



John A. Carey
Inspector General

OFFICE OF INSPECTOR GENERAL
PALM BEACH COUNTY



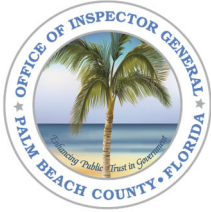
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“Enhancing Public Trust in Government”

**Contract Oversight Report
CA-2022-0023**

**Village of North Palm Beach
Review of J. W. Cheatham LLC.
Piggyback Contract**

August 21, 2023



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CONTRACT OVERSIGHT REPORT CA-2022-0023

DATE ISSUED: AUGUST 21, 2023



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VILLAGE OF NORTH PALM BEACH – REVIEW OF J.W. CHEATHAM LLC. PIGGYBACK CONTRACT

SUMMARY

WHAT WE DID

The Palm Beach County Office of Inspector General (OIG) conducted a review of the Village of North Palm Beach's (Village-NPB) procurement process that resulted in the Village-NPB Council voting to award a contract (Piggyback Contract) to J.W. Cheatham, LLC (Cheatham).

On September 23, 2021, the Village-NPB Council voted to piggyback on a 5-year miscellaneous public works and minor construction project contract between Cheatham and The City of Palm Beach Gardens (City-PBG) to perform milling, resurfacing and striping on specified Village roadways (Kingfish Road, Dogwood Road, Lagoon Drive, Westwind Drive, Fairwind Drive, Golfview Drive, McClaren Road, and Inlet Road).

The OIG's review commenced after our office received a complaint on February 22, 2022, asserting that the Village-NPB improperly piggybacks on other government contracts and "has adopted a policy of entering into contracts based on piggy backing [sic] but shortly thereafter awards the Contractor with lucrative change orders in violation of said contracts." Specifically, the complainant

stated that the Village-NPB Council approved a change order with Cheatham, which was not in accordance with the terms of the "original contract."

Our review included examining the Village-NPB and the City-PBG's procurement and contract award process, the relevant proposals and contract documents, and Village-NPB Council meeting agendas, minutes, and audio files. We also interviewed individuals directly involved in the Village-NPB contracting process, including the Village-NPB Public Works Director/Acting Village-NPB Manager and the Assistant Public Works Director, as well as the City-PBG Purchasing & Contracts Director.

We identified the following issues for review:

Issue (1): The Village-NPB improperly used its piggyback procurement process when it entered into a contract with Cheatham.

Issue (2): The Village-NPB did not obtain a required payment and performance bond from J.W. Cheatham prior to the contractor commencing work and the Village-NPB making payments to Cheatham.

WHAT WE FOUND

Issue (1): Substantiated. The Village-NPB improperly used its piggyback procurement process to enter into a contract with Cheatham, in violation of the Village-PBG's *Accounting Policies and Procedures Manual for Internal Controls; Purchasing Policy*.

We found the scope of the Village-PBG contract awarded to Cheatham and subsequent change orders exceeded the scope of the City-PBG contract upon which the Village-NPB piggybacked.

We identified \$335,247.82 of the \$713,679.69 paid to J.W. Cheatham as questioned costs.¹

Issue (2): Substantiated. The Village-NPB did not comply with s. 255.05(1), F.S., by not requiring Cheatham to execute and record, in the public records of Palm Beach County, a payment and performance bond with a surety insurer authorized to do business in this state, prior to Cheatham beginning work. Also, the Village-NPB did

not comply with s. 255.05(1)(b), when it paid the Contractor without receiving a certified copy of the recorded bond.

WHAT WE RECOMMEND



This report contains two (2) findings, and three (3) recommendations that will assist the Village-NPB in strengthening internal controls and enhance compliance with applicable laws and policies.

The Village-NPB concurred and accepted the recommendations. We have included the Village's management response in our report.

¹ Questioned costs can include costs incurred pursuant to a potential violation of a provision of law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds, and/or a finding that such costs are not supported by adequate documentation, and/or a finding that the expenditure of funds for the intended purpose is unnecessary or unreasonable in amount. As such, not all questioned costs are indicative of potential fraud or waste.

