

Memorandum



CITY OF DALLAS
(Report No. A17-008)

DATE: June 2, 2017

TO: Honorable Mayor and Members of the City Council

SUBJECT: Audit of Sole Source / Single Bid Procurements¹

The Department of Business Development and Procurement Services (BDPS) continues to improve certain practices over the administration of sole source / single bid procurements. For example, when BDPS receives a single bid, the procurement is advertised for an additional two-week period to encourage competition. According to BDPS, the number of sole source procurements decreased by 50 percent between Fiscal Year (FY) 2015 and FY 2016 which also indicates BDPS is continuing to encourage departments to obtain bids instead of accepting sole source procurements.

These practices, however, are not sufficient to ensure proper internal controls are in place and operating as intended. As a result, there is an increased risk that the City of Dallas (City) is not consistently complying with:

Background

"The Department of Business Development and Procurement Services (BDPS) is responsible for developing bid specifications jointly with City of Dallas (City) departments, obtaining bids through advertising and direct solicitation, establishing and monitoring price agreement contracts, and issuing purchase orders. The BDPS maintains the register of professional and personal services consultants who are interested in working with the City. Additionally, BDPS, in coordination with the Business Inclusion and Development division, maintains a register of Minority and Women Owned Business Enterprise (M/WBE) companies in efforts to facilitate M/WBE participation in the procurement process. Finally, BDPS also administers the sale and auctioning of City surplus property, impounded vehicles, City fleet, and unclaimed confiscated goods through public auctions."

Of the 177 procurements administered by BDPS during FY 2016, sole source / single bid procurements represented six percent, with non-competitive bids (i.e., sole source procurements) comprising only two percent.

Source: City of Dallas Website and BDPS

¹ This performance audit was conducted under the authority of the City Charter IX, Section 3 and in accordance with the Fiscal Year (FY) 2016 Audit Plan approved by the City Council. The audit objective was to determine the adequacy of controls for sole source / single bid procurements. The audit scope was FY 2016; however, certain other matters, procedures and transactions occurring outside that period may have been reviewed to understand and verify information related to the audit period. This performance audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based upon our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. To achieve the audit objective, we interviewed appropriate personnel, reviewed documents as provided by management, evaluated a sample of procurement files, and reviewed applicable Texas Local Government Code sections and City of Dallas Administrative Directives.

- Texas Local Government Code (TLGC) Chapter 252, *Purchasing and Contracting Authority of Municipalities*
- Administrative Directive 4-05, *Contracting Policy* (AD 4-05)

Of the eight single bid procurements and the three sole source procurements administered by BDPS during FY 2016, the Office of the City Auditor (Office) selected and evaluated: (1) a judgmental sample of three of eight, or approximately 38 percent, of the single bid procurements; and, (2) one of three, or approximately 33 percent, of the sole source procurements.

The sample showed BDPS practices did not consistently ensure that:

- Bid specifications were written clearly and included appropriate attachments
- Buyer's analysis of how a responsible award was made at the lowest possible cost to the City was documented
- Buyers reviewed all bids received to validate that the information required by the bid specifications were submitted, such as client references, or reasons for omissions were documented
- Buyer performed adequate research on the Thomas Register of American Manufacturers or Internet to validate sole source status

While BDPS practices include the use of certain checklists and a quality control process, the lack of formal policies and procedures (written, approved, and dated) has resulted in inconsistencies among buyers in both the way they conduct the sole source / single bid procurement process and the associated documentation. In addition, the current quality control process is not sufficiently rigorous to control these inconsistencies. For example, the quality control process did not identify the issues noted in Attachment I.

Description of the Selected Sample

During Fiscal Year (FY) 2016, BDPS administered eleven sole source / single bid procurements worth over \$12 million dollars. The selected audit sample totaling approximately \$8 million included the following:

Single Bids

Record Management System (RMS) and Field Base Reporting (FBR) System (\$3,301,195) – Five-year contract to provide ongoing maintenance, support, and upgrades for the existing RMS and FBR systems used by public safety personnel

Compressed Natural Gas (CNG) (\$2,950,684) – Three-year acquisition contract to provide CNG fuel for equipped fleet vehicles and a three-year contract for CNG fuel station parts and maintenance for equipped fleet vehicles

Ozone Generator (\$561,658) – Purchase of one ozone generator

Sole Source

Polaris Library System (\$1,347,208) – Five-year service contract for licenses, maintenance, hosting, and support for the existing system

