

Nevada County—Challenges in Managing Contracts

2022-2023 Nevada County Grand Jury

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Summary

A prior grand-jury report led the 2022-2023 Nevada County Grand Jury to investigate Nevada County's contract management. The County has no centralized contract-management system, so each County department uses its own approach. The County also lacks enough trained staff to manage contracts and conduct regular audits. This prevents the County from efficiently managing its contracts and from ensuring that vendors are using County funds appropriately. Recent reports that the County commissioned revealed shortcomings in contract-management and uncovered irregularities in two contracts that the County had not realized. The County has initiated a study to address some of the problems. The Jury accordingly has made findings and recommendations to assist the County.

Proper contract management requires follow-ups and audits. The Great Recession resulted in cutting many staffing positions in the County. The Auditor-Controller's office has never returned to pre-recession staffing. This leaves gaps in service. In the fall of 2021, the County pulled together a team through the Chief Executive Officer's office, to research and improve processes in awarding and following up on these matters. Some standards were implemented. The Nevada County Purchasing Department is central in most departments' processes.

The Jury's investigation revealed several areas that the County needs to address to put its contract management on a firmer footing.

- Create a centralized contract management system
- Budget to cover administrative costs for grants without administrative-funding provisions
- Increase staffing for contract management and auditing, both in the Auditor Controller's office and in the Office of Emergency Services
- Provide comprehensive training for County contract-management personnel
- Include certain provisions in contracts with vendors, concerning
 - Advancing contract funds
 - Auditing vendors
 - Nonprofit vendors' bookkeeping methods
 - Nonprofit vendors' conduct
- Restrict contract extensions or amendments to minimal additions to on-going projects, by putting new projects out for bids
- Establish and use a vendor-prequalification system
- Use the bidding process for new projects

Deficiencies in these areas have two adverse effects. First, they prevent the County from properly overseeing contracts to ensure that vendors are qualified and performing their contract obligations promptly and properly. Second, they prevent the County from being able to perform audits to ensure that vendors are spending contract funds appropriately.

Background

A complaint to the California Attorney General’s office in June 2022 regarding the County’s contract-management processes and the findings of a related Grand Jury investigation (2021-2022) initiated the Jury’s investigation.

The Jury found a confusing array of contracts, amendments, and extensions, making it difficult to follow the money the County paid to vendors.

Contract management requires trained personnel who can:

- Ensure financial accountability and accurate reporting to comply with grantor and contract requirements
- Track project progress from beginning to end
- Monitor timely performance
- Review performance quality

Each department is responsible for managing its own contracts in the absence of a centralized contract-management system, although all departments work closely with Purchasing.

Approach

The Jury researched nonprofits and interviewed County personnel. It also performed extensive research on existing State and County contracts, procedures and policies, newspaper articles, and other public documents.

Discussion

Introduction

Since 2019, weather- and fire-related emergencies in the County have resulted in greatly increased funding from federal and state agencies. This has made comprehensive oversight and control of contract management all the more necessary at a level not previously seen. Staffing needs have increased with these changes.

The County has made improvements in training and communication within the Purchasing Department and the Auditor-Controller's office. In the fall of 2021, the County Chief Executive’s Office (CEO) formed a team of administrators, which collaborated to develop a toolkit for nonprofit County contracts. County employees are qualified and knowledgeable; however, without increased staff, overseeing contract performance and auditing continue to be problems.

The County recently commissioned and received (February 14, 2023) a report from CPS HR Consulting titled *Nevada County Office of Emergency Services [OES] Staffing Level Assessment*. The study is a detailed assessment of OES’ current staffing needs. Its findings are consistent with the Jury’s conclusion that current staff shortages adversely affect appropriate monitoring of grant funds the County distributes. The report states:

The study identified an overall need for an additional 8.16 PY [Personnel Years] worth of work that was not currently being met on an ongoing basis in addition to a one-time allocation of hours equating to 3.52 PY. . . ¹

The report also states:

The results of this workload study supported the need for each of the six allocated positions and an additional 8.16 positions to cover the current and anticipated workload. Additionally, there was an identified need for 6,330 hours, equivalent to 3.52 PY, to cover one-time tasks to catch up or complete tasks that are currently in queue to be done. . .

Further, it adds:

In addition to the ongoing work requirements built into the needed staffing above, subject matter experts also identified a one-time need for 3.52 positions, including 1,528 Assistant Director hours (0.85 PY) largely driven by implementing homeland security grants, cleaning up emails/files, and rewriting EOPs [Emergency Operations Plans] and preventative plans ²

The first sentence of the Recommendations section of the study summed up the findings: “The results of the interviews and quantitatively driven workload analysis identified a clear need for additional staffing.”³

Staffing is a critical factor to ensure adherence to first, grantors’ reporting requirements applicable to the County and second, County reporting requirements applicable to vendors. Staff needs to monitor vendor adherence to contract deadlines, performance progress, and compliance. The County does not have adequate personnel to oversee and perform these functions.

