

CITY AUDITOR'S OFFICE



EMPLOYEE/VENDOR FILE REVIEW

Report No. CAO 2008-0910-12

April 13, 2010

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CITY AUDITOR

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BACKGROUND

The City Auditor's Office identified and reviewed possible situations involving inappropriate vendor / employee relationships. This was similar to an audit previously performed by the City Auditors Office (Special Report – Vendor / Employee File Review CAO 2500-0405-07 – June 30, 2005). In that report we made recommendations related to Consistent Data Input, Employee Contractors, and Outside Employment Documentation. Those recommendations have been completed. This has improved the process. After completing the current review, we believe that additional improvements should be made. During our work this time the City Auditor's Office worked with Finance and Business Services - Purchasing and Contracts as well as Human Resources and Information Technologies to obtain the data to make comparisons.

Employees are restricted by the Code of Ethical Standards (NRS 281A.020)

1. It is hereby declared to be the public policy of this State that:
 - a. A public office is a public trust and shall be held for the sole benefit of the people.
 - b. A public officer or employee must commit himself to avoid conflicts between his private interest and those of the general public he serves.

Neither employees nor a relative of an employee are prevented from contracting with the City.

Employees are regulated on outside employment. This regulation takes into consideration the elements of the Code of Ethical Standards related to public trust. HR3.12.01 Outside Employment Policy (Policy) is the governing document. With HR 10.01 Outside Employment Request Procedure (Procedure) outlining the request procedure.

As stated within the Policy

City employees shall not work, engage, or invest in any outside employment, venture, or transaction in the following situations:

- It is incompatible with the proper discharge of the employee's duties or the City's official business; or
- It might create a conflict of interest with the employee's functions within the City; or
- It might impair the employee's or the City's efficiency, or if it might impair an employee's independence of judgment in the performance of official duties.

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The Policy further states:

City employees who wish to engage in outside employment shall obtain the approval of their Department Director, or designee, and the Director of Human Resources.

The City reserves the right to deny any outside employment request when it is felt it is in the best interest of the City.

This Policy and Procedure allows the City of Las Vegas (CLV) to evaluate the relationship and deny the request if management determines the outside employment is not in the best interest of the CLV.

OBJECTIVES

The audit objectives were to:

- Identify employees who contract with CLV.
- Determine if employees contracting with the CLV followed established policy.
- Determine if any conflicts of interest are created by the Employee/Vendor relationship.
- Determine the adequacy of existing internal controls; and
- Recommend corrective action.

SCOPE AND METHODOLOGY

The scope of this audit was limited to the review of matches in the Employee and the Vendor Files. Employees were all active employees as of August 1, 2009. The Vendor list included all vendors active or inactive from January 4, 2005 through August 24, 2009. The last fieldwork date of this audit was March 24, 2010. 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 audit methodology included:

- Research of applicable CLV employment policy,
- Identification of employee/vendor matches,
- Review of selected documents,
- Interviews of CLV personnel,

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.

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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

Limitations

There are some inherent limitations to this comparison. The process is dependent upon a comparison of data in both files and obtaining an exact match between files. Some incompatibility of data exists between the two files. Additionally, it is possible for a prospective employee posing as a vendor to not include information in the vendor file in the same way as portrayed in the employee data base. This would not result in a match in the comparison. Further, the data in either of the files could be changed subsequent to activity, thereby, resulting in the failure to match. These types of errors in the comparison process would not produce a match in the comparison when a match does exist. Given the limitations of this test we are required to employ other techniques to search for inappropriate vendor/employee matches. The City Auditor's Office will continue to pursue additional testing and a variety of techniques to discover employees inappropriately posing as vendors.

Statistics

We noted the following:

- We reviewed 57,309 vendor and 3,163 employee records.
- We noted 4,387 possible matches.
- Each possible match was reviewed.
- We eliminated 4,340 matches for various reasons including workers compensation, disability, refunds for CLV services, overpayments, reimbursements for travel and training, checks written off to unclaimed monies, and etc.
- Forty Seven matches were identified for further review.

