



Richmond City Auditor

Office of the Inspector General

Fighting government waste, fraud and abuse.

Umesh Dalal, CPA, CIA, CIG
Richmond City Auditor/Inspector General

July 7, 2009

Mr. Christopher Beschler
Acting Chief Administrative Officer
900 East Broad Street, 2nd floor
Richmond, VA 23219

Dear Mr. Beschler:

The Office of the Inspector General received a complaint alleging that the Procurement Services Department (herein referred to as Department) did not follow procurement practices in awarding a contract to purchase 40 Crown Victoria (Police vehicles) for \$993,520. According to the allegation, the Department awarded the contract as a sole source to a local vendor (herein referred to as Vendor) although several vendors could have provided the identical items.

The Office of the Inspector General has completed the investigation and presents the results as follows:

Legal Requirement

In accordance with the Code of Virginia, §15.2-2511.2, the City Auditor is required to investigate all allegations received on the fraud hotline alleging fraud, waste and abuse. Accordingly, an investigation was initiated by the Inspector General's Office.

City Regulations and Policies

The following Richmond City Code sections are relevant to this allegation:

Section 74-42

“Should the director determine in writing, after conducting a good faith review of available sources, that there is only one source practicably available for that which is to be procured, the director may award a contract to that source without competitive sealed bidding or competitive negotiation and may conduct negotiations, as appropriate, as to price, delivery and terms. However, the director shall not make such a determination until the director has contacted the office of minority business development and learned whether minority business enterprises or emerging small businesses exist that would be qualified, willing and able to provide that which is to be procured. The writing shall document the basis for this determination.”

Section 74-45

“All public contracts with nongovernmental contractors for the purchase or lease of goods or for the purchase of services, insurance or construction shall be awarded after competitive sealed bidding or competitive negotiation as provided in this chapter, unless otherwise authorized by law.”

Section 74-51

“(a) Notice inviting bids or requesting proposals shall be posted in a designated public area at least ten calendar days preceding the last day set for the receipt of bids or proposals.”

Facts and Results:

- The Department awarded a contract to purchase 40 Crown Victoria (Police vehicles) for \$993,520 as a sole source procurement.
- An experienced Contract Specialist in Procurement Services had questioned the Sole Source designation of the purchase. However, the Deputy Director instructed him to treat the purchase as a sole source. The Deputy Director simultaneously contradicted himself by instructing the Contract Specialist to send out faxes to three Ford dealerships requesting bids for the vehicles.
- Proposals were solicited from three Ford dealerships via facsimile on November 7, 2007 at 3:30 p.m., which required a response by 9:00 a.m. on November 8, 2007. This provided less than 24 hours to the Ford dealerships to submit a proposal for approximately 1 million dollar procurement.
- Neither competitive sealed bids were solicited nor was the notice for inviting bids or requesting proposals posted in a designated public area at least ten calendar days preceding the last day set for the receipt of bids or proposals as required by the City Code.
- On November 27, 2007, the Director of Procurement Services signed the justification for the sole source procurement.

- During an interview, the Deputy Director of the Procurement Services Department stated that the contract awarded to the Vendor was in fact a sole source contract. Prior to purchase, Procurement Services had contacted Ford Motor Corporation to purchase the vehicles directly from them. The Deputy Director stated that he was advised to contact local dealerships to procure the vehicles. The investigator questioned the Deputy Director about the manner in which the three vendors were contacted and why the purchase was treated as a sole source purchase. The Deputy Director could not explain their rationale for procuring the vehicles as a sole source.
- The Deputy Director subsequently stated that the original contract awarded to the Vendor was cancelled and a new invitation for bid was initiated. Further, he stated that the Vendor was awarded the contract based on the new bids. However, the Deputy Director could not substantiate his claim with any evidence. Subsequent inquiries, with other procurement personnel revealed that the Department did not solicit any other invitation for bids for this purchase.

Legal Advice

During this investigation, the Inspector General's Office sought legal opinion to determine if the subject procurement was sole source procurement. The following response was received from the City Attorney's Office:

1. A "sole" or "only practical" source procurement is one where competition is not possible because there is only one source that can meet the requirement. Thus, if a competition is conducted at any point during the procurement of the contract, then that procurement is not really a "sole" or "only practical" source procurement.
2. In a competition for a contract with a value greater than \$50,000, notice of the invitation for bids or request for proposals must be posted for at least ten calendar days before the due date. Thus, a less-than-24-hour bidding period would not be long enough. (This requirement does not apply to purchases under that amount.)
3. Because Ford police cars meeting the City's specifications are available from more than one source and because the value of the contract was to exceed \$50,000, the contract awarded to [Vendor] should have been procured by competitive sealed bidding.

Conclusion

A sole or only practical source designation could circumvent established bidding requirements for large purchases. Obviously, this provision if abused would result in a non-competitive purchase in violation of the City Code requirements. The Procurement Services department is expected to enforce compliance with these requirements. A Procurement Services official should not knowingly circumvent City Code requirements. Circumventing such codes may produce undesirable results.

In this case, since Crown Victoria (Police vehicle) are available from numerous Ford dealers across the City and the nation, the purchase was neither a sole source nor an only practical source purchase. In addition, the City Attorney's office advised the investigators that the procurement should have been conducted using a competitive sealed bidding method. The Procurement Services Department failed to comply with the necessary requirements related to the purchase. Such circumvention of the procurement requirements must be subjected to the disciplinary action as it can lead to abuse and corrupt practices.

If you have any questions, please contact me at extension 5640.

Sincerely,



Umesh Dalal, CPA, CIA, CIG
City Auditor/Inspector General

Cc: Honorable members of Richmond City Council
Honorable Mayor Dwight Jones
Suzette Denslow, Chief of Staff, Office of the Mayor
Daisy Weaver, Council Chief of Staff
Mr. Michael Herring, Commonwealth Attorney