

Memorandum



CITY OF DALLAS

DATE: January 4, 2024

TO: Alireza (Ali) Hatefi, Director, Department of Public Works
Danielle Thompson, Director, Office of Procurement Services

SUBJECT: Independent Report on Agreed-Upon Procedures for: Attestation Engagement for the Department of Public Works 2024 Annual Resurfacing Projects

Attached for your review is the *Independent Report on Agreed-Upon Procedures for: Attestation Engagement for the Department of Public Works 2024 Annual Resurfacing Projects*. The agreed-upon Procedures are included in [Attachment 1](#). An exception was noted for procedure (I).

We have performed these procedures which were agreed to by the Department of Public Works and Office of Procurement Services, solely to assist the City of Dallas City Council in evaluating the Department of Public Works' and Office of Procurement Services' compliance with the requirements of Administrative Directive 4-05, *Contracting Standards and Procedures*, relevant State of Texas statutes, and City of Dallas contracting and delivery procedures. The Department of Public Works and the Office of Procurement Services are responsible for the establishment of policies and procedures to comply with those requirements.

If you have any questions, please contact me at 214-670-3222 or mark.swann@dallas.gov.

Sincerely,

A handwritten signature in blue ink that reads "Mark S. Swann".

Mark S. Swann
City Auditor

Independent Report on Agreed-Upon Procedures for: Attestation Engagement for the Department of
Public Works 2024 Annual Resurfacing Projects

January 4, 2024

Page 2 of 2

Attachment

C: Honorable Mayor and Members of the City Council

T.C. Broadnax, City Manager

Tammy Palomino, City Attorney

Biliera Johnson, City Secretary

Kimberly Bizer Tolbert, Deputy City Manager

Jon Fortune, Deputy City Manager

Genesis Gavino, Chief of Staff

Jack Ireland, Chief Financial Officer

Robert Perez, Assistant City Manager

Joyce Williams, Director, Small Business Center

Sheri Kowalski, City Controller

Jeffrey Brill, Manager – Financial Compliance, Auditing, and Monitoring

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Independent Report on Agreed-Upon Procedures for: Attestation Engagement for the Public Works 2024 Annual Resurfacing Projects CIZ23-PBW-3052

January 4, 2024

Mark S. Swann, City Auditor

Mayor

Eric L. Johnson

Mayor Pro Tem

Tennell Atkins

Deputy Mayor Pro Tem

Carolyn King Arnold

Council Members

Adam Bazaldua

Paula Blackmon

Zarin D. Gracey

Cara Mendelsohn

Jesse Moreno

Omar Narvaez

Jaime Resendez

Paul E. Ridley

Jaynie Schultz

Kathy Stewart

Chad West

Gay Donnell Willis



Executive Summary

Objective and Scope

The objective of the agreed-upon procedures attestation engagement is solely to assist the City of Dallas City Council in evaluating the Department of Public Works' and the Office of Procurement Services' compliance with the requirements of City of Dallas Administrative Directive 4-05, *Contracting Standards and Procedures*, relevant State of Texas statutes, and City of Dallas contracting and delivery procedures.

The Department of Public Works requested this attestation in accordance with Administrative Directive 4-05, Section 9.5.5, *Attestation Engagement Requirement for All Construction Projects \$50 Million and Greater*.

Background

The 2024 Annual Resurfacing Project will consist of roughly 102 lane miles across all 14 council districts. This project will help to improve the drivability of the streets and will address Americans with Disabilities Act issues. The project is expected to be completed between late January and the end of September 2024.

The total project is estimated at \$90 million. The project has a Minority and Women-Owned Business Enterprise goal of 32 percent.

The Department of Public Works is seeking approval from the City Council to award \$85,160,474.50 to Texas Materials, the lowest of two bidders.

Observed Conditions

Auditors performed the 17 agreed-upon Procedures and identified one exception. See [Attachment 1](#) for the full list of procedures.

Results

Independent Agreed-Upon Procedures Report

The Office of the City Auditor conducted the procedures described in [Attachment 1](#), which were agreed to by the Department of Public Works and the Office of Procurement Services, solely to assist the City of Dallas City Council in evaluating the Department of Public Works' and the Office of Procurement Services' compliance with the requirements of Administrative Directive 4-05, *Contracting Standards and Procedures*, relevant State of Texas statutes, and City of Dallas contracting and delivery procedures.

The Department of Public Works and the Office of Procurement Services are responsible for the establishment of policies and procedures to comply with those requirements. The sufficiency of these agreed-upon procedures is solely the responsibility of the parties specified in the report. Consequently, we make no representation regarding the sufficiency of the procedures described in [Attachment 1](#), either for the purpose for which this report has been requested or for any other purpose.

The Department of Public Works requested this attestation on August 23, 2023, in compliance with Administrative Directives 4-05 Section 9.5.5, *Attestation Engagement Requirement for All Construction Projects \$50 Million and Greater*. The Office of the City Auditor completed the agreed-upon procedures on January 4, 2023. An exception was noted for one of the 17 agreed-upon procedures.

