execution	We recommend that the Contract Control Manual be updated to include the DocuSign process which is currently in test mode.	Due to limited resources, including one frozen position due to COVID-19, and the expanded scope of decentralization of fund reservations, we are currently still in test mode. The frozen position was recently released to move forward for hiring after the mid-year this fiscal year. Our goal is to be able to go live by June 30, 2021 as recommended. However, due to the limited resources, expanded scope and June 30 being fiscal year end, the go-live date may not occur until the first quarter of fiscal year 2022.	In Progress

	Findings	Recommendations	Corrective Action Plan	Current Status
2	Executing Contracts with State Vendors	We recommend that the Finance Purchasing Division update the policy regarding executing contracts with State vendors.	<p>The N.C.G.S. 143-129 allows certain contracts to be exempted from the competitive bidding requirements. This exemption includes contracts that are established and awarded to vendors issued by the NC State Division of Purchase and Contracts and the State Office of Information Technology Services.</p> <p>The Finance Purchasing Division permits departments to execute contracts that are covered by this exemption. However, the request for exemption to bidding is reviewed by the Finance Purchasing Division prior to entering into contract.</p> <p>The requirements for State Contract purchases are communicated in the County's Competitive Bidding Policy under Section 7.0 Exemptions to Bidding.</p>	Implemented
3	State Debarred Vendors List	<p>To ensure that State debarred vendors are not awarded contracts paid with State or Federal funds and to ensure that debarred vendors participate in the County's bidding process, Internal Audit recommends that the County maintain the State's debarred list.</p> <p>Since the Finance Purchasing Division is the central repository for contracts, we recommend that the Finance Purchasing Division retrieve the debarred list from the North Carolina Department of Administration website and place it in a convenient location for all departments to access.</p>	Finance is in agreement with this recommendation. The State Debarred List will be placed on MyDCo.	Implemented

	Finding	Recommendation	Corrective Action Plan	Current Status
4	Vendor Complaint Process	We recommend that the Finance Purchasing Division implement a process and a complaint form for departments to provide vendor complaints and include this process and form in the policy.	Finance is in agreement with the recommendation. In updating the manual and policy, Finance staff will include the process for departments to communicate vendor complaints to include a complaint form.	Implemented
5	Corrective Action Plans	We recommend that the Finance Purchasing Division update the Contract Control Manual to include a section regarding corrective action plans.	<p>Management agrees with the recommendation. The Manual currently does not specify consequences when departments consistently use the procedure that is in place for non-emergency circumstances (e.g., which requires a memo to the Chief Financial Officer that includes a corrective action plan going forward) instead of using the formal contract execution process.</p> <p>Finance will work with the Manager's Office to determine the consequences for departments that have repetitive occurrences and update the Manual by June 30, 2021 accordingly.</p>	Not Implemented

	Finding	Recommendation	Corrective Action Plan	Current Status
6	Payments for Good and Services Without Executing Contracts or Encumbering Funds	<p>Although these procedures should not replace the County's existing contract execution process, we recommend that these procedures be included in the Contract Control Manual.</p> <p>The Manual should also specify consequences if departments consistently use these procedures for non-emergency circumstances to circumvent the formal contract execution process.</p> <p>The Finance Purchasing Division should strictly monitor these procedures and enforce consequences and inform the CFO when departments consistently use these procedures for non-emergency circumstances to circumvent the formal contract execution process.</p>	<p>Finance is in agreement with the recommendation. In updating the Contract Control Manual, Finance will include the procedures for procuring goods and services without executing contracts or encumbering funds due to emergency situations.</p> <p>Finance will also include that these procedures are not be used for non-emergency situations as well as consequences if and when used for non-emergency circumstances to circumvent the formal contract execution process.</p>	In Progress

