

Final Audit Follow-Up

As of March 31, 2014



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City Auditor

Audit of the City's Vendor Incentive Programs **(Report #1110 issued May 6, 2011)**

Report #1424

August 19, 2014

Summary

This is the third and final follow-up on the Audit of the City's Vendor Incentive Programs (report #1110 issued May 6, 2011). As of March 31, 2014, 15 (83%) of the 18 action plan steps established to address issues identified in that audit have been completed. Four steps were completed during the period covered by this follow-up report, while three steps were in progress, with responsibility to ensure their completion turned over to management.

In audit report #1110 we provided recommendations for each of the City's four vendor incentive programs: Minority Business Enterprise (MBE) Program; Charitable Contribution Incentive Program; Volume of Work Incentive Program; and Local Vendor Incentive Program.

Eighteen action plan steps were developed to address those recommendations. Eleven of those action plan steps were completed in previous periods, as reported in our prior follow-up reports (reports #1215 and #1322). For the period covered by this follow-up report, actions were taken to complete four of the seven remaining steps. Those actions include:

- Economic and Community Development (ECD) management proposed and received approval of a new Minority/Women/Small Business Enterprise (MWSBE) Policy at the January 22, 2014, City Commission meeting.
- The MWSBE Policy eliminates the allowance for MBE set-asides, and for

operating budget-funded contracts, a cap has been put in place to limit how much the City is willing to award to a minority vendor which is not the lowest bidder for an operating budget-funded project. The MWSBE Policy also provides that for capital budget-funded projects, Minority and Women-Owned Business Enterprise (MWBE) goals may be waived in those instances in which MWBE price quotes are unreasonably high.

- The MWSBE Office has teamed with Code Enforcement and Public Works to conduct job site visits to verify program participation.
- In the February 26, 2014, City Commission meeting, the Charitable Contribution Program was repealed.

Actions taken for the three remaining steps still in progress and turned over to management include:

- Management indicated they intend to operate under the new MWSBE Policy for a few years to determine if the small business component to the revised policy is a viable alternative to a minority-only based program. Future disparity studies will be conducted as determined necessary by management, if the MBE program is still needed.
- City management indicated they are planning to produce an annual report at the end of 2014. As noted below, to facilitate the report, management is taking steps to better capture payments made to MWSBE subcontractors.

- The MWSBE Office is in the process of implementing a new software program to help track payments made to MWSBE subcontractors.

We appreciate the cooperation and assistance provided by the MWSBE Office and Procurement Services in completion of this audit follow-up.

Scope, Objectives, and Methodology

We conducted this audit follow-up in accordance with the International Standards for the Professional Practice of Internal Auditing and Generally Accepted Government Auditing Standards. Those standards require we plan and perform the audit follow-up to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit follow-up objectives.

Report #1110

The scope of report #1110 was to audit the City's four vendor incentive programs, Minority Business, Locality, Charitable Contributions, and Volume of Work (i.e., encouraging sharing work among vendors). The audit objectives were to:

- 1) Obtain and document our understanding of vendor incentives in the procurement of goods and services.
- 2) Evaluate the internal controls related to each vendor incentive program in the procurement of goods and services.
- 3) Determine compliance with laws, regulations, and policies related to vendor incentives in procurement of goods and services.
- 4) Identify program strengths, potential weaknesses, and areas for improvement for each vendor incentive program.

During this audit, we conducted two surveys to gather information from other cities and City

vendors. First, we surveyed 11 similar Florida cities to determine how their vendor incentive programs were utilized in comparison to the City of Tallahassee's vendor incentive programs. Second, we surveyed 867 City of Tallahassee vendors to obtain their level of satisfaction with the services provided by the ECD office for the MBE Program, and by the Department of Management and Administration's (DMA's) Procurement Services Division for the Locality, Charitable Contributions, and Volume of Work Programs.

