

COUNCIL AGENDA: 09-10-13
ITEM: 3.6

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Toni J. Taber, CMC
Acting City Clerk

SUBJECT: SEE BELOW

DATE: 08-28-13

SUBJECT: AUDIT OF REGIONAL WASTEWATER FACILITY MASTER AGREEMENTS

RECOMMENDATION

As recommended by the Public Safety, Finance, and Strategic Support Committee on June 20, 2013 and outlined in the attached memo previously submitted to the Public Safety, Finance, and Strategic Support Committee, accept the Audit of Regional Wastewater Facility Master Agreements.



Office of the City Auditor

Report to the City Council
City of San José

**REGIONAL WASTEWATER
FACILITY MASTER
AGREEMENTS: NEW
PROCEDURES AND BETTER
CONTRACT MANAGEMENT
NEEDED**

Report 13-07
June 2013

June 12, 2013

Honorable Mayor and Members
Of the City Council
200 East Santa Clara Street
San José, CA 95113

Regional Wastewater Facility Master Agreements: New Procedures and Better Contract Management Needed

In 2008, the Environmental Services Department (ESD) entered into five master agreements with engineering consultants to assist staff in addressing and delivering capital improvement projects at the Regional Wastewater Facility (Plant). Specific services under the agreements are initiated by service orders specifying the services to be performed. Utilizing these master agreements has allowed ESD, in effect, to have qualified consultants on hand as needed to expedite the procurement of engineering services for capital projects. The total not-to-exceed amount across all five agreements is \$18 million. The value of the service orders issued to date is \$7.6 million; actual spending has been roughly \$5 million.

The objective of our audit was to review ESD's management of the master agreements for engineering services related to capital improvement projects at the Plant. This audit was conducted in response to the ESD director's request for an audit of contracting processes in this area.

Finding 1: The City Should Update Its Records Retention Schedule. Service orders under the master agreements are meant to be awarded based on each firm's specific expertise and availability. Unfortunately, the Statements of Qualifications and other information from the original procurement process which could be used to inform the allocation of work have not been retained. This is because the City's Records Retention Schedule does not clearly provide direction regarding such documents. To ensure all documents are retained which are necessary for the administration and performance of engineering master agreements, Public Works and ESD should work with the City's Public Records Manager and the City Attorney to clarify and/or update the Records Retention Schedule for contract documents related to capital improvement projects.

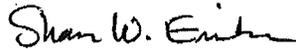
Finding 2: ESD Can Improve Its Procedures for Awarding and Developing Service Orders. Open competition and fairness are basic tenets of public procurement. Currently, individual service orders under the master agreements are not competitively procured to ensure the most qualified firms are awarded the work and that each firm has an equal opportunity to bid for work. Although the initial consultant selection process was qualifications-based, records from that procurement have not been retained. As such, we recommend ESD modify its current procedures to include some competitive practices in the service order awarding process to ensure the most qualified consultant is selected for individual services. Because of the large dollar amounts involved, we also recommend ESD begin disclosing activity on the master agreements to the Treatment Plant Advisory Committee.

In addition, ESD should update its procedures for developing and processing service orders to document how a project fits within the scope of the master agreement, how a project aligns with long-range planning as embodied in the 5-Year Capital Improvement Program, and why a specific consultant was chosen for the work. Procedures also should be updated to clearly define levels of approval and delegations of authority so that large service orders are reviewed by the proper level of management prior to execution.

Finding 3: Contract Management and Monitoring Needs Improvement. ESD has not consistently maintained complete files documenting the work performed under individual service orders. Also, in the majority of reviewed service orders, work was not completed timely. ESD is currently seeking a Program Management consultant to oversee the Capital Improvement Program at the Plant. The RFQ outlines key project management best practices which should address these problems. ESD also should modify its procedures to ensure work under individual service orders is charged to the proper appropriation and improve its adherence to existing Municipal Code requirements to ensure work does not commence prior to final service order approval.

I will present this report at the June 20, 2013 meeting of the Public Safety, Finance, and Strategic Support Committee. We would like to thank the management and staff from the Environmental Services Department, the Public Works Department, and the City Attorney's Office for giving their time, information, insight, and cooperation during the audit process. The Administration has reviewed the information in this report and their response is shown on the attached yellow pages.

Respectfully submitted,



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Table of Contents

Cover Letter	i
Introduction	1
Background	1
Audit Objective, Scope, and Methodology	5
Finding 1	
The City Should Update Its Records Retention Schedule	7
ESD Did Not Retain Statements of Qualifications or Other Procurement Records Related to the Master Agreements.....	7
Finding 2	
ESD Can Improve Its Procedures for Awarding and Developing Service Orders	9
ESD Should Incorporate Competitive Practices in Its Awarding of Service Orders.....	9
Activity on the Master Agreements is Not Currently Disclosed to the Treatment Plant Advisory Committee	13
Procedures on Developing and Processing Service Orders Should be Updated	14
Finding 3	
Contract Management and Monitoring Needs Improvement	19
ESD Should Institutionalize Contract Management Best Practices	19
Conclusion	25
Appendix A	A-1
Administration's Response	yellow pages

Table of Exhibits

Exhibit 1: Total Contract Amounts and Activity Across the Five CIP Master Agreements	3
Exhibit 2: Allocation of Service Orders Between March 25, 2008 and June 30, 2012	11
Exhibit 3: Orange County Sanitation District Task Order Assignment Methodology (An Example of Service Order Distribution)	12
Exhibit 4: Subconsultant Cost Breakdown for Selected Service Orders.....	22

Introduction

In accordance with the City Auditor's 2012-13 Work Plan, we have completed an audit of the Environmental Service Department's management of engineering master agreements related to capital improvement projects at the Regional Wastewater Facility. The audit was conducted in response to the ESD director's request for an audit of contracting processes in this area. 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. We limited our work to those areas specified in the "Audit Objective, Scope, and Methodology" section of this report.

The Office of the City Auditor thanks the management and staff from the Environmental Services Department, the Public Works Department, and the City Attorney's Office for giving their time, information, insight, and cooperation during the audit process.

Background

The Regional Wastewater Facility (Plant) is an advanced wastewater treatment facility located at the southern end of the San Francisco Bay in the Alviso area of North San José. The Plant is jointly owned by San José and the City of Santa Clara through a Joint Powers Agreement (JPA). San José, through its Environmental Services Department (ESD), operates the plant as the administering agency of the JPA.

In addition to San José and Santa Clara, the Plant receives and treats wastewater from six tributary agencies and sanitary districts, including the City of Milpitas; the Santa Clara County Sanitation Districts No. 2 and No. 3; the West Valley Sanitation District (serving Campbell, Los Gatos, Saratoga, and Monte Sereno); and the Cupertino, Burbank, and Sunol Sanitary Districts. The Plant serves 1.4 million residents and about 17,000 businesses.

The Plant was originally constructed in 1956 and was designed to treat organic waste from canneries. In 1959, the City of Santa Clara gained an ownership stake by helping fund upgrades. Later expansions included adding secondary treatment in 1964 to meet state regulations and accommodate a growing population; adding tertiary treatment in 1979 to meet Clean Water Act regulations; and constructing the South Bay Water Recycling facility in 1998. The Plant has a dry weather capacity of 167 million gallons per day (MGD) and a wet weather hydraulic

capacity of 271 MGD (in 1956, the original plant had a capacity of 36 MGD). The Plant has an average annual flow of about 110 MGD.

The Plant's treatment process consists of screening and grit removal, primary sedimentation, secondary treatment (biological nutrient removal), secondary clarification, filtration, disinfection, and dechlorination. Most of the Plant's final treated water is discharged through the Artesian Slough, a tributary to Coyote Creek, which flows to the South San Francisco Bay.

