

# **Professional Service Contracts Audit January 2014**

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# Professional Service Contracts Audit



Office of the City Auditor

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Project # 13-04

January 31, 2014

## ***Executive Summary***

***Professional service contracts appear to be properly authorized and necessary.***

***Contracts are not split to avoid proper approval.***

## ***Opportunities for Improvement***

- ***Increase accuracy of reports to City Council***
- ***Establish new account to record professional service expenditures***
- ***Utilize guidance from the Purchasing Division***
- ***Identify contracts as professional services in the Lawson Financial System***

As part of the Fiscal Year 2013 Annual Audit Plan, the City Auditor's Office conducted an audit of the City of Arlington's Professional Service Contracts. The 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 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 objectives of the audit were to:

- Determine whether professional service contracts under \$25,000 (not requiring City Council approval), are awarded in accordance with State law and City policy
- Ensure that contracts are properly monitored by departments

The City Auditor's Office noted that professional service contracts were properly authorized, necessary and complied with State law. Specific testing was performed to verify that departments did not split contracts to avoid the Mayor and City Council approval required for contracts over \$25,000. No exceptions were noted.

Professional service contracts under \$25,000 do not require the approval of City council prior to executing the agreement. City Council has requested that professional service contracts under \$25,000 be presented to them, thus the City Manager's Office provides City Council with a bi-monthly report of professional services contracts, summarized by department. It was noted that while the report is submitted to City Council, it is not always complete and accurate. Procedures do not exist to ensure that all contracts are reported and as a result, testing identified 65 contracts that were not included on the bi-monthly reports during FY2011 and FY2012.

Professional service contracts are awarded and monitored by individual City departments. The Purchasing Division has provided guidance for departments in the form of a user's Guide entitled "Contracting for Professional Services". While the Purchasing Division is not responsible for any aspect of

professional services agreements, this guide is meant to assist in the process, selections and award of professional services based on State law and professional knowledge. The guide suggests the use of a Request for Qualification (RFQ) to select a vendor; and that contracts be entered into the Lawson Financial System so funds can be tracked. Testing indicated that departments are not utilizing this tool as most departments do not use an RFQ process for vendor selection. Additionally, the City Auditor's Office identified contracts that were not designated as a professional service in the Lawson Financial System.

These findings and recommendations are discussed in the Detailed Audit Findings section of this report.

## ***Audit Scope and Methodology***

The audit was conducted in accordance with generally accepted government auditing standards. The following methodology was used in completing the audit.

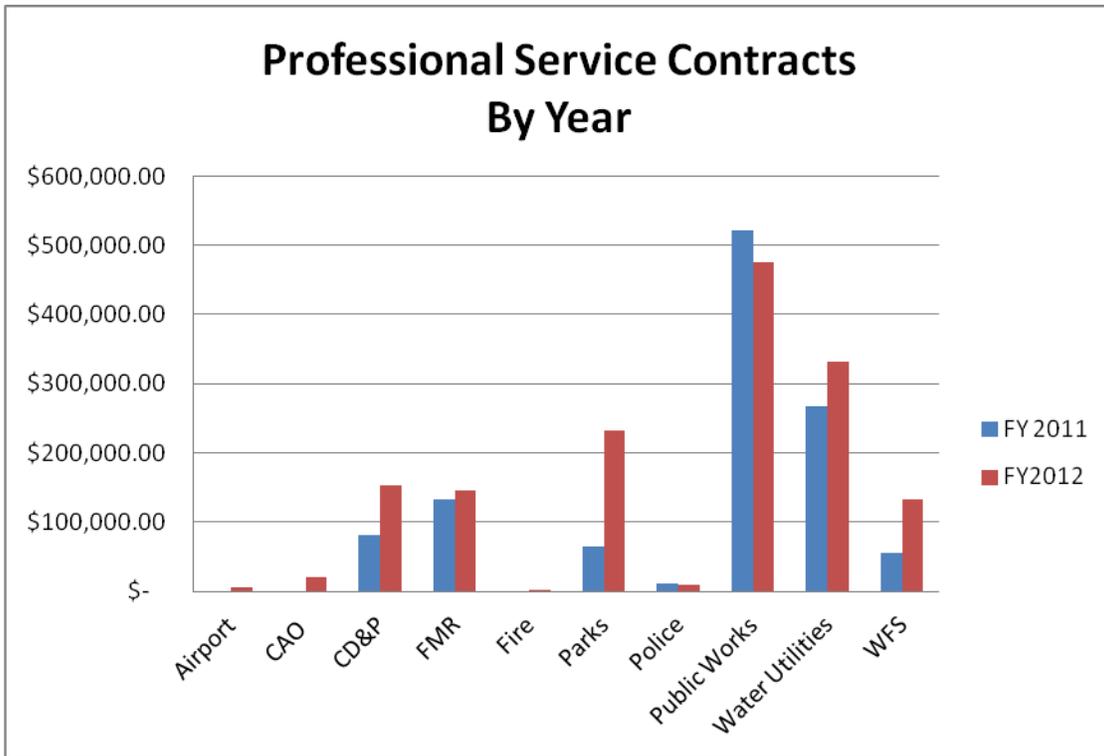
- Reviewed professional service contracts for compliance with State law and City policy
- Reviewed monitoring controls within departments
- Surveyed departments concerning the processes used to award and track professional service agreements

