

CITY AUDITOR'S OFFICE



Audit of Professional Services Contract No. 070122 - Delphi Research of Nevada

Report No. CAO 3100-0809-07

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BACKGROUND

The City Auditor's Office has completed an audit of the Professional Services Contract # 070211 with Delphi Research of Nevada. This contract was approved on the Consent Agenda at the September 5, 2007 City Council meeting. This contract is a three year firm-fixed price contract. This contract QRA was conducted during the contract term.

Batteries Included, sponsored by the City of Las Vegas, Nevada Partners and the Clark County School District, offers a series of programs to improve high school graduation rates and to cultivate professional young leaders in the community. Delphi Research is to design and implement a thirty-eight month evaluation to assess the effectiveness of the Batteries Included program components, at cost of \$157,056 from the general fund.

OBJECTIVES

The objectives of our review were to:

- Determine the Basis of Contract Award
- Review the Contract Preparation
- Review Contract Compliance
- Review Payments to Contractor
- Review Modifications and Change Orders
- Identify controls utilized in administration of this contract,
- Determine if controls were adequate and effective,

SCOPE AND METHODOLOGY

The scope of the audit was limited to the Professional Services Contract # 070211 with Delphi Research of Nevada.

The scope of our work on internal control was limited to the controls within the context of the audit objectives and the scope of the audit. Our last fieldwork date was July 15, 2008.

Our audit methodology included:

- Review of applicable policies and procedures,
- Examination of selected records,
- Review of selected transactions, and
- Interviews with selected employees.

We conducted this performance audit in accordance with generally accepted government auditing standards except for the requirement for an external peer review every three years. 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 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 exception to full compliance is because the City Auditor's Office has not yet undergone an external peer review. However, this exception has no affect on the audit or the assurances provided.

CONCLUSIONS, FINDINGS AND RECOMMENDATIONS

The following conclusions were noted:

- ***Determine the Basis of Award*** – NRS 332.115 allows an exemption from the competitive bidding requirement for Personal Services Contracts. This contract was not competitively bid. Requirements of Professional Services Policy FN609.1 were appropriately followed.
- ***Review the Contract Preparation*** – The contract was prepared in compliance with Professional Services Policy FN609.1 and R-48-2006.
- ***Review Contract Compliance (Finding 1)*** – The following non-compliance was noted:
 - Invoices did not include a purchase order number.
 - Invoices did not include the required certification by the contractor.
 - City of Las Vegas Project Manager was changed and not properly noticed.
 - The contractor did not have a City of Las Vegas Business License or a Nevada State Business License.
- ***Review Payments to Contractor*** – No exceptions were noted.
- ***Review Modifications and Change Orders*** – No modifications or change orders were utilized.
- ***Contract Monitoring Policy and Procedure (Finding 2)*** – No policies, procedures, or specific responsibilities are enumerated with regard to the administration of professional services contracts.
- ***Identify controls utilized in administration of this contract (Finding 3)*** – Control exceptions were noted in the following areas:
 - Basis of Award
 - No estimate was prepared prior to the solicitation.
 - The selected contractor was not investigated and the investigation documented as to credit history, business standing, and ability prior to awarding the contract.

- Management Controls
 - City of Las Vegas Management is not actively monitoring the contract.
 - One invoice did not have an approval.
 - Reports were not prepared by the project manager or City of Las Vegas employees to document contract performance.
 - A comprehensive Contract File was maintained in the user department to indicate the compliance with the contract.
 - No policies, procedures, or specific responsibilities are enumerated with regard to the administration of professional services contracts.
 - No checks of performance by an independent individual or group were performed.
- ***Determine if controls were adequate and effective*** – Control deficiencies are noted below.

Further information is contained in the following sections.

1. Contract Compliance

Criteria

The Contract should be performed in compliance with the specified terms and conditions to give assurance that the authorized performance is completed so as to give the City value for performance.

Condition

The following instances were noted as exceptions to compliance with the terms and conditions of the Contract:

- **Invoices did not include a purchase order number.** - Section B-5 of the contract requires "...The Company may submit invoices as deliverables are accomplished...All invoices should identify:...(iii) The associated purchase order number...".
- **Invoices did not include the required certification by the contractor.** - Section B-5 of the contract requires "...The Company may submit invoices as deliverables are accomplished...A representative of the Company shall sign and certify the invoice in the following manner: "I hereby certify, under penalty of perjury, that the above invoice is just and correct and that reimbursement for such expenses listed on the invoice has not been previously received from the City of Las Vegas nor any other source..."

