

**Performance Audit  
City Manager Needs to Strengthen  
RFP Contracting Practices**

January 2008

**City Auditor's Office**

**City of Kansas City, Missouri**



January 16, 2008

Honorable Mayor and Members of the City Council:

This audit of the Document Output Management and Mail Services request for proposal (RFP) selection process and the city's general RFP process was initiated at the request of the City Council. Resolutions directed that we audit the city's RFP process and look at the solicitation, evaluation, and selection process used to recommend a vendor for the Document Output Management and Mail Services RFP.

The city's process to recommend a vendor to supply document output management and mail services was conducted poorly at all stages. The city's RFP process incorporates few best practices and during the Document Output Management and Mail Services RFP process, the city did not comply with all of its own requirements.

Contracting best practices are designed to encourage fair and open competition. The integrity of the Document Output Management and Mail Services RFP process can be questioned because of the actions of some members of the selection committee, some city staff, and an elected official.

The current draft contract does not adequately protect the city's interest, providing little leverage to control costs or ensure performance. The city also failed to follow basic contracting principles in the solicitation, execution, and monitoring of contracts with a consultant who was a member of the selection committee.

The city manager needs to strengthen the city's contracting processes. While we make four recommendations, the most necessary element of a strong contracting environment is the tone at the top that encourages a culture of compliance. Elected officials and the city manager must make fair and open contracting a priority.

The city should reject the current proposals for the Document Output Management and Mail Services RFP and begin again, with a new RFP and a new selection committee. The city manager and City Council should also strengthen the city's contracting culture by incorporating best practices and recommendations made in prior audits and reports of city commissions and committees.

We shared a draft of this report with the city manager and his staff on December 5, 2007. Management's response is appended. We would like to thank city staff and proposers for their assistance with this audit. The audit team for this project was Linna Hung, Nancy Hunt, Sharon Kingsbury, Nataliya Kurtucheva, Joyce Patton, Julia Talauliker, and Vivien Zhi.

Gary White  
City Auditor

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# City Manager Needs to Strengthen RFP Contracting Practices

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## Introduction

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### Objectives

We conducted this audit under the authority of Article II, Section 216 of the Charter of Kansas City, Missouri, and at the direction of the City Council. Resolutions 070142 and 070368 direct the city auditor to examine the city's request for proposal (RFP) process and the solicitation, evaluation, and selection processes of the Document Output Management and Mail Services RFP.

A performance audit systematically examines evidence to independently assess the performance and management of a program against objective criteria. Performance audits provide information to improve program operations and facilitate decision-making.<sup>1</sup>

This report is designed to answer the following questions:

- Were the city's processes followed in the Document Output Management and Mail Services RFP process?
- How do the city's RFP practices compare to best practices?

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### Scope and Methodology

We conducted this audit in accordance with generally accepted government auditing standards. Audit methods included the following:

- Reviewing selected sections of the city's Contract Guidebook, ordinances, resolutions, state statutes, videos of committee meetings, the RFP and responses, cost estimates, selection committee materials, and selected communications and documents.
- Identifying RFP contracting best practices from outside authorities, prior audits, and reports of city commissions and committees.
- Interviewing proposers and city staff.

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<sup>1</sup> Comptroller General of the United States, *Government Auditing Standards* (Washington, DC: U.S. Government Printing Office 2003), p. 21.

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## **Findings and Recommendations**

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### **Summary**

The city's RFP process incorporates few best practices. The city only partially followed its own processes in recommending a vendor to provide document output management and mail services. Elements of the RFP process leave the city open to allegations of bias in the selection of a vendor. Actions of city staff, the selection committee, and an elected official tainted the process.

The current draft contract with Perfect Output does not adequately protect the city's interest, providing little leverage to control costs or ensure performance. The city also failed to follow basic contracting principles in the solicitation, execution, and monitoring of contracts with a consultant who was a member of the selection committee.

The proposals submitted for the Document Output Management and Mail Services RFP process should be rejected and a new solicitation process begun. The contracting culture of the city needs to be strengthened from the top down. City staff, members of the evaluation committees, and elected officials should act in a manner that supports fair and open contracting. Our recommendations are intended to improve contracting practices, promote open ethical government, and re-affirm the proper roles and relationships between elected officials and staff.

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### **City's RFP Process Incorporates Few Best Practices**

The city's RFP contracting requirements and guidelines do not include many best practices. While we identified 21 best practices that would apply to an RFP process, we could only identify 7 corresponding city requirements or guidelines. The city's process lacks some solicitation, evaluation, and negotiation best practices. (See Exhibit 1.)

We were unable to interview two members of the selection committees. An outside consultant on the committee would not participate in an oral interview and we declined to submit written questions for her response with the assistance of her attorney. The former director of the Information Technology Department agreed to be interviewed after-hours, but did not provide a time for the interview despite our request.

No information was omitted from this report because it was deemed privileged or confidential. We sent memoranda to the director of General Services with information related to employees potentially inappropriately communicating with proposers during the selection and negotiation processes and to the director of Human Relations about the potentially inappropriate use of city email accounts.

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## **Background**

### **Request for Proposal**

A request for proposal (RFP) is one method the city uses to select vendors. An RFP is a solicitation by the city inviting vendors to submit a proposal or offer to the city. Depending on the value of the potential contract, RFPs may be solicited using a formal or informal process. The city may accept a proposal as submitted or initiate negotiations with the vendor that submitted the best proposal. All terms, including scope of work and price, are subject to negotiation. If negotiations between the city and vendor are not successful, the city may initiate negotiations with the vendor who submitted the next best proposal until the city and a vendor reach agreement. The contract does not exist until all required city procedures are completed and the contract is executed by the vendor and all appropriate city officials. The city may also reject any or all proposals.

### **Summary of Events Related to Document Output and Mail Services RFP**

In January 2005, the commissioner of purchases and supplies was working with the city's current copier vendor, Ricoh Corporation (Ricoh), to replace existing equipment. The commissioner was prepared to enter into a new contract with Ricoh that would have replaced copiers, printers, scanners, and fax machines with multifunctional digital equipment, eliminating multiple machines and streamlining document management.

At the same time, a consultant contracted by the City Manager's Office was directed to review and analyze the city's copier contract. The consultant identified two options. The city could contract with the current city vendor or issue "an RFP to local copier vendors to insure the best deal is provided for the city." The city directed the consultant to look into an alternate solution to the city's copying, duplicating, and printing needs and meet with a document management executive to help develop an RFP.

On September 1, 2005, the city issued RFP-11-01-05-RB. The scope of work in the solicitation included document output management and mail services. The city sought a supplier to provide a flexible management solution for all printing, copying, faxing, and scanning purposes; a comprehensive solution for its external production print needs; and mail services. The Document Output Management and Mail Services RFP (Document Management RFP) solicited proposals for a one-year contract, with the potential for the city to extend the contract for four additional one-year periods.

On October 27, 2005, the RFP was cancelled, three business days before the proposals were due. The city cancelled the solicitations because of rumors of favoritism and high potential costs. The city did not provide an explanation for the cancellation but told vendors that a new or revised solicitation would be issued at a later date.

On December 30, 2005, the city released RFP EV00000191. The scope of work in the new solicitation was virtually identical to the initial solicitation. The RFP language contained few changes. Proposals for RFP EV00000191 were due January 20, 2006. Four proposals were received.

In February 2006, each vendor was given the opportunity to present its proposal to the selection committee. In May 2006, the city invited two vendors, Perfect Output of Kansas City, LLC (Perfect Output) and Ricoh Corporation, to make a second presentation and answer additional questions about their proposals. The selection committee ultimately recommended Perfect Output and negotiations began. Ricoh questioned the selection of Perfect Output and contacted elected officials and staff voicing its concerns.

In December 2006, an ordinance authorizing a contract with Perfect Output was introduced. In January 2007, the Finance and Audit Committee discussed and then held the ordinance awarding the contract to Perfect Output. The City Council passed resolutions in February and March 2007, directing the city auditor to review the city's RFP process

and to look at the Document Management RFP. (See Appendix A for a timeline of key events.)