BACKGROUND

The State of Florida encourages open and competitive procurement practices.

“The Legislature recognizes that fair and open competition is a basic tenet of public procurement; that such competition reduces the appearance and opportunity for favoritism and inspires public confidence that contracts are awarded equitably and economically.”

[Online Sunshine leg.state.fl.us/statutes](http://leg.state.fl.us/statutes) (287.001
Legislative intent. F.S.)

The objectives of competitive bidding by public agencies are the following: to protect the public against collusive contracts; to secure fair competition upon equal terms to all bidders; to remove not only collusion but the temptation for collusion and opportunity for gain at public expense; to close all avenues to favoritism and fraud in various forms; to secure the best values for the public at the lowest possible expense; and to afford an equal

advantage to all desiring to do business with the government, by affording an opportunity for an exact comparison of bids.² Fair and equitable contract opportunities enhance public confidence and promotes open competition. Public purchasing establishes the basis for reasonable pricing and transparency in the bidding process. The purchasing processes utilized by public entities for the procurement of construction, supplies, material, and services at the most favorable overall total cost through the utilization of accepted practices that encourage competition, including best value and quality considerations ensuring that the public good is best served (NIGP, 2009)³

The City of Palm Beach Gardens Contract

On August 2, 2020, the City-PBG issued ITB 2020-124PS, *Miscellaneous Public Works Projects*, seeking bids from qualified contractors for a 5-year contractor pool and to establish unit prices and rates for future performance of miscellaneous public works and minor construction projects. The ITB provided:

SECTION 1 SPECIAL TERMS AND CONDITIONS

1.1 PURPOSE

The purpose of this solicitation is to pre-qualify bidders for a contractor pool, and to establish unit prices and rates for future miscellaneous public works and minor construction projects. This initial solicitation provides for the

² *Wester v. Belote*, 138 So. 721, 723-24 (Fla. 1931).

³ Jack T. Pitzer and Khi V. Thai, *Introduction to Public Procurement*, Third Edition (NIGP: The Institute for Public Procurement, 2009) p. 5.

submission of documents and forms intended to verify that the bidder meets or exceeds the minimum criteria set forth elsewhere in this solicitation. Bidders must also submit pricing and rates based on the format and schedule shown in the pricing section of this Invitation to Bid. This Pricing Schedule must be submitted in Excel format. All bidders who meet or exceed the criteria established in this solicitation shall be placed in a Pre-Qualification Vendor Pool that may be accessed by City departments in order to perform miscellaneous public works and minor construction projects for the City of Palm Beach Gardens, Florida.

.....

1.5 METHOD OF AWARD: MULTIPLE VENDORS BY ITEM

The City will award the contract to the two (2) lowest-priced responsive, responsible bidders on an item-by-item basis, as primary and secondary awardees.

.....

1.6 PRICES SHALL BE FIXED AND FIRM

The prices offered by the awarded Bidder shall remain fixed and firm during the contract term, and shall not be subject to any adjustments, except as may be provided elsewhere in the contract.

The City issued four addenda to the ITB:

- Addendum No. 1 issued August 4, 2020:

Question: Could you tell me the estimated budget for the above referenced contract?

Response: The City will allocate Ten Million Dollars (\$10,000,000) for the five-year term of this contract for various miscellaneous public works and minor construction projects, on an as needed basis.

- Addendum No. 2 issued August 17, 2020:

Question: Please describe what makes up the crew in bid line items 87 thru 91. Number of men and equipment.

Response: This information was inadvertently omitted from the Invitation to Bid. Please see below.....

- Addendum No. 3 issued August 19, 2020 addressed multiple questions, including the following:

.....

Question 4: Each individual contract released will require its own Payment & Performance Bond?

Response: Yes; if applicable. This is explained in Section 1.12 of the Invitation to Bid.
[Emphasis added]

- Addendum No. 4 issued August 24, 2020:

Question: Would you be able to send the previously submitted bids as well as our bid from when this bid last, believe it was 2018?