- **City of Las Vegas Project Manager was changed and not properly noticed.** - Section D-2 of the contract identifies Diane Zammito as the City's Project Manager. Subsequently, Bill Tyler has become the principle point of contact for the City. The contract requires "...Each party will provide written notice in the event there is a subsequent change in the principal point of contact..."
- **The contractor did not have a City of Las Vegas Business License or a Nevada State Business License.** - Section D-4 of the contract requires "...During the entire performance period of this Contract, the Company shall maintain all federal, state, and local licenses and registrations applicable to the work performed under this Contract..." The contractor does not appear to qualify for an exemption to the requirement for a Nevada state business license.

Cause

Some specific terms of the Contract were not enforced by the Project Manager.

Effect

Relative assurance did not exist that all terms of the Contract were enforced.

Recommendation

Leisure Services management should advise the contractor, per the contract provisions, the following:

1. The contractor should include the purchase order number on all invoices.
2. The contractor should include the required certification on all invoices.
3. Obtain statements with the required certification to be attached to previous invoices.
4. The contractor should obtain the appropriate city and state business licenses and provide copies of the licenses to the project manager.
5. Leisure Services management should advise the contractor in compliance with the terms of the contract of any changes in the Project Manager.

2. Contract Monitoring Policy and Procedures

Criteria

Management controls over Professional Services activities should be communicated to all employees performing functions related to the acquisition and performance of the Professional Services contract. The policy and procedures should be written to give relative assurance to management that if the policy and procedure are followed; performance of the contract will meet the objectives and authorizations of management.

Condition

A comprehensive, written Contract Monitoring Policy and Procedure did not exist.

Cause

A contract monitoring policy or procedure had not been written.

Effect

Without a comprehensive, written policy and procedures:

- Specific responsibilities of employees may not be known.
- Standards of performance by the contractor may not be followed.

Recommendation

The City Manager should establish a comprehensive Contract Monitoring Policy and Procedure for the administration of personal services contracts to apply to all departments utilizing these contracts. The policies, procedures, and responsibilities should address at a minimum the following:

1. **Segregation of Duties or Incompatible Functions** – Duties related to the administration of the contract should be appropriately segregated.
2. **Qualified, Trained Personnel** – Personnel should be qualified and adequately trained to monitor the contract.
3. **Authorization** – All transactions are approved by an appropriate member of management.
4. **Records** – Records regarding the administration of this contract should be required and documented. These records should be sufficient, competent, relevant, and timely.
5. **Reporting** – Reports should be prepared on an appropriate basis so as to document the performance of the contract. There should be statement of opinion if the vendor is performing as originally intended.
6. **Control over Assets and Records** – Specific responsibilities and procedures regarding custody of assets (information) and records should be enumerated and followed.
7. **Independent Review** – Provision for a periodically independent review of performance of the contract and monitoring of the administration of the contract should be performed by an independent individual or group.
8. **Limited Access** – Access to information and records should be maintained and monitored.

3. Internal Control Exceptions

Criteria

Management controls over the administration of the contract should address all phases of procurement and administration over Professional Services contracts. Controls should be complete enough to give relative assurance that management's responsibilities to effectively administer the contract are being met.

Condition

We noted the following internal control exceptions that in our opinion would or could limit management's ability to effectively administer this contract.

- **No estimate was prepared prior to the solicitation.** - Prior to the awarding of a contract, an estimate of costs should be prepared to compare to the contractor's bid for reasonableness.
- **The selected contractor was not investigated and the investigation documented as to credit history, business standing, and ability prior to awarding the contract.** - The prospective contractor should be investigated as to credit history, business standing, and ability prior to awarding the contract. This investigation will document the belief that the prospective contractor can perform the proposed work in an acceptable manner.
- **City of Las Vegas Management is not actively monitoring the contract.** - City of Las Vegas in the form of the project manager or other designated employee should monitor the contract. This gives assurance that the service is being performed in accordance with the contract and in the best interest of the City of Las Vegas.
- **One invoice did not have an approval.** - All transactions should be authorized by an appropriate member of management only after contract performance is verified. Relative assurance should exist that all transactions are being handled in compliance with management's authorization. The authorizations should be documented and reviewed by an appropriate member of the authorizer's management.
- **Reports were not prepared by the project manager or City of Las Vegas employees to document contract performance.** - Reports should be prepared on an appropriate basis so as to document the performance of the contract. Key accountability reports should be prepared to inform management of any deficiencies so as to allow timely correction. Periodically, an independent member of management other than those directly involved should review reports. Discrepancies should be investigated and the investigation results should be documented.

