



GARLAND

INTERNAL AUDIT

**Professional & Personal Service
Contract Audit**

**Jed Johnson, CGAP
City Auditor**

Major Contributor

**Christy Rodriguez, CPA
Staff Auditor**

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Authorization

Internal Audit (IA) conducted an audit of the Professional and Personal Service Contracts. This audit was conducted under the authority of Article VII, Section 5 of the Garland City Charter and in accordance with the Annual Audit Plan approved by the Garland City Council.

Objective

The objectives of the Professional and Personal Service Contract audit were to:

1. Determine City's governance and controls over Professional/Personal Service Contracts, based on Purchasing Directive 1 and Texas Government Code Chapter 2254.
2. Ensure all contracts are filed with the City Secretary's office in accordance with Administration Directive 5.

Scope and Methodology

IA conducted this performance audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient and appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The scope included review of Professional and Personal Service Contracts from FY 2012 through FY 2014. During testing, we expanded our scope to include certain payments which were not tied to purchase orders or coded as outside services. These were included to understand the payment process as a whole and at the request of management.

To adequately address the audit objectives and to describe the scope of our work on internal controls, IA performed the following:

- Reviewed City's Purchasing Directive 1 (Obj. 1)
- Reviewed City's Administration Directive 5 (Obj. 2)
- Reviewed the Texas Government Code Chapter 2254 (Obj. 1)
- Reviewed the Texas Local Government Code Chapter 252 (Obj. 1)
- Obtained and reviewed:
 - Report from the Finance system for all items charged to Professional & Outside Services (Obj. 1)
 - No PO report for items greater than \$3,000 (Obj. 1)
 - City Council meeting minutes for FY 2013 – FY 2014 (Obj. 1)
 - Consulting services provided to City Council for FY 2012 – FY 2014
 - Purchasing's short-lists of approved vendors (Obj. 1)

- Conducted interviews with 10 departments throughout the City to obtain an understanding of their project award and PO process (Obj. 1)
- Verified approval for a sample of awarded professional and personal service contracts (Obj. 1)
- Requested a sample of contracts to verify that contracts are filed with the City Secretary (Obj. 2)

IA was not able to obtain a comprehensive list of all Professional and Personal Service Contracts that were awarded due to both the lack of a central contract management tool. Additionally, multiple departments have awarded contracts without the involvement of the Purchasing Department. Similarly, we were also not able to develop a complete list of contracts that did not go through the Purchasing department. We used multiple reports and met with the Procurement Director on various occasions to develop a representative list of Professional and Personal Service Contracts.

To assess the reliability of reports produced by the Finance system, IA interviewed the Procurement Director and various individuals in the Finance department, reviewed source documents and met with a sample of departments to discuss the reports. As a result of our testing, IA determined that the data was sufficiently reliable for the purposes of this report.

Based on the audit work performed, any deficiencies in internal control that are significant within the context of the audit objectives are stated in the Opportunities for Improvement section below.

Overall Conclusion

During the course of the audit, we discovered:

1. Opportunities for improvement related to the vendor acquisition and purchase order processes.
2. Professional and Personal Service Contracts are not being consistently filed/maintained with the City Secretary's Office.

Background

"Purchasing's mission is to manage a strategic procurement operations that (1) purchases all goods and services, (2) provides professional management of Citywide initiatives, (3) directs investment recovery through sale or disposal of salvage and surplus materials, and (4) applies professional procurement skills resulting in high quality, cost-effective services for all City departments, thereby partnering to deliver first class services to the citizens."

(Source: 2014 - 2015 Annual Operating Budget)

Professional Services

Chapter 2254 of the Texas Government Code defines professional services as “accounting; architecture; landscape architecture; land surveying; medicine; optometry; professional engineering; real estate appraising; and professional nursing. No additional services qualify as professional services. A Request for Qualifications (RFQ) is the approved method for the procurements of these services.” Purchasing Directive 1 states that all other services must be procured through a competitive bid process such as a Request for Proposal (RFP). The City may not award a Professional Services Contract based on competitive bids, but it shall make the selection and award based on the provider’s demonstrated competence and qualifications to perform the services and for a fair and reasonable price. Bid notification requirements and emergency exemptions are the same for both RFQs and RFPs and discussed in more detail in Purchasing Directive 1.

