



Office of the City Auditor

**Report to the City Council
City of San José**

**COVID-19 FOOD
DISTRIBUTION
EXPENDITURES: THE CITY
SHOULD ADDRESS GAPS
IN EMERGENCY
DOCUMENTATION AND
PROCEDURES**

**Report 22-06
October 2022**

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October 6, 2022

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

COVID-19 Food Distribution Expenditures: The City Should Address Gaps in Emergency Documentation and Procedures

The COVID-19 pandemic created an unprecedented demand for emergency services. At the start of the emergency, Santa Clara County requested that San José (City) provide food and necessities throughout the county. The City coordinated a network of food providers to feed vulnerable county residents from 2020 into 2021. The City has continued to coordinate food services within city limits throughout the emergency.

Before the pandemic, the City had limited experience providing food services. Its primary experience was through the Senior Nutrition Program, which provided around 200,000 meals per year, or 4,000 per week. Staff estimated that the City needed to increase the number of weekly meals by 1.3 million to meet demand from the pandemic. The City used the General Fund and federal relief dollars to significantly expand its food distribution efforts. Each funding source allows money for food distribution, but funding source rules vary on target populations, expenditure deadlines, and requirements around documentation and procurement.

The objective of this audit was to review the transparency and accountability of food distribution expenditures during the pandemic. A Councilmember requested this audit.

Finding I: The City Spent \$79.3 Million on Food Distribution. From the start of the pandemic through June 2022, the City spent \$82.6 million on food and necessities distribution. Most of the spending (\$79.3 million) went toward direct food provision (i.e., meal or grocery delivery or pick-up) and food boxing. Additional funding went toward necessities like diapers, and other expenses, like supplies and materials. We found:

- The City used several federal funding sources (i.e., funds from the Federal Emergency Management Agency (FEMA), Coronavirus Relief Funds (CRF), and American Rescue Plan Act (ARPA) funds), as well as the General Fund. Each of these sources had different eligibility requirements for food distribution, and different procurement and documentation requirements.
- The food contracts specified target populations within the city and county most affected by COVID-19 either directly (medically) or indirectly (economically).
- Based on available data, vendors report that between March 2020 and December 2021, they distributed around 6.5 million meals, 13.8 million pounds of groceries, and 762,000 grocery boxes.

Finding 2: The City Should Gather Additional Documentation to Corroborate Service Delivery and Support the City's Claims to Federal Funds. As noted, the City used various federal funding sources for food distribution services. Each of the federal funding sources are subject to review by federal granting agencies. The City has been working to document all expenditures in preparation for such reviews. We found:

- The City faced challenges in contract development and management. Challenges stemmed from the immediate need of the emergency, the different timing and ambiguity of requirements from federal funding sources, and limited staff resources.
- At the time of the audit, the City had not fully documented that food contracts followed some federal procurement requirements for competitive purchases, nor documented justifications for all non-competitive emergency purchases. These requirements vary by funding source.
- Although the City received invoices and performance reports from vendors, the City did not generally corroborate information in performance reports by requesting backup documentation (such as intake forms or delivery receipts). Grants management best practices recommend maintaining controls for contract compliance, including procedures to ensure the reliability of third-party information.

Recommendations: The Administration should:

- Collect documentation supporting federal compliance with procurement rules to include in its cost recovery files
- Retroactively collect sample documentation from vendors to verify adherence with contract terms, reported service delivery, and eligibility of contracted populations

Finding 3: Updating Emergency Guidance Can Prepare the City for Future Emergencies. The Emergency Operations Plan (EOP) gives an overview of the City's emergency procedures and responsibilities. We found:

- The EOP provides limited guidance on procurements using federal funds or contract management during an emergency.
- Purchasing staff created tools during the emergency to help the City meet federal requirements, but they were not consistently used. Staff attribute this to the timing of their development.
- Staff followed PRNS guidelines on contract monitoring. Those guidelines do not reflect all requirements for federal grants and best practices for contract management.
- Integrating lessons learned around purchasing and contract monitoring into the EOP will help prepare the City for future emergencies.

Recommendations: To prepare for potential contracting needs in future emergencies, the Administration should update the EOP to:

- Revise staff roles and formalize emergency procurement tools developed by Purchasing
- Include a reference to guidance supporting federal grant compliance for contract monitoring

PRNS should also update its contract management guidance to include expectations on verifying service delivery through site visits and desk reviews

This report has five recommendations to improve the documentation of emergency-related expenses, and procedures around emergency-related procurements and contract monitoring. We plan to present this report at the October 13, 2022 meeting of the Neighborhood Services and Education Committee. We would like to thank staff in the Department of Parks, Recreation and Neighborhood Services, Finance Department, Office of Emergency Management, City Attorney's Office, and Budget Office and for 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 yellow pages.

Respectfully submitted,



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Background

The COVID-19 pandemic created an unprecedented demand for City emergency services. On January 21, 2020, the Centers for Disease Control and Prevention (CDC) confirmed the first diagnosed case of a U.S. resident with COVID-19, a new, highly infectious virus. By March 4, the California Department of Health Services reported the first death in the state related to COVID-19, and the Governor declared a state emergency.¹ On March 16, Santa Clara County (County) issued a shelter-in-place order, such that individuals could only leave their residence to perform essential activities. The County also asked the City to provide food and necessities throughout Santa Clara County.² At this point, the Emergency Operations Center (EOC) was fully activated. The City started operations to support the continuity of essential City services (such as public safety and utilities) and emergency-related activities such as food distribution and sheltering services to at-risk communities.

The City’s Emergency Operations Plan Describes the City’s Emergency Response Policies, Roles, and Responsibilities

The City’s Emergency Operations Plan (EOP) gives an overview of the City’s approach to emergency operations and the recovery process. The EOP outlines responsibilities for City departments supporting the EOC. When activated, the EOC leads emergency communication, coordination, and resource management.

The first operational priority of the EOC is to save lives; another is to provide for basic human needs, including food. The structure of the EOC is based on standardized incident management practices. Different sections of the EOC focus on overall management, operations, logistics, and recovery efforts. The Food and Necessities Branch was part of the EOC’s Operations Section.

EOC
The City’s Emergency Operations Center (EOC) is a cross-departmental team that focuses on responding to an emergency.

For most emergencies, the EOC operates on a short-term basis. During the COVID-19 pandemic, the EOC remained active for nearly two years.

The City Stepped in to Address a Need for Food Distribution Services

The EOC’s Food and Necessities Branch began coordinating countywide food distribution services in March 2020. Through the food distribution program, City

¹ In April 2020, the Santa Clara County Medical Examiner-Coroner reported that there were COVID-19 associated deaths as early as February 2020.

² The Santa Clara County Public Health Department acts as lead agency in a pandemic emergency. Santa Clara County is responsible for coordinating and managing countywide public health efforts during a public emergency.

staff managed a network of food providers to feed vulnerable San José residents throughout the pandemic, as well as residents of neighboring cities and unincorporated areas in Santa Clara County. The City coordinated meal and grocery delivery throughout the county into 2021. The City has continued to coordinate food services within San José’s city limits.

Before the COVID-19 Pandemic, the City Served Around 200,000 Meals Per Year through the Senior Nutrition Program

Before the pandemic, the City’s experience providing food services to residents was mostly through the Senior Nutrition Program.³ The program, which provides lunch to adults aged 60 and over, averaged around 200,000 meals a year prior to the pandemic, or around 4,000 per week. Staff estimated that the City would need to increase the number of weekly meals available across the county by around 1.3 million to meet the increased demand during the pandemic.

Staff estimated the City would need to increase meals by around **1.3 million meals** a week to meet increased demand during the pandemic.

This increased need for food occurred as many in-person and high-touch businesses closed, unemployment jumped, food banks reported a surge in demand, and school closures generated concerns that families with children receiving free or reduced-price lunch would not have enough food. Staff set out to feed residents with the program goals of “feed our most vulnerable,” “maximize existing food networks,” and “scale for a widespread food crisis.”

The City Sought Assistance in Creating a Food Distribution Program

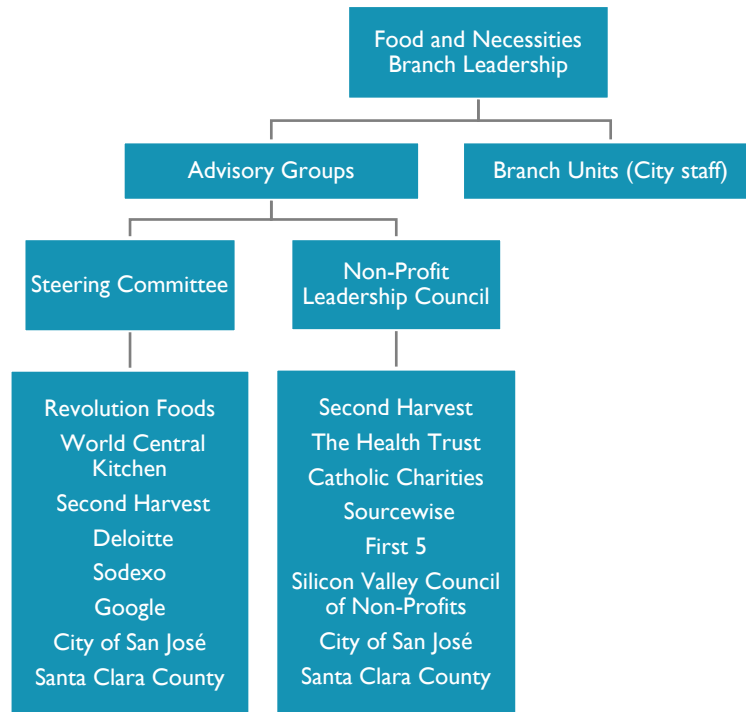
The City’s limited experience in food distribution, paired with the uncertainty of the emergency, made it difficult to implement a countywide food program. Staff report that they were unfamiliar with how to assess food insecurity in the community. Additionally, staff feared that strained supply chains and panic buying could lead to food shortages and rising costs.

Staff created a steering committee and non-profit leadership council to aid City staff in assessing the level of need in the community, identifying available resources, developing strategies, collecting data, and providing insight into the status of local food distribution efforts. The advisory groups were composed of representatives from local non-profit and for-profit organizations, as well as City and County staff, as shown in Exhibit I.⁴

³ The Department of Parks, Recreation and Neighborhood Services (PRNS) may also provide some food and snacks through its camps and youth programs.

⁴ As discussed further in Finding 2, some members of these advisory groups received contracts with the City.

Exhibit I: Local Food Providers Advised the City on Food Distribution Efforts



Source: Auditor summary of an Emergency Operations Center organization chart.

The City Used Federal Relief Dollars to Significantly Scale Its Food Services Budget

During the pandemic, the City received federal and state grants for COVID-19 relief. These grants came piecemeal and had grant-specific rules, as shown in Exhibit 2. Most of the City’s funding for food distribution has come from federal grants, though the City also used General Funds.

Exhibit 2: Three Major Federal COVID-19 Relief Funding Sources Supported Food Distribution

	FEMA	CRF	CSLFRF
<i>Funding Source</i>	Public Assistance from the Federal Emergency Management Agency (FEMA)	Coronavirus Relief Funds (CRF) from the Coronavirus Aid, Relief and Economic Security (CARES) Act	Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) from the American Rescue Plan Act (ARPA)
<i>Funding</i>	\$7.8 million*	\$178.3 million	\$212.3 million
<i>Date of availability</i>	Presidential emergency declared on March 13, 2020.**	Signed into law March 27, 2020, with initial funds available 30 days after enactment.	Signed into law March 11, 2021, with initial funds available 60 days after enactment.
<i>Type of award</i>	Reimbursement for documented eligible expenses.	Financial assistance issued to the City.	Financial assistance issued to the City.
<i>Awarding agency</i>	FEMA, California Office of Emergency Services (CalOES)	U.S. Department of the Treasury	U.S. Department of the Treasury
<i>Expenditure deadlines</i>	Estimated expenses through July 1, 2022 are due December 31, 2022.***	Obligated by December 31, 2021, and spent by September 30, 2022. (Original deadline was to obligate and spend funds by December 30, 2020.)	Obligated by December 31, 2024, and spent by December 31, 2026.
<i>Food distribution eligibility and restrictions</i>	Eligible expenses for purchasing, packaging, preparing, and delivering food for people who have tested positive for COVID-19 or who are at higher-risk, or “other populations based on the direction or guidance of the appropriate public health official.” FEMA has advised that food distribution outside of San José is not an eligible expense.	Eligible expenses for food delivery to residents, including senior citizens and other vulnerable populations. May fund food outside San José.	Presumes eligible populations (low- and moderate-income) experienced increased food insecurity.