Response: Attached is the Bid Tabulation showing all the offers received for the current contract ITB2014-031PW.

The City-PBG awarded agreements for miscellaneous public works projects in accordance with Bid No. ITB 2020-124PS to thirteen contractors on November 5, 2020 for a five (5) year term effective January 1, 2021, through December 31, 2025. The contractors agreed to perform projects on an as-needed basis as identified in the ITB and under the category of items awarded to each contractor, as detailed in the bid award summary.

The ITB included 211 line items for miscellaneous public works projects. The City-PBG awarded each line item to a primary and secondary contractor based upon a review of the lowest responsive and responsible bidders for each item. Cheatham was one of the

thirteen bidders awarded a contract for specific line items from the ITB. The City-PBG awarded Cheatham as the primary contractor for forty-nine (49) line items, and secondary contractor for twenty-eight (28) line items.

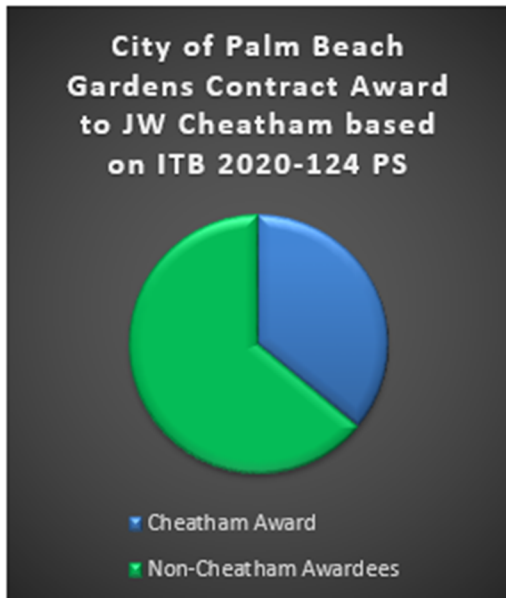


Figure 1

Figure 1 depicts what the City-PBG awarded to Cheatham as primary or secondary awardee from the competitive solicitation issued in August 2020.

During our review, we spoke via telephone with the City-PBG Purchasing and Contracts Director Mr. Km! Ra regarding the City's use and interpretation of its contract with J.W. Cheatham. He said when the need arises, City staff contacts the primary awardee for that line item to obtain a proposal for a given project. In the event the primary is unable to perform, the City contacts the secondary awardee to obtain a proposal. The

vendor only performs services as provided in the contract award.

Village-NPB and J.W. Cheatham Piggyback Contracts and Amendments

The Village-NPB's *Accounting Policies and Procedures Manual for Internal Controls; Purchasing Policy* set forth the procurement methods available to the Village for the

desired work on the identified roads. Depending upon the circumstances, the Village-NPB could issue its own competitive solicitation process via an Invitation to Bid or Request for Proposals, piggyback on another government entity's current contract for labor and materials providing those government contracts identify those specific services or materials, or utilize the emergency procurement method.

The Village-NPB's *Accounting Policies and Procedures Manual for Internal Controls* provides in pertinent part,

Purchasing

Objective

The primary objective of the Village's purchasing operation is to maximize the value of the dollar spent. All Village departments are responsible for accomplishing this objective by planning for future purchase needs and completing them in an economical manner.

.....

Responsibilities of Operating Departments

- Obtain prices on comparable items.

.....

- Plan for purchases to **minimize emergency purchases**.
- Prepare technical specifications and competitive solicitations as needed.
- Evaluate and recommend competitive solicitation awards including facilitating evaluation committees as needed.

.....

- Manage contracts for your area of responsibility ensuring that vendors provide purchased goods, equipment and/or services **in accordance with contract terms and prices**.

.....

Purchasing Policy

Determining Purchasing Methods:

- a. All purchases that are budgeted to exceed \$50,000 on either an annual basis or span across fiscal years such as a "multi-year" contract:
 1. Must be formally advertised in a newspaper of general circulation with the advertisement being no less than fourteen (14) days prior to the opening of bids.
 2. Must be awarded on a sealed bid basis by vote of Village Council.
 3. All competitive solicitations shall be loaded onto the North Palm Beach website and shall be posted on Demand Star for wide distribution to possible vendors

.....