Plant operations and capital improvements are funded through sewer service and use charges. Rates are based on the volume and strength of the wastewater flow from residential, commercial, institutional, and industrial properties. Residential customers are assigned a flat rate which is placed on the property tax roll. The current monthly rate for a single family home in San José is \$33.83 per month. Non-residential customers are assigned a rate based on their type of flow strength.

Capital Improvements at the Plant

In 2007, an *Infrastructure Condition Assessment* prepared by CH2M Hill concluded that many mechanical, electrical, and structural assets at the Plant were in poor condition due to age and wear, and that implementing needed capital improvement projects would require a significant increase in capital expenditures relative to investments made in previous years. The assessment included a risk-ranked list of capital improvement projects required to maintain service levels under current regulations and using existing technologies (totaling \$1 billion over ten years). It also recommended the development of a master plan to determine the most efficient and effective long-term alternatives for providing wastewater service.

Plant Master Plan

At the end of 2007, the City contracted with Carollo Engineers to begin a multi-year master planning process to develop a central planning document to guide improvements to the Plant's facilities, operations, and land use over the next 30 years. The process consisted of two parallel planning efforts, a technical component to guide Plant capital improvements and a land use component to guide future development of the lands surrounding the Plant.

In April 2011, the City Council accepted the Plant Master Plan preferred alternative, which includes \$2.1 billion in long-term wastewater capital improvement projects over the next 30 years located throughout the Plant. It also includes new economic, environmental, and recreational uses of the Plant lands. Council also directed staff to begin preparing an Environmental Impact Report (EIR) as required by the California Environmental Quality Act (CEQA). The EIR is the next step before finalizing the Master Plan; it is expected to be completed in 2013.

Engineering Services Master Agreements

Citing the need for increased capital spending as identified in the *Infrastructure Condition Assessment*, in 2008 ESD entered into master agreements with five engineering consulting firms (Black & Veatch, Brown and Caldwell, Carollo Engineers, CH2M Hill, and AECOM USA) to assist staff in addressing and delivering capital improvement projects at the Plant.¹ The selection of the consulting firms was carried out in accordance with the then-operative Council Policy 8-15, "Qualifications Based Consultant Selection (QBCS) Policy." This Policy has since been rescinded by Council on March 8, 2011 in favor of the Citywide Request for Proposal (RFP) Manual, which utilizes qualifications-based professional service procurement.

Master agreements differ from standard consultant agreements in that rather than identifying a specific set of services for the consultant to perform, a master agreement specifies a general category or categories of work that the consultant can expect to perform. Specific services under master agreements are initiated by service orders specifying the services to be performed, the schedule, and the maximum amount of compensation for each service. The master agreements allowed ESD, in effect, to have qualified consultants on hand as needed to expedite initiation of service requests for engineering services for capital projects.

The sum of the original not-to-exceed amounts in the contracts totaled \$9 million across all agreements. Because of the growth in the Plant's 5-Year Capital Improvement Program (CIP), ESD amended three of the agreements in 2010, increasing the total to \$18 million. Exhibit I shows the total not-to-exceed amounts in each agreement, the value of service orders issued to date, and actual spending through April 4, 2013. See Appendix A for more detail on individual service orders for each consultant.

Exhibit I: Total Contract Amounts and Activity Across the Five CIP Master Agreements

	Contract Not-to-Exceed Amounts	Value of Service Orders Issued	Spending Through April 4, 2013
Black & Veatch	\$4 million	\$1.2 million	\$0.6 million
Brown and Caldwell	\$5 million	\$1.2 million	\$0.7 million
Carollo Engineers	\$4 million	\$2.8 million	\$2.2 million
CH2M Hill	\$4 million	\$1.7 million	\$1.2 million
AECOM USA	\$1 million	\$0.7 million	\$0.2 million
Total	\$18 million	\$7.6 million	\$4.9 million

Source: ESD-prepared master agreement tracking spreadsheets

¹ Metcalf & Eddy was one of the original firms selected. Metcalf & Eddy merged with AECOM USA in 2009.

Although the original agreements were set to expire on June 30, 2013, ESD extended the agreements through June 30, 2015 to maintain continuity on projects that were underway and expedite engineering and design work on other, new projects. In a memo recommending the extension of the agreements, ESD noted that staff is planning to issue a new RFP to obtain *additional* on-call engineering services in 2013 to encourage new competition and ensure sufficient resources for future projects.

Management of the Master Agreements and Other Consulting Agreements

The service orders issued under the master agreements are managed by Plant CIP staff, in particular, the members of the CIP Engineering team. The CIP Construction team also may be involved when the work calls for construction management support.

ESD utilizes a standard form to execute service orders under the master agreements. The form contains basic information such as a brief description of the services (a more detailed scope of services is attached to the form), the project manager, the consultant, and a section for required approval signatures. The form also includes a fiscal/budget section which contains the consultant's compensation for the service order and identifies the CIP project to which the costs should be charged.

ESD has developed standard operating procedures for project managers and other staff to manage the work performed by consultants. These include specific procedures related to contract processing, implementing consultant-designed CIP projects, developing service orders under master agreements, and invoice processing.

Other Consulting Agreements

ESD has utilized consultants to provide services for design or other engineering work at the Plant for many years. In addition, they have utilized master agreements for other engineering services such as operation and maintenance technical support.

In 2008 (shortly after executing the five engineering master agreements), ESD also entered into three master agreements specific to electrical capital improvement projects with three engineering firms (Winzler & Kelly, Camp Dresser & McKee, and Black & Veatch). Each of these three electrical master agreements had not-to-exceed amounts of \$1.5 million and had terms running through June 30, 2013. Similar to the five engineering master agreements, these electrical master agreements were extended through June 30, 2015.

Some of the firms with engineering master agreements have had long-standing relationships with the Plant. For example, at the time of the execution of its engineering services master agreement, Carollo Engineers was under contract to develop the Plant Master Plan; this is in addition to past contracts for design or other work going back to at least the early 2000s. Other firms similarly have either past contracting experience with the Plant (e.g., CH2M Hill's 2007 *Infrastructure Condition Assessment*) or had other contracts running concurrently with the engineering services master agreement (e.g., Black & Veatch's electrical engineering master agreement).

Audit Objective, Scope, and Methodology

The objective of our audit was to review ESD's management of master agreements for engineering services related to capital improvement projects at the Plant. This audit was conducted in response to the ESD director's request for an audit of contracting processes in this area. We sought to understand the purpose and use of master agreements for CIP engineering services at the regional wastewater facility through interviews, reviews of electronic and hard copy files, and review of other jurisdictions' practices. These included:

- Interviews with staff from ESD, Public Works, and the City Attorney's Office, including walkthroughs of project files with engineering services project managers. Audit staff also interviewed two of the consultants with CIP Engineering Master Agreements.
- Review of the applicable sections of the City's Municipal Code, the City's Procurement Policy, the City's Records Retention Policy, and other applicable guiding documents.
- Review of select chapters of the draft Plant Master Plan, the 2007 *Infrastructure Condition Assessment*, and the City's Adopted Capital Budgets.
- Review of the City Finance Department's online *Request for Proposal Manual*, Public Works' draft *Capital Program Consultant Procurement Supplemental Manual*, and the City Attorney Office's standard templates and instructions for Master Consultant Agreements and Service Orders.
- Research and interviews with staff from other jurisdictions' wastewater treatment plants regarding their use of master agreements and engineering services consultants. Benchmarked jurisdictions include the San Francisco Public Utilities Commission, East Bay Municipal Utilities District, Central Contra Costa Sanitary District, Union Sanitary District, Los Angeles County Sanitation District, Orange County Sanitation District, and the Sacramento County Regional Sanitation District.