## ***Background***

Professional services are governed by Government Code Title 10, Chapter 2254. This law defines professional services as “services within the scope of the practice, as defined by state law, of accounting, architecture, landscape architecture, land surveying, medicine, optometry, professional engineering, real estate appraising, or professional nursing, or provided in connection with the professional employment of practice of a person who is licensed or registered as a certified public accountant, an architect, a landscape architect, a land surveyor, a physician, including a surgeon, an optometrist, a professional engineer, a state certified or state licensed real estate appraiser, or a registered nurse.” This law exempts municipalities from using the competitive bid process for personal, professional or planning services and requires that services be awarded based on qualifications rather than price. Additionally, the Texas Local Government Code 252.022 defines professional services as those “requiring predominantly mental or intellectual knowledge, years of education or training and service for one to attain competence and that calls for a high order of intelligence, skill and learning.

The City has charged each individual department with the responsibility to award and monitor their own professional service contracts. Each department has established different processes and procedures for awarding professional service contracts. The City’s Purchasing Division, while not responsible for professional service contracts, is available to provide guidance and has created a user’s guide “Contracting for Professional Services” as a tool for departments. The policy suggests that departments utilize a Request for Qualifications (RFQ) when selecting a vendor and enter contracts into the Lawson financial system so that funds can be encumbered and contracts can be easily tracked.

In 2007 City Council requested that consulting contracts under \$25,000 be sent to Council in an informal report on a quarterly basis since those contracts would not require City Council approval. The City Manager’s Office now provides City Council with a bi-monthly report of professional service contracts by department. According to these reports and information obtained from departmental representatives, the City entered into 326 professional service contracts during fiscal years 2011 and 2012 totaling approximately \$2,639,432. As seen in the chart below, the majority of professional service agreements are within the Public Works and Water Utilities departments:



A review of bi-monthly reports provided to City Council during FY 2013 indicated that the City entered into 186 professional service contracts totaling \$841,188. The majority of contracts were within the Public Works, Parks and Recreation and Financial and Management Resources departments.

## *Detailed Audit Findings*

### 1. The City Manager's Office and Department representatives do not report all professional service contracts to City Council.

City Council has requested that the City Manager's Office provide them with a bi-monthly report detailing professional service contracts under \$25,000 as these contracts do not require approval of City Council prior to the award. Staff within the City Manager's Office compiles information received from each department into a report for City Council; however, they do not ensure that the information provided by departments is complete or accurate.

The City Auditor's Office performed testing that indicated that all contracts were not reported by departments and that all contracts that were reported by departments were not included on the report provided to the City Council. As illustrated in the table below, 65 of 326 (20%) contracts from six departments were not included on reports provided to City Council during FY2011 and FY2012.

<b>Contracts Not Included in Bi-Monthly Report</b>				
<b>FY 2011-2012</b>				
<b>DEPARTMENT</b>	<b>TOTAL CONTRACTS</b>	<b>DOLLAR VALUE</b>	<b>UNREPORTED CONTRACTS</b>	<b>DOLLAR VALUE</b>
Airport	1	\$ 5,000	-	\$ -
City Attorney's Office	2	19,500	-	-
Community Development & Planning	25	234,705	14	158,400
Financial & Management Resources	46	278,724	1	10,000
Fire	1	1,000	1	1,000
Parks & Recreation	49	296,574	19	55,596
Police	1	21,050	-	-
Public Works	153	996,898	14	112,728
Water	37	597,906	11	185,670
Workforce Services	11	188,075	5	106,500
<b>Total</b>	<b>326</b>	<b>\$ 2,639,432</b>	<b>65</b>	<b>\$ 629,894</b>

Source: Auditor prepared from contract files

Additionally, the City Auditor's Office noted that the City Manager's Office did not include 10 contracts on reports to the City Council that were provided by department representatives. It should be noted that 2 of the 10 contracts were the result of an apparent miscommunication. However, since there are no procedures to ensure the accuracy of the report to City Council, the missing information noted above went unnoticed prior to audit testing.