	Finding	Recommendation	Corrective Action Plan	Current Status
7	Contract Administrator Independence Statement	<p>Based upon the high volume of contracts executed and due to the risk of conflicts of interest, Internal Audit recommends that the Finance Purchasing Division require all Contract Administrators to sign an independence statement declaring that they do not have any official, professional, personal, or financial relationships with vendors.</p> <p>Contract Administrators should include the statement in each contract file. Independence statements should be updated annually and maintained in contract files for seven years.</p>	<p>Finance is in agreement with the recommendation. Finance staff will create and implement a disclosure statement for contract administrators and will include this in the Contract Control Manual as well as County guidelines. It will be a requirement that all Contract Administrators sign an independence statement that they do not have any official, professional, personal, or financial relationships with vendors that they have monitored or are currently monitoring. These independent statements will be updated annually and maintained in contract files for seven years.</p>	Implemented
8	Certificate of Insurance Documents	<p>Internal Audit recommends that Contract Administrators review Certificates of Insurance to ensure contract compliance. For vendors who cannot comply with certain insurance requirements, Contract Administrators should inform them to request a waiver from Legal in writing.</p>	<p>Finance is in agreement with the recommendation. Contract Administrators will be trained by Finance staff on how to review Certificates of Insurance to ensure contract compliance.</p> <p>This review process will be implemented and updated in the Contract Control Manual.</p> <p>The review process will include that for vendors who cannot comply with certain insurance requirements, Contract Administrators will inform them to request a waiver from the County's Legal Office in writing.</p>	Implemented

	Finding	Recommendation	Corrective Action Plan	Current Status
9	Contracts Missing Certain Revisions	Since Durham County contracts must comply with NC law, we recommend Contract Administrators use the correct contract templates for all contracts, including renewals and amendments, which contain the necessary contract provisions. We also recommend the Finance Purchasing Division store these templates in a centralized location accessible to all Contract Administrators.	<p>In coordination with the County's Legal Office, the Finance Purchasing Division reviews and updates contract templates every fiscal year and when required due to immediate changes in legislation.</p> <p>Contract templates are maintained on the County's intranet under Purchasing Forms. Department Contract Administrators are also notified by email when templates have been revised and available for their use. With the volume of contracts currently processed manually by the Finance Purchasing Division, an incorrect contract template submitted by a Contracts Administrator can be overlooked by human error. The implementation of an electronic contract software should eliminate this problem.</p>	Implemented
10	Performance Bonds	Internal Audit recommends that Contract Administrators ensure that performance bonds are submitted when required and that the amounts comply with the contracts.	Finance is in agreement with this recommendation. When Finance staff trains the Contract Administrators on the complete contract review process and check list, they will also be trained to ensure that performance bonds are submitted when required and that the amounts comply with the contracted amounts.	Implemented

	Finding	Recommendation	Corrective Action Plan	Current Status
11	Vendors Paid Prior to Contract Execution	We recommend that Contract Administrators follow the County's policy of contract submission so that contracts will be executed prior to vendors working.	<p>Finance is in agreement with this recommendation. When Finance staff conducts training for the Contract Administrators, the training will include following the Contract Control Manual as well as County policy that contracts are to be fully executed prior to vendors working.</p> <p>In addition, the contracts shall be submitted for processing prior to the term of the contract date allowing time for review, resolution of issues, encumbering of funds, approval and execution. That portion of the Contract Control Manual will be updated to include consequences when vendors begin working before the contract is full executed.</p>	Implemented
12	Non-Compliant Contracts Executed	We recommend that Contract Administrators ensure contract compliance prior to submitting documents to the Finance Purchasing Division. We also recommend that the Finance Purchasing Division not approve contracts until all issues are resolved to ensure compliance with policies and procedures.	<p>Finance is in agreement with this recommendation. Contract Administrators will be trained on the review process so that in their review, they ensure contract compliance prior to submitting contracts to the Finance Purchasing Division for execution.</p> <p>In addition, effective immediately, the Finance Purchasing Division will no longer approve/execute contracts if there are any outstanding, unresolved issues.</p> <p>In these circumstances, the contracts will be returned to the Contract Administrator in the department for resolution. Once successfully resolved, the contract will be sent to the Finance Purchasing Division.</p> <p>Once all issues are resolved, the Finance Purchasing Division will approve and execute the contracts. This process will ensure compliance with the County's policies and procedures.</p>	Implemented

