



Long Beach City Auditor's Office

Contract Administration Audit Limited Scope Review Report 7 of 10

Utiliworks Consulting, LLC

July 1, 2016

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Results & Recommendations

This is Report 7 of 10 in our series of limited scope audits of City contracts.

This report includes the results of a limited scope review of contract #33111 between the City of Long Beach (City) and Utiliworks Consulting, LLC (Utiliworks). It is the seventh of ten contract audits reporting on the adequacy of the City's monitoring procedures and internal controls over the administration of contracts. A summary report that compiles the results of the ten individual contract audits will be issued separately.

In July 2013, the Gas and Oil Department (Department) contracted with Utiliworks Consulting, LLC (Utiliworks) for a one-year contract initially valued at \$245,000 for technical consulting services related to the evaluation, design, procurement and implementation of an advanced metering infrastructure system. This encompassed the preparation of the scope of work and the request for proposal (RFP) to solicit vendor bids.

The Advanced Metering Infrastructure (AMI) project is a major project that was approved by City Council in June 2014 and will eventually transition all City meters from manually-read gas meters to "smart" meters. The \$22 million project is funded by a combination of debt and pass-through fees to customers. Implementation of the new system consists of four main components: the AMI network, the Meter Data Management software, the actual gas meter/retrofits/installations, and the project integration and implementation management (PIIM).

Awarding work to a non-bidder who participated in the development of the RFP presented a conflict of interest and a conflict with City Charter requirements.

After receiving responses to the RFP, the City elected to reject all vendor bids for the PIIM work and instead award this portion of the project to Utiliworks, even though Utiliworks had not participated in the formal bidding process. As a result, the Utiliworks contract was increased by \$1,391,940 to include the PIIM scope of work. When Utiliworks was awarded the PIIM work, a conflict of interest, as well as a conflict with the City Charter occurred due to their involvement with the RFP and vendor evaluations. The Department states they were satisfied with the work Utiliworks had performed under their original contract and it made sense and was most convenient to give them the additional work under the AMI project via an amendment to their existing contract.

The Department appeared to be effectively communicating with Utiliworks on topics such as project status updates, sufficiency of deliverables and invoice billings on project completion which all assisted with moving the AMI project forward. However, in addition to the procurement issues noted above, we found other areas for improvement such as documentation, training and review of travel costs.

We want to thank the Department's staff for their assistance, patience and cooperation during this audit.

Finding 1. The Department created a conflict of interest when it awarded a component of the AMI project to Utiliworks after they assisted with developing the RFP which resulted in a \$1.3 million contract awarded in what appears to be neither a fair nor competitive process.

- A. *A conflict of interest occurred when Utiliworks assisted the City with preparing the AMI RFP and then was awarded work included within the RFP.*

Within the scope of their original contract, Utiliworks was to perform a variety of services around development of the AMI RFP and make recommendations to the City on final vendor selection. The AMI RFP consisted of five major components, one of which being the PIIM work. The language around the PIIM component required vendors to bid on all five components, as prime vendors, of the AMI project in order to be considered for the PIIM work.

Three “prime vendor” bids were received for all project components of the RFP, including the PIIM work. However, the vendor selection committee and Department management determined it was in the best interest of the City to reject the three “prime vendor” bids due to cost savings and oversight preferences and award individual contracts for the project components listed in the RFP. Following the rejection of all three “prime vendor” bids that included PIIM work, Department management elected to give the PIIM component to Utiliworks. This action was taken even though Utiliworks assisted with the RFP scope of work and did not provide a bid proposal through the RFP process. This is concerning because it allowed a situation where Utiliworks had the ability to influence the outcome of the RFP process in their favor.

- B. *The procurement process for the Utiliworks contract amendment was not in accordance with City Charter Section 1801 and Administration Regulation (AR) 23-3.*

The City Charter and City procurement rules state that any purchase of services, labor, supplies, materials and goods for the City over \$100,000 shall go through the competitive bid process, unless it qualifies as a sole source purchase under AR 23-3(D) or an exception to policy is granted under AR 23-3(E).

