



**Hillsborough
County** Florida

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**Board of County Commissioners
County Internal Auditor's Office**

**Government Relations Division
Florida State Legislation Lobbyist Process**

**Report #2021-17
September 22, 2021**



**Hillsborough
County Florida**

County Internal Auditor

Peggy Caskey, CIA, CISA, CFE

601 E. Kennedy Blvd., 16th Floor

P O Box 1110 Tampa, FL 33601-1110

(813)274-6795

Board of County Commissioners

Harry Cohen

Ken Hagan

Pat Kemp

Gwendolyn "Gwen" W. Myers

Kimberly Overman

Mariella Smith

Stacy R. White

County Administrator

Bonnie M. Wise

County Attorney

Christine Beck

TO: Board of County Commissioners

FROM: Peggy Caskey, County Internal Auditor

DATE: September 22, 2021

SUBJECT: Florida State Legislation Lobbyist Process, Report #2021-17

Pursuant to the 2021 Annual Audit Plan, the County Internal Auditor's Office conducted a performance audit of the Florida state legislation lobbyist process. The Audit Team's objective was to determine the maturity of the process.

The purpose of this Report is to provide management independent, objective analysis, recommendations, counsel, and information concerning the activities reviewed. As such, this Report is not an appraisal or rating of management.

Although the Audit Team exercised due professional care in the performance of this audit, this should not be construed to mean that unreported noncompliance or irregularities do not exist. The deterrence of fraud and/or employee abuse is the responsibility of management. Audit procedures alone, even when carried out with professional care, do not guarantee that fraud or abuse will be detected.

I appreciate the cooperation and professional courtesies extended to the Audit Team. The County Administrator gave the Audit Team full, free, and unrestricted access to all applicable activities, records, property, and personnel necessary to accomplish the stated objective of this audit engagement. Personnel also provided necessary assistance for the Audit Team to effectively perform the audit in an efficient manner.

Sincerely,

Peggy Caskey, CIA, CISA, CFE

County Internal Auditor

Copy: Christine Beck, County Attorney

Brandon Wagner, Chief Government Relations and Strategic Services Administrator

Bonnie M. Wise, County Administrator

TABLE OF CONTENTS

SECTION	PAGE
Executive Summary	1
Overall Opinion	1
Audited By	1
Background Information	2
Audit Objective	3
Approach	3
Scope	3
Positive Attributes	3
Audit Comments & Recommendations	4

EXECUTIVE SUMMARY

Pursuant to the 2021 Annual Audit Plan, the County Internal Auditor's Office conducted a performance audit of the Florida state legislation lobbyist process. The Audit Team's objective was to determine the maturity of the process in the following three areas:

1. Lobbyist contractor selection strategy.
2. Data and record keeping.
3. Effective lobbying efforts.

The Audit Team determined if the maturity of the process is adequately designed to minimize the likelihood of errors or abuse.

Other minor concerns that may have been identified and not included in this Report were communicated to management and/or corrected during fieldwork.

The exit conference was held on August 26, 2021.

OVERALL OPINION

It is the County Internal Auditor's overall opinion that the Florida state legislation lobbyist process is at the repeatable control maturity level (level 2 out of a possible 5). Controls are established; however, written policies and procedures and formal process design documentation is lacking. There is some clarity on roles, responsibilities, authorities, and accountability. The process design supports repeatability. There is a high reliance on existing personnel creating exposure to change.

The recommendations in this Report are designed to further strengthen and mature the control environment already in place.

AUDITED BY

Peggy Caskey, CIA, CISA, CFE, County Internal Auditor
Michelle Ferreiro, CPA, CFE, Senior Internal Auditor
Melinda Jenzarli, CIA, CISA, CFE, CPA, MBA, Lead Internal Auditor
Jeremy Miller, CIA, MBA, Senior Internal Auditor

BACKGROUND INFORMATION

The Government Relations Division's (Division's) primary business objective is to obtain needed policies and funding from the local, state, and federal levels of government on behalf of the Board of County Commissioners (Board).

