



**ANNE ARUNDEL COUNTY
OFFICE OF THE COUNTY AUDITOR**

November 14, 2016

The Honorable Members of the County Council
The Honorable County Executive Steven R. Schuh
Christine A. Romans, Central Services Officer
Chief Allan Graves, Fire Chief

Dear Council Members, Mr. Schuh, Ms. Romans, and Chief Graves:

In accordance with Section 311 of the County Charter, I am calling to your attention and taking exception to the following improper procedure.

In March 2016, the County issued an Invitation for Bid (IFB) for the purchase of fire fighter protective clothing and the related cleaning and repair of the clothing. The County awarded the contract to Maryland Fire Equipment Corporation for one year with four one-year renewals. In our opinion, the County procured these goods and services in a manner that did not encourage competition as required by the County Code and did not respond to a vendor in accordance with the Purchasing Manual, which is adopted as law by County ordinance.

County Code § 8-2-104(p) (3) requires all specifications seek to promote overall economy for the purpose intended and encourage competition in satisfying the County's needs to the maximum extent practicable and shall not be unduly restrictive. The specifications in the IFB were overly restrictive and, as a result, the County limited competition to only two firms.

We determined that the Purchasing Office (Purchasing) and the Fire Department did not sufficiently demonstrate the reason for bundling the purchase of the protective clothing with the cleaning and repair services; provide adequate justification for restricting the IFB to one manufacturer; or evaluate alternative products. In addition, Purchasing failed to respond to a second bidder timely and in accordance with the Purchasing Manual.

We did not conduct our review in accordance with Government Auditing Standards issued by the Comptroller General of the United States or standards issued by the American Institute of Certified Public Accountants, and our review was more limited than would be necessary to express an opinion on the system of internal controls over the purchase of fire fighter protective clothing and the related cleaning and repair. Accordingly, we do not express an opinion or any other form of assurance on the internal controls over these purchases.

This report, which includes management's response to our findings and recommendations, is intended solely for the use of the County Council and the management of Anne Arundel County.

Members of the County Council
County Executive Schuh
Ms. Romans
Chief Graves
November 14, 2016
Page 2

However, this report is a public document that may be obtained from the Office of the County Auditor.

BACKGROUND

On January 6, 2016, Purchasing issued an IFB for the purchase of firefighters' protective clothing, and the related cleaning and repair. The IFB specifications required protective clothing manufactured by Globe Manufacturing Company, LLC (Globe), with no substitutions; cleaning and repair of the clothing; and specified that the bid would be awarded based on total price for both. Globe is one of at least nine manufacturers of fire fighter protective clothing. In addition, there are several firms that clean and repair protective clothing. However, there are only two vendors in this region that are authorized to sell Globe protective clothing and only Maryland Fire Equipment Corporation also cleans and repairs the clothing.

We contacted the 2nd Globe supplier, who advised us that, although they could have bid on the firefighter protective clothing, they would have to subcontract the cleaning and repairs and were concerned that their subcontractor may not be able to meet the four day turnaround required in the specifications. This supplier has not submitted a bid since before 2005.

A vendor of another brand of clothing submitted a bid of \$559,878 for only the protective clothing. However, Purchasing considered the bid non-responsive because it did not include a bid for the cleaning and repair services. Therefore, Purchasing awarded a sole source contract to Maryland Fire Equipment Corporation whose bid totaled \$3,140,649, \$715,904 of which was for protective clothing. The second bidder's price for protective clothing was \$156,026 less than the winning bidder.

Further, the second bidder submitted a request that the County revise the "no substitutions" in the solicitation to "County approved equivalent." Purchasing did not respond to the inquiry. The bidder sent a second inquiry on the day the bids were due and Purchasing replied to the bidder by email stating, "Globe Brand had been approved by the County Fire Fighter Committee and Union." According to the Purchasing Manual, Purchasing must communicate with potential bidders only in writing in an addendum (via its website). Purchasing could not explain why there was no addendum issued and why Purchasing did not respond to the question earlier.

Based on our inquiries, separation of the two contracts is more common and the County has separated the contracts in the past. We contacted representatives from Montgomery, Prince George's, and Howard Counties in Maryland; and Fairfax, Loudoun, and Orange Counties in Virginia. Five of the six jurisdictions separate the bids for protective clothing from cleaning and repair. Some of the reasons cited by other jurisdictions for separate contracts are that separation enhances competition and cleaning and repair services have very specific requirements.

We also noted that the Fire Department restricted its use to Globe protective clothing based on field testing performed 12 years ago; however, that particular test only compared different models of Globe clothing. Based on the documentation from the Fire Department, they have not compared Globe to other manufacturers since the year 2000. Further, the Fire Department could not locate any documentation of the evaluations made in 2000.

The Fire Department stated that transitioning to another brand of protective clothing would be

Members of the County Council
County Executive Schuh
Ms. Romans
Chief Graves
November 14, 2016
Page 3

costly because they would have to replace the clothing for all County and volunteer fire fighters at the same time. We spoke with Fire representatives from other local jurisdictions who did not believe it necessary to replace all protective clothing at the same time. However, until Purchasing and the Fire Department investigate other clothing options, pricing of competitors, and explore more gradual transition options, they cannot determine the cost and benefit of such a decision.

