

SPECIAL REVIEW OF PCARD TRANSACTIONS

FIRE DEPARTMENT

REPORT NO. 082318

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

December 20, 2018

The Honorable Chairman and Members of the Board of County Commissioners

We have completed the enclosed Special Review of PCARD Transactions for the Fire Department.

We would like to acknowledge both the Purchasing Division and the Comptroller Office for their assistance with the review.

Respectfully submitted,

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

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

Approved by:

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

Mr. Grant Maloy
Clerk of the Circuit Court and Comptroller
Seminole County



Special Review Report No. 082318
Review of PCARD Transactions – Fire Department

GRANT MALOY
CLERK OF THE CIRCUIT COURT AND COMPTROLLER

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

Auditor Assigned:
Timothy Tschappat, CIA,CFE

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INTRODUCTION

PURPOSE

The purpose of this review was to determine if the system of administrative control over purchasing cards (PCARD) was adequate, effective, and in compliance with Seminole County policies and procedures. This review focused solely on PCARD transactions associated with the Fire Department Division, formerly Public Safety.

BACKGROUND

In September 1998, the Seminole County Board of County Commissioners (BCC) implemented a commercial credit card program for both the purchases of small-dollar goods and services and travel expenses by employees. The program was implemented under the guidelines of Chapter 220 of the Seminole County Purchasing Code. The code requires that county departments use the PCARD as the preferred method to purchase and pay for small-dollar, single-item purchases under \$1,000.

The goal is to save on administrative costs by avoiding costs associated with the issuance of purchase orders and to allow employees to pay for travel expenses with the card. For the last three fiscal years, the County received an average of \$138,500.00 per year in PCARD rebates to offset the cost of processing. Section 3, Title VIII of the Seminole County Administrative Code establishes the operational procedures governing PCARDS. It defines its use, the limitations, training, internal controls, and provides action guidelines. The Seminole County Manager Policies further explains in greater detail the policies and procedures of the Code.

The results of the review are included in the report that follows.

SCOPE OF WORK

The months of October 2015 through February 2018 were subject to our review. For this time period there were a total of 1,203 PCard transactions processed. This is presented to put the issues that follow into perspective.

The review included the following:

- Adherence with Seminole County policies, procedures, and applicable laws;
- Verification that purchases were for official county business;
- Verification that submitted supporting documentation and approvals were complete, accurate, and compliant with policy;
- Compliance with approved credit limits, single item and total transaction limitations, and restrictions on the number of daily transactions;
- Analysis of purchases to determine if transactions were split to avoid established limitations; and
- Review of transactions with repetitive, matching amounts to verify their validity

OVERALL EVALUATION

The system of internal controls is functioning effectively and it is generally in compliance with County policies and procedures. Management has taken the initiative to continuously improve the efficiency of the program.

A key internal control is for the Comptroller's Office to notify the Purchasing and Contract Division (PCD) of instances that require follow up on non-compliance issues. This is on-going process and there is regular communication between the two organizations. PCD does have written procedures in place to follow up on these issues with cardholders. The division takes their responsibilities very serious and is committed to administrative excellence.

There are still, however, some areas that require management attention:

- Performance Bonds offer additional protection from financial loss;
- Utilization of Term contracts by User Departments; and,
- Goods and services are exempt from sales tax

These issues are addressed in more detail in the report that follows.

OPPORTUNITIES FOR IMPROVEMENT

1. *Performance Bonds offer protection from financial loss.*

A performance bond is a surety bond issued by an insurance company or a bank to guarantee satisfactorily completing a project. The estimated cost of performance bonds is dependent on the risk of the vendor and ranges between 1% and 5% of the contract price.