To accomplish this, the Division creates an annual Florida State Legislative Program (Program) as part of its Florida state legislation lobbyist process (Process). The Program is comprised of priority areas and issues which represent the Board's directed position on dealings with the State of Florida in the upcoming legislative session. During the Process, the Division:

- Works closely with the Procurement Services Department to compile the state lobbying services specifications during the request for proposal (RFP) process.
- Reviews the Florida Legislative Session Summary Report from the prior year.
- Meets with department directors and the executive team to obtain input on concerns, priorities, needs, and budget requests.
- Meets with each County Commissioner to discuss issues vetted by the executive team, and to add Commissioner issues.
- Utilizes an online service called LobbyTools to flag and monitor the Board's issues.
- Provides the Board and key stakeholders daily and weekly recaps that include the status of relevant legislation on the Board's issues.
- Collaborates with the County's contracted lobbyist firms to advance the Board's issues.
- Provides the Board and key stakeholders the Florida Legislative Session Summary Report communicating the outcome of the Division's efforts to influence legislation.

During the 2021 Process the:

- State lobbying services contracts were awarded to Ballard Partners Inc. and Smith, Bryan & Myers Inc. on October 21, 2020, through RFP 20288.
- Program was initially approved by the Board on January 6, 2021.
- Florida legislative session convened on March 2, 2021.
- Program was amended by the Board on March 3, 2021.
- Program was amended by the Board on April 7, 2021.
- Florida legislative session adjourned on April 30, 2021.
- Florida Legislative Session Summary Report was provided to the Board and key stakeholders on July 2, 2021.

The 2021 Program included nine priority areas.

- Affordable Housing and Homelessness
- Civil and Criminal Justice
- Constitutional Issues
- Economic Development
- Emergency Shelters, Sustainability, and Public Safety
- Health and Human Services
- Local Advocacy and Home Rule
- Natural Resources and Environmental Preservation
- Transportation

AUDIT OBJECTIVE

The Audit Team's objective was to determine the maturity of the Florida state legislation lobbyist process.

APPROACH

The audit was conducted in conformance with the *International Standards for the Professional Practice of Internal Auditing*. These Standards require that the County Internal Auditor's Office plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for the audit comments and conclusions based on the audit objectives. The County Internal Auditor believes that the evidence obtained provides this reasonable basis.

SCOPE

The Audit Team collected information on matters related to the audit's objective. The Audit Team performed interviews, observations, and testing on the control environment and activities performed from July 1, 2020, through June 30, 2021.

Specifically, the scope of work included the full population of:

- One request for proposal (RFP) for lobbyist services, two contracted lobbyist firms awarded a contract.
- One Florida State Legislative Program (Program) that contained 25 Board issues for the 2021 legislative session. For these 25 Board issues,
 - 19 had legislation filed and 6 did not have legislation filed.
 - 14 achieved the Board's desired result and 11 did not achieve the Board's desired result.

The Audit Team determined whether the following principal business objectives support the achievement of the primary business objective to obtain needed policies and funding from the local, state, and federal levels of government on behalf of the Board of County Commissioners (Board).

- The procurement strategy supports professional service contractor selections in the best interest of the Board.
- The population of Board issues in the Division's records is accurate, complete, and reliable.
- The Board's issues are understood, included in the Program, and are effectively lobbied during the Florida legislative session.

POSITIVE ATTRIBUTES

During the 2021 Florida legislative session, through the Division's lobbying efforts, key legislation advanced in the following areas:

- Secured funding for septic-to-sewer conversions. Specifically, \$500 million was appropriated to the Department of Environmental Protection, which will be used to implement a grant program targeting septic-to-sewer conversions.
- Identified and preserved abandoned African American cemeteries.
- Repealed the Multi-use Corridors of Regional Economic Significance (M-CORES) Program and redirected funds to essential statewide transportation initiatives.

AUDIT COMMENTS & RECOMMENDATIONS

AUDIT COMMENT 1

LOBBYIST CONTRACTOR SELECTION STRATEGY

AUDIT COMMENT

Overall, the control environment design and/or activities tested enable the Division to achieve its principal business objective to ensure the procurement strategy supports professional service contractor selections in the best interest of the Board. A recommendation was made to build upon the control environment already in place.

DISCUSSION

Per Division management, it conforms to the Procurement Services Department's *Procurement Procedures Manual*, 2017, Chap. 3 "Development and Award of Bids and Request for Proposals," pp. 19-53. This formal Request for Proposals (RFP) process requires the Division to prepare precise specifications.

The Division designs the specifications to attract a wide range of experienced qualified firms, and to ensure the firm selected will deliver the best possible outcomes for the Board and the needs of Hillsborough County. Per Division management, to aid in the process, the Division compares specifications and rates to other similar size counties.

The Procurement Services Department reviews the RFP specifications for language that may limit competition. If concerns are identified, the specifications are revised or clarified.

