

AUDIT REPORT

Purchasing and Contracts Division
Fiscal Directive 6 Compliance Audit
April 2023



CLARK COUNTY *Nevada*
Audit Department

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Audit Executive Summary

Purchasing and Contracts Division Fiscal Directive 6 Compliance Audit

April 2023

Background | The Clark County Purchasing and Contracts Division is responsible for obtaining equipment, goods, and services including construction for all County departments following the Nevada Local Government Purchasing Act (NRS 332) and other applicable state and/or local laws.

The Purchasing and Contracts Division assists County departments with a variety of purchasing activities such as purchase orders, contract preparation, negotiations, and formal solicitations. The Division also participates in the Emerging Small Business Program which helps small businesses in Nevada obtain work with state and local government agencies.

The purchasing manager oversees purchasing functions with support from staff with commodity specific experience.

The County established Fiscal Directive 6 to provide guidelines for the purchasing process and contract administration. This directive, along with several other policies and procedures, governs procurement activities.

Purpose of Audit | We conducted this audit as part of our annual audit plan. Our objective was to determine whether purchasing and contract activities of Clark County departments complied with Fiscal Directive 6 for the period of July 1, 2018, through June 30, 2021.

Summary and Key Findings | County departments are not consistently following Fiscal Directive 6. In addition, departments are not being held accountable for not following policies and procedures. We identified areas that need improving to ensure consistency in the purchasing process and adherence to the directive.

The key audit findings are:

- Departments are spending more than what is available on purchase orders at fiscal year-end. (Page 5)
- Departments are authorizing vendors to perform work without an official purchase order. (Page 6)
- Policies and procedures related to purchasing activities need formalizing. (Page 9)
- Departments are implementing contract changes prior to approval from the Purchasing and Contracts Division Administrative Services or the Board of County Commissioners. (Page 22)
- There are no policies and procedures for reviewing vendor accounts. (Page 27)

See audit report for full details.

Recommendations | The audit report includes 19 recommendations related to improving compliance with Fiscal Directive 6 and strengthening controls over the procurement process. Detailed recommendations are in the body of the report for each of the findings.

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Background

Purchasing and contracting functions are centralized in the Clark County Administrative Services Department's Purchasing and Contracts Division. The Purchasing and Contracts Division (Purchasing) is responsible for procuring required materials, supplies, equipment, and services, including construction, for all County departments. The Purchasing and Contracts Division strives to obtain the best possible price and maximize the value of taxpayers' dollars, while maintaining ethics and integrity and complying with applicable Nevada Revised Statutes (NRS), specific orders of the Board of County Commissioners, and other state and local laws.

Purchasing assists other departments throughout Clark County in a variety of ways, including the following:

- Creating routine purchase orders
- Preparing contracts
- Conducting complex bid solicitations
- Selecting suppliers
- Negotiating contracts
- Awarding contracts
- Preparing requests for proposals
- Preparing requests for information
- Contract management
- Reporting procurement activities to the Board of County Commissions

Purchasing provides services through a staff of purchasing professionals who are specialists in their assigned commodity groups.

The County Supports Local Disadvantaged Businesses

Purchasing also participates in the Emerging Small Business Certification Program created in 2014 to encourage the development and growth of small businesses in Nevada. The program seeks to assist small businesses that want to contract with state and local government agencies. Purchasing is responsible for assisting County departments in identifying and utilizing local disadvantaged businesses regardless of the type of purchasing activity requested.

Fiscal Directive 6 Established in 1979

Fiscal Directive 6 (FD6) was established on February 15, 1979, and last updated on September 23, 2019. FD6 provides purchasing and contract

guidelines to ensure compliance with applicable Nevada Revised Statutes, Board orders and Clark County policy. FD6 includes requirements based on dollar value for the procurement of:

- Goods
- Non-professional services
- Professional services
- Capital improvement projects
- Information technology
- Construction services

The County uses the Enterprise Resource Planning software SAP for purchase requests, purchase order processing and payment activities.

The general rule is that all purchases must be made with a purchase order. However, there are certain categories of purchases that the County will pay without a purchase order. These include dues, insurance, travel, utilities, land acquisitions, and training.

In addition, non-purchase order payments commonly occur at year-end. Some reasons for this include the following:

- The department received the invoice after the purchase order was closed.
- The department had expenditures over the purchase order amount and it's too late in the fiscal year to process a purchase adjustment request to increase the purchase order.
- The department received the invoice after the fiscal year end cut off and they could not apply payment against the purchase order.

In these cases, the departments will pay the invoices without a purchase order and make a note in SAP, so the expense is applied to the proper year.

Strong controls over the County's purchasing function are important to ensuring accountability of taxpayer funds.

Objectives

We conducted this audit following our 2021-2022 Audit Plan. The objective of this audit was to determine whether purchasing and contract

activities of Clark County departments comply with Fiscal Directive 6. Specifically, we evaluated whether:

- Policies and procedures governing procurement activities exist, are documented, and distributed to purchasing staff and county departments.
- Total purchases/contracts for a material group exceeded annual thresholds.
- Purchases/contracts contained support, were properly approved, and correctly procured based on Fiscal Directive 6, Nevada Revised Statutes and Purchasing and Contracts policies and procedures.
- Non-purchase order purchases contained support, were properly notated in SAP, and were for items on the purchase order exceptions list.
- Changes to existing contracts were approved by the Purchasing and Contracts Division or the Board of County Commissioners prior to implementation.

Conclusions

Overall, County departments are not consistently following Fiscal Directive 6. Although the Purchasing and Contracts Division has policies and procedures in place that govern procurement activities, departments are not following them. In addition, there are several policies and procedures related to the purchasing and contracting processes that are not formalized and need implementing.

It appears that departments are not being held accountable for not complying with Fiscal Directive 6 and other policies and procedures as recurring noncompliance is not reported to or addressed by County Management.

We found no evidence of structuring purchase orders to avoid bid requirements, however, the Purchasing and Contracts Division approved some purchases without proper quote documentation.