Regional Wastewater Facility Master Agreements

- Review of a judgmental sample of service orders including analyzing invoices and project files for completeness and accuracy. Service order review included looking through hard copy files as well as electronic file folders.
- Review of other audits of master agreements and reports on best practices in contract monitoring, program management, and the use of consultants in engineering services and construction. Selected documents include:
 - *Best Practices for Multiple Award Task and Delivery Order Contracting*, Office of Management and Budget
 - *State & Local Government Procurement: A Practical Guide*, National Association of State Procurement Officials
 - *The 2000 Model Procurement Code for State and Local Governments*, American Bar Association
 - Select chapters of the California State Contracting Manual
 - *Guide to Best Practices in Contract Management*, Colorado Department of Public Health & Environment, Purchasing and Contract Unit

Finding I The City Should Update Its Records Retention Schedule

Summary

Service orders under the master agreements are meant to be awarded based on each firm's specific expertise and availability. Unfortunately, the Statements of Qualifications and other information from the original procurement process which could be used to inform the allocation of work have not been retained. This is because the City's Records Retention Schedule does not clearly provide direction regarding such documents. To ensure all documents are retained which are necessary for the administration and performance of engineering master agreements, Public Works and ESD should work with the City's Public Records Manager and the City Attorney to clarify and/or update the Records Retention Schedule for contract documents related to capital improvement projects.

ESD Did Not Retain Statements of Qualifications or Other Procurement Records Related to the Master Agreements

ESD's original memo to Council recommending approval of the five master agreements noted that each firm offered unique technical expertise, and capitalizing upon their combined strengths would best benefit the Plant's capital project needs. The memo went on to say that individual service orders would be awarded based on each firm's specific expertise and availability.

The memo provides some description of each firms' areas of expertise; however, the descriptions are brief and do not likely include all of the information learned about each firm during the RFQ process. For example, each firms' submitted Statement of Qualifications, as well as information from oral interviews would likely have provided much more detail on each firms' expertise. Such information would be helpful for staff to determine the most qualified consultant for individual service orders. Unfortunately, the original RFQ documents have not been retained. Not retaining such documents is compounded by turnover at the Plant; none of the Plant's original management team that was involved in the selection process is still with the City.

The City's Records Retention Schedule Does Not Clearly Provide Direction on Retaining Master Agreement Procurement Records

The City's *Administrative Policy Manual* describes records as a basic tool of government administration, providing information for planning and decision making and serving as a foundation for government accountability. The retention

Regional Wastewater Facility Master Agreements

of the records of City business is governed by a Records Retention Schedule maintained by the City Manager's Office, which lists categories of records for each City department and indicating how long such records are to be retained.

The City's current schedule provides that the City retain for four years:

Records documenting procurement and contracting activities not conducted by the Finance Department/Purchasing Division or involving capital construction including but not limited to Qualifications Based Selection, Requests for Proposal, Request for Qualifications, Request for Information, proposal evaluation forms, confidentiality agreements, conflict of interest forms, and unsuccessful bids.

Following this guidance, it appears ESD purged the procurement documents for the five CIP-related engineering master agreements from its records after the four-year retention period lapsed.

However, according to the City's Public Records Manager, this may not have been the correct section of the schedule to follow. First, the above schedule refers to activities not involving capital construction and the master agreements are for CIP-related engineering services. Second, as the award of service orders was meant to be based on each firm's qualifications, the original Statements of Qualifications should have been kept as they were necessary for the administration and performance of the agreements.

For these reasons, ESD should have followed the retention schedule for contract documents related to capital improvement projects. The schedule for these documents is project completion plus 10 years. Unfortunately, the retention schedule is not clear on this point as this section only refers to "Construction contracts and bonds, correspondence, purchase records, contractor daily logs, grading and excavation permits."

Recommendation #1: To ensure all documents are retained which are necessary for the administration and performance of engineering master agreements, Public Works and the Environmental Services Department should work with the Public Records Manager and the City Attorney to clarify and/or update the Records Retention Schedule for contract documents related to capital improvement projects, including specific guidance regarding retaining statements of qualifications and other procurement records.

Finding 2 ESD Can Improve Its Procedures for Awarding and Developing Service Orders

Summary

Open competition and fairness are basic tenets of public procurement. Currently, individual service orders under the master agreements are not competitively procured to ensure the most qualified firms are awarded the work and that each firm has an equal opportunity to bid for work. Although the initial consultant selection process was qualifications-based, records from that procurement have not been retained. As such, we recommend ESD modify its current procedures to include some competitive practices in the service order awarding process to ensure the most qualified consultant is selected for individual services. Because of the large dollar amounts involved, we also recommend ESD begin disclosing activity on the master agreements to the Treatment Plant Advisory Committee.

In addition, ESD should update its procedures for developing and processing service orders to document how a project fits within the scope of the master agreement, how a project aligns with long-range planning as embodied in the 5-Year Capital Improvement Program, and why a specific consultant was chosen for the work. Procedures also should be updated to clearly define levels of approval and delegations of authority so that large service orders are reviewed by the proper level of management prior to execution.

ESD Should Incorporate Competitive Practices in Its Awarding of Service Orders

Open competition and fairness are basic tenets of public procurement. The National Association of State Procurement Officials (NASPO) notes that competition is essential to public procurement, the primary role of which is “to obtain quality construction, commodities and services to support effective and efficient government, ensuring prudent use of public funds.” As public procurement commits public dollars, NASPO goes on to add that transparent procurement practices can maintain public confidence in government programs.

To achieve these ends, the City's Finance Department maintains an online *RFP Manual* which explains the requirements for developing, issuing, and evaluating an RFP and executing contracts. The manual is meant to assist staff and ensure procurements are performed in a fair, consistent, effective, and efficient manner.

Public Works has developed a *Capital Program Consultant Procurement Supplemental Manual* to append the *Citywide RFP Manual* to address the unique needs of

procuring consultants for CIP projects.² The *Supplemental Manual* emphasizes the use of qualifications as the basis for competitive selections and provides guidelines to promote consistency in the development, solicitation, and evaluation of professional services consultants.

Individual Service Orders Were not Competitively Procured

According to the memo to Council for approval of the master agreements, each of the firms chosen for master agreements offered *unique* technical expertise and staff was to award individual service orders to the consultants based on that expertise and availability.

Unfortunately, because the original Statements of Qualifications from the original procurement are not available (see Finding 1) and the staff who would be most familiar with the original procurement are no longer with the City, current staff may not have the information they need to award service orders to the firm with the most relevant expertise. This is compounded further as one of the original awardees (Metcalf & Eddy) merged with another firm (AECOM USA) in 2009 and may have a broader or different set of qualifications than it had during the original procurement.

72 Percent of Service Orders Were Awarded to Two Consulting Firms Through June 30, 2012

ESD's current procedures for developing and processing service orders under the master agreements does not include guidance on how to select a consultant or assess which is the most qualified for the given work. For example, the first step in the procedures assumes that a consultant has already been selected.

In practice, staff has much discretion to select consultants. In the past, it appears selections were often based on the project manager or division manager's past experience with specific firms or the firm's perceived familiarity with the Plant.³

As shown in Exhibit 2, between March 25, 2008 and June 30, 2012, 22 of the 31 executed service orders were awarded to just two of the five available consultants. These two firms, CH2M Hill and Carollo Engineers, have had ongoing, long-term relationships with the Plant, including past agreements for technical support and engineering services. In addition, CH2M Hill had prepared the 2007 *Infrastructure Condition Assessment* and Carollo was contracted to develop the Plant Master Plan. It should be noted that work awarded in FY 2012-13 appears to be more evenly spread among consultants.