In order to satisfy bid and advertising requirements, the Purchasing department works with requesting departments to develop a list of approved vendors through an RFQ. Applicants are evaluated and ranked by the requesting department based on the criteria developed. Qualified vendors are selected for placement on a short-list. This process is completed every 5 years. When a need arises, the department may select any vendor on the short-list to award a contract. In addition to vendors selected from a short-list, other Professional Service vendors may be selected through a separate RFQ.

Contracts are awarded based on the approval matrix:

- \$100,000 and above - City Council
- Up to \$99,999 – City Manager
- Up to \$74,999 – Deputy City Manager, Assistant City Manager, Electric Managing Director
- Up to \$49,999 – Managing Directors and Electric Administrator
- Up to \$24,999 – Department Heads and Directors
- Interlocal and Cooperative Agreements – Purchasing Administrator
- Single/Sole Source – Managing Director

Personal Services

Purchasing Directive 1 defines a personal service as a contract with a “specific individual to perform a service. The service must personally be performed by the individual named in the contract. Personal Service agreements are typically made with the following: (1) An individual that has unique business or political associations, (2) An individual that has access to information that is not generally available to others, or (3) An individual whose skills and services are so unique they cannot be duplicated by another individual or firm.” For these individuals, a search of HUB vendors, advertising and an RFQ/RFP is not required. All Personal Service Agreements must have Managing Director approval.

Purchase Order Requisition

Purchasing Directive 1 states that the Procurement Card is the preferred method of payment for purchases up to \$3,000. For all purchases greater than \$3,000, the Purchasing Department Buyers comply with the procedures set forth in Title 8, Subtitle A, Chapter 252, Section 252.0215 of the Texas Local Government Code regarding competitive bidding in relation to Historically Underutilized Business (HUB) vendors. For bids greater than \$3,000, at least two HUBS must be contacted.

Management Accomplishments*

In recent years, internal and external auditors have expressed concerns about inconsistencies in the City's selection and payments for professional services. In an effort to provide clarity for these ongoing issues, the Purchasing Directive was revised to include guidelines for Professional and Personal Services. After meeting with Managing Directors and receiving input from Department Heads, the unified Purchasing Directive was adopted in March of 2013.

Since the implementation of the unified Purchasing Directive, the Purchasing department has issued 220 Professional & Personal Services purchase orders. By comparison, the Purchasing department issued only 72 Professional & Personal Services purchase orders in the two years prior to the implementation. The dramatic increase in compliance would not have been possible without the support and cooperation of the City departments.

Management appreciates the level of information and detail that IA staff put into producing this audit. Through a comprehensive review of source documents and meetings with City departments, IA was able to identify gaps in the process. As a direct result of the IA meetings, multiple departments have met with the Purchasing department in order to begin the correct RFP/RFQ process. We look forward to continuing to work with the departments to assist them in achieving full compliance with the Purchasing Directive.

* Please note that "Management Accomplishments" are written by the audited entity and that Internal Audit did not audit or verify its accuracy.

Opportunities for Improvement

During the audit, IA identified certain areas for improvement. Our audit was not designed or intended to be a detailed study of every relevant system, procedure, and transaction. Accordingly, the Opportunities for Improvement section presented in this report may not be all-inclusive of areas where improvement might be needed.

Finding # 1 (Obj. 1)

Condition (The way it is)

IA's review of professional service projects approved by the City Council, City management's report of consulting contracts, Finance's No PO report, professional services and other outside services transaction report and subsequent inquiry with management, revealed the following:

1. At least 16 vendors (See Exhibit A) were selected by various City Departments without the administration of the Purchasing Department. Therefore, IA was unable to verify that these procurements were made in accordance with Texas Local Government Code, Chapter 252 and Purchasing Directive 1.
2. Several additional vendors were also selected by various departments without the administration of the Purchasing Department; however, our review of Purchasing' records revealed that these vendors are listed on their short-lists since they were properly procured by other departments for various projects within the City.

The majority of the vendors procured without the administration of the Purchasing were selected by departments several years ago and documentation regarding these selections was not maintained.

Criteria (The way it should be)

A Request for Qualifications (RFQ) is the approved method for the procurements of professional services. Chapter 252 of the Texas Local Government Code lists the all bid notification and advertising requirements mandated by the State which the City of Garland must comply with.

