

**CITY OF OAKLAND**  
**AGENDA REPORT**

OFFICE OF THE CITY CLERK  
2006 MAR 30 PM 7:29

TO: Office of the City Administrator  
ATTN: Deborah A. Edgerly  
FROM: Finance and Management Agency  
DATE: April 11, 2006  
  
RE: **Informational Report on the Budget Advisory Commission's  
Recommendation Concerning Contract Management**

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**SUMMARY**

This is an informational report as requested by the Finance and Management Committee regarding a report submitted by the Budget Advisory Committee on February 8, 2005. This report will examine eight points outlined by Committee regarding the Contracting Process as referred to in the Budget Advisory Committee report. A follow up report will be presented to the Committee in June 2006 with action plans, timelines, and implementation progress.

**FISCAL IMPACT**

This is an informational report only; there is no fiscal impact.

**BACKGROUND**

The Budget Advisory Committee (BAC) conducted an evaluation of the City's current Contract Process and provided recommendations to standardize the procedure. Based on the report submitted by the BAC, the Finance and Management Committee directed staff to review the following points and present proposed enhancements to the Contracting Process:

1. The creation of a central repository for all City contracts, including evaluations of those contracts.
2. A signed certification process for every contract in order to locate the staff most knowledgeable about the contract.
3. The creation of guidelines for the awarding of sole-source contracts.
4. The statement of a contract's goal or policy objective in every contract.
5. A working definition for those contracts the Budget Advisory Commission calls "COPOs," starting with their definition on page 3 of Attachment B.
6. The creation of a renewal trigger system to ensure that any contracts proposed for renewal can be sufficiently reviewed.
7. Each contract shall have clear language detailing the frequency, extent, and process by which it will be audited or evaluated. Staff will provide cost figures for such auditing or evaluation.

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## DISCUSSION

- **The creation of a central repository for all City contracts, including evaluations of those contracts:**
  - Currently, the City Clerk / Records Management Services oversee the preservation and protection of public records. Records Management Services is required to maintain and index the Minutes, Ordinances, and Resolutions adopted by the legislative body. This unit also ensures that other municipal records are readily accessible to the public.
    - The current system is manual with hard copy files.
  - Information Technology is currently researching various software packages that will provide an Electronic Central Repository System.
    - There are two options at this point and both options will have associated costs:
      - 1) Implement a module within the Oracle System
      - 2) Purchase a separate software system
  - A spreadsheet of contracts (over the last five years) can be developed if the information has been input into the Oracle Financial System.
- **A signed certification process for every contract in order to locate the staff most knowledgeable about the contract:**
  - To accomplish this moving forward, a **contact sheet** can be attached to each resolution approving a contract award.
    - The current "Schedule A" can be standardized and the use of one "Schedule A" format can become mandatory. See Attachment 2 (Sample)
    - Once the system is automated, (Electronic Central Repository System) the appropriate staff will also be noted electronically.
- **The creation of guidelines for the awarding of sole-source contracts:**
  - Attachment 1 is a proposed Administrative Instruction outlining procedures for sole source contracts.
- **The statement of a contract's goal or policy objective in every contract:**
  - On Consulting and Professional Service contracts, Departments /Agencies must prepare and attached "Schedule A".
    - "Schedule A," outlines the scope of work and the services to be performed.
  - "Schedule A" can be amended to reflect categories for specific statements relative to goal, policy, etc.
    - "Schedule A" can be standardized and the use of one "Schedule A" format can become mandatory. See Attachment 2 (Sample)