The County also confronted a problem with a particular vendor that two whistleblowers brought to its attention. The County hired CliftonLarsonAllen LLP as a consultant to examine two of the contracts with that vendor. The consultant issued a report on February 8, 2023, which found many difficulties in the vendor’s accounting and transparency. As a result, the consultant made recommendations both to the County and to the vendor. It is commendable that the County realized that it should take a hard look after receiving the whistleblower complaints, and it now has a basis for moving forward to improve its contract-management practices.

Centralized Contract Management

Contract management requires trained personnel who can:

- Ensure financial accountability and accurate reporting to comply with guarantor and contract requirements.
- Track project progress from beginning to end.
- Monitor timely performance.
- Review performance quality.

¹ CPS HR Consulting, at page 30.

² *Id.* at 40.

³ *Id.* at 47.

The County does not have a centralized contract-management process or up-to-date software to support contract management. Some departments within the County have created their own contract-management approaches. Centralized contract management would ensure uniformity of approach and reduce training costs since training would not have to be done department by department.

The Health and Human Services Agency and The Community Development Agency have developed systems of controls that provide oversight. Every County official interviewed confirmed the outstanding support and collaboration from the Purchasing Department.

Interviews suggested that a fully centralized and consistent contract-management system is essential if the County is to oversee vendors appropriately.

Contract Provisions

The Jury has three primary concerns regarding contract-provisions:

1. For some large projects, the County has advanced funds to the vendor without being able to exercise oversight to ensure (a) that the advance was appropriate, and (b) that the vendor applied the funds properly. The Jury recognizes that sometimes the County does need to advance funds for a particular project, especially in emergencies, but to do that responsibly, the County also needs to have sufficient oversight. County contracts include language for oversight and audits, but the Auditor-Controller's office has not performed financial reviews and audits for several years.
2. County contracts do not require that nonprofit vendors operate consistently with the Ralph M. Brown Act.
3. The County does not require nonprofit vendors to use fund accounting. Fund accounting ensures clarity and accountability of nonprofit entities. All sources the Jury consulted agree that fund accounting is a "best practice" for nonprofit entities receiving grant funds.

Administrative Costs

Many grants have restrictions that do not allow allocating grant funds to cover administrative costs the County incurs to manage the contracts. When the County receives such funds, the County budget has to cover proper oversight of all grant-funded contracts.

Staffing

The Great Recession necessitated cutbacks in County staffing. Before that, the Auditor-Controller audited 10% of County contracts annually. Auditor-Controller staffing has not yet recovered, so the County can audit few, if any, contracts. Therefore, the County lacks reliable information about how vendors spend public funds. Inability to audit contract performance and vendors' finances prevents effective contract oversight. County staff the Jury interviewed unanimously noted the need for additional staff to manage contracts and perform audits. Increasing inflow of funds and numbers of contracts cause County staffing shortages to have a more severe impact.

Staff Training

Having adequate staff to protect the County's financial interests is not just a matter of numbers; staff needs training in auditing and contract management. The County appears to be making

improvements in this area, but all of the County personnel whom the Jury interviewed expressed that additional training would help their departments do their jobs more efficiently.

Contract Types

The County has contracts for services, products, and public-works. Public-works projects require special consideration.

Public works in general means:

- Construction, alteration, demolition, installation, or repair work done under contract and paid in whole or in part out of public funds.
- It can include pre-construction and post-construction activities related to a public works project.
- For a full definition of public works refer to Labor Code section 1720.
- Uniform Public Construction Cost Accounting Act
 - Public project work in the amount of \$60,000 or less to be performed by a public agency's force account using the public agency's own resources, or by negotiated contract, or by purchase order (Section 22032(a)). Public projects in the amount of \$200,000 or less may use the informal or formal bidding procedures set forth in Section 22032(b) or (c) of the Act. Public projects at a cost of more than \$200,000 must use formal bidding procedures to let the contract pursuant to PCC Section 22032(c).
 - Public works projects are required to post a Request for Proposal (RFP) for contracts that go out to bid.

*Sources: [AB-2249](#) (enacted August 20, 2018).

In some cases, when the County acquires funding for additional projects, it turns to contractors with which it has previously dealt. That is understandable, provided that a contractor's performance has been of high quality and its accounting methods transparent. The County's current limited ability to audit and manage contracts prevents the County from having that assurance.