### **RFP Contracting Best Practices**

Contracting best practices are designed to encourage fair and open competition. Four of the key characteristics of a successful public procurement system identified by the Government Accountability Office are competition, transparency, accountability, and integrity.<sup>2</sup> Successful public procurement systems strive “to deliver on a timely basis the best value product or service to the customer, while maintaining the public’s trust and fulfilling public policy goals.”<sup>3</sup>

We used the work of the Government Accountability Office (GAO),<sup>4</sup> the International City/County Management Association,<sup>5</sup> the American Bar Association (ABA),<sup>6</sup> the National State Auditors Association,<sup>7</sup> the Red Flag Commission,<sup>8</sup> the Council Ethics/Relations Committee,<sup>9</sup> and prior audits produced by this office to identify contracting best practices. RFP contracting best practices include the following:

- Make a public announcement of the solicitation in a manner that reasonably ensures that those who might be qualified to compete can learn of the solicitation and respond to it. The solicitation should include the nature of the procurement and directions on how to proceed, including how to obtain supplemental information.
- Write solicitations that are sufficiently clear to permit the preparation and evaluation of proposals on a common basis.

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<sup>2</sup> *District of Columbia Procurement System Needs Major Reform*, Government Accountability Office, Washington D.C., January 2007, p. 10.

<sup>3</sup> *District of Columbia Procurement System Needs Major Reform*, p. 9.

<sup>4</sup> Formerly the General Accounting Office. *District of Columbia Procurement System Needs Major Reform*, and *Metropolitan Washington Airports Authority Contracting Practices Do Not Always Comply with Airport Lease Agreements*, General Accounting Office, Washington D.C., March 2002.

<sup>5</sup> Donald F. Harney, *Service Contracting: A Local Government Guide* (Washington D.C.: International City/County Management Association, 1992).

<sup>6</sup> *2000 ABA Model Procurement Code and 2002 ABA Model Procurement Regulations*. The Code of Ordinances, Kansas City, Missouri, Sec. 2-1753(a) encourages the use of the ABA Model Procurement Code and Regulations as general guidelines for developing rules and regulations.

<sup>7</sup> *Contracting for Services: A National State Auditors Association Best Practices Document*, National State Auditors Association, Lexington, Kentucky, June 2003.

<sup>8</sup> *Red Flag Commission Report*, Red Flag Commission, Kansas City, Missouri, January 1997.

<sup>9</sup> *Report of the Council Ethics/Relations Committee*, Council Ethics/Relations Committee, Kansas City, Missouri, February 1999.

- Do not impose unnecessary limitations, terms, or restrictions that do not reasonably pertain to your needs.
- Allow adequate time for vendors to prepare a well-researched proposal.
- Disclose evaluation criteria and weights. If criteria are modified, give vendors the opportunity to modify their proposals. Evaluate proposals against published criteria and price only.
- Train the selection committee in their roles and responsibilities. Include a review of the solicitation and the rules governing the evaluation process, and an explanation of the scoring procedures and how to complete the evaluation forms.
- Include individuals on the selection committee who will discharge their duties impartially and are free from impairments.
- Treat all firms equally and avoid the appearance of favoritism.
- Maintain the confidentiality of information obtained or developed in connection with the selection process.
- Require all voting members of the selection committee to attend all evaluation meetings and oral presentations.
- Choose selection committee members with knowledge and experience in the service area, and with finance or budget responsibilities. Individuals who could be called upon to settle disagreements during the term of the contract should only participate as ex-officio members.
- Have the purchasing department or project manager appoint the selection committee members.
- Document award decisions and maintain supporting materials.
- Regulate contacts between proposers, staff, and elected officials.
- Individual council members should not direct city employees.
- Do not add work to a contract that was not originally subject to competition.

- Use a prepared, principal negotiator supported by other team members to conduct negotiations.
- Schedule negotiations to allow for unhurried and orderly progress.
- At the conclusion of each negotiation session, document issues that are resolved and have the principal negotiators sign to avoid renegotiating settled issues.
- During negotiations use the competition to remind the proposer about the priority the organization places on cost.
- Ensure that contracts are in place before work is begun and payments made.

### **City Contracting Requirements**

The city's requirements and guidelines for RFPs are limited. The Contract Guidebook provides instructions, checklists, and forms for consistent administration of the contracting process. The Memorandum of Understanding (MOU) with Local 500 of the American Federation of State, County, and Municipal Employees and city code contain RFP process-related and ethics requirements. Some state statutes also apply to the city's process. For the Document Management RFP, the following requirements applied:

- The city must issue a public notice of the solicitation on the world wide web and vendors must submit sealed proposals for professional, specialized or technical services contracts valued at more than \$111,000.01.<sup>10</sup>
- The city's standard response time for vendors is 10 working days. The time may be extended when a legal holiday falls within the period or the project is unusually large or complex or shortened if warranted.<sup>11</sup>

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<sup>10</sup> Code of Ordinances, Kansas City, Missouri, Sec. 2-1586(b). (Dollar amount reflects annual CPI for fiscal year 2006.)

<sup>11</sup> *General Instructions for Professional, Specialized, Technical Services Contracts ("PST Contracts")*, Professional Services General Instructions, Contract Central, May 24, 2005.

- The city must provide advance written notice to Local 500 when the city proposes to outsource positions currently held by its members.<sup>12</sup>
- The city must retain selection-related documentation for five years after the contract expires for winning proposers, three years for rejected proposers or until the completion of an audit, whichever is later.<sup>13</sup>
- The city discourages the disclosure of evaluation criteria and weights in solicitations.<sup>14</sup>
- The city requires vendors to meet, exceed, or demonstrate best faith efforts to meet MBE/WBE goals for most non-construction contracts of \$52,000.01 or more.<sup>15</sup>
- Public officials and employees must be independent and impartial, recognizing that the public interest is their primary concern.<sup>16</sup>
- City contracts should be executed by agents authorized by law and services must be performed after the effective date of the contract.<sup>17</sup>

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<sup>12</sup> Article XXIII Contracting and Subcontracting of Work, Memorandum of Understanding (MOU) between the City of Kansas City, Missouri, and Local 500 of the American Federation of State, County and Municipal Employees, November 16, 2003 to April 30, 2008.

<sup>13</sup> Missouri General Records Retention Schedule, GS 055 Bid Records, August 24, 2004.

<sup>14</sup> *General Instructions for Professional, Specialized, Technical Services Contracts.*

<sup>15</sup> Code of Ordinances, Sec. 38-85. (Dollar amount reflects annual CPI for fiscal year 2006.)

<sup>16</sup> Code of Ordinances, Sec. 2-1011 and 2-1012.

<sup>17</sup> RSMo. Section 432.070.

*City Manager Needs to Strengthen RFP Contracting Practices*

Exhibit 1. Comparison of RFP Best Practices with City Requirements and Guidelines

Best Practice	City Requirement or Guideline
Public announcement of the solicitation with contact for additional information.	Public announcement of solicitation above a set dollar threshold with contact for additional information.
Clearly written solicitation.	
Solicitation contains no unnecessary limitations, terms, or restrictions.	
Adequate time for preparation of proposals. For service contracts that require personnel or equipment purchase, allow 6 to 8 weeks.	Standard response time is 10 working days, shortened if warranted or extended when a legal holiday falls within the period or when the project is unusually large or complex.
Disclose evaluation criteria and weights.	Discourage the disclosure of evaluation criteria and weights.
Train the selection committee.	
Selection committee should be free from impairments.	Public officials and employees must be impartial, independent, and responsible to the citizens.
Treat all firms fairly.	
Maintain the confidentiality of information.	
Require all voting members to attend all presentations and meetings.	
Selection committee with knowledge and experience in the service area.	
Purchasing department or project manager appoints selection committee.	City manager or his designee appoints selection committee.
Maintain selection and award documentation.	Maintain selection and award documentation materials for at least three years.
Regulate contacts between proposers, staff, and elected officials.	
Individual council members should not direct city employees.	
Do not add work to a contract that was not subject to competition.	
Use a prepared principal negotiator.	
Allow time for negotiations.	
Document issues resolved at the end of each negotiating session.	
Use the competition to remind the proposer about the importance of cost.	
Ensure that contracts are in place before work begins.	Services must be performed after the effective date of the contract.

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## City's RFP Process Partially Followed

The city partially followed its own requirements in recommending a vendor to provide document output management and mail services. The city complied with its administrative processes in publishing the solicitation, establishing the proposal deadline, and notifying the union. The city's policy to discourage the publication of evaluation criteria, program to encourage MBE/WBE participation, and requirement to maintain documents were not fully followed. Some city requirements do not mirror corresponding best practices.

### City Did Not Fully Comply With Its Own Requirements

The city fully complied with only about half of its own RFP requirements. The city followed the publication and notification requirements, but did not fully follow criteria disclosure restrictions or record retention requirements. In addition, one of the evaluation criteria in the RFP was inappropriate.