	Finding	Recommendation	Corrective Action Plan	Current Status
13	On-going Monitoring	We recommend that Contract Administrators perform on-going monitoring for all contracts and include documentation of on-going monitoring in contract files for seven years.	Finance agrees with this recommendation. Effective immediately, the on-going monitoring for all contracts will be performed by the Contract Administrators in their respective departments. In addition, the on-going monitoring will be documented and included in the contract files for seven years.	Implemented
14	Lack of Segregation of Duties	Internal Audit recommends that budget and contract monitoring duties are appropriately segregated to create appropriate checks and balances. Audit also recommends that Contract Administrators follow County's policy and monitor contracts to ensure that contract deliverables are met prior to making payments.	Finance agrees that stronger internal controls are needed to ensure deliverables are satisfactorily met before processing payments. One department can perform the budget functions and contract monitoring functions. However, effective immediately, the department approving and issuing payments must verify that the deliverables were met and were met satisfactorily to the County before approving and issuing payments. This approach will strengthen internal controls by increasing the checks and balances in place regarding the deliverables.	Implemented
15	Performance Evaluations	Internal Audit recommends that departments perform final evaluations for all vendors and include documentation of evaluations in the contract files for seven years.	Finance is in agreement with this recommendation. Effective immediately, County's Administrative Guide will be followed to include departments evaluating vendors' performance at or near the end of a contract period. The vendor evaluations will be documented and included in the contract files for seven years.	Implemented

	Finding	Recommendation	Corrective Action Plan	Current Status
16	Contract Close-out Procedures	<p>We recommend that Contract Administrators implement contract close-out procedures for all contract files to ensure the County receives its contracted goods and services prior to payments.</p> <p>We also recommend that Contract Administrators follow the State's best practices to receive clearly marked FINAL invoices and progress reports along with a signed certification statement that the expenses were true and accurate and for appropriate purposes in accordance with the contract.</p>	<p>Finance is in agreement with this recommendation. Effective immediately, the County's Administrative Guide will be adhered to regarding contract close-out procedures.</p> <p>Formal, written close-out procedures will be performed at the completion state of the contract to ensure that all contract related actions have been completed.</p> <p>Finance will also include in the Guide the State's best practice of receiving clearly marked FINAL invoices, progress reports and a signed certification statement that the expenses were true and accurate and for appropriate purposes in accordance with the contract.</p>	Implemented
17	Payments	<p>We recommend that Contract Administrators monitor contract funds, collect contract deliverables, pay vendors in a timely manner, and coordinate with vendors to provide payments.</p>	<p>Finance is in agreement with the recommendation. In updating the Contract Control Manual, Finance will include the process for Contract Administrators to monitor contract funds, collect contract deliverables, pay vendors in a timely manner and coordinate with vendors to provide payments. Consequences will also be included when this process is not followed.</p>	Implemented

	Finding	Recommendation	Corrective Action Plan	Current Status
18	Contract Monitoring Audits	Since departments need to improve contract monitoring controls and since several findings are repeat findings, we recommend that the Finance Purchasing Division assign staff to conduct contract monitoring audits to ensure compliance with policies and procedures.	Management agrees with the recommendation. Although the position has been recently released to be filled, Finance needs at least one additional position added to the Compliance Division of Finance to assist with reviews for internal controls purposes and in order to be able to implement this recommendation and to adequately perform audits/monitoring of department's regarding the compliance of contract policies and procedures.	Not Implemented
19	Risk Assessments	We recommend that the Finance Purchasing Division coordinate with Risk Management to perform risk assessments to identify departments with high risk contracts.	Finance is in agreement and that Finance will coordinate with Risk Management to perform risk assessments to identify departments with high risk contracts.	Implemented