Source: Official Council Agendas (October 2015 to September 1, 2016)

Recommendations

We recommend the Director of BDPS ensures the TLGC Chapter 252, *Purchasing and Contracting Authority of Municipalities* and AD 4-05 requirements are consistently met by:

- I. Developing and implementing formal policies and procedures (written, approved, and dated) over the sole source / single bid procurement process, including the quality control process
- II. Verifying bid specifications are written clearly and required attachments are provided to the potential bidders when the bid specifications are posted
- III. Documenting and including in the procurement files the buyers' analysis of how responsible awards were made at the lowest possible cost to the City
- IV. Reviewing bid responses to validate bid specifications information requirements, such as client references, are obtained or reasons for omissions documented
- V. Documenting that the buyers performed adequate research to identify potential vendors using appropriate research tools (e.g., Internet, Thomas Register of American Manufacturers)

Auditor Follow-Up Comments

The BDPS disagreed with four of the five recommendations included in this audit stating the exceptions identified in the audit are isolated incidents and BDPS' current processes are sufficient to ensure compliance with TLGC Chapter 252 and AD 4-05. The exceptions noted, however, are comparable to those reported in pre-audits performed by the Office of the City Auditor (Office) for the past nine years. Although BDPS has developed checklists and recently implemented a quality review process, these improvements did not identify and correct these exceptions.

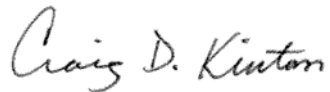
While sole source / single bid procurements do not represent the majority of the procurements administered by BDPS, they are inherently riskier. Therefore, it is important that BDPS ensures that each sole source / single bid is administered consistently and that each buyer demonstrates and documents compliance with all steps in the procurement process. If BDPS develops and implements formal policies and procedures, as agreed to in Recommendation I, Recommendations II through V will also be implemented if the policies and procedures are appropriately designed, implemented and monitored.

Please see Attachment I for Sole Source / Single Bid Procurement Requirements and Practices – Audit Sample Evaluation Results, Attachment II for Background, and Attachment III for Management's Response to the recommendations.

Honorable Mayor and Members of the City Council
June 2, 2017
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We would like to acknowledge management's cooperation during this audit. If you have any questions or need additional information, please contact me at 214-670-3222 or Carol Smith, First Assistant City Auditor, at 214-670-4517.

Sincerely,

A handwritten signature in cursive script that reads "Craig D. Kinton".

Craig D. Kinton
City Auditor

Attachments

C: T.C. Broadnax, City Manager
M. Elizabeth Reich, Chief Financial Officer
Michael Frosch, Director – Department of Business Development and Procurement Services

ATTACHMENT I

**Sole Source / Single Bid Procurement Requirements and Practices –
Audit Sample Evaluation Results**

The Department of Business Development and Procurement Services (BDPS) is to follow Texas Local Government Code (TLGC) Chapter 252, *Purchasing and Contracting Authority of Municipalities* and Administrative Directive 4-05, *Contracting Policy* (AD 4-05) for single bid and sole source procurements.

Single Bid (Only Bid) Procurements – Where the request for bids has obtained a legitimate bid response from only one vendor (a legitimate bid response does not include a nonresponsive bid). Unlike sole source procurements, the bid requirements can be satisfied by more than one vendor, but some vendors choose not to bid.

Table I on the following pages reflects the evaluation results of a judgmentally selected sample of three of eight, or approximately 38 percent, single bid procurements administered by BDPS during Fiscal Year 2016, which included:

- **Record Management System (RMS) and Field Base Reporting (FBR) System (\$3,301,195)** – Five-year contract to provide ongoing maintenance, support, and upgrades for the existing RMS and FBR systems used by public safety personnel
- **Compressed Natural Gas (CNG) (\$2,950,684)** – Three-year acquisition contract to provide CNG fuel for equipped fleet vehicles and a three-year contract for CNG fuel station parts and maintenance for equipped fleet vehicles
- **Ozone Generator (\$561,658)** – Purchase of one ozone generator