Purchasing Directive 1, Section 2.1.1 states, "The authority of the Purchasing Administrator to administer all purchases for all departments, with the exception of purchases under \$3,000, shall not be circumvented."

Effect (So what?)

1. Bid notification and advertising requirements may not be satisfied.
2. The State Historically Underutilized Business (HUB) requirement, identified by the Texas Local Government Code, may not be satisfied.
3. Section 252.062 of the Texas Local Government Code states that, if a

person fails to comply with procedures required by the Local Texas Government Code, that person may be convicted of a Class B misdemeanor.

4. Conflicts of interest could arise and inappropriate purchases of Professional Services could occur if purchases are acquired without going through the RFQ process.

Cause (Difference between condition & criteria)

- The department(s) did not consistently comply with the Texas Local Government Code, Chapter 252 and Purchasing Directive 1.
- Departments continued to use firms that had been internally selected several years ago without bidding these services out through the Purchasing department.
- Through meetings with various City departments, it became evident that there is some confusion surrounding the vendor selection and bid process for Professional Services.

Recommendation

- City Management should ensure that all departments comply with the Texas Local Government Code, Chapter 252 and Purchasing Directive 1.
- The Purchasing department should conduct more frequent trainings to include all department purchasing coordinators (DPCs), as well as, other Contract Management personnel. Training should cover the purchasing requirements set forth by the Texas Local Government Code and the City of Garland.

Note: Some departments had corrected their internal processes during the scope of the audit (FY 2013 – FY 2014) based on conversations with the Purchasing department. Additionally, as a direct result of our meetings, multiple departments that were not following the correct procedures have met with the Purchasing department in order to begin the correct RFP/RFQ process.

Management Response

Management concurs. While all Departments were included in the initial implementation of the professional services procurement process, continuous training is important in reinforcing policies and procedures.

Action Plan

In addition to participating in the mandatory quarterly New Manager Orientation training, the Purchasing department is introducing a new Purchasing Made Simple class. This training will target not only managers, but also DPCs.

Implementation Date

The Purchasing Made Simple class is scheduled for April 16, 2015.

Finding # 2 (Obj. 1)

Condition (The way it is)

A report was run for the period of 12/1/2013 – 9/15/2014 which listed all transactions over \$3,000 that did not have a purchase order tied to the payment (No PO Report). IA's review of this report revealed 791 transactions amounting to over \$10 million of payments made without a purchase order. These transactions either did not have a purchase order processed through the Purchasing department or were not tied to a purchase order when entered for payment in the Finance system.

Note: This total excludes regulatory fees, utility payments, taxes and other payments that do not require a PO.

Criteria (The way it should be)

- Purchasing Directive 1, Section 4.3 states, "A requisition must be entered in the Finance System by the requesting department to initiate the purchasing process for purchases over \$3,000." The Purchasing department will create a purchase order for the requesting department.
- Purchase orders are created as both accounting and budgetary controls.

Effect (So what?)

Without a purchase order, there is not an appropriate way to track payments made to vendors per project or to process change orders. Without proper tracking, incorrect strategic decisions could be made or additional payments may be made without the approval of a change order.

Cause (Difference between condition & criteria)

- The department(s) did not consistently comply with Purchasing Directive 1.
- Currently, there is no notification mechanism in place to remind departments to obtain and/or enter purchase order information when payments are entered.
- Through meetings with various City departments, it became evident that there is confusion surrounding the purchase requisition and purchase order process.

Recommendation

1. City Management should update Purchasing Directive 1 to include additional elaboration about purchase order exemptions. Items such as utility payments, regulatory fees, litigation settlements, escrow payments, purchase of real property and taxes do not normally require a purchase order. This should help reduce confusion regarding whether a purchase order is necessary.

