



REPORT TO COUNCIL City of Sacramento

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www. CityofSacramento.org

STAFF REPORT
April 25, 2006

Honorable Mayor and
Members of the City Council

Subject: Presentation of the internal audit report, *Bidding and Contract Processes Examination: The General Services Department and the Office of the City Clerk.*

Location/Council District: Citywide

Recommendation: Receive and file

Contact: Martin Kolkin, City Auditor 808-5704

Presenter: Martin Kolkin

Department: City Manager's Office

Division: Internal Audit

Organization No: 0310

Summary:

The attached internal audit report, *Bidding and Contract Processes Examination: The General Services Department and the Office of the City Clerk*, highlighted numerous areas where management oversight and internal controls could be improved were noted in.

The audit report listed five categories of findings with thirty-eight recommendations for improvements. Management action has been taken to resolve eleven audit recommendations and the remaining twenty-seven audit recommendations are scheduled to be resolved May – December 2006.

Background:

In accordance with the approved Internal Audit Workplan, attached is the completed audit report of the Bidding and Contract Processes for the General Services Department and the Office of the City Clerk.

The purpose of this audit was to evaluate municipal bidding and contract processes.

Discussion:

Based upon the records examined and auditing techniques employed, it is my recommendation that:

- 1.0 Representatives of the City Manager's Office and representatives of the City Clerk's Office jointly establish new municipal mandates regarding bid, RFP, and RFQ openings;
- 2.0 The Director of General Services Department or her representatives take action to significantly increase departmental oversight of public projects;
- 3.0 The Director of the General Services Department or her representatives take action to revise departmental purchasing practices to comply with municipal requirements;
- 4.0 The City Clerk or her representatives take action to improve the efficiency of the contract filing and tracking systems through automation and standardization of processes;
- 5.0 The Director of Finance or his representatives revise the City's Administrative Policy Instructions for procurement to communicate in a clear and standardized manner, the intent and purpose of the requirements; and

Due to the serious nature and number of internal control weaknesses noted in this report, a follow-up examination is recommended.

Financial Considerations:

No additional financial considerations.

Environmental Considerations:

This activity does not constitute a "project" and is therefore exempt from the California Environmental Quality Act (CEQA), CEQA Guidelines Sections 15061(b) and 15378(b)(3).

Policy Considerations:

The City Auditor's presentation of the *Bidding and Contract Processes Examination: The General Services Department and the Office of the City Clerk* internal audit is consistent with the City's core values of fiscal responsibility and accountability.

ESBD Considerations: None

May 25, 2006

Respectfully Submitted by: 
Martin Kolkin
City Auditor

Recommended Approval:

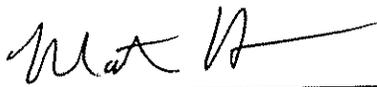

for RAY KERRIDGE
City Manager

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1. *Bidding and Contract Processes Examination: The General Services Department and the Office of the City Clerk* Internal Audit Report



OFFICE OF THE
CITY MANAGER

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Honorable Mayor, City Council Members, and City Manager:

The Sacramento City Auditor has completed a limited scope audit of the General Services Department and the City Clerk's Office bidding and contract processes. This examination was conducted in accordance with the City Council's core values and guiding principles of fiscal responsibility and accountability, as well as applicable standards contained in Government Auditing Standards, issued by the Comptroller General of the United States, with the exception of a peer review.

The purpose of this audit was to evaluate General Services' departmental practices to determine compliance with City Code, the City Manager's Administrative Policy Instructions, and to compare to prudent business practices. Additionally, the City Clerk's contract file recordkeeping processes and practices were evaluated.

In my opinion the following audit recommendations should be implemented:

- 1.0 Representatives of the City Manager's Office and representatives of the City Clerk's Office jointly establish new municipal mandates regarding bid, RFP, and RFQ openings;
- 2.0 The Director of General Services Department or her representatives take action to significantly increase departmental oversight of public projects;
- 3.0 The Director of General Services Department or her representatives take action to revise departmental purchasing practices to comply with municipal requirements;
- 4.0 The City Clerk or her representatives take the actions to improve the efficiency of the contract filing and tracking systems through automation and standardization of processes; and
- 5.0 The Director of Finance or his representatives revise the City's Administrative Policy Instructions ("APIs") for procurement to communicate in a clear and standardized manner, the intent and purpose of the requirements.

Audit findings were discussed in detail with the Director of General Services, the Director of Finance, the City Clerk, and the City Manager. Responses to this report are included in their entirety in the Appendix of this report.

Martin J. Kolkin
City Auditor

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Recommendations
Bidding and Contract Processes Examination:
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The purpose of this audit was to evaluate municipal bidding and contract processes. Based upon the records examined and auditing techniques employed, it is my recommendation that:

- 1.0 Representatives of the City Manager's Office and representatives of the City Clerk's Office jointly establish new municipal mandates regarding bid, RFP, and RFQ openings;
- 2.0 The Director of General Services Department or her representatives take action to significantly increase departmental oversight of public projects;
- 3.0 The Director of the General Services Department or her representatives take action to revise departmental purchasing practices to comply with municipal requirements;
- 4.0 The City Clerk or her representatives take action to improve the efficiency of the contract filing and tracking systems through automation and standardization of processes; and
- 5.0 The Director of Finance or his representatives revise the City's Administrative Policy Instructions ("APIs") for procurement to communicate in a clear and standardized manner, the intent and purpose of the requirements; and

City Auditor's Recommendations	Action Taken by Management	Estimated Completion Date
1.0 The City Clerk and the City Manager jointly establish new mandates that:	Representatives of the City Clerk and the City Manager's Office are working on an APIs that:	Listed below by recommendation.
1.1 Require the City Clerk's Office to open all bids, RFPs, and RFQ of \$25K or greater;	Representatives of the City Manager's Office concurred and agreed to direct the revision of the APIs to include the City Clerk as the official recorder for bids, RFPs, and RFQ of \$25 thousand or greater. The City Clerk agreed to accept responsibility for recording the opening of bids, RFPs, and RFQ as dictated by City Code and APIs.	December 2006

City Auditor's Recommendations	Action Taken by Management	Estimated Completion Date
<p>1.2 Require the electronic uploading of all proposals immediately after opening by the City Clerk' Office;</p>	<p>Representatives of the City Manager's Office concurred and agreed to direct the revision of the APIs to include requiring the electronic recording of original proposals immediately after opening included in the City's APIs.</p> <p>The City Clerk concurred and noted that the City Clerk's office is currently imaging all bids and emailing to applicable parties.</p>	<p>December 2006</p>
<p>1.3 Require original contracts of \$25K or greater to be maintained by the City Clerk's Office; and</p>	<p>Representatives of the City Manager's Office concurred and agreed to direct the revision of the APIs to include requiring contracts \$25K or greater and agreements where no amount is stated, such as pricing agreements, be maintained in the City Clerk's Office.</p> <p>The City Clerk concurred.</p>	<p>December 2006</p>
<p>1.4 Require a nonvoting member of the Procurement division to attend all RFP proposal evaluations of \$100K or greater.</p>	<p>Representatives of the City Manager's Office concurred and agreed to direct the revision of the APIs to include a nonvoting member of the Procurement division to attend all RFP proposal evaluations of \$100K or greater.</p>	<p>December 2006</p>
<p>2.0 The Director of General Services take the following actions to increase managerial oversight:</p>	<p>The General Services Director actions taken are listed below by recommendation.</p>	<p>Listed below by recommendation.</p>
<p>2.1 Establish written departmental policies and procedures for public projects;</p>	<p>The General Services Director noted that her department is in the process of establishing a comprehensive policy and procedural document.</p>	<p>June 2007</p>
<p>2.2 Notify the Mayor and City Council of all aggregate purchases of \$100K or greater not approved by the governing body, as required by City Code;</p>	<p>The General Services Director indicated that her department would comply. However, she stated her belief of the need for further clarification on how the aggregate \$100K was calculated, by project, vendor, or by the type of work performed.</p>	<p>September 2006</p>

City Auditor's Recommendations	Action Taken by Management	Estimated Completion Date
<p>2.3 Request suspension of competitive bidding for the "L" Street Barge, negotiate a contract, and obtain a formal written contract;</p>	<p>The General Services Director noted that her department, with assistance from the City Attorney's Office, was currently negotiating this contract. She further noted that the contract would then be recommended to City Council for approval.</p>	<p>May 2006</p>
<p>2.4 Obtain all contracts as required for purchases in excess of \$25K, as required by APIs;</p>	<p>The General Services Director concurred.</p>	<p>Completed</p>
<p>2.5 Develop a plan to bring debit card usage in compliance with municipal ordinances;</p>	<p>The General Services Director indicated that her department was in the processes of developing a departmental reference guide for purchase cards.</p>	<p>December 2006</p>
<p>2.6 Change the organizational structure of project delivery divisions to provide greater managerial oversight;</p>	<p>The General Services Director noted her department was performing a re-engineering process that evaluates internal department checks and balances, examines separation of duties, examines transparency in contracting, and determines the correct mix of job classifications needed for public project delivery.</p>	<p>July 2006</p>
<p>2.7 Document critical oversight procedures;</p>	<p>The General Services Director noted that her department would address this process in conjunction with establishing written policies and procedures.</p>	<p>December 2006</p>
<p>2.8 Establish a system to organize project records and files;</p>	<p>The General Services Director concurred and noted that her department had centralized all contracting and accounting.</p>	<p>December 2006</p>
<p>2.9 Establish procedures to ensure compliance with the City's record retention requirements;</p>	<p>The General Services Director concurred and noted that her department would detail all newly established policies and procedures within a comprehensive manual.</p>	<p>December 2006</p>

City Auditor's Recommendations	Action Taken by Management	Estimated Completion Date
<p>2.10 Remove project evaluation criteria related to sex, color, ethnicity or national origin for nonfederal projects;</p>	<p>The Director of General Services noted that her department was working with the Finance Department and the City Attorney's Office to review boilerplate contract language.</p> <p>She added that a quick reference guide would be developed for staff.</p>	<p>September 2006</p>
<p>2.11 Discontinue usage of local hiring preferences for project evaluation;</p>	<p>The General Services Director concurred.</p>	<p>Completed</p>
<p>2.12 Establish pre-approved "boilerplate" language for contracts under \$25K;</p>	<p>The Director of General Services indicated that she supported the use of pre-approved boilerplate language that would speed up the contracting process, while still providing adequate oversight.</p> <p>The Director of General Services added that her department would work with the City Attorney Office and Office of the City Clerk on this project.</p> <p>She also expressed interest regarding an on-going review of insurance requirements to assist in improving efficiency and customer service.</p>	<p>October 2006</p>
<p>2.13 Provide employee training on conflict of interest, APIs, City Codes, and applicable requirements; and</p>	<p>The Director of General Services indicated that her department would ensure on-going training in these areas.</p>	<p>Initial Training To be Completed By July 2006</p>
<p>2.14 Notify the Mayor and City Council of any emergency contracts, as required by City Code (also, refer to recommendation no. 6.0).</p>	<p>The Director of General Services stated interest in:</p> <p>1) Reviewing this requirement given that department directors already have delegated signature authority for contracts under \$100,000, or 2) Making this a standing item at all City Council sessions which present would present all emergency actions in a Citywide staff report.</p>	<p>October 2006</p>

