

Instruction No. 2-6. DFAS should remind the other departments that use Vendor employees as cashiers that those employees must attend cash handling training.

The Aviation, Cultural Services, and Family and Community Services Departments should ensure that Vendor temporary employees who handle cash have the required cash handling training.

EXECUTIVE RESPONSE FROM TRANSIT DEPARTMENT

“The Parking Division Manager has assured the Transit Department management that all new and existing vendor temporary employees receive cash handling training.”

EXECUTIVE RESPONSE FROM DFAS

“DFAS concurs and will include cash handling training requirements in the new policies and procedures.”

EXECUTIVE RESPONSE FROM AVIATION

“The Aviation Department currently calls previous employer references of vendor temporary employees to verify their cash handling experience. Effective immediately, the department will provide City cash handling training to its vendor temporary employees.”

EXECUTIVE RESPONSE FROM CULTURAL SERVICES

“The Cultural Services Department concurs and will implement any policies and procedures that are developed regarding cash handling training for vendor temporary employees.”

EXECUTIVE RESPONSE FROM FAMILY AND COMMUNITY SERVICES

“FCS concurs with the recommendation that vendor temporary employees who handle cash have the required cash handling training. If, in the future, the department uses vendor employees in areas that require cash handling, City of Albuquerque cash handling training will be provided.”

Recommendation No. 7: The audit recommended that the Purchasing Division request that the Vendor improve the accuracy of its invoices to City departments. The Vendor had submitted

numerous invoices with incorrect billing rates. Some of the errors had taken months and numerous contacts with the Vendor to resolve. We also recommended that City departments should carefully review Vendor invoices to avoid paying incorrectly billed charges. The audit had noted that the Aviation Department, and other City departments, had paid Vendor invoices that had incorrect billing rates. This indicated the lack of a thorough invoice review process.

DFAS responded as follows:

“DFAS agrees with this recommendation and is currently monitoring the monthly reports provided by the Vendor to ensure that they reflect correct contract billing rates and job titles. The Vendor is being notified via email of any discrepancies.”

The Aviation Department responded as follows:

“The Preliminary Audit Report from Internal Audit regarding Vendor activity in the Aviation Department, has been reviewed by the Aviation Auditor and Fiscal Officer. The Aviation Department concurs with the findings of the report and is initiating steps to correct future errors from taking place. Vendor invoices from January 1, 2000 to present are being reviewed. We will then request a refund from the vendor for any overcharges.”

ACTIONS TAKEN

The recommendations have been partially implemented. The actions by the Purchasing Division to monitor the monthly reports provided by the vendor, to ensure that the reports reflect correct contract billing rates, should help to identify any billing errors made by the vendor.

The auditor asked Aviation Department fiscal personnel if they had performed the review of Vendor invoices, as stated in their response to the audit. The Aviation Department Auditor informed Internal Audit that the review was completed in January 2002, and the review determined that the Vendor owed the City \$1,068. However, the Aviation Department Auditor informed Internal Audit that the department has “. . . no record of ever receiving this refund.” The Aviation Department Auditor subsequently informed us that “After researching our records, It appears we never recovered the money from (the Vendor). . . . Given this information, the Aviation Department is going to seek either a credit or a reimbursement through our offices.”

FOLLOW-UP RECOMMENDATION

We recommend that the Aviation Department ensure that it obtains refunds from vendors, when it determines that it has been overcharged.

EXECUTIVE RESPONSE FROM AVIATION DEPARTMENT

“The Aviation Department principal auditor has faxed all documents showing the overcharges by the vendor to their local Albuquerque office. Subsequently, the vendor informed the Aviation Department that the information was forwarded to their corporate office in San Francisco for review and approval to refund the overcharges to the City of Albuquerque Aviation Department. The department will follow up with the vendor until the issue is resolved.”

Recommendation No. 8: The audit recommended that DFAS inform the Vendor of the specific testing requirements for each of the positions included in the contract. The audit determined that Vendor temporary employees were filling truck driver positions, which required a commercial drivers license. If City employees had filled these positions, a pre-employment drug test would have been required for the position, because the position was “safety-sensitive”, as defined by City regulations. However, because there was no testing requirement for these Vendor temporary employees, these employees could drive City trucks without undergoing pre-employment drug testing.