Per Division management, based on the County's size and breadth of Board issues, the best strategy to increase bandwidth is to hire general-purpose firms who have strong contacts and the ability to bring in specialized skills when needed.

After an RFP is closed for proposals, an evaluation committee, representing a cross-section of employees with knowledge of state lobbying services, reviews the technical aspects of the proposals submitted for conformance with the RFP's specifications. To ensure the lobbyist firm will deliver the best possible outcomes for the Board and the needs of Hillsborough County, the evaluation committee considers the firm's:

- Understanding of the Florida legislative session activities.
- Capabilities and approach for how it will effectively advance legislation for Hillsborough County.
- Developed professional relationships with Florida's executive and legislative leadership, the Governor's Office, Speaker of the House, President of the Senate, and committee chairs.
- Experience working with state and local governments on a wide range of issues (similar to Hillsborough County's) that have withstood the changes in the legislature.
- Conflicts of interest.

The evaluation committee reaches a consensus and recommends the Board to award a contract to the highest-ranked and best qualified firm(s). In conformance with Board Policy 03.06.00.00 Procurement Policy, §1-505, the Board awards the contract during a regular Board meeting.

AUDIT PROCEDURES

To determine whether the control environment is adequately designed, and activities performed align with written guiding principles and the process design, the Audit Team validated the entire population of one state lobbying services request for proposal (RFP #20288) for the following:

- The Evaluation Committee:
 - Members signed the Evaluation Committee Disclosure Form.
 - Chair performed bidder reference checks.
 - Recommended the Board award a contract to the highest-ranked and best qualified firm(s).
 - Made a conflict of interest determination for bidders who disclosed potential conflicts of interest with other clients represented by the firm.
- The Board:
 - Awarded the contract(s).

Figure 1: RFP 20288, State Lobbying Services, Audit Procedures and Results

Written Guiding Principle	Control/Procedure Reviewed	1.1 Policies and Procedures Align with Written Guiding Principles	1.2 Control/Process Design is Adequate	1.3 Activity Performed Aligns with Written Guiding Principle and Process Design
Procurement Procedures Manual 3.4.10 (C)(III)	<p>Integrity Concerns Reporting Mechanisms Evaluation Committee members must sign a form covering confidentiality for the first 10 calendar days after receipt of the bid/proposal submittals or until a recommendation is made, whichever is earlier. The form also discloses potential conflicts of interest with respect to members of an evaluation committee.</p>	Yes	Yes	Yes
Procurement Procedures Manual 3.4.10 (A)(I)(II)(C)(VII)	<p>Performance Contracts/Evaluation Criteria The evaluation committee chair conducts reference checks of bidders.</p> <p>An evaluation committee with knowledge of state lobbying services reviews the technical aspects of bid/proposal submittals for compliance with the specifications and to make a recommendation for award.</p>	Yes	Yes	No
RFP 20288, State Lobbying Services, §1.5.1.1.3	<p>Other Process Oversight Activities Offerors are required to provide a list of all clients which may represent a conflict to the County. The evaluation committee will make the conflict determination.</p>	Yes	No	Yes
Board Policy 03.06.00.00 Procurement Policy, §1-505	<p>Authority Grids/Structures and Procedures The Board approves the state lobbying services contracts during a regular Board meeting.</p>	Yes	Yes	Yes

RESULTS

Overall, the test results indicate that:

- The procurement strategy supports professional service contractor selections in the best interest of the Board.
- The control environment design and/or activities tested mitigate vendor risk.

1.1 POLICIES AND PROCEDURES ALIGN WITH WRITTEN GUIDING PRINCIPLES

The procurement procedures used for RFP #20288; state lobbying services aligned with Board Policy 03.06.00.00 Procurement Policy. No misalignment was identified.

RECOMMENDATION

None.

1.2 CONTROL/PROCESS DESIGN IS ADEQUATE

Overall, the procurement strategy control/process design is adequate. The Audit Team identified that the process oversight activities design could be improved to prevent contracted lobbyists from representing clients that conflict with their obligation to deliver the best possible outcomes for the Board and the needs of Hillsborough County.

RECOMMENDATION

To further strengthen the process oversight activities design already in place, consideration should be given to revising the specifications to require contracted lobbyists to periodically sign a conflict of interest statement attesting the other clients they represent do not conflict with their obligation to lobby the Board's issues.

MANAGEMENT RESPONSE

Concur. Government Relations will ensure current and future contracted lobbyists sign a conflict of interest statement.

