



Legislation Details (With Text)

File #: 24-2602 **Version:** 1 **Name:**
Type: Policy **Status:** Agenda Ready
File created: 4/17/2024 **In control:** Commissioners Court
On agenda: 4/23/2024 **Final action:**
Title: Request by the County Judge for approval to return all procurement in the Harris County Toll Road Authority (HCTRA), the Harris County Flood Control District (HCFCD), and the Harris County Engineering Department (HCED) to the authority of the Purchasing Agent, including the applicable FTE positions from these departments, and to provide funding in the amount of \$500,000 for staff augmentation in the short-term to begin the transition immediately.

The Purchasing Agent shall work with the Office of County Administration, Office of Management and Budget, County Attorney's Office, HCTRA, HCFCD and HCED, and any other relevant departments to develop and present a comprehensive transition plan no later than May 7, 2024 with the full transition completed by August 6, 2024. The plan must include the following, with monthly updates to Commissioners Court: 1) an overview of the transition and the objectives to achieve; 2) a timeline and milestones, including updates to Commissioners Court; 3) a fiscal analysis; and 4) a hiring plan for additional qualified staff.

Sponsors:

Indexes:

Code sections:

Attachments: 1. 24-2602 CJO-Procurement Audits.pdf

Date	Ver.	Action By	Action	Result
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Department: County Judge's Office

Department Head/Elected Official: Lina Hidalgo, Harris County Judge

Regular or Supplemental RCA: Supplemental RCA

Type of Request: Policy

Project ID (if applicable): N/A

Vendor/Entity Legal Name (if applicable): N/A

MWDBE Contracted Goal (if applicable): N/A

MWDBE Current Participation (if applicable): N/A

Justification for 0% MWDBE Participation Goal: N/A - Goal not applicable to request

Request Summary (Agenda Caption):

Request by the County Judge for approval to return all procurement in the Harris County Toll Road Authority (HCTRA), the Harris County Flood Control District (HCFCD), and the Harris County Engineering Department (HCED) to the authority of the Purchasing Agent, including the applicable FTE positions from these departments, and to provide funding in the amount of \$500,000 for staff augmentation in the short-term to begin the transition immediately.

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Background and Discussion:

Harris County's procurement is not centralized under one independent authority (Purchasing Agent). Instead, the HCED, HCFCD, and HCTRA are each allowed to conduct certain procurements, per the 1977 and 2007 Harris County Commissioners Court Orders.

Recent audits of HCED, HCFCD, and the HCTRA found issues with each department's procurement processes, all of which pose undue risk to Harris County. Specifically, a lack of appropriate procurement controls over professional services exposes the county to financial, operational, legal, and reputational risks. The Auditor's Office stated that the County cannot ensure compliance with state laws and regulations due to the departments' lack of written records of procurement activities. Moreover, returning all procurement to the authority of the Purchasing Agent, who has long-established policies and procedures as well as regular training on professional procurement, is the only way to ensure that all of the County's procurement activities comply with applicable laws, regulations, and best practices.

The Auditor's Office conducted three different audits of HCTRA, HCFCD and HCED, and found that there was no information to support the qualified vendor selection. In addition, The Auditor's Office identified one (1) issue in HCTRA, two (2) issues in HCFCD, and three (3) issues in the Engineering Department, all of which will be resolved by transferring all procurement to the Purchasing Agent. Note: The complete audit reports are included as attachments.

"Toll Road Authority Professional Services Exemptions" (published on 7/18/2023):

- Limitations: The Auditor's Office was not able to complete an audit due to the lack of procurement activities during the audit period. There was only one professional services procurement in 2022 through HCTRA's newly established procurement team, so the auditors did not have enough information to validate the consistency of procurement processes nor compliance with applicable rules and regulations.
- Relevant Issue #1: HCTRA is not documenting when a debarment review is completed to ensure selected vendors are eligible to do business with the County.
- Relevant Observation 2: HCTRA has implemented measures to ensure the diversification of its vendor base (the pool of providers available for procurement, often maintained in a database).
- Relevant Observation 3: HCTRA is appropriately authorizing contract renewals.

"Flood Control District Professional Services Exemption Audit" (published on 11/10/2023):

- Limitations: None Identified.
- Relevant Issue #1: HCFCD is failing to document how professional services vendors are evaluated and selected, meaning there is no written record of why a particular vendor was determined to be the "most highly qualified" vendor for a given contract/project.
- Relevant Issue #2: HCFCD and Commissioner Precincts are failing to document that individuals involved

in the vendor evaluation process do not have competing personal, financial, or other conflicts of interests that would impact their objectivity.