After the RFP process was closed, Utiliworks provided the Department with a cost estimate to provide PIIM work. According to management, rounds of negotiations took place to get the scope and price down to \$1.3 million. However, due to the way that the PIIM costs were structured in the three “prime vendors” bids, we have no way of knowing if the \$1.3 million is reasonable. The costs for PIIM were not separately listed and no other cost proposal for only the PIIM component was sought by the Department.

The award to Utiliworks would be considered a sole source procurement as it was not considered through a competitive bid. However, under the City Charter, this award does not qualify as a sole source procurement as Utiliworks was not the only source available to perform the work and the work was not an emergency. Other sources were available as three vendors placed a bid on the same PIIM work as a part of their “prime vendor” formal bid, which the vendor selection committee evaluated and scored.

AR23-3(E) allows for exceptions to the City Charter if proper justification through written memorandum is prepared, approved by the City Manager, and then approved by a resolution of the City Council. No exception resolution exists for the PIIM work awarded to

Utiliworks under the amendment.

Recommendations:

- 1.1 Adhere to City Charter and City procurement regulations and policies when bidding work. Exceptions to these regulations and policies should be approved by City Manager and City Council and thoroughly documented.
- 1.2 Avoid conflict of interest situations in procurement by not awarding work to a vendor that participated in the preparation and development of the RFP.
- 1.3 To ensure a fair and competitive process, if rules are changed then all vendors should have the same opportunity to rebid. This would also provide a better platform for the City to determine if bid prices are appropriate and reasonable.

Finding 2. Utiliworks contract amendment was not clearly communicated to City Council. Therefore, it is unclear if City Council understood they were approving nearly \$1.3 million in work that was not competitively bid out.

On June 10, 2014, the Department presented the entire AMI project and individual contract information to City Council for approval. However, this communication lacked the information discussed in Finding #1 above and key details surrounding the contract amendment awarded to Utiliworks. The AMI letter to City Council was not transparent and implied the PIIM work awarded to Utiliworks was also bid out along with the other AMI contracts, when it was not. Also, there was no discussion that this was an amendment to an existing contract and that \$62,900 for work performed under the original contract was transferred to and paid for under the amendment.

Recommendation:

- 2.1 The written staff report to the City Council should accurately describe what has occurred and how contracts were bid and awarded.

Finding 3. Adequate review of Utiliworks' travel expenses is not performed nor are sufficient project files maintained. These weaknesses could lead to payment for excessive or inappropriate travel expenses and could also expose the City to risk in the event of dispute or potential litigation.

- A. *City AR 4-1 is intended to ensure travel cost incurred by City employees is reasonable and appropriate. When traveling on behalf of the City, consultants are not required to follow the City's policy on travel expenses, as the policy only applies to City employees. Without clear guidelines, it is up to each reviewer's interpretation of what constitutes a "reasonable" or "appropriate" expense.*

During our review, we noted questionable travel costs submitted by Utiliworks and paid by the City such as a meal receipt that included alcoholic beverages and a car rental charge that exceeded the days of business. Because there are no guidelines, each reviewer is left to use their judgment to establish what qualifies as a reasonable expense. However, this is a questionable practice given one person's impression of what is a reasonable expense may not be sensible or justifiable which could lead the City to pay for travel costs that are inappropriate.

In 20% of trips we reviewed, there were instances of missing receipts or receipts that were

not readable. Without adequate documentation to support travel costs it is difficult to determine if travel expenses paid by the City are reasonable and appropriate. Further, supporting documentation for some travel invoices was not held by the Department but rather had to be retrieved from the vendor following our request.

- B. *While the Department has a process in place to monitor the status of contract deliverables, key contract deliverable documents were not available for review.*

Contract administration best practices call for proper documentation of contract activities.¹ To ensure the City is receiving the goods and services for which it has paid, contract files should be organized and complete. Files should contain written records of all contract activities including such items as meetings, communications, issues, expense support, work verification and agreed-upon changes or resolution.

In this particular contract there were several specific deliverables defined at key points in the process. Establishing deliverables to be provided by the vendor gives the City the opportunity to ensure all steps have been taken within that phase of work and that the outcome (i.e. the deliverable) is acceptable and meets the City's expectations.