Target Completion Date: December 31, 2021

1.3 ACTIVITIES PERFORMED ALIGN WITH WRITTEN GUIDING PRINCIPLES AND PROCESS DESIGN

Overall, the activities performed aligned with written guiding principles and process design. However, the Evaluation Committee Chair did not conform to Procurement Services Procedures Manual Section 3.4.10 Evaluation Committee (C)(IV).

RECOMMENDATION

To align the activities performed with written guiding principles and process design, consideration should be given to requiring the evaluation committee chair to conform to the Procurement Services Procedures Manual Section 3.4.10 Evaluation Committee (C)(IV) by conducting reference checks before making a recommendation for award.

MANAGEMENT RESPONSE

Concur. Government Relations understands, as we have performed reference checks previously, that this is a Procurement policy that the Evaluation Committee Chair must comply with. However, we would like for it to be noted that reference checks on professional services can be very subjective. Additionally, related to the services that the firms at issue provide could subject the chair to undue influence, either positively or negatively. Therefore, we feel it should be an additional requirement for the chair to share information received pursuant to these reference checks with the other members of the Evaluation Committee. Therefore, all members are operating with uniform knowledge and can evaluate proposals accordingly.

Target Completion Date: Next scheduled RFP process, anticipated September 2022 at the earliest.

AUDIT COMMENT 2 DATA AND RECORD KEEPING

AUDIT COMMENT

Overall, the control environment design and/or activities tested enables the Division to achieve its principal business objective to ensure the population of Board issues in its records is accurate, complete, and reliable. Recommendations were made to build upon the control environment already in place.

DISCUSSION

During a regular Board meeting, the Division presents the Program, makes a verbal promise/commitment to obtain the Board's approval before making any changes to the Program, and requests the Board's approval of the Program. There is no written guiding principle that prevents the Division from changing the Program without the Board's approval.

The Division flags and monitors legislation filed on the Board's issues using:

- LobbyTools (online subscription purchased by the County)
- House Legislative Tracking System
- Senate Tracker

AUDIT PROCEDURES

To determine whether the control environment is adequately designed, and activities performed align with the process design, the Audit Team validated the entire population of one Program and all of its 19 Board issues, that had legislation filed, for the following:

- The Board approved the initial version of the Program on January 6, 2021, and the amendments made to the Program on March 3, 2021, and April 7, 2021.
- The Board's issues that had legislation filed were flagged in LobbyTools.
- No legislation was filed for Board issues not flagged in LobbyTools.
- All Board issue outcomes were reported to the Board in the Florida Legislative Session Summary Report.

Figure 2: Data and Record Keeping, Audit Procedures and Results

Written Guiding Principle	Control/Procedure Reviewed	2.1 Policies and Procedures Align with Written Guiding Principles	2.2 Control/Process Design is Adequate	2.3 Activity Performed Aligns with Process Design as Described.
None	Authority Grids/Structures and Procedures The Board approves the Program during a regular Board meeting. The Division makes a verbal promise/commitment to obtain the Board's approval before making any changes.	N/A	No	Yes
None	Direct Controls Related to Business Systems The Division validates its population of Board issues in its records is accurate, complete, and reliable by flagging the issues in LobbyTools.	N/A	Yes	Yes

RESULTS

Overall the test results indicate that:

- The population of Board issues in the Division's records is accurate, complete, and reliable.
- The control environment design and/or activities tested mitigate monitoring and reporting inaccuracy risks.

Developing written policies and procedures that provide guidance on the process design and expected activities to be performed will further strengthen the control environment to achieve the principal business objective.

2.1 POLICIES AND PROCEDURES ALIGN WITH WRITTEN GUIDING PRINCIPLES

The Government Relations Division does not have written policies and procedures, and there are no higher-level written guiding principles governing the Florida state legislation lobbyist process. As such, this test could not be performed.

RECOMMENDATION

To further strengthen the control environment already in place, consideration should be given to developing written policies and procedures for the Florida state legislation process to ensure:

- Employees understand the process and are properly trained.
- Expectations are clarified.
- Achievement of the principal business objective(s).

MANAGEMENT RESPONSE

Concur. Government Relations staff will codify existing, long-standing policies and procedures for the state legislative process.

Target Completion Date: December 31, 2021

2.2 CONTROL/PROCESS DESIGN IS ADEQUATE

Overall, the data and record keeping control/process design is adequate. The Audit Team identified that the authority grids/structures and procedures design could be improved if the requirement for the Board to approve the Program and any amendments was put in writing to ensure the Program represents the Board's directives.