Lastly, non-purchase order procurement is not monitored for compliance with Fiscal Directive 6. We identified concerns and opportunities for improvement. These include:

- Vendors are engaging in work without an official purchase order.
- Departments are authorizing the implementation of contract changes prior to obtaining Purchasing or Board approval.
- Departments are not following Purchasing's after the fact purchase requisition process.
- Departments are not following Budget and Financial Planning's fiscal year end procedures for non-purchase order payments.
- Departments are spending more than what's available on purchase orders at fiscal year-end.
- There are no established disciplinary measures to address noncompliance with Fiscal Directive 6 and other policies and procedures.
- The Purchasing and Contracts Division quote training policies and procedures need updating to align with Fiscal Directive 6.
- There are no reviews of vendor accounts.
- The Purchasing and Contracts Division does not have oversight of Fiscal Directive 6, which governs purchasing and contract administration.

Each finding includes a ranking of risk based on the risk assessment that takes into consideration the circumstances of the current condition including compensating controls and the potential impact on reputation and customer confidence, safety and health, finances, productivity, and the possibility of fines or legal penalties.

Items identified as findings and all conclusions and recommendations in this report are the opinion of the Audit Department. Clark County management is responsible for making final determination on implementation of corrective actions.

Auditee responses were not audited, and the auditor expresses no opinion on those responses.

Findings, Recommendations, and Responses

Finding 1 - County Management Should Increase Oversight of Non-Purchase Order Payments (High Risk)

We judgmentally selected and reviewed 350 vendors out of 27,968 with non-purchase order payments for the three-year audit period. We found purchases for 113 vendors that did not follow established fiscal and/or organizational policy. Those purchases are grouped as follows:

Exhibit 1: Summary of Non-Purchase Order Payment Exceptions

Exception Description	Number of Exceptions
Department Spent More than was Available on the Purchase Order	54
Vendors Performed Work Without a Purchase Order	35
Vendor Had Open Purchase Order that Was Not Used	8
Purchase Did Not Comply with Purchase Order Exception List	6
Fiscal Year Purchase Was Not Notated in SAP	5
Purchases Not Properly Supported	4
Duplicate Payment	1
Total	113

Source: Auditor Prepared

Each of these types of purchase are explained in more detail below.

Department Spent More than was Available on the Purchase Order

During our review, we found County departments spent more than was available on the purchase orders for 54 vendors at fiscal year-end, requiring them to be processed as non-purchase order payments.

In these cases, invoices were not received or processed in time to allow for increases in the purchase order amounts. The Budget and Financial Planning Office distributes fiscal year-end procedures to all departments annually. These procedures include instructions and deadlines for goods receipt and invoice entry. They also instruct departments to contact vendors to obtain invoices, so they can be entered and processed before the year-end cutoff dates.

"The originating department is responsible for providing oversight of the day-to-day performance and payment of invoices after award...." - Fiscal Directive 6

The Purchasing and Contracts Division cannot adjust purchase orders for invoices received after the fiscal year cut-off. If the purchase exceeds the amount left on the purchase order, it must be paid as a non-purchase order payment. We understand that this may happen occasionally. However, we

believe the volume of payments indicates that departments are not following end of year procedures as closely as they should be.

This creates a risk that Purchasing will not be able to ensure contractual requirements are met and Board limits are followed. It also sets up a scenario where departments could hold back invoices until after fiscal year end to avoid increasing a purchase order with proper approval.

According to Fiscal Directive 6: *"County departments and agencies are prohibited from authorizing suppliers to provide goods, services or professional services without an official purchase order number issued by Purchasing and Contracts."*

Vendors Performed Work Without a Purchase Order

We found 35 vendors that performed work without a valid purchase order. Exhibit 2 provides a breakdown of the exceptions.

Exhibit 2: Summary of Reasons Why Vendors Performed Work Without a Purchase Order

Description	Count
Department Could Not Justify Purchases Without a Purchase Order ⁽¹⁾	19
Department Made Purchase Prior to Obtaining Approval ⁽²⁾	12
Emergency Purchase but Did Not Follow Emergency Purchase Procedures ⁽³⁾	4
Total	35

Source: Auditor Prepared

(1) One common explanation for the unjustified non-purchase order payments was invoices were paid non-purchase order in error. Another common explanation was that the vendor would

not accept purchase orders. However, the departments could not provide documentation supporting that the vendors used would not accept purchase orders.

- (2) When a department makes a purchase prior to obtaining a purchase order, Budget and Financial Planning's customary practice is to process the payment. From their perspective, the department has already spent the money, and it would not be an efficient use of County resources to create a purchase order, as the County is legally obligated to pay the vendor for goods/services.

The Purchasing and Contracts Division has no oversight over non-purchase order payments and generally is not aware of when a non-purchase order payment for a purchase already made occurs. In these instances, the budget analyst documents noncompliance and emails the purchasing analyst, who will add a memo to the purchase order in SAP to document the purchase.

During our review, we did not find this documentation from the Budget and Financial Planning Office to show they were aware the department did not follow Fiscal Directive 6.

- (3) Emergency purchases did not have required memorandums. We also did not find any evidence that departments contacted Purchasing or Budget before authorizing the purchase, as required.

"All emergencies require a memorandum describing the nature and extent of the emergency. This report is to be submitted to Purchasing and Contracts on the first working day following the incident." - Fiscal Directive 6

Vendor Had Open Purchase Order that Was Not Used

Purchases with eight of 113 vendors resulted from non-purchase order payments when an open purchase order was available. For five of the eight vendors, the departments could have applied a portion of invoice payments against open purchase orders but did not. Departments also failed to submit a purchase adjustment request to increase

purchase order if there were insufficient funds available on the purchase order to pay the vendor.

Purchase Did Not Comply with County's Exception List

We found four purchases where non-purchase order payments were for items in which the departments should have obtained purchase orders but did not.

For one of these purchases, the original purchase order was mistakenly issued to the wrong vendor. The County department received the order and paid as a non-purchase order payment rather than processing an after the fact purchase requisition for the correct vendor.

Prior Fiscal Year Purchase Not Noted in SAP

We identified purchases for five vendors in which the departments did not notate in SAP the fiscal year the purchase occurred to ensure proper expensing as required by Budget and Financial Planning fiscal year-end procedures.

Purchases Not Properly Supported

We found four purchases where the department could not provide support for payments. Specifically, we found:

- One department paid an invoice based off a quote rather than an invoice.
- Invoices for employee travel did not contain travel request authorization forms or signed travel authorization forms as required by Fiscal Directive 6 and the County's Travel Policy.
- The departments paid invoices 1.5 - 2 years after the invoice date, without required justification from the department head.

