

STATE OF FLORIDA AUDITOR GENERAL

Operational Audit

Report No. 2024-059
November 2023

**NORTH SPRINGS IMPROVEMENT
DISTRICT**



Sherrill F. Norman, CPA
Auditor General

North Springs Improvement District

During the period October 2021 through December 2022, the following individuals served on the North Springs Improvement District Board of Supervisors:

Vincent Moretti, President
Grace Solomon, Secretary
Robert Payton, Assistant Secretary,
from December 1, 2021
Neil Vogel, Assistant Secretary,
through November 30, 2021

In addition, Rodney Colon served as District Manager, and Brenda Richard served as the District Clerk.

The team leader was Seth Grantham, CPA, and the audit was supervised by Nic Cain, CPA.

Please address inquiries regarding this report to Derek Noonan, CPA, Audit Manager, by e-mail at dereknolan@aud.state.fl.us or by telephone at (850) 412-2864.

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NORTH SPRINGS IMPROVEMENT DISTRICT

SUMMARY

This operational audit of the North Springs Improvement District (District) focused on District activities and transactions that occurred during the period October 2021 through December 2022 and selected transactions and events that occurred prior and subsequent thereto. Our audit disclosed the following:

Competitive Procurement Procedures

Finding 1: District procurement procedures did not provide adequate time for interested parties to respond to competitive solicitations.

Finding 2: Contrary to State law,¹ the District did not always use a competitive procurement process when acquiring goods and services.

Finding 3: The District's process for advertising competitive procurements and evaluating vendor responses needs enhancement.

Contractor Performance Guarantees

Finding 4: Contrary to State law² and standard District construction contract provisions, the District did not always obtain guarantees of performance from contractors prior to the commencement of work.

Land Sale

Finding 5: The District did not obtain an independent appraisal prior to selling a parcel of land for \$4 million.

Administrative Activities

Finding 6: Other than a one-page document outlining the hiring and new employee onboarding processes, the District lacked written policies and procedures for hiring employees. In addition, the District lacked procedures for establishing position descriptions and hired an individual without publicly advertising the position or establishing a position description.

Finding 7: The District's background screening requirements for prospective employees should be clarified. Additionally, the District did not retain background screening documentation to evidence the conduct and results of the screenings.

BACKGROUND

North Springs Improvement District (District) was established in 1971 pursuant to Chapter 71-580, Laws of Florida, as amended, and Chapter 289, Florida Statutes. The District provides water treatment, wastewater collection, and stormwater management to residents of the cities of Coral Springs and Parkland. The District is governed by a three-member Board of Supervisors (Board) composed of a President, a Secretary, and an Assistant Secretary. The Board is assisted by the District Clerk, and the District Manager oversees District operations.

¹ Chapter 2007-0285, Laws of Florida, and Section 287.055(2)(g) and (5), Florida Statutes.

² Section 255.05, Florida Statutes.

FINDINGS AND RECOMMENDATIONS

COMPETITIVE PROCUREMENT PROCEDURES

The Legislature has recognized in State law³ that fair and open competition is a basic tenet of public procurement, and that competition reduces the appearance and opportunity for favoritism and inspires public confidence that contracts are awarded equitably and economically. To promote fair and open competition in public procurement, State law⁴ requires the District to apply competitive procurement practices in the acquisition of goods and services. Such practices generally include solicitation of bids or proposals from potential vendors or qualified firms, evaluation of the submitted bids and proposals using preestablished criteria, and selection of a vendor or firm that provides the bid or proposal that is the most advantageous to the District (e.g., lowest price or best qualified for the desired services).

As part of our audit, we examined District records to evaluate District competitive procurement procedures, including those related to the solicitation of bids and proposals using requests for proposals (RFPs) and requests for quotations (RFQs), purchases of contractual services, and the evaluation and ranking of bids and proposals received. The population identified for audit included:

- 64 contracts with contractual payments exceeding \$13.5 million during the period October 2021 through December 2022. The contracts were entered into by the District prior to and during that period and, while 11 of the 64 contracts were not for specific amounts,⁵ the contractual amounts for the remaining 53 contracts totaled \$36.1 million.
- 4 additional contracts that were executed prior to October 2021 and included in the audit population because of concerns regarding potential related-party transactions. During the 2014 through 2019 calendar years, the District made 25 payments totaling \$32.5 million related to the 4 contracts.

In total, we identified an audit population of 68 District contracts that involved procurements exceeding \$68.6 million. From the 68 contracts, we selected and evaluated records for nine procurements, totaling \$36.2 million, pertaining to seven vendors and relating to construction, engineering, and maintenance services.

Finding 1: Competitive Procurement Procedures

While State law⁶ requires the District to apply competitive procurement practices in the acquisition of goods and services, the specific competitive procurement process used depends on the circumstances. For example, for the acquisition of maintenance services where the related costs will exceed \$195,000, State law requires the District to solicit competitive bids from applicable vendors. The responsive vendor

³ Section 287.001, Florida Statutes.

⁴ Section 287.055(3), (4), and (5), Florida Statutes, and Chapter 2007-285, Laws of Florida.

⁵ The 11 contracts represented continuing services agreements and similar open contractual arrangements for which task orders were issued when services were acquired.