- d. Exceptions – In certain instances exceptions to the above may exist and purchases may be accomplished using alternate methods:
1. Through the use of the emergency purchase provisions as provided for in the Emergency Purchases section of this manual.
 2. When annual contracts exist, i.e. gas, oil, tires, office supplies, etc.
 3. When requirements imposed by federal, state, or county grants provide different regulations.
 4. When the Village Manager deems it appropriate to use procedures of more formality than set out above.
 5. When the Village Council waives the purchasing rules and regulations.

.....

Initiating a Purchase

.....

Requisition Preparation

.....

- f. The Village's purchasing policy **allows management to "piggyback"** on:
1. Current federal supply schedules, U.S. General Services Administration (GSA) or any other federal agency contracts;
 2. Current cooperative purchase contracts; and
 3. **Other state and local government contracts for labor and materials, providing those government contracts identify those specific services or materials required and the government contract is currently in effect.**

If the "piggyback" provision is to be utilized, the operating department will obtain a verbal quote from a secondary qualified vendor to verify the "fair market" value of the item or services sought. If this quote is significantly lower, staff will go through the normal purchasing/bidding procedures. The verbal quote verification procedure will be indicated as part of the back-up material for the purchase.

- g. In the event the "piggy-back" provision is utilized and a "change" in services, outside the scope of the government contract is required, that change will be treated as a "change order" in accordance with this policy.
[Emphasis added]



On September 23, 2021, the Village-NPB Assistant Public Works Director requested Village Council approval for milling, resurfacing, and striping services for the following project locations: Kingfish Road, Dogwood Road, Lagoon Drive, Westwind Drive, Fairwind Drive, Golfview Road, McClaren Road, and Inlet Road. The request also included milling and resurfacing of

Lighthouse Drive, along with ADA improvements and striping the crosswalks at the Anchorage Drive intersection. According to discussions during the September 23, 2021 Council Meeting, the identified roads were selected based on a 2018 pavement condition report regarding Village-NPB roads.

RESOLUTION 2021-85 – Village-NPB First Piggyback Contract with Cheatham

On September 23, 2021, the Village-NPB adopted Resolution 2021-85, awarding a contract to Cheatham for Milling, Resurfacing and Striping of specified⁴ Village-NPB roadways as requested by the Village-NPB Assistant Public Works Director, “pursuant to pricing established in an existing Agreement for Miscellaneous Public Works Projects (ITB 2020-124PS)” with City-PBG. The Village-NPB Council approved the contract for a cost not to exceed \$622,758.50, plus \$17,241.50 in contingency funds, for a combined budget amount of \$640,000.

RESOLUTION 2021-98 First Piggyback Amendment No. 1 (Change Order)

On December 9, 2021, the Village-NPB Council adopted Resolution 2021-98 amending the Piggyback Contract to modify the scope of work to add header curbs and regrade swales⁵ at a total additional cost of \$46,191.90, for a total budget of \$668,950.40.

RESOLUTION 2022-22 First Piggyback Amendment No. 2 (Change Order)

On March 24, 2022, the Village-NPB adopted Resolution 2022-22 approving the Second Amendment modifying the Piggyback Contract,⁶ increasing the cost of the original Piggyback Contract for an additional \$44,729.26.

⁴ Kingfish Road, Dogwood Road, Lagoon Drive, Westwind Drive, Fairwind Drive, Golfview Drive, McClaren Road, and Inlet Road, as well as milling and resurfacing and crosswalk improvements at the intersection of Anchorage Road and Lighthouse Drive.

⁵ At Lighthouse Drive and Anchorage Road.

⁶ To extend the milling and resurfacing eastward on Lighthouse Drive and add additional striping for crosswalks at Lighthouse Drive and U.S. Highway One, as well as intersection striping and shoulder striping.