While the Department has a process in place to monitor deliverable status, key deliverables defined in the contract were not available for our review. This could be problematic should issues arise with the contract or AMI project or should the Department need to prove the outputs defined by the contract and paid for by the City were actually received.

Recommendations:

3.1 Provide adequate review of travel expenditures to ensure all supporting receipts/documentation are submitted and reasonable.

3.2 Ensure proper contract project files are maintained in alignment with best practices. This would include key elements of contract activities such as deliverables and travel reimbursement.

Finding 4: Gap in contract coverage for contractor's work could pose challenges for the City to legally enforce terms during the gap period and to have the protections afforded under a valid contract.

Continuous valid contract coverage over vendors work is essential for the City to ensure value, enforce terms and have elements of protection from potential risk. In this instance, the original contract term ended on 6/30/2014. Although the amendment was approved by the City Council on 6/10/2014, the start date or entered into date of the amendment was not until 7/23/2014. This left a 22-day gap in coverage. During this time, the contractor continued work for the City and invoiced for their efforts.

In addition, clearly defined effective dates of contracts and amendments is needed to avoid potential misinterpretations. The term of the original contract was from 7/1/2013 and ended on 6/30/14. The term of the Council approved amendment was backdated to show the extended term as 7/1/2013 to 1/31/2018, which includes the original contract term. The amendment term should read 7/23/14 through 1/31/2018.

¹ See Appendix A in this report for examples of best practices in contract administration.

Under the approval for and within the original contract, there were no provisions for additional work or extensions of Utiliworks services. The scope of work in the original contract relating to the RFP preparation and award assistance, is vastly different from the additional scope of work provided by Utiliworks for PIIM services under the contract amendment period. Instead of entering into a new contract for the PIIM services, they awarded the \$1.3 million through an amendment to the original contract.

Recommendations:

4.1 The City should establish guidelines on appropriate dating of contract amendments and term length to ensure there is consistency and clarity.

4.2 Amendments for services that are significantly different from the original contracts should instead be placed into new contracts.

4.3 Contract terms should be reviewed periodically and managed accordingly to ensure amendments or contract renewals are handled timely to avoid a disruption in service or gap in coverage.

Finding 5. Lack of Citywide guidance and training on effective contract management results in a lack of clear responsibilities, expectations and communication across departments. This increases the risk of fraud and is an inefficient use of staff resources.

Overseeing service contracts requires both technical and contract administration knowledge. These are two very different skill sets. City management has assumed if the contract administrator has technical knowledge, that it is sufficient expertise to effectively manage contracts. However, it is not.

Contract administration best practices call for guidance and training to be provided to staff who are responsible for overseeing contracts. Staff received training from another City department on contract oversight; however, there is no mechanism to measure whether the training is being properly applied and was effective. In addition, policies and procedures should be established along with an adequate training program that will assist staff in being effective contract managers with set policies and procedures for staff to follow.

The City has not made proper oversight of contracts a priority. There is neither a citywide standardized training on contract administration for its employees nor policies, procedures or guidelines detailing best practices of contract administration. As a result, departments are expected to initiate their own training and policies, which has been inconsistent. As the City contracts for millions of dollars in services, it is critical that staff have the skills and knowledge to provide adequate oversight of the contracts.

Recommendations:

5.1 The City should recognize the critical need for good contract oversight and develop a standardized citywide training program on contract administration best practices, which include the establishment of policies and procedures for overseeing contracts. This will provide consistency among the departments and provide staff with much needed guidance in this area.