City Auditor's Recommendations	Action Taken by Management	Estimated Completion Date
3.0 The Director of General Services take the following actions to:	The General Services Director actions taken are listed below by recommendation.	Listed below by recommendation.
3.1 Apply procurement requirements for the annual purchases of goods and services based upon APIs and City Code requirements;	The General Services Director concurred.	Completed
3.2 Develop master services lists for commonly used items and services;	The General Services Director noted that her department implemented this process. She added that this process had yielded limited success on large on-call contracts, and more success on smaller contracts.	Completed
3.3 Increase usage of pre-established pricing agreements, and blanket purchase orders, and quantity purchases that take advantage of pricing discounts;	The General Services Director concurred.	Completed
3.4 Monitor vendor payments to ensure compliance with the APIs;	The General Services Director concurred. She added that this process had been implemented and would be expanded to all levels of management on a regular basis.	Completed
3.5 Monitor debit card usage to ensure compliance, and	The Director of General Services concurred.	Completed
3.6 Re-evaluate monthly debit card limits for employees.	The Director of General Services concurred.	Completed
4.0 The City Clerk improve the efficiency of the department's contract filing and tracking system.	The City Clerk's actions taken are listed below by recommendation.	Listed below by recommendation.
4.1 Develop a system that shares information with other department, as part of a larger document management system;	The City Clerk concurred. She stated that currently all agreements are imaged on Laserfiche and her office continues to "backfile" as time permits. The City Clerk added that the same process would be followed for contracts in the following September.	Agreements Completed Contracts September 2006

City Auditor's Recommendations	Action Taken by Management	Estimated Completion Date
4.2 Ensure that the new system requires compliance with City Codes and APIs, such as dollar thresholds and signatory authority;	The City Clerk agreed and stated that training updates would be required for all of her staff working with contracts and agreements.	September 2006
4.3 Establish a checklist of required documents within contract files;	The City Clerk concurred and stated that her staff would receive training in April and May 2006.	July 2006
4.4 Standardize the processing of contracts and agreements;	The City Clerk agreed to rewrite procedures and train her staff.	July 2006
4.5 Require the dating of all agreements, amendments, & change-orders upon signing;	The City Clerk noted that this procedure was established in September 2005.	Completed
4.6 Develop a system for querying the master agreement inventory listings; and	The City Clerk stated that an Access database was developed to serve as a master inventory encompassing Agreements, Contracts, Supplements and Change Orders. The City Clerk stated that her office would "backfile" information back to January 2005.	Implemented on January 2006
4.7 Require signatures on bid opening records.	The City Clerk noted that this procedure was established in September 2005.	Completed
5.0 The Director of Finance revises the requirements for procurement to clearly communicate the intent of the City's APIs. Revise City Code or API 1 to provide consistent requirements for purchases under \$5 K;	The Finance Director's actions taken are listed below by recommendation.	Listed below by recommendation.
5.1a Establish an API for Requests for Proposals;	The Finance Director stated that Procurement Services would draft an API for Requests for Proposals.	April 2007
5.1b Update the language in API 22, City Manager's Delegation of Authority. Revise API 22 to grant City Manager authority to Division Managers, for up to \$25K;	The Finance Director stated that Procurement Services would form a working group with General Services and other departments to revise APIs to make necessary revisions to provide standardization and continuity of APIs.	July 2006

City Auditor's Recommendations	Action Taken by Management	Estimated Completion Date
5.1c Revise API 48, Section 7, Exceptions to Competitive Bidding, Emergency Work, to reflect the requirements of SCC 3.60.070;	Refer to Action Taken in Recommendation 5.1b.	October 2006
5.2 Include a "right to audit clause" in construction contracts; and	The Finance Director stated that Procurement Services would work with the City Attorney's Office to develop appropriate language.	October 2006
5.3 Perform research and analysis to determine appropriate system treatment of PO overages.	The Finance Director stated that Procurement Services and the Accounting Division would develop a process for evaluating and approving cost overages of PO.	October 2006
6.0 Determine the intent the Mayor and City Council regarding notification of emergency contracts. If appropriate, propose City Code revisions as necessary; and	Representatives of the City Manager's Office stated that all recommended changes to the City Code would be presented to the Mayor and City Council all at one time.	December 2006
6.1 Determine the intent the Mayor and City Council regarding the consistency between the City Code and State requirements for employee's financial interest in contracts. If appropriate, propose City Code revisions as necessary.	Representatives of the City Manager's Office stated that all recommended changes to the City Code would be presented to the Mayor and City Council all at one time	December 2006

Due to the serious nature of control weakness identified in this audit, a follow-up examination is recommended within the next 24 months.

Executive Summary of Conclusions
Bidding and Contract Processes Examination:
The General Services Department and the
Office of the City Clerk
Report Number 2006-01

At the request of the Mayor and City Council, and at the direction of the City Manager, the City Auditor completed a limited scope examination of the General Services Department's bidding and contract processes and the City Clerk's contract recordkeeping processes.

Based upon the work performed, the City Auditor reached the following conclusions:

1. GENERAL SERVICE'S PROJECT REVIEW

1A. Oak Park Community Center Expansion and Renovation Project ("OPCC")

1A1. Suspending Competitive Bidding

Obtain the Governing Body's approval, prior to any deviation from the required competitive bidding process (refer to pg. 3).

1A2. Proposals Received

The Assigned Project Manager accepted new proposal information past the due date. Additionally, the practice of allowing project staff to prepare, receive, open, and evaluate proposals, represented inadequate separation of duties (refer to pg. 5).

1A3. Mathematical Error

The Assigned Project Manager incorrectly accepted a correction of a mathematical error by the Contractor. City staff, not the Contractor, can correct specific math errors (refer to pg. 5).

1A4. Project Evaluation Criteria

The impact of a change in the Harbison-Mahoney-Higgins Builders, Inc. ("HMH") Cost Proposal from \$1,670,240 to \$1,067,240 was significant enough to have changed the outcome of the evaluators' contractor selection (refer to pg. 6).

1A5. Award of the OPCC Contract

Project staff recommended the award of the OPCC contract on May 20, 2003, for a cost not to exceed \$1,067,240, in a Staff Report. The Mayor and City Council continued the contract award for future discussion (refer to pg. 6).

1A6. Changes in Selection Committee

A selection committee that consisted of members outside of the Project Delivery division provided a higher degree of assurance regarding impartiality (refer to pg. 7).

1A7. Project Selection Criteria Changes

The new selection criteria provided an unfair local hiring preference (refer to pg. 7), favored contractors that had established working relationships with the City (refer to pg. 8), and favored contractors that already had certified financial statements (refer to pg. 8).

The changes in the project selection criteria also did not receive supervisory or managerial oversight (refer to pg. 7).

1A8. Proposals Received

\$1,289,009 - KOO Construction, Inc. and \$1,058,298 - Harbison-Mahoney-Higgins Builders, Inc (refer to pg. 9).

1A9. Missing Evaluation Records

No conclusions could be reached regarding the Selection Committee evaluations with the required records missing (refer to pg. 9).

1A10. Cost History

Although not required by City code, notifying the Mayor and City Council of a third \$45,238 change order would have been a prudent management practice and kept the Mayor and City Council apprised of additional cost (refer to pg. 10).

1A11. Conflict of Interest

A clear conflict of interest occurred when a Project Delivery employee continued overseeing a project in which the contractor hired the employee's spouse. The employee did not notify City Officials (refer to pg. 11).

1B. "L" Street Barge Project

1B1. Suspension of Competitive Bidding

General Services' staff did not obtain approval from the Mayor and City Council to suspend competitive bidding for a new barge (refer to pg. 13).

1B2. Classification of the Barge

The construction of the "L" Street Barge represents a public project, not a commodity. A contract for the barge, thus, needed to contain all the terms and conditions of public projects, including provisions for risk transfer, insurance, bonding, and any other terms unique to the construction of a barge (refer to pg. 14).

1B3. Use of a PO or a Formal Written Agreement

A formal written agreement is required for the purchase of the \$1.2 million "L" Street Barge (refer to pg. 14).

1C. South Natomas Community Center and Library

1C1a. RFP Selection Points for Minority and Female Employees for a Project

This type of selection criterion, for a non-federally funded project, improperly granted preferential treatment to contractors based upon race and gender (refer to pg. 15).

1C1b RFP Selection Points for Local Hire Preference

This selection criterion improperly granted preferential treatment to contractors based upon a local hiring preference (refer to pg. 16).

1C2. Missing Evaluation Records

No conclusions could be reached regarding the Selection Committee evaluations with the required records missing, (refer to pg. 16).

1C3. Use of RFP Evaluation Criteria

Staff did not follow the selection process established in the RFP (refer to pg. 17).

1D. Downtown Ice Skating Rink

No contract was obtained and the conventional transfer of risk to the contractor did not occur (refer to pg. 18).

1E. Colonial Park Shade Structure (LT56)

The Colonial Park Shade Structure project bidding and contract award procedures materially complied with the City Code and applicable APIs (refer to pg. 18).

1F. Other Project Information

1F1. Outdated Affirmative Action Contract Requirements

Numerous nonfederal contracts contained outdated affirmative action requirements (refer to pg. 18).

1F2. Conclusion Regarding a 'Right to Audit Clause'

All construction contracts need to include a right to audit clause to provide the City with the opportunity to validate expenses billed to the City (refer to pg. 19).

1F3. Conclusions Regarding Emergency Contracts

Three emergency contracts, each under \$25 thousand, were not reported as required by City Code (refer to pg. 19).

2. GENERAL SERVICES' PURCHASING PRACTICES

2A. "The \$5,000 Rule"

The General Services Department's practices did not require POs, bids, or contracts for individual purchases of less than \$5 thousand, for the same goods or services, purchased from the same vendor, in the same budget year.