RESOLUTION 2022-14 Second Piggyback⁷

On February 24, 2022, the Village-NPB adopted Resolution 2022-14 approving a second piggyback contract with Cheatham for Milling, Resurfacing and Striping of specified⁸ Village-NPB roadways for a total price not to exceed \$654,047.60 “subject to adjustments based on the actual quantities in accordance with the unit pricing” set forth in Cheatham’s proposal for a total project budget of \$700,000.

Village-NPB Council approved the issuance of Purchase Order 101862 to J.W. Cheatham for:

- Original Piggyback Contract amount \$622,758.50
- Amendment 1: Change order amount \$46,191.90
- Amendment 2: Change order amount \$44,729.29

Some of the services were identified in the City’s contract, however, the OIG found a considerable number of services were not in a current contract in violation of the Village-NPB’s piggyback provision. Of the \$713,679.69 paid to the Contractor, \$335,247.82 services violated the Village-NPB’s piggyback policy because the non-competed items were not specific services contained in the City’s contract award to the Contractor.

⁷ We did not analyze the appropriateness of this contract.

⁸ Anchorage Drive South, Shore Court, Castlewood Drive, Doolen Court, Wettaw Lane, Lehane Terrace, South East Alley, Northlake Drive, Gull Court, Westwind Drive, Flamingo Way, Northlake Court, Hummingbird Way and Eagle Way

FINDINGS

FINDING (1):

The Village-NPB improperly used its piggyback procurement process to enter into a contract with Cheatham, in violation of the Village-NPB’s Accounting Policies and Procedures Manual for Internal Controls; Purchasing Policy. The Village-NPB piggybacked on a contract between the City-PBG and Cheatham that did not contain all specified services and materials the Village required.

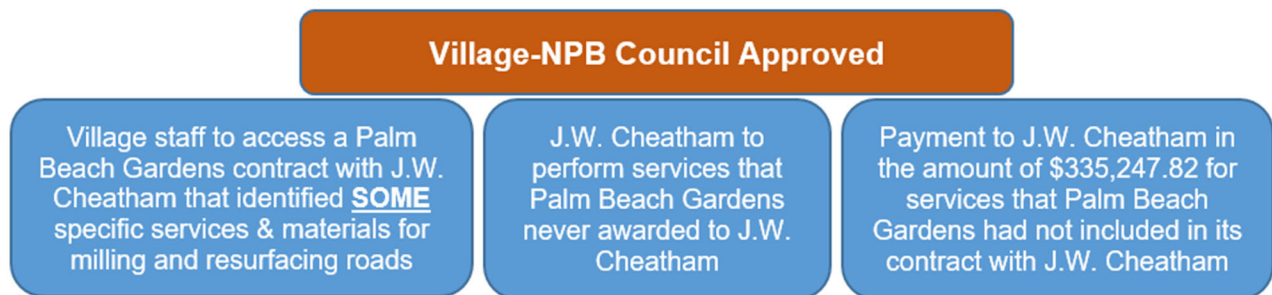
OIG Review

The Village-NPB’s *Accounting Policies & Procedures Manual for Internal Controls* allows the Village-NPB staff to access other governmental entities’ contracts as a piggyback. However, we found that the Village-NPB’s contract with Cheatham significantly expanded the scope of the City-NPB’s original contract award. The Village-NPB’s contract with Cheatham violated the piggyback provision within the Purchasing Policy.⁹ Specifically, the Village-NPB’s contract with the Contractor did not comply with the following section of the Village-NPB’s Purchasing policy that allows management to “piggyback” on:



- 3. Other state and local government contracts for labor and materials, providing those ***government contracts identify those specific services or materials required and the government contract is currently in effect.*** [Emphasis added]

The Village-NPB’s piggyback provision has two criteria to comply with the piggyback requirement; (1) the local government contracts identify those specific services or material and (2) the contract is currently in effect.



⁹ Richard Pennington, January 2012, ‘Piggybacking’ on the Law (of Piggybacking). Hot Topics Legal Pro, www.GOVPRO.com; Accela, Inc. v. Sarasota County, 993 So.2d 1035 (Fla. App. 2 Dist. 2008); In this case “the court held that the contract must be substantially the same as the existing ‘piggybacked’ contract.”