Source: Auditor analysis of FEMA memos and final rules for CRF and CSLFRF.

* FEMA obligated \$7.8 million in expedited assistance to the City in summer 2020. Additional expenses are eligible for FEMA reimbursement. The FY 2022-23 Proposed Operating Budget projected \$40.7 million in revenue from FEMA.

** Funding is made available under a presidential declaration of emergency, but reimbursed upon completion of a request for public assistance and review by FEMA. FEMA issued guidance making expenses eligible from January 20, 2020 onward.

*** FEMA issued a policy on deadlines for the COVID-19 pandemic in June 2022. This policy states that December 31, 2022 is the deadline to identify and report all COVID-19 emergency work performed through July 1, 2022. There is not yet a deadline for expenses associated with COVID-19 work on or after July 2, 2022.

The City Started Winding Down Food Distribution and Ramping Up Fiscal Recovery Efforts

In July 2021, the City transitioned emergency operations from response to recovery. This transition decreased the activation level of the EOC. Some emergency services, such as food distribution, were transferred to City departments.

The Administration Division of Parks, Recreation and Neighborhood Services (PRNS) manages the City's remaining food distribution contracts.⁵ Within the Division, 6.5 full-time equivalent positions comprise the food distribution team. The team has struggled with vacancies, averaging a 50 percent vacancy rate since July 2021. Up until August 2022, just three employees staffed the team. The City has funded food distribution at decreased levels through fall 2022 to meet ongoing need.

Much of the City's Work to Document Federal Emergency Expenses Is Still Underway

Most of the City's food distribution funding has come from federal relief dollars, which are subject to various compliance rules. The City created the Finance Recovery Group (FRG) – now known as the Grants Oversight Group – to oversee reporting, compliance, and documentation requirements for the federal and state grants received by the City during the pandemic. FRG's goal is to help reduce the risk of federal agencies rescinding, or clawing back, part of the \$800 million in federal and state relief dollars received by the City.

The group, made up of seven limit-dated (to June 30, 2023) staff in the Accounting Division of the Finance Department, collects and reviews documentation to support expenses for FEMA, the Coronavirus Relief Fund (CRF), and Coronavirus State and Local Fiscal Recovery Funds (CSLFRF). FRG's work consists of reporting and compliance activities, including checking expenses for:

- ✓ eligibility under federal guidelines,
- ✓ timing (that expenses occurred within required spending periods), and
- ✓ support for costs incurred (namely, gathering invoices, contracts, purchases orders, proofs-of payment, and fiscal records documenting the movement of funds).

FRG staff have undertaken to review every emergency transaction, including General Fund transactions, for potential eligibility under federal grants. To this end, FRG staff has worked and continues to work closely with program staff in different departments to collect documentation supporting the City's claims to federal grant funds (such as invoices). To support this work, the City contracted with Ernst & Young to help the City identify eligible costs and meet federal requirements.

⁵ In 2019-20, the Housing Department managed a \$1.2 million grant for food distribution paid for with Community Development Block Grant (CDBG) funds issued by the U.S. Department of Housing and Urban Development. Housing also managed a First 5 contract for diaper distribution. (These were covered in our *Preliminary Review of the Allocation Process and Monitoring of COVID-19 Related Housing Grants*, issued December 2020.) Three food distribution contracts managed by PRNS used CDBG funding for limited sites and timeframes. PRNS staff reported that Housing monitored CDBG related expenses, though PRNS reported out on the contracts generally.

Funding for the FRG runs through fiscal year (FY) 2022-23. The group has a large scope of work, which is still in process. As of June 2022, the City had processed over 1,000 emergency transactions for food distribution alone. At the time of the audit, FRG reported that it was reviewing more than 8,300 emergency transactions from COVID-19 funds through December 31, 2021.⁶

Several Prior Audits and Management Reports Have Identified Risks and Areas of Improvement

Our office released three memos on the City's response to the pandemic in 2020. The memos covered documentation of COVID-19 costs for recovery and the allocation and monitoring of COVID-19 related housing grants (issued by the U.S. Department of Housing and Urban Development and the State of California).⁷ These memos identified potential risks and described the City's development of controls associated with:

- tracking expenditures funded by federal grants;
- collecting supporting documentation for expenses, including cost or price analyses and reasons for non-competitive procurement methods;
- incorporating tools to ensure proper authorization of emergency expenses into a process that captures all emergency contracts;
- eligibility for people receiving food paid with federal funds; and
- delayed on-site monitoring of vendors providing services using federal funds on the City's behalf (grant subrecipients).

In 2022, our office also issued an audit of Citywide federal grant management.⁸ It noted that past audits have repeatedly raised concerns around the tracking and documentation of federal grant expenditures.⁹ The audit found that the City's decentralized grant management structure creates risk in managing grants and recommended development of Citywide guidance and training.

Specific to the pandemic response, the Office of Emergency Management (OEM) contracted a Preliminary Operational Assessment Report (OAR) to provide

⁶ This figure does not include transactions the group reviewed from the General Fund.

⁷ The first two memos, *Preliminary Review of Controls to Document COVID-19 Recovery Costs* (May 2020) and *Preliminary Review of Documentation for Costs Included in the July 2020 Coronavirus Relief Fund Interim Report* (October 2020), covered documentation. The third, *Preliminary Review of the Allocation Process and Monitoring of COVID-19 Related Housing Grants* (December 2020), covered grant management. These reports are available on our website: <https://www.sanjoseca.gov/your-government/appointees/city-auditor/audit-reports/>.

⁸ *Citywide Grant Management: Improved Coordination can Increase Federal Grant Opportunities and Standardize Grant Administration* (April 2022) is also available on our website.

⁹ The FY 2018-19 Single Audit found a significant deficiency related to the City's tracking of FEMA expenditures for financial reporting purposes for expenditures related to the City's 2017 flood response. The FY 2019-20 Single Audit report also noted errors in the City's reporting of its receipt of CRF funds. The 2020-21 Single Audit, however, did not find any errors with any of the federal relief funds received by the City. These reports are available on our website: <https://www.sanjoseca.gov/your-government/appointees/city-auditor/external-financial-audits>.

feedback on potential improvements to emergency processes. The OAR acts as a sort of after-action report, though the emergency was still active when the OAR was prepared.¹⁰ The OAR had several findings relating to food distribution, including recommendations to:

- Establish preapproved agreements and a pre-vetted list of organizations the City can call upon during a future food emergency;
- Prepare City staff to serve in cross-departmental functions in the EOC by conducting trainings and creating clear guidelines, such as checklists around emergency procurement;
- Develop a food and necessities annex in the EOP and codify best practices;
- Ensure food distribution sites can accommodate residents with functional needs, are easily accessible by public transit, and are large enough to allow for social distancing; and
- Improve emergency communications for non-English speakers.

¹⁰ The OAR covers the City's response from January 2020 to October 2020. Once the pandemic ends, OEM plans to issue an after-action report covering the entire COVID-19 response.

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Finding I **The City Spent \$79.3 Million on Food Distribution**

Summary

From the start of the pandemic through June 2022, the City spent \$82.6 million on food and necessities distribution. Most of that money (\$79.3 million) went toward direct food provisions (i.e., meal or grocery delivery or pick-up) and food boxing. Additional funding went toward necessities like diapers or other expenses like supplies or materials. Based on target populations specified in the vendor contracts, most money went towards supporting city and county residents that had been affected by COVID-19 either directly (medically) or indirectly (economically). Based on available data, vendors report that between March 2020 and December 2021, they distributed around 6.5 million meals, 13.8 million pounds of groceries, and 762,000 grocery boxes.

The City used several federal funding sources (from FEMA, as well as Coronavirus Relief Funds (CRF) and Coronavirus State and Local Federal Relief Funds (CSLFRF) issued by the U.S. Department of the Treasury), as well as the General Fund. Each of these sources had different eligibility requirements for food distribution.

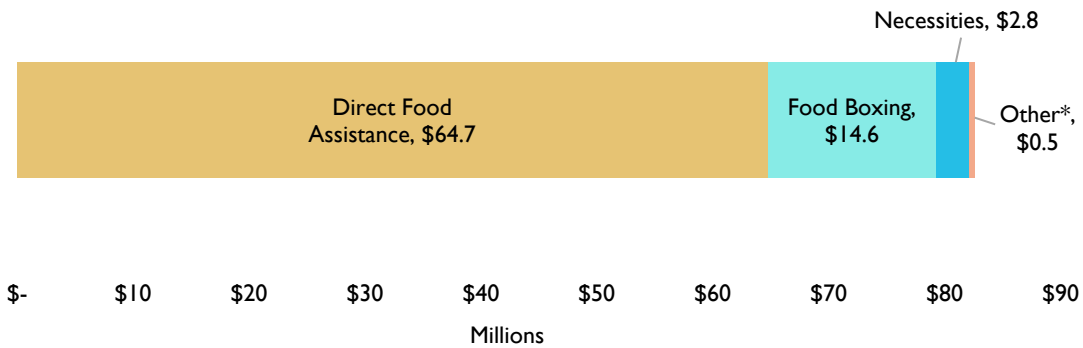
The City Allocated Significant Relief Dollars Towards Food Distribution

From March 2020 through June 2022, the City spent \$79.3 million on food distribution.¹¹ Necessities, which included items like diapers and hygiene kits, totaled \$2.8 million. The City reserved an additional \$4.2 million for future food and necessity expenses.

Most of the money spent has gone towards supplying food, which included direct food services (i.e., meal or grocery delivery) and support services. Support has primarily been through a program that paid workers to box groceries on behalf of a local food bank. As of June 2022, the City has spent \$64.7 million in direct food services and \$14.6 million in support services (i.e., food boxing) (see Exhibit 3). For the most part, these expenditures were contracts with food vendors.

¹¹ This figure is based on auditor analysis and compilation of expenses in the City's financial management system (FMS). We compiled all non-personnel expenses under food and necessities appropriations as well as food-related expenses within a FEMA appropriation. We manually reviewed documentation for batched expenses that moved between funds to understand the amount and use of that money. As needed, we supplemented this review with tracking documents and invoices maintained by PRNS. This figure does not include City or temporary staff.

Exhibit 3: Expenditures Mostly Went Toward Direct Food Services, Such as Meal and Grocery Delivery



Source: Auditor analysis of FMS data, food distribution contracts, and PRNS contract monitoring documentation for expenses through June 30, 2022.

* Other expenses primarily include supplies and materials.

The City Contracted 20 Vendors to Support Food Distribution to Residents Most Impacted by COVID-19

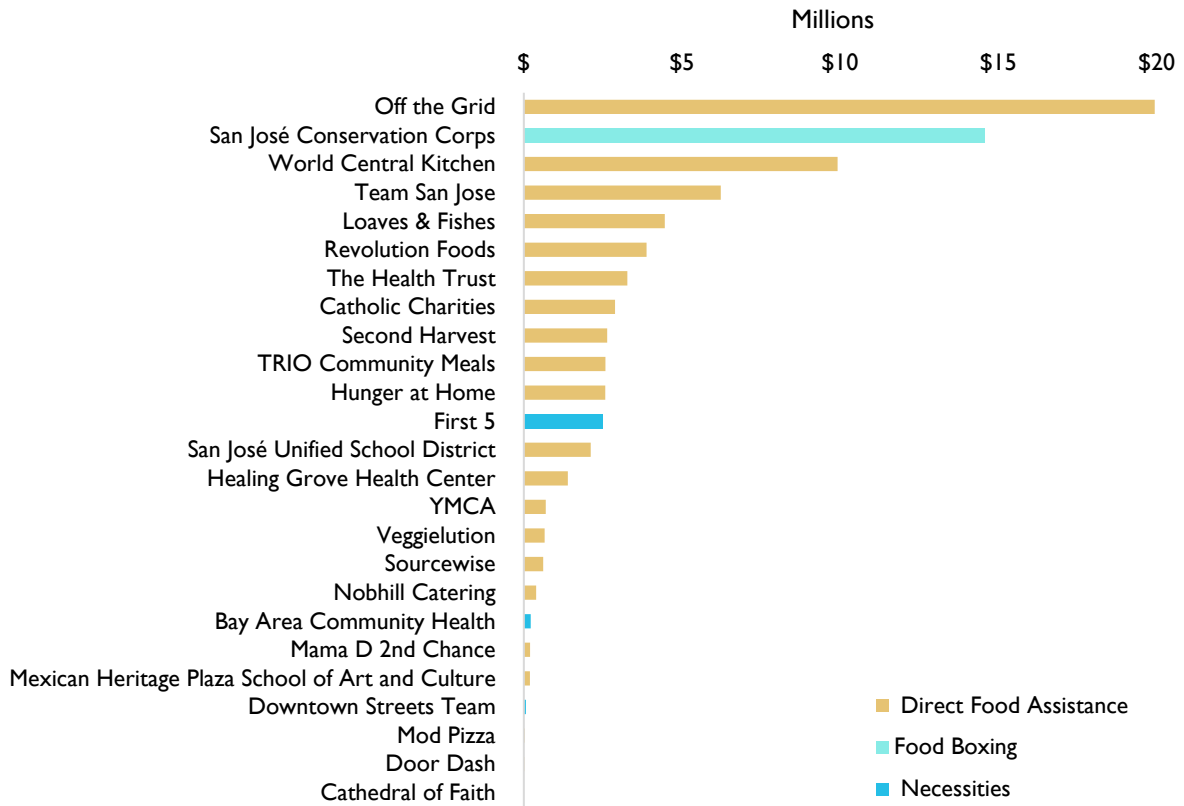
From March 2020 through June 2022, the City contracted 20 vendors to provide and support food distribution services within San José as well as other parts of Santa Clara County.¹² Most of the money that the City has spent for food distribution paid for services within San José.¹³ As noted in the Background, the City coordinated countywide food distribution from the start of the pandemic into 2021.