- **A comprehensive Contract File must be maintained in the user department to indicate the compliance with the contract.** - Documents and records should be required. These documents and records should be sufficient, competent, relevant, and timely. They should support transactions, performance of the contract, and give a true picture of the operations. A Contract File should be maintained in the department using the contractor.
- **No policies, procedures, or specific responsibilities are enumerated with regard to the administration of personal services contracts.** - Specific responsibilities for the custody and handling of records, documents, and reports should be documented. Policies and procedures should be established to assign individual responsibility and accountability for performance of the contract.
- **No checks of performance by an independent individual or group were performed.** - Periodically independent checks on performance should be completed to verify compliance with policy, procedures, and authorization.

Cause

Internal controls did not exist to address these deficiencies.

Effect

Controls may not be adequate to protect the city.

Recommendation

The internal control exceptions are noted to provide assurances that the control issues are addressed currently and in all future contracts. The specific assignment of duties for assurances proposes are the responsibility of City of Las Vegas management, be it the City Manager, Finance and Business or the end user department.

Management should correct the following control exceptions:

1. Within a Contract File document why an estimate of the cost was not used and document the reasons why management believes the contract cost was reasonable.
2. Within a Contract File document the premise why an investigation of the credit history, business standing and ability was not done.
3. Assign a project manager, and subsequently notify the contractor of this change, for this contract that will actively monitor this contract and has enough expertise to evaluate compliance and value for cost to the city.
4. Attach written communication to be signed by an appropriate member of management authorizing payment of the invoice that lacked approval.

5. There should be citywide guidelines for the preparation of appropriate reports regarding quality of performance and value for cost of the actions by the contractor. These reports should be done on a periodic basis and should be filed in the Contract File. Any deficiencies should be noted so as to allow timely correction. The reports should be sufficient, competent, relevant, and timely documenting a true picture of the operations of this contract.
6. A Contract File, with specific requirements should be included in the user department (this case Leisure Services) that includes all documents or copies of all documents related to the performance of this contract. Up to the time of audit the user departments are left on their own as to what should be included in that file.
7. Make arrangements to have a group or individual to make periodic independent checks on performance to verify compliance with policy, procedures, and authorization. These checks should be documented and deficiencies should be timely corrected with details included in the Contract File.

Leisure Services is the end user of this contract, therefore they are being requested for audit responses even if the issues have to be addressed on a citywide basis.

Management Response

1. Contract Compliance

Recommendation:

Leisure Services management should advise the contractor, per the contract provisions, the following:

1. The contractor should include the purchase order number on all invoices.
2. The contractor should include the required certification on all invoices.
3. Obtain statements with the required certification to be attached to previous invoices.
4. The contractor should obtain the appropriate city and state business licenses and provide copies of the licenses to the project manager.
5. Leisure Services management should advise the contractor in compliance with the terms of the contract of any changes in the Project Manager.

Management Action Plan:

1. Met with Contractor on January 29th and Contractor will include PO number on all invoices.
2. Met with Contractor on January 29th and Contractor will add the required certification statement on all invoices.
3. Met with Contractor on January 29th and contractor will attach certification statement to previous invoices.
4. Met with contractor on January 29th and the contractor provided a Nevada State Business Licenses (filed) and has committed to securing a City of Las Vegas business licenses.
5. Meet with Contractor and inform him officially of Project Manager change.