Village-NPB Piggyback Contract: Resolution 2021-85

The Village-NPB originally piggybacked on the City-PBG's contract awarding Cheatham a contract as the primary or secondary awardee on specific line items set forth from the City's ITB 2020-124PS *Miscellaneous Public Works Projects*.

Based on the OIG review of the City-PBG's contract with J.W. Cheatham and the Village-NPB's Piggyback Contract with J.W. Cheatham, we found that the Village-NPB's Piggyback Contract improperly awarded multiple items to Cheatham that were never included within the City-PBG's contract.

On April 7, 2022, the OIG met with, then Village of North Palm Beach Public Works Director, Mr. Charles Huff, and Assistance Public Works Director, Mr. Chad Girard. They explained that the Village-NPB received the Palm Beach Gardens ITB and contract award documentation and reviewed the bid award spreadsheet. After contacting three¹⁰ of the thirteen awardees from the City's bid award, the Village-NPB selected J.W. Cheatham to perform the services the Village needed based on the availability and feedback from references.

Village-NPB Piggyback Contract Amendment 1 Resolution 2021-98

The Village-NPB approved the amendment to the Piggyback Contract for the Lighthouse/Anchorage Intersection via Resolution 2021-98 as Change Order 01 in accordance with the change order section of the Village-NPB's Purchasing policy.

However, the Village-NPB's approval of Resolution 2021-98 (Reference Figure 2) on December 9, 2021 also violated the Accounting Policies and Procedures Manual for Internal Controls policy that allows management to "piggyback" as it was a continuation of an improperly awarded Piggyback Contract. The items approved via Resolution 2021-98 were not competitively competed and awarded to the Contractor.

The modifications to the scope of work consisted of adding header curbs at the outside edge of the asphalt between the new sidewalk approaches and re-grading the swales at the intersections of Lighthouse Drive and Anchorage Drive. These items were not included in the original project scope when Village-NPB Council approved the Piggyback contract.

In reviewing the November 18, 2021 proposal for the Lighthouse/Anchorage intersection change order, two of the six line items were included in the City-PBG ITB (reference Item No. N002, and N005), but were items awarded to Heavy Civil, Flying Scot, and South Florida Building as primary and secondary awardees. The remaining four line items in the change order were Village-NPB project specific costs not included in the City-PBG ITB.

¹⁰ The other contractors contacted were Heavy Civil Inc. and Ranger Construction.

On May 23, 2022, our office met with Mr. Huff, the Interim Village-NPB Manager, and Mr. Girard, regarding the Lighthouse/Anchorage Intersection change order line items based on the complainant-raised concerns regarding the type of curbing selected for this change order stating that it was an expensive curb. Mr. Huff explained the reason the flush header curb was selected opposed to other types of curbing, stating the following:

The Village does not have Type F or Type D curbing throughout the entire Village. Flush header curbs were selected based on the infrastructure of the drainage system through the swales. If Type F or Type D curbs were used for the change order it would have created additional cost to address drainage.

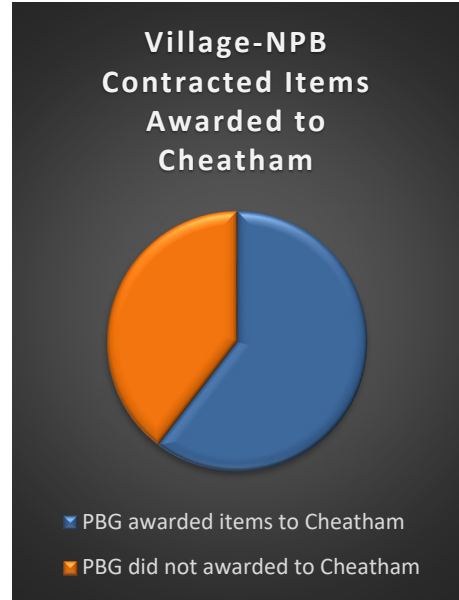


Figure 2

Figure 2 illustrates the comparison between the City-PBG’s contract award to Cheatham versus the award the Village-NPB’s made to Cheatham. Our observations found that the City-PBG’s contract did not identify all specific services or materials the Village-NPB required.