Table I

Single Bid Procurements

AD 4-05 Requirement	How BDPS Meets the Requirement	Ozone Generator (Buyer 1)	Compressed Natural Gas (Buyer 2)	Record Management System (Buyer 3)
<p>5.3.1</p> <p><i>Review of specifications, ensuring that requirements of end users are clearly stated, competition is not restricted, methods for testing and inspection of goods and services are required when appropriate, and a responsible award is made at the lowest possible cost to the City</i></p>	<p>Advertises and posts a complete bid specifications package on the City of Dallas' (City) website</p>			<p>Buyer posted an incomplete bid specifications package with missing attachments and references to attachments that were not actually included</p>

Audit of Sole Source / Single Bid Procurements

AD 4-05 Requirement	How BDPS Meets the Requirement	Ozone Generator (Buyer 1)	Compressed Natural Gas (Buyer 2)	Record Management System (Buyer 3)
<p>5.3.1</p> <p><i>Review of specifications, ensuring that requirements of end users are clearly stated, competition is not restricted, methods for testing and inspection of goods and services are required when appropriate, and a responsible award is made at the lowest possible cost to the City</i></p>	<p>Evaluates the bidder's proposed price for reasonable increases based on changes in the industry (e.g., inflation, technology upgrades, product upgrades, etc.)</p>			<p>Buyer did not document the evaluation of the two prices (\$1.9 million and \$1.5 million) the vendor proposed for annual software maintenance. After the auditor inquired why the City had not taken advantage of the lower price of \$1.5 million, BDPS contacted the vendor and obtained a signed and notarized affidavit stating the lower price of \$1.5 million was not intended as a quote to the City, but as a reflection of the vendor's pricing subject to its 2010 sub-contract with the City.</p> <p>According to BDPS, the buyer was aware of this error, however, there was no documentation in the procurement file.</p>

Audit of Sole Source / Single Bid Procurements

AD 4-05 Requirement	How BDPS Meets the Requirement	Ozone Generator (Buyer 1)	Compressed Natural Gas (Buyer 2)	Record Management System (Buyer 3)
<p>5.8.3</p> <p><i>Perform a complete and accurate review of all bids received, in conjunction with other user departments (review team)</i></p>	<p>Reviews the bidder's response package to determine whether the bidder has completed the bid response, business information form, Good Faith Effort Affidavit and / or other required documentation, such as client references, noted in the bid specifications</p>	<p>Buyer did not obtain the most recent client references to determine if the bidder can continue to provide quality services.</p> <p>According to BDPS, the buyer relied on the Department of Dallas Water Utilities' (DWU) assertion that the bidder has provided quality services for the past decade with no known issues. The buyer, however, did not include any documentation of DWU's assertion in the procurement file.</p>		

Sole Source Procurements – The functional requirements of the procurement can be satisfied by only one vendor. Sole source procurements should be verified annually. Sole source procurements should include justification for the sole source from the vendor and other information for potential vendors should be sought.

Table II below reflects the evaluation results of a judgmentally selected sample of one of three, or approximately 33 percent, sole source procurements administered by BDPS during FY 2016 which included **Polaris Library System (\$1,347,208)** a five-year service contract for licenses, maintenance, hosting, and support for the existing system.

Table II

Sole Source Procurement

AD 4-05 Requirement	How BDPS Meets the Requirement	Polaris (Buyer 3)
<p>7.5.2</p> <p><i>Purchasing, on all sole source procurements, greater than \$1,000: Seek other information – Thomas Register of American Manufacturers (in Purchasing), other cities, yellow pages, etc. – and document the findings</i></p>	<ul style="list-style-type: none"> • Performs search on the Thomas Register of American Manufacturers using various search categories (e.g., product name, service) • Uses the Internet to complete searches using various search categories including, but not limited to, service category, brand names, product name, and industry practices 	<p>Buyer did not adequately search the Thomas Register of American Manufacturers or the Internet to identify potential bidders for other vendors who might provide software maintenance and support.</p>

ATTACHMENT II

Background

The Department of Business Development and Procurements Services (BDPS) is responsible for providing procurement services to the citizens of the City of Dallas (City). The BDPS develops bid specifications jointly with City departments, obtains and reviews bids, establishes and monitors price agreements, helps facilitate Minority and Women Owned Business Enterprise participation in the procurement process, and administers the sale / auction of City surplus property, impounded vehicles, City fleet, and unclaimed confiscated goods through public auction.

The BDPS centralizes procurement and contract administration to streamline the process to obtain materials, supplies, and contracts at the best price reasonably available through open and fair competition; however, for many reasons, the City is unable to obtain bids from more than one bidder resulting in a single bid procurement. Other times, there might be only one vendor that can provide the goods or services, resulting in a sole source procurement.