	Finding	Recommendation	Corrective Action Plan	Current Status
20	Complete Contract Files	<p>Internal Audit recommends that the Finance Purchasing Division maintain a complete copy of contract files that contain evidence of contract monitoring. Files should be maintained for seven years.</p> <p>The Finance Purchasing Division maintaining complete contract files not only complies with policy but provides an alternate location to retain contracts in case departments lose contract files.</p> <p>Additionally, receiving complete contract files will enable the Finance Purchasing Division to conduct contract monitoring audits to ensure contract compliance and to identify vendors that perform below expectations.</p>	<p>The Finance Purchasing Division has complied with the Contract Control Manual and Policy where on page 12 of the manual under Contract Monitoring and Performance, language specifically states that contract monitoring forms and documentation must be kept at the department level and maintained for auditing purposes.</p> <p>Finance is in agreement with the recommendation for the Finance Purchasing Division to maintain a complete copy of the contract files that includes evidence of contract monitoring files and will make revisions to this section of the manual.</p> <p>However, in an effort to continue with the Finance Department's goal to go paperless, the Finance Purchasing Division will begin receiving complete contract files from all departments once an electronic software has been selected and implemented.</p>	Implemented

	Finding	Recommendation	Corrective Action Plan	Current Status
21	Contract Administrator Training	<p>Since contract monitoring is an essential process to ensure the County receives the benefits it pays for and to ensure it is not vulnerable to legal claims, departments should assign contract monitoring responsibilities to employees who can effectively perform the duties.</p> <p>Additionally, we recommend that the Finance Purchasing Division coordinate with Legal to properly train Contract Administrators.</p> <p>Specifically, Contract Administrators should be trained to understand the following topics:</p> <ul style="list-style-type: none"> • Certificates of Insurance, • Insurance liability limits, • Waiver of subrogation rights, • Additional insured, • Performance bonds, • Required contract provisions, • M/WBE policies and procedures, and • Major contract monitoring risks. 	<p>Finance is in agreement with this recommendation. The Finance Purchasing Division will coordinate with Legal to properly train Contract Administrators. We will develop training materials and class curriculums. Once developed, training will be bi-annually.</p>	Implemented

	Finding	Recommendation	Corrective Action Plan	Current Status
22	Timeliness of Contract Execution Process	We recommend that the Finance Purchasing Division use an electronic contract tracking system to track and monitor the status of contracts during the execution process and to identify dates of signatures as well as for electronic archival/storage purposes.	<p>Finance is in agreement with this recommendation. Finance working with IS&T have already begun looking at electronic contract software.</p> <p>There has been one software demonstration. Finance and IS&T are in the process of scheduling a second demonstration with another software. The goal is to have the software selected and purchased in FY18 with implementation to occur before the end of FY19.</p>	Implemented
23	Contracts Missing Certain Provisions	We recommend that Legal update contract templates annually to provide all required contract provisions. Additionally, for contract renewals and amendments, we recommend that Legal inform Contract Administrators to use the most updated fiscal year contract templates which contain all the required provisions.	<p>Finance is in agreement with this recommendation. Legal will provide updated contract templates annually to provide all required contract provisions to the Finance Purchasing Division who will then place them on MyDCo removing the out of date contract templates from the site.</p> <p>This process will ensure that the most updated fiscal year contract templates are being used by the Contract Administrators.</p>	Implemented
24	Approved Contracts Still Contained Errors	We recommend that Legal ensure that all supporting documentation such as Certificates of Insurance to comply with contract provisions, unless the office provides waivers.	Finance is in agreement with this recommendation. When updating the Contract Control Manual, we can ensure that this process is included and up to date in the Manual.	Implemented

	Finding	Recommendation	Corrective Action Plan	Current Status
25	Review New Contracts Identified as Major Risks	We recommend that Legal coordinate with Risk Management to identify contract areas that have a major risk of non-compliance or litigation. We also recommend that Legal review all new contracts and supporting documentation for areas identified in the risk assessment to protect the County's interests.	Finance is in agreement with this recommendation. When updating the Contract Control Manual, we can ensure that these review processes are included and up to date in the Manual.	Implemented
26	Back-up Contract Attorney	We recommend that Legal cross-train another employee to review contracts when the contract attorney is unavailable.	Finance is in agreement with this recommendation. Finance will discuss with the County Attorney and the General Manager for Goal 5 the need to cross train another attorney to serve as a back-up person to review contracts in the County Attorney's Office.	Implemented