Background

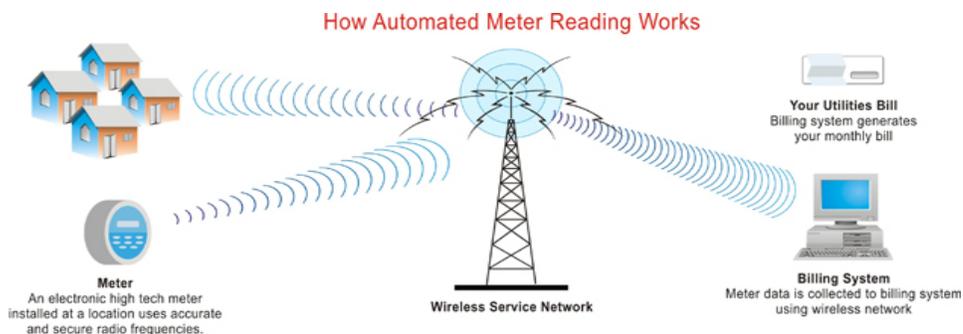
Contract

Utiliworks provided guidance and assisted the City with the business case development and vendor procurement for the AMI system.

In June 2013, the Gas and Oil Department (Department) made a request for the City Council to approve a one-year agreement to contract with Utiliworks for consulting services to assist the City in business case development and vendor procurement for the Advanced Metering Infrastructure (AMI) system. Prior to this request, the Department had conducted a feasibility study to replace the existing manual metering system.

AMI systems are increasingly becoming the nation's standard for metered utilities. For example, several private and municipal utilities in the State of California have already or are in the process of converting their meters to an AMI system. The City's primary drivers for the AMI system is meter reading efficiency, better customer information and a reduction in operational costs. Figure 1 gives a brief illustration of the AMI system.

Figure 1
Advanced Metering Infrastructure System



Source: The Cortez Journal

Near the completion of their work under the original contract, Utiliworks was awarded an amendment, which extended their involvement into the \$22 Million AMI project until January of 2018. The work under the contract amendment changed Utiliworks' focus to assisting the City in project implementation and management.

Contract Monitoring

The City is responsible for managing the contract to ensure the Contractor completes the required scope of services with quality.

After entering into a contractual obligation, the City is responsible for monitoring the Contractor's performance and compliance with contract terms and conditions. Appendix A provides additional information related to contract administration, including best practices and components of effective contract monitoring.

Objective, Scope & Methodology

This audit assesses whether the Department employed sound contract monitoring procedures to ensure the Contractor complied with key terms & provisions.

The objectives for this audit were to evaluate the adequacy of the Gas & Oil Department's (Department) monitoring procedures and internal controls over the contract administration, to examine related payments and to review the compliance with key contract provisions. Although the contract term is four years and seven months ending in January 2018, a majority of Utiliworks substantive consulting and project implementation work was conducted through January 2016. Therefore, the audit scope was the two years and seven month period from July 2013 through January 2016.

We reviewed the contract terms and conditions along with related records, including procurement documents, legislative text, contract amendments, purchase orders, and change orders. We also reviewed regulatory criteria including the City Charter Article XVIII, along with the City's Procurement Policy and Administrative Regulations. In addition, we used best practices and principles in public procurement and contract monitoring to evaluate the adequacy of the Department's oversight responsibilities.²

To perform the work we conducted the following procedures:

- I. Procurement Method – Reviewed the method used to purchase the contract, including competitive bid documents where applicable, and the executed contract to determine whether the contract and accompanying amendments complies with the City's purchasing guidelines. We also verified that the contract was properly approved by the City Council.
- II. Risk Assessment & Control Environment – Performed a review of contract related data to assess the contract risk. Interviewed Department employees to gain an understanding of the activities they perform in managing the contract and monitoring the Contractor's performance, as well as to assess the internal control environment. We also verified the Contractor's compliance with key contract terms and conditions.
- III. Payment Processing – Compared Contractor payments to the original invoice and supporting records where available to verify accuracy, appropriateness and proper approval. We also evaluated the timeliness of payment processing.

We conducted this audit in accordance with Generally Accepted Government Auditing Standards (GAGAS), which require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on the audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

² *Principle and Practices of Public Procurement*, Sept. 2013, by the National Institute of Government Purchasing, Inc. and the Chartered Institute for Purchasing and Supply; and *Components of an Effective Contract Monitoring System*, July 2003, by the State of Georgia Department of Audits and Accounts Performance Audit Operations Division.