Report #1424

This is our third and final follow-up on action plan steps identified in audit report #1110. The purpose of this follow-up is to report on the progress and status of efforts to complete the seven action plan steps, each due for completion before March 31, 2014. To determine the status of the action plan steps, we interviewed staff and reviewed relevant documentation.

Background

As indicated in our initial audit report (#1110), the City had four vendor incentive programs designed to assist vendors in procuring bids and contracts from the City: Minority Business, Locality, Charitable Contributions, and Volume of Work.

Based on our testing of bid solicitations in the original audit, we provided assurances that bids involving MBE, Local Vendor, and Charitable Contribution incentives were awarded in accordance with City incentive program ordinances and policies. None of the bids we tested were awarded based on Volume of Work incentive points.

A brief description and key conclusions from report #1110 are provided below for each of the four incentive programs.

MBE Program

The City adopted an MBE Policy in 1991 to provide opportunities for MBEs to obtain work

from the City. The MBE Office worked with the Procurement Services Division to provide information regarding MBE vendors during the City's bid evaluation process. Key results related to the MBE Program from the original audit included:

- The MBE Program policies were outdated and may not have been in agreement with federal laws and related U.S. Supreme Court opinions.
- The City's MBE Policy was based on the results and recommendations from an outdated Disparity Study (1990). A Disparity Study addresses how proficient the City is in representing the community's business population in the entity's purchasing activities, with a particular emphasis placed on the community's minority business makeup.
- The MBE Office had not conducted job site visits to monitor MBE participation on jobs, tracked prime contractor payments to MBE subcontractors, or regularly reported the accomplishments of the MBE Office.

Local Vendor Incentive Program

Ordinance No 89-O-0074, "Local Vendor Ordinance" was passed in November 1989, creating an incentive program to provide additional opportunities for local businesses in procuring contracts for goods and services from the City of Tallahassee. Key results related to the Local Vendor Incentive Program from the original audit included:

- Fewer local vendors were winning bids due to local incentive points.
- We noted only three of 57 bids reviewed were shown to be won due to the Local Vendor Incentive Program.
- A majority of bids (33 of 57) were won by local vendors without local vendor incentives.

Charitable Contribution Program

The City established the Charitable Contribution Vendor Incentive Program in September 2006, through Ordinance 06-O-47AA, "Charitable Contribution Incentive Program." The City Commissioners wanted to implement an incentive

to reward vendors for making charitable contributions in the local community. Key results related to the Charitable Contribution Vendor Incentive Program from the original audit included:

- Few vendors were winning bids due to the Charitable Contribution incentive points. Procurement Services management estimated there had been only one or two instances where the charitable contribution was the deciding factor in the bid decision since the Program began in September 2006.
- None of the other 11 Florida cities surveyed had a Charitable Contribution Incentive Program similar to Tallahassee.
- The Charitable Contribution Incentive Tracking Log was not accurate, in that some contributions were missing and some were duplicated.
- The United Partners for Human Services (UPHS) had been paid \$40,000 annually since 2006 to perform services related to verification of charitable contributions without a formal written contract defining the deliverables expected by the City. They had also not provided an annual report to the City since 2007.

Volume of Work Program

The City established the Volume of Work provision in 1983 for architects and engineers with a goal of "equitable distribution of contracts among qualified firms" during the bid evaluation process. In effect, the more work an architect or engineer performed for the City, the fewer points they received when proposing to contract for needed services. The key results related to the Volume of Work Program from the original audit included:

- Procurement Services management reported incentive points awarded for volume of work were rarely the deciding factor in bid awards.
- In our review of 120 bids, none of the bids we evaluated were awarded based on Volume of Work Incentive points.

Previous Conditions and Current Status

In report #1110, we provided recommendations to City management related to areas in each of the four vendor incentive programs. Management created an action plan consisting of 18 action plan steps, with all originally due for completion

before March 31, 2014. Eleven steps were completed in the previous follow-up periods. As shown in Table 1 below, four additional steps were completed during this follow-up period, and actions to complete the remaining three steps were in progress, with responsibility to ensure their completion turned over to management.