Of the 47 identified for further review the following was noted:

- Eight employees contracted with the CLV.
- Nine employees had relatives that contracted with CLV.
- One employee left CLV employment to continue vendor status because of an ultimatum by Leisure Services.
- One employee discontinued vendor status because of an ultimatum by Leisure Services.
- Eighteen employees were paid as vendors but not during their term of employment.
- Four employees although listed as a vendor were not paid any funds during the period of the review.

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- Two employees were identified as receiving funds related to their employment rather than as a vendor.
- Two employees were paid Workers Compensation Payments.
- Two employees received funds related to SID sales.

The following conclusions were noted:

Identify employees who contracted with the City.

- Ten employees were noted as contracting with CLV as a vendor.
 - One employee left CLV employment to continue vendor status as a result of an ultimatum by Leisure Services Management.
 - One employee discontinued vendor status as a result of an ultimatum by Leisure Services Management.
 - Eight employees continued as vendors and employees simultaneously.

Determine if employees contracting with the City followed established policy.

- Three of twelve (25%) employees properly followed existing CLV policy and procedure as related to outside employment. (Finding # 1):
 - Two of ten employees or 20% who contracted with CLV properly filed an Outside Employment Request.
 - One of two (50%) employees observed to be involved in the outside employment, ventures, or transactions with CLV related to the situations under review properly filed an Outside Employment Request.
 - Six of the nine employees noted not following existing policy and procedure as related to outside employment were part time employees of the Leisure Services Department. The Leisure Services Department had an additional department policy which exempted part time employees from HR3.12.01 Outside Employment Policy and HR 10.01 Outside Employment Request Procedure.

Determine if any conflicts of interest are created by the Employee/Vendor relationship.

- Nineteen employees were noted as either contracting with the CLV or had a relative contracting with the CLV as a vendor. (Finding # 2):
 - Sixteen (84%) situations created, in our opinion, a possible conflict of interest not reviewed and approved by management.

Determine if those contracting with the CLV Business Licenses.

- Four of nineteen (21%) employees or relatives had the appropriate CLV Business Licenses. (Finding #3)

Determine the adequacy of existing internal controls.

- We noted the internal controls related to Outside Employment (HR3.12.01 and HR 10.01) were not effective. (Finding # 1)

Recommend corrective action. *(Corrective action is noted following each individual finding.*

- Recommended corrective action is noted with each finding.

Further information is contained in the sections below. While other issues were identified and discussed with management, they were deemed less significant for reporting purposes.

1. Adherence to Existing Policy

Criteria

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As stated within the Policy

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- It might create a conflict of interest with the employee's functions within the City; or
- It might impair the employee's or the City's efficiency, or if it might impair an employee's independence of judgment in the performance of official duties.

The Policy further states:

City employees who wish to engage in outside employment shall obtain the approval of their Department Director, or designee, and the Director of Human Resources.

The City reserves the right to deny any outside employment request when it is felt it is in the best interest of the City.

This Policy and Procedure allows the CLV to evaluate the relationship and deny the request if management determines the outside employment is not in the best interest of the CLV.

Condition

- Three of twelve (25%) employees properly followed existing CLV policy and procedure as related to outside employment.

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- Two of ten employees or 20% who contracted with CLV properly filed an Outside Employment Request.
 - One of two (50%) employees observed to be involved in the outside employment, ventures, or transactions with CLV related to the situations under review properly filed an Outside Employment Request.
 - Six of the nine employees noted not following existing policy and procedure as related to outside employment were part time employees of the Leisure Services Department. The Leisure Services Department had an additional department policy which exempted part time employees from HR3.12.01 Outside Employment Policy and HR 10.01 Outside Employment Request Procedure.
- Existing internal controls did not identify employees for inclusion in the Outside Employment Policy.

Cause

- The City's policy as it relates to employees was not fully or adequately applied.

Effect

- Relative assurance did not exist to ensure that management has adequately evaluated the status of employees with regard to independence and conflicts of interest.