For example, the County recently commissioned a consulting study by CliftonLarsonAllen LLP. The County received the report on February 8, 2023. The report is available on the County web site and bears the title [Consulting Services: Review of Specific Fire Safe Council Contracts and Whistleblower Claims](#). The report found multiple errors in invoices that Fire Safe submitted to the County, and "noted a lack of adequate segregation of duties at Fire Safe due to the limited office staff." It further specifically noted a problem with segregation of duties among upper-management staff, but that Fire Safe had done something to address that problem. However, the report also stated, "While this does not replace adequate controls, it increase[s] the likelihood of fraud or errors being identified within Fire Safe."⁴

⁴ The consultant also noted in that the vendor had not supplied all of the information the consultant wanted, referring to "limited production of information provided by Fire Safe staff."

The report highlights the County’s failure to monitor the two contracts and specifically commented on the need for appropriate County attention.

It is also important that the County have adequate oversight and monitoring of the grants administered by grantees such as Fire Safe. An inadequate control environment coupled with a lack of monitoring can create an opportunity for fraud or errors in the administration of the grant funds and lower the chance that they will be identified by the County.

Extending or Amending Contracts

The County sometimes extends or amends contracts to include additional projects. That complicates oversight and auditing by combining separate grants in a single contract. Even if a particular contractor has done a superb job, there may be other contractors who could perform new projects just as well and at lower cost. Competition for new projects may save taxpayers’ money. The Jury recognizes that on occasion the new project may be so small that going through the bidding process again makes little sense, but the County should put new projects of any significant size out for bids.

Internal Controls and Auditing

Government funding comes from taxpayers. To ensure appropriate use of public funds, the County must manage contracts and regularly audit fund recipients. On March 9, 2023, the Auditor-Controller said: “The Auditor-Controller is responsible for auditing the accounts and records of County departments and some special districts. Upon order of the Nevada County Board of Supervisors, the Auditor-Controller will exercise review of departmental internal controls.”⁵

The law does not provide the County general financial oversight over private or non-profit agencies. That is why it is important for the County to include provisions in its contracts that allow it to audit all appropriate business records of entities to which the County disburses public funds pursuant to grants.

⁵ [Yuba Net](#) (last visited May 25, 2023).

Findings

- Finding 1. The County needs a centralized contract-management system.
- Finding 2. The County needs up-to-date software to manage contracts.
- Finding 3. The County's purchasing process is well established and effective.
- Finding 4. The County needs to allocate sufficient funding to employ well-trained contract-management staff to perform oversight.
- Finding 5. Many County employees are qualified and capable, but because of insufficient staffing and limited collaboration among departments, the County does not exercise its right to manage and audit contracts.
- Finding 6. When the County receives additional grant funds, it often extends or amends original contracts, which results in:
1. auditing becoming more difficult,
 2. limiting the vendor pool available to serve the community needs, and
 3. failing to routinely place new or expanded projects out for bid.
- Finding 7. The County needs to improve vendor outreach.

Recommendations

The Jury recommends that the County:

- Recommendation 1. Within six months, implement a centralized contract-management system, supported by enough trained staff and up-to-date software to serve all County departments.
- Recommendation 2. Within three months, budget administrative costs for County expenses of managing contracts under grants that do not allocate such funds.
- Recommendation 3. Within three months, improve requirements in contracts with nonprofit vendors to ensure the County's ability to manage those contracts effectively and to ensure vendor financial responsibility and transparency.
- Recommendation 4. Within three months Implement improved procedures for advancing contract funds.
- Recommendation 5. Within three months, require nonprofit vendors to use fund accounting.
- Recommendation 6. Within three months, only contract with nonprofit vendors that agree to operate consistently with the Ralph M. Brown Act.
- Recommendation 7. Refrain from new contract amendments or extensions unless the additional amount involved is less than \$50,000.
- Recommendation 8. Within six months, expand the outreach program to broaden the potential vendor pool.

Request for Responses

Pursuant to Penal Code section 933.05, responses are required from the following:

- Nevada County Board of Supervisors (F1, F2, F3, F4, F5, R1, R2, R3, R4, R5, R6, R7, R8) within 90 Days
- Nevada County Auditor-Controller (F5, R5) within 60 Days

All responses are to be addressed to the Supervising Judge of the Grand Jury:

Hon. Scott Thomsen
California Superior Court
Supervising Judge of the Grand Jury
201 Church Street
Nevada City, CA 95959

Glossary

Auditor-Controller	Nevada County Auditor-Controller
CEO	Nevada County Chief Executive Officer
County	Nevada County
Jury	Nevada County 2022-2023 Grand Jury
OES	Nevada County Office of Emergency Services
Purchasing Department	Nevada County Purchasing Department