⁶ Section 287.055(3), (4), and (5), Florida Statutes, and Chapter 2007-285, Laws of Florida.

offering the best price must be selected. As another example, for professional design-build services⁷ involving construction projects with estimated costs exceeding \$325,000, State law requires the use of a competitive negotiation process. The competitive negotiation process for design-build projects requires the District to:

- Provide public notice that includes a description of the project and how interested firms may apply for consideration.
- Obtain statements of qualifications and performance data from responding firms.
- Certify the responding firms that are determined to be fully qualified to render the required service. Among the factors to be considered in making the certification are the responding firm's capabilities, adequacy of personnel, past record, and experience.
- For each proposed project, conduct discussions with at least three responding firms and select the firm determined to be the most qualified.
- Negotiate a contract with the most qualified responding firm and, if satisfactory contract terms cannot be negotiated, undertake negotiations with the second most qualified respondent and, if necessary, lower ranked respondents in the order of their competence and qualification until an agreement is reached.

In addition, State law⁸ requires a minimum response time of at least 30 days for construction projects costing over \$500,000 and at least 21 days for construction projects costing over \$200,000 but less than \$500,000.

The District-adopted competitive procurement procedures⁹ contained provisions that, if consistently followed, will generally promote fair and open competition. However, our examination disclosed that the procedures did not provide adequate time for interested parties to respond to procurement solicitations. Specifically, District procedures¹⁰ state that adequate public notice should be given, which may include publication in a newspaper of general circulation, for at least 10 days prior to bid¹¹ opening, which is less than the 21- to 30-day response times specified in State law for larger construction projects. In addition, the District's 10-day minimum notice provision is less than that recommended in the National Institute of Governmental Purchasing (NIGP)¹² procurement guide, which specifies that at least 14 to 30 days be given for interested parties to respond to procurement solicitations.

Our examination of District records for nine procurements disclosed that for four procurements, totaling \$23.8 million, the District did not provide potential vendors and firms adequate and appropriate response times. For those four procurements, Table 1 shows that the potential vendors and firms were given

⁷ Design-build services involve a single contract with a design-build firm for the design and construction of a public construction project. A design-build firm means an entity that is certified or registered pursuant to State law as a general or building contractor or is certified under State law to practice architecture, engineering, or landscape architecture.

⁸ Section 255.0525, Florida Statutes.

⁹ *North Springs Improvement District Procurement Procedures*.

¹⁰ Section (c), *North Springs Improvement District Procurement Procedures*.

¹¹ District management confirmed that, in this context, the term "bid" applies to all forms of competitive purchasing. Consequently, the 10-day minimum public notice requirement applies to all competitively selected procurements, including Requests for Bids and Requests for Proposals.

¹² The NIGP, also known as NIGP: The Institute for Public Procurement, is a membership-based, nonprofit organization composed of members representing federal, state, provincial, and local government levels throughout the United States and Canada and provides support to professionals in the public sector procurement profession. The NIGP provides various resources for public officials and procurement professionals including the NIGP *Public Procurement Guide for Elected and Senior Government Officials* and the NIGP's *Global Best Practices*.

11 to 22 days to respond to District solicitations, consistent with the minimum 10-day notice provision established in District procedures. However, three of the procurements were design-build projects, with costs ranging from \$3.25 million to \$15.4 million, and the response times provided to interested respondents ranged from 8 to 10 days less than the 30-day minimum required by State law. The other purchase represented a procurement of non-construction maintenance services for \$573,600 and the response time of 11 days was 3 days less than the NIGP-recommended 14-day minimum response time.

**Table 1
Procurements with Inadequate Response Times**

Solicitation Number	Year of Acquisition	Project Type	Project Amount	Minimum Response Time Per State Law or NIGP Guidance	Response Times Provided by District	Difference
RFQ 2021-02 ^a	2021	Design-Build Construction	\$15,400,250	30 Days	20 Days	10 Days
RFP 2019-01	2019	Design-Build Construction	3,250,000	30 Days	22 Days	8 Days
RFQ 2014-3	2014	Design-Build Construction	4,595,101	30 Days	22 Days	8 Days
RFP PI2020	2020	Maintenance Services	573,600	14 Days	11 Days	3 Days
Total			<u>\$23,818,951</u>			

^a RFQ 2021-02 was issued for continuing design-build services. We examined task orders totaling \$15,400,250 associated with this continuing contract.

Source: District records.

In response to our audit inquiry, District management indicated that District personnel believed that they were complying with the District Charter¹³ and were unaware of subsequent changes to the District Charter that eliminated the 2-week response time provision.¹⁴ In addition, District personnel were unaware of NIGP guidance regarding minimum response times.

Not providing potential vendors and firms adequate response times to District solicitations for goods and services may limit the number and quality of proposals and responses received, thereby increasing the risk that the District will not obtain goods or services at the lowest cost consistent with desired quality and reducing public confidence that contracts are awarded equitably and economically.

Recommendation: We recommend that the District enhance its competitive procurement procedures to provide for response times consistent with State law and NIGP guidance and best practices.

Finding 2: Competitive Procurement of Services

An effective procurement process for contractual services typically requires documented requests for proposals, consideration of the qualifications of the service providers that respond to the request, and

¹³ District personnel refer to the codification of any Florida laws specific to the District as the “District Charter.”

