



# CITY OF WILMINGTON

## Professional Services

### Internal Audit Review

September 22, 2020

## City Auditor's Office

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## Highlights

### *Why We Did This Audit*

Internal Audit (IA) performed a scheduled City-Wide audit for the Professional Services Contracts. The audit was in accordance with the 2020 Internal Audit Plan.

### *Methodology*

During the audit period, July 1, 2018 to June 30, 2019, there were 228 open and active contracts City-Wide for Professional Services. To meet our objectives, IA randomly selected contracts from each department for review and haphazardly selected 68 invoices for detailed testing of contracted terms and conditions and supporting documentation.

### *Audit Review Committee:*

Ronald Pinkett, Chair

Ciro Adams  
Marchelle Basnight  
Angelique Dennis  
Bud Freel  
Tanya Washington

### *Objective and Scope*

Internal Audit (IA) conducted a City-Wide Performance Audit of the selected Professional Services Contracts. The following departments were not included in this audit because IA was not provided with the requested and/or required documentation in a timely manner. Those departments were: Police, Fire, Office of Emergency Management. Additionally, the Information Technology department (IT) was not included because their professional service contracts were recently reviewed in a separate audit. Our objectives during this engagement were to determine whether professional service contracts not requiring City Council approval were awarded according to city code, procurement policy and ensure that contracts are being properly monitored by departments. The scope of the audit focused on a review of contracts in effect from July 1, 2018 to June 30, 2019. IA examined 78 contracts from the City's Departments and sampled five invoices (when applicable) from each contract.

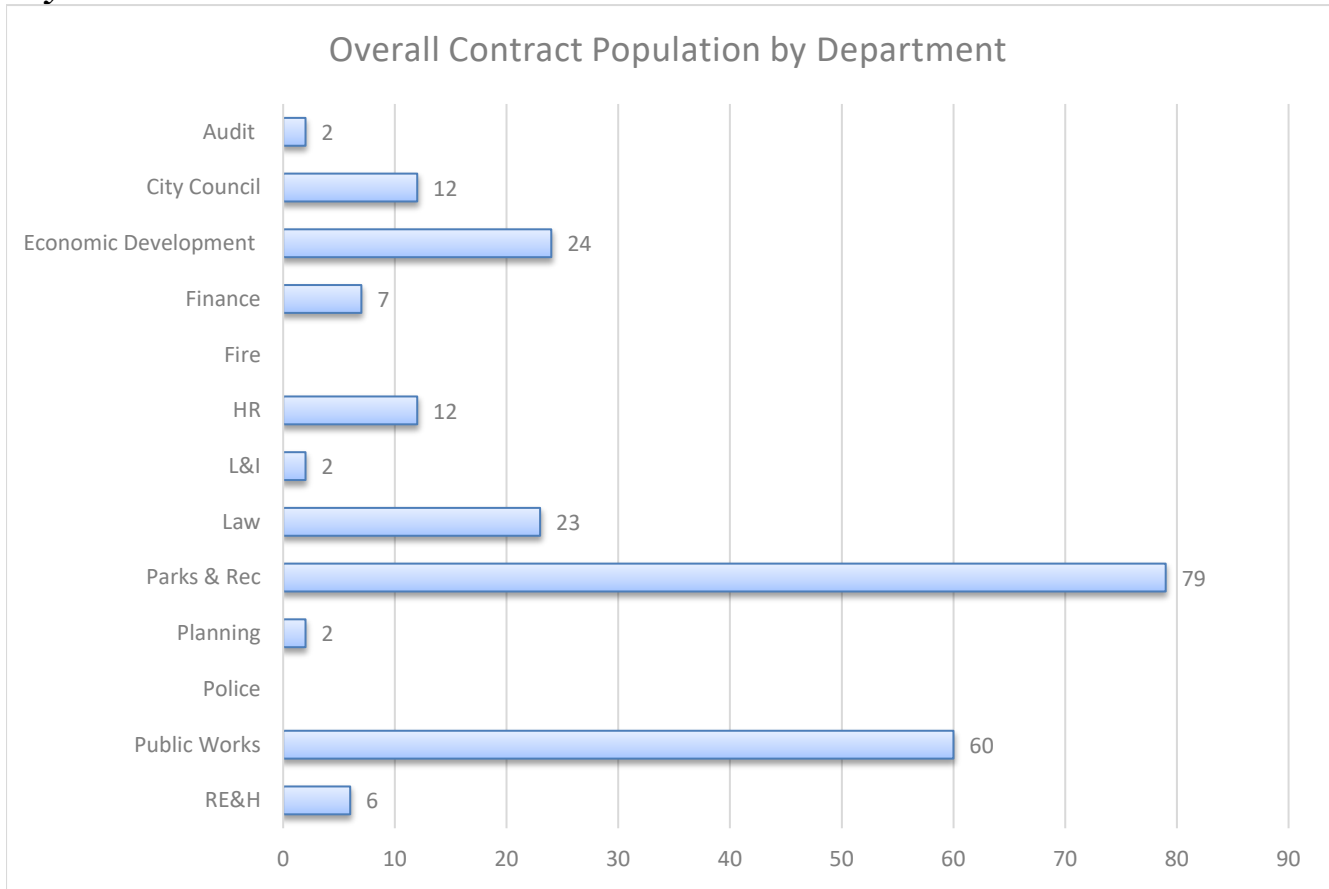
We conducted our audit in accordance with Generally Accepted Government Auditing Standards ("GAGAS"). These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives.