The purpose of this report on applying agreed-upon procedures is intended solely for the information and use of the Dallas City Council and City management and is not intended to be and should not be used by anyone other than these specified parties. Accordingly, this report is not suitable for any other purpose. The Office of the City Auditor was not engaged to and did not conduct an examination or review, the objective of which would be the expression of an opinion or conclusion, respectively, on compliance. Accordingly, the Office of the City Auditor does not express such an opinion or conclusion. Had additional procedures been performed, other matters might have been identified that would have been reported.

We are required to be independent of the Department of Public Works and the Office of Procurement Services and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements related to our agreed-upon procedures engagement. The agreed-upon procedures were conducted in accordance with the United States generally accepted government auditing standards which incorporate attestation standards established by the American Institute of Certified Public Accountants.

Signature:



Mark S. Swann, CPA
City Auditor
City of Dallas, Texas

1/4/2024

Attachment 1: Agreed-Upon Procedures

Independent Report on Agreed-Upon Procedures for: Attestation Engagement for the Public Works 2024 Annual Resurfacing Projects CIZ23-PBW-3052

1/4/2024

Agreed-Upon Procedures

As stated in Administrative Directive 4-05, *Contracting Standards and Procedures*, Section 9.5.5:

- (a) Confirm the documentation to support the procurement is provided by the Department of Public Works, and other applicable City departments.

No exceptions.

- (b) Confirm solicitation procedures complied with Administrative Directive 4-05, Contracting Standards, City Ordinances, application State Laws and departmental policies and procedures.

No exceptions.

- (c) Confirm the scope of work/specifications were written in a manner that promotes competition and competitive pricing.

No exceptions.

- (d) Confirm the specification identify the criteria for which the Department of Public Works could determine that a bid is responsive and responsible.

No exceptions.

- (e) Confirm that the Department of Public Works performed due diligence when developing the bid specifications by consulting with other departments, such as the City Attorney's Office, and documenting the consultation.

No exceptions.

- (f) Confirm the procurement was advertised appropriately in accordance with State law.

No exceptions.

- (g) Confirm the Department of Public Works and the Office of Procurement Services used appropriate commodity code(s) to send notifications to the vending community from the City's solicitation system.

No exceptions.

- (h) Confirm the Office of Procurement Services sent solicitation notices and addenda (if applicable) to the vending community with sufficient time for response.

No exceptions.

- (i) Confirm the Department of Public Works held a pre-bid meeting, if applicable.

No exceptions.

- (j) Confirm the specifications were posted for a reasonable period of time on the City's solicitation system.

No exceptions.

- (k) Confirm the Department of Public Works obtained appropriate nondisclosure and conflict of interest forms for any consultants and/or subject matter experts used in the procurement process, if applicable. Additionally, if applicable, confirm the Department of Public Works included conflict-of-interest and nondisclosure policy language in the scope of work/specifications.

No exceptions.

- (l) Confirm the City received sealed bids/proposals within the due date and time, opened them, and subsequently read them in compliance with State law.

Exception.

Electronic logs show bid proposal documents were accessed by a Department of Public Works representative before the bid opening time of 2:00 p.m. on October 27, 2023.

As a result, the bid opening did not comply with rules D and G of the City's *Rules Governing the Receipt of Electronic Submission of Bids and Proposals*. The City's *Rules Governing the Receipt of Electronic Submission of Bids and Proposals* were established to comply with the state law for receiving electronic bids.

Rule D. All data shall be encrypted using a time-sensitive mechanism that allows the data to be decrypted only after the Bid Opening specified for each solicitation.

Rule G. The City's Purchasing Agent, or his/her designee(s), with an authorized password, and only after the Bid Opening date and time, can request the bid/proposal be opened and obtain the data in the bid/proposal.

**Department of Public Works and Office of Procurement Services Management
Comments or Actions Taken**

A Department of Public Works (PBW) representative inadvertently opened a document that unbeknownst to them was a sealed bid.

To prevent the likelihood that bids are viewed prematurely, the Office of Procurement Services (OPS) will work with the Bonfire team to create a two-way internal encryption system that prevents City employees from prematurely viewing bids prior to the bids being locked.

The Office of Procurement Services (OPS) will also work with PBW to determine the exact nature of the incident and provide control measures to prevent occurrences in the future.

- (m) Confirm the City received and evaluated the bids/proposals and found them to meet the minimum requirements/qualifications for low bid OR that the most advantageous proposer was determined based on the published evaluation criteria.

No exceptions.

- (n) Confirm the Department of Public Works performed due diligence when a bidder is disqualified or in the event of a bid protest by consulting with the City Attorney's Office and informed the City Council of a bid protest and response in accordance with Administrative Directive 4-05, *Contracting Standards and Procedures*, 9.5.3.

No exceptions.

- (o) Obtain a representation from the Small Business Center that the Small Business Center followed the City's Business Inclusion and Development policies outlined by City Council.

No exceptions.

- (p) Confirm the Department of Public Works review and evaluation process confirmed the lowest bid or highest ranked vendor, and that the Department of Public Works appropriately documented the determination.

No exceptions.

- (q) Confirm the Department of Public Works used the Federal System for Award Management website to confirm that the lowest responsible bidder is not currently excluded.

No exceptions.