During Fiscal Year (FY) 2016, BDPS was responsible for administering eight single bids and three sole source procurements worth over \$12 million dollars.

Table I

**Analysis of Total Single Bids / Sole Source Procurements
in Relation to Total Procurements Administered by BDPS During FY 2016**

Description	Single Bids	Sole Source	Total
Number of Procurements	8	3	11
Percent of Total Procurements *	5%	2%	6%
Dollar Amount of Procurements	\$ 7,978,499	\$ 4,605,704	\$ 12,584,203
Percent of Total Dollar Amounts *	2%	1%	3%

* The percent calculations are based upon the 177 procurements worth \$460,328,053 administered by BDPS during FY 2016.

Source: BDPS

Single Bid Procurements

Single bid procurements occur when a request for bids has obtained a legitimate bid response from only one vendor. Unlike sole source procurements, the bid requirements can be satisfied by more than one vendor, but other vendors choose not to bid. A risk involved with single bid procurements includes bid rigging. Bid rigging, which takes many forms, happens when vendors conspire to raise prices or lower the quality of goods and services, hindering the efforts of buyers to obtain goods and services at the lowest possible price.

Sole Source Procurements

Sole source procurements occur when only one vendor can satisfy the functional requirements of the procurement. Therefore, the City must be vigilant in ensuring that only one known source exists. One risk in selecting a vendor as the “sole source” of a product or service includes overspending. As a result, this non-competitive procurement method is only used under exceptional circumstances and when there is clear justification for its use.

Management's Response

Memorandum

RECEIVED

MAY 12 2017

City Auditor's
Office



CITY OF DALLAS

DATE: May 12, 2017

TO: Craig D. Kinton, City Auditor

SUBJECT: Response to Audit Report:
Audit of Sole Source / Single Bid Procurements

Thank you for the opportunity to respond to your audit of the sole source / single bid procurements. Our responses to the audit report recommendations are as follows:

Recommendation I

We recommend the Director of BDPS ensures the TLGC Chapter 252, *Purchasing and Contracting Authority of Municipalities* and AD 4-05 requirements are consistently met by:

- Developing and implementing formal policies and procedures (written, approved, and dated) over the single bid / sole source procurement process, including the quality control process

Management Response / Corrective Action Plan

Agree Disagree

We agree with your recommendation and will draft policies to specifically address all the required steps performed during the single bid / sole source procurement process.

BDPS currently utilizes a checklist of required items and tasks necessary which will be included within the formal procedure. On future sole source items, BDPS has created a required form to be completed by the vendor affirming they are the only authorized distributor of the product/service and requesting other agencies with recent purchases for price comparison purposes. Additionally, BDPS created a form to require a department to formalize the justification of a sole source good or service request. These changes will enhance the review process and provide greater quality control. Although BDPS will have the new policies in place within 60 days, to test and ensure remediation, a number of sole source or single bids will need to occur. Since we cannot determine the timing of these procurements, the implementation date includes ample time to receive and test the controls.

Implementation Date
12/31/2018

Responsible Manager
Assistant Director

Recommendation II

We recommend the Director of BDPS ensures the TLGC Chapter 252, *Purchasing and Contracting Authority of Municipalities* and AD 4-05 requirements are consistently met by:

- Verifying bid specifications are written clearly and required attachments are provided to the potential bidders when the bid specifications are posted

Management Response / Corrective Action Plan

Agree Disagree

We disagree with your recommendation because BDPS already works with client departments to ensure the bid specifications are written clearly. In addition, the single instance found in the audit was an isolated incident that does not reflect a missing control or weakness that needs correction.

BDPS understands the importance of the required documentation within the solicitation process. In the Auditor's referenced finding (5.3.1), the specifications referenced a section within the Texas Local Government Code (TLGC) as an attachment included in the solicitation packet, an easily accessible document on the internet which governs the procurement process. Although the TLGC document was inadvertently not included as an attachment, the TLGC chapter and section of the referenced language was included in the specifications. BDPS did not receive any questions from the vending community on this oversight and all required forms were included, e.g. signature page and required affidavits. In the future, BDPS will not include this reference to the Texas Local Government Code in the specification document as it is not necessary.