**Table 1
Action Plan Steps from Audit Report #1110
Due as of March 31, 2014, and Current Status**

Action Plan Steps Due as of March 31, 2014	Current Status
MBE Office	
<ul style="list-style-type: none"> Reconsider whether the MBE program is still suitable in meeting the needs of the community, or should be revised to a Small Business Enterprise Program to better comply with U.S. Supreme Court rulings related to race and gender neutral alternatives. <i>[Report #1110 Action Plan Step A.1]</i> 	<p>✓ Completed. As also described in report #1415, dated April 2, 2014, ECD management proposed and received approval of a new Minority/Women/Small Business Enterprise (MWSBE) Policy at the January 22, 2014, City Commission meeting. The new policy provides a revised program with an expanded definition of minority (African/Black Americans, Hispanic Americans, Asian Americans, and American Indians), and adds a race-neutral Small Business Enterprise (SBE) component.</p> <p>In revising the policy, ECD management defined program goals and objectives and compliance requirements and defined terms used in the policy to better assist businesses and City departments implement and comply with the Program. The policy sets Minority and Women-Owned Business Enterprise (MWBE) participation goals for the operating budget and the capital budget and sets caps to limit the amount that will be paid over lower bids for MWBE participation preference in operating budget-funded awards. To meet the goals of the SBE component, the City may reserve contracts valued at \$300,000 or less for competition among small businesses.</p> <p><u>Audit Comment:</u> We identified for management’s consideration areas within the new policy for which change may be needed to provide clarification and consistency. Specifically:</p> <ul style="list-style-type: none"> Clarification may be appropriate as to how to apply MWSBE preferences for professional services acquired through the “Request for Proposal” process. Provisions of the new policy defining a SBE

	<p>should be made consistent (i.e., one policy section provides SBEs are those businesses at 10 percent of the size standards established by the Small Business Administration, while another policy section sets those standards at 11 to 15 percent of those standards).</p>
<ul style="list-style-type: none"> • If the Program continues, obtain a new Disparity Study, and update the MBE Policy based on the study's data, results, and recommendations. <i>[Report #1110 Action Plan Step A.2]</i> 	<ul style="list-style-type: none"> ❖ In Progress. Turned over to management to ensure completion and resolution. As indicated in the preceding action plan step, the MBE Policy was revised to create the MWSBE Policy and Program. Management indicated they intend to operate under the MWSBE Policy for a few years to determine if the small business component of the revised Policy is a viable alternative to a minority-only based program. Management stated a new disparity study will be obtained at a later date, if determined necessary. ECD management indicated that, in creating the MWSBE Policy, consideration was given to the data, results, and recommendations included in a 2009 Disparity Study obtained by the Leon County Board of County Commissioners.
<ul style="list-style-type: none"> • If the Program continues, the updated MBE Policy should eliminate set asides, assign equitable points to minority businesses, and add a dollar range and percentage to limit additional amounts the City pays for awarding a bid to a vendor that receives MBE incentive points, but is not the lowest bidder. <i>[Report #1110 Action Plan Step A.3]</i> 	<ul style="list-style-type: none"> ✓ Completed. As noted in the original audit, the MBE Administrator reported MBE set-asides were no longer being used at the time of the original audit because courts had deemed them unconstitutional. Additionally, the MWSBE Policy eliminates the allowance for MBE set-asides, and for operating budget-funded contracts, a cap has been put in place to limit how much the City is willing to award to a minority vendor which is not the lowest bidder for an operating budget-funded project. The MWSBE Policy also provides that for capital budget-funded projects, MWBE goals may be waived in those instances in which MWBE price quotes are unreasonably high. <p>The MWSBE Policy also assigns incentive bid points for work assigned to MWBE vendors. For bids offering full MWBE goal expectancy (7.5% for African/Black Americans and 4.5% for female and all other minorities), the maximum number of points for capital budget-funded projects are as follows: 7.5 points are awarded for African/Black Americans, and 4.5 points are awarded for women and all other minority contractors. ECD management indicated that data from Leon County's 2009 Disparity Study were considered in the development of the incentive bid points employed in the MWSBE Policy. As noted in Action Plan Step A.2, a new disparity study for the City will be obtained at a later date, if determined necessary by management.</p>