It was irrelevant whether the goods or services were purchased with single or multiple invoices. General Services' practices failed to comply with the requirements of City Code and APIs. Resultantly, all expenditures of \$100 thousand or greater were not awarded by the Mayor and City Council (refer to pg. 21).

2B. Debit Card Usage and "the \$5,000 Rule"

The General Services Department's practices did not require purchase orders, bids, or contracts for individual purchases of less than \$5 thousand, for the same goods or services, purchased from the same vendor, in the same budget year that aggregately exceeded \$5 thousand (refer to pg. 22).

3. The CITY CLERK'S CONTRACT FILING SYSTEM

3A. Contract Files Sampled

The City Clerk's manual contract filing system did not:

- Use a standardized method for processing contracts and agreements;
- Alert staff of missing documents; Reject incorrect or altered documentation;
- Require specific signature authority on bid opening records;
- Notify the staff of insufficient number of days for advertisements;
- Require all documents to be dated by the signator. Contracts and change orders were not dated by the signators; and
- Require all appropriate signatures on change orders.

Additionally, the City Clerk's Office maintained an annual master agreement inventory that did not lend itself to system queries or sort functions (refer to pg. 22).

4. REVISING ADMINISTRATIVE POLICY INSTRUCTIONS

4A. The City's Finance Director committed to:

- Rewriting the following APIs in a "user-friendly" format (refer to pg. 23):
API 1, Procurement of Supplies and Nonprofessional Services;
API 6, Purchasing Card Program (Debit Card);
API 47, Contracting for Professional Services,
API 48, Contracts for Public Projects;
- Establishing an API for Request for Bids; and
- Updating API 22, City Manager's Delegation of Contract Authority, to reflect new municipal Departments;

4A1. PO Requirements for Purchases Less than \$5 Thousand

City Code does not currently permit purchases under \$5 thousand dollars without a purchase order or a contract (refer to pg. 24).

4B1. API 22, City Manager's Delegation of Contract Authority

API 22 requires that all contracts, regardless of the dollar amount, be submitted to the City Clerk's Office. If all municipal departments followed this requirement, the City Clerk's Office would be inundated with contracts (refer to pg. 24).

4B2. Change Order Authority

Setting change order authority at the same dollar thresholds as the procurement APIs, currently \$25 thousand, can standardize API 22 (refer to pg. 24).

5. Benchmarking of Change Orders for California Municipalities

The information examined failed to yield conclusive benchmarks to compare the City of Sacramento against other California municipalities.

An evaluation of the underlying validity of change orders was beyond the scope of this audit. (refer to pg. 25).

6A. Annual Computer Hardware, Services, and Software

Historically, annual purchase of computer hardware, services, and software, which exceeded \$100 thousand per vendor, occurred without Mayor and City Council approval. Resolution 2005-673 approved the annual purchasing of \$7 million of computer hardware, software, maintenance, and licensures for FY 2006 (refer to pg. 25).

6B. Water Meter Purchases

Resolution 2004-833 authorized a contract for the purchase of radio frequency water meters up to \$3 million annually, for three years. A purchase order was incorrectly used instead of a contract to procure approximately \$608 thousand of water meters during FY 2005. On June 16, 2005, a written contract with the vendor was obtained by the Utilities Department (refer to pg. 26).

6C. Purchase Orders and the City's Financial System

The City's financial system was set up 15 years ago to allow for 10% overages on purchases orders. While a 10% overage on purchase orders may have been reasonable 15 years ago, research and analysis must be performed to determine at what level to permit PO overages at the present time (refer to pg. 26).

6D. Emergency Contracts Under \$100 Thousand

Determine if it is the intent of the Mayor and City that a listing of all emergency contracts are distributed to the governing body. If appropriate, propose revisions as necessary. (refer to pg. 26).

6E. Employee's Financial Interest in Contracts

Determine the intent of the Mayor and City regarding employee's financial interest in contracts and consistency between the City Code and State. If appropriate, propose City Code revisions as necessary (refer to pg. 27).

Preliminary Section
Bidding and Contract Processes Examination:
The General Services Department and the
Office of the City Clerk
Report Number 2006-01

INTRODUCTION

At the request of the Mayor and City Council, and at the direction of the City Manager, the City Auditor completed a limited scope examination of the General Services Department's Bidding and Contract Processes.

OBJECTIVE & SCOPE

This report provides the Mayor, City Council, and the City Manager with an objective evaluation of the General Services Department's contract solicitation and letting practices.

The purpose of this audit was to evaluate General Services' departmental practices, regarding bidding and contracts, to determine compliance with City Code, the City Manager's Administrative Policy Instructions, and to compare to prudent business practices. Additionally, the City Clerk's contract recordkeeping processes and practices were evaluated.

Audit Samples

A sample of five General Services public projects files was examined. Based upon this limited sample, the General Services Director agreed to numerous audit recommendations and critical changes in procedures and practices.

As a result of the General Services Director concurrence for the need to implement critical changes, audit examination was limited to five projects.

The Oak Park Community Center Expansion and Renovation, project number KB27, was included in the sample of public projects examined. This selection was based upon concerns expressed by City Councilmember Lauren Hammond regarding possible inequities in this project's RFP letting and proposal selection processes.

Records Examined

The audit included, but was not limited to the following:

- Examination of the General Services Department's project files;
- Review of invoices, vendor payments, and purchasing card payments for fiscal years 2005 and 2006;
- Physical observations of operations and practices;
- Analytical examinations of financial data;
- Examination and verification of general ledger data; and

- Interviews and discussions with personnel from the City Clerk's Office, the General Services Department, the Finance Department, the City Attorney's Office, and the City Manager's Office.

This examination was conducted in accordance with the City Council's core values and guiding principles of fiscal responsibility and accountability, as well as applicable standards contained in Government Auditing Standards, issued by the Comptroller General of the United States, with the exception of a peer review.

The audit report is intended for the information and use of the Mayor, City Council, City Manager, and City Management.

CITYWIDE RAMIFICATIONS

This report focused primarily upon the two City Departments, the General Services Department and the City Clerk's Office. Conclusions regarding other City Departments that perform contract bidding and letting processes were beyond the scope of this audit.

However, audit recommendations have relevance for other City Departments that contract for goods and services, such as the Utilities and Transportation Departments.

BACKGROUND

On March 9, 2004, the Mayor and City Council approved Resolution 2004-170 directing the reorganization of the Public Works Department into the General Services Department and the Transportation Department.

The Resolution restates the Mayor and City Council's focus on improvements in the delivery of public projects in both a timely and cost-effective manner.

Conclusions
Bidding and Contract Processes Examination:
The General Services Department and the
Office of the City Clerk
Report Number 2006-01

The City Auditor examined the following areas:

1. General Services' Projects Review;
2. General Services' Purchasing Practices;
3. The City Clerk's Contract Filing System;
4. Revising Administrative Policy Instructions; and
5. Other.

1. GENERAL SERVICES' PROJECTS REVIEW

1A. Oak Park Community Center Expansion and Renovation (PN: KB27)

Background

The Oak Park Community Center Expansion and Renovation ("OPCC") Request for Proposal ("RFP") stated a proposal due date of May 7, 2003, at 2:00 P.M. The proposals were to be received by the Project Delivery division of the Public Works Department.

1A1. Suspension of Competitive Bidding

Project Delivery division did not obtain the Mayor and City Council's approval to suspend competitive bidding prior to the release of the OPCC RFP.

1A1. Conclusion Regarding Suspending Competitive Bidding

Neither the City Code nor the City Manager's APIs specifically require obtaining the Mayor and City Council's approval prior to releasing a RFP for a public project. **However, obtaining the Governing Body's approval, prior to any deviation from the required competitive bidding process, is a prudent business practice and supports the City Council's core value of accountability¹.**

1A2. Proposal Submission Requirements

The OPCC RFP proposal requirements stated that

All information must be submitted intact and shall not be submitted piecemeal or by multiple parties such as insurance carriers...

Proposals Received

Exhibit 1 - OPCC Cost

Proposals Received

Contractor	Date Received	Amount
KOO Construction, Inc.	5-07-2003	\$1,193,254
Harbison-Mahoney-Higgins Builders, Inc.	5-07-2003	1,670,240
Harbison-Mahoney-Higgins Builders, Inc.	5-08-2003	1,067,240

¹ Defined by the Mayor and City Council as "[w]e work to enhance the public's trust by accepting ownership and responsibilities for our actions."

The Assigned Project Manager stated that on May 8, 2003, a Harbison-Mahoney-Higgins Builders, Inc. ("HMH") representative submitted an unsolicited proposal sheet to him.

Exhibit 2
HMH Proposals Received

Received May 7, 2003

Received May 8, 2003

PROPOSAL
Oak Park Community Center
Expansion and Renovation Project

Submitted by:
Harbison-Mahoney-Higgins Builders, Inc.
(Name of firm)

15 Business Parkway Suite 101,
(Address)

Sacramento, Ca 95828
(City, State, zip)

916-383-4825 May 7, 2003
(Telephone) (Date submitted)

Design (subtotals by discipline):

Architectural	\$ <u>5,640</u>
Structural	\$ <u>INCL ABOVE</u>
Mechanical	\$ <u>5,000</u>
Electrical	\$ _____
Total Design Costs	\$ <u>11,240</u>

Construction:

Construction Cost	\$ <u>869,500</u>
General Conditions	\$ <u>129,000</u>
Bonds and Insurance	\$ <u>21,000</u>
Contingency	\$ <u>56,500</u>
Total Construction Costs	\$ <u>1,560,000</u>
TOTAL DESIGN AND CONSTRUCTION	\$ <u>1,670,240</u>
NOT TO EXCEED COST	

Request for Proposal
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PROPOSAL
Oak Park Community Center
Expansion and Renovation Project

Submitted by:
Harbison-Mahoney-Higgins Builders, Inc.
(Name of firm)

15 Business Parkway Suite 101,
(Address)

Sacramento, Ca 95828
(City, State, zip)

916-383-4825 May 7, 2003
(Telephone) (Date submitted)

Design (subtotals by discipline):

Architectural	\$ <u>5,640</u>
Structural	\$ <u>INCL ABOVE</u>
Mechanical	\$ <u>5,600</u> (shop)
Electrical	\$ <u>0</u>
Total Design Costs	\$ <u>11,240</u>

Construction:

Construction Cost	\$ <u>869,500</u>
General Conditions	\$ <u>129,000</u>
Bonds and Insurance	\$ <u>21,000</u>
Contingency	\$ <u>76,500</u>
Total Construction Costs	\$ <u>1,056,000</u>
TOTAL DESIGN AND CONSTRUCTION	\$ <u>1,067,240</u>
NOT TO EXCEED COST	

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The Assigned Project Manager further stated that HMH's cost proposal replacement corrected obvious errors contained in the original HMH cost proposal.