As of June 30, 2022, the City’s top food distribution vendors, in terms of cost, included Off the Grid (\$19.9 million), San José Conservation Corps (\$14.6 million), World Central Kitchen (\$9.9 million), Team San Jose (\$6.2 million), and Loaves and Fishes (\$4.5 million). Combined, these vendors accounted for 69 percent of the City’s food distribution costs. Exhibit 4 shows the amounts paid to all food distribution vendors, as well as the food distribution programs these vendors supported.

¹² The City also paid for food services through Door Dash and Mod Pizza. However, the City did not have formal contracts with these vendors.

¹³ Based on our review of contract terms and FMS transaction data for direct food contracts, the City funded at least \$3.3 million, or 4 percent of the total, of food services outside of San José as of June 2022. Another \$7.1 million went to contracts that covered meals both within and outside San José city limits; however, our review did not break those costs out further between inside and outside of San José. Based on Finance’s review of all food and necessities invoices, Finance reports \$59.3 million was spent inside of San José, and \$5.2 million was spent outside of San José from March 2020 to December 2021.

Exhibit 4: The City Spent a Majority of Food and Necessities Distribution Money on a Few Vendors



Source: Auditor analysis of FMS data, food distribution contracts, and PRNS contract monitoring documentation for expenses through June 30, 2022.

Note: This chart includes 18 vendors contracted to provide direct food services, two vendors to provide support for food distribution, two vendors (Mod Pizza and Door Dash) who provided services but were not under a contract, and three vendors who provided necessities.

The City organized food services by program. Some programs provided direct services; others provided support services. Most of the funding for the City’s food distribution has gone to four programs:

- meal and grocery distribution, which provided direct support to residents via home delivery or pick-up locations (\$30.2 million);
- food boxing to support the Second Harvest of Silicon Valley food bank (\$14.6 million);
- meals for people in temporary housing, such as those in isolation or quarantine due to COVID-19 exposure or experiencing homelessness (\$9.9 million); and

- collective impact grants (CIG), a grant program developed by the City to seek proposals from local nonprofits to distribute food and necessities to residents affected by COVID-19 (\$8.6 million).

Combined, these four programs accounted for most of the money that the City has spent on food services (80 percent of the \$79.3 million for direct food distribution). The other food programs included providing meals at school locations throughout Santa Clara County and feeding seniors.

The City Focused Food Distribution Efforts Toward Vulnerable Residents

Based on a goal to “feed our most vulnerable,” City staff focused on providing food to the residents affected by the pandemic. The City’s agreements with food vendors focused on services to residents most affected by or at risk from COVID-19. This included residents likely affected by the pandemic either directly (medically) or indirectly (economically). The City’s contracts had target populations for people medically at-risk, seniors, low-income families, people in temporary shelters, and families experiencing job loss. As noted in Finding 2, however, the City should take additional steps to corroborate that services went to the target populations specified in the agreements.

From March 2020 to December 2021, Vendors Report Distributing 6.5 Million Meals, 13.8 Million Pounds of Groceries, and 762,000 Grocery Boxes

Vendors reported their meal and grocery counts to the City. Based on available data, vendors reported distributing around 6.5 million meals, 13.8 million pounds of groceries, and 762,000 grocery boxes from March 2020 through December 2021.¹⁴ The data includes meal and grocery counts from food vendors contracted by the City.¹⁵ The data does not include meal or grocery counts from vendors outside of their contracts.

As discussed in the Finding 2, the City should take additional steps to corroborate these reported totals and to confirm services were fully provided as contracted. Refer to Appendix B for reported food services by vendor.

¹⁴ These figures are a subset of the total food distributed through June 2022. (From March 2020 to December 2021, the City recorded \$55.8 million in direct food service expenses. As noted earlier, expenses for direct food services totaled \$64.7 million through June 2022.) As a note, staff estimated that 1.2 pounds of food equate to one meal. Grocery boxes varied in the quantity and type of food provided.

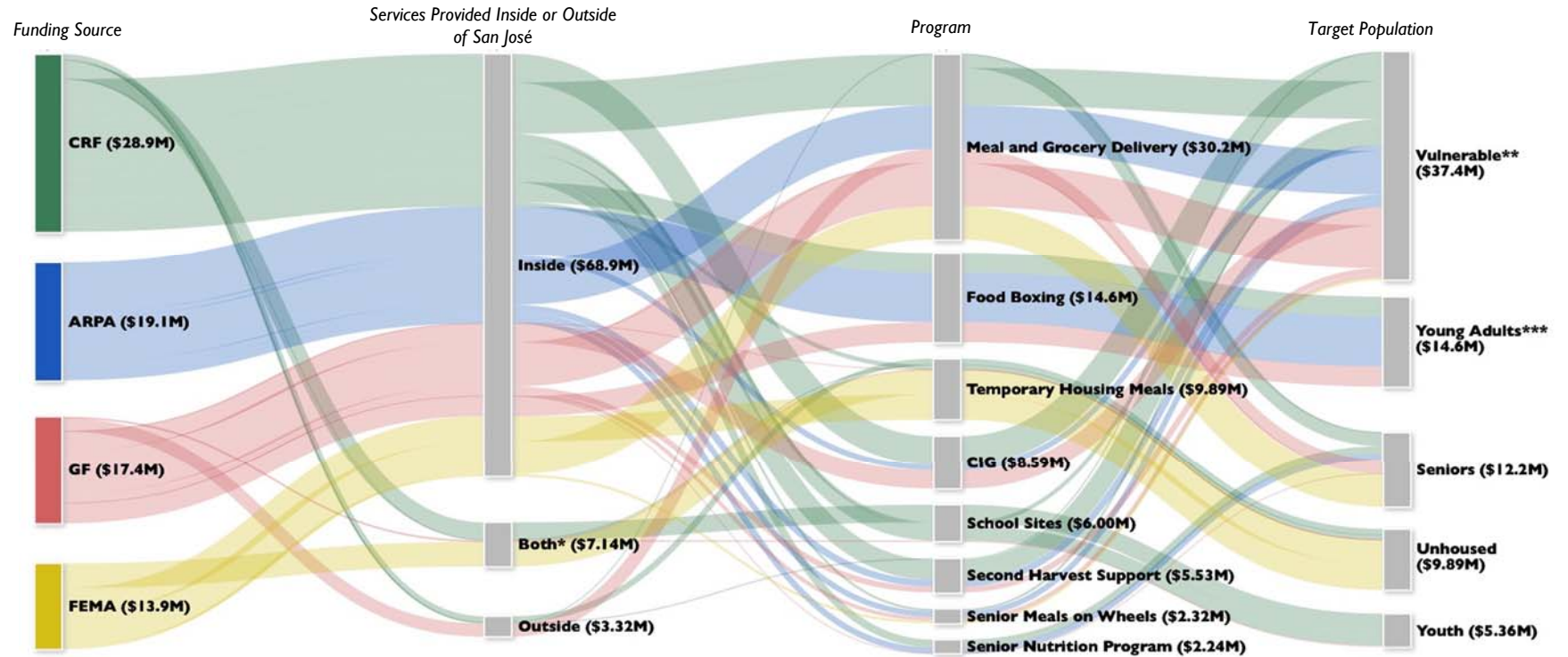
¹⁵ As a note, this figure does not include other meals or groceries provided in the County without direct contracts for service with the City. Data is reported by vendor and not by contract. Data may be incomplete and exclude counts that were not reported or could not be located.

Shifting Funding Sources Complicated the Flow of Food Distribution Funding

As noted earlier, the City primarily used federal grants to fund food distribution services. Although these grants allowed the City to significantly increase its emergency response, they also created challenges. The federal grants had different dates of availability, eligibility requirements, and spending deadlines, which changed over time. Staff reported that as a result, they had to reallocate expenses among funding sources to match food distribution expenses with eligibility requirements and spending deadlines to maximize grant use.

Exhibit 5 shows how much money flowed from each source through different programs and target populations, as well as whether services were provided inside or outside San José city limits.

Exhibit 5: Food Expenses by Fund, Location, Program, and Target Populations



Source: Auditor analysis of the City’s financial management system data, PRNS contract monitoring documentation, and food distribution contracts.

Note: The exhibit shows food expenses from the beginning of the pandemic in March 2020 through June 30, 2022 for food contracts managed by PRNS.

* Expenses for services provided ‘both’ inside and outside San José were combined in a single transaction in the City’s financial management system. As a note, based on Finance’s review of all food and necessities invoices, \$5.2 million was spent outside of San José from March 2020 to December 2021.

** “Vulnerable” refers to individuals and families likely to have been affected by the pandemic either directly (medically) or indirectly (economically). This includes individuals with certain underlying health conditions or at-risk populations, as defined by the CDC, as well individuals experiencing economic hardship because of the pandemic.

*** “Young adults” refers to the target population of the Resilience Corps Food Security Program, which provides job training and work experience for people aged 18 to mid- to late-20s.

Finding 2 The City Should Gather Additional Documentation to Corroborate Service Delivery and Support the City’s Claims to Federal Funds

Summary

The City used various federal funding sources for food distribution services. Funds from each source are subject to review by federal granting agencies. The City has been working to document all expenditures in preparation for such reviews. At the time of the audit, the City had not fully documented 1) that food contracts followed all federal procurement requirements for competitive procurements or 2) justifications for non-competitive emergency purchases. The City should include documentation supporting federal compliance for procurement in its cost recovery files or reallocate expenses among the different sources as necessary.

Additionally, although the City received invoices and performance reports from food vendors, the City did not generally verify delivery to target populations or other information in the performance reports by requesting delivery receipts, participant intake forms, or other supporting documentation. Collecting such documentation helps ensure residents received the services promised under the contracts. To corroborate service delivery, verify adherence with contract terms and funding requirements, and reduce the likelihood of questioned costs by grant agencies, the City should collect sample backup documentation from vendors to support reported service levels.

Collecting Documentation Can Help Ensure the City Met Federal Procurement Rules

To provide food distribution services to the county, City staff procured and managed contracts with food vendors during the emergency. (See Appendix C for a list of agreements for vendors supporting direct food distribution.) Federal requirements for purchasing services, awarding contracts, and monitoring performance are outlined in Exhibit 6. Some of these requirements also apply when conducting non-grant procurements, as outlined in the City’s Municipal Code and City policy.

Exhibit 6: Federal Rules Apply Throughout the Contracting Process



* The City must take affirmative steps to include minority businesses, women’s businesses, and labor surplus area firms on solicitation lists for competitive procurement when possible.

Source: Auditor summary of Uniform Guidance contracting guidance for non-state entities. Uniform Guidance requires maintaining procurement records, suggesting documents such as procurement method, contract type, and contractor selection. FEMA further recommends documentation for following socioeconomic affirmative steps and conducting cost or price analysis.