**The city publicized the solicitation and told vendors how to participate.** The city advertised the Document Management RFP on DemandStar, the city's portal to online e-procurement service. The instructions included in the solicitation explained the steps to take to participate in the process and how to submit questions to obtain supplemental information needed to submit a responsive proposal. The city required vendors to submit signed proposals and supporting documentation in sealed envelopes to the commissioner of purchases and supplies, 14 working days after the solicitation was issued.

**The city complied with the MOU.** The Memorandum of Understanding (MOU) between the city and Local 500 of the American Federation of State, County, and Municipal Employees, requires that "the city will not contract out work presently performed exclusively by bargaining unit employees without advanced written notice to the Union."<sup>18</sup> The scope of work requested in the RFP included duplicating services and mailroom services. Outsourcing these services would eliminate current positions covered by the MOU.

The city notified Local 500, in writing, that the positions in duplicating and mailroom services would be eliminated and provided a draft copy of the RFP. The city and Local 500 also met and discussed the RFP. The city fulfilled its obligations under the MOU.

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<sup>18</sup> MOU, Article XXIII, Contracting & Subcontracting of Work.

**The city included evaluation criteria in the solicitation, a practice it discourages.** The Contract Guidebook's *General Instructions for Professional, Specialized, and Technical Services Contracts* state that listing the criteria or criteria weights is not encouraged in an RFP. The city views the criteria and weights as only one tool that may be used by a selection committee to determine the best proposal. The Document Management RFP included both evaluation criteria and the criteria weighting.

**One of the evaluation criteria in the Document Management RFP was inappropriate.** The city inappropriately included Minority/Women Business Enterprise (MBE/WBE) participation as scored selection criteria in the Document Management RFP. The numerical objectives that the city assigns to a proposal for MBE/WBE participation are goals, not requirements. A proposer is not required to achieve the city's goals, but proposers must demonstrate that they used best faith efforts to meet the goals.

Twenty percent of the evaluation criteria in the Document Management RFP was for "diversity."<sup>19</sup> MBE/WBE participation, however, cannot be scored or evaluated during the selection process because a proposer's MBE/WBE participation is a matter of responsiveness, not a factor in determination of the best proposal. Diversity was not removed from the scored evaluation criteria until after the selection committee had narrowed the field of proposers to two through a straw poll. The impact of this error can not be determined.

**The city retained most, but not all documents.** Although the commissioner of purchases and supplies retained most of the documents that were used in the Document Management RFP selection process, selection committee members did not turn in all documentation to the commissioner.

Some members of the selection committee refused to follow simple record keeping requests. After the initial round of interviews, one selection committee member refused to turn in her score sheets. After the second round of interviews, two committee members refused to tabulate and sign their score sheets. Under the state's record retention law, score sheets are official records and are required to be maintained at least three years.<sup>20</sup> According to best practices, award decisions should

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<sup>19</sup> "The chosen Supplier must: Meet or exceed the city MBE/WBE participation guidelines. (10%) Maximize the City's ability to realize its obligations to expanding opportunities for minority-owned businesses, women-owned businesses, veteran-owned businesses, and certified disadvantaged small businesses. (10%)"

<sup>20</sup> *General Records Retention Schedule*, GS 055 "Bid Records," Missouri Secretary of State, approved August 24, 2004 ([http:// www.sos.mo.gov/archives/localrecs/scheules/general.asp](http://www.sos.mo.gov/archives/localrecs/scheules/general.asp)).

be documented and supporting materials maintained and available in the event the decision is questioned or challenged.

### **Three City Requirements Conflict with Best Practices**

The city's practices and requirements do not mirror three corresponding best practices. The city provided less time for vendors to prepare their proposals than is recommended, discourages the inclusion of rating criteria and weights in RFPs, and did not provide direction on selection committee composition.

**Best practices recommend more time to prepare proposals.** Best practices recommend that vendors be given sufficient time to create good proposals. If the response time is too short, potential vendors may not participate. For major or complex service areas or contracts that require personnel or equipment purchase planning, best practices recommend giving vendors six to eight weeks to respond.

Although the Document Management RFP was both large and complex and required equipment and personnel, the city only gave vendors 14 working days to respond to the RFP. The length of response time was influenced by the issuance and withdrawal of a similar RFP a few months earlier. The 14 days was more than the 10 working day minimum required by city practices, but substantially less than best practices recommend.

**Best practices recommend establishing and disclosing selection criteria.** Best practices recommend establishing scoring methods before the release of an RFP and fully disclosing the criteria that will be used to evaluate solicitations to guide vendors in preparing their proposals. If scoring criteria or processes specified in the solicitation are changed, authorities recommend that the contracting organization inform the vendors and provide them with the opportunity to amend their proposals.<sup>21</sup>

The city does not encourage the disclosure of scoring criteria, but did disclose the initial criteria in the Document Management RFP, while warning that the evaluation would not be limited to the listed criteria. The city changed the scoring criteria and added a second round of interviews to the selection process after the proposals were opened and the first round of interviews conducted. (See Exhibit 2.) Authorities warn against changing criteria during the process, because changes could be tailored to favor one vendor's proposal over another.

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<sup>21</sup> *Metropolitan Washington Airports Authority*, p. 52.

Exhibit 2. Evaluation Criteria Categories

First Interview		Second Interview	
Criteria	Weight	Criteria	Weight
Support Services	25%	Proposed Services	25%
Cost/Financing	20%	Service Guarantee	25%
Quality	20%	Cost Allocation	25%
Capabilities	15%	Implementation/Transition Plan	25%
Diversity	20%		

Source: Evaluation Committee Records.

Although the city did provide Ricoh and Perfect Output with the items to address during the second round of interviews, the city did not inform the vendors they would be evaluated solely on these items. Ricoh later complained that because their pricing was so aggressive in the original proposal, they had little room to modify their service offerings.

**Best practices recommend general guidelines for the composition of the selection committee.** The Contract Guidebook did not and does not address specific committee composition. According to best practices, the purchasing department or project manager should appoint a selection committee that includes a person experienced in the service area and a manager representing the department currently responsible for the service, plus representatives of budget or finance. Representatives of law and purchasing should only participate as non-voting ex-officio members since they may be called upon to settle disagreements during the term of the contract. When the selection committee was first assembled for the Document Management RFP process, the city’s Contract Guidebook provided only limited guidance on selection committee composition. A subsequent revision to the guidebook requires that the city manager or his designee appoint RFP selection committees.

The city’s initial selection committee included a paid leasing consultant, an assistant to the city manager, a registered architect from the Capital Improvements Management Office, an assistant director of technology and information from the IT department, the commissioner of purchases and supplies, and a budget analyst. Interviews with most of the members of the selection committee<sup>22</sup> revealed that not all members knew how they came to be on the committee. After the first round of interviews, the former directors of IT and Finance were added. The committee did not contain members with duplicating or mailroom expertise even though the Document Management RFP covered the outsourcing of those functions. When the commissioner of purchases and supplies suggested a different selection committee that included the duplicating manager, his

<sup>22</sup> The leasing consultant and the former director of IT were not interviewed.

suggestion was rejected by the paid consultant, after the consultant discussed the issue with another member of the selection committee.

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## **Document Management RFP Process Open to Charges of Bias**

The city's Document Management RFP process did not include many best practices designed to encourage full and open competition. The city did not disclose the involvement of Perfect Output or Ricoh in developing the RFP. An earlier version of the Document Management RFP was cancelled because it was rumored to favor certain vendors, but the revised RFP was only minimally changed. Vague and insufficient information provided in the solicitation made it more difficult for potential vendors to prepare adequate proposals. The acts and omissions of some selection committee members and interference by city staff and an elected official also tainted the selection process. The city should reject all the proposals and begin again.

### **Two Vendors Participated in Developing the RFP**

Perfect Output and Ricoh were involved in the Document Management RFP prior to its public release. Perfect Output was involved in developing the scopes of work for walk-up equipment and duplicating services. Ricoh reviewed and commented on the Document Management RFP before it was released. Other proposers were not officially told of these involvements, but rumors of favoritism caused the city to cancel and later re-issue the Document Management RFP.