1A2. Conclusions Regarding Proposals Received

The Assigned Project Manager failed to follow the OPCC RFP requirements by accepting new proposal information past the due date. The proposal requirements specifically prohibited accepting information past the deadline.

Additionally, the practice of allowing project staff to prepare, receive, open, and evaluate proposals, represented inadequate separation of duties. Separation of duties is the managerial control of assigning different people the responsibilities for authorizing transactions and then recording the results of those transactions. This control reduces the opportunity of any person to be in a position to both perpetrate and conceal errors or irregularities in the normal course of an individual's duties.

1A3. Mathematical Error

The Assigned Project Manager explained that the HMH proposal, received on May 8, 2003 was considered a clarification of existing HMH documents, specifically a correction of a mathematical error, refer to Exhibit 2, HMH Proposals Received.

The City's Standard Specifications for Construction Projects², states that City staff may correct specific errors in computing the total bid amount on the face of a proposal. The General Services Department did not have additional policies or procedures established for the treatment of mathematical errors on RFPs.

1A3. Conclusion Regarding Mathematical Error

The Assigned Project Manager incorrectly accepted a correction of a mathematical error by the Contractor. City staff, not the Contractor, have the authority to correct specific types of mathematical errors on the face of a proposal. Additionally, the City's Standard Specifications for Construction Projects manual, dated June 1989, has not changed in over fifteen years and requires updating.

1A4. Project Evaluation Criteria

Exhibit 3
RFP Project Evaluation Criteria

Selection Criteria	Percentage
Proposal Cost	40%
General Contractor References	25%
Experience with Community Centers and Public Projects in General	25%
Extent of MBE/WBE Participation in the Project	10%
Total Evaluation Selection Criteria	100%

Source: OPCC RFP

² The Standard Specifications for Public Works Construction, City of Sacramento California. Section 2-6, Determination of Bid Amount – Mathematical Error, page 2(3), dated June 1989. This was the latest version of the Standard Specifications Manual noted on the City's Contract Services Internet site, http://www.cityofsacramento.org/PSS/standard_specifications.pdf.

1A4. Conclusions Regarding Project Evaluation Criteria

The impact of a change in the HMH Cost Proposal from \$1,670,240 to \$1,067,240, with a 40% selection evaluation weighting, was significant enough to have changed the outcome of the evaluators' contractor selection. Based upon inspection of the selection committee's scoring sheets, it was probable that a \$603,000 reduction in HMH's proposal costs changed the Evaluation Committee's contractor selection.

1A5. Staff Recommendation for Award, May 20, 2003

Staff recommended the award of the contract to HMH, for a cost not to exceed \$1,067,240, in a Staff Report to the Mayor and City Council, dated May 20, 2003.

Earlier the same day, KOO filed a formal complaint that alleged, in part, that the HMH cost proposal was changed after submission to the City.

1A5. Conclusion Regarding Award of the OPCC Contract

The Mayor and City Council did not award the contract based on staff's recommendation, but instead continued the contract award for future discussion.

KOO withdrew its complaint on June 17, 2003. The Mayor and City Council rejected all proposals and approved the use of a RFP during the July 17, 2003, City Council Meeting.

1A6. Changes in Selection Committee

A new RFP for the OPCC was released on July 21, 2003. Councilmember Hammond expressed concerns regarding the composition of the Selection Committee. Previously the selection committee consisted of three staff members from the Project Delivery division. Councilmember Hammond also stressed the need for local community participation in the selection process. As a result, the Assigned Project Manager selected a six-member Selection Committee consisting of the following members:

**Exhibit 4
OPCC Selection Committee Members**

Name	Organization/Occupation
Mr. Fred Carlisle	Sacramento County Public Works
Mr. Kevin Oddel	SHRA Architect
Mr. Tim Loncarich	Kitchell Construction Manager
Mr. Jim Johnston	None Listed
Mr. Tim Quintero	City of Sacramento Areas Director
Mr. Terrell Jones	Pastor

Source: Project Delivery Memorandum to the City Manager's Office, dated October 13, 2003, from the Project's Assigned Project Manager.

1A6. Conclusions Regarding Changes in Selection Committee

A selection committee that consisted of members outside of the Project Delivery division provided a higher degree of assurance regarding impartiality and objectivity in the contractor selection process.

1A7. Project Selection Criteria Changes

The project management significantly changed the criteria used by the selection committee from the previous four categories of criteria, noted in Exhibit 3 of this report, to thirty-five different criteria. The revised selection criteria consisted of twenty-three new criteria, with possible selection value of 270 total points, and twelve criteria to be rated "responsive" or "non-responsive".

Additionally, the Assigned Project Manager stated that "[t]he second RFP grading was changed to remove as much of the subjectivity out of the scoring as possible."

There was no supervisory or managerial review of staff's RFP changes.

The changes in the selection criteria now favored contractors with:

- Offices located in the City of Sacramento (20 points);
- Experience with the City (20 points);
- Projects completed for the City over the past five years (20 points); and
- Certified financial statements (responsive or nonresponsive).

Project Delivery staff stated the expectation that the new RFP would receive more contractor participation than the previous RFP. **However, the original RFP and the revised RFP both received responses from only two contractors, HMM and KOO.**

The changes in selection criteria resultantly favored HMM over KOO.

1A7. Conclusions Regarding Project Selection Criteria Changes

The selection criteria provided an unfair local hiring preference, favored contractors that had established working relationships with the City, and favored contractors that already had certified financial statements. As a result, the overall competition for the best proposal was reduced.

The changes in the project selection criteria also did not receive supervisory or managerial oversight.

1A7a. Offices Located in the City of Sacramento (20 points)

The RFP selection criteria provided 20 points for a contractor located in Sacramento. Local hiring preferences can constitute a violation of the Equal Protection Clause of the U.S. Constitution. **Local business preferences for municipal contracts only are allowable if it can be shown that local firms are unable to compete for city contracts on an equal basis with non-local firms.** Staff stated that a study had not been conducted to show that local firms suffer a competitive disadvantage of this nature.

This selection criterion improperly granted preferential treatment to contractors based upon local hiring preferences. Although both contractors were located in the Sacramento metropolitan area, HMH's business address was listed in the City of Sacramento, while KOO's office was located in the City of West Sacramento.

Additionally, the *Owner's Rights, Options, and Policies* section of the OPCC RFP states:

The City will give additional consideration to contractors who are or include 'local contractors' as part of the construction team.

This selection of the RFP also improperly granted preferential treatment to contractors based upon local hiring preferences.

1A7b. Experience with the City (20 points)

General Contractor and staff experience was narrowed from the previous criteria of "[p]rojects for governmental or institutional clients are preferred" to "must have experience...with the City of Sacramento projects". **This criterion placed qualified contractors that had not previously done business with the City, at a competitive disadvantage, and thus decreased competition for the best proposal.**

General Services' records showed that HMH had approximately \$26 million dollars of contracts with the City over the previous five years, while KOO received no contracts over the same period of time.

1A7c. City Projects Completed in the Past Five Years (20 points)

This RFP selection criterion provided 20 points for General Contractor and Staff experience on projects completed for the City over the past five years. **This selection criterion placed qualified contractors that had not done business with the City, over the last five years, at a competitive disadvantage, and thus decreased competition for the best proposal.**

General Services' records showed that HMH worked on twenty projects over the past five years, while the records did not show any projects for KOO over the same period of time³.

1A7d. Certified Financial Statements (responsive/nonresponsive)

This RFP selection criterion required the submission of the contractors' certified financial statements. **This unusual selection criterion placed qualified contractors that had not already received a certified annual audit, at a competitive disadvantage.**

³ The two projects that KOO teamed with other contractors were not included because KOO was not the General Contractor

It was unrealistic to expect contractors to schedule an audit, have certified public accountants perform audit fieldwork, and then obtain certified financial statements within the four weeks between the RFP release and the proposal due date.

HMH was a wholly owned subsidiary of a much larger company that received certified financial statements, while KOO did not address this project requirement.

1A7e. Proposal Cost

The dollar amount of the project cost was not factored into the stated selection process. Proposal Costs went from a RFP criteria of 40% of the evaluation criteria to a "responsive" or "nonresponsive" criterion. Based upon the selection criteria, a contractor was only required to provide a proposed project cost.

Fiscal responsibility⁴ requires that the cost of a construction project proposal be a factor in the decision-making process before committing municipal resources.

1A8. Proposals Received

Exhibit 5 - OPCC Cost
Proposals Received on August 29, 2003

Contractor	Date Received	Amount
KOO Construction, Inc.	8-29-2003	\$1,289,009
Harbison-Mahoney-Higgins Builders, Inc.	8-29-2003	1,058,298

1A9. Missing Evaluation Records from the Selection Committee

General Services staff were unable to locate the project's Selection Committee files containing the proposal scoring selection process. These files included the *Contractor Selection Form for Oak Park Community Center Expansion and Renovation (PN: KB27)*, which recorded each selection committee member's award of points to the individual contractors. **General Services project staff stated that these files were purged in the recent office move.**

1A9. Conclusions Regarding Missing Evaluation Records

Critical project records were not retained as required by the City's records retention policy.

⁴ Defined by the Mayor and City Council as "[w]e safeguard and manage the public's resources with integrity, prudence, and efficiency, to ensure that the City maintains its ability to provide needed services through a balanced and sustainable budget."

Without the Selection Committee's records, no conclusions could be reached regarding:

- Individual awards of selection points;
- How the individual Selection Committee Members interpreted the criteria requirements;
- That all selection committee members received an uniform set of criteria, and selection points were accurately tabulated; and
- That the Selection Committee's choice for contractor was recommended by City Staff.

This report does not draw a conclusion that anything improper occurred with the Selection Committee's records. Rather, no conclusion could be reached without the appropriate records.

1A10. Staff Recommendation for Award, October 9, 2003

Project Management recommended the award of the contract to HMM, for a cost not to exceed \$1,058,298 in a Staff Report to the Mayor and City Council dated October 9, 2003.

Following the reissue of the OPCC RFP and the use of an "objective" selection committee, the Mayor and City Council approved staff's recommendation for awarding the OPCC contract to HMM, for cost not to exceed \$1,058,298.

The OPCC contract cost and subsequent cost adjustments are listed in Exhibit 6.