To save the County money, the Fire Department, with the assistance of the PCD, piggybacked off of the Florida Sheriffs Association (FSA) and Town of North Haven, CT (ToNH) contracts; each offered discounts for paying the entire contract in advance. One contract was fulfilled thirteen (13) months subsequent to the lump-sum payment. Approximately ten (10) months have elapsed since the payments were initiated for the other two open contracts; the terms for completion were 7-9 months and 9 months, respectively. All of the contracts were negotiated to include a discount for the full payment of the contract amount at either the time of order entry or within ten (10) days of contract acceptance; two of the three contracts offset a portion of the discounts with a 3.05% PCARD usage fee. The supporting documentation submitted to the Comptroller's Office included the PCARD statements and purchase orders with discounted total amounts.

In the table below, the County had the option of (1) paying full price or (2) advancing payment and receiving a net discount ranging between 0.62% and 2.76% of full price. The County elected to make the advance payments and received a total of \$53,925.22 in discounts among the three contracts. When the cost of the bond is in excess of the discount (Breakeven %), then the County should defer advance payment.

ADVANCE PAYMENTS FOR EQUIPMENT ORDERS

Equipment Purchased	Order Date	Net Contract Price	Applied Discount	Breakeven Bond %	Delivery Date
Velocity Squad Rescue (FSA)	3/21/2017	\$917,793.00	\$25,399.00	2.76%	5/1/2018
Aerial Platform Tower (ToNH)	10/19/2017	\$1,215,000.00	\$21,641.22	1.78%	N/A
Pumper (FSA)	10/24/2017	\$547,522.00	\$3,442.50	0.62%	N/A
Pumper (FSA)	10/24/2017	\$547,522.00	\$3,442.50	0.62%	N/A
Total		\$3,227,837.00	\$53,925.22		

The FSA vehicles and equipment contract terms and conditions (§1.48 – Non-Performance) do not provide financial protection to customers for non-conformance by successful bidders. The FSA contract does state that “failure to deliver said vehicles or equipment will result in the ordering agency and the FSA seeking damages for the difference of cost to issue the exact same order with another Vendor plus any legal fees and damages that may be incurred in the process to facilitate a completed order.” But, this remedy would be subsequent to advanced payment and the recovery of funds would not be guaranteed.

Per the FSA agreement §1.42 Bid Bonds, Performance Bonds, Certificates of Insurance:

“Agencies may request a performance bond from the Awarded Vendor. Performance Bonds referenced in the FSA are recommended with pre-payment and will be at the expense of the requesting agency. Agencies should determine the best practice in comparing performance bond expense against any prior discounts that may be available.”

Also, the Seminole County Administrative Code, Section 3.5526(1)(a) states:

“(1) As determined by the Purchasing and Contracts Division Manager or designee or mandated by Florida Statutes, the following bonds or security shall be delivered to the County and shall become binding on the parties upon the execution of the contract:

(a) A performance bond satisfactory to the County, executed by a surety company authorized to do business in the State of Florida or otherwise secured in a manner satisfactory to the County, in an amount equal to one hundred percent (100%) of the price specified in the contract.”

With all of this being said, we recognize that it is a management decision as to whether there is sufficient risk to warrant the issuance of a Performance Bond.

The County should evaluate and document the financial risks to determine the prudence of a bond. By documenting the official procurement files, the decision to either require a bond or waive the requirement ensures that management has completed the evaluation and is responsible for the associated risks.

Recommendation

1. Performance bonds should be considered to protect against financial loss. A copy of the bond should be provided to Comptroller’s Office to support the PCARD purchase.
2. Comply with County policy to ensure the controls continue to function effectively.

