



INTERNAL AUDIT

**Contract Administration
Audit Follow-up Report**

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**June 23, 2015
Report 201532**

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Authorization

The City Auditor has conducted a Contract Administration Follow-up Audit. This audit was conducted under the authority of Resolution #2013-51, Section 2-233, Powers and Duties, Subsection (b)(8) and (c), and in accordance with the Annual Audit Plan approved by the League City, City Council in Resolution #2014-27.

Objective

This is a follow-up of the "Contract Administration Audit" report issued on August 26th 2014.

The objective was to determine if previous audit recommendations were implemented.

The objective of the original audit according to the Annual Audit Plan was to evaluate the process and determine if accountability is in place.

The sub-objectives were as follows:

- 1) Determine if general controls are sufficient and appropriate.
- 2) Verify compliance with Big League Dreams Contract

Scope and Methodology

The City Auditor conducted this audit in accordance with Generally Accepted Government Auditing Standards except this audit function has not had an external peer review. Those standards require planning and performing the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for the findings and conclusions based on the audit objectives. The City Auditor believes that the evidence obtained provides a reasonable basis for the findings and conclusions based on the audit objectives.

The sampling methodology is discussed in Exhibit A.

In order to determine if previous recommendations were implemented, I:

- Inquired with Management
- Examined Documentation

The scope of the audit follow-up used information primarily from FY15.

To assess the reliability of the data elements needed to answer the engagement objective, I (1) Performed inquiries with management, (2) Reviewed related

documentation. As a result of the testing, I determined that the data was sufficiently reliable for the purposes of this report.

Overall Conclusion

Fully Implemented	Partially Implemented	Not Implemented
8	0	0

Audit Follow-up

This follow-up audit was not intended to be a detailed study of every relevant system, procedure, and transaction. Accordingly, the Follow-up section presented in this report may not be all-inclusive of areas where improvement might be needed.

The following results for each finding are as follows:

Opportunity for Improvement #1 – Contracting Policies

Condition (The way it is)

The several Purchasing related policies are fragmented and do not clearly define accountability and responsibility for each of the parties involved in the procurement process and is not as comprehensive as it needs to be.

Recommendation

Create a one-stop shop for acquiring the know-how to properly administer contracts. Examples of additional items to be included in the policy are as follows:

- High Technology Purchases
- Conflict of Interests
- Renewal Options
- Construction Contracts
- Risk Management/Insurance
 - Compare COI to contract/bid
 - City listed as additional insured
 - Provision for 30 days notice for material changes
- Contract Monitoring
- Sales Taxes
- Purchase Order vs. Contract
- Change Orders
- Grants
- Memorandum of Understanding
- Parks & Cultural Services Agreement and Leases - Contracts
- Interlocal Agreements – City as an additional insured
- Right-to-Audit Clause – (Ordinance 2013-51, Sec. 2-215 (a))
- Performance Metrics – All attributes of an agreement must be measurable with a reasonable effort. Examples are as follows:
 - Certain % off of list price
 - Number of spray applications
 - Response Time
 - Mean Time to Repair
 - Schedule Compliance
 - Backlog
 - Performance Objectives

Management Response

Concur

Action Plan

Management clearly agrees that there are “opportunities for improvement” and have begun by updating the Purchasing Policy and Procedure Manual that will include guidelines for contract administration. As a part of this need to improve the process, Purchasing will develop a working group of managers and employees to serve as a “User Group” and develop clear and concise procedures for Contract Administration.

Implementation Date

October 1, 2014

Follow-up

The new purchasing policy covers many of the items suggested in the Recommendations. The “User Group” specified in the Action Plan was not formed; however, department purchasing coordinators were contacted and training was provided.

Implementation

Fully Implemented

Opportunity for Improvement #2 – Training

Condition (The way it is)

During the audit it became apparent that responsible parties were not aware of their tasks to carry out the Contract Administration Model.

Recommendation

Create a needs assessment for training in the city and develop the means to provide the training.