² As of April, 2013, the *Capital Program Consultant Procurement Supplemental Manual* was still in draft form. According to Public Works, it was mostly complete and the procedures outlined in the manual are currently in practice.

³ There were instances where work allocated to individual consultants did align with their specific expertise as described in the original memo to Council. For example, Brown & Caldwell was noted as having an experienced team specializing in large digester rehabilitation. To date, they have been allocated nearly all service orders for digester-related work.

Exhibit 2: Allocation of Service Orders Between March 25, 2008 and June 30, 2012

	Total Service Orders	Contract NTE Limits (% Total NTE)	Total Awards through June 30, 2012 (% Total Awarded)
Carollo Engineers	11	\$4 million (22%)	\$2.6 million (43%)
CH2M Hill	11	\$4 million (22%)	\$1.7 million (29%)
Black & Veatch	6	\$4 million (22%)	\$0.7 million (12%)
Brown & Caldwell	2	\$5 million (28%)	\$0.7 million (12%)
AECOM	1	\$1 million (6%)	\$0.2 million (4%)
Total	33	\$18 million (100%)	\$6.0 million (100%)

Source: Auditor analysis of master agreements and executed service orders

As can be seen, the service orders these two firms received accounted for 72 percent of the original dollar values of all service orders and amendments, or \$4.3 million of the \$6.0 million awarded through that date.⁴ By contrast, the same consultants accounted for just 44 percent of the total not-to-exceed amounts included in all five master agreements.

Although service orders issued in FY 2012-13 have been spread more evenly across different consultants, they are still awarded based on staff discretion and not by set guidelines or procedures designed to determine which firm is the most qualified for the work.

Incorporating Competitive Practices in the Service Order Award Process can Ensure Fairness and Best Serve Ratepayers

The five consultants with master agreements were selected through a competitive, qualifications-based selection process. However, the individual service orders (which have ranged from small projects under \$50,000 to much larger ones with awards exceeding \$600,000) are not competitively awarded. As the length of the agreements has been extended to June, 2015, the result will be that nearly all CIP-related engineering services will not have been competitively procured for seven years. As an alternative, ESD could opt to undertake a separate RFQ process for some projects, particularly where large dollar amounts and complex scope with multi-year implementation schedules are anticipated.⁵

Ultimately, in determining whether to issue a service order under a master agreement or procure competitively through a separate RFQ process, ESD needs to balance the efficiencies the master agreements provide in procurement with

⁴ In certain cases, the full award amount was not spent. In these instances, a final amendment was developed to liquidate any remaining encumbrances. These amendments are not included in this analysis.

⁵ It should be noted that ESD has begun using separate RFQ processes under certain circumstances. For example, in 2012, ESD utilized an RFQ process to obtain Executive Program Advisor Services to support implementation of the Plant's CIP. Also, ESD has separate RFQ processes currently underway to obtain engineering services for a digester rehabilitation and gas line replacement project and for broad CIP program management services.

the benefits gained from open and fair competition. However, ratepayers can get the benefit of both if ESD incorporates competitive practices into the process of awarding service orders.

According to the Federal Office of Management and Budget's (OMB) *Best Practices for Multiple Award Task and Delivery Order Contracting*, multiple award contracts can achieve efficiencies in the procurement process and best value for taxpayers when used properly.⁶ **To achieve these ends, each awardee under multiple award contracts should "be given a fair opportunity to be considered for each order."** OMB also states that "contracting officers have broad discretion to determine how work will be issued to awardees under multiple award contracts, provided the procedures and selection criteria ... do not result in consideration of less than all awardees."

The Orange County Sanitation District has such procedures for allocating work under agreements with four consultants to perform engineering planning studies on a task order basis. For example, the method of assigning tasks varies based on size and is described in Exhibit 3.

Exhibit 3: Orange County Sanitation District Task Order Assignment Methodology (An Example of Service Order Distribution)

Category	Awarding Process
I (small tasks)	Select and negotiate with one firm. Selection is based on staff's determination of the firm's suitability and qualifications.
II (medium tasks)	Task order requests will be requested from three firms based on rotation.
III (large tasks)	Task order proposals will be requested from all firms.
IV (tasks outside of contracts)	Not eligible within the agreements without special approval of the Orange County Sanitation District Board. Without such approval, the procurement must use traditional RFP process.

Source: Auditor analysis of procedures provided by Orange County Sanitation District

Note: Each category of tasks is specifically defined by monetary thresholds as described within Orange County Sanitation District's Program Administration and Task Order Management procedures

Other jurisdictions also provide for similar competition. By introducing competition into the awarding process, ESD can ensure that the most qualified firms are selected for projects and assure ratepayers that they are receiving value for their dollars.

⁶ OMB defines multiple award contracts as contracts to acquire an indefinite quantity, within stated limits, of supplies or services during a fixed period, with deliveries or performance to be scheduled by placing orders with the contractor. This can include awards for engineering services provided the selection of contractors is consistent with the qualifications-based selection policies and procedures for such services outlined in the Federal Acquisition Regulations Subpart 36.6.

Competitive Processes Can be Streamlined to Minimize Administrative Burden

OMB's best practices suggest streamlined ordering techniques, such as requesting oral presentations or limiting the length of written proposals to minimize bid and proposal costs. OMB writes:

Information requested from contractors should be the minimum necessary to ensure they understand each task or delivery order and, at the same time, provide sufficient information for the government to determine who should receive the order. A streamlined ordering process is highly encouraged because it minimizes cycle time and the administrative burden on both parties.

OMB specifically highlights the benefits of oral presentations as a substitute for traditional written proposals in competitively negotiated procurements, such as reducing the time and costs associated with the selection process and improving the exchange of information between the government and the consultants. This exchange of information can result in an increased understanding of the work to be performed and the consultant's approach.

Exceptions to Competitive Awards May be Necessary

OMB notes that there are instances when the fair opportunity consideration should not apply, such as when the need for the services is of such urgency that providing such opportunity would result in unacceptable delays or when only one contractor is capable of providing the service required. Also, they provide for a "follow-on exception" when a task order logically follows a previous task order (as long as all firms had a fair opportunity to compete for the prior order).

Recommendation #2: To ensure the most qualified consultant is selected, the Environmental Services Department should modify its current procedures for awarding service orders under consultant master agreements to incorporate provisions for notifying multiple consultants about upcoming service orders and soliciting information as needed. The procedures should allow for exceptions under specific circumstances.

Activity on the Master Agreements is Not Currently Disclosed to the Treatment Plant Advisory Committee

The Treatment Plant Advisory Committee (TPAC) is an advisory group to the City Councils and the administrations of both the City of San José and the City of Santa Clara for matters relating to the Plant. TPAC membership consists of three members from the City Council of the City of San José, two members from the Council of the City of Santa Clara, one representative of the City Manager's

Regional Wastewater Facility Master Agreements

Office of the City of San José, and one representative each from the City of Milpitas, Cupertino Sanitary District, and the West Valley Sanitation District.

TPAC advises both San José and Santa Clara on operation, maintenance, repair, and improvement of the Plant, and the development and administration of related programs and policies. TPAC meets monthly to carry out its duties.

In each monthly agenda, staff provides to TPAC a monthly *Procurement and Contract Activity Report* summarizing the purchase and contracting of goods with an estimated value between \$100,000 and \$1 million and of services between \$100,000 and \$250,000. This summary currently does not include activity on the five engineering master agreements. Because the majority of the service orders have exceeded \$100,000, and many have exceeded \$250,000, we believe it would be appropriate for ESD to disclose activity on the master agreements to increase transparency and allow TPAC members to more capably carry out their advisory role.