DFAS responded as follows:

“DFAS agrees with this recommendation and has discussed the issue of pre-employment and random urine testing with the Vendor. They do not have a program for testing per City requirements. As this was not a requirement of the bid, DFAS Purchasing will eliminate the use of job titles that require Commercial Driver’s Licenses.”

ACTIONS TAKEN

The recommendations have been partially implemented. In March 2003, the City and the Vendor executed a purchase order amendment, which states, “**Prohibited Placements:** This contract prohibits placements requiring a commercial drivers license (CDL).” DFAS did not implement the corrective actions on a timely basis. DFAS stated that it would eliminate the use of job titles that require commercial driver’s licenses. However, there are at least three job titles in the current purchase order with the Vendor, which specifically state that the job requires a commercial driver’s license. These are truck driver, mechanics helper, and driver. During the first year of the new contract with the Vendor, which started August 2001, various City departments used all of these positions.

FOLLOW-UP RECOMMENDATION

We recommend that the DFAS ensure that the Purchase Order prohibits the use of Vendor temporary employees in positions requiring commercial drivers licenses.

EXECUTIVE RESPONSE FROM DFAS

“DFAS concurs. The PO’s will be modified to include language for each of these titles prohibiting them to be used for a position which requires a CDL.”

Recommendation No. 9: The audit recommended that the CAO review the use of Vendor employees as supervisors in City departments, and determine if this is an appropriate practice. The audit had determined that Vendor temporary employees were supervising City employees.

The CAO responded as follows:

“The procedures being developed by the Human Resources Department will also address the issue of private agency temporary employees supervising City employees.”

ACTIONS TAKEN

The recommendation has been fully implemented. An Administrative Instruction was approved and distributed to City Departments during February 2003, which prohibits placing Vendor temporary employees in positions where they will supervise City employees.

Recommendation No. 10: The audit recommended that Cultural Services Department personnel not handle or distribute Vendor payroll checks. The audit had determined that department employees had been storing and distributing these Vendor checks. The audit report noted that it was a poor internal control to have a City Department, which is authorizing the employment of Vendor personnel, to receive the payroll checks. This situation could cause payroll irregularities.

The Cultural Services Department responded as follows:

“We concur with these findings as stated in the Preliminary Draft and will adhere to them.”

ACTIONS TAKEN

The follow-up audit determined that the recommendation had been fully implemented. The auditor asked BioPark fiscal personnel if they had ceased the practice of handling and

distributing Vendor payroll checks for temporary employees. The BioPark Fiscal Manager informed us “All payroll checks are now mailed to each (Vendor) employee. (The Vendor) does not allow departments/divisions to pick up payroll checks for distribution.”

OTHER ITEMS NOTED DURING THE FOLLOW-UP AUDIT

These additional items were noted during the follow-up audit.

A. Use of the Contract Should Be Consistent With the City’s Strategic Plan

The use of the Vendor contract has been determined on a division-by-division basis throughout the City. As a result, some divisions have as much as 26% of total staffing supplied by the Vendor. It does not appear that the Administration or City Council intended to replace permanent City employees with Vendor employees. However, the number of Vendor employees at the City has increased significantly as positions have been cut or frozen.

Follow-Up Recommendation

The CAO should determine the City’s short-term and long-term strategies for dealing with staffing needs. The CAO should determine how the use of Vendor employees fits into the overall staffing strategy.

EXECUTIVE RESPONSE FROM CAO

***“The CAO agrees that the use of vendor employees should be compatible with the City’s overall staffing strategy. However, staffing needs and patterns vary considerably from department to department within City government. Thus, it probably is not practical or feasible to develop a single overall staffing strategy for the City except in the broadest of terms.*”**

***“Given the continuing and ever-increasing fiscal pressures, departments are being encouraged to actively explore and consider alternative models for providing the services required by the City’s residents. As process and procedures are revised in response to continuing cuts and freezes in positions, the City expects the need for vendor employees to decrease.*”**

***“PERA limitations prior to FY/04 have, in some situations, forced the City to use vendor employees to retain access to mission-critical skill sets. It is still too early to assess the impact PERA rule changes may*”**

have on the use of vendor employees.”