<ul style="list-style-type: none"> • Make the MBE Policy available to all City employees. <i>[Report #1110 Action Plan Step A.4]</i> 	<ul style="list-style-type: none"> ✓ Completed during a prior period.
<ul style="list-style-type: none"> • Develop and implement a process to regularly visit job sites during the year to verify MBE participation. <i>[Report #1110 Action Plan Step A.5]</i> 	<ul style="list-style-type: none"> ✓ Completed. The MWSBE Office has teamed with Code Enforcement and Public Works to conduct job site visits. Public Works and Code Enforcement are providing the MWSBE Office with documentation, such as notes describing which MWSBE subcontractors were present at the job site, along with photographs of the work being performed. The MWSBE Office indicated they compare that information with the prime contractor’s final payment affidavit identifying MWSBEs used on the project.
<ul style="list-style-type: none"> • Resume producing annual reports to showcase the accomplishments of the MBE program. <i>[Report #1110 Action Plan Step A.6]</i> 	<ul style="list-style-type: none"> ❖ In progress. Turned over to management to ensure completion and resolution. The new MWSBE Policy requires an annual report be published detailing MWSBE vendor participation and success in meeting the MWSBE program goals on a departmental basis. City management indicated they are planning to produce an annual report at the end of 2014. As noted below, management has also taken steps to better capture payments made to MWSBE subcontractors. These steps will help with annual report preparation.
<ul style="list-style-type: none"> • Work with Accounting Services to implement a process to ensure all intended data is being captured and reported. <i>[Report #1110 Action Plan Step A.7]</i> 	<ul style="list-style-type: none"> ❖ In progress. Turned over to management to ensure completion and resolution. The MWSBE Office is in the process of implementing a new software program to help track payments made to MWSBE subcontractors. The MWSBE Office believes the software will help accurately identify how much money has been paid to MWSBE program participants. While data has not been loaded, the MWSBE Office said they already have access to the system and are learning how to use the software. Additionally, management said they are working with Procurement Services and Information System Services to determine what level of detail information needs to be uploaded and what vendor security measures should be in place to ensure data is backed up and all nonpublic information is sufficiently protected.
<ul style="list-style-type: none"> • Implement a process to improve tracking of City payments to MBE subcontractors through the prime contractors. <i>[Report #1110 Action Plan Step A.8]</i> 	<ul style="list-style-type: none"> ✓ Completed during a prior period.
<ul style="list-style-type: none"> • Continue to seek qualified individuals who have the necessary time and desire to attend quarterly meetings to provide advice and guidance to the MBE Office. <i>[Report #1110 Action Plan Step A.9]</i> 	<ul style="list-style-type: none"> ✓ Completed during a prior period.
<p>Procurement Services – Local Business Program</p>	
<ul style="list-style-type: none"> • Compare the costs of the Local Vendor Incentive 	<ul style="list-style-type: none"> ✓ Completed during a prior period.