¹⁴ On June 12, 2007, Section 47(4), Chapter 2007-285, Laws of Florida, removed the following language from the District Charter, “No contract shall be let by the board for the construction or maintenance of any project authorized by this act, nor shall any goods, supplies, or materials be purchased ..., unless notice of bids shall be advertised once a week for 2 consecutive weeks in a newspaper published in Broward County...” Consequently, beginning June 12, 2007, Section 255.0525, Florida Statutes, requirements for a minimum response time of at least 30 days for construction projects costing over \$500,000 and at least 21 days for construction projects costing over \$200,000 but less than \$500,000, prevailed.

selection of the service provider that submits the best proposal. State law¹⁵ and District procedures¹⁶ require competitive procurement procedures be used for purchases of contractual services of \$195,000 or more, with certain exceptions, such as emergency purchases, services only available from a single vendor, and certain professional (e.g., design-build) services. For design-build services, State law¹⁷ allows for the use of continuing contracts when the estimated construction costs of each individual project under the contract does not exceed \$4 million. As such, firms awarded continuing contracts by the District using appropriate competitive procurement procedures are not required to bid against one another for projects that do not exceed \$4 million. For individual design-build projects exceeding \$4 million, and in those instances where continuing contracts are not awarded, State law¹⁸ and District procedures require the solicitation of competitive proposals, evaluation and selection of the best and most qualified firms and proposals, and negotiation with the most qualified firm.

Our examination of District records for nine procurements for construction, engineering, and maintenance services disclosed that, contrary to State law and District procedures, the District did not competitively procure the services associated with two procurements totaling \$8.2 million. Specifically:

- The District did not competitively procure services for a deep well injection design-build project with contracted engineering and construction services totaling \$7.8 million. Instead, the District awarded the contract pursuant to an existing continuing contract with the applicable firm. According to the July 5, 2017, Board meeting minutes, in response to a question from the Board President about whether the project needed to be bid, District management stated, “We went through an RFQ process and have a continuing service contract with this engineering firm and there are only two drillers in the State of Florida that drill deep wells.” Notwithstanding, insofar as the contractual amount of the project exceeded the \$4 million threshold for use of continuing contracts, the services should have been acquired through solicitation of competitive proposals, evaluation and selection of the best and most qualified firms and proposals, and negotiation with the most qualified firm.
- The District procured landscaping and property maintenance services by contacting five vendors and requesting quotes for the cost of services for 1 year. District personnel selected the vendor that quoted the lowest annual cost (\$153,000) and subsequently contracted with the vendor for 3 years, resulting in a contract for \$459,000. District personnel indicated that the contract was executed in that manner to lock in the lowest quoted price for 3 years. Notwithstanding, as the total contracted amount exceeded \$195,000, State law and District procedures required a formal competitive selection process whereby the District should have publicly solicited sealed bids and selected the vendor with the best bid after a publicly advertised bid opening. Such procedures would have provided the District the opportunity to obtain additional proposals, which would have increased the likelihood for a more favorable contract.

¹⁵ Chapter 2007-0285, Laws of Florida, provides (1) that the District shall competitively procure maintenance services when the annual amount to be paid exceeds the category four threshold (\$195,000) established by Section 287.017, Florida Statutes, and (2) contracts for other services shall be competitively procured if the District adopts a procedure requiring competitive procurement for other services.

¹⁶ *North Springs Improvement District Procurement Procedures* require formal competitive procurement procedures for acquisitions of contractual services when the estimated costs of such services exceed \$195,000. Formal competitive procedures are defined as public requests for sealed bids or proposals.

¹⁷ Section 287.055(2)(g), Florida Statutes.

¹⁸ Section 287.055, Florida Statutes.

Absent the proper use of competitive procurement processes, the District cannot demonstrate compliance with State law and District procedures, and there is an increased risk that needed services will not be acquired at the lowest and best cost consistent with desired quality.

Recommendation: The District should ensure that competitive procurement procedures are properly applied in accordance with State law and District procedures.

Finding 3: Evaluation of Competitive Proposals

State law¹⁹ and District procedures²⁰ require competitive procurement procedures be used for purchases of design-build services. Pursuant to District procedures,²¹ proposals received in response to a competitive procurement solicitation issued pursuant to such procedures are to be evaluated based only on the criteria established in the solicitation.

In addition, in its *Global Best Practices*, the NIGP recommends:

- Use of clearly defined criteria for procurement decisions.
- A clear understanding by evaluation committee members of how criteria and scoring should be applied.
- Use of a consistent approach when scoring against preannounced criteria.
- Transparency of the selection criteria and evaluation process.
- Establishment of an appropriate evaluation committee to review and score proposals.

Six of the nine procurements for construction, engineering, and maintenance services we examined were for competitively procured design-build services. Our examination of District records for the six procurements of design-build services disclosed that evaluations of proposals submitted by responding firms for three procurements, totaling \$24.1 million, were not conducted in accordance with District procedures or NIGP best practices. Specifically:

- Written instructions were not available to guide District employees in applying criteria to evaluate and rank proposals submitted by the responding firms. Written instructions provide clarity, enhance evaluation committee member understanding, and promote consistency when evaluating and ranking proposals, and thereby reduce the risk that the best firm will not be selected at the best price.
- Evaluation criteria were not always clearly defined and documentation explaining the judgments and decisions made in evaluating and ranking the proposals was not prepared and retained by the District employees evaluating the proposals. The lack of clearly defined criteria and evaluation documentation limits transparency and the District's ability to justify selection decisions. We noted that:
 - One of the procured services involved the design and construction of a stormwater pumping station and one of the evaluation criteria used to evaluate the three proposals submitted in response to the related RFQ was "past performance." However, this term was not defined in the RFQ. Since written instructions were not provided to the District employees and the District employees did not prepare records explaining how the criterion was applied in the firm rankings, it was not clear if the District employees interpreted the term to mean the responding

¹⁹ Chapter 2007-0285, Laws of Florida, and Section 287.055, Florida Statutes.