**Perfect Output helped develop the RFP while Ricoh reviewed and commented on it.** After meeting with Perfect Output's CEO in early 2005, a member of the city staff who ultimately served on the selection committee, recommended to the city manager that the city develop a combined RFP for copy and duplicating services. The city manager asked that Perfect Output's CEO develop an RFP to address document output management.<sup>23</sup> A consultant and additional city staff worked with Perfect Output, modifying the draft RFP prepared by Perfect

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<sup>23</sup> Mary Redmond (paid leasing consultant and member of the selection committee) May 23, 2005 email to Greg Baker (Assistant to the City Manager and member of the selection committee), Eric Bosch (registered architect in CIMO and a member of the selection committee), John Walker (Perfect Output's CEO) and copied to Wayne Cauthen (City Manager): "Greg Baker asked that I co-ordinate a meeting to discuss the RFP prepared by John Walker and his staff at Perfect Output. The RFP was requested by Wayne in his first meeting with John, Greg and Eric...." Greg Baker's June 14, 2005 email to Gary O'Bannon (Director of Human Resources): "There will be a meeting today, I think regarding an RFP being developed by Mary Redmond a contractor hired to find savings in our leasing programs. Wayne met with her, Eric Bosch, John Walker of Perfect Output, and Kris Cane of Fed X about a month ago and asked them to develop an RFP..."

Output. Perfect Output, a minority-owned firm, included a requirement in the draft RFP that potential vendors be locally-based, minority-owned companies. This requirement was eliminated by city staff who recognized that the city should not specify that only proposals from minority firms would be considered.

In August 2005, a Ricoh representative emailed the commissioner of purchases and supplies with “a few items that may need some looking into.” Among Ricoh’s suggestions were a pre-proposal conference and walk-through of the print shop and mailroom; modification of product roadmap and history requirements to a manufacturer’s guarantee of parts and services during the contract period; re-examination of the need for and cost of a 24-hour copy center; advantages of an on-site print shop; use of a monthly minimum charge for the mailroom and duplicating center services; and the inclusion of specifications for standard equipment configurations.

Professional organizations, other local governments, and contractors are recognized as sources of information on service contracting. Contractors may be used as a resource in reviewing potential scopes of work to address issues of clarity and conformity with industry standards. When using contractors as a resource, authorities recommend that the contracting organization invite as many contractors as possible to protect itself against charges of favoritism and that a scope of work suggested by the contractor does not put them at an advantage over other contractors. Only the two ultimate finalists, Ricoh, the city’s current vendor, and Perfect Output, the vendor recommended by the committee, were invited to review or participate in the drafting of the Document Management RFP. Other potential proposers were not notified about their involvement.

**Rumors of favoritism contributed to the cancellation of the first Document Management RFP.** The city originally issued the Document Management RFP on September 1, 2005. This solicitation was cancelled, however, after city staff was alerted to rumors circulating among potential contractors that the language in the solicitation was drafted in a manner that assured the contract would be awarded to a specific vendor and the cost per copy would be very high. Rather than risk that a contract would not be awarded or that there would be a “substantial cloud over these awards,” the city manager’s staff directed that the Document Management RFP be cancelled. The city again issued a Document Management RFP on December 30, 2005, with only a few minor changes in language. It is unclear how the revisions addressed the perceived bias in the RFP process. (See Appendix B for a list of the language differences between the two RFPs.)

### **Vague RFP Could Discourage Proposers**

The Document Management RFP was vague and did not contain critical information. The former director of finance told the Finance and Audit Committee that the RFP was purposely vague so that the city could select the best provider of services.<sup>24</sup> Although the city wanted proposers to provide printing, copying, faxing, and scanning capacity for all city operations, the city was unable to provide a complete listing of existing equipment and locations, current usage, or costs. One potential proposer complained that the RFP lacked basic information on the city's needs and current equipment locations. Ricoh, the city's current copier vendor said that they had to "guess" what was actually happening in the facilities management portion of the Document Management RFP and submit a proposal based on its best guess.

Best practices recommend that the solicitation contain adequate information and be sufficiently clear to permit the preparation and evaluation of proposals on a common basis. Vague requirements may have discouraged potential proposers from investing the time necessary to prepare a proposal and may have given the current copier vendor at least the appearance of an advantage on the copier equipment portion of the RFP. In addition, proposals based on inconsistent guesses could have made evaluation more difficult for the selection committee.

### **Some Committee Members Failed to Fulfill Duties and Responsibilities**

The selection committee members were not trained in their duties and responsibilities. Scoring was inconsistent and half of the committee failed to attend the first round of vendor presentations.

**Scoring for cost was inconsistent.** Cost was a rating component during both rounds of evaluations with the vendors. Three members of the selection committee developed cost comparisons during the process and gave a higher score to the lower cost vendor. Although there were substantial variations in vendors' costs, three other members of the selection committee awarded fewer points for the cost component to the vendor who offered lower costs than to the higher cost vendor. The vendor with the lower cost should have been scored higher on that component.

### **Half of the committee failed to attend all vendor presentations.**

Although vendor presentations were part of the selection process, only three of the six selection committee members attended all four

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<sup>24</sup> January 17, 2007, Finance and Audit Committee meeting.

presentations during the first round of interviews. The city process does not have a rule governing attendance by selection committee members at vendor presentations. Best practices, however, makes attendance at all evaluation meetings and oral presentations a prerequisite to voting<sup>25</sup> because it gives everyone the benefit of full knowledge of all proposals. Without reading all proposals, attending all presentations, asking questions, and listening to proposers' responses, committee members cannot make an informed decision.

One selection committee member, who attended only one of the four initial vendor presentations, reported being told by the city manager that his vote would not count during the initial selection process because he did not attend all of the presentations. However, this member and one other member who did not attend all of the presentations still participated in a straw poll that narrowed the number of proposers from four to two.

**The selection committee members were not trained.** Prior to the vendor interviews, selection committee members did not receive any formal training on their responsibilities or on how to evaluate the proposals. The scoring criteria were distributed to the selection committee, but committee members do not consistently recall any formal training.

The city's RFP practices do not address training of selection committee members. Best practices, however, recommend that selection committee members be trained in their roles and responsibilities. Training could include a review of the solicitation, coverage of rules governing the evaluation process, and an explanation of scoring procedures and instructions, including an explanation of how to complete evaluation forms. Training might have eliminated some of the committee members' scoring and attendance problems in the Document Management RFP process.

#### **Actions of an Elected Official and Staff Tainted the Process**

Interference by an individual councilmember and staff actions created at least the appearance of bias during the Document Management RFP process. An individual councilmember contacted and tried to direct city staff during the selection and negotiation phases of the RFP process. Some members of the selection committee maintained personal contacts with vendors while another member exhibited unprofessional behavior during the selection process. Several staff members not involved in the Document Management RFP also communicated with proposers during the RFP process.

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<sup>25</sup> *Service Contracting: A Local Government Guide*, p. 101.

**A councilmember attempted to direct staff.** One councilmember sent an email message to a member of the Document Management RFP selection committee during Ricoh's presentation. The following emails were exchanged on May 16, 2006, the date of the second proposer interviews and scoring.

Message from councilmember to selection committee member:  
Time: 11:28:42 AM  
Subject: Copier  
Body: Call me before u vote. Please!!

Message from selection committee member to councilmember  
Time: 5:58:15 PM  
Subject: It is done.  
Body: Call me when you get a minute. I am in my office (office number given).

In September 2006, this councilmember also held a meeting with Perfect Output's director of government affairs and some members of the negotiating team, instructing city staff to conclude negotiations quickly. This councilmember had previously called a senior compliance officer with the city's Human Relations Division and asked that she come to the councilmember's office to resolve the MBE/WBE certification status of a potential Perfect Output subcontractor that the officer had recommended be denied certification.

*The Red Flag Commission Report*<sup>26</sup> and the *Report of the Council Ethics/Relations Committee*<sup>27</sup> provide guidelines on contact between elected officials and staff. Both of these documents remind elected officials of their power and authority, and establish appropriate limits on communications between elected officials and staff. Elected officials may ask staff for information, but may not direct staff, unless acting as part of a governing body.

Opportunities for misunderstandings exist in communications. Either party could misinterpret the meaning of the words used or the intentions of the other party. Communication involves the context as well as content of speech. Misunderstanding in communications between

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<sup>26</sup> The Red Flag Commission examined the city's contract processes, procedures, and monitoring in light of a wave of public corruption prosecutions involving elected city officials. The commission, composed of a group of seven business and community leaders, was established by former Mayor Emanuel Cleaver II to offer recommendations and restore public confidence in City Hall.

<sup>27</sup> The Council Ethics/Relations Committee was established to provide guidance to the City Council on the proper interaction between elected officials and city staff and to improve ethics in city government. The committee was composed of Councilmembers George Blackwood, Ed Ford, Paul Danaher, and Aggie Stackhaus.

councilmembers and city staff could lead to unintentional or intentional behavior. The councilmember suggests that her/his interest in the project was appropriate and any statements made were not made or intended to pressure staff but rather to encourage a fair and open process and compliance with established city procedures. The documents we reviewed and interviews we conducted with some staff members reflect the Council Ethics/Relations Committee's fear that communications can be misinterpreted.