<p>Program to the benefits, and either discontinue the Program, or change the Program structure and/or incentives to increase the number of local bids awarded. [Report #1110 Action Plan Step B.1]</p>	
<p>Procurement Services – Charitable Contribution Incentive Program</p>	
<ul style="list-style-type: none"> Update the Charitable Contribution procedures to reflect the current policy and make it available to City employees for reference and guidance. [Report #1110 Action Plan Step C.1] 	<ul style="list-style-type: none"> ✓ Completed during a prior period.
<ul style="list-style-type: none"> Modify language on the contribution form and use the same language regarding the 12-month window that the ordinance uses to provide consistency, and help avoid confusion for prospective donors and verifiers. [Report #1110 Action Plan Step C.2] 	<ul style="list-style-type: none"> ✓ Completed during a prior period.
<ul style="list-style-type: none"> Continue working with the agents to make sure the correct form is consistently being utilized. [Report #1110 Action Plan Step C.3] 	<ul style="list-style-type: none"> ✓ Completed during a prior period.
<ul style="list-style-type: none"> Clarify and communicate with staff and UPHS what information is to be recorded and reported, when it is to be recorded and reported, and by whom the information is to be recorded and reported. [Report #1110 Action Plan Step C.4] 	<ul style="list-style-type: none"> ✓ Completed during a prior period.
<ul style="list-style-type: none"> Reconsider the costs versus the benefits of the Charitable Contribution Incentive Program to determine if the Program is meeting its intended purpose. [Report #1110 Action Plan Step C.5] 	<ul style="list-style-type: none"> ✓ Completed. In the February 26, 2014, City Commission meeting, the Charitable Contribution Incentive Program was repealed.
<ul style="list-style-type: none"> Should the Program continue, a contract will be put in place between the City and UPHS, to clarify and document responsibilities related to the Charitable Contribution Vendor Incentive Program, and follow ups with UPHS will be conducted to verify they are completing those responsibilities. [Report #1110 Action Plan Step C.6] 	<ul style="list-style-type: none"> ✓ Completed during a prior period.
<p>Procurement Services – Volume of Work Incentive Program</p>	
<ul style="list-style-type: none"> Reconsider the costs versus the benefits of the Volume of Work Program to determine if the Program is meeting its intended purpose. [Report #1110 Action Plan Step D.1] 	<ul style="list-style-type: none"> ✓ Completed during a prior period.
<ul style="list-style-type: none"> Should the Program continue, management will consider changing the Program to provide opportunities for all vendors that have never received work from the City, while at the same time addressing the need to acquire goods and services at a competitive price. [Report #1110 Action Plan Step D.2] 	<ul style="list-style-type: none"> ✓ Completed during a prior period.

Table Legend:

- Issue to be addressed from the original audit.
- ✓ Action item addressed and resolved.
- ❖ In progress. Turned over to management to ensure completion and resolution.

Conclusion

Table 1 shows 15 of 18 action plan steps have been completed as of March 31, 2014, and three steps were in progress, with responsibility for completion turned over to management.

As a result of various management studies, analyses, and our audit (report # 1110), major changes to the incentive programs have been made. Those changes include:

- A new Minority/Women/Small Business Enterprise (MWSBE) Policy was developed by ECD management and adopted by the City Commission.
- The Charitable Contribution Incentive Program was repealed by the City Commission.
- The Volume of Work Incentive Program was discontinued in 2013.

We appreciate the cooperation and assistance provided by the MWSBE Office and Procurement Services in completion of this audit follow-up.

Appointed Official's Response

City Manager:

The City Auditor's Office has completed their audit of the City's Vendor Incentive Programs. This audit involves several departments across the City of Tallahassee. I am pleased that the final follow-up indicates that the Department of Economic and Community Development action plan items relative to the City's Minority and Business Enterprise (MBE) Program are being addressed through the revised policy which the City Commission approved in January of 2014. The new Minority, Women and Small Business Enterprise (MWSBE) Program will benefit from the implementation of a new software system which will help the City track and quantify the utilization of MWSBE qualified contractors and subcontractors. Additionally, I am pleased that this utilization information will be used to generate annual reports and to determine whether a new disparity study is warranted. I would like to thank the City Auditor and all of the departments for their cooperation and follow-up on this audit.

Copies of this final audit follow-up #1424 or audit report #1110 may be obtained from the City Auditor's website (<http://talgov.com/auditing/index.cfm>) or via request by telephone (850 / 891-8397), by FAX (850 / 891-0912), by mail or in person (Office of the City Auditor, 300 S. Adams Street, Mail Box A-22, Tallahassee, FL 32301-1731), or by e-mail (auditors@talgov.com).

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