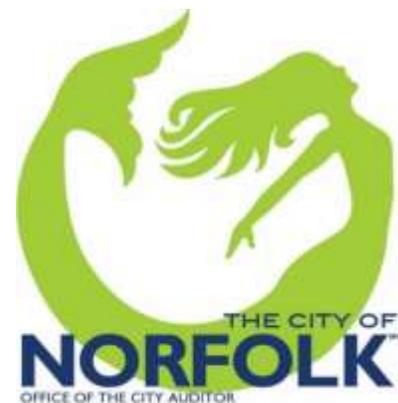# Audit of Citywide Contract Management: A Focus on Contract Monitoring
"Challenges for the City Contract Management Process"

August 15, 2018

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August 15, 2018

Honorable Council Members

Subject: Audit of Citywide Contract Management: A Focus on Contract Monitoring
  "Challenges for the City Contract Management Process" (Report No. 19-1R)

The attached report contains results of our Citywide Contract Administration audit. We focused on whether controls were in place to administer contracts in terms of monitoring. Our report noted that a citywide contract administration policy was not in place for which we made recommendations. We met with and provided our results to the Department of Finance on June 14, 2018 and provided our final draft report to City Administration on July 23, 2018. Management concurred with our findings. Management responses are included in the report following each recommendation. We appreciate the courtesies and cooperation extended to us during the audit.

Respectfully submitted,

John H. Sanderlin, Jr

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Executive Summary

The City through its departments provides many services to and on behalf of its residents. City departments in carrying out their duties manage a significant number of contracts. These contracts are for a wide variety of goods and services, ranging from lawn care and other facility maintenance services (repairs, construction, etc.) to equipment, training, project development, supplies, and professional services. For fiscal years 2014 through 2016, the City expended on average $230 million on contractual services.

Contract management activities are spread throughout City departments. Under the "Decentralized Purchasing System" procurement model (City Code Sec. 33.1-26), the director of a department or the authorized designee may purchase goods and services which do not exceed $5,000. For purchases exceeding that amount, departments coordinate with the City's Purchasing Agent and City Attorney's Office to execute the needed contract.

Upon execution of a contract, in most cases, a departmental contract liaison is designated. The liaison serves as the department's representative for the duration of the contract and is the primary contact for contractors. As part of their duties as a contract liaison, these employees are responsible for oversight of the provision of the services or goods by the contractor, approval of contractor payments, and assurance of compliance with contract terms. In addition, contract liaisons identify when contract amendments are necessary and if contract renewals are warranted and appropriate based on the department's need and the contractor's performance.

Effective contract administration is crucial to the success of the public contracting process, as it is during this stage that significant amounts of public funds may be wasted and abused. Our audit sought to determine the challenges and hurdles of the contract management process by assessing the effectiveness and adequacy of controls related to contract monitoring.

Since we narrowed our audit to contract monitoring, we mainly surveyed City department staff and bench marked with other entities to determine if any challenges were encountered preventing them from adequately performing contract administration. We noted departments have varying processes in place to manage contracts. Although not uniform, the processes appeared sufficient to provide reasonable assurance that the City is receiving goods and services in accordance with contractual terms. However, we found the challenges for the City in the administration of contracts in terms of potential risk and management control weaknesses are as follows:

a. There was not a citywide contract administration policy and procedure.

b. There were staffing limitations and other restrictions.

c. There was confusion among departments regarding responsibilities and duties for the administration of contracts.

d. There was not a debarment and suspension list of vendors who have provided unacceptable goods or services to the City.

e. There was no database or comprehensive list of contracts.

To address these concerns and others, our audit made several recommendations to improve the City's contract management. Recommendations issued related to:

- establishing a structured contract management process;

- training on roles and responsibilities;

- maintaining a debarment and suspension list; and

- developing a database of contractor's performance.

Introduction

The City Code Sec. 33.1-1 through 33.1-106 provides the process for procuring goods and services, and the related responsibility of the City's purchasing agent. For example, Section 33.1-22 of City Code Chapter 33.1 establishes the general duties of the Purchasing Agent. The Purchasing Agent shall serve as the central procurement officer of the City. The Purchasing Agents duties include the following:

- procuring or supervising the procurement of all goods, services, and construction needed by the City;

- exercising general supervision and control over inventory of goods of the storehouse division; and