²⁰ *North Springs Improvement District Procurement Procedures* page 1, item (2).

²¹ *North Springs Improvement District Procurement Procedures* pages 3 and 4, item (d)5.

firm's longevity, overall historical performance with all customers, or past performance with the District. The firm awarded the contract for \$4.1 million was ranked the highest for "past performance" although the firm had only been in existence for 2 years at the time of the award. The other two responding firms were ranked lower for this criterion even though they had been in existence for 2 and 7 years, respectively. The engineer of the firm awarded the contract was a former District board member, and a District employee²² owned the firm. In response to our audit inquiry, District management indicated that the engineer's extensive prior experience with the District was considered when evaluating and ranking the past performance criterion.

While awarding a contract to a District employee is specifically allowed by State law,²³ the sensitivity associated with such awards necessitates that adequate procedures be put into place to document the propriety and appropriateness of resulting contracts. Clearly defined evaluation criteria in RFPs and RFQs, along with written instructions for District employees when applying those criteria and records explaining evaluation and ranking judgments, would provide assurances regarding the propriety and appropriateness of the District's procurement process.

- The evaluation criteria for the three procurements were not always identified and clearly defined as the procurement solicitations listed either eight or nine evaluation criteria but stated that evaluations would not be limited to those criteria. Additionally, the evaluation criteria listed in the solicitations were not always consistent with the criteria used to evaluate the bids. For example, when evaluating two of the procurements (each for approximately \$4 million), consideration was given to "M/WBE Participation" (minority and women-owned enterprises) and "Recent, Current, & Projected Workloads"; however, those two criteria were not included in the related procurement solicitations. Conversely, listed criteria such as past performance, locations, and prior work history were not always considered in the evaluation process. In response to our inquiry, District management indicated that the criteria used in the evaluations are "basically the same" as those listed in the solicitations. Notwithstanding District personnel assertions regarding the similarities, without clearly defined criteria and a complete list of evaluation criteria in the procurement solicitations, the District may not receive the best and most appropriate information from the responding firms. That, in addition to not consistently applying criteria during the evaluation process, limits the District's ability to demonstrate effective and informed procurement decisions.
- For one procurement totaling \$15.4 million,²⁴ each criterion was assigned a weight in the evaluation process; however, the criteria weightings were not disclosed in the related competitive solicitation. In addition to reducing transparency, not informing interested and potential responding firms as to the relative significance and importance of individual criteria may limit the ability of responding firms to provide their best and most appropriate information for consideration by the District, which, in turn, may limit the District's ability to select the best and most favorable firm for the desired services.

Additionally, our audit procedures disclosed inconsistencies in the number of individuals that constitute committees responsible for evaluating proposals submitted in connection with competitive solicitations. Specifically, we noted that for two procurements for design-build services totaling \$15.4 million and \$4.1 million, respectively, a single individual comprised the evaluation committee. In contrast, three individuals comprised the evaluation committee for another procurement for design-build services totaling

²² The employee was the Assistant District Manager at the time of the award in 2017 and was subsequently appointed District Manager in 2019.

²³ Section 112.313(7)(a)1., Florida Statutes.

²⁴ This amount represents task orders totaling \$15,400,250 reviewed under audit associated with the procurement of continuing design-build services acquired pursuant to RFQ 2021-02.

\$4.6 million. In response to our audit inquiry, District management indicated that the committee size depends on the availability of staff, the experience of staff, complexity of the project, and management's discretion. Notwithstanding, having an appropriate and sufficient number of people serve on such committees provides the opportunity for different perspectives in the evaluation process and helps mitigate instances of unintended biases that may arise during that process.

Recommendation: The District should enhance its written procurement procedures for the evaluation and rankings of proposals received in response to competitive solicitations. Such enhancements should:

- **Ensure that evaluation criteria are clearly defined in competitive solicitations and that any weighting that will be applied to those criteria during the evaluation process is specified.**
- **Require provision of written guidance and instructions to individuals assigned responsibility for evaluating and ranking proposals. Such guidance and instructions should explain how the evaluation criteria should be applied.**
- **Require individuals evaluating and ranking proposals to document their judgments and decisions.**
- **Ensure that criteria used to evaluate proposals are consistent with the criteria listed in the related solicitations.**
- **Provide for the assignment of a sufficient and appropriate number of qualified personnel to serve on evaluation committees. If a sufficient number of qualified individuals within the District are not available to serve on an evaluation committee, consideration should be given to including qualified individuals from other public or nonprofit entities.**

CONTRACTOR PERFORMANCE GUARANTEES

Finding 4: Contractor Performance Guarantees

Entities contracting with the District to construct buildings or otherwise construct a District public work (project) are required by State law²⁵ to guarantee the performance of the construction work in the time and manner prescribed in the contract by executing and delivering a payment guarantee to the District. In the event of nonperformance by the contractor, the amount of the guarantee is payable to the District. These guarantees include letters of credit, payment and performance bonds, or other forms of security, and protect the District's interests in the event of a contractor's unsatisfactory performance or inability to complete a project.

The District includes language in its standard construction contracts requiring contractors to provide appropriate performance and payment bonds as guarantees of performance that should protect the District's interests and ensure compliance with State law. However, our examination of District records for six construction projects totaling \$35.1 million disclosed that, contrary to State law and District contracting practices, the District did not obtain guarantees of performance for four construction projects totaling \$27.8 million. Specifically:

- In response to our inquiries, District management indicated that a payment guarantee (i.e., performance bond) was not obtained for one project due to District staff oversight.