2. The Purchasing department should conduct more frequent trainings for department Purchasing Coordinators, Invoice Approvers and other significant personnel that are involved in the Contract Management process. This training should cover the purchasing requirements set forth by the Texas Local Government Code and the City of Garland, as well as a review of the updated process flow, information about the vendor selection process, purchase order requisition and invoice payment processes.
3. Managing Directors should ensure that:
 - A. For all existing Department Purchase Coordinators (DPCs), approvers and significant personnel that are involved in the Contract Management process, the training described above is attended.
 - B. For all new DPCs and approvers, proper training is provided prior to access is granted to enter and approve payments within the Finance System.
4. The No PO Report should be reviewed by Finance and the Purchasing departments monthly. This will result in timely communication from Purchasing to departments regarding non-compliance with Purchasing Directive 1. For departments that repeatedly show up on the No PO list, the Managing Director should be contacted to resolve these cases.

Note: Some departments had corrected their internal processes during the scope of the audit (FY 2013 – FY 2014) based on conversations with the Purchasing department. Additionally, as a direct result of our meetings, multiple departments that were not following the correct procedures have met with the Purchasing department in order to begin complying with the correct purchase order process.

Management Response

1. Management concurs with revising the Purchasing Directive to provide more clarity.
2. Management concurs. Increased training will help reinforce the policies and procedures that are in place.
3. Management concurs. Proper training should occur before issues arise.
4. Management concurs. Reviewing the monthly No PO Report review will help identify inconsistencies in the process.

Action Plan

1. Purchasing has revised the Purchasing Directive to include additional common exemptions to the purchase order process.
2. In addition to participating in the mandatory quarterly New Manager Orientation training, the Purchasing department is introducing a new Purchasing Made Simple class.
3. The Purchasing and Finance departments will work together to ensure that proper training is available.

4. Purchasing and Finance are currently reviewing the No PO Report on a monthly basis.

Implementation Date

1. The Purchasing Directive has been revised and forwarded to Administration for approval.
2. The Purchasing Made Simple class is scheduled for April 16, 2015.
3. In addition to the Purchasing Made Simple class, Purchasing and Finance personnel are available to conduct individual training as needed.
4. The No PO Report is now being reviewed by Finance and Purchasing on a monthly basis.

Finding # 3 (Obj. 1)

Condition (The way it is)

The Purchasing department works with requesting departments to develop a list of approved vendors through an RFQ. Applicants are evaluated and ranked by the requesting department. Qualified vendors are selected for placement on a short-list. Evidence of vendor selection process for 3 out of 5 (60%) short-lists (such as award matrices, scoring, parties involved) is not consistently provided to or requested by the Purchasing department.

Criteria (The way it should be)

Purchasing Directive 1 states that a Purchasing department representative will facilitate the evaluation, scoring, negotiation and award process for vendor selection for the short-list. This ensures that all procurement activities are conducted with the highest level of ethical standards.

A cross-functional evaluation team evaluates proposals to gain a variety of perspectives. Team members scoring and evaluating responses shall not discuss their evaluations and scores with others until the entire team meets to select a vendor. At this point, the Purchasing department will compile all evaluations to develop a composite score. The vendors with the highest scores will be selected for the short-list. This ensures that the integrity of scoring is maintained.

The Purchasing department maintains documentation related to the vendor selection for all short-lists. This documentation includes items such as meeting minutes, award matrices, scoring and/or email evidence.

Effect (So what?)

- Since the short-lists are being used to select vendors for future awards, their placement on the short-list should be documented. Without this evidence, departments could claim that the Purchasing department independently selected these vendors for the short-list.
- There is no audit trail to show that vendor selection was made according to the criteria developed for the bid and in accordance with Purchasing Directive 1.

Cause (Difference between condition & criteria)

- A representative from the Purchasing department was not always included in the short-list vendor selection discussions.
- Documentation of vendor selection is not being consistently provided to or requested by the Purchasing department.

Recommendation

City Management should ensure that the Purchasing department:

1. Facilitates the Request for Qualification evaluation and selection process.
2. Maintains custody of documentation for vendor selections for short-lists that includes:
 - Evidence of individuals involved in the selection of vendors for the short-list.
 - Award matrix with scoring criteria completed for each applicant. If applicable, justification should be noted for the inclusion of vendors who had low scores based on the award matrix.

Management Response

1. Management concurs. Although the Purchasing department offers to facilitate the evaluations, we are not always included in the process. We will work closely with the departments to ensure that we are included in the evaluations.
2. Management concurs. All documentation that is received will be included in the official bid files.

Action Plan

1. The Purchasing department will work closely with the Departments to ensure that we are included in the evaluation process.
2. The Purchasing department will request all documentation for inclusion in the official bid files.