Procurement Rules Varied Across Federal Funding Programs

To pay for food distribution services, the City used various federal funding sources during the emergency, including FEMA, ARP (CSLFRF), and CRF. Each funding source has different procurement and documentation requirements (see Exhibit 7). For FEMA and CSLFRF, the City must comply with Uniform Guidance and follow its own documented procurement policies.¹⁶ CRF guidance did not detail procurement requirements.¹⁷ The City also used General Funds for food distribution and should follow procurement guidelines outlined by City policy.

Uniform Guidance

Most federal grants to cities require that the cities comply with Uniform Guidance, a set of rules designed to prevent misuse of federal awards. Rules include progress reporting, monitoring, and standards for procurement.

¹⁶ The Uniform Guidance is a set of rules around managing federal grants and is recorded in the Code of Federal Regulations (CFR) chapter 2, part 200. It applies in part to FEMA, ARPA, and CRF grants. 2 CFR §200.318 states that the non-Federal entity must have and use documented procurement procedures when using federal awards. The procurement procedures must conform with standards identified in §200.317 through §200.327.

¹⁷ The U.S. Department of Treasury republished its final guidance for CRF on January 15, 2021. The final rule mentions procurement policies when determining cost eligibility within a covered period, but the guidance does not discuss procurement or conflict of interest requirements. CRF desk review procedures by the Department of Treasury also do not discuss such requirements.

Exhibit 7: Funding Sources Have Different Procurement Requirements

	FEMA	ARPA (SLFRF)	CRF	General Fund
	Uniform Guidance			
<i>Non-competitive purchases in an emergency</i>	Non-competitive procurement is allowed in an emergency or when available only from a single source.		CRF does not provide guidance on procurement.	The City does not need to use competitive procurement for emergency purchases.
<i>Threshold for competition (when not making emergency or sole-source purchases)</i>	Purchases over the threshold typically require a competitive process. The federal threshold is \$250,000. However, the City must use its lower threshold of \$130,000.*		CRF does not provide guidance on procurement.	For purchases of more than \$130,000,* the City typically uses a competitive process to request for bids (RFB) or proposals (RFP).
<i>Cost or price analysis</i>	The City must conduct a cost or price analysis for both competitive and non-competitive procurements above the federal simplified acquisition threshold of \$250,000. Because the City's threshold of \$130,000* is lower, the City's threshold would apply.		CRF does not provide guidance on procurement.	Purchases up to \$130,000* require request for quote(s). Purchases above the City's threshold of \$130,000* typically require an RFB or RFP, except during an emergency.
<i>Steps to reach certain firms</i>	The City must take affirmative steps to reach minority businesses, women's businesses, and labor surplus area firms for competitive procurement when possible.		CRF does not provide guidance on procurement.	The Municipal Code provides preference towards local and small businesses. The preference is not applied to procurements under grant programs, such as FEMA and ARPA.
<i>Conflict of interest requirements</i>	In both competitive and non-competitive procurements, the City must prevent employees with a conflict of interest from awarding contracts.		CRF does not provide guidance on procurement.	City staff and outside parties involved in developing specifications, solicitation, and evaluations must complete a conflict of interest form before beginning work in that area. ¹⁸

Source: Auditor analysis of Uniform Guidance (2 CFR 200), FEMA guidance, ARPA (SLFRF) Final Rule, CRF Final Rule, San José Municipal Code, City Policy Manual, Purchasing Guidelines and Checklist for Federally Funded Procurements, and Memorandum on Adjustments to Contract Authority Limitations.

* As of July 1, 2022, the City's threshold increased from \$130,000 to \$140,000.

The City Appears to Have Met Many Procurement Requirements

For competitively bid contracts for food distribution, the City appears to have met many of the procurement guidelines outlined in federal rules, including:

- Maintaining a documented history of procurement, including rationale for procurement method and contractor selection (§200.318)

¹⁸ While staff collect conflict of interest forms for evaluators, staff report that it is not their current practice to collect those forms for people who have helped to develop specifications or the solicitation. We referred this to the Administration.

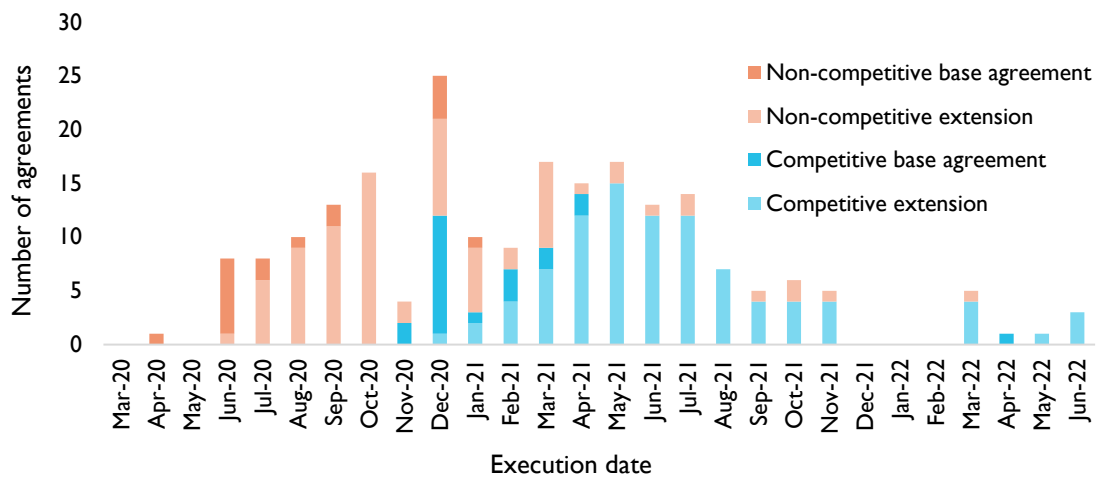
- Having written procurement procedures that ensure an accurate description of the requested service (§200.319)
- Ensuring awards are not made to debarred or suspended organizations (§180.300)

The City’s competitive procurement files contain a list of awarded vendors and the requested scope of work. The City also appears to have met requirements around public advertisement, disclosure of evaluation factors and their relative importance, and consideration of all proposals. Sampled vendors did not appear on the System for Award Management (SAM) as debarred or suspended.

The City Transitioned From Non-Competitive to Competitive Procurements During the Emergency

As shown in Exhibit 8, the City moved towards competitive contracts for direct food distribution after initially relying on non-competitive contracts. This is in accordance with FEMA guidance. Uniform Guidance allows non-competitive purchases in emergency circumstances, but FEMA generally requires recipients to move to competitive bids as soon as possible.

Exhibit 8: Food Distribution Contracts Largely Transitioned From Non-Competitive to Competitive



Source: Auditor analysis of contracts for direct food provision (i.e., not inclusive of support services like food boxing or necessities distribution) with contract terms between March 2020 and June 2022.

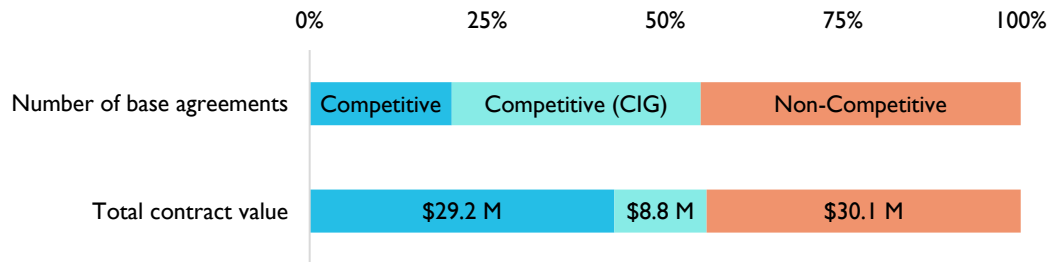
Note: Competitive includes CIG agreements. Not all options to extend a contract had execution dates; where available, we used the date on the contract transmittal form or a retroactive memo as a proxy. We excluded two extensions without clear execution dates or proxies. As a note, most contracts were executed retroactively, or after the term already started.

Finance’s Purchasing Division (Purchasing) facilitated two competitive procurement processes for food distribution in fall 2020, resulting in eight

competitive contracts. Separately, PRNS had an open call for proposals for the Collective Impact Grant (CIG) program in late 2020, resulting in 14 contracts.

In all, less than half of contracts for direct food distribution were non-competitive (see Exhibit 9). Over time, the City did not renew some non-competitive contracts and allowed them to expire, though it did extend others. Some vendors initially received non-competitive contracts, but later participated in a competitive procurement.

Exhibit 9: Less than Half of Direct Food Distribution Agreements and Contract Value Were Non-Competitive



Source: Auditor analysis of contracts for direct food provision (i.e., not inclusive of support services like food boxing or necessities distribution) with contract terms between March 2020 and June 2022.

Note: Total contract value refers to not-to-exceed value for base agreements and extensions through amendments or contract options for the full potential value of the contract. Invoiced amounts may be less than the not-to-exceed value.

The City Can Fill Gaps to Document Compliance With Federal Procurement Requirements

While the City met many procurement requirements, it does not appear to have documented compliance with all Uniform Guidance requirements, including:

- Taking affirmative steps to include minority-owned firms in procurement solicitation lists (§200.321)
- Conducting cost or price analysis for any purchase above a certain threshold (§200.324)¹⁹
- Separately negotiating profit for competitive contracts with a sole responsive bidder (§200.324)
- Written justification for all non-competitive procurements (FEMA, CSLFRF, City policy)

¹⁹ This is based on the most restrictive threshold for competitive procurement under the local, state, or federal law. The City’s formal bidding threshold (previously \$130,000; \$140,000 as of July 1, 2022) is more restrictive than the federal threshold of \$250,000. Conducting a cost or price analysis is required for both non-competitive and competitive purchases.

Many of these requirements vary from City-standard processes. Absent documentation of these requirements, the City may need to reallocate expenses to alternate funding sources. As discussed in Finding 3, Purchasing staff developed tools to address federal procurement requirements during the emergency, but due to timing, these tools were not consistently used.

Federal Guidelines Require Documented Justification for Non-Competitive Contracts

FEMA, CSLFRF, and City Policy 5.1.4 require written justification for non-competitive procurements. This rule applies in situations when conducting a competitive procurement would delay an emergency response or when an item is only available from a single source. For FEMA purchases, for example, justification should:

- Identify which circumstance listed in Uniform Guidance justifies non-competitive procurement,
- Provide a description of the service being procured,
- Explain why non-competitive procurement is necessary,
- State how long the non-competitively procured contract will be used,
- Describe specific steps taken to determine competition could not have been used,
- Describe any known conflicts of interest and efforts made to identify possible conflicts, and
- Include any other information justifying the use of noncompetitive procurement in the specific instance.²⁰

At the time of the audit, Purchasing and FRG were completing sole-source justification memos for FEMA purchases. Staff also report that they intend to complete these memos for CRF and CSLFRF funded purchases. Finance's memo template appears to include most of the criteria above. However, it does not describe efforts to identify possible conflicts of interest.

Steering Committee and Non-Profit Leadership Council Members Received Contracts From the City

The City should address any appearances of conflicts of interest by documenting the decision-making around vendor selection. This will help justify the need for a particular vendor's services. For example, multiple organizations that held advisory positions on the food distribution steering committee or non-profit

²⁰ FEMA released "Procurement Under Grants: Under Exigent or Emergency Circumstances" guidance on March 20, 2020, which suggests these elements to include in non-competitive justification memos. Uniform Guidance only allows non-competitive procurement in specific circumstances listed in §200.320, such as during a public exigency or emergency or when items are only available from a single source.

leadership council also received sole-source contracts.²¹ Additionally, three vendors received sole-source contracts for food distribution following separate, unsuccessful competitive bids. (The competitive processes successfully awarded contracts to responsive bidders.) The reasons for sole-source awarding decisions should be well documented, as sole-source procurement has fewer controls to prevent conflicts of interest in issuing awards.

Overall, collecting additional documentation on steps taken during competitive and non-competitive procurements can help ensure the City met procurement requirements for its various funding sources.

Recommendation:

I: For FEMA and ARPA funded expenditures, the Administration should document in its emergency cost recovery files:

- **specific justification for all sole-source and non-competitive contracts, as well as any changes to existing contracts beyond the scope of the original agreement, including appearances of conflicts of interest and efforts made to identify potential conflicts,**
- **cost or price analysis for all purchases and contract modifications over the City’s formal bidding threshold, and**
- **other information as required to document compliance with federal requirements for competitive procurements (e.g., affirmative steps to include minority-owned firms in solicitation lists and separate negotiation of profit for solely responsive bidders).**

For expenses where the Administration is unable to document compliance with appropriate requirements, it should reallocate those expenses to alternate funding sources.