Duplicate Payment

We found a duplicate payment in the amount of \$6,924.69. The department recovered the payment during the audit. This is a minor error, and we believe it was a one-time mistake. This does show the risk in making non-purchase order payments. Since there is no purchase order limit, duplicate payments can easily be made and not identified through the normal review process.

Prevalence of Non-Purchase Order Payments Due to Lack of Department Head Accountability

Overall, we believe the root cause of these issues is the lack of accountability for following County procedures. In many of the items we found, the County had an established policy or procedure that was not implemented or followed, whether it was by Purchasing, Finance, or the department. Further,

departments did not suffer any consequences of not following established procedures. In other cases, such as the handling of split payments, there is no documented procedure, which will be discussed in finding 2.

Recommendation: 1.1 Review Fiscal Directive 6 and make updates as necessary to support business needs.

1.2 Work with violating departments to develop corrective action plans to ensure future compliance with County policy.

Management Response: 1.1 As a result of the discussion with the Internal Audit Department, a November 3, 2022, email was sent to all the Appointed and elected Department Heads requesting ideas for updates/modifications to the list of currently exempted purchases listed under Attachment "A" of the Fiscal Directive #6 (FD #6). *See Appendix C for excerpt of memo.*

While the Finance Department received some recommendations for exceptions, most of the requests were more clarifications or expansions of purchasing material groups already included on the FD #6 Exception Listing. The one major addition requested by the Departments to be added to the list was regarding the direct client assistance/rent payments due to the County's focus on the housing crisis.

As the County's roles and responsibilities with the community continue to evolve, and exceptions to the FD #6 come across our Office's desk, we will continue our conversation with the Purchasing division as to how potential changes could impact their Office before considering and/or updating the Exception Listing in FD#6.

1.2 County management will work with the Civil DA to develop a process for corrective action plans.

Finding 2 - Procedures Governing Purchasing and Contracting Activities Needs Documenting (High Risk)

During our review we found that the County has several procedures governing purchasing and contracting activities that are not formally documented. These procedures include the following:

- Processing split payments.

- Processing non-purchase order payments.
- Monitoring non-purchase order payments for Compliance with Fiscal Directive 6.
- Approving contract ratifications and reporting them to the Board.
- Approving contract amendments.
- Vendors who do not accept purchase orders.
- Identifying and reporting noncompliance with policies and procedures.
- Addressing noncompliance with policies and procedures.

Each of the areas will be discussed in more detail below.

Procedures for Splitting Payments

During our audit we found confusion on the ability to split invoices at fiscal year-end. Departments are supposed to apply a portion of the payment against available purchase order appropriations and pay the remaining amount as a non-purchase order payment. However, some departments indicated they learned during their training that they could not split payments.

Procedures for Processing Non-Purchase Order Payments

The Budget and Financial Planning Office has not documented their approval process for non-purchase order payments. A department submits an invoice to Budget and Financial Planning to review and approve for payment. The amount of the invoice determines the level of review and approval authority. Once the Budget and Financial Planning Office approves the invoice, the Comptroller's Office will process the non-purchase order payment based on approved workflows and supporting invoice documentation.

Monitoring Non-Purchase Order Payments for Compliance with Fiscal Directive 6

We also found that there is no process for monitoring non-purchase order payments for compliance with Fiscal Directive 6.

Having formal policies and procedures for processing and monitoring non-purchase order payments ensures departments know expectations, fosters consistency, and minimizes errors. Also, County management can assess compliance with Fiscal Directive 6 and hold departments accountable for noncompliance.

During the audit, the Budget and Financial Planning Office Director issued a memorandum announcing

an overall review of its procedures relating to the approval of non-purchase order payments. The memo requested feedback from County departments regarding goods and/or services deserving consideration as an exception to the purchase order process for possible inclusion to the Exception List. The County plans to update the Exception List along with a revised Fiscal Directive in response to audit recommendations.

Procedures for Ratifying Contracts

There is no formalized process for approving contract ratifications and reporting them to the Board. A ratification happens when a department authorizes the contractor to start or perform work without approval. The department then goes to the Purchasing and Contracts Division or the Board of County Commissioners after the fact for formal approval.

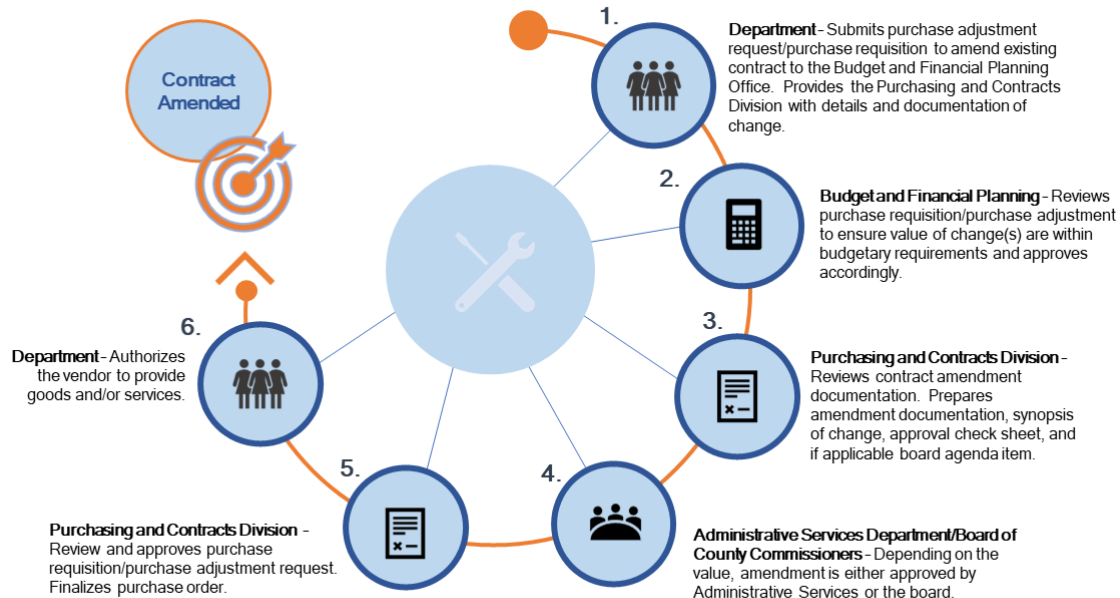
Since the contractor started or performed the work, the Purchasing and Contracts Division has limited options to ensure County funds are spent appropriately.