Estimated Date of Completion January 29th, 2009

2. Contract Monitoring Policy and Procedures

Recommendation:

The City Manager should establish a comprehensive Contract Monitoring Policy and Procedure for the administration of personal services contracts to apply to all departments utilizing these contracts. The policies, procedures, and responsibilities should address at a minimum the following:

1. **Segregation of Duties or Incompatible Functions** – Duties related to the administration of the contract should be appropriately segregated.
2. **Qualified, Trained Personnel** – Personnel should be qualified and adequately trained to monitor the contract.
3. **Authorization** – All transactions are approved by an appropriate member of management.
4. **Records** – Records regarding the administration of this contract should be required and documented. These records should be sufficient, competent, relevant, and timely.
5. **Reporting** – Reports should be prepared on an appropriate basis so as to document the performance of the contract. There should be statement of opinion if the vendor is performing as originally intended.
6. **Control over Assets and Records** – Specific responsibilities and procedures regarding custody of assets (information) and records should be enumerated and followed.
7. **Independent Review** – Provision for a periodically independent review of performance of the contract and monitoring of the administration of the contract should be performed by an independent individual or group.
8. **Limited Access** – Access to information and records should be maintained and monitored.

Management Action Plan:

In response to your November 24, 2008, review of "Draft ICR 042, ICR 048 and QRA 3100-001 -- Delphi Research" recommendation number 3 to establish a comprehensive Contract Monitoring Policy and Procedures for administration of personal services contracts to apply to all departments utilizing these contracts. Staff has been assigned to draft policies and procedures that will include, but not be limited to cover, the eight areas outlined in your recommendations. The draft will be forwarded to you for your review and comment prior to forwarding to all Department Directors for feedback and implementation. The development of compensative policy and procedures guidelines requires many steps for proper development. Therefore the City Manager Office has set a target date of December 31, 2009 for development and implementation. There will also be a developed and piloted contract administration class and trained Purchasing & Contracts staff on aspects of the policy that will change purchasing processes and procedures.

Estimated Date of Completion December 31st, 2009

3. Internal Control Exceptions

Recommendation:

The internal control exceptions are noted to provide assurances that the control issues are addressed currently and in all future contracts. The specific assignment of duties for assurances proposed are the responsibility of City of Las Vegas management, be it the City Manager, Finance and Business or the end user department.

Management should correct the following control exceptions:

1. Within a Contract File document why an estimate of the cost was not used and document the reasons why management believes the contract cost was reasonable.
2. Within a Contract File document the premise why an investigation of the credit history, business standing and ability was not done.
3. Assign a project manager, and subsequently notify the contractor of this change, for this contract that will actively monitor this contract and has enough expertise to evaluate compliance and value for cost to the city.
4. Attach written communication to be signed by an appropriate member of management authorizing payment of the invoice that lacked approval.
5. There should be citywide guidelines for the preparation of appropriate reports regarding quality of performance and value for cost of the actions by the contractor. These reports should be done on a periodic basis and should be filed in the Contract File. Any deficiencies should be noted so as to allow timely correction. The reports should be sufficient, competent, relevant, and timely documenting a true picture of the operations of this contract.
6. A Contract File, with specific requirements should be included in the user department (this case Leisure Services) that includes all documents or copies of all documents related to the performance of this contract. Up to the time of audit the user departments are left on their own as to what should be included in that file.
7. Make arrangements to have a group or individual to make periodic independent checks on performance to verify compliance with policy, procedures, and authorization. These checks should be documented and deficiencies should be timely corrected with details included in the Contract File.

Leisure Services is the end user of this contract, therefore they are being requested for audit responses even if the issues have to be addressed on a citywide basis.

Management Action Plan:

1. Documentation is included in the contract, "Proposal to develop and implement and evaluation of the Batteries Included Initiative. It includes costs, project timelines and deliverables. A statement of a recommendation from City of Las Vegas Neighborhood Services department is in the Project Manager file titled "Delphi Contract".
2. Leisure believes this task should be conducted by purchasing or Business and License department.
3. Project Manager has been assigned and has contacted and advised the Contractor of change as of January 2009.
4. An email was filed in the leisure services finance office from the project manager authorizing payment. (See attached email in file). However, an affidavit/statement is signed and attached to invoice dated December 3, 2008.
5. A report itemizing the contract requirements has been developed listing what is expected for year one, mid year, year two, mid year and year three and mid year progress reports along with specific, meeting agendas, Gantt charts and logic models. Document has been placed in the project manager's contract file.
6. This file currently exists in leisure in the project manager's office.
7. Leisure will implement a team process of evaluation. This team will consist of members of each division of leisure services that will provide quality control and compliance with established guidelines from the City Management.

Estimated Date of Completion January 29th 2009 (exception #7, that will be implemented by March 1st, 2009)