Additional Documentation From Vendors Can Help Verify That Services Were Delivered as Reported

Staff in the EOC Food Distribution Branch and PRNS handled the management and monitoring of food contracts. As noted in the Background, just three staff in

²¹ We reviewed meeting minutes from the steering committee and did not see any indication that the committee discussed procurement decisions or specifications. In reviewing the timing of contracts awarded to steering committee members, Deloitte and Revolution Foods’ participation followed their initial contract execution dates. Second Harvest’s participation preceded its contract period. Staff report that World Central Kitchen, while listed, did not attend committee meetings.

PRNS managed food contracts, which incurred more than 1,000 emergency transactions.

Staff Checked Vendor Invoices for Consistency With Service Reports

To monitor contracts, staff collected invoices and vendor-submitted service reports, in which vendors report how many meals or groceries they provided. Staff cross-referenced the invoices and service reports for consistency. For grantees in the CIG program, staff also tracked vendor-reported expenses against contracted budgets. Staff reported that when they found discrepancies between the amount of food billed and the amount of food reported, they would follow up with the vendor for clarification. Additionally, staff may have followed up with the vendor when the final invoice was less than the contracted installment amount.

Contract Monitoring

Ongoing monitoring ensures vendors are performing contracted services. Monitoring can include reviewing vendor reports and invoices, visiting vendor sites, and conducting desk reviews to review vendor files and systems for compliance with contract terms.

Based on this review, staff submitted invoices to management for approval and fiscal staff for payment. Additionally, staff visited some vendor sites to talk with vendor staff about operations.

Sample Invoices and Supporting Documentation Did Not Clearly Show How Vendors Used City Funds

Despite this process, some invoices examined during the audit did not appear to provide sufficient or accurate detail.²² In these cases, the amount of distributed food reported by the vendor did not align with expenses incurred by the vendor and subsequently charged to the City. Such invoices did not inform the City how the vendor allocated funds between food, labor, equipment, and other operating and administrative expenses. For example:

- Six invoices were billed based on contracted budgets, rather than the reported number of meals. Five of the invoices did not specify the

²² We used a stratified judgmental sample from our inventory of direct food contracts to select 13 invoices from 10 vendors to review against vendor-submitted service reports. The purpose of the limited testing was to understand the controls that the City had in place to ensure services were provided as intended in the contracts before payment. Based on this sampling methodology, we determined that the City's controls did not corroborate reported participant eligibility or the reported number of meals or food delivered for all vendors. We should note that because the sample was limited and risk-based, we cannot extrapolate results to the full population of vendors. Following the initial sample, we reached out to a subset of eight vendors to request supporting documentation for reported service delivery. One vendor sent a letter noting it was unable to provide any supporting documentation for the meals provided. Other vendors provided partial support (e.g., participant information, but no delivery information, or vice versa). It is possible that these vendors and others could provide additional supporting documentation to staff to validate both service delivery and participant eligibility.

number of meals provided by the vendor. The sixth invoice charged a fraction of a meal. Staff report these contracts were to support staffing and program costs, rather than a per-meal basis (though the contracts had performance targets for food provided and target populations). The invoices did not have line items for actual expenses and generally did not include documentation to support those costs (such as receipts, timecard data, etc.).

- A seventh invoice referred to food distributed outside Santa Clara County. The vendor was only contracted to coordinate distribution inside San José.

Vendor service reports also indicated errors or did not have details of service delivery. For example, we noted instances of reports having invalid zip codes or zip codes outside Santa Clara County.²³ In other instances, location data, such as the zip code or city of a food delivery, were not included. Food vendors send in service reports, typically as an Excel file and aggregated by day or week, to report their performance. However, vendors do not have to submit documents to support their reported count, like delivery confirmations or participant intake forms or lists.²⁴

Insufficient review of invoices or vendor service reports increases the risk that the City has not received the contracted services, or that the City is paying for incorrect or unrelated program expenses.

Verifying Services Helps Ensure That Food Was Delivered as Intended

The vendors' contracts require that they keep documents supporting participant eligibility and location data.²⁵ However, the City has not generally collected or reviewed such documentation to verify that the target populations within contracts received the food they needed. As noted, the City was receiving service reports that provided aggregated data on service delivery, but these reports often did not provide sufficient detail about target populations served. Staff cited that limited bandwidth made it challenging to proactively check service reports against other vendor records. Grants management best practices

²³ In reviewing service reports submitted by vendors with total expenses of at least \$1 million and available location data, less than 1 percent of meals had zip codes outside Santa Clara County. This is a small error rate, but accounts for an estimated \$790,000 in meals based on a standard per meal contract rate. About 3,100 meals had zip codes that were missing, incomplete, or unrecognized by the United States Postal Service. The estimated cost of these totaled about \$55,000.

²⁴ The contracts reviewed include documentation retention clauses as part of general City provisions and for federal funding agencies. Vendors are required to retain records relating to performance; administrative, financial, and programmatic records related to agreements; and other official documentation. World Central Kitchen and Off the Grid are two vendors that submit participant-level eligibility data and general location (city or zip code) for daily deliveries to support their invoices and service counts.

²⁵ As discussed in Finding 3, contracts were developed after vendors began delivering services and collecting data. These retroactive agreements made it harder to ensure vendors collected information required by grant agencies.

recommend maintaining controls for contract compliance, including procedures to ensure third-party information is reliable.²⁶

The food distribution contracts included target populations for vendors to focus their efforts. Contracts required participant eligibility based on different criteria for need such as COVID-19 isolation or quarantine, risk from age or medical conditions, or reduced income. This was to ensure that food went to people with the greatest need.

Checking that sampled costs tie to documents supporting participant eligibility and delivery confirmation provides two benefits. It ensures vendors provided services as contracted – that target populations received the food they needed – and it ensures that vendors have retained sufficient documentation in the event of a federal audit.

Site Visits are an Important Element of Contract Monitoring to Verify Service Delivery

Site Visits

A site visit is a monitoring method used to review a vendor's program implementation, adherence to program guidelines, and compliance with federal and local regulations. During a site visit, staff can observe contracted activities, identify issues, and provide technical assistance to vendors.

Typically, site visits are an opportunity for staff to corroborate reported service delivery with on-site files and review a vendor's operations. However, site visits for food distribution contracts generally did not validate service delivery or participant eligibility.²⁷

For example, PRNS staff generally did not match on-site participant records or activity logs against the service reports submitted to the City to corroborate the level of service or participant eligibility. PRNS staff appeared to request and examine some vendor files, such as example expenses and timesheets. This approach provided assurance that vendors were able to provide support for some costs. However, it did not provide assurance that services were provided as contracted. As discussed in Finding 3, while PRNS guidelines and the EOP did not provide much detail on contract monitoring, other City departments with experience in managing federal grants have procedures around reviewing backup documentation and conducting site visits.

²⁶ The Government Finance Officers Association (GFOA) recommends maintaining controls for contract compliance, procedures to ensure third-party information is reliable, and monitoring subrecipient progress. The U.S. Department of Treasury also identifies pre-payment and ongoing validations based on assessed risk as best practices for due diligence in CSLFRF Compliance and Reporting Guidance.

²⁷ At the start of the pandemic, in 2020-21, staff report that site visits were not conducted due to shelter-in-place orders. Following the release of the COVID-19 vaccine and transition of the Food Distribution Unit from the EOC to PRNS, staff started up site visits in 2021-22. They performed 10 site visits for seven vendors between June 2021 and May 2022.

Collecting Documentation of Service Delivery Can Help Support Claims for Federal Reimbursement

The Office of Inspector General (OIG) of the U.S. Department of Homeland Security reviews the use of FEMA grants. The OIG reports it has frequent audit findings on inadequate documentation, unsupported costs, and unrelated project charges. These findings result in questioned costs and may lead FEMA to take back awarded funds.

The Office of the Inspector General for the U.S. Department of the Treasury will review the use of CRF and ARPA funds. FEMA, ARPA (CSLFRF), and CRF all apply Uniform Guidance rules on contract monitoring. Uniform Guidance requires the City to review subrecipients' financial and performance reports to ensure awards go toward the federally authorized purpose (§200.332).²⁸

Validating data in vendor reports and assessing participant eligibility for contracted services can help support City claims to federal relief funding. Expenses should have evidence to show they were related to food distribution, and that food services went to people affected by COVID-19. The City should check sample vendor service report data for accuracy and review documentation supporting participant eligibility, such as information collected in participant intake forms.²⁹

Recommendation:

2: To verify service delivery and reduce the potential for questioned costs from grant agencies, Parks, Recreation and Neighborhood Services in coordination with the Finance Recovery Group should:

- **Using a risk-based approach, collect sample documentation from food vendors to support reported service levels and eligibility of contracted populations where the City does not currently have detailed data on service delivery. Documentation should support that grant funds met contract terms.**

²⁸ A subrecipient is an entity that carries out a federal program after receiving the award from a pass-through entity (2 CFR §200.1). For example, U.S. Department of Treasury awarded the City funding through ARPA to support food distribution. The City is a pass-through entity that initially received the award, and then passed the ARPA funds to food vendors to provide food distribution services. The food vendors contracted by the City would be considered subrecipients.

²⁹ Based on guidance from the U.S. Department of Treasury on use of CSLFRF funds, "organization[s] will need to evaluate each subrecipient's risk of noncompliance based on a set of common factors. These risk assessments may include factors such as prior experience in managing [f]ederal funds, previous audits, personnel, and policies or procedures for award execution and oversight. Ongoing monitoring of any given subrecipient should reflect its assessed risk and include monitoring, identification of deficiencies, and follow-up to ensure appropriate remediation." This is based on §200.332 of Uniform Guidance which requires organizations to evaluate subrecipient's risk of noncompliance. Based on this assessment, organizations should determine the appropriate level of monitoring to ensure awards are used for their authorized purposes.

- **As needed, collect documentation to supplement or clarify invoices that do not tie to service reports.**

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Finding 3 Updating Emergency Guidance Can Prepare the City for Future Emergencies

Summary

The Emergency Operations Plan (EOP) provides an overview of the City's emergency procedures and responsibilities. The plan, however, provides limited guidance on contract procurement or management during an emergency. During the COVID-19 response, this created operational challenges for City staff and vendors, as well as potential risks around federal compliance. The City should update the EOP and formalize tools developed by Purchasing staff during the emergency. Additionally, the Administration should establish standard processes around contract management, such as verifying information through site visits or desk reviews, and such guidance should be referenced within the EOP. Integrating lessons learned around purchasing and contract monitoring into the EOP will help prepare the City for future emergencies.

The Emergency Operations Plan Offers Limited Guidance on Contract Management During an Emergency

The Emergency Operations Plan (EOP) outlines the City's emergency response and assigns City departments with roles and responsibilities during the response and recovery phases of an emergency.³⁰ The EOP highlights basic steps of the resource request process such as information to be included in resource requests and documentation required to support reimbursement for labor, vehicle, and equipment expenses. However, it does not refer to procedures for procurement and contract monitoring, which may have contributed to gaps in documentation as discussed in Finding 2. We should note that contract management should apply in both emergency and non-emergency circumstances.

Purchasing Staff Developed Tools During the Emergency, But Report That Timing Hindered Consistent Implementation

The EOP does not detail requirements for purchases using federal funds, such as federal requirements for competitive purchases that differ from regular City requirements. Rather, the EOP outlines basic information to include in a resource

³⁰ As a note, the EOP was still partly in draft form at the time of the COVID-19 emergency. City Council adopted a resolution amending the base plan in January 2019. Staff further developed annexes to the base plan in 2019. Annex A, the EOC Operations Guide, was still in draft form at the time of the audit.

request (such as an item description and quantity) and the EOC workflow for requesting goods or services.³¹

During the emergency, Purchasing staff developed more detailed guidance and tools for procurements, such as:

- a **checklist for Purchasing staff** that included items for staff to look out for to ensure federal compliance, like affirmative steps to include women and minority-owned businesses by including them in email invitation lists for requesting bids or proposals, and
- a **questionnaire for EOC staff** requesting procurements with sections asking for explanations of project scopes and the need for the purchase as it related to the emergency.

These forms also provided guidance about documenting staff's decision-making for future federal review, including items like the rationale for procurement methods.

Purchasing staff report that they worked under the assumption that all emergency purchases would need to meet rules under federal Uniform Guidance, as required by FEMA. They designed these forms to collect information required by the Uniform Guidance.

Purchasing staff also reports that timing (namely, the forms' development during the emergency) and limited implementation hindered consistent application of these tools. For example, two competitive bids they facilitated for food distribution occurred before the implementation of their checklist and questionnaire.