When a contract ratification occurs, departments are to submit contract documentation along with a detailed explanation of why contractors began work or provided services prior to obtaining approval from the Purchasing and Contracts Division or the Board of County Commissioners. Depending on the value of the ratification, either Purchasing and Contracts, or the Board of County Commissioners will approve the ratification.

Procedures for Amending Contracts

The Purchasing and Contracts Division has not documented their process for approving contract amendments. Exhibit 3 illustrates the process.

Exhibit 3: Several Parties Involved in Approving a Contract Amendment



Source: Auditor Prepared

Lack of formal policies and procedures for contract amendments results in knowledge gaps, inconsistent service, and prevents management from measuring effectiveness.

Procedures for Working with Vendors That Do Not Accept POs

The County does not have a formal process for purchasing from vendors who do not accept purchase orders. The informal process has been for departments to communicate the need with the Budget and Financial Planning Office prior to any commitment. This can either be through a purchase request or through written communication.

Generally, the County prefers departments not use vendors who do not accept a purchase order. If a vendor does not accept a purchase order, the department should find one that does. In some circumstances, the County allows purchases from these vendors with the County’s purchasing card. This should only be used if the vendor is on the list of eligible suppliers. The department should document the reason for paying with the purchasing card. If a vendor does not accept credit cards, then the department should not use that vendor.

County departments are experiencing an increase in vendors who do not accept purchase orders.

More specifically, departments such as Family Services and Social Services have challenges identifying vendors who accept purchase orders.

Having a formal policy and procedure for vendors who do not accept purchase orders will provide a roadmap for day-to-day operations, streamline internal processes, and increase accountability.

Procedures for Identifying and Reporting FD6 Violations Are Not Being Followed

Procedures in place to identify and report violations to Fiscal Directive 6 and quote policies and procedures are not being followed.

During our review, we found that County departments who repeatedly violate Fiscal Directive 6 are not reported to County management. As such, County management is not able to hold departments accountable for circumventing the purchasing process.

According to Purchasing and Contracts Quote Process and Procedures Training:

“If an individual fails to follow the quote process, it may result in disciplinary or other appropriate action.”

County management is also unable to hold accountable authorized individuals who approve payments that do not comply with fiscal and organizational policies and procedures.

Procedures for Addressing FD6 Noncompliance

County management has not defined the disciplinary or appropriate action that they will take for departments who repeatedly fail to provide proper quote documentation.

Not following procedures to identify, report and address departments who repeatedly violate fiscal and organizational policy and procedures promotes continued behavior and prevents County management from holding individuals accountable.

In addition, having undefined disciplinary actions/measures for noncompliance with policies also results in continued noncompliance. Further, warning staff of possible disciplinary action with no follow through could cause management to lose credibility, which could negatively impact the workplace.

“Elected Officials and Department Heads, who have authority over the budget administration of a department, are responsible for all the purchasing and contracting activities that originate from their office or staff. Purchasing and contracting activities that appear to conflict with the criteria set forth in this Directive will be forwarded to County Management for review.

Additionally, Elected Officials and Department Heads may be held personally liable for any purchase, contract, lease or rental of material, equipment, or contracting for services that are not properly authorized or which are not in compliance with this Directive.”- Fiscal Directive 6

- Recommendation:**
- 2.1 Establish and implement policies and procedures for addressing noncompliance with Fiscal Directive 6, quote training policies and procedures, and excessive contract ratifications.
 - 2.2 Formalize procedures for processing non-purchase order payments.
 - 2.3 Distribute updated purchase order exceptions list and revised Directive to all departments and provide training as appropriate.

- 2.4 Formalize procedures for processing split payments. Distribute procedures to appropriate staff and provide training as appropriate.
- 2.5 Formalize procedures for reviewing and approving contract amendments and ratifications.
- 2.6 Establish and implement policies and procedures for using vendors who do not accept purchase orders.
- 2.7 Develop a process to identify departments who repeatedly fail to follow Fiscal Directive 6 and develop action plans for future compliance.

Management Response: 2.1 After the fact P.O. process implemented by Purchasing in 2016 and resides on Purchasing Intranet page. Quote training is available online and the supporting PowerPoint is on Purchasing Intranet page. In addition, FD6 corrected for one inconsistency with regards to County quote form versus Vendor quote form. A ratification process has been written and became effective March 29, 2023.

2.2 As mentioned earlier in the audit report, a payment for services provided may appear in our Departmental workflow queue without an associated P.O. or not an identified service on the FD #6 Exception Listing. The County Finance Department has an internal policy that we will not harm a vendor for work performed - so long as it was through the direction of a County Department. Our internal policy is, and will continue to be, to contact the Department, remind them about their responsibility to better plan for (possible) future needs and, if applicable, the associated need to PAR up a P.O. If a circumstance were to occur that a vendor performed work without direction from the County, the Department of Finance would defer to the overseeing Department, and their assigned District Attorney, as to how to handle the request for payment.

2.3 As noted in the response to 1.1 above, the County Finance Department has polled the various County Departments regarding possible updates to the Exception Listing. The distribution of an updated FD #6 has been in

flux as we are awaiting direction from the Audit Committee for any further clarification.

2.4 As mentioned earlier in the audit report, there have been circumstances identified when a department, through their oversight or calendar timing, is unable to process a whole payment via P.O. If a situation were to occur, the direction from the Finance Department has been to process the remaining payment via non-P.O., but to ask the Department to document within the text of the payment document as to the reason for the oversight/need for this type of payment. Our experience has been that, while a few exceptions may have been noted, for the most part, the Departments have been willing to comply. The Finance Department will attempt to ensure that when these non-P.O. payments are created, the various Departments will also communicate with the Purchasing division. The Department will be asked to cross reference the split payments between the various funding methods.

Our primary direction is, and will continue to be, to remind the Department about their responsibility to better plan for (possible) future needs and, if applicable, the associated need to PAR up a P.O.