Recommendation #3: The Environmental Services Department should disclose new service orders, including the consultant, project description, and award amount, to the Treatment Plant Advisory Committee in a manner similar to how it currently discloses procurement and contract activity between \$100,000 and \$1 million for goods and between \$100,000 and \$250,000 for services.

Procedures on Developing and Processing Service Orders Should be Updated

Master consultant agreements generally specify a category or categories of work which a consultant is expected to perform. Under master agreements, each service order defines a specific work product and the time for completing the work.

Each of ESD's engineering master agreements are designed in this manner, containing broad scopes of work including such things as engineering studies, detailed design work, construction management support, and other items. The agreements specify that engineering services are for "various capital projects at the San José/Santa Clara Water Pollution Control Plant." Service orders under the master agreements are to provide detail about the specific services to be performed.

Some Service Orders May Not Have Been Appropriate Under the Master Agreements

Despite the broadly stated scope of services in the master agreements, there were a number of service orders which appear to fall outside that scope or were questionable for some other reason. Although each of the projects may have been necessary, they may not have been appropriately procured *through the master agreements*.

- The master agreements specify that the agreements are for services for various projects at the Plant. However, seven of the eleven service orders issued to one of the contractors were related to South Bay Water Recycling (SBWR) and do not appear to be for work at the Plant. Work included support to obtain environmental clearance for SBWR projects (including at the San José Mineta International Airport, a City of Milpitas Light Rail Station, and other projects throughout the distribution system) and a system-wide condition assessment (including the system's five pump stations, the approximately 100 miles of distribution piping, and three reservoirs). Spending on these totaled more than \$800,000 (or about two-thirds of all spending with that contractor to date).
- In the memo to Council recommending approval of the master agreements, ESD stated that service orders would detail specific scopes of work and services would be tailored to meet the requirements of each CIP project. Two service orders for "technical support" were used to hire a specific subconsultant to augment staff and were not tailored to meet the requirements of specific CIP projects. The scopes of work contained long lists of tasks across multiple CIP project areas. It does not appear that each of the many tasks listed were completed; as such, it appears the scope was designed to include all projects for which the subconsultant may be used on an as-needed basis (making it appear more similar to a master agreement than a service order with specific deliverables). Spending on these two service orders totaled \$430,000, nearly all of which (\$406,000) were subconsultant costs. The remaining \$24,000 went to the prime contractor, primarily for their 5 percent allowable markup.
- One service order was used for "Plant Master Plan CEQA Technical Support Services." This service order was with the same consultant that prepared the Master Plan, and was undertaken while the contract for the Master Plan was still in effect. Also, although the description of the project was "CEQA Technical Support," among the tasks was drafting an executive summary of the Master Plan for the City Council. We believe the work under this service order should have been more properly undertaken under an amendment to the Master Plan contract. Because the work was conducted through a service order under the master agreement rather than through the Master Plan contract, it would be

difficult for Council or the public to piece together the full cost of the Master Plan. Spending on this service order has totaled \$287,000.

- The master agreements specify that work is for engineering services for capital projects at the Plant. One \$19,000 service order was charged to the Plant's operating fund.

Currently, ESD has procedures for developing and processing service orders. ESD should update these procedures to include a step that calls for staff to review the master agreements scopes of work and document how the project fits within that scope or is a proper use of the master agreement.

Service Orders Were Issued for Projects Without Clear Direction

Success in contracting is dependent upon having clear goals and expectations. For ESD and its use of its master agreements, this refers to having clear performance standards or deliverables written into service orders and having the projects clearly align with the long-term capital improvement strategy for the Plant.

ESD Has Focused on Improving the Scopes of Services in Its Service Orders

A service order's scope of service is a key control mechanism. It sets out the specific set of deliverables required of the consultant and the time frame for which the work is to be completed. According to ESD, developing scopes of services with specific deliverables is an area they have identified for improvement. Also, because past service orders were developed by different project managers working with different consultants, there appears to be great variation in how the scopes of services were written. Having more consistency among the service orders is another area ESD has identified for improvement.

In May 2012, the City Attorney's Office developed new templates for service orders with detailed instructions to standardize their preparation. In September 2012, the City Attorney's Office provided training to ESD staff on these templates. In the future, it is expected that these new templates will address some of the past issues related to consistency and specificity in developing scopes of services in the service orders. In addition, a number of members of the CIP team underwent business writing training in the fall of 2011.

There Were Instances When Projects Lacked a Clear Direction

According to the Government Finance Officers Association, governments should make capital project investment decisions that are aligned to their long-range strategies. At the time the master agreements were executed in March 2008, the Plant's long-range strategy for capital improvements was not fully developed; the Plant had just begun a master planning process to provide a framework for future capital improvements. Compounding this, over the term of the master agreements to date, there has been a complete turnover among Plant management including three separate CIP Division Managers.

As a result, in at least two instances service orders were executed on projects which did not have a clear long-term direction.

- Two early service orders, totaling more than \$600,000, were related to the Plant's two headworks facilities.⁷ Unfortunately, it appears that the long-term strategy for the headworks has not been consistent or clear over time. This is primarily because the aforementioned turnover among Plant management and within the CIP team, including multiple project managers for headworks-related projects. In addition, there have been ongoing, significant operational issues with the newer of the two facilities.

To illustrate the unclear direction, four months *after* the execution of the second service order, ESD and consultant staff held a "Headworks Strategic Planning Workshop" to ensure the work was aligned with the overall strategic plan for the headworks. Subsequent to this workshop, the service order was amended, increasing the scope of the work and increasing the costs from \$320,000 to \$496,000. A second amendment with additional scope is currently being negotiated.

Also, a third service order was recently executed (with a different consultant) to conduct a detailed analysis of the existing headworks facilities, including a full condition assessment of existing infrastructure. As operational issues with the new headworks appear to have continued at least into 2012, the service order also includes an evaluation of the facilities' current performance to identify potential operational improvements. In effect, ESD is asking for a second opinion on the past decisions surrounding the future of the headworks facilities.

- Two service orders were issued related to the evaluation and design of an air filtration system in the secondary process area. Spending on these two service orders totaled \$200,000. Although the consultant provided complete design drawings and the project had been let out for bid for construction, it was eventually dropped as it did not align with the Master Plan. Better coordination between the staff overseeing the master planning process and the technical staff overseeing the evaluation and design work may have allowed staff to cut off work on this project earlier and save ratepayer dollars.

⁷ Wastewater influent first passes through the headworks facilities as it enters the Plant. The facilities include large bar screens to remove rags, sticks, rocks, and other debris that may enter the wastewater stream and if not removed could clog Plant machinery. The old headworks has been in service since the mid-1950s. The new headworks was originally designed as a peak wet weather facility and put in service in 2008. The first service order, executed in December 2008, was a condition assessment which recommended decommissioning the old headworks facility and expanding the newer headworks to handle all flows to the Plant. The second, executed in January 2010, was a headworks enhancement project which would allow the two headworks to operate independently from each other. Both service orders were with the same consultant.

With the completion of the draft Plant Master Plan and the development of the current 5-Year CIP, the City now has a central planning document to guide improvements to the Plant's facilities.⁸ In the future, staff should document how projects fit within the Plant's long-range plans as embodied in the 5-Year CIP so that knowledge will be retained upon any future turnover and ensure staff plans sufficiently on the front end to give clear direction to consultants.

ESD Should Modify its Procedures to Clearly Define Service Order Approval Authority

Current ESD procedures delegate the authority to approve service orders to the CIP Division Manager. This practice has resulted in service orders in excess of \$250,000 (and in some cases in excess of \$500,000) being approved by the Division Manager, a position three levels below the Director. By contrast, the City Manager's approval authority for new consulting agreements is limited to \$250,000.