The Emergency Purchasing Process Faced Other Challenges

The City's COVID-19 Preliminary Operational Assessment Report (OAR) analyzed the City's COVID-19 emergency processes and provided feedback for improvements. The OAR found that the City faced challenges in procurement and needed to adapt its non-disaster procurement processes. Staff similarly reported issues. Namely, at the start of the emergency, to separate staff requesting purchases from staff making purchases, EOC and Purchasing staff revised the EOC structure to locate Purchasing staff within the Recovery Branch. The EOP should be updated to reflect the revised structure adopted during the emergency. Additionally, staff report that limited staffing capacity and experience hindered contract development and may have contributed to delays and retroactive agreements.

³¹ The emergency resource request (213RR) process can trigger a procurement process. The EOC seeks to fill requests with existing internal resources first, but procures resources or services when no internal source exists.

Most Food Distribution Contracts Were Retroactive Agreements

Almost all food distribution contracts were retroactive, with nine in ten having execution dates after the service start dates. While an emergency makes it more difficult to avoid retroactive agreements, clarifying emergency procurement processes before an incident can equip EOC staff with guidance to develop contracts and conduct procurements sooner and in accordance with federal requirements.

Retroactive agreements present several challenges:

- Retroactive agreements create challenges for vendors due to late payment. The OAR noted that non-profits experienced delayed approval of funding to support food distribution.
- Retroactive agreements also make it harder to ensure vendors collect federally required data and documentation. Vendors had already begun service delivery and data collection before contracts were developed. As such, City staff reported difficulty developing contract terms to collect necessary data from vendors that demonstrated services were directed towards populations in need of food during the pandemic.
- Retroactive agreements in combination with emergency rules can delay presentation of major contracts to City Council. City rules change in an emergency under the Municipal Code to allow greater flexibility for staff to respond quickly. In retroactive emergency agreements, vendors begin services before City Council approves the scope of work and budget. This reduces transparency and makes it difficult for Council to fulfill their normal oversight responsibilities.³²

The OAR recommends consolidating items in the procurement process and providing clear guidelines and checklists. To this end, the EOP should revise staff roles to match the structure adopted during the emergency. Additionally, referencing Purchasing's emergency procurement tools in the EOP will help to ensure compliance with federal funding rules on the front-end of the next emergency. This will reduce the kind of back-end documentation work that staff are currently undertaking, as well as risks of federal agencies taking back funds due to noncompliance.

³² During the pandemic, the state and City Council also voted to change public meeting rules to allow for remote meetings. City Council further waived the requirement to post COVID-19 related documents 72 hours before a meeting. Amending the notice requirements allowed staff reports and resolutions related to food contracts to be presented with short notice. While retroactive agreements and special notice rules enabled City staff to execute contracts with food vendors and immediately begin food distribution services, the delayed presentation of contracts prevented City Council and the public from being informed of active contracts in a timely manner.

Recommendation:

- 3: To prepare for the next emergency, the Administration should update the Emergency Operations Plan to reassign the Purchasing Division's roles and responsibilities to ensure segregation of duties and formalize procurement tools as developed by staff during the COVID-19 emergency.**

The Emergency Operations Plan Does Not Offer Guidance on Contract Monitoring

The EOP does not offer or refer to guidance on monitoring vendors contracted to provide services to residents affected by an emergency. While contracts management is not limited to an emergency, having such guidance is important as risks for fraud increase during an emergency.³³ Effective contract monitoring ensures that resources go toward their intended purpose.³⁴ It can also ensure the City follows federal rules.

Food distribution staff followed PRNS contract management guidelines, which give high-level guidance on overseeing contractor performance and reviewing payment requests. However, these guidelines did not provide guidance around assessing vendor risks, verifying participant eligibility, or checking vendor receipts, as shown in Exhibit 10.

Other City departments with experience in managing federal grants have more detailed procedures to monitor contracts, including:

- reviewing and saving backup documentation for the vendor's expenses,
- checking processes and controls, and
- observing operations in action to identify areas of noncompliance.

These procedures help ensure the City meets federal requirements under Uniform Guidance. For example, the Housing Department's grant monitoring manual includes detailed objectives and tasks to complete during site visits and desk reviews. Exhibit 10 compares PRNS' and Housing's procedures on monitoring federal grantees. Compared to PRNS, Housing's manual provides more detailed tasks and objectives to address Uniform Guidance provisions.

³³ The Office of Inspector General for the Department of Homeland Security has noted that the pressure to distribute funds quickly makes FEMA's disaster assistance programs susceptible to fraud, waste, and abuse. With particular regard to the COVID-19 pandemic, the U.S. Government Accountability Office reported that "the public health crisis, economic instability, and increased flow of federal funds associated with the COVID-19 pandemic have increased pressures and opportunity for fraud..."

³⁴ Our office has had repeated findings relating to contracts management within the City. As of September 2022, an audit recommendation to develop Citywide policies and procedures on contract monitoring and management (including documenting deliverables prior to payment) remains open. This recommendation was made in a 2013 audit of consulting agreements (see <https://www.sanjoseca.gov/Home/ShowDocument?id=33780>) and has been made a priority by the Administration.

Exhibit 10: Compared to PRNS, Housing Has More Detailed Monitoring Procedures to Adhere With Uniform Guidance

PRNS Manual	Housing Manual
Evaluate subrecipient’s risk of noncompliance (§200.332(b)).	
PRNS does not conduct a risk assessment for grantees.	The manual instructs Housing to select high-risk grantees by considering factors such as: <ul style="list-style-type: none"> • the vendor’s experience managing government grants, • experience administering a specific program, • amount of the grant award, and • progress reports.
Based on risk assessment, perform on-site reviews (site visits) of the subrecipient’s operations to ensure compliance with program requirements (§200.332(e)).	
Site visits were conducted based on scheduling availability and were limited during COVID-19.	On-site monitoring was initially postponed during COVID-19. The manual provides guidance on remote reviews, with provisions to increase desk reviews and grantee technical assistance in the interim.
<i>Pre-site visit procedures</i>	
The manual and site visit checklist do not give guidance on preparing for a site visit.	The manual instructs Housing to request specific files from the vendor to ensure that forms capture data required on a federal level. Documents include the vendor’s policies and procedures, cost center appropriations, timesheets, and receipts. Housing may review these files in more detail to match them against sampled activity reports and invoices.
<i>Reviewing intake forms during a site visit</i>	
The site visit checklist has a section on participant intake, but it does not specify what PRNS staff should check intake or sign-in sheets against.	Housing reviews intake forms to ensure the vendor is capturing accurate and necessary demographic information for funding sources.
Monitor subrecipient activities to ensure the subaward is used for authorized purposes and complies with contract terms. Among other activities, review the subrecipient’s financial and performance reports (§200.332(d)). Ensure costs are necessary, reasonable, and adequately documented (§200.403).	
The manual instructs staff to ensure items charged on invoices match reports and actual services. The manual does not include the site visit checklist or guidance on what to review.	To review how vendors manage the receipt and disbursement of grants, Housing reviews documentation for a sample of the vendor’s activity reports. Staff sample transactions to check if receipts are documented, accounting files match totals on reimbursement reports, billed amounts are allowed under the vendor’s contract, and expenses are necessary to carry out the grant award’s intent.

Source: Auditor summary of PRNS Contract Development Handbook, PRNS site visit checklists, Housing Grant Monitoring Policy and Procedures Manual, and Uniform Guidance. Criteria (in bold text) refer to sections of Uniform Guidance.

As noted in the Background, there is an open audit recommendation to the Administration to develop and maintain Citywide administrative guidelines, procedures, and trainings on federal grants management. This includes

expectations around subrecipient monitoring and preparing for federal review of awards.³⁵

To ensure staff Citywide follow federal grant requirements during an emergency, the EOP should reference federal grant management policies developed by the Administration as appropriate. Additionally, PRNS should update its contract monitoring guidance to clarify expectations around site visits and service validation. This update should include matching vendor records against records submitted to the City to check the accuracy of vendor-submitted service reports as well as eligibility of populations served.

Recommendations:

- 4: To increase emergency preparedness, the Administration should establish processes in accordance with Uniform Guidance for City staff to review submitted documentation and verify information through site visits and desk reviews, and reference such guidance within the Emergency Operations Plan.**

- 5: The Parks, Recreation and Neighborhood Services Department should update its contract development and management guidance to incorporate clear expectations on validating costs and verifying information through documentation and invoice review, site visits to program sites and administrative premises, and desk reviews based on levels of risk.**

³⁵ This recommendation resulted from our 2022 Audit of Citywide Grants Management. We recommended, “To assist departments that manage grants awards Citywide, the Administration should identify staffing resources to develop and maintain Citywide administrative guidelines or procedures and training materials around the different phases of grant management, including: (i) applying for grants; (ii) accounting, tracking, and monitoring of expenditures, including subrecipient and contractor management; (iii) grant closeout responsibilities; (iv) preparing for federal audits and reviews, including notifying the Finance Department when the award is selected for an audit or review by a federal agency.” See <https://www.sanjoseca.gov/home/showpublisheddocument/84480>.

Conclusion

The City massively expanded food distribution efforts during the pandemic, spending nearly \$80 million. It acted during a period of great uncertainty—due to the nature of the pandemic as well as piecemeal federal funding and guidance. The City prioritized speed, scale, and access to mitigate risks to public health and wellbeing, and potential supply chain disturbances, like those seen with medical supplies and personal protective equipment. In doing so, the City took on risks of overpayment and potential claw backs of federal funding. To reduce these risks, the City should document decision-making around procurements, including specific justification for non-competitive purchases. The City should also retroactively conduct additional contract monitoring, such as reviewing sample supporting documentation to verify service delivery reported in vender service reports. Adding guidance to the City’s Emergency Operations Plan will help to avoid such work on the back end and support compliance with federal funding requirements on the front-end in a future emergency.

RECOMMENDATIONS

Finding 1: The City Spent \$79.3 Million on Food Distribution

No recommendations.

Finding 2: The City Should Gather Additional Documentation to Corroborate Service Delivery and Support the City’s Claims to Federal Funds

Recommendation #1: For FEMA and ARPA funded expenditures, the Administration should document in its emergency cost recovery files:

- specific justification for all sole-source and non-competitive contracts, as well as any changes to existing contracts beyond the scope of the original agreement, including appearances of conflicts of interest and efforts made to identify potential conflicts,
- cost or price analysis for all purchases and contract modifications over the City’s formal bidding threshold, and
- other information as required to document compliance with federal requirements for competitive procurements (e.g., affirmative steps to include minority-owned firms in solicitation lists and separate negotiation of profit for solely responsive bidders).

For expenses where the Administration is unable to document compliance with appropriate requirements, it should reallocate those expenses to alternate funding sources.

Recommendation #2: To verify service delivery and reduce the potential for questioned costs from grant agencies, Parks, Recreation and Neighborhood Services in coordination with the Finance Recovery Group should:

- Using a risk-based approach, collect sample documentation from food vendors to support reported service levels and eligibility of contracted populations where the City does not

currently have detailed data on service delivery. Documentation should support that grant funds met contract terms.

- As needed, collect documentation to supplement or clarify invoices that do not tie to service reports.

Finding 3: Updating Emergency Guidance Can Prepare the City for Future Emergencies

Recommendation #3: To prepare for the next emergency, the Administration should update the Emergency Operations Plan to reassign the Purchasing Division's roles and responsibilities to ensure segregation of duties and formalize procurement tools as developed by staff during the COVID-19 emergency.

Recommendation #4: To increase emergency preparedness, the Administration should establish processes in accordance with Uniform Guidance for City staff to review submitted documentation and verify information through site visits and desk reviews, and reference such guidance within the Emergency Operations Plan.

Recommendation #5: The Parks, Recreation and Neighborhood Services Department should update its contract development and management guidance to incorporate clear expectations on validating costs and verifying information through documentation and invoice reviews, site visits to program sites and administrative premises, and desk reviews based on levels of risk.

APPENDIX A

Audit Objective, Scope, and Methodology

The mission of the City Auditor's Office is to independently assess and report on City operations and services. The audit function is an essential element of San José's public accountability and our audits provide the City Council, City management, and the general public with independent and objective information regarding the economy, efficiency, effectiveness, and equity of City operations and services.

In accordance with the City Auditor's Fiscal Year (FY) 2022-23 Work Plan, we have completed an audit of COVID-19 expenditures, with a focus on food distribution. The audit was conducted in response to a request from a Councilmember.