2.5 Amendment process has been written and became effective March 29, 2023.

2.7 The Finance Department is aware of those Departments who “repeatedly fail to follow Fiscal Directive #6”. The Finance Department has made it a focus of their attention to keep an eye on the approval queue to identify when/where further training opportunities might assist the Department in understanding the importance of compliance with FD #6. When instances occur, the Finance Department contacts the appropriate Department. Unless repeated blatant disregard for our Policy occurs, we prefer to try to work with the Department rather than against it. The County senior management team would be notified when repeated instances of noncompliance with FD #6 has occurred. The Finance Department has been assured that the County management team would be more than willing to assist in offering to step in when/if the Finance

Department cannot get traction. Luckily, their assistance has been unnecessary as we have been able to develop and maintain the necessary relationships with the appropriate people within the various Departments to communicate with our Office when an issue arises.

Finding 3 - Purchasing Policies and Procedures Are Not Being Followed and/or Not Consistent (High Risk)

Using professional judgment, we selected 151 (.62%) unique purchase orders/contracts for the audit period to verify the following:

- Compliance with quote/bid requirements based on dollar value.
- Authorized personnel approved purchase order/contract.
- Goods received/services rendered occurred after approval of purchase order/contract.

We found 24 exceptions. Exhibit 4 provides a summary of exceptions.

Exhibit 4: General Purchase Exceptions

Description	Count
After the Fact Purchase Requisitions	10
No Quotes	7
No Documentation of Attempt to Obtain Quote from Disadvantaged Business	5
Quote Not Signed by Vendor	2
Total	24

Source: Auditor Prepared

After the Fact Purchase Requisitions Indicates Purchase Commitment Prior to Approval of a Purchase Order

The commitment for goods/services was done prior to approval of a purchase order.

We performed additional procedures to assess compliance with Purchasing and Contracts procedures. This included verifying that each after the fact purchase order met the following criteria:

What is an 'after the fact' purchase?

After the fact purchases are purchases in which the department authorized the vendor to perform work prior to the Purchasing and Contracts Division finalizing/approving purchase orders. Committing to purchase goods/services prior to approval does not comply with Fiscal Directive 6 general purchasing requirements.

1. Proof of delivery/service
2. Invoice
3. Purchase header documentation indicating that purchase is being requested after the fact.
4. Header text for Memo purchase order only.
5. Email to Purchasing Manager indicating that purchase was authorized prior to proper approval.

We found that 80-90% of the after the fact purchase orders did not comply with the established procedures. The chart below summarizes the exceptions.

Exhibit 5: The Majority of Purchase Orders Stemming from 'After the Fact' Purchase Did not Meet Established Procedures

Description of Exception	Total After the Fact Purchase Orders Failing to Meet This Criteria	Exception Percentage
No Proof of Delivery	8	80%
No Invoice	8	80%
No Header Notes: "PR Approved After the Fact"	8	80%
No Header Text: "Memo Purchase Order Only"	9	90%
No Proof of Email to Assistant Director of Administrative Service	9	90%
Total	42	

Source: Auditor Prepared

After the fact purchases circumvent budgetary and fiscal purchase order policies and legally obligates the County to pay for goods/services that the County may not need, may not be the highest quality or at the lowest obtainable cost.

Further, not following Purchasing and Contract's after the fact purchase requisition process prevents Purchasing from accurately determining total spend, ensuring compliance with Fiscal Directive 6 thresholds, and identifying departments who repeatedly violate fiscal purchase order policy.

Seven Purchases Without Supporting Quotes

It is Purchasing and Contracts responsibility to review all quotes to ensure compliance with Fiscal Directive 6 and award the purchase order.

We found seven purchase orders that did not have supporting quotes in compliance with Fiscal Directive 6 Attachment B-Purchasing Process General Guidelines.

Missing Evidence of Attempts to Obtain Quote from Disadvantaged Businesses

Not obtaining quotes could result in the County not getting the best possible pricing, which could lead to excessive spending.

Five reviewed purchase orders did not contain evidence of the department attempting to obtain quotes from disadvantaged businesses, nor was there evidence that the department contacted Purchasing and Contracts for assistance.

“Backup must justify the reason why disadvantaged businesses did not quote.”

“If a local disadvantaged business cannot be identified after obtaining assistance from Purchasing and Contracts, this information must be noted in the “PR Header Note”.

Fiscal Directive 6

Not obtaining quotes from the disadvantaged business community could affect the County's reputation, as businesses may feel that the County is not committed to giving local disadvantaged businesses opportunities to do business with the County.

Quote training contains procedures for purchase requisition entry and details of back-up information that departments should attach to the purchase requisition. We found that training is mandatory for all staff who are authorized to obtain quotes. However, for staff that enter purchase requisitions, the Purchasing and Contracts Division encourages training, but it is not mandatory.

Individuals obtaining and evaluating quotes often do not create purchase requisitions. Not mandating training for individuals involved in creating purchase requisitions could result in staff not being knowledgeable of quote and/or purchase requisition entry requirements which could lead to errors, inconsistent work, and noncompliance with quote requirements and fiscal policy.

We also found training on usage of quote forms was not consistent with fiscal policy. According to Fiscal Directive 6:

“Departments are required to use the Clark County standard quotes which can be obtained on MyIntraNET under Purchasing and Contracts or by contacting the Purchasing Analyst.”

Whereas Purchasing and Contracts Quote Process and Procedures Training says:

“It is strongly suggested that departments use the Clark County standard Request for Quote forms...”

Further, according to the Quote Procedures , *“The supplier may also provide a quote on their own company form.”*

Variations in policies and procedures could result in inconsistencies in work, inefficiencies in time and resources, and approval of improper purchases. In addition, staff may not perform tasks correctly.

- Recommendation:*** 3.1 Review the following with appropriate staff and implement procedures to monitor compliance with:
- a. Fiscal Directive 6-Attachment B-Purchasing Process General Guidelines.
 - b. Fiscal Directive 6-Small Business Development.

- c. Quote Process and Procedures Training Manual.
- d. After the Fact Purchase Requisition Procedures.

3.2 Quote process and procedures training include all staff involved in creating, reviewing, and approving purchase requisitions.