The individual councilmember's actions during the RFP process appear to have gone beyond the parameters of a councilmember's position by directing or attempting to influence city staff. The Red Flag Commission recommended and, in the past, the City Council has adopted resolutions reaffirming the city manager form of government and clarifying the role of the council as policy maker.<sup>28</sup> The City Council should adopt a similar resolution to reaffirm their role and acknowledge that individual councilmembers should not direct city staff.

**Personal relationships with vendors may impair the independence of selection committee members.** Various members of the selection committee had professional and personal relationships with the vendors. Although prior relationships with the vendors are not a violation of any rules or regulations, it may impair the independence of selection committee members.

One of the members of the selection committee has a long-time professional and personal relationship with the CEO of Perfect Output. The CEO wrote a letter introducing himself and his firm to the city manager at the suggestion of the selection committee member. Communications and contacts between the selection committee member and the CEO continued during the Document Management RFP process. Another member of the selection committee also had contacts with Perfect Output during the Document Management RFP process.

A member of the selection committee also had professional and personal relationships with Ricoh, the city's current vendor. This member of the selection committee played on a golf team with Ricoh representatives during a charity golf tournament. A Ricoh employee emailed the committee member after the second round of interviews on May 16, saying:

Time: 1:54:47 PM  
Subject: Pick me pick me!!  
Body: Good luck!

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<sup>28</sup> Resolutions 010921, 990247, 980050, and 961329.

**Unprofessional behavior exhibited by a selection committee member elicits accusations of bias by a vendor.** Actions of the city's paid consultant were so disruptive during Ricoh's second interview that Ricoh representatives made accusations of bias to the City Manager's Office. Ricoh reported that the paid consultant rolled her eyes, aggressively wrote notes, and whispered to another member of the committee during their presentation. The consultant's vote was "eliminated" from the final evaluations, but only after the former director of finance had another committee member verify that the outcome would not be changed by the elimination.

**Other city staff also interfered with the process.** Several city staff members, not on the selection committee, communicated with proposers during the RFP process. Purchasing staff provided cost comparisons and other information to Ricoh after the first round of interviews. A Finance Department employee communicated with Perfect Output during negotiations, and a member of the city manager's staff had multiple contacts with a proposed Perfect Output subcontractor throughout the process.

Our *KCI News and Gift Concessionaire Selection Process Audit*<sup>29</sup> recommended that the City Council consider limiting contacts between proposers, their representatives, and staff and elected officials during an RFP process. In addition, the audit suggested including language in the RFP solicitations that prohibited contact with city staff or those involved in the selection process except for a designated city contact after the RFP is issued. The audit also recommended protecting the confidentiality of information obtained or developed during the selection process. To ensure that city staff are aware of proper communications, the city manager should provide ethics training for city staff involved in contracting.

Other cities have proposed communication guidelines during contractor selection processes. Guidelines discouraging private communications between elected officials and a proposer, a proposer's agent, or other interested party about the selection process have been used. Public communications encourage an arms-length process, free from undue influence or the appearance of impropriety. Public discussions can instill transparency and trust in a selection process in which elected officials have the final say and act on the recommendation of the selection committee.

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<sup>29</sup> *KCI News and Gift Concessionaire Selection Process Audit*, Office of the City Auditor, Kansas City, Missouri, December 2001.

Our audit of the *Implementation of the Red Flag Commission's Recommendations*<sup>30</sup> built on the commission's recommendations to provide annual ethics training for city staff. We recommended that annual ethics training include clear definitions of appropriate and inappropriate contact and that training be provided to city and contract employees.

### **City Should Reject Document Management Proposals**

The Document Management RFP process was conducted poorly at all stages. During the solicitation stage, the two finalists were involved in drafting or reviewing the RFP, although their involvement was not disclosed. The RFP lacked critical information on the city's current volume, costs, and equipment. The original scoring criteria inappropriately included diversity. During the evaluation and selection stages, members of the selection committee were allowed to rank proposers even though they failed to attend all vendor presentations. The evaluation criteria were changed although vendors were not provided with an opportunity to revise their proposals. Cost scoring was inconsistent. Members of the selection committee had past and ongoing contacts with potential vendors, the consultant displayed biased and inappropriate behavior during one vendor's presentation, and a councilmember inserted herself/himself into the process. The city should reject the four proposals received in response to the Document Output Management and Mail Services RFP and begin again with a new RFP and a new selection committee.

The city's contracting culture and practices should be strengthened. Since 1989, this office has included more than 150 contracting recommendations in more than 40 audits and reports. In addition, city committees and commissions have also made recommendations related to contracting and ethical practices. Had these recommendations been in place, some of the problems in the RFP process might have been avoided.

The City Council and city manager need to set a tone that encourages open and fair competition for city contracts and a culture of compliance. The city should adopt additional contracting best practices, including prior audit, commission, and committee recommendations.

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<sup>30</sup> *Implementation of the Red Flag Commission's Recommendations*, Office of the City Auditor, Kansas City, Missouri, December 1998.

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## Proposed Contract Does Not Protect City's Interests

The city's best interests are not protected by the language in the draft contract. It does not appear that a contract with Perfect Output will save the city money because walk-up equipment will probably cost more than projected; Perfect Output's duplicating center's capacity is unknown; and the mailroom operations will cost more. The draft contract would commit the city to a five-year contract while Perfect Output of Kansas City, LLC, was set to dissolve December 31, 2007.

### **Initial RFP Goal of Cost Reduction Will Not Be Met**

The draft document management contract does not provide the city with leverage or any other means to control costs. In government contracting, price is always an important consideration. The Document Management RFP was supposed to provide a "highly managed, well-structured and cost effective solution and strategy for the personal printing and document output needs and mail services for our various business units." The cost projections developed by city staff during the selection and negotiations process estimated that the city's costs would increase under this contract.

**Walk-up equipment will cost more than projected.** According to the proposed contract, Perfect Output will determine the appropriate product mix and placement of walk-up equipment (copiers/printers/ scanners/fax machines) for all city locations in accordance with the Office Document Assessments (ODAs).<sup>31</sup> The final cost of the walk-up equipment depends on Perfect Output's recommendation in the ODAs. Although the draft contract does not require a final ODA be provided until 10 days after the effective date of the contract, departments have identified locations and equipment needs that were not addressed in the preliminary information Perfect Output provided. City staff also reported dissatisfaction with the performance of some of the equipment tested. The addition or upgrading of equipment would increase the cost of this portion of the contract.

**Duplicating center capacity is unknown.** The second major component of the Document Management RFP is the production and management of duplicating jobs. Perfect Output would perform all city print jobs and any and all functions related to a print job in the

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<sup>31</sup> An ODA is a fact-based, vendor neutral assessment of the product life cycle within the organization with regard to print, copy, fax, and scan functions. The ODA provides the analytical and quantitative basis for determining the appropriate fleet reconfiguration and potential cost savings including comparisons to industry benchmarks.

Duplicating Center except when the city authorizes Perfect Output to bid out the print job or Perfect Output has documented to the city that it does not have the capability to perform that print job in the duplicating center. The capacity of the duplicating center to complete city jobs in-house can not be estimated because Perfect Output has not provided specific equipment models to the city. The smaller Perfect Output's capacity, the more likely it is that work will be sent to outside vendors, and the more the city will pay. Under the terms of the draft contract, the city would be responsible for costs associated with third-party vendors in addition to the standard monthly fee paid to Perfect Output.

**Mail operations could increase in cost.** The cost of mail operations contained in the draft contract for staff and a delivery van are higher than the city's corresponding costs for fiscal year 2007. The proposed annual cost of personnel and delivery van related to mailroom operations in the draft contract is \$197,580. The actual cost of personnel and a delivery vehicle in mailroom operations for fiscal year 2007 was slightly more than \$103,000.

The cost projections developed by city staff during the selection and negotiations process estimated that the city's total costs under the proposed contract would increase.

#### **Perfect Output of Kansas City, LLC, Set to Dissolve in 2007**

Perfect Output of Kansas City, LLC, is a Missouri limited liability company. At the time of its organization, the members set a dissolution date of December 31, 2007. As of November 27, 2007, Perfect Output's dissolution date had not been changed according to the Missouri Secretary of State's Office. Although Perfect Output could amend their filings with the Missouri Secretary of State's Office to eliminate or change their dissolution date, under the terms of the current draft contract the city would look to the issuer of the performance bond in the event that the contractor no longer exists.