²⁵ Section 255.05, Florida Statutes.

- For another construction project, although the contract provisions required a performance and payment bond, according to District personnel, a payment guarantee was not obtained because District personnel initially believed the project was for design services only, and the District did not require payment guarantees on design services. Notwithstanding, since the project included construction services, a payment guarantee was required. In June 2023, subsequent to our inquiries, District personnel indicated that a performance bond would be obtained for this project. However, in response to our further inquiries in October 2023, District personnel stated that no such guarantee was obtained by the District due to the District's belief that a guarantee was not required by State law.²⁶
- Similarly, for another project, although the contract provisions required a performance and payment bond, District personnel indicated that no such guarantee was obtained due to the District's belief that a guarantee was recommended but not required by State law.
- For the remaining project, District management indicated that they initially believed a payment guarantee was only required for the construction portion of the contract. Notwithstanding, no performance or payment bond was obtained for any of the services (design, engineering, and construction) prior to commencement of the project.²⁷

Securing a guarantee for payment prior to the commencement of work decreases the risk that the District will be financially obligated to finish work that a contractor fails to satisfactorily complete and demonstrates compliance with State law and the performance and payment bonds provision in District contracts.

Recommendation: To protect the District's interest in the event of a contractor's unsatisfactory performance or inability to timely and appropriately complete a construction project, the District should ensure that applicable contractors provide payment guarantees, such as letters of credit, payment and performance bonds, or other forms of security, prior to commencement of work.

LAND SALE

Finding 5: Land Sale

State law²⁸ provides the District the authority to acquire or dispose of real property within the District for the purposes specified in law. Established policies and procedures that provide guidelines for real property acquisitions and disposals of District-owned real property determined to be surplus are essential to promote efficiency and consistency in real property acquisitions and disposals and ensure that such actions are accomplished in the District's best interest. For example, to assist the District in ensuring that disposals of surplus real properties are in the District's best interest, such policies and procedures should require that independent appraisals be obtained prior to the properties being sold. Such appraisals should be used to ensure that a fair and appropriate value is received from the dispositions of District properties. However, as of October 2023, the District had not established policies and procedures related to real property.

During the period January 2017 through January 2023 the District sold two tracts of District-owned land. While the District obtained an independent appraisal to establish a fair value for one property prior to the

²⁶ Chapter 2007-285, Section 47.(1), Laws of Florida.

²⁷ In this instance the contract was terminated by the District subsequent to the start of construction. The contractor hired by the District to finish the project did provide a payment guarantee.

²⁸ Chapter 2005-341, Section 9.(1), Laws of Florida.

sale, the District did not obtain an appraisal for the other property. That property, a 25-acre vacant tract, was sold to a Florida company for \$4 million in January 2017.²⁹ In response to our audit inquiry, District management indicated that they did not obtain an appraisal because District management and the Board believed that the \$4 million sale price was fair and appropriate based on their knowledge of current land values in that area at the time of sale.

Notwithstanding, obtaining an independent appraisal prior to sale of the property would have better assured the District that it was receiving the most appropriate amount for the property.

Recommendation: The District should establish policies and procedures for real property acquisitions and disposals of District-owned real property. Among other things, the policies and procedures should require independent appraisals of District-owned real property prior to selling such property and instruct District staff to use the appraisals to ensure that the District obtains a fair and appropriate value for the property.

ADMINISTRATIVE ACTIVITIES

Finding 6: Hiring Practices

Effective personnel administration includes controls over establishing and maintaining position descriptions, hiring practices, and employee personnel files. Such controls include, for example:

- Established position descriptions that specify minimum education and experience requirements.
- Procedures requiring the advertising of position vacancies to attract qualified applicants and enhance the opportunity to engage top talent.

The District did not have written policies and procedures for the establishment of position descriptions and, other than the one-page document, *NSID Hiring Process*, that outlined the overall District hiring and new employee onboarding processes, the District did not have written policies and procedures that address the hiring of employees. The *NSID Hiring Process* indicates that District department managers notify the District human resources (HR) office when a position is open and needs to be filled. The HR office then notifies the District Manager to obtain approval to advertise and fill the open position. The open position is advertised on the District Web site, in local newspapers, and on online recruiting Web sites. Applications and resumes submitted by prospective employees are reviewed and interviews scheduled with selected applicants. In response to our audit inquiry, the District Manager indicated that he is responsible for appointing, hiring, promoting, supervising, and terminating all District employees.

During the period October 2021 through December 2022, the District hired three employees. Our examination of District records for two employees disclosed that the employees were hired to fill vacancies in District positions with established position descriptions³⁰ and the position openings were advertised.

Another individual was hired in May 2021 as an administrative assistant at a rate of \$20 per hour. However, the District did not publicly advertise the position nor create an administrative assistant position

²⁹ The District purchased the land in June 2011 for \$2.6 million.

³⁰ Although the District did not have policies and procedures requiring the establishment of position descriptions, for these employees, positions descriptions were noted in their personnel files.

description. The individual hired was the daughter of the owner of one of the District's contractors, and District management was aware of that relationship at the time the individual was hired.³¹ Upon the individual's separation from District employment in July 2021, the administrative assistant position was not advertised to be filled. According to District management, the individual was "hired in a temporary capacity to fulfill an immediate need in an entry level position," and the individual "heard about the position based on her being on site helping her father who was a contractor to the District."