Other jurisdictions have delegated approval authority to different individuals based on the size of a task order. Public Works has taken a similar approach for service orders under master agreements. Depending on the size of the service order, a section manager, division manager, or deputy director has authority for approval. ESD should likewise update its procedures by clearly defining levels of approval and the delegation of authority so that large service orders are reviewed by the proper level of management prior to execution.

Recommendation #4: The Environmental Services Department should update its procedures for developing and processing service orders to:

- a) Document how the project fits within the scope of the respective master agreement, how the project aligns with long-range planning as embodied in the 5-Year Capital Improvement Program, and why a specific consultant has been chosen for the work, and
- b) Clearly define levels of approval and the delegation of authority.

⁸ The draft Plant Master Plan provides high level project recommendations. In order to ensure that projects are scoped to accurately reflect current drivers and needs, ESD plans to undertake a project validation and definition effort prior to proceeding with detailed project work on large or complex projects.

Finding 3 Contract Management and Monitoring Needs Improvement

Summary

ESD has not consistently maintained complete files documenting the work performed under individual service orders. Also, in the majority of reviewed service orders, work was not completed in a timely manner. ESD is currently seeking a Program Management consultant to oversee the Capital Improvement Program at the Plant. The RFQ outlines key project management best practices which should address these problems. ESD also should modify its procedures to ensure work under individual service orders is charged to the proper appropriation and improve its adherence to existing Municipal Code requirements to ensure work does not commence prior to final service order approval.

ESD Should Institutionalize Contract Management Best Practices

Contract management refers to the administration of a contract and the monitoring of the contractor's performance. According to the *California State Contracting Manual*, among the responsibilities of a contract manager are:

- Notifying the contractor to begin work
- Maintaining contract documentation
- Monitoring progress of work to ensure that services are performed according to the quality, quantity, timeframes, and manner specified in the contract
- Reviewing invoices to verify work performed and costs claimed are in accordance with the contract
- Verifying that the contractor has fulfilled all requirements of the contract before approving the final invoice

Many Project Files Lacked Critical Documents

ESD has established a file structure which clearly provides guidance on maintaining and archiving CIP project files. Project files are meant to be kept in both electronic and hardcopy format. Unfortunately, there is great variability regarding the level of documentation of contract monitoring and organization across projects. For example, folders within the file structure were often empty, even if they would appear to contain critical information such as documentation

of consultant evaluation and selection, notices to proceed, and correspondence with the consultant. In some cases, project files contained documents from other, unrelated projects.

Other key documents which were often missing in files include:

- Documentation regarding the development of the scopes of services
- Prior approvals for additional services found in service orders
- Prior approvals for additional subconsultants not included in the original master agreement or in the individual service order

Documentation Can Protect the City in the Case of a Dispute and Allow Knowledge to be Retained if a Project Manager Leaves

According to the *Guide to Best Practices in Contract Management* by the Colorado Department of Public Health & Environment, documentation provides a history of the contract and evidence of the contractor's performance. In turn, should a dispute arise between the agency and the contractor, "documentation will establish the facts and will probably determine the outcome." Among the documents the Guide recommends be kept on file are:

- Copy of the original contract document and any modifications to the contract
- Copies of any cost or budget data
- Copies of written correspondence from both parties (includes letters, emails, faxes, etc.)
- Notes from meetings – specifically on items contract administrator or monitor agreed to do
- Notes on phone conversations that affect the contract
- Records containing progress on the project
- Copies of deliverables
- Copies of invoices

Another benefit of maintaining complete project files is the ability to transfer knowledge upon staff turnover. Without documentation, the institutional knowledge may be lost if a project manager leaves the City. For example, documentation of the development of the scope of work provides a "storyboard" by which to follow the thought process of how the City and the consultant reached the finalized service order. If documentation does not exist, then there is no way of recreating this thought process, and thus knowledge transfer may be limited upon staff turnover.

Service Order Deliverables Were Missing and Not Timely

For a few service orders, the complete set of deliverables listed in the scopes of services was missing from the project files. It is not clear whether these represent instances when ratepayers did not receive something for which they had paid, or these were simply a result of the previously discussed project documentation issues. For one service order, it appears the City only received draft versions of required technical memoranda rather than final versions. There was nothing in the file which explained why this was acceptable.

The work in the majority of reviewed service orders was not completed on time; however, there generally was no indication in the files as to the cause for delay. For example, in one service order, the project was delayed and invoices had been adjusted by reducing payment for "services not provided." However, we could not verify the rationale for these adjustments because there was no documentation about the work performed or the level of service in the files.

New RFQ for Program Management Consultant in Progress

In March, 2013, ESD released an RFQ for a Program Management consulting firm to oversee the Capital Improvement Program at the Plant. The RFQ appears to outline key project management best practices which may address problems noted previously. As described in the RFQ overview, "the Program Management Consultant (PMC) Firm will provide expertise that City staff does not currently possess and will provide supplemental project management staffing to flexibly and efficiently support the planning and management of the CIP... The PMC will also demonstrate successful experience coordinating multiple processes, projects and operations interfaces, while maintaining solid budgeting, scheduling, fiscal reporting and project controls."

The RFQ goes on to list in detail the required services to be provided in the following program support areas: (1) Program Administration and Controls, (2) Planning and Engineering Support, (3) Construction Administration, and (4) Standards of Performance. It is important that these best practices be institutionalized and remain in place once the consultant contract ends.

Recommendation #5: To improve contract management and monitoring of service orders under the master agreements, the Environmental Services Department should ensure that the Program Management consultant implement the program administration controls and provide the planning and engineering support outlined in the March 28, 2013 Request for Qualifications for Program Management services.

Work Performed Was Not Charged to the Correct Appropriation

As described in the Background section of this report, ESD utilizes a standard form to execute service orders under the master agreements. Included in the form is a fiscal/budget section which contains the consultant's compensation for the service order and identifies to what appropriation costs should be charged.⁹

As noted in Finding 2, two service orders were utilized to hire a subconsultant to augment CIP staff. The scopes of work included technical support and assistance across multiple CIP project areas. The subconsultant's invoices for actual work completed reflected the same breakdown as in the service order. However, based on actual charges in the City's Financial Management System (FMS), costs were not allocated across multiple projects as detailed in the invoices; nearly all charges were allocated to one appropriation.

Exhibit 4 shows the breakdown of costs as reflected in the subconsultant's submitted invoices compared to actual charges shown in FMS.

Exhibit 4: Subconsultant Cost Breakdown for Selected Service Orders

Project Areas/Descriptions	Service Order Invoiced Costs	Allocation of Charges Per FMS	Over/Under
Biosolids Program	\$211,000	\$346,000	\$135,000
Secondary Treatment Improvements	\$44,000	\$-0-	(\$44,000)
Filtration & Disinfection Facilities	\$25,000	\$-0-	(\$25,000)
Headworks Improvements	\$6,000	\$60,000	\$54,000
Miscellaneous Energy/Site Facility Improvements	\$109,000	\$-0-	(\$109,000)
Odor Control Program	\$11,000	\$-0-	(\$11,000)
Total	\$406,000	\$406,000	\$0

Source: Auditor analysis of consultant submitted invoices and FMS Invoice Entry Edit Lists (figures are rounded to nearest \$1,000).

Notes: Invoiced costs conform to the cost breakdowns across project areas included in the executed service orders. The specific appropriations for which charges were allocated were the digester rehabilitation project (\$346,000) and the headworks enhancement project (\$60,000).