According to Purchasing, they have tried to encourage competition. We obtained the history of this contract that was bid in 2000, 2002, 2005, 2010, and 2016. We noted:

- In 2000, the IFB included specifications for the materials and construction features but did not specify a particular brand. We do not know the bid results since Purchasing destroyed the files in accordance with the records retention policy.
- Purchasing destroyed the IFB and bid tab for 2002 in accordance with the records retention policy, however, correspondence between the Fire Department and Purchasing indicate they preferred to use Globe products.
- In 2005, the IFB restricted the clothing to Globe and the cleaning and repair services were bundled with the clothing contract. The clothing provider was allowed to subcontract the cleaning and repair services. Maryland Fire Equipment Corporation was the only bidder.
- In 2010, the IFB restricted the clothing to Globe but did not bundle the cleaning and repair with the clothing. A second vendor bid on cleaning and repair services, but was the higher bid. Maryland Fire Equipment Corporation won the bid.
- As discussed earlier, the 2016 IFB bundled the clothing contract with cleaning and repair, resulting in only one responsive bidder, Maryland Fire Equipment Corporation.

Over the past several years, Purchasing has altered the specifications in the IFB. Unbundling the two contracts in 2010 was the only change that resulted in an additional responsive bidder.

RECOMMENDATIONS

We recommend that Purchasing and the Fire Department comply with the intent of the County Code § 8-2-104 and the Purchasing Manual. Specifically, we recommend:

- Purchasing separate the procurement of the protective clothing and the cleaning and repair services.
- Purchasing poll cleaning and repair companies to determine any barriers to bidding on the work.
- Purchasing and the Fire Department review the specifications for protective clothing by testing and evaluating alternatives to identify other potential manufacturers.
- Purchasing contact other jurisdictions in the region to compare contracting procedures and prices.
- Purchasing respond promptly and completely to bidders in accordance with the Purchasing Manual.

Members of the County Council
County Executive Schuh
Ms. Romans
Chief Graves
November 14, 2016
Page 4

Management's Response:

The Office of Central Services and the Fire Department appreciate the Auditor's comments with regards to the procurement of firefighter turnout gear. While we understand the auditor's concerns regarding ensuring all procurements are conducted so as to encourage competition, we believe that this procurement was conducted in a manner that fully complied with the law.

Firefighter turnout gear is specialty gear that requires the components work together and be certified as one unit. The fit of gear is paramount to ensuring that the gear functions as intended during a fire. Everything from the location of seams and buttons, hooks, and loops to the length of cuffs or collars contributes to the protection of a firefighter during an event. It is paramount to ensure that all gear is of the same manufacturer to ensure components can be shared between firefighters, and to ensure that gear functions the same in any type of event. Furthermore the cleaning, repair, and certification of this gear is a critical component of ensuring the gear performs during a fire and protects the life of the firefighter. If the gear is not properly cleaned, repaired, and certified, it could fail.

Should the County reprocur firefighter gear every five years, and not limit the procurement to specific brands of gear, this would essentially require the expenditure of more than \$1 million to completely replace all gear at one time to ensure compatibility of the gear. Such an option is not fiscally responsible nor is it contemplated by the Purchasing Code. As a result, the best method is to procure the gear that meets the specifications of the Fire Department and meets their needs and requirements.

The Fire Department has established a committee of representatives from management, union, and active firefighters to make selections of the type of gear that will meet the requirements of the Fire Department. However, the Fire Department understands the concern that the committee has not reviewed the brand of gear in more than 10 years and will convene the committee to establish updated standards for future procurement of turnout gear.

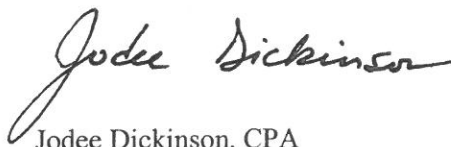
The Office of Central Services also notes that the comparison of pricing elements between the winning bid and rejected second proposal is misleading. In accordance with the IFB, the only pricing element that can be used for comparison is grand total price proposed. The Auditor's analysis is only taking into account one part of the grand total price proposed. It is impossible to speculate what the correct comparable grand total price would have been from the unsuccessful Bidder. Therefore, since Purchasing was unable to give separate consideration to this pricing element, the Auditor should also understand that evaluating these pricing elements of the IFB does not represent the requirements of the IFB or how the pricing in the IFB was intended to be compared. Furthermore, the Auditor's analysis is misleading because it does not qualify the analysis provided in their findings. The contract is set up as a series of 111 line items and expenses are only incurred when a particular item is ordered or cleaned. The quantities listed in the IFB are only upper end limits of what might be ordered, but each year the needs can vary widely. On average the County spends approximately \$250,000 per year for new gear and approximately \$100,000 for cleaning, repair, and certification. It is inappropriate to use line item totals from two bids and make a statement about overspending by the County on this contract. Purchasing staff regularly coordinate with other jurisdictions in the region to compare contracting procedures and prices and will do so for firefighter turnout gear in advance of a future procurement. In addition we will poll known firefighter turnout gear cleaning, repair, and certification companies to identify any barriers to successfully competing to be awarded the work in future procurements.

Members of the County Council
County Executive Schuh
Ms. Romans
Chief Graves
November 14, 2016
Page 5

We agree that the buyer did not respond to the question from a potential bidder in a timely manner and we have reminded staff of the obligation and the importance of doing so to ensure the County is conducting procurements in as fair a manner as possible. We complied with the law while maintaining a focus on ensuring safe turnout gear.

We would like to thank Purchasing and Fire Department staff for their courteous cooperation during our review. Please contact me if you have any questions regarding this report.

Sincerely,

A handwritten signature in cursive script that reads "Jodee Dickinson". The signature is written in black ink and is positioned above the printed name and title.

Jodee Dickinson, CPA
County Auditor