Exhibit 6
OPCC Cost History

Date	Description	Authorization	Cost
9-23-03	Contract Award	City Council	\$1,058,298
1-29-04	Change order Number 1	Department Head	75,679
8-24-04	Change order Number 2	City Council	77,388
9-22-04	Change order Number 3	Department Head	45,238
5-04-05	* - Payment Voucher	Staff	2,976
	Total		\$1,259,579

* - Staff incorrectly used a payment voucher instead of obtaining a change order as required.

1A10. Conclusions Regarding Cost History

Although not required by City Code, notifying the Mayor and City Council of an additional \$45,238 change order for the OPCC project would have been a prudent management practice and kept the Mayor and City Council apprised of additional costs.

1A11. Conflict of Interest

The spouse of a Project Delivery employee began working for the OPCC contractor, HMM, on October 11, 2004. The Project Delivery employee actively participated in the writing of the RFP and also oversaw the OPCC project until completion on as March 3, 2005.

The employee did not notify the City Clerk, the immediate Supervisor, or the employee's Division Manager regarding the spouse's employment with the contractor. Additionally, the employee did not file a request for an opinion from the City Attorney's Office.

No financial disclosure of the spouses' employment with a contractor was stated on the employee's 2004, California Form 700, *Statement of Economic Interests*.

Sacramento City Code ("SCC"), Conflict of Interest

SCC 2.16.160 requires municipal employees to file annual statements disclosing their economic interests pursuant to the provisions of the Political Reform Act.

SCC 2.16.170 requires each city employee to disqualify himself or herself from making or participating in any decision, when it is known or while exercising reasonable diligence, should have been known that a conflict of interest exists.

SCC 2.16.180 requires a City employee to give written notice of disqualification as a result of conflict of interest to the City Clerk, the employee's immediate Supervisor, and the employee's Division Manager.

SCC 2.16.190 allows any city employee who is unsure of any right or obligation arising under this code to request a formal opinion from the City Attorney.

City Manager's Action

At the direction of the City Manager, this matter was turned over to the City's Labor Relations Department for further investigation and appropriate personnel action.

City Auditor's Comments

Employee intent does not change whether a violation Government Code Section 1090 occurred. As a result, the audit did not focus on intent.

If a conflict did not exist when the contract was accepted, then a conflict subsequently existed when the spouse began working for HMH.

1A11. Conclusions Regarding Conflict of Interest

A clear conflict of interest occurred when the spouse of a Project Delivery employee began work for a contractor, HMH, on October 11, 2004. The employee continued oversight of the OPCC project, in which HMH was the contractor, until completion of the project on March 3, 2005. Regardless of intent, the Project Delivery employee had a financial interest in the contractor HMH, the spouse's paycheck, which is prohibited by California Government Code 1090.

The Project Delivery employee failed to disqualify himself or herself from work with the contractor, as required by SCC 2.16.170. The employee actively participated in the writing of the RFP, and also oversaw the OPCC project. The employee continued to work on the project after the contractor hired the spouse.

The employee failed to notify the City Clerk, the immediate Supervisor, or the employee's Division Manager as required by SCC 2.16.180. Review of records and interviews with the City Clerks Office, the Project Delivery employee's immediate Supervisor, and the employee's Division Manager failed to locate any correspondence regarding conflict of interest questions posed by the employee.

Additionally, the Project Delivery employee failed to disclose the spouse's financial interest on the employee's 2005, *Statement of Economic Interests*, California Form 700 as required by SCC 2.16.160.

1B. "L" Street Barge Project (PN: KE21)

Background

On June 27, 2005, the City of Sacramento issued a \$1,176,281 purchase order ("PO") to the Bay Ship & Yacht Company ("BSY") for the construction of the new "L" Street Barge ("Barge").

General Services staff stated that Resolution 2002-003 had previously suspended competitive bidding for the Barge

Additionally, the General Services Department used a PO instead of a formal written agreement, for the purchase of the \$1.2 million Barge.

The City of Sacramento made payments of approximately \$840 thousand to BYS during the on-going construction of the Barge.

Exhibit 7
BYS Barge Construction Costs

Date	Description	Cost
6-27-05	PO issued to BYS	\$1,176,281
7-28-05	*Change Order Number 1	21,385
12-14-05	*Change Order Number 2	5,051
	Total BYS Barge Construction Costs	\$1,202,717

* - Staff incorrectly used change orders instead of a Request for Correction/Change to a Purchase Order form.

1B1. Suspension of Competitive Bidding for the Barge

Resolution 2002-003, dated January 10, 2002, approved suspending competitive bidding and authorized the City Manager to negotiate and enter into contracts for the purchase and retrofitting of a used barge to replace the existing "L" Street Barge.

The City's Supervising Architect, Facilities Manager, and the Senior Economic Development Project Manager submitted a staff report for the April 14, 2005, City Council meeting that, in part, stated:

[i]n January 2002, the City Council approved the suspension of competitive bidding for the replacement of the existing "L" Street Barge.

[d]espite an exhaustive search for a suitable used barge, none were found. Therefore, staff recommends that a new barge be purchased to replace the existing "L" Street barge.

Resolution 2005-233, dated April 14, 2005, granted approval for the City Manager or his designee to negotiate and enter into contracts for the purchase of a new barge to replace the existing "L" Street Barge. Additionally, Resolution 2005-233 stated, "City Council Resolution 2002-003 suspended competitive bidding for the replacement barge."

1B1. Conclusions Regarding Suspension of Competitive Bidding

The statement within Resolution 2005-233 that competitive bidding for a replacement barge had been suspended was accurate. However, this statement failed to fully disclose that Resolution 2002-003 only suspended competitive bidding for the purchase of a used replacement barge. Suspension of competitive bidding for a new barge was not authorized in Resolution 2002-003. **General Services staff, as required by City Code, did not obtain approval from the Mayor and City Council to suspend competitive bidding for a new barge.**

Management Action

A representative of the City Manager's Office, reviewing the information, stated that a request for the suspension of competitive bidding for the Barge would be forthcoming.

1B2. Classification of the Barge as a Commodity

General Services Department staff stated that, since the Barge was fabricated by BYS offsite, it was viewed as a commodity. Staff further explained that "We handled this purchase similar to the way the City handles the purchase of Fire Trucks, Garbage Trucks, Automobiles, etc."

SCC 3.60.10 defines public projects. This definition lists four categories of public projects, including building, improving and remodeling public works, and furnishing supplies or materials for any such project.

Contracts for commodities and public projects, of \$100 thousand or more, have different contractual terms and conditions designed to protect the City's interest. Public project contracts contain a number of specific requirements, including provisions for risk transfer, insurance, bonding and worker's compensation. Commodity contracts, while still requiring a formal written contract, do not have the same terms and conditions. For example, if the City purchased \$100 thousand of copy paper, insurance and bonding would not be required.

SCC 3.56.080 requires all expenditures of \$100 thousand or more for the purchase of supplies to be awarded by the City Council and executed, in formal written agreement, by the City Manager. Accordingly, this requirement is applicable to the purchase of fire and garbage trucks costing \$100 thousand or more.

1B2. Conclusion Regarding the Classification of the Barge

The construction of the Barge represents a public project, not a commodity. Accordingly, the BYS contract for the Barge needed to contain all the terms and conditions of public projects, including provisions for risk transfer, insurance, bonding, and any other terms unique to the construction of a barge.

1B3. Use of a PO in Lieu Formal Written Agreement

General Services staff members maintained that a formal written agreement was not needed to purchase the \$1.2 million Barge, because a PO could serve as a contract for a commodity.

General Services staff members pointed out that Resolution 2005-233 granted approval to the City Manager or his designee to negotiate and enter into contracts for the purchase of a new barge to replace the existing "L" Street Barge. Staff maintained that, as a result of the resolution, no further City Council approval was needed.

SCC 3.56.090 and 3.60.090 both require the City Manager to execute all expenditures of \$100 thousand or more, while SCC 3.56.100 and 3.60.100 require the City Attorney to approve the form and legality of all formal written agreements prior to execution by the City Manager.

Additionally, SCC 3.56.060 and 3.60.060 state that any purchase, contract, or obligation to pay made contrary to the provisions of the City Code shall be null and void.

Procurement

Procurement staff members explained that PO was issued as a result of receiving a signed requisition and an executed resolution authorizing the purchase of the "L" Street barge. Procurement staff acknowledged that purchases of \$100 thousand or more generally⁵ require a formal written agreement and an executed Council resolution, prior to the issuance of a PO.

The Procurement Manager stated that Procurement Staff now will verify the existence of an executed formal contract before issuing POs for \$100 thousand or greater.

1B3. Conclusions Regarding Use of a PO or a Formal Written Agreement
A formal written agreement is required for the purchase of the \$1.2 million Barge.

⁵ The Procurement Manager noted that cooperative purchasing agreements, approved by the Mayor and City Council, may not require a formal written agreement with the City

Management Action

The Office of the City Attorney, the City Manager's Office, and the General Services Department are in the process of negotiating a contract with BYS. The City Manager's Office stated that a request for the suspension of competitive bidding for the new Barge would be presented to the Mayor and City Council in the near future.

1C. South Natomas Community Center and Library (PN: LB06)

Background

The South Natomas Community Center and Library project ("SNCC") RFP stated a proposal due date of March 17, 2000, with an estimated cost of \$6.5 million. **No Federal funds were used in this capital project.**

The SNCC RFP selection criteria consisted of eight categories and thirty-eight subcategories, with a total of 1,500 possible section points.

1C1. Emerging/Small Business Enterprises Selection Criteria (150 points)

Under the category of *Emerging/Small Enterprises*, the selection criteria awarded 150 points for six subcategories. The point value of the six individual subcategories was not specified.

1C1a. Selection Points for Minority and Female Employees for a Project without Federal Funding

The selection criteria provided points for listing:

- The percentage of female and minority employees;
- Minority or women owned business enterprises usage; and
- Subcontractor's percentage of female and minority employees.

California Constitution, Article 1

Section 31(a)

The State shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.

Section 31(e)

Nothing in this section shall be interpreted as prohibiting action which must be taken to establish or maintain eligibility for any federal program, where eligibility would result in a loss of federal funds to the State.

1C1a. Conclusions Regarding Selection Points for Minority and Female Employees for a Project without Federal Funding

This type of selection criteria, for a non-federally funded project, improperly granted preferential treatment to contractors based upon race and gender.

1C1b. Selection Points for Local Hire Preferences

The selection criteria provided points for Contractor and Subcontractor's employees that live within thirty miles of Sacramento City Hall.

As previously noted in this report, local business preferences for municipal contracts only are allowable if it can be shown that local firms are unable to compete for city contracts on an equal basis with non-local firms. Staff stated that a study had not been conducted to show that local firms suffer a competitive disadvantage of this nature.