**The city would be tied to this contract for five years.** Although the RFP sought vendors for a one-year contract with the option to renew the contract annually for four additional years, the draft contract is substantially different. The contract would commit the city to the full five-year term of the contract unless the city does not have funds to pay for copying and duplicating services. The contract was modified from the city's standard contract language to permit Perfect Output to obtain financing for equipment.

Best practices suggest that organizations should not impose unnecessary limitations, terms or restrictions that do not reasonably pertain to their needs in the solicitation. According to proposers, the one-year term in the solicitation could have discouraged potential vendors and increased proposed costs to the city. The one-year contract term would leave vendors responsible for machines if the city cancelled the contract after one-year. Ricoh reported that very few finance companies are comfortable with one-year contracts.

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## Problems with Consultant's Contracts

The city's contracting and monitoring processes used with a consultant involved in the Document Management RFP disregarded best practices and city requirements. A contract was not properly procured or executed, much of the work was conducted before contracts were in place, billings exceeded the contract amount, and the city paid for "savings" that were not realized.

### Consultant's Contracts Not Procured Through Competitive Process

The city did not follow its own solicitation requirements when it hired a consultant to review the city's current and potential lease agreements. A city ordinance requires that proposals be solicited by any reasonable method from a reasonable number of qualified sources for a Professional, Specialized or Technical Services contract that will not exceed \$100,000.<sup>32</sup> The city's *General Instructions For Professional, Specialized, Technical Services Contracts* requires three written proposals for a \$100,000 contract. The city awarded a \$100,000 contract to the consultant without using a competitive process.

Our performance audit of the *Starlight Theatre Concession Agreement*<sup>33</sup> reported that public procurement should foster competition. Using a competitive process is one way that the city can obtain the best service at the best price for its citizens. A competitive process helps instill citizen trust in city government. The more systematically and fairly contracts are awarded, the more citizens can trust that their tax dollars are not being wasted. The award of non-competitive contracts should be limited.

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<sup>32</sup> Solicitation requirements may be waived if there is only one source of the service or no competition exists; there is an imminent threat to the public health, welfare, safety or essential operations of the city; or a public solicitation would result in an increased cost for the city or would not be in the best interest of the city.

<sup>33</sup> *Starlight Theatre Concession Agreement*, Office of the City Auditor, Kansas City, Missouri, December 2005.

### **Consultant's Contracts Not Properly Executed**

The consultant's contract to review current and potential lease agreements was signed by an assistant to the city manager who did not have the authority to execute a city contract. Only when Finance Department staff refused to process a payment without a properly executed contract and other required documents was the problem identified and corrected. Good contracting practices and state law require a written agreement, signed by those with the authority to bind the entities.

### **Consultant's Work Largely Completed Without Contract**

The consultant was retained by a second contract to develop the Document Output Management and Mail Services RFP; evaluate proposals with analysis focusing on the overall cost reduction and improved service delivery; and assist with the contract phrase. Although the consultant began working on the RFP project in May 2005, the RFP-related contract was not executed until May 16, 2006, the same day the second round of interviews were conducted. By that time, the consultant had billed the city for almost 95 percent of the \$35,000 contract.

State law requires that vendors contracting with cities perform services after the effective date of the contract.<sup>34</sup> Our performance audit of *Water System Security*<sup>35</sup> cautioned that allowing a contractor to work before executing a contract exposes the city and the contractor to risk. By not having a contract in place, the city could pay for work that was never agreed to. Without an approved contract, the city and the contractor lack clearly defined scope of services, increasing the chances the city will pay for unnecessary work. The consultant billed and the city paid \$42,193 for her RFP work, about 20 percent more than the contract amount.

### **Payments to Consultant Not Commensurate with Dollars Saved**

The scope of services for the consultant's original \$100,000 contract was to review the city's current and proposed leasing arrangements for possible savings. The consultant was to receive 30 percent of the savings her recommendations generated over a two-year period. The contract also permitted the city to request that the consultant review existing systems, services, and operations related to the leasing of equipment for possible savings at an hourly rate.

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<sup>34</sup> RSMo. 432.070.

<sup>35</sup> *Water System Security*, Office of the City Auditor, Kansas City, Missouri, August 2005.

The performance requirements and oversight of the consultant's contract did not protect the city's interests. In some instances the consultant was paid for recommending actions that city staff were pursuing prior to the consultant's involvement. In other instances the city paid for suggestion that could not be or were not instituted. As we have recommended in previous audits, monitoring contracts and contract performance helps ensure that the city receives what it pays for and that contractors are fulfilling their obligations.

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## Recommendations

1. The city manager should strengthen the city's contracting culture and practices. The city manager should consider incorporating best practices from outside authorities, prior audits, and reports of city commissions and committees.
2. The city manager should provide ethics training for city staff involved in contracting, including members of selection committees.
3. The City Council should adopt a resolution reaffirming the city manager form of government, clarifying the role of the City Council, and acknowledging that individual councilmembers should not direct city staff.
4. The city manager should reject the four proposals received in response to the Document Output Management and Mail Services RFP and begin again with a new RFP and a new selection committee.

*City Manager Needs to Strengthen RFP Contracting Practices*

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## **Appendix A**

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### **Timeline of Document Management RFP Events**

*City Manager Needs to Strengthen RFP Contracting Practices*

Timeline of Document Management RFP Events

Date	Event
1/10/2005	Ricoh submits recommendation to the city that would eliminate multiple machines and streamline the city's operations by introducing equipment that will copy, print, scan, and fax.
2/14/2005	Perfect Output contacts the city manager at the suggestion of a member of the city manager's staff, to arrange a meeting to discuss how Perfect Output can help the city manage its document production processes.
3/7/2005	After meeting with Perfect Output, city staff recommends that the city develop an RFP for the management of all of the city's copy services.
5/2005	City executes a 12-month extension of Ricoh's current copier contract with an effective date of May 1, 2005.
5/16/2005	City's RFP consultant meets with Perfect Output.
5/17/2005	City's RFP consultant reviews the draft RFP prepared by Perfect Output.
5/26/2005	City's RFP consultant, city manager's staff, and Perfect Output meet to discuss the RFP prepared by Perfect Output. The consultant and both members of the city manager's staff are ultimately on the selection committee.
7/12/2005	City's RFP consultant provides a copy of the draft RFP to the commissioner of purchases and supplies.
7/18/2005	City's RFP consultant requests Information Technology's participation in the RFP process.
7/22/2005	City's RFP consultant requests the Budget Office's participation in the RFP process.
7/25/2005	City staff meet with the city's RFP consultant to discuss the RFP. These participants ultimately evolve into the selection committee.
8/16/2005	City notifies Local 500 that the RFP will result in outsourcing of positions.
8/23/2005	City delivers a draft copy of the RFP to Local 500.
8/25/2005	Commissioner of purchases and supplies receives suggested changes to the language of the RFP from Ricoh.
9/1/2005	City issues RFP-11-01-05-RB.
9/21/2005	Commissioner of purchases and supplies suggests a selection committee including the duplicating manager. The city's RFP consultant and city manager's staff reject the suggestion and tell the commissioner that the committee was in place.
10/3/2005	City holds pre-proposal meeting and tour of existing city hall facilities for potential vendors.
10/27/2005	City manager's staff directs Purchasing to pull the RFP due to concerns that the RFP is drafted in a way that assures the award to a specific vendor and the cost per copy will be too high. RFP-11-01-05-RB is cancelled.
12/1/2005	City manager's staff notifies the RFP consultant that the RFP should not change.
12/30/2005	City issues RFP EV00000191.
1/20/2006	Proposals for RFP EV00000191 due at 2 p.m.
2/2/2006	Perfect Output's proposed MBE subcontractor is administratively dissolved by the Missouri Secretary of State for failure to file an annual report.
2/3/2006	The president of Perfect Output's proposed MBE subcontractor contacts city manager's staff when asked to supply additional information to the Human Relations staff for MBE certification. The city manager's staff member volunteers to contact the director of human relations regarding this matter.