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.

The objective of our audit was to document and review the disbursement of COVID-19 related funds for food distribution for transparency and fiscal accountability. We should note that the City used multiple grant sources with extensive requirements, and we did not audit for strict compliance with all aspects of each grant program. We sought to understand the relevant management controls over emergency food distribution, and have performed the following to achieve the audit objective:

- Reviewed budgeted amounts for food distribution for FYs 2018-19 through 2021-22.
- Compiled actual expenditures for food distribution expenses from FY 2019-20 through 2021-22 based on data in the City's financial management system (FMS); internal tracking records from Parks, Recreation and Neighborhood Services; food distribution contracts; and invoices and journal vouchers.
- Inventoried direct food contracts (including base agreements, options, and amendments) to understand service providers, contracted budgets, service term lengths, scopes of work, and target populations.
- Assessed the reliability of data presented in the City's food distribution dashboard and vendor-submitted reports.
- Aggregated vendor-submitted service reports to understand the quantity and location (as available) of food distributed.
- To understand City operations and decisions during the emergency:
 - Reviewed the Emergency Operations Plan Base Plan and Recovery Annex, COVID-19 Preliminary Operational Assessment Report, San José Municipal Code, City Policy Manual, and Council memos.
 - Interviewed staff from the following departments: Parks, Recreation and Neighborhood Services; Finance; and the City Attorney's Office. Additionally, sought input from the Office of Emergency Management on emergency operations and policies.

- To understand statutory requirements of federal awards received by the City, interviewed staff from Finance, the City Attorney’s Office, and Ernst & Young, as well as reviewed:
 - Federal Register, Title 2: Grants and Agreements, Part 200 (Uniform Guidance);
 - Final rules released for CSLFRF and CRF by the U.S. Department of Treasury;
 - Guidance released by FEMA, the U.S. Department of Homeland Security Office of Inspector General, and the Office of Inspector General of the U.S. Department of the Treasury;
 - CalOES Grants Monitoring Policies and Procedures Manual; and
 - The *Citywide Memo to Fiscal Officers on Guidance and Basic Checklist for Citywide Procurements Funded by Federal Grants* issued by Finance.
- To understand the vendor selection process for competitive procurement:
 - Reviewed submissions and scoring for two competitive procurements and one open call for grants.
 - Checked a judgmental sample of 10 vendors for debarment or suspension on SAM.gov.
 - Interviewed Purchasing and Parks, Recreation and Neighborhood staff.
- To understand vendor selection for non-competitive procurement and potential conflict of interest:
 - Interviewed staff from the following departments: Parks, Recreation and Neighborhood Services; Finance; and the City Attorney’s Office.
 - Reviewed Food and Necessities Steering Committee meeting minutes from April through September 2020.
 - Checked conflict of interest forms (Form 700s) for City employees in the Recovery and Food Distribution leadership teams.
- To understand the City’s contract monitoring process during the emergency:
 - Reviewed internal policies and procedures, shadowed one administrative and one warehouse site visit, reviewed staff notes for an additional eight site visits, and walked through the invoice review process conducted by staff from Parks, Recreation and Neighborhood Services.
 - Using a stratified judgmental sample from our inventory of direct food contracts, we selected 13 invoices between 10 vendors to review against vendor-submitted service reports. Based on this review, we selected a judgmental sample of eight vendors and directly requested supporting documentation for reported meal or grocery counts.
 - Compared emergency practices to internal grant management policies by the Housing Department as well as the CalOES Grant Monitoring Policies and Procedures Manual.

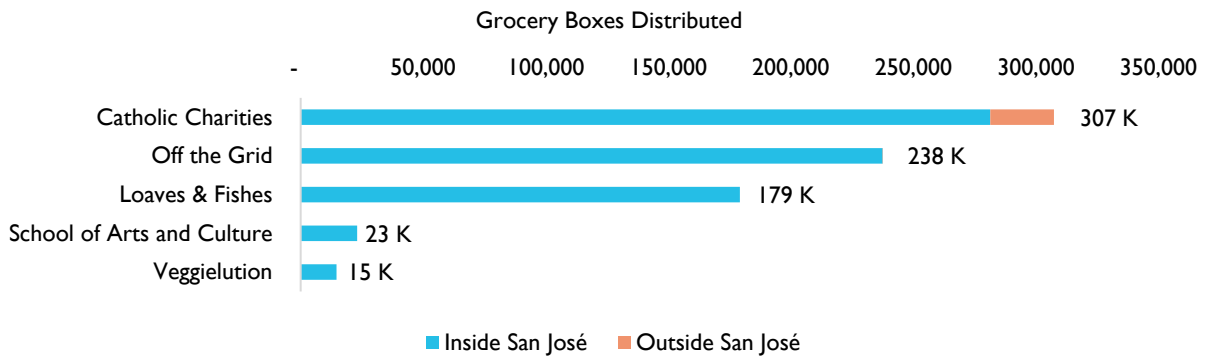
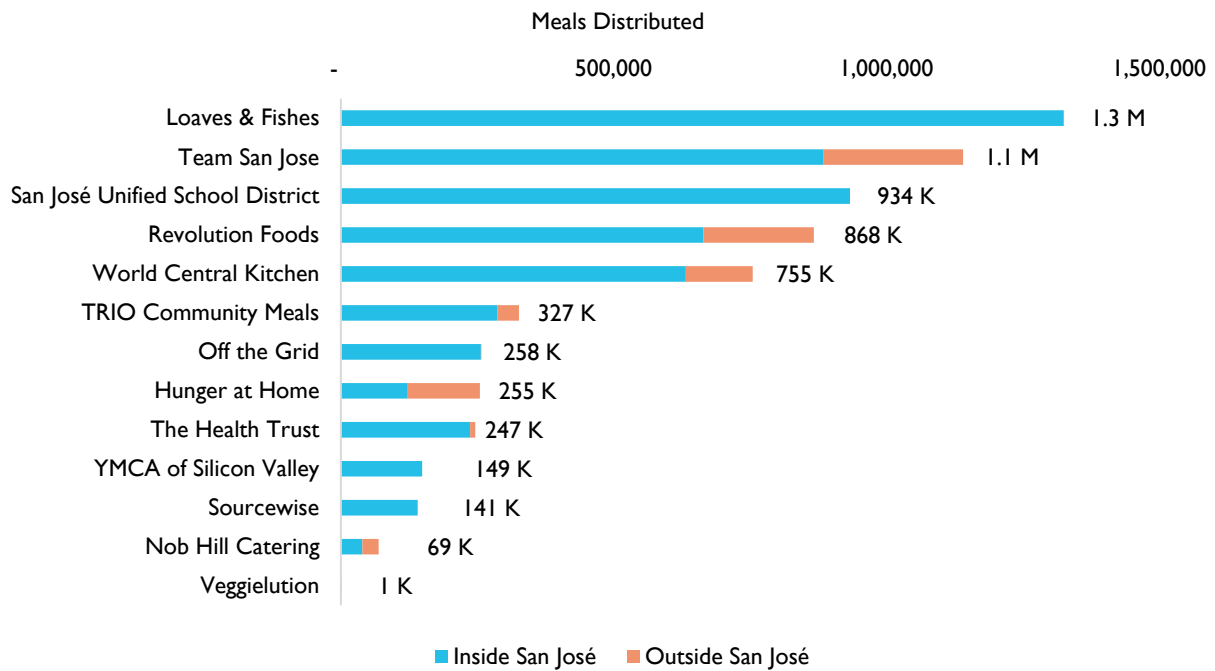
- Based on a random sample of food contracts (including base agreements, options, and amendments) that met emergency thresholds defined in the San José Municipal Code, verified 13 contracts were presented to City Council.

The Office of the City Auditor thanks the Department of Parks, Recreation, and Neighborhood Services, Finance Department, the City Attorney's Office, the Office of Emergency Management, and the City Manager's Office, as well as the community-based organizations that we reached out to, for their time, information, insight, and cooperation during the audit process.

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APPENDIX B

Charts and Table of Distributed Food Reported by Vendors From March 2020 Through December 2021



Source: Auditor compilation of vendor reports and contracts for meals and grocery boxes distributed between March 2020 and December 2021. As a note, this data has not been validated for accuracy. We identified distribution location (inside/outside San José) based on location data within the vendor reports or, when unavailable, based on the vendor, date, and relevant contracted terms. An immaterial number of meals and groceries had zip codes that were missing, incomplete, or unrecognized by the United States Postal Service. They are not included in this data.

	Vendor	Number of Meals/Groceries in each Jurisdiction Served*			Grand Total
		Inside San José	Outside San José	Undetermined	
Meals	Loaves & Fishes	1,325,881			1,325,881
	Team San Jose	884,620	256,562		1,141,182
	San José Unified School District	933,854			933,854
	Revolution Foods	664,637	202,930		867,567
	World Central Kitchen	632,892	122,478	3,002	758,372
	TRIO Community Meals	286,823	39,912		326,735
	Off the Grid	256,770	1,020		257,790
	Hunger at Home	122,656	132,549		255,205
	The Health Trust	237,280	9,472		246,752
	YMCA of Silicon Valley	149,333			149,333
	Sourcewise	141,042			141,042
	Nob Hill Catering	39,424	29,892		69,316
	Veggielution	1,196			1,196
	Grand Total	5,676,408	794,815	3,002	6,474,225
Estimated Pounds	Second Harvest of Silicon Valley**	13,821,902			13,821,902
	Grand Total	13,821,902			13,821,902
Grocery Boxes***	Catholic Charities	281,417	26,006		307,423
	Off the Grid	237,488	126	91	237,705
	Loaves & Fishes	179,242			179,242
	School of Arts and Culture at the Mexican Heritage Plaza	23,039			23,039
	Veggielution	14,639			14,639
	Grand Total	735,825	26,132	91	762,048
Unspecified****	Healing Health Grove Health Center	100,660			100,660
	Hunger at Home	92,843			92,843
	Mama D 2nd Chance	6,371			6,371
	Grand Total	199,874			199,874

Source: Auditor compilation of available performance data from vendors. Underlying data has not been validated. Meal and grocery counts are reported by vendors and are not identified by contract. As such, the data presented above may be incomplete.

* When location data (address, zip code, or city) is presented in vendor-submitted service reports, meal and grocery counts are categorized in the appropriate jurisdiction. When location data was not readily available, counts are categorized in their contracted jurisdiction. "Undetermined" refers to zip codes that were missing, incomplete, or unrecognized by the United States Postal Service.

** The City paid \$2.6 million for food that was distributed by Second Harvest. Data tying purchase orders to distribution sites is not readily available to the City. Second Harvest reports distributing 33.7 million pounds of food in San José for \$6.4 million during the contracted period. Based on the \$2.6 million the City was contracted to provide, the City covered 41 percent of the \$6.4 million. The table above estimates that the City supported 41 percent of the 33.7 million pounds, or 13.8 million pounds.

*** The amount of food per grocery box varies. Some vendors have a contracted number of pounds in each grocery box. In other cases, the contract and the service reports do not specify the amount of food per grocery distribution.

**** Service reports do not specify if the units reported are meals or groceries. Vendors were contracted to provide both meals and groceries.