- **A working definition for those contracts the Budget Advisory Commission calls “COPOs”, [starting with their definition on page 3 of attachment B]:**
  - The Budget Advisory Commission referred to Contracts Outside the Purchasing Ordinance as COPOs. These contracts are not for the purchase of goods or services, and so by definition the Purchasing Ordinance is not applied.
    - There is a large body of contracts that fall outside the purview of the Purchasing Ordinance, that are important to carry out municipal functions, and have significant fiscal implications.  
Examples:
      - Children's Fairyland
      - Lake Chabot Golf Course
      - Metropolitan Golf Links
      - Knowland Park Zoo
      - Dunsmuir House
      - Vista Madera Stables
  - Purchasing and Contract Compliance are working together to develop a uniform policy and consistent set of rules for these types of contracts.
- **The creation of a renewal trigger system to ensure that any contracts proposed for renewal can be sufficiently reviewed:**
  - Currently each Department / Agency is responsible for his or her contracts and ensure that all contracts proposed for renewal are sufficiently reviewed.
    - Once the system is automated (Electronic Central Repository System) “triggers” can be established, to provide staff with appropriate notification to initiate a review.
- **Each contract shall have clear language detailing the frequency, extent, and process by which it will be audited or evaluated. Staff will provide cost figures for such auditing or evaluation**
  - On all Consulting and Professional Service contracts, Departments /Agencies must prepare and attached “Schedule S”. See Attachment 3.
    - “Schedule S,” outlines in detail the Audit, Inspection, and Fiscal Reporting Requirements.
    - “Schedule S,” can be standardized and the use of one “Schedule S” format can become mandatory.
- **The cost of mandatory contract management training for all appropriate City staff.**
  - Purchasing Contract Management training is currently provided to City Staff through the City Wide Training Program.

Currently, all Consulting and Professional Service Contracts must have supplemental schedules attached. Attachment 4 is the current list of supplemental Schedules for the Consulting and Professional Service contracts.

**SUSTAINABLE OPPORTUNITIES**

None

**DISABILITY AND SENIOR CITIZEN ACCESS**

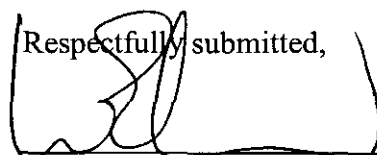
There are no ADA or senior citizen access issues contained in this report.

**RECOMMENDATION (S) AND RATIONAL**

Staff recommends that the City Council accept the informational report regarding the Contracting Process.

**ACTION REQUESTED OF THE FINANCE COMMITTEE**

Staff requests that the City Council accept the informational report regarding the Contracting Process.

Respectfully submitted,  



**William E. Noland**  
Director, Finance and Management Agency

Prepared by: LaRae Brown  
Controller

**Attachments:**

- Attachment 1: Administrative Instruction (Draft) / Other Than Full and Open Competition
- Attachment 2: Schedule A (Draft) / City of Oakland Contract Scope of Work / Deliverables
- Attachment 3: Schedule S / Audit, Inspection and Fiscal Reporting Requirements
- Attachment 4: Schedules / Currently required for Consulting and Professional Service Contracts

**APPROVED AND FORWARDED TO THE  
FINANCE AND MANAGEMENT COMMITTEE:**

  
Office of the City Administrator

Item: \_\_\_\_\_  
Finance and Management Committee  
April 11, 2006

**ATTACHMENT 1**  
***DRAFT***

**CITY OF OAKLAND**



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**ADMINISTRATIVE INSTRUCTION**

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<b>SUBJECT</b>	Other Than Full and Open Competition	<b>NUMBER</b>	
<b>REFERENCE</b>		<b>EFFECTIVE</b>	July 01, 2006
<b>SUPERSEDE</b>			

**I. PURPOSE**

To establish procedures for the approval of Agency / Department request for procurement transactions by means other than through full and open competition.

**II. POLICY**

City's policy is to provide full and open competition for all procurement transactions in excess of \$500. This policy shall outline the procedures for requesting procurement contracts without providing full and open competition.

A request to secure a procurement contract without providing full and open competition shall not be justified on the basis of a lack of advance planning by the requiring activity; or, concerns related to the amount of funds available (e.g., funds will expire) to the Agency / Department for the acquisition of supplies or services.

**III. PROCEDURE**

Request for contracts without full and open competition may be justified under the following conditions:

**1. Single or sole source requirement.**

When the supplies or services required by the Agency / Department are available from only one responsible source, or from only one or a limited number of responsible sources, and no other type of supplies or services will satisfy Agency / Department requirements. Supply or service may be deemed available only from one source when:

- 1.1 The source has submitted a research proposal.

- 1.2 The source is the original source in the case of a follow-up contract for the continued development of major systems or highly specialized equipment, including major components thereof, when it is likely that award to any other source would result in substantial duplication of cost to the City that is not expected to be recovered through competition; or unacceptable delays in fulfilling the requirements.