Recommendation

- 1.1. The City Manager's Office should coordinate an improved system of control that identifies and documents situations where employees contract or act as a vendor for the CLV.

2. Conflicts of Interest

Criteria

Employees are restricted by the Code of Ethical Standards (NRS 281A.020)

2. It is hereby declared to be the public policy of this State that:
 - a. A public office is a public trust and shall be held for the sole benefit of the people.
 - b. A public officer or employee must commit himself to avoid conflicts between his private interest and those of the general public he serves.

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Relatives of an employee could place the employee in the same dilemma regarding the public trust and potential conflicts of private interest. No current City Policy or Procedure addresses this situation.

Condition

- Nineteen employees were noted as either contracting with the CLV or relatives contracting with the CLV as a vendor.
 - Sixteen (84%) situations created, in our opinion, a possible conflict of interest not reviewed and approved by management.

Cause

- The policy as it relates to employees was not adequately applied.
- No policy exists to address the situation where an employee's relative contracts with the CLV.

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Effect

- Relative assurance did not exist to ensure that management has adequately evaluated the status of employees and employee's relatives with regard to independence and conflicts of interest.

Recommendation

- 2.1. The City Manager's Office should coordinate the design of a system of control that would identify and document situations where employee's relatives contract or act as a vendor for the CLV.
- 2.2. The City Manager's Office should coordinate the design of a system of evaluation with supporting documentation regarding the determination of independence or conflicts of interest with employees.

3. CLV Business Licenses

Criteria

A business license is the means whereby the City of Las Vegas grants permission to engage in the business for which a license will be issued. If you commence, carry on, or engage in any business, either permanently or temporarily, within the corporate limits of Las Vegas, you are required to maintain a valid unexpired business license.

Condition

- Fifteen of nineteen (79%) employees or relatives did not have the appropriate CLV Business Licenses.
- Existing internal controls did not adequately identify employees and an employee's relative doing business with the CLV for review for a business license.

Cause

- Failure to identify employees and an employee's relative doing business with the CLV for a possible business license.

Effect

- Loss of revenue and failure to comply with CLV ordinances.

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Recommendation

- 3.1. The City Manager's Office should design and document a system of control that would identify those contracting with the CLV for obtaining a City Business License.

MANAGEMENT RESPONSE

1. Adherence to Existing Policy

Recommendation:

- 1.1. The City Manager's Office should coordinate an improved system of control that identifies and documents situations where employees contract or act as a vendor for the CLV.

Management Action Plan:

1.1 The City Manager's Office will coordinate with the Departments of Human Resources and Finance and Business Services the development of a policy that clearly identifies a policy direction consistent with relevant provisions within NRS. The Policy will outline a system of control and implementation procedures for employees and the individuals who will be responsible for reviewing any potential conflicts

Estimated Date of Completion: July 1, 2010

2. Conflicts of Interest

Recommendation:

- 2.1. The City Manager's Office should coordinate the design of a system of control that would identify and document situations where employee's relatives contract or act as a vendor for the CLV.

Management Action Plan:

2.1 The City Manager's Office will coordinate with the Departments of Human Resources and Finance and Business Services a system of control, including evaluation criterion and implementation procedures for any potential conflicts that may arise as a result of an employee's relative soliciting work or any type of payment from the City.

Estimated Date of Completion: July 1, 2010

Recommendation:

2.2. The City Manager's Office should coordinate the design of a system of evaluation with supporting documentation regarding the determination of independence or conflicts of interest with employees.

Management Action Plan:

2.2 The City Manager's Office will coordinate with the Departments of Human Resources, Finance and Business Services, and the City Attorney's Office a system that will support the implementation of policy changes identified in Action Plans 1.1 and 2.1.

Estimated Date of Completion: July 1, 2010

3. CLV Business Licenses

Recommendation:

3.1. Management should design and document a system of control that would identify those contracting with the CLV for obtaining a City Business License.

Management Action Plan:

3.1 The City Manager's Office will coordinate with the Department of Finance and Business Services the development of a system of control.

Estimated Date of Completion: July 1, 2010