

CITY AUDITOR'S OFFICE



**Audit of Professional Services Contract No. 080236-DC,
Southern Nevada Environmental Inc. (SNEI)**

Report No. CAO 3100-0910-07

Date 11/24/2009

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CITY AUDITOR

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**Audit of Professional Services Contract No. 080236-DC,
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CAO 3100-0910-07**

BACKGROUND

The City Auditor's Office has completed an audit of the Professional Services Contract No. 080236-DC (Contract) with SNEI (Contractor). This contract was approved on the Consent Agenda at the March 19, 2008 meeting of the City Council. This review was conducted during contract term.

This contract provides for ongoing professional services for botanical, biological, and cultural site presence/absence surveys; salvage, removal, relocation, and revegetation management and monitoring of protected species for various capital improvement projects. This is a blanket contract for \$100,000, of which \$301.26 has been invoiced and paid. The work is performed on an as-needed basis identified through the issuance of task orders. Funding is provided through the individual projects for which the work is conducted. This item is exempt from the competitive bidding process pursuant to NRS 332.115.1(b), Professional Service. The contract is administered by the Department of Public Works.

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,
- Review adequacy and effectiveness of Contract Administration Controls.

SCOPE AND METHODOLOGY

The scope of the audit was limited to the Professional Services Contract No. 080236-DC with SNEI.

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 August 26, 2009.

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:

- ***Basis of Award*** – NRS 332.115 allows an exemption from the competitive bidding requirement for Professional Service Contracts. This contract was not competitively bid. Requirements of Professional Services Policy FN609.1 were appropriately followed.
- ***Contract Preparation*** – The contract was prepared in compliance with Professional Services Policy FN609.1 and R-48-2006.
- ***Contract Compliance (Finding 1)*** – The following non-compliance was noted:
 - The contractor did not have proper City business licensing.
 - Current Certificates of Insurance were not present in the Contract Folder.
- ***Payments to Contractor*** – A single payment was observed and properly administered.
- ***Modifications and Change Orders*** – No modifications or change orders were observed.
- ***Adequacy and Effectiveness of Contract Administration Control*** – The following was noted.
 - A comprehensive, written Contract Monitoring Policy and Procedure did not exist. **(Finding 2)**
 - Management control exceptions were noted in the following areas **(Finding 3)**:
 - No documented analyses of the Contractor's performance were prepared.
 - A checklist was not utilized in the project management file.

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.

- **The contractor did not have proper City business licensing.** Section 11.09(ii) of the Contract states the Consultant shall hold a license to perform the services included in this Agreement, as required by law, or employs or works under the general supervision of the holder of such license, permit, or special license. SNEI does not possess a City of Las Vegas business license which breaches City Municipal Code 6.02.060, which states, "It is unlawful for any person to: (1) commence, institute, advertise, aid, carry on, engage in or continue in the City any business without a valid unexpired license issued pursuant to this Code."
- **Current Certificates of Insurance were not present in the Contract Folder.** Section 11.05 states that the Contractor is required to maintain specific insurance coverages. The Certificate for these coverages, located in the contract folder, had expired on 2/17/2009. The Project Manager was informed of this and obtained a current Certificate on 6/12/2009. The new Certificate showed that the required insurance did not lapse during the contract period.

Cause

Specific terms of the Contract were not enforced by the Project Manager or Purchasing and Contracts.

Effect

Relative assurance did not exist that the Contract was performed in compliance with all terms.

Recommendation

Public Works management should do the following:

- Require the Contractor to contact Business Licensing and obtain a City of Las Vegas Business License.
- Create a system that provides reasonable assurance that updated documents are included in the Contract Folder.

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.

AUDITOR'S NOTE: (This is the same recommendation previously made to the City Manager's Office. The Purchasing and Contracts staff is currently working on this Procedure. Estimated Date of Completion is December 31, 2009.)

3. Management 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 documented analyses of the Contractor's performance were prepared.
- A checklist was not included within the Project File to document, in a summary fashion, the contents of the file.

Cause

Internal controls did not exist to address this deficiency.

Effect

Controls may not be adequate to protect the city.

Recommendation

Public Works management should correct the following control exceptions:

- Prepare reports on an appropriate basis so as to document the Contractor's performance. Key accountability reports should inform management of any deficiencies so as to allow timely correction.
- Include a checklist within the Project File to document, in a summary fashion, the contents of the file.

Management Response

1. Contract Compliance

Recommendation:

Public Works management should do the following:

- Require the Contractor to contact Business Licensing and obtain a City of Las Vegas Business License.
- Create a system that provides reasonable assurance that updated documents are included in the Contract Folder.

Management Action Plan:

The City will require the contractor to obtain a Business License. If the Contractor fails to submit a business license, the City will terminate the contract with this contractor.

For future contracts, the City will add language into the Statement of Qualifications process which will verify compliance with all licensing requirements. In addition the proposed language will be added to the boiler plate of contracts in the Capital Management Section ensuring that the Contractor signs that he has an appropriate license with the City.

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A checklist will be created for documents such as insurances and licensing issues that will be provided in the project files.

Estimated Date of Completion: 12/31/09 - to add language to the SQO process, the contract documents and to develop and file needed checklists

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.
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8. **Limited Access** – Access to information and records should be maintained and monitored.

AUDITOR'S NOTE: (This is the same recommendation previously made to the City Manager's Office. The Purchasing and Contracts staff is currently working on this Procedure. Estimated Date of Completion is December 31, 2009.)

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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. Management Control Exceptions

Recommendation:

Public Works management should correct the following control exceptions:

- Prepare report at completion of each project so as to document the Contractor's performance. Key accountability reports should inform management of any deficiencies so as to allow timely correction.
- Include a checklist within the Project File to document in a summary fashion the contents of the file.

Management Action Plan:

Consultant evaluations will be provided for Prime Consultant contracts at major milestones within the project timeframe; however, contracts with brief timelines (such as task orders which may be part of a blanket contract) will only have evaluations at the termination of the task or the contract because of the nature and timing of the contract. Staff shall provide management copies of any report cards of projects which are deficient to allow timely correction.

A checklist for the file folder structure has been created and will be placed at the beginning of each project file.

Estimated Date of Completion: 12/31/09