## **2. Unusual and compelling urgency.**

Full and open competition need not be provided for if the City Administrator approves a written request stating:

- 2.1 A situation is deemed an emergency for the immediate preservation of the public peace, health, or safety.
- 2.2 A delay in the award of contract would result in serious injury, financial or other, to the City.

## **3. Authorized or required by statute.**

Full and open competition need not be provided for when:

- 3.1 An ordinance/resolution expressly authorizes or requires that the acquisition be made through another agency or from a specified source.
- 3.2 An accepted Federal/state grant requires the use of a specific source.

## **4. Public Interest.**

Full and open competition need not be provided for when the City Administrator has determined that it is not in the public interest in the particular acquisition concerned when:

- 4.1 Full disclosure of the bid/proposal documents would be a threat or violation of national security requirements.
- 4.2 Full disclosure of the bid/proposal documents would cause a threat to or harm any City official, employee or the general public.

## **5. Justification Content.**

All requests must be in writing and submitted as follows:

- 5.1 Requests that exceed the City Administrator's authority must be submitted for Council authorization and approval.
- 5.2 Requests within the City Administrator's authority must be submitted to the City Administrator or his/her designated representative and must contain the following information:
  - 5.2.1 The Agency / Department name, the contracting activity, and specific identification of the document as a "justification for other than full and open competition."
  - 5.2.2 Nature and/or description of the action being approved.
  - 5.2.3 A description of the supplies or services required to meet the Agency / Department's needs (including the estimated value).

- 5.2.4 An identification of the statutory authority permitting other than full and open competition.
- 5.2.5 A demonstration that the proposed contractor's unique qualifications or the nature of the acquisition requires use of the authority cited.
- 5.2.6 A description of efforts made to ensure that offers were solicited from as many potential sources as practicable, including whether a notice was or will be publicized for local business enterprises.
- 5.2.7 A determination by the Agency Director that the anticipated cost to the City will be fair and reasonable.
- 5.2.8 A description of the market research conducted and the results, or a statement of the reason market research was not conducted.
- 5.2.9 Any other facts supporting the use of other than full and open competition.
- 5.2.10 A listing of the sources, if any, that were contacted or expressed an interest in the acquisition.
- 5.2.11 A statement of the actions, if any, that the Agency / Department may take to remove or overcome any barriers to competition before any subsequent acquisition for the supplies or services required.
- 5.2.12 Purchasing Supervisor certification that the justification is accurate and complete to the best of the Purchasing Supervisor's knowledge and belief.

DEBORAH A. EDGERLY  
City Administrator

**ATTACHMENT 2 (Sample)**

***DRAFT***

**SCHEDULE A \***

**CITY OF OAKLAND CONTRACT SCOPE OF WORK / DELIVERABLES**

FOR USE BY ALL CITY AGENCIES AND DEPARTMENTS

1. Project Manager/Responsible Staff Name: \_\_\_\_\_
2. Title \_\_\_\_\_ Phone: \_\_\_\_\_ email: \_\_\_\_\_
3. Agency \_\_\_\_\_ Department: \_\_\_\_\_
4. Supervisor / Direct Report or Alternate Contact :  
Name \_\_\_\_\_ Phone: \_\_\_\_\_ email: \_\_\_\_\_
5. Location of project documents: \_\_\_\_\_
6. Actual or Estimated Notice To Proceed (NTP) Date: \_\_\_\_\_
7. Estimated Time of Completion \_\_\_\_\_
8. Resolution # \_\_\_\_\_ Resolution Date: \_\_\_\_\_
9. Check 1 – Professional Services \_\_\_\_\_ Construction \_\_\_\_\_ Commodities \_\_\_\_\_ Technology \_\_\_\_\_
10. Details to # 9 \_\_\_\_\_
11. Statement of Contract Goal/Purpose: \_\_\_\_\_
12. Policy Objective: \_\_\_\_\_

	Deliverables	Date Due	Completion Date	Responsible Source (prime, sub, supplier, other)	Performance Level
1					
2					
3					

THIS PORTION MUST BE COMPLETED BY THE PROJECT MANAGER: Insert language here regarding auditing and/or evaluation of performance. For example, This contract is subject to an independent audit initiated by the City of Oakland and/or this contract will be evaluated quarterly according to the deliverables defined above. Please attach separate sheets if needed.