*City Manager Needs to Strengthen RFP Contracting Practices*

2/17/2006	Human Relations staff recommend a denial of MBE certification for Perfect Output's proposed subcontractor.
2/21/2006	A councilmember contacts Human Relations staff to discuss the certification of Perfect Output's proposed MBE subcontractor.
2/21/2006	Indox and Ricoh make presentations to the selection committee.
2/23/2006	Perfect Output and Lane Blueprint make presentations to the selection committee.
2/26/2006	Law Department notifies the former director of finance that the city's RFP consultant did not have a valid contract with the city.
2/28/2006	Purchasing staff, not on the selection committee, provides Ricoh with a cost analysis of the proposals completed by the commissioner of purchases and supplies.
3/2/2006	Commissioner of purchases and supplies submits his recommendation to the former director of finance that the city begin contract negotiations with Ricoh.
3/6/2006	Former director of finance and the City's RFP consultant discuss the possibility of a second round of interviews.
3/20/2006	Former director of finance reports to the city manager that there are two vendors that could provide the services requested in the RFP. She suggests that the entire committee be re-assembled with the addition of herself and the director of information technology and interview the two finalists again.
4/13/2006	Purchasing staff, not on the selection committee, provide Ricoh with a portion of the city RFP consultant's analysis of the vendor proposals and her recommendations.
4/24/2006	Perfect Output's proposed MBE subcontractor is certified as a D/MBE by Human Relations.
5/15/2006	Law advises that the selection committee can not score MBE/WBE participation.
5/16/2006	City conducts a second round of interviews with Ricoh and Perfect Output.
5/16/2006	President of Perfect Output's proposed MBE subcontractor thanks a member of the city manager's staff for her "help and efforts in moving things along."
5/24/2006	The former director of finance asks the commissioner of purchases and supplies to recalculate the selection committee scores without the RFP consultant's score and to tell only her what the results are.
6/19/2006	City notifies Perfect Output of its intent to begin contract negotiations.
6/27/2006	City begins contract negotiations with Perfect Output.
7/14/2006	Perfect Output provides the city with a draft agreement.
8/29/2006	City RFP consultant notifies the city that she will no longer serve as a consultant to the city for the RFP due to the city's failure to disclose the essential and critical information requested and needed to carry out her work.
9/26/2006	Negotiating teams from the city and Perfect Output have reviewed the contract page by page and were able to reach an agreement on all issues. The city is ready to move forward with the contract pending Human Relations Division's approval of Perfect Output's contractor utilization plan.
9/27/2006	A city councilmember calls a meeting with Perfect Output and city staff directing them to conclude the contract negotiations.
9/29/2006	Perfect Output wants the city to consider changes to the contract.
11/6/2006	City's principal negotiator, the former director of finance, has lunch with Perfect Output to discuss the contract. Perfect Output sends a list of outstanding issues including performance bonds, payment of outsourced vendors, computer costs, cost of a DSL line, costs to move duplicating to the Ed Wolf Garage, and potential services to non-city clients.

11/7/2006	City's negotiator asks Perfect Output to take the latest version of the contract and re-write it to reflect their preferences.
11/15/2006	Purchasing staff, not directly involved in the selection or negotiations, provide Ricoh with confidential city information including confidential attorney/client correspondence from the City Attorney's Office, cost comparison analysis prepared by city staff, the city's paper usage analysis, and Perfect Output's customer list.
11/16/2006	Perfect Output's proposed MBE subcontractor is reinstated by the Missouri Secretary of State to conduct business in Missouri.
12/14/1006	Ordinance 061408 authorizing contract with Perfect Output introduced.
12/27/2006	Perfect Output rejects the city's final offer.
1/16/2007	Former director of finance had not yet reviewed and approved changes to the contract language.
1/17/2007	Former director of finance presents overview of the document output management RFP process to the Finance and Audit committee. Ordinance approving the contract with Perfect Output is discussed and held.
1/17/2007	City manager issues a press release announcing the re-publication of the RFP within 30 days.
2/1/2007	City Council adopts resolution 070100, as amended, directing an audit of the solicitation, evaluation, selection, and negotiating process for the document output management and mail services RFP.
2/8/2007	City Council adopts resolution 070142 directing an audit of the city's RFP process.
3/22/2007	City council adopts resolution 070368 repealing resolution 070100, as amended, and directing the city auditor to review the solicitation, evaluation, and selection processes of the document output management RFP.
12/31/2007	Perfect Output of Kansas City, LLC was set to dissolve according to its Articles of Organization filed with the Missouri Secretary of State.

*City Manager Needs to Strengthen RFP Contracting Practices*

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## **Appendix B**

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### **Language Differences Between RFPs**

*City Manager Needs to Strengthen RFP Contracting Practices*

Language Differences in Issued Document Output Management and Mail Services RFPs<sup>36</sup>

RFP Page	RFP 11-01-05-RB Language	RFP EV00000191 Language
1	CONTRACT PERIOD: <u>JANUARY 1, 2006 through DECEMBER 31, 2006</u>	CONTRACT PERIOD: <u>April 1, 2006 through May 31, 2007 with four (4) one year renewals</u> The initial period of performance under the Contract is for one (1) year at fixed and firm price with a unilateral contractual right on the part of the City to extend this contract for an additional four (4) one year periods.
2	In order to be considered, the RFP Registrar must receive your response no later than 2:00 PM CST, Tuesday, November 1, 2005.	In order to be considered, the RFP Registrar must receive your response no later than 2:00 PM (CST) January 20, 2006.
2	A pre-proposal meeting and tour of existing City Hall facilities will be held at 2:00 PM CST, Monday, October 3, 2005 in the City Hall Forum, 6 <sup>th</sup> Floor City Hall, 414 E 12 <sup>st</sup> Street, Kansas City Missouri. All prospective Proposers are encouraged to attend.	[No corresponding entry included.]
2	Questions for further clarification must be submitted in writing by 2:00 PM CST, Thursday, October 13, 2005 to:	Questions for further clarification must be submitted in writing by 2:00 PM CST, Thursday, January 13, 2006 to:
2	All questions will receive a written response, and all questions and responses will be sent to all firms holding a copy of this RFP.	All questions submitted will be answered in writing. If your question results in a change in the specifications, an Addendum will be sent to all prospective bidders.
3	<u>RENEWAL OPTION – 4 – YEAR – MULTI-YEAR CLAUSE</u>	<u>CONTRACT PERIOD – 5 YEARS – RENEWALABLE (sic) ANNUALLY</u>
11	[Dates in RFP schedule/timeline vary.]	[Dates in the RFP schedule/timeline vary.]
11	Pre-Proposal meeting and tour of existing facility in City Hall.	[No corresponding entry included.]
11	Pre-proposal meeting and tour of existing facility in City Hall 2:00 PM CST Oct. 03, 2005	[No corresponding entry included.]
17	TOTAL PRINTER COUNT FOR THE CITY 990	TOTAL PRINTER COUNT FOR THE CITY 1650
32/33	"located n City Hall"	"located in City Hall"
All	Proposal No. 11-01-05-RB Proposal date 09-01-05 Proposal close 11-01-05	Proposal No. EV00000191 Proposal date 12-30-05 Proposal close 01-20-06

<sup>36</sup> HRD Instructions and accompanying forms not reviewed for language changes.

*City Manager Needs to Strengthen RFP Contracting Practices*

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## **Appendix C**

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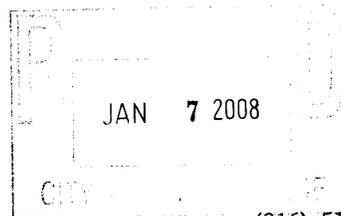
### **City Manager's Response**

*City Manager Needs to Strengthen RFP Contracting Practices*



## Office of the City Manager

29th Floor, City Hall  
414 East 12th Street  
Kansas City, Missouri 64106



(816) 513-1408  
Fax: (816) 513-1363

DATE: January 7, 2008

TO: Gary White, City Auditor

FROM: Wayne A. Cauthen, City Manager <sup>W.A.C.</sup>

CC: Gerald Smith, Director, General Services  
Cedric Rowan, Manager, Procurement Services  
LaTrisha Underhill, Assistant City Manager

RE: Response to Draft Report on City RFP Contracting Practices

I am in receipt of your report titled *City Manager Needs to Strengthen RFP Contracting Practices*. The report yielded three recommendations to the City Manager. Before my response to the recommendations resulting from this report, I'd like to address some general issues and concerns with the presentation of this information.

We had occasion to speak briefly of this document on Thursday, December 20, 2007 in my office. To reaffirm the comments I made during that meeting, I think it is important that you consider including information and underscore that the incidents you were asked to investigate surrounding this procurement effort are not unique to this procurement, especially in Kansas City's procurement culture.