Establishment of position descriptions enumerating each position's qualifications and duties and efforts to ensure that all hiring activities are conducted in accordance with established policies and procedures help to avoid the appearance of improprieties, promote an ethical work environment, and increase assurance that only qualified individuals are hired to perform the duties of the applicable positions.

Recommendation: We recommend that the District adopt written policies and procedures to direct all hiring activities and the establishment of position descriptions that specify the job duties and minimum education and experience requirements for all District positions. We also recommend that the District advertise all open positions.

Finding 7: Background Screenings

Background screenings provide assurance that individuals in positions of special trust, responsibility, or sensitivity have suitable backgrounds for those positions. District procedures provide that a "brief background check" is to be completed for all candidates for District employment.

In response to our inquiry for clarification as to what a "brief background check" entailed, District personnel stated that the District pays a monthly fee to utilize a vendor's software application³² to perform criminal background checks for District employees. District personnel also stated that a check of local county records, such as the Broward County Clerk of Courts Web site, is conducted to identify whether applicants have criminal histories. While it is the District's practice to perform background screenings on all applicants prior to employment, the absence of an official policy clarifying what a "brief background check" should entail increases the risk that background screenings will not be consistently performed for all applicants, thereby increasing the risk that hired individuals may have backgrounds that are unsuitable for their positions.

To determine whether the District conducted appropriate background screenings, we requested records evidencing screenings for two of the three employees hired during the period October 2021 through December 2022 and the employee hired in May 2021. However, the District did not provide records evidencing that background screenings had been conducted for any of the three employees because, according to District management, the results of conducted screenings were not retained as no criminal histories were identified. Without the retention of background screening records, the District cannot demonstrate that screenings were performed. District management indicated that going forward the results of background screenings conducted for applicants will be printed and retained.

³¹ Because the Board is not required to authorize new hires, the new hire was not brought before the Board for consideration, and Board meeting minutes did not disclose that the Board members were aware of the individual's relationship to a District contractor.

³² LexisNexis Accurint.

Recommendation: We recommend that the District enhance its policies and procedures to clarify and specify what constitutes a “brief background check” and to require the retention of appropriate documentation evidencing the performance and results of background screenings.

OBJECTIVES, SCOPE, AND METHODOLOGY

The Auditor General conducts operational audits of governmental entities to provide the Legislature, Florida’s citizens, public entity management, and other stakeholders unbiased, timely, and relevant information for use in promoting government accountability and stewardship and improving government operations. Pursuant to Section 11.45(3)(a), Florida Statutes, the Legislative Audit Committee, at its January 26, 2023, meeting, directed us to conduct this operational audit of the North Springs Improvement District (District).

We conducted this operational audit from February 2023 through October 2023 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

This operational audit of the District focused on selected process and administrative activities. For those areas addressed by this audit, our objectives were:

- To evaluate management’s performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities in accordance with applicable laws, administrative rules, contracts, grant agreements, and other guidelines.
- To examine internal controls designed and placed in operation to promote and encourage the achievement of management’s control objectives in the categories of compliance, economic and efficient operations, the reliability of records and reports, and the safeguarding of assets, and identify weaknesses in those internal controls.
- To identify statutory and fiscal changes that may be recommended to the Legislature pursuant to Section 11.45(7)(h), Florida Statutes.

This audit was designed to identify, for those programs, activities, or functions included within the scope of the audit, weaknesses in management’s internal controls significant to our audit objectives; instances of noncompliance with applicable governing laws, rules, or contracts and instances of inefficient or ineffective operational policies, procedures, or practices. The focus of this audit was to identify problems so that they may be corrected in such a way as to improve government accountability and efficiency and the stewardship of management. Professional judgment has been used in determining significance and audit risk and in selecting the particular transactions, legal compliance matters, records, and controls considered.

As described in more detail below, for those programs, activities, and functions included within the scope of our audit, our audit work included, but was not limited to, communicating to management and those charged with governance the scope, objectives, timing, overall methodology, and reporting of our audit; obtaining an understanding of the program, activity, or function; identifying and evaluating internal controls significant to our audit objectives; exercising professional judgment in considering significance

and audit risk in the design and execution of the research, interviews, tests, analyses, and other procedures included in the audit methodology; obtaining reasonable assurance of the overall sufficiency and appropriateness of the evidence gathered in support of our audit findings and conclusions; and reporting on the results of the audit as required by governing laws and auditing standards.

Our audit included transactions, as well as events and conditions, occurring during the October 2021 through December 2022 audit period, and selected actions taken prior and subsequent thereto. Unless otherwise indicated in this report, these transactions and records were not selected with the intent of statistically projecting the results, although we have presented for perspective, where practicable, information concerning relevant population value or size and quantifications relative to the items selected for examination.

An audit by its nature does not include a review of all records and actions of management, staff, and vendors and, as a consequence, cannot be relied upon to identify all instances of noncompliance, fraud, abuse, or inefficiency.