Consultant: _____ <small>(Please Print)</small>	Date: _____
Consultant Signature: _____	

City Representative: _____ <small>(Please Print)</small>	Date: _____
City Representative Signature: _____	

**\* Must be attached to signed Contract/ Agreement**



# **ATTACHMENT 3**

## **Schedule S**

### **AUDIT, INSPECTION AND FISCAL REPORTING REQUIREMENTS**

1. Interim Financial Reports. The Contractor will provide the City or Redevelopment Agency and City Auditor a compilation financial statement prepared in accordance with Generally Accepted Accounting Principles no later than forty-five (45) days at the end of each month/bi-monthly/calendar quarter (circle one)<sup>1</sup> period.
2. Property Accounting. The City and Contractor will inventory all City property, real or personal, that is transferred to the custody of the Contractor, if any, at the inception of this agreement. Annually, Contractor shall provide an inventory and an acquisition and disposal report for all City property transferred and all property acquired with City funds disbursed under this Agreement.
3. Protection of the Entity, Integrity, and Assets. In order to protect the entity, it shall comply with the following:
  - (a) Proceeds from the sale of assets that are listed as collateral for the loan to the entity shall be applied to reduction of debt owed to the City by that entity.
  - (b) The Contractor shall not issue stock, add new partners, add new equity participants, or encumber the ownership of the owners without the prior written approval of the City.
4. Tax Reports. At the option of the governing agency or the City Auditor, the Contractor shall provide payroll tax reports, sales tax reports, income tax reports, hazardous materials reports, and other reports filed with federal, state, and local government.
5. Accounting. The Contractor is required to prepare and maintain an up-to-date double entry General Ledger on the accrual basis in accordance with Generally Accepted Accounting Principles.
6. Expenditures Required by Contractor. Contractor shall provide, during the course of the agreement, reports of expenditures from the proceeds of City funds, loan funds from City administered programs and grants from programs administered by the City. The reports shall be at such frequency and of such content as specified by the City oversight agency and/or the City Auditor. Supporting documents may be required.
7. Fiscal Year End. Contractor, within one hundred twenty (120) days after the end of the fiscal year,<sup>2</sup> shall provide to the governing agency and the City Auditor a Reviewed or Audited (circle one) financial statement prepared by a Certified Public Accounting firm acceptable to the City Auditor. The statement shall be prepared in accordance with Generally Accepted Accounting Principles. Where applicable, such statements shall conform to the Single Audit Act, Circular 0M13 A- 133. This audit provision shall conform to the Table of Contract Clauses Related to Financial Responsibilities.

In addition, a copy of the Management Letter from the CPA firm shall be provided.

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<sup>1</sup> Select report period as recommended by the City Auditor.

<sup>2</sup> Select report level as prescribed by the City Auditor's Table of Contract Clauses Related to Financial Responsibility.

## **Schedule S**

A. Contractor agrees to comply with the City's audit requirements for nonprofit organizations:

1. For agencies receiving annually less than \$100,000 in cumulative funding from all sources (government or private), the Community and Economic Development Agency, in conjunction with the City Auditor's Office, will determine agencies to be selected for audit oversight of grant funded activities by the City Auditor's Office or a designated auditor.
2. For agencies receiving annually at least \$100,000 but less than \$300,000 in cumulative funding from all sources (government or private), an audited financial by a CPA is to be provided to the oversight agency and the City Auditor
3. For agencies receiving annually \$300,000 or more in cumulative funding from all sources (government or private) a single audit report shall be provided.

B. Contractor agrees to comply with the following general requirements for audits:

1. Where applicable, audits must be conducted in accordance with Government Auditing Standards (2003 and subsequent revisions) prescribed by the Comptroller General of the United States. All other audits must be conducted in accordance with auditing standards generally accepted in the United States of America.
  2. Contractor is encouraged, to the extent feasible; to procure its audits from small, local and minority and women-owned Oakland audit firms.
  3. Funds to cover the cost of the CDBG portion of the audit may be set-aside in the CDBG budget.
  4. A management letter shall be requested from the Certified Public Accountants and be presented to the City Auditor and the oversight committee
5. When Contractor is not subject to the City's audit requirements but obtains its own audit, a copy must be provided for the City's files within sixty (60) days after the audit has been completed by the Contractor's auditor along with the management letter.