RECOMMENDATION

To further strengthen the control environment already in place, consideration should be given to putting in writing that the Program must be approved by the Board and cannot be changed without its approval.

MANAGEMENT RESPONSE

Concur. Government Relations staff will codify our existing practice of developing and amendatory procedures the program in our Policies and Procedures.

Target Completion Date: December 31, 2021

2.3 ACTIVITIES PERFORMED ALIGN WITH PROCESS DESIGN AS DESCRIBED

Activities performed aligned with the process design described by the Division's management. No material concerns were identified.

RECOMMENDATION

None.

AUDIT COMMENT 3 EFFECTIVE LOBBYING EFFORTS

AUDIT COMMENT

Overall, the control environment design and/or activities tested enable the Division to achieve its principal business objective to ensure the Board's issues are understood, included in the Program, and are effectively lobbied during the Florida legislative session. A recommendation was made to build upon the control environment already in place.

DISCUSSION

The Division's employees work off site during the regular and any special sessions (at least 60 days annually) at the Florida State Legislature in Tallahassee advancing the Board's issues.

During the Florida legislative session, the Division:

- Meets with contracted lobbyists every Friday afternoon to prep for the following week, closely monitor their position taken on the Board's issues, and identify potential conflicts.
- Reviews ongoing reports and other documentation produced by the contracted lobbyists.
- Provides to the Board and key stakeholders daily and weekly recaps that include the status of relevant legislation on the Board's issues.
- Works closely with the County Attorney's Office and department directors to obtain information needed to effectively lobby for the Board's issues.
- Utilizes a Request For Information Form for a quick response from directors.
- Keeps the Board informed of emerging risks and situations that may have an impact on the County's operations and programs.
- Updates the executive team on the status of the Board's issues as they progress.
- Provides information on preemptive bills that impact local governments.
- When the Florida legislative session adjourns, provides the Board and key stakeholders the Florida Legislative Session Summary Report communicating the outcome of the Division's efforts to influence legislation.

AUDIT PROCEDURES

Per the 2021 Florida Legislative Session Summary Report, 11 of the full population of 25 Board issues were not achieved. Five did not have legislation filed, and six did not advance in the legislature. Board issues that did not advance in the legislature did not reach a committee hearing, pass a committee vote, reach a legislative session vote, or pass a legislative session vote.

To determine whether the control environment is adequately designed, and activities performed align with the process design, the Audit Team:

1. Reviewed the following to demonstrate efforts to advance the 11 Board issues:
 - o Letters to the House, Senate, and Governor advocating legislation.
 - o The Division's notes and communications with contracted lobbyists.
 - o The Division's texts and emails to legislators' aides advocating legislation.
 - o The Division's calendar for meetings with Senators to advance legislation.

- o Electronic records in LobbyTools of bills flagged and monitored.
2. Identified if the reason why the 11 Board issues were not filed or advanced in the legislature was caused by the Division's:
 - o Incomplete or untimely receipt of information needed from directors to effectively lobby issues.
 - o Inaccurate, unreliable, and incomplete records and tracking of issues.
 3. Validated the full population of 2021 legislative session, daily and weekly legislative recaps and the Florida Legislative Session Summary Report were provided to the Board for review and feedback.

RESULTS

Overall the control environment design and/or activities tested mitigate service or quality risks.

The test results indicate that:

- The 11 Board issues that did not have legislation filed or did not advance in the legislature were understood, included in the Program, and were effectively lobbied to advance them during the Florida legislative session.
- The 11 Board issues that did not have legislation filed or did not advance in the legislature, was not caused by the Division's incomplete or untimely receipt of information or by inaccurate, incomplete, or unreliable records or tracking of the issues.
- The full population of the 2021 legislative session, daily and weekly legislative recaps, and the Florida Legislative Session Summary Report were provided to the Board for review and feedback.
- Although the Division has an implied requirement that contracted lobbyists need to bring conflicts of interest to its attention, it does not require contracted lobbyists to submit a Conflict of Interest Statement attesting any real or perceived conflicts of interest disclosure.

RECOMMENDATION

To further strengthen the control environment already in place, consideration should be given to improving process oversight activities design by requiring contracted lobbyists to periodically sign a conflict of interest statement. It should be the responsibility of each contracted lobbyist to remain independent through the Florida legislative session.

MANAGEMENT RESPONSE

Concur. Government Relations will ensure current and future contracted lobbyists sign a conflict of interest statement.

Target Completion Date: December 31, 2021