In conducting our audit, we:

- Reviewed applicable laws, ordinances, and policies and procedures, and interviewed District personnel to gain an understanding of the District's responsibilities and processes and to determine whether the District had established effective policies and procedures for District functions, such as procurement, human resources, and ethical requirements.
- Examined the District's meeting minutes for the audit period, and selected meeting minutes prior to that period, to identify any matters significant to the scope of the audit.
- Inquired with District personnel to determine whether the District had established anti-fraud policies and procedures to provide guidance to employees for identifying and communicating known or suspected fraud to appropriate individuals.
- Determined whether the District had established adequate controls and safeguards related to related party transactions and conflicts of interest.
- Examined Commission on Ethics records to determine whether the three members of the Board Supervisors and two District employees employed during the audit period, filed statements of financial interests for the 2021 calendar year, as required by Section 112.3144, Florida Statutes.
- Evaluated District policies and procedures for identifying potential conflicts of interest. Additionally, for the three members of the District's Board of Supervisors and two District employees employed during the audit period, we reviewed the Department of State, Division of Corporations, records; statements of financial interests filed for the 2021 calendar year; and District records to identify any relationships that represented potential conflicts of interest.
- For the October 2021 land purchase for \$32 million, the only land purchase during the audit period, examined District records to determine whether the purchase was made in accordance with Chapter 2005-341, Laws of Florida, and best practices.
- To determine whether the District was authorized to purchase the Heron Bay Golf Course (HBGC), the purchase served a valid public purpose, and the District disposed of the HBGC in a prudent manner, examined District records supporting the following events related to the HBGC purchase and disposition:
 - November 2019 – The District inquired with the seller's realtor about potentially purchasing the HBGC.

- November 4, 2020 – The District Manager presented the Board of Supervisors with an analysis regarding the benefits of purchasing 150 acres from the seller.
- March 2021 – The District purchased 220 acres for \$32 million with the intent of keeping 150 acres and selling the remaining 70 acres.³³
- June 2021 – The Board approved the sale of 70 acres and the use of a request for proposal (RFP) for the sale and development of the land.
- September 2021 – The District formed a selection committee consisting of three District representatives, two City of Coral Springs representatives, two City of Parkland representatives, and two Heron Bay Community Association representatives to evaluate proposals received from responding developers.
- October 2021 – The selection committee evaluated three development proposals in the amounts of \$30 million, \$23.5 million, and \$20.8 million, ranked the RFP responses, and presented the highest ranked response to the Board.
- November 2021 – A group of citizens filed a lawsuit to enjoin the District from selling the land for commercial use. Additionally, the District was not able to come to a satisfactory negotiation regarding the buyer's proposed development activities.
- March 2022 – The Board directed District management to redo the process with a new RFP.³⁴
- April 2022 – A selection committee of District personnel evaluated three development proposals in the amounts of \$38.5 million, \$32 million, and \$21 million.
- May 18, 2022 – During the negotiation period, the District sent each developer that submitted a proposal a supplemental information request asking if the purchase price offered would remain the same should certain land covenants or other stipulations be enforceable. The developer that proposed a purchase price of \$32 million subsequently reduced its offer to \$25.4 million.
- September 2022 – Prior to District management gaining Board approval to begin negotiations with the developers, the City of Parkland offered to purchase the land for \$25.4 million, the same price offered by one of the developers. The District sold the land to the City of Parkland for \$25.4 million.
- Inquired of District personnel and reviewed the Broward County Property Appraiser's Web site to identify any other District land dispositions during the audit period. We also examined District records for one parcel of land sold for \$4 million in January 2017 to determine whether the disposition was made in accordance with Chapter 2005-341, Laws of Florida, and best practices.
- From the population of 64 procurements of goods and services totaling \$36.2 million that were active during the audit period, examined District records for 6 selected procurements for goods and services, totaling \$19.7 million, to determine whether the goods and services were procured in accordance with Chapter 2007-285, Laws of Florida; Sections 287.055(2)(g) and (5), Florida Statutes; District procedures; and National Institute of Governmental Purchasing guidance and best practices.
- From a population of 25 procurements, for services totaling \$32.5 million relating to four companies identified in our analytical procedures that could potentially be related parties to District management during and prior to the audit period, examined District records for 3 selected procurements for services totaling \$16.5 million to determine whether the services were procured in accordance with Chapter 2007-285, Laws of Florida; Section 287.055(2)(g) and (5), Florida Statutes; District procedures; and good business practices.

³³ The seller was unwilling to subdivide the property and the District only needed 150 acres.

³⁴ District Request for Proposal No. 2022-031.

- To determine whether the District required construction contractors to provide payment guarantees to the District in accordance with Section 255.05, Florida Statutes, and District standard contract language, we examined District records for six construction projects totaling \$35.1 million.
- Examined District records for the three employees hired during the audit period to determine whether the employees were hired in accordance with District procedures and there was evidence of background screenings for applicable employees.
- Inquired with District personnel to determine whether the District made any expenditures or entered into any contracts utilizing the authority granted by a state of emergency declared or renewed on or after July 1, 2021.
- Examined District records, including Board meeting minutes, for the audit period and inquired of District personnel to determine whether any construction or electrical projects with estimated or actual costs exceeding the thresholds specified in Section 255.20, Florida Statutes, were performed using District services, employees, and equipment.
- Communicated on an interim basis with applicable officials to ensure the timely resolution of issues involving controls and noncompliance.
- Performed various other auditing procedures, including analytical procedures, as necessary, to accomplish the objectives of the audit.
- Prepared and submitted for management response the findings and recommendations that are included in this report and which describe the matters requiring corrective actions. Management's response is included in this report under the heading **MANAGEMENT'S RESPONSE**.

AUTHORITY

Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.