### **8. Section Inspection of Books and Records**

- A. During the term of this Agreement, and for a period of four (4) years after the termination of this Agreement, or two (2) years after the closure of any disputed matter, whichever occurs later, (the "Audit Period"), Contractor shall maintain financial and operational records related to this Agreement or to any other agreement with City. Contractor shall make all books and records open to inspection by the governing agency, City Auditor or their individually assigned designee during normal business hours at a location within a twenty-five (25) mile radius of the City of Oakland for the period of this contract and for a period of four years after the close of each contract year.
- B. During the Audit Period, Contractor hereby grants to City or its designee(s), upon one (1) days prior notice to Contractor, access to and the right to make copies of any of Contractor's books, statements, documents, papers or records ("Financial Information")

## **Schedule S**

which arise from or relate to the terms and conditions of this Agreement and the performance of any services pursuant to this Agreement, or any other agreement between the parties, in order to permit City to conduct audits, examinations, excerpts and transition audits (collectively hereafter referred to as "Audit or Audits"). Contractor authorizes the City Auditor or his designee to obtain such information directly from these sources. City's right to Audit and to make copies shall apply whether such Financial Information is located at Contractor's offices or at Contractor's banks, financial institutions, or lenders, or at the offices of Contractor's financial consultants, accountants, or bookkeepers. For the purposes of such Audit, Contractor waives its right to the confidentiality of all Financial Information and Contractor authorizes the City or its designee(s) to access, obtain, and make copies of Financial Information directly from Contractor's banks, financial institutions, or lenders, or from Contractor's financial consultants, accountants, or bookkeepers.

- C. Such Audits may be performed by City through its employees or by its designees including, without limitation, a third party auditor retained by City. City's right to Audit under this **Schedule S, Section 8.C** is independent, separate and distinct from any right to audit such books and records reserved by law or contract, or as a condition of funding, by the county, state or federal government.
- D. If any Audit of Contractor's invoices or other records reveals any variance from any invoice to City, or of any amount of any grant or loan funds provided to Contractor by City which is in excess of the amount actually due to or granted to Contractor by City, then: Contractor shall immediately refund any excess payment or funds received from City. In addition, if any Audit reveals any variance from any invoice or funds received from City in excess of one percent (1%) of the amount shown on such invoice or the amount of funds actually due to or granted to Contractor by City, Contractor shall immediately reimburse City for all costs and expenses incurred in conducting such Audit. Failure to pay such variance and the cost of the Audit as required herein shall constitute a material breach of the Agreement and City may terminate the Agreement in accord with the termination provisions of **Section 16** therein, and Contractor shall be subject to a breach of contract claim for damages by City and a claim for return of all grant or loan funds provided to Contractor by City.

## ATTACHMENT 4

The following Schedules are required for Consulting and Professional Service Contracts:

Schedule	Description of Schedule
A	Scope of Work / Outline of Services to be Performed
B	Request for Consultant / Professional Services Agreement
C	City Manager Approval
C-1	ADA
D	Ownership Ethnicity, and Gender Questionnaire
E	Project Consultant Team
G	Progress Payment Form
H	Proposal Evaluation Form
I	Consultant Interview Form
J	Contract Compliance Recommendation Dispute Form
K	Amendment Report Form
L	Contractor's Report Card
M	Independent Contractors Questionnaire, Part A & B
N	Declaration of Compliance – Living Wage (for contracts over \$25,000)
N-1	EBO Declaration of Nondiscrimination
O	Campaign Contributions
P	Nuclear Free Zone
Q	Insurance Requirement
S	Audit, Inspection, and Fiscal Reporting Requirement
V	Affidavit of Non-Disciplinary or Investigatory Action
X	Award Notification
Y	Payment Transmittal Form – Final Payment
Z	Certification of Debarment and Suspension