### *Background*

Professional service contracts were sought out by departments based on their need for specialized services and skills that involve expertise. Typical examples of service providers are engineers, attorneys, and financial consultants, just to name a few. The Purchasing Division of the Finance department (also known as Procurement) is responsible for guidance in the form of contracting policy and procedures and assuring compliance in the execution of contracts. For professional services the formal competitive bidding procedures are not required by the City Charter and is the responsibility of individual departments. However, this does not preclude the use of the competitive bidding process to procure professional services, if the department chooses. Professional services can be procured using a request for proposal (RFP) process.

In accordance with the City Charter, all contracts for the leasing of real estate to the City or for goods and services to be rendered to the City with a duration or potential duration (i.e., a contract containing an optional renewal clause of more than one year require the approval of City Council by ordinance). For this engagement, IA focused on contract management and whether the departments complied with City Charter rules.

**Key Statistics:**



**Reviewed 78 of 229 (34%) Professional Service Contracts**

<b>Department</b>	<b>Professional Services Reviewed</b>
Finance	ALW Sourcing Moore & Rutt
Parks & Recreation	Anchor Fence of Delaware Casale Construction Desmond Baker Miller Flooring Kompan Playground Robinson Anderson John Kozlowski Rock Solid Shields Electric Ventresca Bros
Real Estate & Housing	United Way of De Sharmon Anna Enterprises, Inc See Spot Run
City Council	Edythe Prigden Gwendoline Angalet GBA Consulting

<b>Department</b>	<b>Professional Services Reviewed</b>
Economic Development	Riverfront Development Audrey Scott-Hynson
Law	McCarter English Aqua Law Richards, Layton & Finger
Public Works	Randstad JMT Black & Veatch Veolia Water Tetra Tech Arcadis, ECS
Human Resources	Flex Facts PMA

### *What we found*

#### **Key Findings**

Following are key issues that resulted in a process/area to be risk rated a three or four. See **Attachment A** for the detail of these and all comments identified during the review.