Appendix A

In its simplest terms, contract monitoring provides the City with assurance that it is receiving the services or goods for which it has paid. But taken further, active contract monitoring mitigates risk, with risk defined as the probability of an event or action having an adverse effect on the City.³ Proper oversight and monitoring creates a strong control environment that can deter fraud, waste, and abuse. As shown in Figure 2, components of an effective contract monitoring system include an ethical tone that starts at the top of the organization, ongoing monitoring, and thorough recordkeeping.

Figure 2
Best Practices in Contract Management

TONE AT THE TOP	
<p>I. Establish a consistent, high quality contract monitoring & compliance system across the organization.</p> <p>II. Publish, communicate and implement written policies.</p>	<p>III. Provide training in contract compliance & monitoring to those with the responsibility for contract oversight.</p> <p>IV. Limit contract risk by requiring disclosure of conflicts of interest.</p>
CLOSE OVERSIGHT and GOOD ADMINISTRATION	
<p>V. The contract scope-of-work often is the City's primary means of communicating these expectations. Ensure the SOW includes:</p> <ul style="list-style-type: none"> • Clear expectations & deliverables that are defined and specific. • A plan that considers all significant issues that may affect the success of the project. • A contingency plan to address how the agency would respond in the event of an interruption of service delivery. • A dispute resolution procedure that requires timely resolution. <p>VI. Use standard project schedules to document project progress, responsibilities, timing, and problems.</p> <ul style="list-style-type: none"> • Hold regular meetings to discuss the information in the schedule and agreement on changes. Agree to the frequency of updates. <p>VII. Perform onsite monitoring to ensure the contractor's compliance.</p> <ul style="list-style-type: none"> • Visits can verify actual performance against scheduled or reported performance and ensure the contractor is dedicating sufficient resources and appropriate personnel. 	<p>VIII. Evaluate the contractor's performance and provide feedback.</p> <ul style="list-style-type: none"> • Focus on outputs and outcomes that assess some aspect of the effect, result, or quality of the service. <p>IX. Contract files are organized and complete. Records are critical should any contract dispute occur. Items to include:</p> <ul style="list-style-type: none"> • Method of evaluation and award. Maintain a copy of the contract, modifications, and amendments; as well as insurance records. • All contract activities, including meetings, communications, issues, and agreed-upon changes or resolution. <p>X. Contractor invoices are accurate, complete & sufficiently supported. Records regarding any change to payment schedules, pricing, or timing should be maintained.</p> <p>XI. Payments are linked to satisfactory performance, properly reviewed, and approved.</p>

³ *Components of an Effective Contract Monitoring System*, July 2003, by the State of Georgia Department of Audits and Accounts Performance Audit Operations Division.

Management Comments

Management's response begins on the following page.



ROBERT DOWELL
DIRECTOR

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DEPARTMENT

Date: June 29, 2016
To: Patrick H. West, City Manager *PU*
From: Robert Dowell, Director of Long Beach Gas and Oil *Robert Dowell*
For: Laura L. Doud, City Auditor
Subject: **Contract Administration Audit: Utiliworks Consulting, LLC**

Thank you for the opportunity to comment on the draft Contract Administration Audit.

Staff has reviewed and provided input for each of the City Auditor's recommendations and outlined the action plan moving forward. As some of the recommendation involve citywide consideration, staff agrees to initiate or facilitate recommended actions.

Long Beach Gas and Oil (LBGO) management appreciates the City Auditor's level of due diligence reflected in the Contract Administration Audit, and appreciates the opportunity to comment. LBGO will work to implement action in response to the audit. We have a new team in place since the audit (Director, Business Operations Manager, Administrative Analyst/Project Manager), and we will spend the necessary time to make the changes recommended by the audit.

I appreciate the City Auditor's level of due diligence reflected in the Utiliworks Consulting Contract Audit and will personally work to implement identified changes. If you should have any questions, please call me at 562.570.2001.