1C1b. Conclusions Regarding Points for Local Hire Preference

This type of selection criteria improperly granted preferential treatment to contractors based upon a local hiring preference. Local hiring preferences can constitute a violation⁶ of the Equal Protection Clause of the U.S. Constitution.

1C2. Missing Evaluation Records from the Selection Committee

General Services staff were unable to locate the project's Selection Committee files documenting the proposal scoring selection process and notes for the SNCC project. The Assigned Project Manager stated that the SNCC files might have been purged.

The Selection Committee files would have included the *South Natomas Community and Library – Contractor RFP Evaluation* forms and recapitulation or notes of contractor oral interviews.

1C2. Conclusions Regarding Missing Evaluation Records

Critical project records were not retained, as required by the City's records retention policy. Without the Selection Committee's records, no conclusions could be reached regarding:

- Individual awards of selection points;
- How the individual Selection Committee Members interpreted the criteria requirements;
- That all selection committee members received an uniform set of criteria, and selection points were accurately tabulated;
- The results of the oral interviews; and
- That the Selection Committee's choice for contractor was recommended by City Staff.

1C3. Use of SNCC RFP Evaluation Criteria

Project Management stated that the selection criteria within the SNCC RFP were not used for contractor selection. Project Management explained that only three contractors submitted proposals and all three contractors were "qualified". As a result, the Program Management further stated that all three contractors were invited to oral interviews before the Selection Committee. A Selection Committee member confirmed that proposals were ranked upon oral interviews, not the awarding of points and "scoring" of proposal responses.

⁶ Except where it can be shown that local firms are unable to compete for city contracts on an equal basis with non-local firms.

**Exhibit 8
SNCC RFP
Selection Process Steps**

Step	Description
1	The Selection Committee will evaluate and score each proposal
2	The proposals will be ranked and a short list will be established.
3	The short listed contractors will be invited to make oral presentations (if necessary)
4	The short listed contractors will submit the fee and general conditions pricing in a sealed envelope at the conclusion of the oral presentation.
5	The selection committee will perform the final ranking and then open fee and general conditions pricing in sealed envelopes.
6	The Selection Committee will recommend the best contractor

Source: SNCC RFP, Section 5, *Selection Process*.

The Assigned Program Manager stated that the purpose of the RFP selection criteria was to establish a "short list" of contractors to interview. He added that since all three contractors were qualified, the RFP selection criteria were not needed to form a "short list" of contractors to interview. **However, no evaluation records could be located by General Services staff to document the qualification process for the contractors.**

1C3. Conclusion Regarding the Use of SNCC RFP Evaluation Criteria
Critical project records were not retained as required by the City's records retention policy. Without the Selection Committee's records, no conclusions could be reached.

This report does not draw a conclusion that anything improper occurred with the Selection Committee's records. Rather, no conclusion could be reached without the appropriate records.

Additionally, project staff failed to follow the selection process established in the SNCC RFP. The stated selection process written in each RFPs must be scrupulously followed in order to provide all proposers a fair and equal opportunity to win the contract.

1D. Downtown Ice Skating Rink (7th and K)
Background

As of February 14, 2006, the General Services Department did not have an executed agreement with the contractor for the Downtown Ice Skating Rink ("Rink"), located in the St. Rose of Lima Park. The Rink operated for the period November 4, 2005 through January 16, 2006, and has since been dismantled. The contractor performed all the work on the Rink for the City without a written contract.

API 48, *Contracts for Public Projects*, requires that "City standard contracts and agreements shall be executed prior to starting any project work."

General Services staff explained that they were unable to execute a written contract because the contractor failed to provide verification of insurance endorsements.

Staff acknowledged the importance of obtaining a written contract prior to commencing work on the Rink. General Services staff stated that the following circumstances contributed to not obtaining a contract for the Rink: the short period of time available to accomplish the work; the retirement of key personnel; and several other higher priority projects, such as obtaining building leases and the City Hall move.

General Services staff noted that services for this project would cost approximately \$22 thousand. A review of the City's vendor payments noted that the contractor had not been paid for this project.

- 1D. Conclusions Regarding Downtown Ice Skating Rink (7th and K)**
The General Services Department failed to obtain a contract for the Rink project, as required by API 48. As a result, the conventional transfer of risk⁷ to the contractor did not occur and the City was unnecessarily exposed to potential liability claims.
- 1E. Colonial Park Shade Structure (LT56)**
The Colonial Park Shade Structure project bidding and contract award procedures materially complied with the City Code and applicable APIs.
- 1F. Other Project Information**
1F1. Outdated Affirmative Action Contract Requirements
Numerous contracts containing outdated affirmative action requirements were noted during the performance of audit work. These contracts had no federal requirements or funds.

California Constitution, Article 1, Section 31(a) prohibits preferential treatment on the basis of race, sex color, ethnicity, or national origin.

The City's Procurement Manager stated that the affirmative action requirements would be removed. Additionally, he added that the standard construction contract "boilerplate" would be updated.

1F2. "Right to Audit Clause"

Construction contracts examined did not have a "right to audit clause", including the Colonial Park Shade Structure and the OPCC contracts.

A best practice among municipalities is to include a "right to audit clause" within construction contracts. This practice allows municipal representatives to examine contractor books, records, and supporting expenses to validate expenses billed to the City.

⁷ Accomplished by the indemnification and hold harmless language in the City's standard contractor agreement

1F2. Conclusion Regarding a 'Right to Audit Clause'

All construction contracts need to include a right to audit clause to provide the City with the opportunity to validate expenses billed.

1F3. Emergency Contracts

General Services staff did not report three emergency contracts to the Mayor and City Council as required by City Code 3.60.070. Each of these emergency contracts was awarded for a value less than \$25 thousand.

General Services staff stated that due to the small dollar amount of the contracts, a report was not issued to the Mayor and City Council.

SCC 3.60.070 requires a report to the City Council for any emergency contracts awarded under \$100 thousand. The report describes the emergency, the actions taken and the number and amount of contracts let.

1F3. Conclusions Regarding Emergency Contracts

City Code requires all emergency contracts to be reported to the City Council. Three emergency contracts, each under \$25 thousand, were not reported by General Services staff.

2. GENERAL SERVICES' PURCHASING PRACTICES

2A. "The \$5,000 Rule"

API 1, *Procurement of Supplies and Nonprofessional Services*, does not require bids, POs, or contracts when purchases are less than \$5 thousand ("the \$5,000 Rule").

General Services Application of "the \$5,000 Rule"

General Services did not require POs, bids, or contracts for individual purchases of less than \$5 thousand, for the same goods or services, purchased from the same vendor, in the same budget year. **Departmental purchasing practices did not take into consideration that the individual purchases, in aggregate, may amount to \$5 thousand or greater.**

Staff explained that the language of API 1 did not state whether "the \$5,000 rule" applied to single or multiple purchases totaling \$5 thousand or greater. General Services staff further explained that the Department interpreted "the \$5,000 Rule" to apply to single, not aggregate, purchases. Additionally, staff maintained the need for this practice because of the difficulty in anticipating the widely diverse purchasing needs of the Department, particularly for the Fleet division.

Municipal Requirements

API 1 requires a PO for all purchases that exceed \$5 thousand and a written contract for purchases greater than \$25 thousand. While API 48, *Contracts for Public Projects*, requires a contract for all purchases and work performed on a public project.

API 1 and API 48 expressly prohibit splitting procurement requirements into smaller dollar amounts to avoid competitive bidding or the provisions of the APIs. While SCC 3.56.030 and SCC3.60.030 prohibit splitting or separating purchases into smaller units to avoid the provisions and bidding requirements of City Code.

Sample Selection

Eight of one hundred thirty-eight General Services Department vendor files were selected for testing. The vendors were selected based upon the City Auditor's professional judgment. **Additional vendor files were not examined because initial sampling confirmed staff's stated procurement practices. Additionally, the General Services Director agreed to critical changes in practices and processes.**

Sample Results

The review of the General Services Department's vendor files noted the following:

- Dynaram Construction Corporation was issued a contract for fence repair and maintenance, for less than \$100 thousand, on November 29, 2001. The contract offered the option of two additional one-year contracts.

In FY 2004, two POs totaling \$155 thousand were issued to the same contract from the Public Works Department for fence repair and maintenance. The Maintenance Services Division of the Public Works⁸ Department issued a PO for \$95,000 and the Development Services Division of the Public Works Department issued a PO for \$60,000. Both POs referenced contractual authorization to the under \$100 thousand contract, dated November 29, 2001. As a result, over \$155 thousand for fence repair and maintenance contracts were granted to Dynaram Construction Corporation. The awarding of these contracts occurred without formal competitive bids, Mayor and City Council approval, and a formal written contract, as required by City Code.

- In addition to the two POs, \$29,840 of PVs was paid to the contractor for fence repair and maintenance in FY 2005. Nine PVs were issued, each less than \$5,000. As a result, competitive bids, a written contract, and a PO were not obtained, as required by the City's APIs.
- Building Supply & Lumber Company was paid \$110,124 for lumber, primarily to replace the boardwalk in Old Sacramento. The City issued a PO for \$99,037, and eleven PVs totaling \$11,087.38. Each PV was for less than \$5,000. As a result, lumber purchases totaled in excess of \$100 thousand. The awarding of these contracts to Building Supply & Lumber Company occurred without formal competitive bids, Mayor and City Council approval, and a formal written contract, as required by City Code.

* Under reorganization this became the Business Operations Division of General Services

- During FY 2005, Apache Industrial Cleaning Equipment was paid \$106,991 for cleaning chemicals. The City issued a blanket PO for \$37,210 and nineteen PVs for \$69,741. Each PV was for less than \$5 thousand. As a result, Apache Industrial Cleaning Equipment was paid over a \$100 thousand for cleaning chemicals without formal competitive bids, Mayor and City Council approval, and a formal written contract, as required by City Code.
- In FY 2005, the following vendors were also paid with multiple PVs, each PV less than \$5,000:
 1. Howard & Son Truck Service & Marine was paid \$46,856, with fifteen PVs for automotive repairs;
 2. Hester Roofing was paid \$38,977 with ten PVs for roofing repairs;
 3. The Butler Company was paid \$25,609 with eighteen PVs for animal medicines and supplies; and
 4. Capital City Glass and Mirror, Inc. was paid \$17,034 with twenty-four PVs for window repair services at various City sites.

As a result, competitive bids, a written contract, and a PO were not obtained, as required by the City's APIs.

2A. Conclusions Regarding General Services Procurement Practices

City Code and APIs requires bids, POs, and contracts for purchases of the same goods or services, from the same vendor, that are \$5 thousand dollars or greater. Therefore, it was irrelevant whether the goods or services were purchased with single or multiple invoices.