Management Response - (Seminole County)

“Performance Bond requirements are mandated by the State Statutes for construction contracts. For Fire Equipment it is not mandatory and requires PCD and user Department to analyze the risk associated with the purchase to the overall cost of the bond. The County received a significant savings in the Pre-payment discounts and the pre-payment decision was collaborated with the Comptroller’s Office. A performance bond was required for the Aerial platform tower primarily because of the company Sutphen that is not as known as Pierce Manufacturing and posed a greater risk. Pierce Manufacturing is one of the largest companies in the manufacture of fire apparatus and their financials are very strong. In order to be an approved vendor on the Florida Sheriff’s association contract, the Sheriff association conducts a review of financial stability. PCD negotiated the pre-payment discounts with Pierce Manufacturing that also included site visits as our equipment was being built, which allows us to inspect our equipment as it was being built, whereby allowing us to be engaged, if any problems occurred. Bonds are very costly and just to require bonds without the proper analysis, would be a waste of taxpayer funds. PCD stands by the purchase decision requiring a performance bond for Sutphen and saving the cost of bonds for the Purchases with Pierce Manufacturing. Since Bonds are, a Purchasing decision and not a P-Card decision any records pertaining to the purchase of the bonds are retained in the Purchasing files.”

Office of Inspector General Comment

We are in agreement that an analysis of financial risks should always be conducted to determine the necessity of a bond and that the cost of a bond should not exceed the discount offered for the advance payment of a product. This analysis should be a part of the official procurement files. Since business conditions fluctuate, the financial status of the contracted company could also fluctuate (possibly negatively) over the course of the contract term. This is the primary risk of advancing the full contract amount. In lieu of issuing a bond, the County should consider payments based on percentage of completion.

2. Utilization of Term contracts by User Departments

As of August 2018, PCD has successfully negotiated over 37 term contracts for Public Safety (Fire Department) related procurement needs. This ensures that prices being used are the most favorable for the County.

One of the many goals of the Purchasing Division is to encourage cardholders to utilize term contracts that offer favorable negotiated prices. According to Seminole County Manager Policies for Purchasing (Title L-13a), “The User Department/Division shall notify the Purchasing and Contracts Division of the requirement for a Term Contract.”

With this, County policy established a threshold for cardholders to consider term contracts.

For example, County Manager Policies H-1c states:

“total annual anticipated usage for supplies and services that exceed \$10,000.00 per year should be competitively bid in accordance to Section 3.5513 of the Administrative Code and a Term Contract should be issued, when applicable.”

Also, County Manager Policies Title W-6b states:

“The Purchasing Card cannot be used to purchase like items totaling over \$10,000 per fiscal year/per Division or goods and services available on a County Term Contract with the exception of purchases from the County-wide office supply Contract.”

Between October 2015 and September 2016, Fire Department initiated seventeen (17) purchases from Appliances of Orlando for new refrigerators, dishwashers, gas ranges, microwaves, vacuums, and washer/dryers. The aggregate total of these purchases was \$16,726.63.

In all fairness, there are times it may simply not be practical for PCD to establish a contract if the items purchased are not routine. To comply with the intent of the policy, division management should formally notify Purchasing of their needs and an exception to the policy should be documented in the official files.

Compliance with County Policy ensures that the controls continue to function effectively. Copies of the documentation obtained from the Comptroller’s Office supporting the PCARD purchases pertaining to this issue were provided to PCD for their review and follow-up.

Recommendation

1. Comply with County Manager Policies. Purchasing should be notified when orders exceed \$10,000 to evaluate options and to ensure the controls continue to function effectively.
2. Reiterate PCard policies during annual training.

Management Response - (Seminole County)

“Appliances for the Fire Station’s renovation/replacement projects would not be a good candidate from a Purchasing perspective for a term contract. Some of the appliances are commercial and customized to fit in the redesign kitchen cabinets. Some of the commercial models require brand name dealer competition that does not lend itself to term contracts. There is no multiyear stable funding to support a term contract. Appliance models change annually and a five-year term contract would be outdated after the first year requiring costly administrative amendment changes to the contract. It is best to purchase appliances under our current process of competitive RFQs and State Contracts. PCD does an excellent job in developing term contracts exceeding the national average of 30% of County’s spend. PCD is compliant with all purchasing policies. PCD works with

the Fire Department in providing compliant purchasing that enhances the morale and comfort of personnel at the Fire Stations. Food preparation appliances are unique purchases that need to be customized and flexible when providing purchasing support that is not realistic under a rigid term contract.”