“Engineering Department Professional Services Procurement Audit” (published on 4/5/2024):

- Limitations: The Engineering Department implemented a new process starting on July 1, 2023. The previous Administration did not consistently retain evidence of vendor selections made prior to this new process. In certain instances, vendor selection documentation was not available because the vendor was awarded the project in a previous phase of construction.
- Relevant Issue #1: HCED is failing to document how professional services vendors are evaluated and selected, meaning there is no written record of why a particular vendor was determined to be the “most highly qualified” vendor for a given contract/project.
- Relevant Issue #2: HCED and Commissioner Precincts are failing to document that individuals involved in the vendor evaluation process do not have competing personal, financial, or other conflicts of interests that would impact their objectivity.
- Relevant Issue #3: HCED is not documenting when a debarment review is completed to ensure selected vendors are eligible to do business with the County.

Although these departments have historically procured professional services, there is no onboarding process for department heads to ensure adequate understanding of Texas law and their responsibilities in the procurement process. Department heads are not experts in government procurement and thus may inadvertently overlook best practices or procurement ethics, as evidenced by these audits.

The current Commissioners Court inherited a flawed procurement process that lacks necessary checks and balances because it was implemented decades ago. Today, of the seven largest counties in Texas, Harris County is the only county that allows departments other than a Purchasing Agent’s to do procurement activities. In comparison, the Purchasing Agent, as an independent and professional authority, is an integral part of the "checks and balances" system established by the State Legislature to ensure fairness and transparency in procurement.

Expected Impact: Once the transition is complete, Harris County will have all procurement centralized under one independent authority (Purchasing Agent). The transition also includes moving FTEs from each of the respective departments, making this request budget neutral.

With this, Harris County will have one set of procurement policies and procedures and enhanced fairness and transparency in the professional services procurement process, specifically:

- Department heads, who are appointed by and serve at the pleasure of Commissioners Court, will no longer manage certain procurement activities. Instead, the Purchasing Agent will manage all procurement activities, eliminating any potential for undue influence by Court members in the vendor evaluation process;
- Minimize the likelihood that individuals involved in the vendor evaluation process will have competing personal interests that would impact their objectivity, and this will be recorded for each project;
- An evaluation committee will evaluate and score all qualified vendors against selection criteria set in the RFQ, resulting in a ranking and thorough documentation for the selection of “most highly qualified vendor”;
- Debarment reviews will be conducted and documented to ensure selected vendors are eligible to do business with the County.

Alternative Options: None. The Purchasing Agent's independent authority and subject-matter expertise is the only way to ensure the County is following procurement standards and ethics.

Alignment with Goal(s):

- ☐ Justice and Safety
- ☐ Economic Opportunity
- ☐ Housing
- ☐ Public Health
- ☐ Transportation
- ☐ Flooding
- ☐ Environment
- ☒ Governance and Customer Service

Prior Court Action (if any): N/A

Location:

Address (if applicable): N/A

Precinct(s): Countywide

Fiscal and Personnel Summary				
Service Name				
	Current Fiscal Year Cost			Annual Fiscal Cost
	Labor	Non-Labor	Total	Recurring Expenses
Funding Sources				
Existing Budget				
Choose an item.	\$	\$	\$	\$
Choose an item.	\$	\$	\$	\$
Choose an item.	\$	\$	\$	\$
Total Current Budget	\$	\$	\$	\$
Additional Budget Request (<i>Requires Fiscal Review Request Form</i>)				
Choose an item.	\$	\$	\$	\$
Choose an item.	\$	\$	\$	\$
Choose an item.	\$	\$	\$	\$
Total Additional Budget Request	\$	\$	\$	\$
Total Funding Request	\$	\$	\$	\$
Personnel (Fill out section only if requesting new PCNs)				
Current Position Count for Service	-	-	-	-
Additional Positions Request	-	-	-	-

Total Personnel	-	-	-	-
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Anticipated Court Date: 4/23/2024

Anticipated Implementation Date (if different from Court date): N/A

Emergency/Disaster Recovery Note: N/A

Contact(s) name, title, department: Samantha Kealoha, Chief of Staff, County Judge's Office

Attachments (if applicable): Three audits published by the Harris County Auditor's Office:

- Toll Road Authority Professional Services Exemptions (published on 7/18/2023)
- Flood Control District Professional Services Exemption Audit (published on 11/10/2023)
- Engineering Department Professional Services Procurement Audit (published on 4/5/2024)