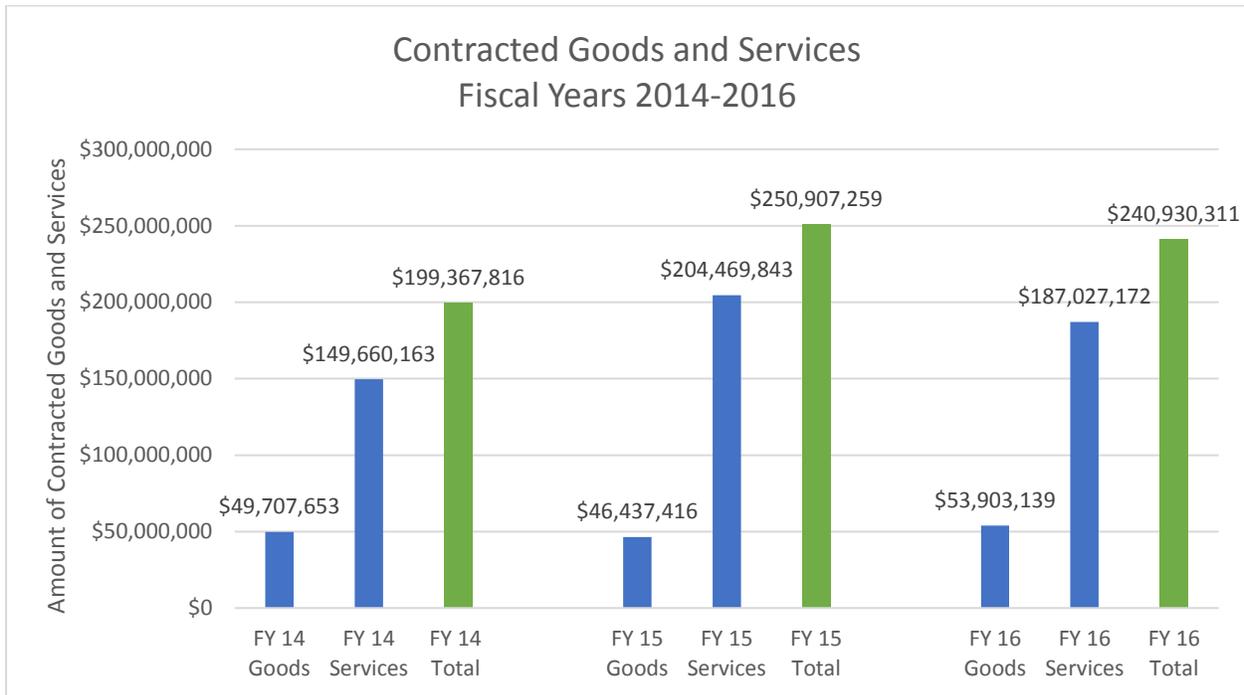- selling, trading, or otherwise disposing of surplus property.

Also, under rules and regulations established by the director of finance and under the supervision of the purchasing agent, the director of a department or the authorized designee may purchase goods and services which do not exceed $5,000 under the "Decentralized Purchasing System" procurement model (City Code Sec. 33.1-26) which means:

- Most of the purchasing process (i.e. preparing specifications, obtaining quotes and bids, evaluation of quotes and bids, awarding of contracts, etc.) under the City procurement rules is the responsibility of departments, who are the "subject matter experts" for the goods and services they need.

The Purchasing Agent may suspend or reduce decentralized purchasing privileges if it has been found the department has violated procurement rules. However, the City Code Chapter 33.1 - Procurement does not indicate who or how executed contracts are to be administered. Therefore, departments or agencies traditionally manage their own contracts because they are considered the subject expert. As such, there is not a citywide coordinated effort or a centralized function within the City for managing contracts.

Contracted goods and services have fluctuated between fiscal years 2014 and 2016, but for these three fiscal years, the City spent on average $230 million as illustrated below:

Contracted Goods and Services
Fiscal Years 2014-2016

	FY 14 Goods	FY 14 Services	FY 14 Total	FY 15 Goods	FY 15 Services	FY 15 Total	FY 16 Goods	FY 16 Services	FY 16 Total
Amount	$49,707,653	$149,660,163	$199,367,816	$46,437,416	$204,469,843	$250,907,259	$53,903,139	$187,027,172	$240,930,311

Objective, Scope and Methodology

Our audit objective was to evaluate and determine the challenges and hurdles of the contract management process by assessing the effectiveness and adequacy of controls related to how contracts are monitored. Our audit period was fiscal years 2014 to 2016 and the current operation as of the time of our audit. To accomplish our objective, we performed the following:

- reviewed applicable City Code, policies and procedures and other applicable documents such as the City's Procurement Manual, etc.;

- interviewed key Purchasing staff and Purchasing Agent;

- benchmarked with surrounding cities to obtain best practices and performance measure information;

- queried the City's financial system to determine the amount and types of contracts procured by the City;

- reviewed related articles; and

- obtained feedback on contract administration activities by conducting a survey of 16 City departments (received 22 responses, as some departments had each of their divisions to respond).

