

SPECIAL REVIEW

CONTRACTORS INSURANCE COMPLIANCE

REPORT NO. 102820

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DIVISION OF INSPECTOR GENERAL
Grant Maloy, Clerk of the Circuit Court and Comptroller
Seminole County, Florida

December 14, 2020

To: The Honorable Chairman and Members of the Board of County Commissioners

We have completed a Review of Contractors' Insurance Compliance.

We would like to especially acknowledge the professionals from the Resource Management Department for their assistance with the review.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "William Carroll".

William Carroll, CPA, CFE, CIG, CIGA
Inspector General
Division of the Inspector General

Approved by:

A handwritten signature in black ink, appearing to read "Grant Maloy".

Grant Maloy
Clerk of the Circuit Court and Comptroller
Seminole County Florida



Special Review - Report No. 102820
Contractors Insurance Compliance

GRANT MALOY
CLERK OF THE CIRCUIT COURT AND COMPTROLLER

William Carroll, CPA, CFE, CIG, CIGA
Inspector General

Auditor Assigned:
Viola Saine, CPA, MAFM, CIGA

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Background

The Purchasing and Contracts Division (PCD), is responsible for the procurement of supplies, materials, equipment, services, and construction related contracts for Seminole County (SC). They are also involved in both administration and adherence to County's Administrative Code. This includes administering the insurance requirements as defined and recommended by Risk Management.

All who are under contract with SC, are required to have the minimum insurance coverages as stipulated within the contract. Insurance coverage is required to be maintained throughout the duration of the agreement. A Certificate of Insurance is required to be provided to the County.

The coverage that the County requires, is based on the type of contract and the scope of services to be performed. It is our understanding from discussions with Risk Management that the insurance required is what was recommended by County's insurance broker (Arthur J. Gallagher Risk Management Services, Inc.). The recommendations were made several years ago and are still being used today.

We reviewed all types of agreements, namely: construction, capital improvement, professional services, and other miscellaneous procurements.

The results are included in the report that follows.

Objectives

Our objective was to determine if:

- The County is requiring each supplier, vendor and/or contractor to have insurance to protect the County from financial loss;
- Insurance coverage was sufficient to protect the County from financial loss; and,
- County had a program in place to monitor that insurance was being maintained throughout the life of the contract.

Scope and Methodology

The methodology we used was to initially establish if there was any special Federal, State and County requirements that addressed insurance requirements. We also discussed the County's insurance policy with both Risk Management and Purchasing and Contracts Division (PCD) to determine the County policy on insurance coverage.

Both divisions confirmed that there were no special administrative requirements that needed to be addressed. It was also confirmed by Risk Management that the County has for many years followed the advice of their insurance brokerage advisor (Arthur J. Gallagher Risk Management Services, Inc.). The company had recommended a standard set of insurance requirements that should be used in most of the contracts.

Our review process included:

- Reviewed PCD's VendorLink for a listing of active contracts for the period January 1, 2018 to June 30, 2020;
- Selected a sample of 300 agreements from VendorLink that included: 56 professional services; 64 Consultant Service; 53 Miscellaneous Services; 77 Construction; 50 Procurement of Goods;
- Identified specific insurance requirements for each agreement tested; and,
- Compared the insurance requirement per agreement with the insurance certificates submitted to PCD.

Overall Evaluation and Conclusion

In our opinion, the County is doing an effective job at ensuring that all of the contracts have an appropriate insurance clause to protect the citizens of Seminole County from financial loss. All of the contracts we reviewed had specific contract language that requires insurance from the time of execution and throughout the life of the contract.

The following opportunities are presented for management consideration.

- Insurance certificates should be kept on file with the County; and,
- Insurance coverages may possibly need to be reevaluated.