Photo taken on 5-23-22 of a section of the Header Curb at the Lighthouse/Anchorage Intersection

On May 25, 2022, Mr. Huff, emailed the OIG and stated:

...

The decision to use the Gardens contract was in the best interest for the Village and its residents for this type of work and for this project. Unfortunately, the Village does not have the resources such as a larger agency does to procure competitively bid contracts. In fact, the Gardens

contract at that time, was very recent and had the elements needed to complete this project with contractors we would have solicited allowing the Village to save time and obtain better prices and terms than we would have on our own.

Again, the Village does not always piggyback contracts however it is allowed per our purchasing policy and was in the best interest of the Village and the residents of this community.

Our observations found that the City-PBG's contract did not identify all specific services or materials the Village-NPB required. When the Village-NPB used the piggyback process to award a contract to Cheatham and then approved change orders, the Village-NPB included items that had not been included in the City-PBG's award to Cheatham; therefore, we find that the Village-NPB did not comply with its piggyback provision in its purchasing policy.

FINDING (2):

The Village-NPB did not comply with section 255.05, Florida Statutes, by not requiring the Contractor to secure a performance and payment surety bond before beginning work.

OIG Review

Section 255.05(1), Florida Statutes states,

...

A person entering into a formal contract with the state or any county, city or political subdivision thereof, ... for the construction of a public building, for the prosecution and completion of a public work, or for repairs upon a public building or public work shall be required, before commencing the work... to execute and record in public records of the county where the improvement is located, a payment and performance bond with a surety insurer authorized to do business in this state as surety....

...

(b) Before commencing the work..., the contractor shall provide to the public entity a certified copy of the recorded bond. ...the public entity may not make a payment to the contractor until the contractor has complied with this paragraph....

No bond was ever requested or received for the Piggyback contract approved on September 23, 2021.¹¹ The Village-NPB did not receive a performance bond for the first



¹¹ Though this finding represents the same piggyback contract that violated the Village's policy as stated in finding 1, finding 2 would have also identified a question cost amount, but to avoid duplication of question costs amounts, we did not include a question cost figure for finding 2.

piggyback contract, and issued the following payments to Cheatham:

- Check No. 133594 dated 1/7/22 totaling \$575,284 issued for November and December 2021 Invoices;
- Check 134056 dated 2/17/22 for \$66,051.95 issued for January 2022 invoice; and
- Check 134689 dated 4/14/22 for \$72,343.46 issued for February 2022 invoice.

The Village Council approved a second piggyback contract, Resolution 2022-14 to J.W. Cheatham on February 24, 2024 for \$654,047.60. The OIG verified that the Village obtained Bond No. 107581671 dated February 24, 2022 for the second piggyback contract.

A performance bond will protect the owner against possible losses in case a contractor fails to perform or is unable to deliver the project as per established specifications and the contract provisions. The Village-NPB's failure to secure a bond put the Village-NPB at risk that it would have limited recourse to remedy the contractor's default in the performance of the contract.

Recommendations:

- (1) The Village-NPB staff responsible for the procurement function receive training on procurement methods, the use of change orders, and administering the bid process, including the pre-award, award, and post award contract processes.

The use of change orders offers convenience in the face of unforeseen circumstances that requires a project to adjust in the best interest of an entity to function on behalf of its citizenry. However, the use of change orders has the potential to be misused, and the overuse due to poor planning can be perceived as abuse or contract mismanagement.

- (2) The Village-NPB establish a verification process that includes validating contract line items prior to submitting requests to piggyback existing contracts.
- (3) The Village-NPB implement internal controls to ensure that the proper bonds are obtained on construction and public works projects in accordance with the Florida Statutes.

QUESTIONED COSTS

The questioned costs total of \$335,247.82 represents the amount paid in violation of the Town's purchasing piggyback provision that requires a current active government contract that identifies specific services or materials, whereas Village-NPB Council's approval of the piggyback contract included some not all specific items and materials in the City's contract award to J.W. Cheatham. Therefore, the entire amount paid via the contract award and change orders is considered questioned cost.