<b>Risk Ranking:</b>		<b>(See Attachment B for full rating definitions)</b>			
<b>Process / Area</b>	<b>Process / Area Owner</b>	<b>1 Strong Controls</b>	<b>2 Controlled Effectively</b>	<b>3 Controlled - Improvement Required</b>	<b>4 Significant Improvement Required</b>
Business Operations					✓
Policies & Procedures					✓
User Access					✓
Contract Management				✓	
Review & Approval Process				✓	

## **Business Operations**

1. While there were no technical violations of the City's Charter or Code related to professional service contracts, there are certain best practices Audit recommends be employed as it relates to contract management and oversight in this area, particularly as it relates to the term of certain professional service contracts in light of City Charter sec. 2-308 (Leases & contracts for more than 1 year) and City Code sec. 2-513 (Authorization of certain contracts for more than one year).

Audit observed that some departments obtained the same services from the same vendor year after year. For example, in 15 out of the 78 (19%) contracts reviewed, the departments entered into a subsequent contract for the same services or renewed the contract, although the terms and conditions stated they were one-year contracts. The contracts in questions related to following departments:

- PW had eight (As of 6/04/2020, this practice was still in place)
- Finance had two
- HR had two
- RE&H had two
- CC had one

### RE&H

- Documents exist showing RE&H being advised to use a one-year contract for its See Spot Run contract versus a multiyear contract, as required by City Code sec 2-308 and 2-513.

### HR

- HR department has used Flex Facts and PMA for over a decade. There were several other departments with similar occurrences for professional services resulting in renewing a 1-year contract. Other departments with similar occurrences (DPW – Arcadis, Veolia (190115), Randstad, Black & Veatch; City Council – GBA Consulting; Finance - ALW Sourcing, WTP/Moore & Rutt).

## **Policies & Procedures**

2. There were no policies and procedures (P&Ps) in place to ensure that controls exist surrounding Management Oversight of professional service contracts.

### CC, FIN, HR, LAW, P&R, PW and RE&H

- Unfortunately, departments are relying on the City's Procurement Manual for how they manage professional service contracts. However, nothing exists in the manual that addresses professional services.

## **User Access**

3. Controls over user access of the City's vendor master files need to be strengthened, due to potential segregation of duties issues.
  - The Procurement Division should be the only division who has access to make changes in the Vendor File. It was noted that another staff member within Finance had access to Vendor Maintenance and was able to make changes to the Vendor File.

## Contract Management

4. Various control weaknesses were identified during the review of 78 professional service contracts within the City of Wilmington's (CoW) contract management and oversight process such as the following.

### Finance (FIN)

- The Moore & Rutt contract had a flat fee of \$2k being charged per collectible item which represented less than the amount the attorney was collecting. For instance, there were five delinquent accounts charged \$2k each to investigate, although combined they only collected a little over \$4k.

### City Council (CC), FIN, Real Estate & Housing (RE&H), Parks & Recreation (P&R)

- There was no standard process for reporting issues and/or concerns related to contract performance of professional service providers; only three out of seven departments mentioned they have weekly or monthly meetings to go over the status of work (HR, ED, PW)

### CC, P & R, Human Resources (HR), and RE&H

- Scanned copies of professional service contracts were not in Tyler Content Manager (TCM). (All contracts for CC and almost all of the P&R contracts were missing. Only one contract was missing for HR and RE&H).

## Review & Approval Process

5. Controls need strengthening related to the review and approval of invoices prior to issuing payment.

### FIN

Moore & Rutt's had numerous issues such as computation errors on their 1<sup>st</sup> invoice which lead to immaterial differences on subsequent invoices.

- Three out of three (100%) invoices were itemized and had errors such as, PO# on invoices were incorrect, and the invoices were referencing a fee listing provided by a former law firm that conducted business with the city.

### LAW

- Charges on Aqua Law's invoice did not reconcile with the billed amount, due to a previous balance, but there was no invoice in Munis to show what the previous billed services were to confirm the charges.

### RE&H

- See Spot Run is a vendor that provided a detailed description of work performed but did not itemize what the 30hrs billed represent.
- Sharmon Anna's contract states will be paid biweekly, although invoices were received on a weekly basis.

PW

- Randstad's invoices did not itemize services provided. Their time sheet also does not indicate a time stamp, although all other departmental temps/ consultants provide time frames for hours worked.