B. The Use of Vendor Temporary Employees May Be Circumventing the City’s Hiring Freezes and Budgetary Process

The auditor asked Solid Waste Management Department (SWMD) personnel why payments to the Vendor in FY2002 (\$917,000) were greater than payments to the Vendor in FY2001 (\$805,000). The SWMD Director responded that, “The Department must maintain the same level of service to each and every customer. To compensate for the growth of the city and no additional positions, (the Vendor) is utilized. Due to the hiring freeze in FY02, the Department was unable to fill key positions, and utilized (the Vendor).” The SWMD is the second largest user of Vendor temporary employees.

The auditor asked Cultural Services Department (CSD) personnel why payments to the Vendor in FY2002 (\$1.2 million) were greater than payments to the Vendor in FY2001 (\$1.17 million). The CSD Fiscal Manager responded that, “For most of FY 02, there was a hiring freeze. Therefore, CSD had to depend on temporary employees to fill vacant-crucial positions.” The CSD Fiscal Manager also informed us “Due to the vacancy of a crucial position, Museum Curator, the museum may have a need to increase their use of (the Vendor). What was a use of less than \$5,000/year may balloon to about \$50,000, if they cannot fill the curator position.” The CSD is the largest user of Vendor temporary employees.

Follow-Up Recommendation

We recommend that the CAO develop procedures for departments to follow to ensure that the effect of hiring freezes and City budgetary cuts are not mitigated by the addition of Vendor temporary employees.

EXECUTIVE RESPONSE FROM CAO

“The CAO acknowledges that the use of vendor temporary employees did increase during FY/01 and FY/02 while departments adjusted to the required hiring freezes and position eliminations. However, during FY/03 that expenditure item is being closely monitored and is expected to be reduced from prior year levels.

“The CAO submits that the use of vendor temporary employees is a valid cost-containment solution in certain situations. Staffing short-term projects or needs, where there will be no continuing staffing requirement, with vendor temporary employees has the effect of controlling the number of permanent City employees and the related costs. The judicious use of vendor temporary employees may also enable departments to better manage

overtime needs and costs.

“The CAO, through the OMB and DFAS, will continue to monitor the use of vendor temporary employees to ensure their use is not circumventing the City’s hiring freezes and budgetary process.”

C. Vendor Temporary Employee Job Descriptions Include Supervision of City Workers

In February 2003, Administrative Instruction No. 7-34, Prohibition of Supervision of City Employees by Non-City Personnel, was issued. This Administrative Instruction states, “In no instance will temporary employment agency employees be allowed to supervise City employees.”

At least five of the contractual job classifications for the Vendor’s temporary employees specifically include supervisory responsibilities. For example, there is a Vendor temporary employee job classification with the title “Administrative Supervisor” which states that this position will “Exercise direct supervision over lower level clerical and administrative support staff.” This position was widely used by various City departments during the first year of the contract with the Vendor, which started August 2001. Another Vendor temporary employee job classification with the title “Survey Crew Supervisor” states that this position will “Exercise direct supervision over technical surveying staff.”

Follow-Up Recommendation

We recommend that the Human Resources Department and DFAS work together to identify those Vendor temporary employee job classifications which would violate Administrative Instruction No. 7-34; and modify or delete these positions.

EXECUTIVE RESPONSE FROM THE ADMINISTRATION

“This issue of contract temporary employees supervising City Workers will be addressed in the new policies and procedures.”

D. Administrative Instruction No. 7-34 Should Be Revised to Be Consistent With the Personnel Rules and Regulations

One of the purposes of Administrative Instruction No. 7-34 is to “provide requirements for independent contractors supervising City employees.” There are risks associated with having non-City employees supervising City employees. Supervisors must be familiar with City policies and the Merit System Ordinance.