ATTACHMENT: MANAGEMENT RESPONSE AND ACTION PLAN

CC: PATRICK WEST, CITY MANAGER
TOM MODICA, ASSISTANT CITY MANAGER
ARTURO SANCHEZ, DEPUTY CITY MANAGER
TONY FOSTER, BUSINESS OPERATIONS MANAGER, LBGO

MANAGEMENT RESPONSE AND ACTION PLAN

Long Beach Gas and Oil Department (LBGO)

Contract Administration Audit: Utiliworks Consulting, LLC.

No.	Recommendation	Priority	Page #	Agree or Disagree	Responsible Party	Action Plan / Explanation for Disagreement	Target Date for Implementation
1.1	Adhere to City Charter and City procurement regulations and policies when bidding work. Exceptions to these regulations and policies should be thoroughly documented and approved by the City Manager and Council.	High	3	Agree	LBGO Staff	LBGO will review with staff the City Charter and City Procurement regulations and policies. The action plan moving forward will be to separately bid any component apart from the Prime Contract services.	Immediate
1.2	Avoid conflict of interest situations in procurement by not awarding work to a vendor that participated in the preparation and development of the RFP.	High	3	Agree	LBGO Staff	LBGO will follow all process to avoid conflict of interest or the appearance of conflict of interest in any future RFPs.	Immediate
2.1	Communication of procurement activities to the Council should accurately describe what has occurred and how contracts were bid and awarded.	High	3	Agree	LBGO Staff	LBGO will work diligently to clearly articulate its procurement activities and how contracts will be bid and awarded.	Immediate
3.1	Provide adequate review of travel expenditures to ensure all supporting receipts/documentation are submitted and reasonable.	Med	4	Agree	LBGO Staff	LBGO will review with staff and contractor/consultants the City's current policies to ensure expenses submitted are reasonable and appropriate.	Immediate
3.2	Ensure proper contract project files are maintained in alignment with best practices. This would include key elements of contract activities such as deliverables and travel reimbursement.	Med	4	Agree	LBGO Staff	LBGO will review with staff current best practices to ensure all deliverables/milestones are identified, tracked and accounted for as contracted.	Immediate
4.1	The City should establish guidelines on appropriate dating of contract amendments and term length to ensure there is consistency and clarity.	Med	5	Agree	Responsible City Department	LBGO staff will follow any and all guidelines established by the City with regard to the dating of contract amendments and term lengths. LBGO staff will work with City management to establish guidelines.	Contingent upon establishment of City guidelines
4.2	Amendments where services are significantly different from in the original contracts should instead be placed into new contracts.	Med	5	Agree	LBGO Staff	LBGO staff will adhere to any and all guidelines established by the City with regard to contract amendments.	Immediate

MANAGEMENT RESPONSE AND ACTION PLAN

Long Beach Gas and Oil Department (LBGO)

Contract Administration Audit: Utiliworks Consulting, LLC.

No.	Recommendation	Priority	Page #	Agree or Disagree	Responsible Party	Action Plan / Explanation for Disagreement	Target Date for Implementation
4.3	Contract terms should be reviewed periodically and managed accordingly to ensure amendments or contract renewals are handled timely to avoid a disruption in service or gap in coverage.	Med	5	Agree	LBGO Staff	LBGO staff will be more diligent in executing new or amended contracts to avoid disruption in service or gaps in coverage.	Immediate
5.1	The City should recognize the critical need for good contract oversight and develop a standardized citywide training program on contract administration best practices, which include the establishment of policies and procedures for overseeing contracts. This will provide consistency among the departments and provide staff with much needed guidance in this area.	High	5	Agree	Responsible City Department	LBGO staff will participate in any and all standardized contract administration training offered.	Contingent upon establishment of City standardized training

Priority

H – High Priority - The recommendation pertains to a serious or materially significant audit finding or control weakness. Due to the seriousness or significance of the matter, immediate management attention and appropriate corrective action is warranted.

M – Medium Priority - The recommendation pertains to a moderately significant or potentially serious audit finding or control weakness. Reasonably prompt corrective action should be taken by management to address the matter. Recommendation should be implemented no later than six months.

L – Low Priority - The recommendation pertains to an audit finding or control weakness of relatively minor significance or concern. The timing of any corrective action is left to management's discretion.

Yellow areas - to be completed by the department