Implementation Date

Not Applicable

Responsible Manager

Not Applicable

Recommendation III

We recommend the Director of BDPS ensures the TLGC Chapter 252, *Purchasing and Contracting Authority of Municipalities* and AD 4-05 requirements are consistently met by:

- Documenting and including in the procurement files the buyers' analysis of how responsible awards were made at the lowest possible cost to the City

Management Response / Corrective Action Plan

Agree Disagree

We disagree with your recommendation because our staff already performs analysis on each procurement, regardless of the procurement type, to ensure the City receives the lowest price or most advantageous solution in a proposal process. In this case, the buyer performed the analysis and did not document the conversations with the vendor. This is an isolated incident which is not representative of a systemic problem within the procurement review process. BDPS will perform additional training to reiterate the current processes.

Implementation Date

Not Applicable

"Dallas, the City that Works: Diverse, Vibrant and Progressive."

Responsible Manager
Not Applicable

Recommendation IV

We recommend the Director of BDPS ensures the TLGC Chapter 252, *Purchasing and Contracting Authority of Municipalities* and AD 4-05 requirements are consistently met by:

- Reviewing bid responses to validate bid specifications information requirements, such as client references, are obtained or reasons for omissions documented

Management Response / Corrective Action Plan

Agree Disagree

We disagree with your recommendation because BDPS already has a process in place to request references as deemed appropriate within the procurement evaluation process. When references are checked, a standardized format is utilized for all applicable vendors. In the Auditor's referenced finding (5.8.3), the specifications state, "Upon request, bidder shall provide three professional references evidencing required experience"; this language provides BDPS the ability to request specified references if deemed necessary.

Upon review of the single bid, staff determined the only bidder had a significant history of doing business with the City providing goods and services related to the product being procured and therefore did not require further evidence to verify the specified requirement. The final bid analysis determined the vendor has provided satisfactory service to the City for over 17 years. The initial ozone generators were installed in 1993 with replacements installed in 2003 by the firm referenced in this audit. Since the initial installation in 2003, Xylem Water Solutions has provided parts and maintenance to the City without any documented discrepancies, vendor performance issues or disputes. As is typical of all BDPS' recommendations for Council consideration, the client department (DWU) provided a letter of concurrence affirming their agreement to move forward with this vendor. As mentioned in audit recommendation I, BDPS will modify the single bid and sole source checklist and add a check box to document the staff review of incumbent vendor performance history to mitigate this perceived issue.

Implementation Date
Not Applicable

Responsible Manager
Not Applicable

Recommendation V

We recommend the Director of BDPS ensures the TLGC Chapter 252, *Purchasing and Contracting Authority of Municipalities* and AD 4-05 requirements are consistently met by:

- Documenting that the buyers performed adequate research to identify potential vendors using appropriate research tools (e.g., Internet, Thomas Register of Manufacturers)

Management Response / Corrective Action Plan

Agree Disagree

We disagree with this recommendation because BDPS staff already conducts adequate documented research to identify potential vendors using appropriate research tools. In the situation noted by the auditor, BDPS used the internet to research and validate the vendors claim that they were the only provider of maintenance on the Polaris Integrated Library System. In this case, to obtain maintenance for the current system, staff searched specifically for the library system in place today.

During a sole source review to determine whether to process a procurement request as a sole source procurement or to competitively bid, BDPS conducts research that includes Google and Thomas Register of American Manufacturers (ThomasNet). In the Auditor's reference audit finding (7.5.2), BDPS staff searched Google and the ThomasNet, using the specific manufacturer's product name as a search criteria to find other potential sources that could offer third party maintenance support for the specified system. Although BDPS had acquired a letter from the manufacturer stating, in part, that they were the sole provider of maintenance and support of the Polaris Integrated Library System, BDPS conducted additional documented research using the system name to substantiate the vendor's sole source statement utilizing Google and ThomasNet. The search did not identify any other provider. By obtaining a sole source statement from the manufacturer and utilizing the system name as the search criteria to find other potential providers, BDPS conducted adequate documented research to determine this procurement request as a sole source.

Implementation Date

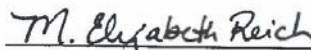
Not Applicable

Responsible Manager

Not Applicable

Sincerely,

 5/12/17
Michael J. Frosch, Director
Department of Business Development
and Procurement Services

 5-12-17
M. Elizabeth Reich
Chief Financial Officer

C:

"Dallas, the City that Works: Diverse, Vibrant and Progressive."