Sherrill F. Norman, CPA
Auditor General

MANAGEMENT'S RESPONSE



North Springs Improvement District

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Coral Springs, FL 33076
Phone: (954) 752-0400 • Fax (954) 755-7317

November 16, 2023

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Tallahassee, FL 32399-1450
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RE: North Springs Improvement District Preliminary and Tentative Audit Findings
Responses to Operational Audit

Dear Ms. Norman:

Enclosed herein is the North Springs Improvement District written statement of explanation of the Preliminary and Tentative Audit Findings Responses to Operational Audit dated November 1, 2023.

Please let me know if you have any questions or need additional information.

Vincent Moretti
President, Board of Supervisors
North Springs Improvement District

Enclosure

**North Springs Improvement District
Responses to Preliminary and Tentative Audit Findings
Operational Audit 2023**

Competitive Procurement Procedures

Finding 1: District procurement procedures did not provide adequate time for interested parties to respond to competitive solicitations.

Response: This finding has been corrected. District staff recognizes there is an added value to providing additional time to respond to competitive procurement. District staff referred to Chapter 2007-285, Section 47 and the District's Procurement Policy for guidance and it states, "notice of bids shall be advertised once in a newspaper in general circulation in the county and in the district" and does not state the required number of days to provide for response time.

The District has enhanced the competitive procurement procedures to provide response times consistent with other state laws, NIGP guidance, and best practices, including Section 255.0525 FS.

Finding 2: Contrary to State law, the District did not always use a competitive procurement process when acquiring goods and services.

Response: This finding has been corrected. By way of explanation, RFP 2016-09, Deep Injection Well, the design-build project was awarded pursuant to an existing continuing services agreement. The continuing services agreement was competitively procured in accordance with the Consultants Competitive Negotiation Act (CCNA). In June 2019, this project was then re-assigned pursuant to a "Partial Assignment, Assumption and Consent Agreement for Deep Injection Well Project (RFP 2016-09)" to the subcontractor upon the advice and guidance of legal counsel, without recognition of any issues regarding the \$4 Million limit on continuing service contracts. District Counsel at the time is no longer with the District.

Regarding the Landscaping and Property Maintenance Services" contract, staff utilized the Request for Quote procurement method due to the expectation it would be below the sealed bid threshold due to the specs. The amount of the lowest quote was \$153,000.00 annually. The agreement did include the option to renew for up to three (3) years. Staff was of the understanding the cost of the contract was the amount that was the annual cost of \$153,000.00, not the potential total of the years combined. The most recently approved Landscape Maintenance Contract with the District (post audit) is for a single year with no renewals.

Procurement policies and procedures have been updated in accordance with NIGP recommendations.

Finding 3: The District's process for advertising competitive procurements and evaluating vendor responses needs enhancement.

Response: This finding is being corrected. The District is enhancing the written procurement procedures for the evaluation and rankings of proposals received in response to competitive

solicitations. These enhancements will include, but are not limited to, ensuring evaluation criteria is clearly defined in competitive solicitations, provisions of written guidance and instructions to individuals assigned responsibility for evaluating and ranking proposals, require individuals evaluating and ranking proposals to document their judgments and decisions, ensure criteria used to evaluate proposals is consistent with the criteria listed in procurement documents used for solicitations and provide for the assignment of a sufficient and appropriate number of qualified personnel to serve on evaluation committees. If a sufficient number of qualified individuals within the District are not available to serve on the committee, the District will consider including qualified individuals from other public or non-profit entities.

Contractor Performance Guarantees

Finding 4: Contrary to State law and standard District construction provisions, the District did not always obtain guarantees of performance from contractors prior to the commencement of work.

Response: This finding will be corrected. The lack of payment and/or performance bonds on certain projects were due to a misunderstanding of the requirements. The District will ensure that applicable contractors provide payment and completion guarantees, such as letters of credit, payment and performance bonds, or other forms of security, prior to the commencement of work in accordance with Section 255.05, *Florida Statutes*.

Land Sale

Finding 5: The District did not obtain an independent appraisal prior to selling a parcel of land for \$4 million.

Response: The District concurs with that finding. By way of explanation, the District purchased the land known as the “Bishops Pit” in 2011 for \$2,575,000.00 for a reuse facility. After lengthy litigation with Broward County, it was determined the District would obtain it’s reuse from Broward County, and therefore, the facility was not constructed. Therefore, in 2017, the District sold the land for \$4,000,000.00, which was \$1,425,000.00 above the purchase price. It is not a regular practice of the District to sell or purchase property, but does concur that it will be beneficial for the District to establish policies and procedures for real property acquisitions and disposals of District-owned property. These policies and procedures will include, but will not be limited to, requiring independent appraisals of District-owned property prior to selling such property and the use of said appraisals to ensure the District obtains a fair and appropriate value for the property.

Administrative Activities

Finding 6: Other than a one-page document outlining the hiring and new employee onboarding processes, the District lacked written policies and procedures for hiring employees. In addition, the District lacked procedures for establishing position descriptions and hired an individual without publicly advertising the position or establishing a position description.

Response: The District concurs with this finding. The District does recognize and agree that written policies and procedures to direct all hiring activities and advertising all available positions will be beneficial. The District will promptly implement the recommendation. However, please

note that Section 304 in the Employee Handbook covers the District's Job Description policy, and the job descriptions are updated periodically.

Finding 7: The District's background screening requirements for prospective employees should be clarified. Additionally, the District did not retain background screening documentation to evidence the conduct and results of the screenings.

Response: The District concurs with this finding. The District has enhanced the policies and procedures to clarify and specify what constitutes a "brief background check" and to require the retention of appropriate documentation evidencing the performance and results of background screenings.