One hour of work is consistently being charged by the consultant on Sundays although this is outside the City's hours of operation. In addition, no details were provided regarding the work performed. When their time sheet did not have Sunday as a workday, Saturday was utilized in its place billing one hour.

CC

- Gwendoline Angalet's contract indicates payments were supposed to be paid in 12 installments of \$8.8K. However, none of the invoices indicated this amount.

Based on a review of their contract, reimbursements were limited to travel, however each of her invoices contained reimbursements for dinner meetings and refreshments.

HR

- Immaterial differences were noted between the contracted pricing and what was billed on the PMA claims invoice.

**Additional Observation**

It was noted that some ordinances are approved with a yearly renewal. This ultimately allows for certain contracts to renew in perpetuity which negates the need for City Council review.

## *Management Responses to Audit Recommendations*

### Summary of Management Responses

**Recommendation #1:** Management needs to employ after action reporting (AAR), which is a managerial tool that can be used to extract “lessons learned” from the contracting experience. Specifically, the AAR can be used to determine whether it would be more beneficial to the City to contract with a particular vendor for a one-year term or a multiyear term (e.g. in cases where the City will pay a reduced rate by locking in terms over an extended period of time.) If a multiyear contract is more beneficial, departments must comply with sec. 2-308 of the Charter (Leases & contracts for more than 1 year) and sec. 2-513 of the Code (Authorization of certain contracts for more than one year).

If contracts are not being renegotiated with the prior vendor, consider following a process similar to the competitive bidding process required for non-professional service contracts, e.g. a request for proposal. If the contract is being re-negotiated with the same vendor, consider renewing the contract and following the Code as it relates to multiyear contracts, i.e. obtaining city council approval.

Additionally, contracts should not be renewed without considering changes that may be beneficial to the city.

#### **Management response & action plan:**

CC - All contracts that are deemed multi-year contracts for City Council has been submitted to City Council for legislative action, which is required per City Code. Furthermore, all contracts for City Council is done by the City’s Law Department. If it is determined in consultation with the Law Department that a contract is multi-year, then it will be a multi-year contract.

The referenced contract pertaining to GBA Consulting, which pertains to services related to WCAC/CDC, this professional services contract is a one-year contract due to the following:

1. Scope and services are different each year contingent upon many factors.
2. The GBA contract is primarily funded with outside grant funds that **are not guaranteed** on a yearly basis. Grant funding has been provided from the State of Delaware and New Castle County that was authorized by Resolution of Council; however, there is no guarantee that the grant funds will be pre-approved for a multi-year contract. For example, one year it was anticipated that City will receive grant funds from NCC; however, that did not come to fruition

FIN - We acknowledge the finding. Within the Finance Department, the Principal Analyst is assigned to monitor and provide oversight of the contract’s adherence and performance criteria for all professional services contracts. Each year, during the renewal process for Moore & Rutt, the department reviews the current contract, upcoming goals and objectives, costs, contract terms, and any negotiated items that could be considered on behalf of each party, before the contract is agreed upon. We acknowledge this long-time contract relationship with Moore and Rutt. We will continue to evaluate the contract terms to determine if a one year or multi-year contract is applicable. The Finance Department will also continue to submit all contracts to the Law Department for approval to form. All copies of agreements will continue to be filed and available for viewing within Munis.

HR - We acknowledge the finding for Flex Facts. This was an oversight as the vendor was on automatic debit payment. We are working with the City's broker so solicit proposals from other vendors for this service. Once finalized, legislation for a multi-year agreement will be presented to City Council, if appropriate.

Regarding the contact with PMA, there was a City Council approved contract for FY2015, with three extensions through FY2018. Since then, for each of the last three years, after soliciting vendors through a Request for Quote process, individual contracts were done with the vendor.

PW - Public Works no longer "renews" 1 - year contracts. We enter into new agreements every year consistent with City Code. Multi-year contracts for professional services are not conducive to Public Works operations as our needs change every year and the scopes of work are constantly changing

Management responses were not received by P&R and RE&H at the time of audit publication but will be provided by management at a later date.