Management Response

Concur

Action Plan

Upon completion of the aforementioned Policy and Procedures Manual and working with the User Group, both comprehensive, high level, and end user training programs will be developed and presented to employees.

Implementation Date

January 15, 2015

Follow-up

Training was provided to responsible parties on the new Purchasing Policies. Instead of a User Group, department purchasing coordinators were contacted.

Implementation

Fully Implemented

Opportunity for Improvement #3 – Proper Initial Review of Contracts

Condition (The way it is)

Proper initial reviews of contracts are not always being made. Numerous sampled contracts had no City Attorney review or did not go through Purchasing.

Recommendation

Establish a responsible person and backup for each contract in the city to facilitate the review process. A check-off sheet may be an enabler. Provide training for good contract administration.

Management Response

Concur

Action Plan

- Working with the City Attorney, Purchasing has developed standard contracts for use.
- Going forward, all contracts, regardless of value, that are processed through the Purchasing Department will require both a responsible contact and back-up person. This data will be maintained on the Contract Listing that has been developed and is managed in Purchasing.
- All contracts will have City Attorney approval.
- All city developed contracts will be included as a sample document in solicitations (bids, RFPs, etc.) and signed by the provider before City Council approval.

Implementation Date

Immediately

Follow-up

- 1) Completed. Purchasing has developed standard contracts for use.
- 2) Completed. Purchasing is using a Contract Listing and Department Point of Contact Listing.
- 3) Completed. Purchasing now uses standard contracts already approved by the City Attorney.
- 4) Completed. Contracts included as sample document in solicitations.

Implementation

Fully Implemented

Opportunity for Improvement #4 – Monitoring

Condition (The way it is)

Seven out of 36 contracts were not readily found or found at all. In 19 out of 36 contracts there was a lapse in monitoring. Eight of those lapses dealt with the Certificate of Insurance.

Recommendation

Assign Accountability, Put the Guidelines in place; Provide training for the responsible parties.

Management Response

Concur

Action Plan

- Accountability for the contract lies with the Director most closely related to the contract. The Director has the responsibility to deliver executed contracts to Purchasing and to the City Secretary.
- The City Manager has reinforced that assignment of responsibility at Director’s meetings.
- That directive will be reinforced in the updated purchasing policy.
- Purchasing will develop comprehensive training for Contract Administration to include, but not limited to, overview; procurement process; tracking; monitoring, etc.

Implementation Date

January 15, 2015

Follow-up

- 1) Accountability for the contract lies with the Director most closely related to the contract. The Director has the responsibility to deliver executed contracts to Purchasing and then forwards to the City Secretary. – Completed. Section 6-103 and Section 6-104 of Purchasing Policy covers accountability over the contract.
- 2) The City Manager has reinforced that assignment of responsibility at Director’s meetings. – Completed. Auditor observed.
- 3) That directive will be reinforced in the updated purchasing policy. – Completed. Section 6-103 and 6-104 of Purchasing Policy covers accountability over the contract.
- 4) Purchasing will develop comprehensive training for Contract Administration to include, but not limited to, overview; procurement process; tracking; monitoring, etc. – Completed. Training was performed.

Implementation

Fully Implemented

Opportunity for Improvement #5 – Central Repository

Condition (The way it is)

The Central Repository (Laserfiche) was not used in 21 out of 36 contracts examined. Four out of the 21 either had partial information or not the latest information. Additionally, the majority of departments reporting contracts did not have them housed in Laserfiche.

Recommendation

Require that all contracts be housed at the central repository. Explore the possibility of using Laserfiche for all contract approvals and expiration ticklers.

Management Response

Concur

Action Plan

- The office of the City Secretary shall be the central repository for contracts for the City.
- Directors will be again reminded, via the updated purchasing policy and training, to provide all contracts to Purchasing for transmittal to central repository (City Secretary).
- Currently IT, Purchasing and the City Secretary are exploring opportunities to use Laserfiche technology for contract approvals, etc. In the meantime, Purchasing has developed a Master Contract List, for those contracts that are routed through our department. This listing includes a 90-day tickler for contract end or renewal.

