



**CUYAHOGA COUNTY
DEPARTMENT OF INTERNAL AUDITING**

**SPECIAL REQUEST
Assessment of Disclosing and Identifying Conflicts
of Interest in the County Procurement Process**

TO: Armond Budish, Cuyahoga County Executive

FROM: Cory Swaisgood, Director of Internal Auditing
Mark Griffin, Inspector General

DATE: July 16, 2018

SUBJECT: County's Conflict of Interest Process

County Executive Armond Budish,

In response to your request, the Department of Internal Audit (DIA) collaborated with the Agency of Inspector General (AIG) to assess the process on disclosing conflicts of interest (COI) to the AIG. DIA and the AIG also worked with the Office of Procurement and Diversity (OPD) to review OPD's process on identifying potential COIs during the procurement process. The following memo presents results related to the assessment.

Executive Summary

DIA and the AIG identified the need for improvement in the COI disclosure process. The DIA reviewed best practices on disclosing and identifying COIs by inquiring with other local and national government agencies. The AIG sent a survey to 150 people from more than 50 government agencies throughout the United States to research best practices on COI disclosure. Although primary responsibility to disclose COIs with the AIG rests with the employees and vendors of the County (and most agencies surveyed), the DIA and AIG identified improvements to best practices already in place at the County. The DIA and AIG identified potential improvements to update and strengthen the County's disclosure statement and identified the need to provide additional training to Executive management.

DIA also identified an opportunity to potentially prevent COIs from occurring prior to procuring items. The AIG will consider the possibility of creating a searchable database that can be reviewed by OPD during the contracting process. OPD could perform a search of the COI database during their review of procurement items, prior to board approval. OPD's search is only feasible if the County creates a searchable database. Any potential COI identified during OPD's review will be communicated to the AIG for further review. OPD and the requesting department will receive an opinion from the AIG determining if an actual COI exists. However, the identification of potential

COIs through a search of the database can only succeed following timely disclosure of such potential COIs from employees and vendors of the County.

In addition, the AIG suggested OPD and the Law Department consider including language that makes it clear to County vendors that under Ohio law, contracts may be voided if vendors have an illegal COI.

ASSESSMENT DETAILS

Background

The County Executive requested DIA's services to review and assess the process related to the COI disclosure for County employees. The request was in reply to subpoenas served on the County involving potential COI issues regarding County administrators. The County Executive's request entails concern that potential COIs were/are not disclosed or detected.

Objective and Procedures

DIA's objective consisted of conducting an assessment on the current COI process related to: 1) COI disclosure and 2) Detection/prevention of potential COIs during the procurement process.

The DIA worked concurrently with the AIG to review best practices and recommend changes to the COI disclosure process, as well as detecting/preventing potential COIs during the procurement process. Specifically, DIA and the AIG:

- Reviewed the current process on disclosing COIs to the AIG.
- Reviewed OPD's current process on detecting and disclosing potential COIs to AIG.
- Researched best practices and inquired with other government entities on their process to disclose and detect potential COIs.
- Worked with AIG and OPD to establish the best process for the County.

Results

The AIG contacted over 150 federal, state and local government entities to survey best practices for preventing COIs in government contracting. The AIG initially contacted the potential respondents by email then followed up with telephone calls to those agencies who failed to respond. No government entity reported that it can conduct preventative COI reviews of the financial interests of family members who do not also file financial disclosure statements with the government entity. Similarly, preventative COI reviews are not conducted for employees who do not file financial disclosure statements.

The U.S. Office of Government Ethics (US OGE) designed and built its *Integrity* software system to process and analyze the financial disclosure statements of Presidential appointees and other senior executives. The *Integrity* system is similar to web-based tax filing software programs. The *Integrity* system uses a series of prompts to guide senior executives through the process of the completing their required federal forms. Once financial interests are disclosed, the system categorizes these financial interests, matches them against "prohibited holdings" lists generated by each agency, and then forwards these reports to the respective agency ethics officials for use in preparing ethics agreements. This system is also used for updating annual ethics disclosures.