**Completion Date:** Completed

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**Recommendation #2:** Creating a city-wide P&Ps for contract oversight then regularly reviewing them will keep the City up to date with regulations, technology, industry standards and best practices. Consistent policy review ensures that the policies are effective and relevant to the CoW needs.

**Management response & action plan:**

CC - City Council does have a procedural process in place for oversight of all contracts, which does factor in the Procurement Process.

All City Council's contracts are done and reviewed by the City Law Department, and all City Council's contracts are all uploaded to the Procurement System with the requisition, which is part of process for having a standard Purchase Order generated, that is listed in the Council's contract oversight process.

FIN - We acknowledge the finding. The Administrative Board have approved the Division of Procurement and Records Procedures Manual on June 19, 2019, (Professional Services: Section 7, page 16). Currently within the manual, the procurement of professional services is the responsibility of the individual Department or Agency Head, along with the Law Department's approval. Also, Professional Service contracts are exempt from the competitive requirements of the City's Charter. If an agreement is for more than one year it will require the approval of City Council. The Finance Department is willing to work with the Administrative Board as well as the Law Department in consideration of this recommendation.

HR - Human Resources will follow any adopted policies and procedures, with division managers being held accountable and responsible for ensuring compliance.

Law - The Law Department does not use the Procurement Manual to manage professional service contracts. Further, the Law Department does not play a direct role with respect to management oversight of other Departments' professional service agreements. The role of management oversight including, but not limited to, drafting policies and procedures for such oversight resides with the respective Department that is entering into the professional service agreement. The Law Department's role regarding policies and procedures for management oversight of professional services agreements is to: (1) review such policies



and procedures prior to their review by the Administrative Board and (2) render advice regarding such policies and procedures, if requested.

PW - Public Works will follow any new P&P created.

Management responses were not received by P&R and RE&H at the time of audit publication but will be provided by management at a later date.

**Completion Date:** Completed

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**Recommendation #3:** Best Practices suggest taking regular inventories of current users and their need to have access. This will help keep information safe and secure. Internally monitoring user access is one way to protect against both human and electronic risks. e.g. an employee termination or department change.

IT should create and/or update a P&P known as deny all approach. Under the Deny All approach, no one gets access unless they specifically need it. With this mindset, IT reviews incoming requests, determining additional access on a need to have, case-by-case basis. This will minimize risk exposure of employees granting and gaining access unnecessarily.

**Management response & action plan:**

FIN - We acknowledge the finding. This individual works within the Accounting Division of the Finance Department and was helping with a year-end closeout project. The department approved temporary access for this individual during that time, which now have been removed. Please note, that this request is not one expected to occur each year. The Procurement Division is fully staffed at present. Therefore, temporary assistance is not needed at this time for year-end closeout assignments. If such a request occurs in the future by the management team, we will be sure to attach a start and end date on the request as well as follow-up with the IT department to ensure that the access has been removed in a timely manner.

IT will review access to sensitive areas like the Vendor File with the respective departments on a quarterly basis. This way Departments can continue to maintain control over which team members they need to provide functions. The Application group is already working on an Audit of MUNIS roles and access.

**Completion Date:** Completed

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**Recommendation #4:** Contracts should be consistently monitored to ensure that the vendor is performing their duties based on departmental needs and standards. Contracts should set the tone for clear and measurable guidelines and provide recourse for unmet obligations.

Best practices suggest establishing goals and metrics for each vendor. Doing so will maintain their purpose and add value to the professional service. Instituting metrics will ascertain goals and objectives are being met by the contracted vendor. This also clarifies the roles and responsibilities and will help to avoid compliance issues. Conducting meetings on a weekly or monthly basis helps assure all goals are being met and can discuss any potential problems that may arise.

All contracts and renewals should be scanned into Munis to ensure a digital copy is maintained in the CoW system of record.