General Services' application of "the 5,000 rule" failed to comply with the requirements of City Code and APIs. Also, best business practices dictate maximizing economic efficiencies and obtaining discounts for volume purchasing.

Additionally, all expenditures of \$100 thousand or greater were not awarded by the Mayor and City Council, required written formal contracts were not obtained, and competitive bidding requirements were not followed.

Management Action

The Director of General Services stated that her Department was in the process of implementing the following action plan:

1. Assessed procurement needs;
2. Discuss best practices and strategies with the Procurement division;
3. Meet with General Services divisions to review best practices and suggest strategies;
4. Meet with Business Operations staff to develop work plan, identify priorities;
5. Meet with Business Operations staff to identify methods to ensure compliance;
6. Conduct an organizational assessment to address staff utilization; and
7. Other improvements as identified.

- 2B. **Debit Card Usage and "the \$5,000 Rule"**
During FY 2005, sixty General Services debit cardholders purchased \$1,568,134 of goods and services from eight hundred and six vendors. Annual vendor payments ranged from \$3.99 to \$52,105. No transaction was \$5,000 or greater.

Staff did not use POs or obtain contracts for items purchased on staff's debit cards, as required by API 1.

Additionally, monthly credit limits were set at \$10 - \$25 thousand dollars per cardholder. One cardholder's actual expenses exceed \$230 thousand for FY 2005.

- 2B. **Conclusions Regarding Debit Card Usage and "the \$5,000 Rule"**
City Code and APIs requires bids, POs, and contracts for purchases of the same goods or services, from the same vendor, that are \$5 thousand dollars or greater. Therefore, it was irrelevant whether the goods or services were purchased with a debit card or a PV.

The General Services Department's debit card usage did not adhere to the City's requirements for the purchasing of goods and services; bids, purchase orders, and contracts were not obtained as required by API 1.

Additionally, the Department's extensive usage of debit cards, approximately \$1.6 million in FY 2005, lacked the designed internal and managerial controls provided by the City of Sacramento's established financial and procurement system.

3. **THE CITY CLERK'S CONTRACT FILING SYSTEM**

- 3A. **Contract Files Sampled**
All seventy-seven contracts, for FY 2004, awarded for over \$98 thousand were selected for sampling. Based upon this sample, the City Auditor concluded that the City Clerk's manual contract filing system did not:
- **Use a standardized processing method for processing contracts and agreements.** Contracts and Agreements used separate processes;
 - **Alert staff of missing documents.** Two files were missing formal contracts, two files were missing documentation of advertisement, and two files were missing change orders;
 - **Reject incorrect or altered documentation.** Three contract files contained incorrect dates on the original documents, and three contracts files contained original documents revised with correction tape;
 - **Require specific signature authority on bid opening records.** The Bid Recap Sheet, which documents the bid openings, was not signed by a representative of the City Clerk's office for 76% of the bid openings and not signed by department representatives for 74% of the bid openings;

- **Notify the staff of insufficient number of days for advertisements.** Four contracts were advertised 14 days although the City Code required 15 days;
- **Require all documents to be dated by the signator.** Contracts and change orders were not dated by the signators. As a result, it was frequently not possible to determine if work occurred prior to authorization; and
- **Require all appropriate signatures on change orders.** Ninety change orders for FY 2004 were examined. Eleven percent lacked City Attorney's approval as to form, 3% were missing the Department Head's signature, and two were approved by Mayor and City Council, but lacked the City Manager's signature.

Management Action

The City Clerk readily acknowledged the need to replace the Department's manual contract filing system. Representatives of the City Clerk's Office actively worked to identify, correct, and improve system operations, while improving operational efficiencies. The City Clerk's Office has already implemented numerous audit recommendations.

Additionally, the City Clerk's Office maintained an annual master agreement inventory of several hundred typed pages. This listing did not have an index. This paper system also did not lend itself to system queries or sort functions.

The City Clerk stated that she expected to replace the manual contract system with a document management system in approximately a year. The City Clerk agreed that workflow must be reviewed and processes validated, prior to the implementation of a new system.

4. REVISING ADMINISTRATIVE POLICY INSTRUCTIONS ("APIs")

4A. The City's Finance Director stated that, in an effort to assist Departments obtain a greater understanding of API requirements, the Finance Department would:

- Rewrite the following APIs in a "user-friendly" format;
API 1, *Procurement of Supplies and Nonprofessional Services*;
API 6, *Purchasing Card Program (Debit Card)*;
API 47, *Contracting for Professional Services*;
API 48, *Contracts for Public Projects*;
- Establish an API for Request for Bids;
- Update API 22, *City Manager's Delegation of Contract Authority*, to reflect new municipal Departments; and
- Amend API 48, Section 7, *Exceptions to Competitive Bidding, Emergency Work*, to reflect the reporting requirements of SCC 3.60.070, *Emergency Contracts*.

4A1. PO Requirements for Purchases Less than \$5 Thousand

API 1 does not require a PO for purchases less than \$5 thousand dollars.

SCC 3.56.080, *Authority of the City Manager*, requires POs or contracts for all purchases.

Although it is a reasonable business practice to not require POs for small purchases, the City Code does not allow such a practice.

4A1. Conclusion Regarding Requirements for Purchases Less than \$5 thousand

The Finance Director needs to work with the City Manager's Office and the City Attorney's Office to propose a City Code modification to permit, under specific conditions, the purchase of small dollar items without a PO.

Additionally, API 1 must be revised to comply with City Code.

4B1. API 22, *City Manager's Delegation of Contract Authority*

API 22 requires that all contracts signed by the City Manager be submitted to the City Clerk for the City's Official records.

API 22, also, requires that contracts signed by a City Manager designee be submitted to the City Clerk for the City's official records.

4B1. Conclusions Regarding API 22, *City Manager's Delegation of Contract Authority*

API 22 requires that all contracts, regardless of the dollar amount, be submitted to the City Clerk's Office. If all municipal departments followed this requirement, the City Clerk's Office would be inundated with contracts.

The City Auditor believes a more practical approach would be to establish a dollar threshold for filing contracts with the City Clerk, such as all contracts with a value greater than \$25 thousand. The issuing department would retain contracts under that dollar threshold. Records retention requirements would remain unchanged.

4B2. Change Order Authority

API 22 delegates change order authority only to Department Directors. While API 1, 47, and 48 permit Division Managers to make purchases of less than \$25 thousand.

4B2. Conclusions Regarding Change Order Authority

Standardization of municipal requirements from one API to another API aids City employees in knowing and complying with management's expectations. In order to remain consistent, API 22 needs to set change order authority at the same dollar thresholds as the procurement APIs, currently \$25 thousand.

5.0 Benchmarking of Change Orders for California Municipalities

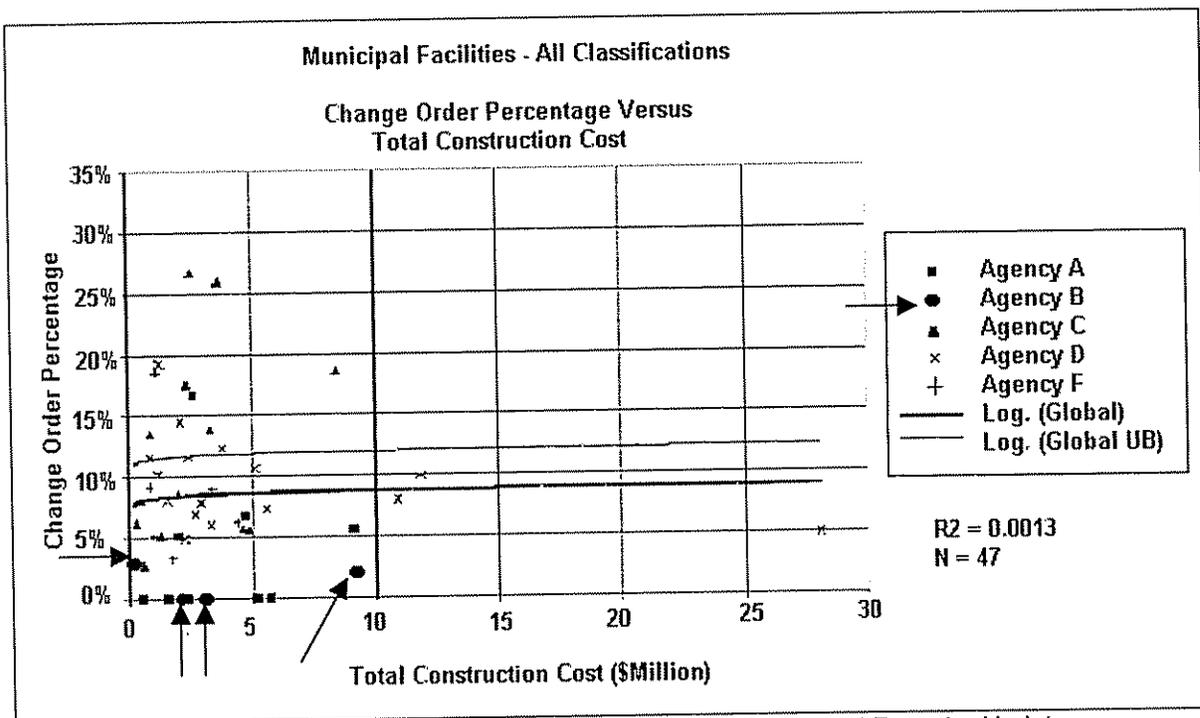
The City of Sacramento participated with Long Beach, Los Angeles, Oakland, San Diego, San Jose, and the City and County of San Francisco in a multi-agency benchmarking study for California.

The California Multi-Agency CIP Benchmarking Study, Annual Report – Update 2002 concluded that there was a poor correlation between the value of total change orders and total construction costs, refer to Exhibit 9.

Mr. Gordon Culp, Smith Culp Consulting, noted⁹:

Benchmarking change orders is difficult because of the many variables that can affect change orders for any given project.

**Exhibit 9
CA Multi-Agency CIP
Benchmarking Study
Annual Report – Update, 2002**



Source: *The California Multi-Agency CIP Benchmarking Study, Annual Report – Update 2002*.

The City of Sacramento is Agency B (noted with an arrow).

5. **Conclusions Regarding Benchmarking of Change Orders**
The Multi-Agency study failed to yield conclusive benchmarks to compare the City of Sacramento against other California municipalities.

The City Auditor examined General Services' contract files to determine if change order documentation was present. However, an evaluation of the underlying validity of change orders was beyond the scope of this audit.