The City of Albuquerque Personnel Rules and Regulations, Section 301.17, states, “Employees

with supervisory duties or responsibilities shall, in all instances, ensure that all supervisory actions comply with the provisions of the Merit System Ordinance, Labor-Management Relations Ordinance, Personnel Rules and Regulations, applicable legislation, and relevant judicial/administrative decisions.” This knowledge is necessary to limit the City’s liability related to the actions taken by supervisors.

Additionally, the City of Albuquerque Personnel Rules and Regulations require that “All newly appointed supervisors must satisfactorily complete (40) hours of supervisory development training. The courses must be completed within the first twelve months of promotion.” Independent contract employees typically have not been trained in City policies. By allowing independent contract employees to supervise City employees, the City is putting itself at risk for any inappropriate actions taken by the independent contract employees.

Follow-Up Recommendation

The CAO should consider revising Administrative Instruction No. 7-34 to be consistent with the Personnel Rules and Regulations. We recommend that independent contractors not be allowed to supervise City employees.

EXECUTIVE RESPONSE FROM CAO

“The CAO will consider revising the administrative instruction.”

E. Departmental Involvement in Pay Raises for Vendor Employees

When the current purchase order was given to the Vendor in August 2001, the Purchasing Division buyer gave written instructions to City Departments regarding the use of the purchase order. The buyer’s instructions included the following restriction:

“Raises/Promotions/Other Benefits – City employees do not determine the rate of pay, promise a given rate of pay or promise promotions to contract workers.”

In February 2002, a Solid Waste Management Department supervisor sent a memorandum to the Purchasing Division, which stated, “I would like to increase the pay rate for (two Vendor temporary employees who were currently on assignment at the Solid Waste Management Department) from their current level of \$5.25 to \$8.00 per hour.”

A new job classification was subsequently added to the contract with the vendor, at a pay rate of \$8.00 per hour; to accomplish this. This action appears to be in conflict with the Purchasing Division’s written instructions to City Departments, regarding the use of the purchase order.

This action also appears to be in conflict with Specification 23 of the RFB, which states, “The Contractor shall not refer a single worker to a higher classified position within a department

during an assignment where a break in that assignment has not occurred.” However, despite this RFB clause, there are times when a change in position is appropriate, such as when the temporary employee’s responsibilities are substantially changed.

Follow-Up Recommendation

We recommend that the DFAS Purchasing Division review the RFB specifications to determine if the clause prohibiting reassignment of temporary workers to higher positions should be clarified.

EXECUTIVE RESPONSE FROM DFAS

“DFAS concurs and will clarify regarding pay raises for vendor employees.”

F. Accounting for Payments to the Vendor

In FY2003, through May 13, 2003, the Department of Senior Affairs paid the Vendor \$133,000. The department charged all of these expenses to a supplies account. This is not correct. Temporary employees are not supplies, these costs should be charged to the Contractual Services account. This misclassification of costs could lead to management decisions based on incorrect information.

Follow-Up Recommendation

The Senior Affairs Department should correct these erroneous charges, and correctly account for payments to the Vendor in the future.

EXECUTIVE RESPONSE FROM SENIOR AFFAIRS DEPARTMENT

“The Department of Senior Affairs did indeed incorrectly charge these vendor services to supplies instead of the contractual expense account. However, the department discovered the error prior to August 30, 2002, at which time a journal voucher was prepared making the correction for the erroneous charges. Since that time, the department has correctly charged these services to the contractual account.”

xc: Mayor Chavez
Jay Czar, CAO
Internal Audit Committee
City Councilors
James B. Lewis, COO
Gail Reese, CFO
Millie Santillanes, Director, Cultural Services Dept.
Peter Behrman, Director Transit Department
Dewey Cave, Director Aviation Department
Kim Purdue, Director Senior Affairs Department
Clarence "Porky" Lithgow, Director, Solid Waste Management Department
Harry Tipton, Director, Corrections and Detention Department
Leonard Garcia, Acting Director, Albuquerque Convention Center
Valorie Vigil, Director, Family and Community Services Department