3.3 Update the following:

- a. Countywide purchase requisition training to include details on documenting after the fact and emergency purchases.
- b. After the fact purchase requisition policies and procedures to include documenting reason for making purchase without a purchase order for transparency.

3.4 Establish a formal policy and procedure for reporting after the fact purchases to County management.

3.5 Review and update directives, policies and procedures and training manuals governing the purchasing and contracting process to ensure clarity, consistency, and uniformity.

Management Response:

3.1 Training for Department Heads and applicable staff will be done once revision of FD6 is completed.

3.2 Online quote training is open to all County employees. Each Department Head assigns the training to their staff responsible for procurement activities.

3.3 (a) Requisition training is not done by Purchasing it is done by ERP as entering PRs is a conflict of interest for Purchasing (b) A justification memo that is akin to the one needed for ratification can be included in the After the Fact process.

3.4 Purchasing will work with County Management to develop a process for providing them the after the fact information. This action is anticipated to be completed by July 1, 2023.

3.5 The Finance Department's fiscal policies and procedures are neither inflexible nor unchanging. They are living, breathing

documents that evolve and change as the organization has grown or as new technologies are implemented, or new threats are detected as old policies could leave the organization at risk. The Finance Department reviews its fiscal directive annually, but when/if new business requirements come into place, the Office has not/will not wait until the scheduled annual policy review. The Department understands that certain industries that are critical to the County's continued operations do not function in a manner that are consistent with FD #6 - specifically information technology companies that no longer accept purchase orders for the subscription-based products. The Finance Department, working with the Purchasing division, will continue to develop alternate procedures/update Directives in order to maintain oversight of County assets.

Finding 4 - Controls to Minimize Contract Changes Without Formal Approval Need Strengthening (High Risk)

“Any amendments, modifications or change orders to the contract after award must be submitted to Purchasing and Contracts and the Chief Financial Officer or his/her designee.” (Fiscal Directive 6)

In addition, the Purchasing and Contracts Division has the continued responsibility for contract administration pertaining to price adjustments.

Using professional judgment, we selected 71 (32%) out of a net 224 contract changes for the audit period which consisted of the following:

Exhibit 7: Contract Changes Testing Sample

Testing Category	Tested
Ratifications	21
Amendments	34
Change Orders	15
Miscellaneous	1
Total	71

Source: Auditor Prepared

We reviewed contract changes to determine whether the department supported contract change, authorized individuals approved the change, and if vendors provided goods and/or services prior to approval by the Board or the Purchasing and Contracts Division.

We found six of 21 (29%) ratified contracts did not include reasons for ratifications.

Some Cases, Ratifications are Occurring from Normal Business Operations Rather Than Unforeseen Circumstances

As mentioned, a ratification indicates that the work has already started or was performed prior to obtaining approval from the Purchasing and Contracts Division or the Board and/or the Purchasing Division finalized the purchase order. There can be unforeseen circumstances which warrants a ratification to a contract. Examples include the Covid pandemic, the October 1 mass shooting, the flood in Moapa Valley, and a pipe bursting during the construction process. However, other ratifications are occurring from normal business operations and departments are authorizing changes without formal approval.

Typical ratifications include but are not limited to change orders, amendments, assignments, and interlocal agreements.

When a ratification occurs from normal business operations, departments are not always forthcoming or willing to provide a reason for the ratification. During the audit, Purchasing updated its amendment template to include a section for documenting ratifications to ensure departments provide a detailed explanation for the ratification.

Purchasing Tries to Mitigate Improper Ratifications Through Education

Purchasing tries to mitigate contract ratifications by educating County departments and contractors about fiscal policies related to informal agreements and performing work without an approved purchase order or amended contract. Often, contractors do not know who in the County has approval authority. As such, if a contractor relies on the instruction of a director or an assistant director in a department, the County normally will not hold the contractor accountable for not knowing that person did not have authority. If the contractor does the work, the County will pay the contractor. We believe this is not ideal but feel it is reasonable to reduce reputation risk.

Departments authorizing vendors to perform work prior to obtaining formal approval violates Fiscal Directive 6 and puts the County at risk of paying for services that the County may not need at an excessive cost.

Other Exceptions Identified Related to Contract Changes

We found the following other exceptions related to contract changes during our testing:

- Vendors provided services prior to Purchasing and Contracts or the Board approving a change and/or Purchasing finalizing the purchase order for 31 of 71 (44%) contracts reviewed.
- The Director of Public Works did not sign or date two change orders.
- One amended contract did not have an effective date.
- One change order did not have an effective date.

- Recommendation:**
- 4.1 Review the section of the amendment template related to ratifications with County departments to ensure departments are aware that they are to document the reason for ratification.
 - 4.2 Provide training on County policy to departments who repeatedly authorize vendors to perform work without an official purchase order and ensure departments are aware of who in the County has contract approval authority.

- Management Response:**
- 4.1 New ratification process written and became effective March 29, 2023.
 - 4.2 The “After the Fact” process and the “Authorization to Enter into Contracts and Resolutions on Behalf of Clark County” memo is on the Purchasing Intranet site.

Finding 5 - Real Property Management's Construction Change Directive Authorizes Work Prior to Board Approval (High Risk)

Real Property Management (RPM) Design & Construction has Standard Operating Procedures from 2003 that have served as a basis for change order procedures. In addition, the general requirements section of construction contract documents specifies contract modification procedures to the contractor. We found that RPM's policies and procedures allows contractors to proceed with work while they negotiate/process change orders prior to Board approval. The department can also negotiate pricing after the contractor completes the work.

Change Directive Authorizes Work Without Formal Approval

RPM uses a Construction Change Directive, a written order prepared by the architect/engineer and signed by the owner and architect/engineer, directing a change in the work. The Directive allows for the following:

- In the absence of total agreement on the terms of a change order, the architect/engineer may instruct the contractor to proceed with a change in the work, for subsequent inclusion in a change order. The document will describe the changes in the work and will designate a method of determining any change in contract amount or contract time.
- The architect/engineer may, without invalidating the contract, order changes in the work within the general scope of the contract consisting of additions, deletions, or other revisions, adjusting the contract sum and contract time accordingly.