6. **OTHER**

6A. **Annual Computer Hardware, Services, and Software**

Historically, annual purchase of computer hardware, services, and software, which exceeded \$100 thousand per vendor, occurred without Mayor and City

⁹ Gordon Culp e-mail to the City Auditor, dated July 5, 2005

Council approval. Following notification by the City Auditor, the City's New Director of Information Technology Department, prepared a staff report for Mayor and City Council approval.

On September 13, 2005, the City Council Adopted Resolution 2005-673, which approved the purchasing of \$7 million of computer hardware, software, maintenance, and licensures for FY 2006.

The Department Director stated that annually, a report summarizing the fiscal years' anticipated purchases of computer hardware, services and software by all departments, will be presented for consideration of the Mayor and City Council.

6B. Water Meter Purchases

Resolution 2004-833, dated October 26, 2004, authorized a contract with Badger Meter, Inc., for \$3 million a year, for a three-year period, for the purchase of cold water meters with radio frequency reading capability.

During FY 2005, approximately \$608 thousand was paid to Badger Meter, Inc. without a formal written contract. A PO was incorrectly used instead of obtaining the required contract. Following notification by the City Auditor, the Utilities Director obtained a formal written contract with Badger Meter, Inc., dated June 16, 2005, for \$3 million per year, for three years.

6C. POs and the City of Sacramento's Financial System

The City's financial system, Advantage Financial, allows for 10% cost overage on limits established for POs. The City's Accounting Manager stated that this system parameter was likely established when the financial system was installed, over fifteen years ago. The Accounting Manager later determined that this system parameter could be changed.

6C. Conclusions Regarding POs and the City's Financial System

While a 10% overage on POs may have been reasonable 15 years ago, the Finance Director or his representatives need to perform research and analysis to determine at what level to permit PO overages at the present time.

6D. Emergency Contracts Under \$100 Thousand

SCC 3.60.070 requires a report to the City Council for any emergency contracts awarded under \$100 thousand. The General Services Department had an emergency tree removal contract, under \$1 thousand. The City Code would require that this emergency be reported to the City Council.

6D. Conclusions Regarding Emergency Contracts Under \$100 Thousand

Although required, small dollar emergency contracts may not merit presentation to the Mayor and City Council. Particularly since competitive bids are not required for contracts under \$25 thousand and the City Manager already has contract authority for contracts less than \$100 thousand.

Determine if it is the intent of the Mayor and City that a listing of all emergency contracts are distributed to the governing body. If appropriate, propose revisions to City Code as necessary.

6E. Conflict of Interest, SCC 2.16

SCC 2.16 treatment of City employee's financial interest in contracts was not consistent with the requirements that govern State employees, Public Contract Code Section 10410, *Prohibitions as to State Officers and Employees*. A literal reading of this City Code would prohibit employees and spouses from having a financial interest in any City Contract, even when the employee has no involvement or control over the contract. While State standards provide an employee abstain from contracting process and not play an active role in the "financial interest"¹⁰.

Evaluating the City's conflict of interest requirements was beyond the scope of this review. However, the City Attorney's Office noted that SCC 2.16 preceded Public Contract Code Section 10410 by a number of years.

6E. Conclusions Regarding Conflict of Interest, SCC 2.16

Determine the intent the Mayor and City regarding the consistency between the City Code and State requirements for employee's financial interest in contracts. If appropriate, propose City Code revisions as necessary.

¹⁰ 84 Op. Atty Gen Cal 131

General Services Director's
Audit Response



DEPARTMENT OF
GENERAL SERVICES

CITY OF SACRAMENTO
CALIFORNIA

5735 - 24th Street, Build
Sacramento, CA 95817

BUSINESS OPERATIONS DIVISION

Phone 916-84
Fax 916-31

April 7, 2006

MEMORANDUM

To: Martin Kolkin, Internal Audit Manager

From: Reina J. Schwartz, *Reina* Director, Department of General Services

Subject: **Department of General Services Internal Audit Report**

The Department of General Services acknowledges the findings contained in the internal audit report and confirms its support of the recommendations for improvements in processes and internal controls, as well as its commitment to the City's core values of accountability, fairness, and transparency in procurement practices and project oversight.

The department has already undertaken a wide range of improvements designed to improve business practices, and increase management oversight of projects, procurement practices, and compliance with City policies.

Improved Management Oversight of Projects

- Establishing a record keeping system to organize and maintain project files and critical records in compliance with the City's record retention policy
- Developed a written procedure for the contracting process that includes preparation of requests for proposals, invitations to bid, and associated contracts
- Providing training on contract-related City Administrative Policy Instructions (API), and City Code
- Migrating the department's contracts tracking log to the department work order system to improve reporting capability and workload management
- Re-engineering department procedures to develop a comprehensive procurement workflow that includes both contracting and accounting processes

- Conducted an organizational assessment of the Business Operations division to address utilization of administrative staff in the contracting process that resulted in additional staff being assigned to assist with contract processing

Improved Management Oversight of Purchasing Practices

- Refining the existing process of using historical records to project the procurement needs in the upcoming fiscal year
- Developing "on-call" contracts for commonly used maintenance services
- Working with Procurement Division to increase the usage of price agreements to take advantage of pricing discounts
- Developed a technology procurement workflow that takes advantage of cooperative purchasing power (i.e. Western States Contracting Alliance contracts)
- Implementing internal control procedures to insure compliance with City APIs (i.e. monitoring vendor purchases, matching purchases to existing contracts, tracking contract expiration dates)
- Monitoring purchase card usage to maintain compliance with City APIs
- Reviewing card holder limits for reasonableness of purchase card limits

During the course of this audit, the Department of General Services discussed with the Internal Audit Manager a number of policy issues (listed below) that the department views as critical to its ability to comply with City procurement policies while at the same time continuing to provide high quality customer service in a timely manner. The Department of General Services requests ongoing discussion of these key policy issues:

- Whether the need for City Council approval of purchases of \$100,000 or more is determined by *vendor* or by *project*, and whether "project" is defined by Capital Improvement Project or by specific work within a Capital Improvement Project
- Ongoing review of insurance requirements to explore ways to speed up the process to improve customer service
- Establishing a single point of contact within the City with the authority for final interpretation of City contracting and procurement policies
- Using pre-approved "boilerplate" contract language for contracts less than \$25,000 to eliminate the need for multiple department approval to speed up the contract approval process
- Establishing allowable overage amounts on purchase orders to eliminate project delays
- Reviewing the existing requirement for all emergency contracts to be reported to City Council given that department directors already have delegated signature authority for contracts under \$100,000

- Establishing City University courses to provide ethics and conflict of interest training
- Establishing a formal process for disseminating contract and procurement information (updates, policy changes, etc.) that includes a process for publishing changes and their effective dates
- Rewriting the following APIs to make them more easily understood and consistent with City Code:
 - API 1 – Procurement of Supplies and Nonprofessional Services
 - API 6 – Purchasing Card Program (Debit Card)
 - API 47 – Contracting for Professional Services
 - API 48 – Contracts for Public Projects

City Clerk's
Audit Response



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www.CityofSacramento.org

OFFICE OF THE CITY CLERK

Date: April 10, 2006

Memo To: Marty Kolkin

Memo From: Shirley Concolino, City Clerk

Subject: 2006 Bidding and Contract Processes Examination- City Clerk Department Response

To ensure the City Clerk Department delivers services in accordance with current and best practices, each major function must be examined and retooled to meet acceptable standards. In order to systematically evaluate and successfully implement improved procedures, a priority list was established by the Clerk based on staffing restraints. The first two major functions that were examined were the Agenda process and the Board and Commission manual. Also at the top of the list were the BIDs and Contract/Agreement processes including supplements and change orders.

The Agenda process re-engineering and Boards and Commission manual update were daunting tasks, so the City Auditor's assignment to review the BID and Contract processes was welcomed.

The current BID process was in great need of re-engineering to encompass current City and state code requirements along with Administrative Policy Instructions (APIs). Not only would this review impact the Clerk department but almost every department in the City. This type of review fell into the City Auditor's purview much more than the City Clerks. During the audit interviews, the City Auditor noted problematic issues that could be easily improved with little effort by staff. The department made immediate modifications to those processes as noted in the Auditor's grid and continues to implement improvements as appropriate.

Major work is yet to be accomplished on the evaluation of the BID/RFP and Contract/Agreement processes and the Clerk Department will begin this review and continued integration of the Audit recommendations in the fall of 2006.

Finance Director's
Audit Response



DEPARTMENT OF
FINANCE
ADMINISTRATION DIVISION

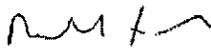
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April 6, 2006

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MEMORANDUM

To: Martin Kolkin, City Auditor
From: Russ Fehr, Finance Director 
Subject: 2006 Bidding and Contract Processes Examination – Department of Finance Response

Please find attached the Department of Finance input to your draft recommendations matrix for the 2006 Bidding and Contract Processes Examination.

In section 5.0 of the audit report, you recommend that *"the Director of Finance or his representatives revise the City's Administrative Policy Instructions ("APIs") for procurement to communicate in a clear and standardized manner the intent and purpose of the requirements."* The Department of Finance will take the following actions with respect to items 5.0 – 5.3 in the matrix:

1. Procurement Services will form a working group with the Department of General Services and other City departments to revise APIs 1, 6, 22, 47 and 48. In an effort to maintain standardization, continuity and consistency, representatives from other departments will be part of the working group.
2. Procurement Services will work with City accounting staff to analyze the appropriate process for evaluating and approving purchase order modifications that result in increased cost.

In addition, the Department will implement the following activities in order to clarify and improve the City's overall procurement process:

3. Procurement Services is placing more emphasis on contract compliance and labor compliance. A contract administration and compliance manual is being developed to assist departments with routine contract administration and compliance. The manual will address procurement of commodities, nonprofessional services, construction and professional services. The subject of contract modification and authority limits will be covered in detail, and with a decision matrix to eliminate any ambiguity in code, policy, or procedure. Additionally, a labor compliance manual is being created to address procedures and issues related to the State of California Labor Code and the City of Sacramento's Labor Compliance Program (LCP).

Memo to Martin Kolkin
April 6, 2006
Page 2

4. Procurement Services is in the process of reorganizing the Purchasing Classes provided to city employees. The revised format will have beginning and advanced classes and more in-depth and relevant training for each group. There will be more class time for each group. In addition, all class participants will be given training material on a CD that can link with the City Intra-net for additional training and current version of various forms.

Thank you for the opportunity to comment on your Examination of Bidding and Contract Processes. Should you have any questions or comments, please feel free to contact me.