RESPONSE FROM MANAGEMENT

From: Huff Charles <chuff@village-npb.org>
Sent: Friday, August 18, 2023 9:35 AM
To: Anthony Montero
Cc: Tiffany Thomas; Len Rubin; Girard Chad; Janjua Samia
Subject: RE: Confidential: OIG Draft Report, NPB, CA-2022-0023, JW Cheatham Piggyback Contract

This Message Is From an External Sender

This message came from outside your organization.

Good Morning Mr. Montero,

Thank you for providing us with the draft report, CA-2022-0023, detailing the Office of the Inspector General's review of the contract between the Village of North Palm Beach ("Village") and J.W. Cheatham, LLC ("Vendor"). We appreciate the thoroughness of your investigation and your office's dedication to ensuring adherence to the Village's procurement policies and procedures.

We have reviewed the findings and recommendations outlined in the report. The Village take these matters seriously and is committed to addressing the concerns raised by the OIG. We recognize the significance of compliance with both our internal policies and relevant state statutes during procurement process.

Regarding the violations highlighted in the report, the Village recognizes that when Staff recommended awarding the contract to the Vendor pursuant to pricing established in the existing contract between the Vendor and the City of Palm Beach Gardens ("City"), the Village inadvertently utilized line items for which the Vendor was not the primary or secondary awardee. The use of these line items was by no means an attempt to circumvent the Village's purchasing policies and procedures; rather, the Village mistakenly believed that it could utilize any of the line items with the City's approved vendors to achieve the best price for its residents. Had we recognized this discrepancy, Staff would have requested that the Village Council formally waive any conflicting procurement policies and procedures.

Unfortunately, the Village repeated the same error when it approved the two subsequent amendments or change orders. As a smaller municipality with limited staff, the use of the piggybacking process allows the Village to not only save time, but also to obtain goods and services at a better price and on more favorable terms.

Furthermore, the Village acknowledges its failure to obtain a payment and performance bond for the project as required by Section 255.05, Florida Statutes. The Village recognizes that the bond is required for contracts relating to the construction of public buildings or the completion of public works when the amount of contract exceeds \$200,000. While not offered as an excuse, the Village's Public Works Department was undergoing a period of transition during the time in which the contract was awarded to the Vendor and during this time of transition, the bond requirement was mistakenly overlooked.

Please be assured that the Village takes this report very seriously and accepts each of your office's recommendations. The Village has already taken steps to rectify these issues. In fact, the Village's management team is undergoing comprehensive training to ensure strict compliance with the Village's procurement policies and procedures. The Village acknowledges the importance of rigorously verifying all piggyback requests before they are presented to the Village Council for approval. Furthermore, we have initiated a review of our internal controls to strengthen the process of obtaining necessary bonds for construction and public works projects. This review will

encompass comprehensive checks to ensure that certified copies of recorded performance and payment bonds are secured prior to the commencement of any relevant work as required by law.

The Village of North Palm Beach is committed to transparency, accountability, and continuous improvement in our procurement practices, and your insights from this review will undoubtedly aid the Village in achieving these goals.

Once again, we appreciate the diligent work of the Office of the Inspector General in conducting this review and providing us with valuable feedback. Should you require any further information or clarification, please feel free to contact me.

Sincerely,



Chuck Huff

Village Manager | Village of North Palm Beach
Phone: (561) 904-2122 • Cell (561) 348-0697
501 US1 • North Palm Beach, FL • 33408

ACKNOWLEDGEMENT

The Inspector General's Contract Oversight & Evaluations Division would like to extend our appreciation to the Village of North Palm Beach, and the City of Palm Beach Gardens for the cooperation and courtesies extended to us during the contract oversight process.

This report is available on the OIG website at: <https://www.pbcgov.com/OIG>. Please address inquiries regarding this report to the Contract Oversight & Evaluations Division Director by email at inspector@pbcgov.org or by telephone at (561) 233-2350.