Implementation Date

Ongoing, to be complete by January 15, 2015

Follow-up

- 1) The office of the City Secretary shall be the central repository for contracts for the City. – Section 6-103 of Purchasing Manual states that all contracts will be forwarded to Purchasing and Purchasing will forward the contract to the City Secretary for retention.
- 2) Directors will be again reminded, via the updated purchasing policy and training, to provide all contracts to Purchasing for transmittal to central repository. – Section 6-103 of Purchasing Manual states that all contracts will be forwarded to Purchasing and Purchasing will forward the contract to the City Secretary for retention. Training has been performed.
- 3) Currently IT, Purchasing and the City Secretary are exploring opportunities to use Laserfiche technology or the new Enterprise Resource Planning software for contract approvals and expiration ticklers. In the meantime, Purchasing has developed a Master Contract List, for those contracts that are routed through the Purchasing department. This listing includes a 90-day tickler for contract end or renewal.

Implementation

Fully Implemented

Opportunity for Improvement #6 – 4B Industrial Development Corporation

Condition (The way it is)

No evidence of training for certain city officials.

The city performs administrative functions for the 4B but is not reimbursed.

A determination has not been made of what exemption status applies to the 4B and if necessary submit paperwork requesting the exemption. This is for federal tax exemption.

Recommendation

Revisit the laws that affect 4B Industrial Development Corporations

Management Response

Management Concur

Action Plan

- A) The training requirement includes both representatives of the 4B and of the City. The 4B representative has been trained. The designated City officials have not. Section 502.101(a) (1) requires training at least once in each 24-month period for “the municipal attorney, administrator, or clerk of the municipality.” The City Manager will attend qualified training within the next six months.
- B) City Staff is working to develop an interlocal agreement with the 4B to provide for the reimbursement of administrative costs incurred by the City on behalf of the 4B.
- C) Staff is in the process of filing for exempt status recognition

Implementation Date

January 15, 2015

Follow-up

- A) The 4B representative has completed training and the City representative is scheduled for training later in the calendar year.
- B) The Interlocal Agreement is Item 11G on May 26th City Council Regular Meeting Agenda.
- C) Exempt Status has been received from the IRS.

Implementation

Fully Implemented

Opportunity for Improvement #7 – Automatic Renewals

Condition (The way it is)

7 out of 36 contracts had automatic renewals.

Recommendation

Put limits on the duration of automatic renewals.

Management Response

Concur

Action Plan

All new contracts issued through the Purchasing Department will have term limits and limited (if any) renewal options with a defined escalation clause. Incorporated in the revised policy, renewals will be limited to provide a total term of no longer than three (3) years in most cases. All renewal provisions will include defined pricing.

Implementation Date

Immediately

Follow-up

Section 6-101 of the new Purchasing Manual states that, “Unless otherwise provided by law, a contract for supplies or services may be entered into for generally two (2) years with a renewal option of typically not more than three (3) one year renewals (one year at a time).”

Five contracts were sampled and all had no more than three (3) one year renewals.

Implementation

Fully Implemented

Opportunity for Improvement #8 – Big League Dreams

Condition (The way it is)

General Liability coverage according to the contract should be \$2,000,000 per occurrence. Certificate of Insurance states \$1,000,000.

Recommendation

Contact Big League Dreams and inform them of the shortfall and ensure that it gets corrected.

Management Response

Concur

Action Plan

- 1) Training on Certificate of Insurance requirements will be a part of the contract administration training planned for the upcoming fiscal year.
- 2) The Deputy City Manager and City Attorney are working toward resolution of the insurance and other issues with the contractor

Implementation Date

January 15, 2015

Follow-up

Received e-mail from City Attorney explaining situation and accepting \$1,000,000 in umbrella coverage until renewal when it should be amended so as to provide for the requisite \$2M general liability coverage.

Implementation

Fully Implemented

EXHIBIT A

Sampling Methodology

During this audit when sampling was needed and used five items were pulled to substantiate and verify that management's action plan was implemented.