Since my tenure as City Manager began, this is the first audit that has been conducted related to any RFP selection processes. It has been my experience since I have been in Kansas City (and my understanding that before I arrived) that when the Kansas City government makes a shift in the way it conducts business, and subsequently changes vendors, there is some discomfort. When the City then awards a contract to a different vendor than the City traditionally does business with based upon that shift in operations, there is usually criticism about staff's recommendation. Such is the case with the audit to which I am currently responding.

As you suggested in the first recommendation of your audit, I took an opportunity to review the work the City Auditor's Office has conducted related to the city's procurement practices. I discovered that in the past eight years, the City Auditor's Office has conducted no less than three audits that address the city's contracting practices, and range in focus from pre-procurement, contract administration, and oversight of contracts. Your office even published a special report in August 2001 that addressed fair and open contracting processes and monitoring of contract performance. The previous audits and reports are as follows:

September 2000: Follow-up Audit on Street Resurfacing Contracts (The original audit was released October 1997)

August 2001: Special Report: Analysis of Report Recommendations 1988 – 2001

October 2001: Strengthening City Contracting: Aviation Department Relighting Contract

April 2002: Concurrent Review: ERP Pre-Solicitation

In addition to reviewing your previous audits, I also had occasion to review media coverage of procurements that capture the aforementioned sentiment of discomfort and criticism when the City makes a shift in the way it does business. I found a May 18, 2005 article written in *The Kansas City Star* that discusses the City's contractual relationship with Apex Innovations, Inc. A couple of items of note are that the City spent \$12.5 million with the vendor at that point in time, and there was no competitive bid. To quote from the article: "Apex consultants said no adequate computer system existed elsewhere, so the bidding process was waived and the council supported design of a new product." That the consultant made the statement, but does not make any reference to the City itself attempting to discover whether or not the situation is accurate is troubling. The City should have been confident that there was no other firm that could have built the software, and the surest way to do that would be to bid the services out. It is additionally troubling that the City Auditor's Office chose not to investigate the matter of why City staff chose to not competitively bid the services.

Another item of note is that the City had a shift in how it conducted business, and therefore changed vendors. This resulted in much discussion and drawn-out negotiations.

These events unfolded throughout the time period that other audits were conducted, yet this item was not addressed. Best practices of competitive bidding, consultation with the Information Technology Department before the services were awarded, and contract monitoring are all issues that I would have anticipated

the City Auditor's Office would have explored given the nature of the services and the dollars that were spent.

Finally, the characterization of the City's relationship with Apex as an experiment is somewhat disconcerting. So, then is the former auditor's conclusions that the 'experiment' ... "never fully lived up to its promise."

We have also recently witnessed other procurements that have not gone smoothly or without incident, yet those were not audited. For example, the Red Light Camera procurement was postponed by the previous city council, and was accomplished recently.

As you are aware, nine of twelve members of the 2007 – 2011 City Council did not serve on the previous Council, and I think it is important that we provide them with background to what the city's previous procurement practices have been.

Since 2003, I have assessed the business operations of the City and made some suggestions for some structural changes that would result in better service delivery, higher accountability, and fiscal savings. One of the things I noted was that there was no written standardized method by which all City departments or divisions made selections for goods and services. As a result, one of the recommendations I made was to consolidate the procurement function for the City. This did not happen overnight, and the preparation began when I consolidated city services beginning in the 2004 – 2005 City Budget. When the City Charter was revised in August 2006, it gave me the ability to make the General Services Department an official City department to serve the internal needs of the city. The procurement services division was then housed in the General Services Department. In November 2006, I hired Mr. Gerald Smith, as the City's Director of General Services and in January 2007, Mr. Cedric Rowan, the City's new Procurement Manager was hired. Here is a brief synopsis of some activities that have been underway to address the city's challenges related to procurement activities:

- In August 2007, the Procurement Procedures Manual was finalized

- Worked diligently with other City departments and staff, and members of the City Council to enact an ordinance revision that increased the amount of MBE/WBE required participation for goods and services from \$56,000 to \$117,000. Ordinance #071067 was passed in November 2007

- Currently re-engineering supplier registration processes to establish a single point of entry, and ensure more accurate data collection storage and maintenance. The Procurement Division will lead an effort to design a web-base tool for ease of

data entry, collection and reporting. There is a joint team effort from a cross-section of City departments including: Human Relations, Accounts Payable Division of the Finance Department and the Procurement Services Division of the General Services Department.

-Currently working to implement a contract administration process that address the unique contracting issues in each City department, and strive to ensure full compliance with contract performance requirements.

In addition, one of the performance measures included in my fourth employment agreement with the City of Kansas City, Mo. addresses the development of best practices as it relates to the City's procedures around contracting and procurement functions. As you can see, I have already tasked staff with addressing this area, and we are consistently moving forward.

I believe after reviewing your report these are issues that are central to better contract management and oversight throughout the City, and I would be appreciative of your staff were they to make a note that City staff has been diligently addressing these issue for the past two years.

Attached, responses to the recommendations resulting from your draft audit. I have copied staff that would be affected by these recommendations.

Attachments

CITY OF FOUNTAINS  
HEART OF THE NATION



KANSAS CITY  
MISSOURI

## General Services Department

Procurement Services Divisions  
22<sup>nd</sup> Floor, City Hall 414 E. 12<sup>th</sup>  
Kansas City, Missouri 64106

Date: December 14, 2007  
To: Gerald Smith, Director of General Services  
From: Cedric Rowan, Manager of Procurement Services  
Subject: Development of Administrative Regulation for Request for Proposals

At the request of the City Manager, we were instructed to develop an Administrative Regulation outlining a procedure for the issuance, evaluation and negotiation process for RFP's. The audit report was very specific in outlining that the Document, Duplication & Mail Room Services RFP did not follow internal processes or other best practices from various governmental agencies.

Given the importance of this undertaking, it is our recommendation that the City's procurement manager and our legal representative be allowed adequate time to develop a process that incorporates the benefits from both public and private sectors. We believe this is the appropriate path to take.

These are the critical factors that have led to our decision:

- Time needed to acquire, review the source documents referenced in the audit pertaining to best practices for RFP's and draft a new process.
- Time to evaluate the current Contract Central Contracting curriculum to identify possible new classes are revising existing classes.
- Reviewing the current contracting documents for immediate revision to address some of the concerns sighted in the audit.

It is our view that the current Administrative Regulation 3-21 would be revised referencing our new process on Contract Central. By doing so, we achieve a higher rate of compliance and control.

If you have further questions, please do not hesitate to contact me directly.

Attachments

CITY OF FOUNTAINS  
HEART OF THE NATION



KANSAS CITY  
MISSOURI

## General Services Department

Procurement Services Divisions  
1st Floor, City Hall 414 E. 12<sup>th</sup>  
Kansas City, Missouri 64106

Date:

To: Wayne Cauthen, City Manager

From: Gerald Smith, Director of General Services

Subject: Procurement Response to Draft Report on City RFP Contracting Practices

The draft report referenced four recommendations for the City Manager. Only three of those recommendations will be addressed by General Services (1, 2, & 4). Our response will specifically address what we consider a logical approach to improve the City's city-wide contracting practices.

**Recommendation #1: The City Manager should strengthen the city's contracting culture and practices. The city manager should consider incorporating best practices from outside authorities, prior audits, and reports of the city commissions and committees.**

Response: Agree. We will review, evaluate and incorporate best practices from outside authorities, prior audits, and reports of city commissions and committees. We will reevaluate all City contracting processes and incorporate the changes in Contract Central and require all City employees to follow the policies and procedures. (Contract Central sets forth contracting procedures that all employees are required to follow and incorporates all applicable laws).

We will work to ensure that the City's contracting process is fair to all bidders and proposers, transparent and provides the best value for the City's taxpayers. All employees who work with contracts will be properly trained through the City's Contract Training Academy which started in October.

**Recommendation #2: The City Manager should provide ethics training for the city staff involved in contracting, including members of selection committees.**

Response: Agree. We will provide ethics training to all city employees involved in the contracting process, including members of selection committees. The City's Contract Training Academy will be reviewed to determine how best to provide this training.

**Recommendation #4: The City Manager should reject the four proposals received in response to the Document Output Management and Mail Services RP and begin again with a new RFP and a new selection committee.**

Agree. The City's Law Department has drafted a letter for rejection of all proposals. The letter is attached to this memo.

**Date**

**RE: Document Output Management and Mail Services RFP  
EV00000191**

Dear :

The City of Kansas City, Missouri has rejected all proposals for the Document Output Management and Mail Services RFP. We appreciate the time and effort that was put into the preparation of your proposal.

Sincerely,

Cedric Rowan  
Manager of Procurement Services