Office of Inspector General Comment

We understand that it may not always be practical for PCD to establish term contracts for like-item purchases exceeding \$10,000 per fiscal year/per Division and acknowledge PCD’s position regarding appliances. The issue at hand is that the County Manager Policies states that purchases of like-items greater than \$10,000 cannot use the PCard (W-6b) and should be competitively bid (H-1c).

In our opinion, we would expect that part of the process would be for department management to formally seek approval from PCD management that all are in agreement that PCD should not formally establish a term contract. This is a procedural recommendation.

3. Goods and services are exempt from sales tax.

As a government municipality, The County is exempt from payment of sales and use tax on the purchase of any goods and/or services. This is subject to the rules established in Seminole County Resolution No. 96-R-177, Florida Statute 212.08 and Rule 12A, Florida Administrative Code.

A few isolated cases were noted where sales tax was inadvertently added to the charge. For example, on September 12, 2017, sales tax totaling \$908.53 was paid on an invoice for \$11,920.99. Also, on September 4, 2017, sales tax was charged for six (6) hotel rooms in Tallahassee, FL. Each room’s state (sales) tax was \$8.93 for an aggregate total of \$53.76. Refunds for these charges were not subsequently noted.

These are inadvertent errors that happen on occasion and the cardholder should make immediate contact with the vendor to ensure that the County receives the entitled refund. Copies of the documentation obtained from County Finance supporting the PCARD purchases pertaining to this issue were provided to PCD for their review and follow-up.

Recommendation

1. Cardholders and approvers should comply with the County policy to ensure the controls continue to function effectively.

2. The County Manager's Office should send a memorandum to all cardholders reiterating PCARD policies.
3. Comptroller Office should notify the cardholder and Department management when sales tax is charged to obtain the necessary credit from the vendor.

Management Response - (Seminole County)

"Please note that the process to identify non-compliance issues as the items stated above are contained in the Admin Code Section 3.5542 6 (B), which states that "County Finance will review each statement and supporting documentation. County Finance will contact cardholders directly and attempt to resolve any statement discrepancy found. If unable to resolve the issue with the cardholder directly, County Finance will elevate the problem to the Purchasing Card Program Manager for resolution. A form will be used to assist and document the issue. In addition, County Finance will notify the Purchasing Card Program Manager of all missing signatures, discrepancies, late statements, or suspicious purchases so the Program Manager may investigate and take appropriate action." To the best of our knowledge, the non-compliant issues described above did not follow the above policy. PCD did not investigate and cannot comply with the recommendation for improvement unless PCD is notified by the Comptroller's Office, formerly County Finance of these possible violations. The recommendations and actions that are cited above along with Disciplinary actions cited in Section 3.5543, do occur when PCD validates violations of the Board's P-Card policy.

A joint meeting was held with the Director of the Comptroller's Office, the Assistant Director and the Manager to address the results of this review and the recommendations. PCD will continue to work with the Comptroller's Office to better identify any non-compliance issues. PCD will schedule collaborative training in October 2018 with the Comptroller's Office on the P-Card program and the processes to notify both the Departments and PCD of potential violations. In addition, the Deputy Clerks from the Comptroller's Office will attend annual training the PCD holds for County staff."

Office of Inspector General Comment

The initial detection of issues such as this begins with the cardholder and their immediate supervisor. Seminole County Manager Policies Title W-8(c) states that "the Approving Official (the cardholder's immediate supervisor or designee) or Department Director, if there is a conflict, the cardholder and immediate supervisor, shall review each transaction and check all documentation. Any errors, sales tax issues or questionable purchases must be resolved before submitting to Finance." Errors discovered by the Comptroller's Office that cannot be resolved with the cardholder directly should be documented and brought to the attention of PCD for resolution.