Our audit did not include compliance testing of specific contract provisions and terms but focused rather on contract monitoring. Also, our audit did include a limited review of the change order process of Utilities, Public Works and City Planning Departments. We selected these departments to review as these departments comparatively process a higher volume of change orders due to the nature of their mission and operational demands.

We obtained an understanding of internal control that was significant within the context of the audit objective. We assessed whether internal control was properly designed and implemented and performed procedures to obtain sufficient evidence to support the effectiveness of those controls. We further assessed that the information in the City's financial system was reliable and determined that the data could answer the audit objective, as we performed assessments of the data relevant to our audit. The extent of our assessment was dependent upon the expected importance of the data to the final report, strengths or weaknesses of any corroborating evidence, and anticipated level of risk in using the data.

We conducted this performance audit 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 on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Conclusion

In general, organizations have shared challenges regarding contract management. These include inadequate staffing to properly monitor contracts, issues with vendors and contractors, insufficient data and technology, and legal issues and restrictions. Common risks and potential consequences to the contract administration process include:

- variations in prices, which could lead to cost overruns;

- failure of either party to fulfil the conditions of the contract, potentially resulting in contract disputes, and failure to satisfy the scope of work;

- potential fraud, which could lead to misuse of resources or disruption to procurement activities; and

- unauthorized increase in scope of work, potentially resulting in unanticipated cost increases or contract disputes.

Specifically related to the City of Norfolk, based on the focus on contract monitoring, we found the following five challenges based on our survey of City departments and benchmarking efforts:

1. There was not a citywide contract administration policy and procedure.

2. There were staffing limitations and other restrictions.

3. There was confusion among departments regarding responsibilities and duties for the administration of contracts.

4. There was not a debarment and suspension list of vendors who have provided unacceptable goods or services to the City.

5. There was no database or comprehensive list of contracts.

It is important for the City to have formalized structured processes in place for the management of contracts to ensure consistent applications and methods. We did not find this to be the case because established policies and procedures did not exist for the administration of contracts. Therefore, since the administration of contracts are decentralized in the City, departments lack guidance or expectations for carrying out their responsibilities for monitoring contracts.

Effective contract management is critical to the success of ensuring goods and services procured are received and delivered appropriately, therefore, ensuring taxpayer dollars are used in the most efficient and effective manner. From our research and gathered information from other government entities, the following guidelines should be considered for effective contract management:

- assign a contract manager with the authority, resources, and time to monitor projects;

- ensure that the contract manager possesses adequate skills and has the necessary training to properly manage the contract;

- track budgets and compare invoices and changes to contract terms and conditions;

- ensure that deliverables are received on time and document the acceptance or rejection of deliverables;

- withhold payments to vendors until deliverables are received;

- retain documentation supporting charges against the contract;

- ensure criteria is established to evaluate the contractor's performance and retain the evaluation for future use; and

- complete surveys to document and measure the service provided by the vendor.

We determined the impact of not having a formal structured process to be fourfold:

a. Guidance was absent to address the accountability for contract administration among City departments.

b. Contract administration responsibilities were not clearly defined with many departments confused as to whether this is the role of the City's Purchasing Division.

c. Management controls were not in place to assess if contract administration was adequately performed.

d. Documentation was not maintained in support of the level of services provided by vendor or the acceptability of goods received.

Because of the above impacts, the City may not: (1) Be receiving the quality of goods and services per the contractual agreement; (2) Be ensuring the contractor is performing the work as required by the contract; (3) Be comparing monies expended with the percentage of contract completion; (4) Be preparing a final evaluation of the contractor's performance.

Despite the absence of a city formal structured process, we did find some departments were performing some aspects of contract administration, such as the department of Utilities, Public Works and Planning. Specific aspects of contract monitoring observed were:

- reviewing contractual terms to verify services and goods are received per the agreement;

- reviewing vendor progress reports to ensure the City is paying for services performed;

- reviewing City financial reports and reconciling to the vendor's progress reports;

- obtaining guidance from Purchasing; and

- reviewing price lists and contractual terms to validate proper invoice payments were made.

Although contract administration is not Purchasing's responsibility, after the beginning of our audit, the Purchasing Division initiated training to include contract administration. The training covered the five following topics:

1. Contract Administration Basics

2. Managing Contractor Performance and Non-performance

3. Contract Amendments vs. Change Orders

4. Contract Price Adjustments

5. Contract Renewals

This training provides some guidance and helps departments to be aware of key aspects of contract administration, particularly in areas of price variation, failure to fulfill contract conditions, disputes with contract terms, and potential fraud.