APPENDIX C

Table of Contracts for Direct Food Service From March 2020 Through June 2022

Provider	Base Agreement	Ext. ¹	Jurisdiction	Selection	Not to Exceed (Full Term)	Term Start	Term End	Months
Bateman Community Living LLC ²	OC-000203	0	Inside San José	Competitive	\$200,970.75	11/18/2020	12/30/2020	1
Bateman Community Living LLC	666627	7	Both	Competitive	\$409,000.00	2/1/2021	6/30/2021	5
Bateman Community Living LLC	667589	0	Inside San José	Competitive	\$1,423,500.00	7/1/2021	6/30/2022	12
Catholic Charities	OC-000036	4	Inside San José	Non-competitive	\$914,550.00	3/17/2020	12/30/2020	9
Catholic Charities	OC-000044	1	Outside San José	Non-competitive	\$385,450.00	3/17/2020	9/30/2020	6
Catholic Charities	666564	6	Inside San José	Non-competitive	\$2,586,169.00	12/31/2020	6/30/2022	18
Healing Grove Health Center	666438	6	Inside San José	Competitive (CIG)	\$1,330,197.00	10/15/2020	7/31/2021	10
Hunger At Home	665913	10	Inside San José	Non-competitive	\$1,151,430.00	3/19/2020	1/31/2021	10
Hunger At Home	665912	9	Outside San José	Non-competitive	\$821,020.00	3/19/2020	1/31/2021	10
Hunger At Home	666437	0	Inside San José	Competitive (CIG)	\$250,000.00	10/15/2020	12/30/2020	3
Hunger At Home	OC-000102	4	Inside San José	Competitive (CIG)	\$445,177.00	12/31/2020	7/31/2021	7
Loaves & Fishes	666452	1	Inside San José	Competitive (CIG)	\$1,136,479.00	10/15/2020	12/30/2020	3
Loaves & Fishes	OC-000140	6	Inside San José	Competitive (CIG)	\$3,639,908.00	12/31/2020	6/30/2022	18
Mama D 2nd Chance	666467	0	Inside San José	Competitive (CIG)	\$98,860.00	10/15/2020	12/30/2020	3
Mama D 2nd Chance	OC-000143	4	Inside San José	Competitive (CIG)	\$101,278.00	12/31/2020	7/31/2021	7
Nob Hill Catering	666699	6	Both	Competitive	\$496,000.00	2/1/2021	5/31/2021	4
Off the Grid	OC-000024	9	Inside San José	Competitive	\$14,313,659.00	10/21/2020	3/31/2022	17
Off the Grid	OC-000026	9	Inside San José	Competitive	\$5,897,057.00	10/21/2020	3/31/2022	17
Revolution Foods	665830	1	Both	Non-competitive	\$2,612,587.00	3/30/2020	8/7/2020	4
Revolution Foods	666210	0	Inside San José	Non-competitive	\$784,529.70	6/23/2020	8/31/2020	2
Revolution Foods	666178	0	Outside San José	Non-competitive	\$162,600.00	6/23/2020	8/31/2020	2
Revolution Foods	666532	5	Both	Non-competitive	\$1,366,552.70	11/10/2020	12/31/2021	14
San José Unified School District	666076	0	Inside San José	Non-competitive	\$2,120,654.00	3/23/2020	6/12/2020	3
School of Arts and Culture at Mexican Heritage Plaza	666540	0	Inside San José	Competitive (CIG)	\$98,524.00	10/15/2020	12/30/2020	3

¹ Number of amendments and options to extend each contract.

² Bateman Community Living LLC was doing business as TRIO Community Meals.

Provider	Base Agreement	Ext. ¹	Jurisdiction	Selection	Not to Exceed (Full Term)	Term Start	Term End	Months
School of Arts and Culture at Mexican Heritage Plaza	OC-000168	4	Inside San José	Competitive (CIG)	\$97,930.00	12/31/2020	7/31/2021	7
Second Harvest of Silicon Valley	666530	0	Inside San José	Non-competitive	\$2,639,000.00	7/1/2020	12/30/2020	6
Sourcewise	666509	2	Inside San José	Competitive (CIG)	\$621,418.00	10/15/2020	6/30/2021	9
Team San Jose	665915	11	Inside San José	Non-competitive	\$2,545,133.00	3/31/2020	1/31/2021	10
Team San Jose	665916	11	Outside San José	Non-competitive	\$793,336.00	3/31/2020	1/31/2021	10
Team San Jose	666626	17	Both	Competitive	\$3,906,000.00	2/1/2021	6/30/2022	17
The Health Trust	665951	5	Unspecified	Non-competitive	\$725,350.00	5/31/2020	9/30/2020	4
The Health Trust	665948	5	Outside San José	Non-competitive	\$204,710.00	5/31/2020	9/30/2020	4
The Health Trust	000063	7	Inside San José	Competitive	\$2,541,000.00	11/2/2020	6/30/2022	20
Veggielution	665922	3	Inside San José	Non-competitive	\$342,300.00	6/24/2020	12/30/2020	6
Veggielution	666449	1	Inside San José	Competitive (CIG)	\$151,658.00	10/15/2020	12/30/2020	3
Veggielution	OC-000112	4	Inside San José	Competitive (CIG)	\$177,657.00	12/31/2020	7/31/2021	7
World Central Kitchen	665919	6	Inside San José	Non-competitive	\$5,553,848.96	5/11/2020	7/31/2021	15
World Central Kitchen	665920	6	Outside San José	Non-competitive	\$4,370,113.44	5/11/2020	7/31/2021	15
YMCA	666448	1	Inside San José	Competitive (CIG)	\$332,799.00	10/15/2020	12/30/2020	3
YMCA	OC-000099	4	Inside San José	Competitive (CIG)	\$362,910.00	12/31/2020	7/31/2021	7

Source: Auditor compilation and analysis of contracts for direct food distribution from March 2020 through June 2022, as well as documentation for competitive bid or proposal processes and quarterly contracts reports. The table does not include food boxing, necessities, or other services.

TO: JOE ROIS
CITY AUDITOR

FROM: Lee Wilcox

SUBJECT: SEE BELOW

DATE: October 6, 2022

Approved



Date

10/3/2022

SUBJECT: COVID-19 FOOD DISTRIBUTION EXPENDITURES: THE CITY SHOULD ADDRESS GAPS IN EMERGENCY DOCUMENTATION AND PROCEDURES

BACKGROUND

The Administration has reviewed the report from the City Auditor entitled *COVID-19 Food Distribution Expenditures: The City Should Address Gaps in Emergency Documentation and Procedures*, which contains five recommendations described below. This memorandum captures the Administration response to each recommendation and presents an overview of the work required to implement the recommendations and projected target dates for completion.

RECOMMENDATIONS AND ADMINISTRATION'S RESPONSE

Recommendation #1: For FEMA and ARPA funded expenditures, the Administration should document in its emergency cost recovery files:

- specific justification for all sole-source and non-competitive contracts, as well as any changes to existing contracts beyond the scope of the original agreement, including appearances of conflicts of interest and efforts made to identify potential conflicts,
- cost or price analysis for all purchases and contract modifications over the City's formal bidding threshold, and
- other information as required to document compliance with federal requirements for competitive procurements (e.g., affirmative steps to include minority-owned firms in solicitation lists and separate negotiation of profit for solely responsive bidders).

For expenses where the Administration is unable to document compliance with appropriate requirements, it should reallocate those expenses to alternate funding sources.

Administration Response: The Administration agrees with this recommendation.

Yellow: The Finance Department onboarded seven limit-dated positions, funded through June 30, 2023, to administer the City's COVID-19 grants, including timely programmatic and expenditure reporting, compiling and centralizing expenditure documentation (contracts, purchase orders, invoices, and proofs of payment), and supporting the City through grantor audits. In response to this audit recommendation, further documentation around procurement will be reviewed and maintained in the emergency cost recovery files, including the following:

- Specific justification for all sole-source and non-competitive contracts and changes to existing contracts beyond the scope of the original agreement, including appearances of conflicts of interest and efforts made to identify potential conflicts;
- cost or price analysis for all purchases and contract amendments over the City's formal bidding threshold; and
- other information required to document compliance with federal requirements for competitive procurements.

Identification of permanent staffing resources will need to be evaluated during the 2023-2024 operating budget development process to adequately implement this recommendation and maintain a centralized grants management team within the Finance Department. In addition to the audit recommendations identified in this audit, the same limit-dated positions are responsible for implementing several recommendations made by the City Auditor in the Citywide Grants Management audit, dated April 14, 2022. The Administration anticipates an 18-month work plan to complete the compliance assessment of the existing documentation against appropriate requirements, gaps thereof, and make recommendations to reallocate expenses to alternate funding sources.

Target Completion Date: June 30, 2024

Recommendation #2: To verify service delivery and reduce the potential for questioned costs from grant agencies, Parks, Recreation and Neighborhood Services in coordination with the Finance Recovery Group should:

- Using a risk-based approach, collect sample documentation from food vendors to support reported service levels and eligibility of contracted populations where the City does not currently have detailed data on service delivery. Documentation should support that grant funds met contract terms.
- As needed, collect documentation to supplement or clarify invoices that do not tie to service reports.

Administration Response: The Administration agrees with this recommendation.

Green: The Parks, Recreation and Neighborhood Services Department (PRNS) recognizes that the practices in this recommendation were not applied consistently in its initial food distribution efforts. However, the Department has taken steps to integrate these practices into its work plan for many of its current agreements. Most recently, PRNS integrated the "City of San José's Grants Manual: Policies and Procedures" with the PRNS "Contract Development Handbook." Each is used by the PRNS's Strategic Partnerships Unit to set reporting and data collection expectations with partnered organizations in the FDG program.

These two documents guide decision-making regarding grant procurement processes, agreement development, grant administration, grant monitoring, site visits, and close-out procedures. In response to this audit recommendation, the information found in both documents will be reviewed and updated to remain consistent with current standards. To address the need for verification of service delivery and to reduce the potential for questioned costs from grant agencies, PRNS will, in coordination with the Finance Recovery Group:

- Utilize a risk-based approach to collect, review, and cross-reference sample documentation from partner agencies during site visits and when staff receives invoices for payment;
- Cross-reference participant intake forms with food distribution sign-in sheets or service delivery confirmation documents;
- Compare invoice totals with itemized service and expenditure reports to validate that the contracted target populations are being served and that the disbursement of funds is commensurate with activities performed;
- Provide agencies with technical assistance to address discrepancies between required documentation and contractual obligations, as needed; and
- Retroactively apply these practices to the food distribution agreements executed during the COVID-19 pandemic.

Target Completion Date: June 30, 2024

Recommendation #3: To prepare for the next emergency, the Administration should update the Emergency Operations Plan to reassign the Purchasing Division's roles and responsibilities to ensure segregation of duties and formalize procurement tools as developed by staff during the COVID-19 emergency.

Administration Response: The Administration agrees with this recommendation.

Green: Efforts are underway to update the City's Emergency Operations Plan (EOP) to include a variety of lessons-learned identified in after-action review processes. Specifically, updates related to this recommendation will be addressed. The Office of Emergency Management is currently updating the City's EOP and will address this recommendation.

Target Completion Date: June 30, 2023

Recommendation #4: To increase emergency preparedness, the Administration should establish processes in accordance with Uniform Guidance for City staff to review submitted documentation and verify information through site visits and desk reviews, and reference such guidance within the Emergency Operations Plan.

Administration Response: The Administration agrees with this recommendation.

Yellow: Since the initial phase of the pandemic, the Finance Department has contracted with a disaster cost recovery consultant to support the City with complying with the rules and regulations for multiple COVID-19 related sources; providing guidance regarding expenditure eligibility, duplication of benefits risk and avoidance, documentation requirements and improvements in current City grants management and administration processes; and performing pre-audit activities to identify and resolve documentation and process gaps in preparation for future audits. To continue these services, the Finance Department is issuing a Request for Proposal (RFP) with a scope of services which includes, among other deliverables, a review of existing policies and procedures and recommendations on enhancing the City's processes. In consultation with the consultant, the Finance Department will develop Citywide processes in accordance with the Uniform Guidance (Code of Federal Regulations, Title 2 Part 200, which establishes uniform administrative requirements, cost principles, and audit requirements for Federal awards to non-Federal entities). These processes will guide City staff in the review of submitted documentation and information verification through site visits and desk reviews. Once developed, the Finance Department will coordinate with the City Manager's Office of Emergency Management to include reference to the guidance within the Emergency Operations Plan.

Target Completion Date: June 30, 2024

Recommendation #5: The Parks, Recreation and Neighborhood Services Department should update its contract development and management guidance to incorporate clear expectations on validating costs and verifying information through documentation and invoice reviews, site visits to program sites and administrative premises, and desk reviews based on levels of risk.

Administration Response: The Administration agrees with this recommendation.

Green: The Administration agrees with this recommendation. To establish clear expectations on validating costs and verifying information, PRNS will update its operating procedures with the following:

- Specify the acceptable service report documentation staff will use to verify service deliverables and ensure that they coincide with contractual obligations.
- Update the site visit checklist to include guidelines on reviewing required documents such as intake forms, invoices, and service reports.
- Update the procedure for reviewing invoices, including how to address discrepancies between invoices and reporting documents.

Target Completion Date: June 30, 2023

CONCLUSION

The Administration thanks the City Auditor's Office for the comprehensive audit of the COVID-19 Food Distribution Expenditures. The audit report provides recommendations that will strengthen interdepartmental program communication and processes, enhance management and oversight, improve overall performance, foster accountability, and reduce risk. The report is focused, and the recommendations are fair and practical.



LEE WILCOX
Assistant City Manager

For questions, please contact Luz Cofresi-Howe, Assistant Director of Finance, (408) 535-7041, luz.cofresi-howe@sanjoseca.gov.