Not allocating charges to the correct project results in some projects' costs being artificially inflated and other projects' costs being artificially low. ESD should modify its current procedures to ensure that charges are properly allocated to the correct appropriation so that project costs can be accurately tracked.¹⁰

⁹ An appropriation is the legal authorization granted by the City Council to make expenditures and incur obligations for specified purposes. Each capital project identified in the Plant's CIP has a specific appropriation associated with it.

¹⁰ It should be noted that prior to November 2011, the ESD CIP division did not have a dedicated Budget Analyst.

Recommendation #6: ESD should modify its service order development and invoice processing standard operating procedures to require that project managers and/or the budget analyst review whether actual work performed is charged to the proper appropriation.

Work Preceded Fully Executed Service Order or Amendment

There were multiple instances where work proceeded prior to service orders (or amendments to service orders) being fully executed. In one case, the City and the consultant are still negotiating the terms of a service order amendment to cover work that was completed but was not in the scope of the original service order. An invoice from May, 2012 notes that efforts related to that work was not reflected in the invoice, but would be billed once the City has issued a new project amendment.

According to the master agreements with the five consultants, "All work performed under this AGREEMENT shall be authorized by a specific service order. Each service order given by the CITY shall detail the nature of the specific services to be performed by the consultant, the time limit within which such services must be completed and the compensation for such services...**CONSULTANT shall not perform any services unless authorized by a fully executed Service Order** (emphasis added)."

The Municipal Code requires all contracts be in writing and be approved as to form by the City Attorney. When City officials authorize the start of work prior to the completion of the City's legal contracting process, they exceed their legal authority. Until a service order is finalized, the contents, including the scope of work and deliverables, are subject to change. Furthermore, when contracts are not legally formed, their enforceability is questionable. In those situations, the City may have no obligation to compensate the contractor for the work.

The finalized service order is the primary control to ensure the City receives the expected services and within the expected time frame. Until the service order is final, the agreement is subject to change regardless of work performed to date, potentially putting both the consultant and ratepayers at risk.

Recommendation #7: The Environmental Services Department should improve its adherence to existing Municipal Code requirements to ensure work does not commence on a project prior to final service order approval.

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Conclusion

The objective of our audit was to review ESD's management of master agreements for engineering services related to capital improvement projects at the Plant. We found that the Statements of Qualifications and other information from the original procurement process which could be used to inform the allocation of work have not been retained. This is because the City's Records Retention Schedule does not clearly provide direction regarding such documents. Further, individual task orders were not competitively procured to ensure the most qualified consultant is selected for individual services. Lastly, ESD did not consistently maintain complete files documenting the work performed under individual service orders. Also, in the majority of reviewed service orders, work was not completed in a timely manner. ESD is currently seeking a Program Management consultant to oversee the Capital Improvement Program at the Plant which should address contract monitoring problems.

RECOMMENDATIONS

Recommendation #1: To ensure all documents are retained which are necessary for the administration and performance of engineering master agreements, Public Works and the Environmental Services Department should work with the Public Records Manager and the City Attorney to clarify and/or update the Records Retention Schedule for contract documents related to capital improvement projects, including specific guidance regarding retaining statements of qualifications and other procurement records.

Recommendation #2: To ensure the most qualified consultant is selected, the Environmental Services Department should modify its current procedures for awarding service orders under consultant master agreements to incorporate provisions for notifying multiple consultants about upcoming service orders and soliciting information as needed. The procedures should allow for exceptions under specific circumstances.

Recommendation #3: The Environmental Services Department should disclose new service orders, including the consultant, project description, and award amount, to the Treatment Plant Advisory Committee in a manner similar to how it currently discloses procurement and contract activity between \$100,000 and \$1 million for goods and between \$100,000 and \$250,000 for services.

Recommendation #4: The Environmental Services Department should update its procedures for developing and processing service orders to:

- a) Document how the project fits within the scope of the respective master agreement, how the project aligns with long-range planning as embodied in the 5-Year Capital Improvement Program, and why a specific consultant has been chosen for the work, and
- b) Clearly define levels of approval and the delegation of authority.

Regional Wastewater Facility Master Agreements

Recommendation #5: To improve contract management and monitoring of service orders under the master agreements, the Environmental Services Department should ensure that the Program Management consultant implement the program administration controls and provide the planning and engineering support outlined in the March 28, 2013 Request for Qualifications for Program Management services.

Recommendation #6: ESD should modify its service order development and invoice processing standard operating procedures to require that project managers and/or the budget analyst review whether actual work performed is charged to the proper appropriation.

Recommendation #7: The Environmental Services Department should improve its adherence to existing Municipal Code requirements to ensure work does not commence on a project prior to final service order approval.

APPENDIX A

Summary of Service Orders Under the Engineering CIP Master Agreement

Distribution of work awarded under the Master Agreement for Engineering Services as of April 30, 2013

CH2M Hill

S/O #	Original Award Amt	Amount Spent as of April 4, 2013	Description	S/O Finalized On
1	\$ 5,001	\$ 4,990	Recycled Water Pipeline Construction Schedule and Grant Submittal (SBWR)	4/8/09
2	\$ 121,000	\$ 97,998	Support Planning and Implementation of Extensions with respect to Compliance with the National Environmental Policy Act (SBWR)	6/9/09
3	\$ 110,000	\$ 110,000	Evaluation of Secondary Aeration Intake System	6/22/09
4	\$ 58,490	\$ 58,461	Support Planning and Implementation of Extensions with respect to Compliance with the National Environmental Policy Act (SBWR)	7/2/09
5	\$ 199,440	\$ 199,426	Support Planning and Implementation of Extensions with respect to Compliance with the National Environmental Policy Act (SBWR)	11/16/09
6	\$ 131,205	\$ 131,205	South Bay Water Recycling-System Condition Assessment	1/27/10
7	\$ 140,531	\$ 114,515	Support Planning and Implementation of Extensions with respect to Compliance with the National Environmental Policy Act (SBWR): SJ Convention Center and Hedding Extension	1/25/10
8	\$ 19,200	\$ 17,657	Grating of Secondary Mixed Liquor Channel	4/28/10
9	\$ 211,118	\$ 211,036	Secondary Clarifier Modeling and Rehabilitation Project	4/22/10
10	\$ 85,000	\$ 81,232	Design of Secondary Aeration Air Filtration System	10/20/10
11	\$ 617,088	\$ 197,764	South Bay Water Recycling Projects	9/23/11
Total	\$ 1,698,073	\$ 1,224,284		

Carollo

S/O #	Original Award Amt	Amount Spent as of April 4, 2013	Description	S/O Finalized On
1	\$ 498,000	\$ 498,000	Replace the existing gaseous chlorination and de-chlorination systems with liquid chemical systems for final treatment of wastewater.	8/26/08
2	\$ 105,100	\$ 105,100	Performs condition assessment of the Old Headworks and estimates improvement costs	12/12/08
3	\$ 83,100*	\$ 83,082	Alternative Disinfection Project - Outfall Channel Dechlorination Design	10/15/09
4	\$ 496,800*	\$ 456,889	Performs evaluation, detail design and bid phase services for the selected common elements at both Headworks No. 1 and No. 2 and estimates construction costs	1/22/10
5	\$ 360,700	\$ 351,814	Technical Support for Process Improvement Capital Projects	10/26/10
6	\$ 41,208	\$ 39,179	Alternative Disinfection Process Hazard Analysis	3/18/11
7	\$ 290,200	\$ 286,914	Plant Master Plan - CEQA Technical Support Services	8/31/11
8	\$ 209,796	\$ 170,788	Analysis of Capital Project Delivery Options	11/7/11
9	\$ 96,534	\$ 50,725	SBWR Expansion Strategic Planning Support	11/8/11
10	\$ 378,588	\$ 77,907	Capital Improvement Program Technical Assistance	1/5/12
11	\$ 33,300	\$ 33,300	Technical Support for Capital Projects Implementation Program	2/22/12
12	\$ 109,290	\$ 0	Tertiary Filtration Technology Evaluation	12/19/12
Total	\$ 2,702,616	\$ 2,153,697		

*Includes amendments for increased award amount to the service order.