Lastly, there is no database or comprehensive list of contracts. While all contracts are entered in the City's financial system, the functionality of the system does not allow for adequate post award administration to ensure contract provisions are met such as cost overruns, price variations, failure to fulfill contract specifications or potential fraud were recorded. Having a database is important especially when some departments can act as their own Purchasing Agent and procure items without having to involve Purchasing. A database to record contract provisions would provide a means to document how the contractor performed, what issues were encountered and assess how the City wants to move forward with the contractor. After the beginning of our audit, the Department of Finance created a report that lists all active City contracts. Although this report lists contracts, it is not a database where information can be recorded to support whether contract provisions have or have not been met.

While training is being done on certain aspects of contract administration that will prove helpful and a few larger departments are carrying out some structured contract management, our noted deficiencies need to be addressed, which are recaptured as follows:

    a. There is not a citywide contract administration policy and procedure.

    b. The administration of contracts and agreements is hindered by the limitation of staffing levels and other restrictions.

    c. There is confusion among departments regarding responsibilities and duties for the administration of contracts.

    d. The City does not have a debarment and suspension list of vendors that have provided unacceptable goods or services.

    e. There is no database or comprehensive list of contracts to capture key performance factors.

We recommend City Management:

1. Establish a structured contract management process by developing a citywide contract administration policy.

Management's Response:
Best practices related to contract administration include developing written policies and procedures that include requirements for Quality Assurance Surveillance Plans (QASP) for each contract. These practices require contract administration training and a recordkeeping plan to provide contract administrators with the tools they need to properly discharge their monitoring and record keeping duties, and make their records available to inform future procurement activity. Additionally, best practices require periodic monitoring and training to ensure that the contract administrators understand their duties and perform them in accordance

with established policies and procedures. With the new Department of Finance - Purchasing leadership, management will develop written policies and procedures and expand upon existing training programs to include contract administration training. Further, it is the intent to establish certification levels so that employees whose jobs duties include contract administration are appropriately trained and held accountable for the application of their job knowledge on contract administration and the requirements of the financial system as it relates to procurement. This training will include, but is not limited to:

1. Contract administration plan (Quality Assurance Surveillance Plan)
   a) Well-defined relationship between the buyer and the contract administrator
   b) Defined roles and responsibilities, and authority limitations specific to the contract
   c) Receipt, inspection and acceptance processes and programs
   d) On-site performance monitoring requirements, if applicable
   e) Contract changes/additions, if applicable
   f) Invoice review responsibilities and approval requirements
   g) Voucher processing
   h) Payments linked to satisfactory performance
   i) Access to records and right to audit
   j) Closeout procedures

2. Training employees in contract monitoring and ethics

3. Contract administration files
   a) Organization
   b) Content
   c) Accessibility for all users

4. Implementation of Oversight
   a) Regular programmatic reports
   b) Dispute resolution procedures
   c) Measuring customer satisfaction
   d) Post-contract review

The Department of Finance's Purchasing Division has gone through several reorganizations and leadership changes in the past few years. Recently the City hired an accredited and experienced Chief Procurement Officer (CPO) and a Purchasing Agent. Additionally, vacant staff positions are being filled with individuals possessing appropriate knowledge and skill levels.

Many of the buyers and procurement specialist are members of the National Institute of Governmental Purchasers (NIGP) and are provided monthly meetings, professional development and on-line courses that are part of their membership. The CPO has begun in-house training sessions for staff. In addition, there are various procurement workshops, conferences and forums that are made available to Purchasing employees throughout the that

coincide with their level of expertise. Purchasing staff are required to share their knowledge if they are afforded the opportunity to attend external training

The addition of accredited and experienced Purchasing leadership, as well as the expanded training opportunities for staff on contract administration and will continue to strengthen the City's contract management process.

2. Continue to communicate and train departments on their responsibilities for contract management.

Management's Response:
As stated in our response to #1 above, best practices require contract administrators to understand their duties and perform them in accordance with established policies and procedures. Written policies and procedures will be established, as well as formalized training and certifications will be offered and required.

3. Establish a debarment and suspension list of vendors that have provided unacceptable goods or services to the City.

Management's Response:
There are currently no vendors that are suspended or debarred by the City of Norfolk. A list will be created when appropriate. Debarment and suspension are designed to protect the City by ensuring full and open competition by having contractual relationships only with responsible entities. The serious nature of debarment and suspension requires that these sanctions be imposed as a last resort and only in the public interest for the City's protection. Management will implement vendor debarment policies and procedures to mitigate risks posed by known problem vendors, and train contract administrators on key contract terms and the suspension/debarment process.

4. Establish a database of contracts for which performance data can be captured.

Management's Response:
The City has established an Access database which tracks the progress of all active procurements. Additionally, contract expiration dates have been added to AFMS, the City's financial system, to allow for better management. As a result, the City was able to create an InfoAdvantage report (AF04041B) that pull this information from AFMS which identifies all contracts (CT document) entered into AFMS and their expiration date. Further, the City is investigating ways to track contracts for which performance data can be captured.