Integrity does not cross-check the employment of family members. Similarly, it is not used by employees who are not required to file disclosures. *Integrity* is not used to conduct COI checks at the time of procurement contracting. Finally, *Integrity* does not check for companies that are not already on the “prohibited holdings” list of the relevant agency. The U.S. OGE places the burden of ethics knowledge and compliance on each individual official and employee.

The Ohio Ethics Commission (OEC) uses web-based forms and modified Microsoft Excel spreadsheets to review annual disclosure statements for possible COIs. The financial interests are alphabetized, then each list is sent to the relevant state agency for manual review. Each state agency indicates which financial interests might create potential conflicts of interest. This response is used to generate a letter to alert the employee or official of potential conflicts. The State of Ohio does not require COI reviews at the time of contracting or review the potential COIs of family members or non-filers. As with other jurisdictions, the State of Ohio places the burden of knowledge and compliance on individual officials and employees.

The AIG’s survey revealed the majority of respondents require employees to report COI information annually. Although less than half of the respondents indicated they collect COI information from vendors, most agencies that collect data require such vendors to disclose COI information at some stage prior to contracting. Additionally, the AIG learned that more than half of the agencies indicated they do not track the collected COI information in searchable databases. Finally, the nearly 80% of the respondents indicated their organization currently has a COI policy.

Currently, the County requires financial disclosures only from senior executives or other selected officials. These forms are submitted annually to the AIG and are required to track the forms created by the OEC. As with the State of Ohio, the County does not require the disclosure of financial interests of family members. Furthermore, the County only requires nepotism statements from employees upon hire. There are no follow-up reminders or trainings regarding nepotism disclosures. As with other jurisdictions, the County does not have a process in place to prevent or detect potential COIs during the procurement process. DIA and the AIG noted opportunities to improve COI disclosure and tracking, and opportunities on identifying potential COIs.

In an effort to make additional improvements, the AIG plans to further analyze the survey results and request additional information from the organizations that participated.

Conclusion

Following discussion of the results noted above, the AIG and OPD are analyzing improvements on the disclosure and detection of potential COIs. The AIG sent 150 surveys to more than 50 government entities for best practices related to disclosing and identifying potential conflict of interests. As of the report date, the following enhancements, and recommendations from this review, are being considered by the AIG and OPD:

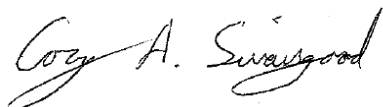
- The AIG should update the current disclosure statement for all County employees.
- The AIG should update the current registration disclosures for all County vendors.

- The AIG plans to send an annual reminder to all County employees to review and update their COI disclosures, if necessary.
- The AIG performed and plan to expand training with Directors and Chiefs on laws related to COIs and the process to disclose potential conflicts.
- The AIG and OPD should review the possibility of creating a searchable database of COI disclosures. OPD should utilize the searchable database to identify potential COIs and notify the AIG of any findings during the procurement process.
- OPD should consider whether to collaborate with the Law Department to make it clear to vendors (in big bold type) that under Ohio law their contract may be voided if vendors have an illegal COI, and the County will be prohibited from paying them. This language could be added to the packets utilized for an RFB, RFP, and RFQ. The Law Department should also include a standard clause in all County contracts with this language, as well.

Understanding the County handles COI disclosures similar to other government agencies, improvements to the current process will only enhance the County's disclosure and detection of COIs from best practices already in place. Nonetheless, primary responsibility to disclose/identify potential COIs rests with the employees and vendors of the County.

The Executive may discuss these results with the Audit Committee at the next Audit Committee meeting if the Executive wishes to request additional services from DIA (e.g. review potential conflicts of interest on executed contracts over the last 3-5 years).

Respectfully,



Cory A. Swaisgood, CPA
Director of Internal Auditing



Mark Griffin
Inspector General

Cc: Audit Committee
Cuyahoga County Council
Earl Leiken, Chief of Staff
Robert Triozzi, Law Director