Contract changes and negotiations occurring under the Construction Change Directive are independent of the purchasing and contract process and violates Fiscal Directive 6 requirements. The Purchasing and Contracts Division is not aware of when RPM authorizes work and/or negotiates pricing. They become aware after the contractor completed the work and RPM brings changes to the Board for formal approval.

As previously mentioned, contractors are not aware of County policy and who has approval authority. They perform the work requested, putting themselves and the County at risk. This could lead to the County denying payment for work performed and/or the vendor not agreeing to pricing terms after they completed the work, which could result in a lawsuit for the County.

Recommendation:

(Real Property Management)

- 5.1 Disclose to the Purchasing and Contracts Division any current change orders with a Construction Change Directive.
- 5.2 Work with the Purchasing and Contracts Division to establish and implement policies and procedures for change orders that align with fiscal policy. Distribute policies and procedures to appropriate staff, place them in an accessible location and implement process to monitor compliance.

Management Response:

See full Management Response Letter in Exhibit B. Excerpt provided for reference.

5.1

1. RPM Design and Construction (D&C) will complete a comprehensive internal review and negotiation on all Construction Change Directive (not to exceed) amounts with the contractor and architect. When applicable, RPM D&C will engage and utilize an independent 3rd party cost estimator to review costs associated with the Construction Change Directive (CCD).
2. RPM D&C will review and receive approval on all CCD's from RPM senior management (Director & Deputy Director) prior to creating a CCD for signature by the Manager.
3. Prior to distribution of the CCD, RPM D&C will submit a copy of the CCD to Purchasing & Contracts for their information, with a note to Purchasing & Contracts that a change order will be negotiated within 2-weeks of completion of the requested work. When the change order is executed, then a copy of the CCD will be attached for reference, with a note stating that due to the CCD being a "not to exceed" amount, then the final negotiated change order will not necessarily match the amount on the CCD.
4. RPM D&C will provide Purchasing & Contracts a copy of the change order log and proof of balance available on the contract purchase order prior to issuing a CCD.
5. RPM D&C will notify and copy Purchasing & Contracts on the distribution of the CCD to the contractor.
6. RPM D&C will add an agenda item to the bi-weekly Purchasing/RPM status meeting to review any pending or executed CCD's and status of subsequent change orders.

5.2 RPM will work with Purchasing & Contracts to establish written policies and procedures for CCD's/change orders based on the above items, and distribute to the appropriate staff, and ensure that they are placed in an accessible location and implement process to monitor

compliance. Currently, RPM has a standard operating procedure (attached ADC402) that will be placed in RPM's accessible standards-guidelines-forms folder for staff reference and reviewed at an upcoming team meeting.

Finding 6 - Limited Resources Prevent Continuous Full Vendor Account Review in SAP (Medium Risk)

The vendor list in SAP is not being reviewed and updated on a regular basis. The County, the Department of Aviation and the Las Vegas Metropolitan Police Department all share the vendor list with the County. Further, the County cannot delete vendor records in SAP, so the list continually grows.

Due to the substantial number of vendors, we limited our review to vendors paid by non-purchase order during the audit period. We identified 30 vendors with duplicate accounts. Two vendors had more than one duplicate account. Accounts Payable blocked all duplicate accounts for payment in SAP during the audit.

There are no policies and procedures in place for reviewing vendor accounts. Due to limited staffing, the Comptroller's Office does not perform vendor account reviews.

A duplicate vendor account can occur due to multiple mailing addresses, departments not wanting to use the same vendor code as another department, or staff oversight.

Duplication or multiple instances of the same vendor increase the risk of duplicate payments or fraud.

Additionally, this could make it difficult for the County to comply with IRS 1099 reporting requirements. If payments are split among more than one vendor, but are paid to the same entity, the payments may not trigger the creation of a 1099 even though the total amount paid to the vendor exceeded the threshold for reporting. In 2022, Internal Revenue Service penalties range from \$50 to \$280 per form depending on when the 1099 is filed. Intentional disregard of the requirement carries a penalty of \$570 per form.

Recommendation:

6.1 Work with County IT to establish an automated process for performing vendor account reviews.

Management Response:

6.1 The Comptroller's Office is currently working with the Enterprise Resource Planning (ERP) department to develop an automated review process to review vendor accounts. Since the financial reporting system does not allow a vendor to have multiple mailing addresses, separate vendor accounts will need to be maintained for these vendors. ERP is currently working on functional specifications, and they plan to have it completed by the end of July 2023. The Comptroller's Office anticipates having a review process in place by end of July/early August 2023.

The Comptroller's Office is currently working with the ERP department to strengthen the IRS 1099 reporting process to ensure accurate IRS 1099 reporting for vendors with multiple mailing addresses. The risk of duplicate payment for vendors with multiple mailing addresses is addressed in the current accounts payable process. The accounts payable processors verify the address on the vendor invoice matches the vendor account reducing the risk of duplicate payment.

Appendix A: Audit Scope and Methodology

Scope

Our procedures considered the period of July 1, 2018, through June 30, 2021. The last day of fieldwork was November 30, 2022.

Methodology

To accomplish our objective, we conducted a preliminary survey that included reviewing applicable policies, procedures, and statutes. We also interviewed management and staff, performed observations and walkthroughs sufficient to obtain an understanding of the purchasing and contracting process, and reviewed financial information in SAP. Lastly, we gathered audit evidence and perform detailed testing and analysis to conclude on the objectives of the audit.

Based on the risks identified during our preliminary survey, interviews, and walkthroughs, we developed an audit and performed the following testing procedures:

- Verified the existence, storage and dissemination of policies and procedures governing purchasing and contracting activities.
- Verified that material group threshold reviews are performed annually and documented.
- Randomly selected 31 (*out of 313*) material group categories and reviewed related purchase orders to determine whether formal solicitations were obtained for material groups that exceeded annual thresholds.
- Randomly selected 151 (*out of 24,244*) purchase orders and examined evidence that purchase orders/contracts contained the required documentation based on dollar value per Fiscal Directive 6, were approved by authorized personnel, and goods/services received occurred after approval of purchase order.
- Used professional judgement and selected 216 (out of 55,895) purchases/contracts to confirm purchase requisitions and purchase orders were created and approved by authorized individuals and duties are segregated.
- Verified that vendor account reviews are performed and documented.