**Management response & action plan:**

CC - There is a standard process in City Council for reporting issues and or concerns related to performance of professional service providers. All Professional service contracts are managed by the Manager, and there is a yearly review discussion on each of the contract's performance. In addition, during the budget process, prior to submission of funding, there is discussion with management on the contracts as well. It is also listed in Council's procedural process for contract oversight for there to be review and discussion.

FIN - We acknowledge the finding. In the past, the Finance Department did incur an instance whereby the return barely covered the expense, due to a payment arrangement which may have occurred in which the full balance was not collected in full during the month the invoice was paid to Moore & Rutt. After review of the payment source, upper management did discussed this matter with the Account Services Management team to reconstruct their Collections Strategy, to ensure that going forward, cases assigned to Moore & Rutt are to be of a large dollar amount delinquency that lend more to companies rather than individuals in order to not incur this type of loss in the future.

HR - While not documented, division managers are expected to escalate any issues or concerns with vendors holding professional service contacts during their monthly 1:1 meeting with the director.

Management responses were not received by P&R and RE&H at the time of audit publication but will be provided by management at a later date.

**Completion Date:** Completed

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**Recommendation #5:** A policy and procedure manual should be created for the invoice management and the approval process. Departments should not solely rely on the AP staff to be knowledgeable of all incoming invoices. Having a second step helps to ensure no fraudulent or erroneous billing occurs. This also ensures proper and timely payments.

Departments should never accept or pay invoices that are not itemized to show what the CoW is being charged for. This protects against over charges and potential fraud.

All Temporary staffing/Consultants should be held to the same requirements and standards by adhering to the SOPs for the designated department within the CoW. To avoid being vulnerable to time and payroll fraud all time worked should be verifiable and explained.

A Quality Assurance Process for Post-payment review should be conducted periodically to assure compliance with policies and procedures, to determine proper payment and compliance. A review should be conducted more often to address possible instances of improper payments or cases of suspected fraud.

Invoices should be billed at the contracted amount, per the T&C. If there are agreed upon changes then there should be an amendment to the contract to reflect those changes. The CoW should not be paying additional fees and charges without proper review and approval.

**Management response & action plan:**

CC - GBA's contract includes an attached budget document that identifies various services, and as such when WCAC have meetings, the cost was pre-approved in advance and cost reimbursed rather than having a separate purchase order issued to the entity they ordered the food from. All invoices are documented with all paperwork submitted by GBA. Will have law to change the language on the contract so that reimbursements are not limited to travel.

FIN - We acknowledge the finding. Management has advised the Finance staff member of the error, reiterated the procedure for future compliance and understanding. We have requested the invoices in question from the Audit Team for review and correction. Staff as well as management will make an earnest effort to review and monitor invoices more closely going forward.

Accounts Payable Policy and Procedures Manual dated December 2015.

Receipt of Invoices: Section 2, page 4 states:

2.2 Departments Responsibilities for invoices/ Payment Requests.

2.2.1 Each department is responsible for verifying the calculations and accuracy of invoices for payment prior to electronic approval.

2.2.1b Comparisons of prices, discounts, and terms with those specified on the purchase order or price quote form.

2.2.1c Proof of clerical accuracy of the invoice with respect to purchase order numbers, account lines and deduction of discounts.

Law - Law uploads into Munis only the transmittal sheets for payment. Complete invoices, including those indicating charges for previous balances, are held on file in the Law Department (*example attached*).

PW: Public Works will request an itemized invoice with detail information of task performed and time stamps. Presently the contractor provides a weekly report of work performed for the invoice period, consistent with most other consultant contracts. Public Works "normal hours of business" is 24/7/365 as we must continue to provide service to constituents and rate payer every single day.

Management responses were not received by P&R and RE&H at the time of audit publication but will be provided by management at a later date.

**Completion Date:** Completed

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### **Audit Team**

Nicole Sammons-Johnson, Senior Auditor  
Tamara Thompson, Audit Manager