As noted in finding two of this report, many contracts are not identified as professional services in the Lawson financial system making them difficult to identify if not reported by the department. However, if professional service expenditures were recorded in a separate account and clearly identified on the purchase order, a report could be run to identify professional

services agreements and expenditures. Utilizing a separate account to record expenditures will allow management to segregate payments for professional services from other expenditures and increase budgetary control, if desired. If purchase orders for professional services agreements were clearly identified, the Purchasing Division could verify or ensure that departments utilized the appropriate account code. Financial Services could then produce an automated report that the City Manager's Office could utilize to provide City Council with information related to professional service contracts. It is important to ensure that the reports are accurate and complete not only to keep City Council up to date concerning professional service contracts, but to ensure that departments are not able to circumvent council oversight and approval.

***Recommendation:***

The Chief Financial Officer should consider establishing a new account to record professional service expenditures.

***Management's Response:***

*Concur. This will be included as part of the 2015 budget.*

*Target Date: October 1, 2014*

*Responsibility: Mike Finley, Chief Financial Officer*

***Recommendation:***

The Chief Financial Officer should utilize Financial Services staff to ensure that PO's for professional service expenditures over \$3,000 are coded appropriately.

***Management's Response:***

*Concur. Purchasing staff will review PO's.*

*Target Date: October 1, 2014*

*Responsibility: Debra Twinam, Purchasing Manager*

*Mike Finley, Chief Financial Officer*

**2. City departments do not follow Purchasing Division guidelines when establishing professional services contracts.**

The City's Purchasing Division has prepared a User's Guide for contracting professional services based on staff's knowledge of State and Federal law, best practices and professional experience in purchasing. While the Purchasing Division is not responsible for overseeing professional service contracts, they have provided this guidance as a tool to assist departments. The user's guide includes information on laws governing professional services, suggested processes, a flowchart and a sample RFQ document. This information is available on the Purchasing portal, but departments are not required to consult or comply with this policy when awarding professional service contracts.

According to the user's guide, the RFQ process is most commonly used to obtain statutory professional services because the process adheres to the requirement to omit price as the

deciding factor and only focus on qualifications, in accordance with Government Code chapter 2254. Costs or fees are negotiated only after the most qualified firm is selected. The guide encourages the use of the RFQ process as a method to ensure that the most qualified suppliers are chosen.

Additionally, the City has recently established a Local and Minority/Women-Owned Business Enterprise (MWBE) program in an effort to stimulate the growth of local and MWBE businesses by encouraging participation in all phases of City procurement. The City's Local and MWBE Policy was approved by City Council on December 3, 2013 and requires that departments document a good faith effort to identify local businesses and certified MWBE businesses when contracting for professional services.

During testing, the City Auditor's Office noted that RFQ documents are not always used to determine the most qualified vendor. A review of 29 professional service contracts under \$25,000 revealed that only five used an RFQ and that two used a less formal proposal process. The remaining 22 contracts had little to no documentation of vendor selection. While not required by State law, the retention of additional documentation will help departments comply with the Local and MWBE policy as well as ensure that the City is protected from complaints and possible litigation.

The user's guide also states "Since January 1, 2010, all new personal, professional, planning, or consultant service contracts are required to be entered into the Lawson system for encumbering of funding and contract tracking." While the Lawson Financial System does not have a specific field or method to distinguish professional services contracts from other contracts, the Purchasing Division has communicated to departments how to use comment fields within the system to identify professional service contracts as such.

The City Auditor's Office found that departments do not always utilize the Lawson financial system to record and track professional service contracts as suggested by the Purchasing Division. Audit testing indicated that only eight of 28 contracts reviewed were designated as professional services in Lawson. When contracts are not entered into Lawson and designated as a professional service it becomes more difficult to identify and monitor payments made under the contract. In turn, this makes it difficult for a third party (such as auditors, management, etc.) to ensure that contracts are properly monitored by departments and communicated to the Mayor and City Council.

***Recommendation:***

The City Manager's Office should require that departments comply with the Purchasing Division's guidelines for selecting and documenting professional service agreements or implement a new policy governing the process and required documentation for professional service agreements.

***Management's Response:***

*Concur.*

*Target Date: March 1, 2014*

*Responsibility: Mike Finley, Chief Financial Officer*

***Recommendation:***

The City Manager should require that departments ensure that professional service contracts are entered into Lawson and designated as professional services for the purpose of monitoring and tracking.

***Management's Response:***

*Concur.*

*Target Date: October 1, 2014, due to implementation of new account code*

*Responsibility: Mike Finley, Chief Financial Officer*