Implementation Date

The recommendations have been implemented.

Finding # 4 (Obj. 2)

Condition (The way it is)

Out of the 35 items tested (See Exhibit A), 12 (34%) Professional and Personal Service contracts are not on file with the City Secretary's Office. Out of the 12 not on file, 7 (58%) were approved by the City Council.

Criteria (The way it should be)

Administration Directive 5 states that the City Secretary's Office is the repository for the original active documents for all active professional service agreements/contracts and other agreements for \$1,000 and more. Individuals who are entitled to enter into the agreement on behalf of the City of Garland are responsible (1) for obtaining required signatures; (2) for ensuring the documents transferred to the City Secretary's Office are accompanied by the exhibits and/or attachments referenced in the document; and (3) for timely transferring the documents to the Office of the City Secretary.

Effect (So what?)

If the completed agreements/contracts are not maintained and managed, it would be difficult to track if contracts are up for renewal or even expired. Additionally, if a dispute arises, it may be difficult to prove that an executed contract existed.

Cause (Difference between condition & criteria)

1. Departments may not be sending the completed contracts to the City Secretary's Office for filing.
2. The City Secretary's Office may not be maintaining the executed contracts appropriately.

Recommendation

The City Secretary should:

1. Conduct trainings for everyone involved in the contract management process. This training should include documentation requirements with regards to the City Secretary's office.
2. Develop a process for all items that are approved by the City Council to ensure that all executed contracts are maintained according to Administration Directive 5.
3. Update City Secretary (Administration) Directive 5 to match Purchasing Directive 1 regarding purchases over \$3,000. In Audit Report 201350 dated March 24, 2014, IA had recommended this update; however, this has not been updated as of the date of this report.

Management Response

Concur with the findings of the Internal Audit Department.

Action Plan

Develop a training class for directors, managers, and supervisors on the process for submitting contracts to the City Secretary. Request this training be included in the current new managers training conducted by Human Resources.

Compile a listing of all documents retained in the City Secretary’s office and review the current process for intake and filing. Develop a procedure manual for document delivery (bid packages, bonds, Council minutes, contracts, engineering project packets, ordinances, purchase orders, and resolutions). Publish the manual on COGnet.

Revise the current Directive on Departmental Original Documents Filing to increase the contract amount to \$3,000 for professional service agreements/contracts filed in the City Secretary’s office.

Revise the current directive item #4 to include a link and/or instructions on use of the Texas State Library and Archives Commission Standards for retention and destruction.

Implementation Date

August 31, 2015

EXHIBIT A – Sampling Methodology

Professional & Personal Services Account Code Transactions

IA received a year-to-date (Oct. 1, 2013 – September 22, 2014) listing of Professional Services (7111) and Outside Services (7101) account code transactions from the Accounting Supervisor. IA reviewed all items on both of these listings with the Procurement Director to determine which were considered Professional or Personal Services under Purchasing Directive 1. After separating all of these items out, we were left with 102 vendors which we considered as Professional (71) or Personal Services (31). We selected 35 (or 34%) items to obtain invoice support, in order to properly verify that these payments were made for Professional Services. Between IA's and the Procurement Director's judgment, a sample selection was made. We were unable to determine whether items belonged to Professional Services without individually going through all payments. The results of our sample selection can be projected to the population. IA, through discussion with the Procurement Director, determined 3 Professional Services that were not administered through the Purchasing Department.

City Council Meeting Minutes

For the scope of our audit, IA reviewed all City Council meeting minutes and determined that 34 were for Professional Services. IA reviewed all 34 items and through discussion with the Procurement Director, it was determined that 1 Professional Service was not administered through the Purchasing department.

Consulting Contracts Compiled by City Management

For the scope of our audit, IA reviewed the list of all consulting contracts compiled by City management and determined that 55 were for Professional Services. IA reviewed all 55 items and through discussions with the Procurement Director, it was determined that 4 Professional Services were not administered through the Purchasing department.

No PO Report

IA's review of the No PO report for the period of 12/1/2013 – 9/15/2014, revealed 42 Professional Services. IA reviewed all 42 items and through discussions with the Procurement Director, it was determined that 8 Professional Services were not administered through the Purchasing Department.