Opportunities for Improvements

1. Insurance certificates should be kept on file with the County.

County contracts have some very specific language regarding the responsibilities of the contractor. For example:

Section¹ 17 (a) (1) in part states the following:

"CONTRACTOR shall provide COUNTY with a Certificate of Insurance on a current ACORD Form signed by an authorized representative of the insurer evidencing the insurance required by this Section (Professional Liability, Workers' Compensation/Employer's Liability, Commercial General Liability and Business Auto)The Certificate of Insurance must provide that COUNTY will be provided, by policy endorsement, not less than thirty (30) days written notice prior to the cancellation or non-renewal, or by a method acceptable to COUNTY. Until such time as the insurance is no longer required to be maintained by CONTRACTOR, CONTRACTOR shall provide County with a renewal or replacement Certificate of Insurance before expiration or replacement of the insurance for which a previous Certificate of Insurance has been provided.

(2) In addition to providing the Certificate of Insurance on a current ACORD FORM, upon request as required by COUNTY, CONTRACTOR shall provide COUNTY with a certified copy of each of the policies of insurance providing the coverage required by this Section within thirty (30) days after receipt of the request."

IG Office provided our audit worksheet to PCD so that the division can follow up and update the County files. We appreciate the commitment by Ms. Betsy Cohen to address any issues. We are grateful for her leadership that she brings to her office.

Nine (9) companies did not remit the certificate of insurance to the County; Seven (7) had expired policies; and Nine (9) had less coverage than required.

By requiring contractors to submit updated insurance certificates on a regular basis ensures that the County is protected from financial loss and provides further evidence that the Contractor is maintaining insurance as required by the contract.

¹ Section number varies depending on the type of contracts. Construction contract has insurance requirement stated in the Solicitation package.

Recommendation

1. County should require that each company provide the necessary certificate of insurance in order to update the County files for contract compliance.
2. Publish internal policies and procedures to ensure compliance with the insurance requirements.

Management Response

While it is a requirement of each contract and Purchasing Contract Division (PCD) dedicated a part-time, Administrative Coordinator in FY19/20 to maintain these certificates, some still do not comply (16 of the 300 sample). Duties will be added to the position of the Administrative Coordinator to maintain a list of agencies that do not comply after the third request for certificates of insurance. This list will be provided to the Purchasing and Contracts Division Manager to manage the best practice of gaining compliance with all vendors. As recommended, internal policies and procedures will be updated to include this internal control procedure to help ensure all vendors are supplying certificates of insurance.

2. Insurance coverages may possibly need to be reevaluated.

Based on the observations and discussions with PCD management, we believe that the minimum insurance requirements might need a second look. One Hundred Twenty-two (122) contracts had a requirement for a certain insurance coverage that may perhaps not be necessary. For example:

- (a) Thirty-six (36) contracts had Pollution Liability Insurance. PCD stated to us that although this pollution coverage is in the contract, it is most likely would not be necessary because these contracts involve purely professional, consultancy, and, other services.
- (b) Forty-six (46) contracts for procurement of goods had a requirement for insurance coverage. According to PCD, insurance is generally not required for delivery of goods. Also, some of these contracts had Pollution and/or Professional Liability Insurance.

PCD explained and we are of the same opinion that the type of work that some of these companies are doing might not require certain types of insurance. Generally, the contracts include a standard insurance boiler plate for all of the contracts. We are of the opinion that it would be advisable to have different boiler plate clauses for different kinds of contracts.

The issue is that if the requirement is stated in the contract, the contractor would then be obligated to purchase the insurance as part of the contract. This adds additional cost onto the contract and might discourage other companies from bidding. There would be benefits to be derived by eliminating insurance that is not required. This would provide a financial benefit to both County and bidder and may encourage others to bid by eliminating unnecessary roadblocks to increase competition.

Recommendation

1. Reevaluate minimum insurance requirements.
2. Publish written policies and procedures to ensure consistency or uniformity of insurance requirement for similar contracts and risks.

Management Response

The Seminole County Risk Manager has been working with the County Attorney's office and the County's insurance broker to improve contract language related to insurance and discussed new language to be implemented. The new language ensures all insurances are included in all contracts and then includes an exhibit to express which insurances are required of the contract. PCD will formalize a written process to standardize the analysis and evaluation that should be performed to determine which insurances and coverages are required. A training will be conducted with our insurance broker by February 2021 for PCD on insurance requirements and industry standards to help establish the written procedures.

This Office appreciates the work and special review of the Inspector General and agree the County is doing an effective job of ensuring all contracts have appropriate insurance to protect citizens from financial loss.