Black & Veatch

S/O #	Original Award Amt	Amount Spent as of April 4, 2013	Description	S/O Finalized On
1	\$ 123,960	\$ 123,675	Nitrification Influent Isolation Gates Project: Provide two gates for nitrification influent isolation	8/28/08
2	\$ 84,608	\$ 84,606	Nitrification Channel Aeration System Improvements Project - Feasibility Study: Provides new aeration system in nitrification influent and mixed liquor channels	11/24/08
3	\$ 244,058	\$ 243,897	Nitrification Channel Aeration System Improvements Project - Design: Provides new aeration system in nitrification influent and mixed liquor channels	2/3/09
4	\$ 25,000	\$ 13,938	Assistance with Stimulus Funding Application	3/19/09
5	\$ 129,660	\$ 104,103	Nitrification Channel Aeration System Improvements Project - Construction Phase Services	6/25/09
6	\$ 86,848	\$ 45,710	Flow Meter Study	11/18/10
7	\$ 549,878	\$ 0	Owner's Engineer Contract, Phase 1 - Project Delivery Evaluation and Project Definition Report	12/19/12
Total	\$ 1,244,012	\$ 615,929		

AECOM

S/O #	Original Award Amt	Amount Spent as of April 4, 2013	Description	S/O Finalized On
1	\$ 242,444	\$ 242,444	Nitrification Clarifiers Condition Assessment Project: Performs condition assessment of Nitrification clarifiers and estimates improvement costs	11/18/09
2	\$ 477,481	\$ 0	Headworks Expansion Feasibility and Operational Review	2/27/13
Total	\$ 719,925	\$ 242,444		

**Brown &
Caldwell**

S/O #	Original Award Amt	Amount Spent as of April 4, 2013	Description	S/O Finalized On
1	\$ 647,339*	\$ 647,322	FOG Program Evaluation and Enhancement Study, Pre-design Study of Digester Rehabilitation Modifications, Gas Line Replacement, and Implementation Plan	9/19/08
2	\$ 68,000	\$ 16,630	FOG Program Evaluation and Enhancement Study, Pre-design Study of Digester Rehabilitation Modifications, Gas Line Replacement, and Implementation Plan	12/14/10
3	\$ 461,516	\$ 0	Digester Gas Storage Replacement Project	3/26/13
Total	\$ 1,176,855	\$ 663,952		

*Includes amendments for increased award amount to the service order.



Memorandum

TO: SHARON WINSLOW ERIKSON
CITY AUDITOR

FROM: Kerrie Romanow

SUBJECT: SEE BELOW

DATE: June 12, 2013

Approved

Date

6/12/13

SUBJECT: RESPONSE TO "REGIONAL WASTEWATER FACILITY MASTER AGREEMENTS: NEW PROCEDURES AND BETTER CONTRACT MANAGEMENT NEEDED"

BACKGROUND

In June 2012, the Director of Environmental Services requested the City Auditor's Office conduct a performance audit of the management of the engineering master agreements for capital improvement projects at the San Jose/Santa Clara Regional Wastewater Facility (RWF).

The requested audit has been completed by the City Auditor's office and includes seven recommendations.

RECOMMENDATIONS AND RESPONSE

Recommendation #1: To ensure all documents are retained which are necessary for the administration and performance of engineering master agreements, Public Works (PW) and the Environmental Services Department (ESD) should work with the Public Records Manager and the City Attorney to clarify and/or update the Records Retention Schedule for contract documents related to capital improvement projects, including specific guidance regarding retaining statements of qualifications and other procurement records.

The Administration agrees with this recommendation. PW and ESD will work with the Public Records Manager and City Attorney to update the Records Retention Schedule for contract documents related to capital improvement projects regarding retention of documents related to professional services procurements (e.g. Request for Qualifications, Statement of Qualifications, Professional Services Contracts, etc.).

June 12, 2013

Subject: Response to Regional Wastewater Facility Master Agreements: New Procedures and Better Contract Management Needed

Page 2

Recommendation #2: To ensure the most qualified consultant is selected, the Environmental Services Department should modify its current procedures for awarding service orders under consultant master agreements to incorporate provisions for notifying multiple consultants about upcoming service orders and soliciting information as needed. The procedures should allow for exceptions under specific circumstances.

The Administration agrees with this recommendation. ESD will update its standard operating procedure for developing and processing service orders (SOP 122) to include guidelines for selecting and assessing the most qualified consultant when multiple master agreements are available. The intent is to ensure fairness and competition while maintaining the efficiencies and benefits provided by master agreements.

Recommendation #3: The Environmental Services Department should disclose new service orders, including the consultant, project description, and award amount, to the Treatment Plant Advisory Committee (TPAC) in a manner similar to how it currently discloses procurement and contract activity between \$100,000 and \$1 million for goods and between \$100,000 and \$250,000 for services

The Administration agrees with this recommendation. Executed service orders over \$100,000 will be included in the monthly procurement and contract activity report given to TPAC.

Recommendation #4: The Environmental Services Department should update its procedures for developing and processing service orders to:

- a) Document how the project fits within the scope of the respective master agreement, how the project aligns with long-range planning as embodied in the 5-Year Capital Improvement Program, and why a specific consultant has been chosen for the work, and
- b) Clearly define levels of approval and the delegation of authority.

The Administration agrees with this recommendation.

- a) ESD will update its standard operating procedures for developing and processing service orders (SOP 122). New guidelines will be provided to better document how proposed project scopes align with the respective master agreement and the 5-Year Capital Improvement Program (CIP) as well as the consultant selection process.
- b) ESD will develop an approval matrix and delegation of authority policy similar to the ones being used by PW.

SHARON WINSLOW ERIKSON, CITY AUDITOR

June 12, 2013

Subject: Response to Regional Wastewater Facility Master Agreements: New Procedures and Better Contract Management Needed

Page 3

Recommendation #5: To improve contract management and monitoring of service orders under the master agreements, the Environmental Services Department should ensure that the Program Management consultant implement the program administration controls and provide the planning and engineering support outlined in the March 28, 2013 Request for Qualifications for Program Management services.

The Administration agrees with this recommendation. The consultant selection process for program management services is underway with contract award anticipated in August 2013. Concurrently, ESD is working to update its existing standard operating procedures (SOP 122 and 303) and intends to create new procedures, standard forms, and/or checklists to ensure effective and consistent management of service orders. The intent is to preserve critical contract documents, institutional knowledge, and project deliverables.

Recommendation #6: ESD should modify its service order development and invoice processing standard operating procedures to require that project managers and/or the budget analyst review whether actual work performed is charged to the proper appropriation.

The Administration agrees with this recommendation. This finding is specific to two service orders with atypical scopes and deliverables, namely, to provide programmatic and technical advice for different project areas. With the 2012-2013 CIP, ESD introduced a new appropriation for program management services which should eliminate the potential for allocating program-wide charges across multiple project areas. ESD will also review its invoicing approval procedures to include the necessary controls to ensure accurate allocation of charges.

Recommendation #7: The Environmental Services Department should improve its adherence to existing Municipal Code requirements to ensure work does not commence on a project prior to final service order approval.

The Administration agrees with this recommendation. ESD will provide additional training to its project managers to ensure consistency in service order administration and documentation, and compliance with Municipal Code requirements.

/s/

Kerrie Romanow
Director, Environmental Services

For questions please contact Ashwini Kantak, Assistant Director, at (408) 975-2553.