



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Office of Internal Audit • 7833 Walker Drive, Suite 425 • Greenbelt, Maryland 20770

September 29, 2018

To: Joseph Zimmerman, Secretary-Treasurer
Stacey Pearson, Chief, Purchasing Division

From: Renee Kenney, Chief Internal Auditor *Renee M Kenney*

Re: Management Advisory Memorandum
M&N Contracting, LLC

Background

The Office of Internal Audit (OIA) initiated a review of two (2) Commission contracts with M&N Contracting, LLC (M&N) on August 15, 2017. The review was prompted by an anonymous claim that M&N was not paying their employees mandated County (Montgomery and Prince George's) minimum wage. M&N is located in Silver Spring, Maryland and provides cleaning services.

Contracts:

- Contract #350394 was approved in February 2015 and provides for cleaning services at the Montgomery Regional Offices in Silver Spring, Maryland. The original contract was in the amount of [REDACTED] (annual), paid monthly, with two (2) additional one (1) year renewal periods.
- Contract #350143 was approved in August 2014 and provides for cleaning services at the Maryland-National Capital Park and Planning Commission (M-NCPPC) Sports and Learning Complex in Landover, Maryland. The original contract was in the amount of [REDACTED] (annual) and included three (3) one (1) year renewal periods. Change Order #2 was recently received from M&N to extend the contract term to August 31, 2018, with requested rate increases. The Change Order is under review by M-NCPPC management.

Note: Both contracts include a compliance clause that states "The Contractor agrees that it shall comply with all applicable provisions under the Commission's Purchasing Manual, Practices, Rules and all other Commission regulations and with all applicable Federal, State, and local laws pertaining to the payment and withholding of wages, worker's compensation, equal opportunity employment, and the subject matter and performance of this Contract."

Scope of Review

On August 22, 2017, at the request of OIA, M&N provided a summary of their payroll records for all personnel assigned to M-NCPPC facilities for time worked March 1, 2015 – July 31, 2017. Upon review of the submitted documentation, the OIA identified discrepancies in the rates of pay reported when compared to actual employee paystubs obtained during the course of the review. The rates reported on the spreadsheet were more than the employee's actual rate.

Consequently, the OIA asked to review M&N's original payroll records from ADP Payroll Services (ADP). On August 31, 2017, M&N accommodated the request and allowed OIA to review their original payroll records at their office in Silver Spring, MD. During the review of the payroll documentation, the OIA identified several employees that were not being paid the required local/county minimum wage. Per Ms. Reveca Navarrete, Office Manager, they were aware of the local requirements, but opted to pay Maryland State minimum wage.

On September 15, 2017, the OIA contacted Mr. Mauricio Navarrete, President and Mr. Oscar Navarrete, General Manager of M&N to gain additional information on why their company chose not to comply with local wage laws and to determine if they had a plan to remedy employee wage underpayments.

M&N provided the following response on September 22, 2017:

"M&N Contractors, LLC did not choose to be in non-compliance with local wage laws as you have stated. The solicitations and respective contracts M-NCPPC Contract Number 35094 and M-NCPPC Contract Number 350143 are both silent and lacked specificity in minimum wage requirements. It was only after the review of your letter of September 15, 2017 that M&N LLC became aware of the specific contractual wage requirements and effective dates at each locale. Further, you referred to compliance "...with all applicable provisions under the Commission's Purchasing Manual." Section 17-530 entitled "Monitoring", specifically states (a) The Contract/Construction Manager shall monitor each contract for conformance with the terms and conditions of the Contract; and (e) At a minimum the following steps must be taken to monitor Contractor performance (2) Communicate with suppliers/Contractors to assure understanding of the requirements within the boundaries of the Contract documents. This required communication did not occur."

M&N also provided remediation calculations for their employees providing services at M-NCPPC facilities. M&N identified \$42,008.31 in salary underpayments. A summary of the remediation plan is attached (**Exhibit A**).

Conclusion/Recommendation

Based on the above information, the OIA reasonably concludes that M&N Contractors, LLC are in breach of both contracts (Contract #350394 and Contract #350143) due to their failure to comply with local laws pertaining to the payment and withholding of wages. In addition, the OIA reasonably concludes, M&N's statement that the contracts lacked specificity in minimum wage requirements is without merit and does not excuse their obligation to adhere to local minimum wage requirements.

In addition, although M&N has provided a remediation plan, the OIA cannot reasonably opine as to the plan's accuracy or completeness.

As a steward of public funds, it is essential that M-NCPPC always exhibit a high level of fiduciary responsibility. As such, the OIA recommends that appropriate Commission management direct M&N to obtain written verification of its compliance with applicable minimum wage requirements from the Maryland Department of Labor, Licensing and Regulation¹ (DLLR). If written verification is not received within a reasonable time frame, the OIA recommends that the Commission notify DLLR directly and proceed to terminate the Contracts with M&N per the agreed upon Contract terms.

Cc:

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¹ Agency responsible for enforcing Montgomery County and Prince George's County minimum wage law.

**Exhibit A
M&H Remediation Plan**

Contract #320375 - MRO

January 1, 2012 – February 28, 2015

Employee	Underpayment Amount
█	\$12,822.00
█	5,458.00
█	1,760.00
█	1,099.00
█	532.00
█	4,781.75
█	42.00
TOTAL	\$26,494.75

Contract #350143 - Sportsplex

September 1, 2014 – August 31, 2016

Employee	Underpayment Amount
█	\$1,008.75
█	13.75
█	59.63
█	60.50
█	164.25
█	30.38
█	34.63
█	249.75
█	33.75
█	140.25
█	618.25
█	48.00
█	1,342.88
█	122.50
█	359.63
█	68.63
█	444.00
█	1,370.63
█	515.00
█	31.50
█	3.50
█	82.88
█	76.63
█	428.25
█	186.25
█	28.88
█	159.50
█	108.13
█	218.63
█	32.00
█	888.75
TOTAL	\$8,930.06

Contract #320375 - MRO

March 1, 2015 – September 15, 2017

Employee	Underpayment Amount
█	\$3,195.00
█	1,664.25
█	1,639.25
█	25.00
█	60.00
TOTAL	\$6,583.50