- Used professional judgment and selected 350 (*out of 27,968*) vendors paid non-purchase order. Examined non-purchase order payments for proper support, reason for payment, compliance with purchase order exceptions list, and whether payment was associated with a purchase order. Where non-purchase order payments related to a purchase order, we determined whether the fiscal year the purchase occurred was properly noted and if the summation of purchase order and non-purchase order payments exceeded the value of the purchase order.
- Examined 4,709 (out of 8,152) purchase orders from 323 material groups to determine whether purchases/ contracts having the same vendor and scope of work were divided to avoid the formal bid process. Examined documentation to determine whether vendor bids/quotes were understated to avoid the formal bid/quote process.
- Used professional judgment to select 71 (*out of 224*) contract changes for proper support, approval, and to determine whether vendors implemented changes prior to purchasing/board approval.

While some samples selected were not statistically relevant, we believe they are sufficient to provide findings for the population.

Our review included an assessment of internal controls in the audited areas. Any significant findings related to internal control are included in the detailed results.

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). 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. Our department is independent per the GAGAS requirements for internal auditors.

Appendix B: Management Response Letter - Real Property Management



Department of Real Property Management Design and Construction

500 S. Grand Central Pkwy 4th FL • Box 551825 • Las Vegas, NV 89155-1825
(702) 455-4917 • Fax (702) 455-5817

Lisa Kremer, Director

Shauna Bradley, Deputy Director • John Advent, Manager • Dan Rakers, Manager



April 3, 2023

Angela Darragh
Director Clark County Audit
500 S Grand Central Parkway, 5 FL
Las Vegas, NV 89155-1825

Dear Angela,

As a follow up to the FD6 Audit report dated January 2023, Real Property Management Design & Construction has prepared the below responses to the report's recommendations under Finding 5.

PURCHASING & CONTRACTS DIVISION FISCAL DIRECTIVE 6 COMPLIANCE AUDIT, dated January 2023:

FINDING 5:

RPM clarification to the Construction Change Directive (CCD) process: The contract amount approved by the BCC includes a construction conflict allowance. When issuing a CCD, the amount in question may utilize the construction conflict allowance, which is within the allowable amount already approved by the BCC. In addition, CCD's are reviewed by the RPM D&C project representative, design consultant, and signed by RPM D&C manager or higher and design consultant. A change order (CO) is at a minimum reviewed by the RPM D&C project representative, design consultant, and contractor; and signed by design consultant, contractor, and RPM D&C manager or higher.

FINDING 5. RECOMMENDATION 5.1. RPM RESPONSE:

1. RPM D&C will complete a comprehensive internal review and negotiation on all CCD (not to exceed) amounts with the contractor and architect. When applicable, RPM D&C will engage and utilize an independent 3rd party cost estimator to review costs associated with the CCD.
2. RPM D&C will review and receive approval on all CCD's from RPM senior management (Director & Deputy Director) prior to creating a CCD for signature by the Manager.
3. Prior to distribution of the CCD, RPM D&C will submit a copy of the CCD to Purchasing & Contracts for their information, with a note to Purchasing & Contracts that a change order will be negotiated within 2-weeks of completion of the requested work. When the change order is executed, then a copy of the CCD will be attached for reference, with a note stating that due to the CCD being a "not to exceed" amount, then the final negotiated change order will not necessarily match the amount on the CCD.
4. RPM D&C will provide Purchasing & Contracts a copy of the change order log and proof of balance available on the contract purchase order prior to issuing a CCD.
5. RPM D&C will notify and copy Purchasing & Contracts on the distribution of the CCD to the contractor.
6. RPM D&C will add an agenda item to the bi-weekly Purchasing/RPM status meeting to review any pending or executed CCD's and status of subsequent change orders.

BOARD OF COUNTY COMMISSIONERS

JAMES B. GIBSON, Chair • JUSTIN C. JONES, Vice Chair
MARILYN KIRKPATRICK • WILLIAM MCCURDY II • ROSS MILLER • MICHAEL NAFT • TICK SEGERBLOM
KEVIN SCHILLER, County Manager

FINDING 5. RECOMMENDATION 5.2. RPM RESPONSE:

RPM will work with Purchasing & Contracts to establish written policies and procedures for CCD's/change orders based on the above items, and distribute to the appropriate staff, and ensure that they are placed in an accessible location and implement process to monitor compliance. Currently, RPM has a standard operating procedure (attached ADC402) that will be placed in RPM's accessible standards-guidelines-forms folder for staff reference and reviewed at an upcoming team meeting.

Sincerely,



Lisa Kremer
Director, Real Property Management

Appendix C: Excerpt from Non-PO Payments/Fiscal Directive 6 Compliance Memo - Office of Budget and Financial Planning

As you may be aware, Fiscal Directive Six established procedures that were intended to ensure that all purchasing and contracting activities of the County comply with applicable Nevada Revised Statutes, Board direction and fiscal and administrative guidelines. The general County purchasing guidelines require that all purchases must be requested through a Purchase Requisition (PR) and authorized for spend through the issuance of a Purchase Order (PO). County departments and agencies are prohibited from authorizing suppliers to provide goods or services without an official PO number issued by the Purchasing and Contracts division of the Department of Administrative Services. Non-PO procurement is strongly discouraged – except in those certain circumstances as included on the list in Attachment "A" of the Fiscal Directive.

As a result of an internal audit of County Fiscal Directive Six, the County Finance Department has begun an overall review of its procedures relating the approval of non-PO payments. As part of our overall review, we are requesting your assistance. If your department feels that there are goods and services that have not been identified on this list that you feel deserves consideration as an "exception" to the purchasing process/policy, I will ask that you please contact your assigned Financial Analyst directly (by November 30) so that we may evaluate its possible inclusion within the Exception List. An updated listing of the exceptions will soon be disseminated along with the revised Directive.

Until the new Directive is reissued, my Office may be requesting additional text be included within any non-PO payments submitted between now and January. In certain circumstances, we may require that an "after-the-fact" PO may be requested to be entered (and the associated payment be made against it) if Purchasing division, in coordination with Finance, decides this is a more appropriate action. This will be considered on a case-by-case basis.

I appreciate your patience and understanding as we work toward better protecting the County's assets.