



FINAL

City of Albuquerque

P.O. BOX 1293, ALBUQUERQUE, NM 87103

Interoffice Memorandum

June 3, 2003

Ref. No.: 03-01-101F

**To: Sandy Doyle, Director, Department of Finance and Administrative Services
Pat Miller, Director, Human Resources Department**

From: Debra Yoshimura, Director, Office of Internal Audit

Subject: FOLLOW-UP OF AUDIT REPORT NO. 01-101, CITYWIDE-VENDOR CONTRACT

Internal Audit performed a Follow-up Review of Audit No. 01-101, Citywide-Vendor Contract. The contract is used by City departments to obtain temporary worker services from the Vendor. Audit No. 01-101 was issued on January 23, 2002.

During Fiscal Year (FY) 2001, City departments paid \$4.23 million for the Vendor's temporary worker services. City departments paid \$4.27 million for the Vendor's temporary worker services during FY2002. During FY2003, through May 13, 2003, City departments paid the vendor \$3.1 million for temporary worker services. As of June 2002, there were 184 full-time Vendor temporary employees assigned to the City and 76 part-time/on-call rotation and seasonal. The following table reflects the payments, by department, to the vendor for temporary worker services, during these periods.

Department	FY2001	FY2002	FY2003 – May 13, 2003
Cultural Services	\$1,173,589	\$1,197,587	\$1,075,043
Solid Waste Management	805,309	917,222	697,544
Corrections and Detention	254,713	374,570	344,794
Family and Community Services	213,121	394,753	202,996
Senior Affairs	97,993	208,889	133,142
Transit/Parking	140,708	96,914	99,705
Aviation	221,614	49,349	56,358
Human Resources	6,778	23,262	18,750
Capital Projects	116,549	141,234	114,684
Convention Center	347,713	256,417	44,635
Finance and Administrative Services	280,107	141,549	34,573
Parks and Recreation	100,734	78,880	24,862
Planning	124,968	18,210	20,958
Albuquerque Police	105,496	139,474	91,156
Public Works	192,185	179,082	71,139
All Other City Departments	48,879	48,587	68,191
TOTAL	\$4,230,456	\$4,265,979	\$3,098,530

According to the procurement files of the Department of Finance and Administrative Services (DFAS), the estimated amount of the Vendor contract was \$3.8 million for the two-year period from

February 1999 through February 2001. A new contract was issued to the Vendor in August 2001. The procurement file for this new two-year contract estimates the amount of the payments to the vendor to be \$7.6 million.

The purpose of our follow-up was to review the status of the audit recommendations that had been implemented by City departments. We determined the following:

Recommendation No. 1: The audit recommended that the Chief Administrative Officer (CAO) review the increasing use of Vendor temporary employees, and determine if guidelines were necessary relating to departments adding Vendor temporary employees. At the time of the audit, there were no written guidelines for user departments to follow regarding City positions being filled by Vendor temporary employees.

The CAO responded as follows:

“During transition in November 2001 this administration discovered the problem in the use of private agency temporary services. The Departments were immediately asked to identify the use of these temporary services and as a result have significantly reduced the number and use of private agency temporary services.

“The Human Resources Department is already in the process of drafting procedures that will detail the allowable use of private agency temporary staff. These procedures will include the process to request services, the use of the services as well as the authorized length of time.”

ACTIONS TAKEN

The audit recommendations have not been implemented. City procedures have not been finalized, to specify the allowable use of private agency temporary staff.

In February 2003, the Director of the Human Resources Department informed us that she had not been advised by the administration that there had been a response to the report on Human Resources' behalf. She further stated that she would like to comment on the recommendations in the audit and the responses to those recommendations, but indicated that she was in agreement with both. She informed the auditor that the Human Resources Department would begin drafting procedures immediately to address recommendations 1 and 2 in the audit.

The FY2002 payments for temporary worker services were greater than the FY2001 payments. Consequently, it appears that the City's effort to significantly reduce the number and use of private agency temporary workers still has room for improvement. This situation has likely been impacted by the lack of written procedures for City departments to follow in

this area. In a memorandum to the City's prior Chief Financial Officer (CFO) and the DFAS Director, the Purchasing Division informed them that the payments to the Vendor totaled \$4.4 million during the first year of the new contract with the vendor, which started August 2001. The CFO and the DFAS Director receive monthly reports from the Purchasing Division, which detail the Vendor temporary workers assigned to the City, as of that month.

The Cultural Services Department and the Solid Waste Management Department are the two largest users of temporary worker services. Together, these two departments have used approximately 50 percent of the temporary worker services (by dollar amount) that were provided by the Vendor, in FY2001 and FY2002. In FY2003, through May 13, 2002, these two departments have used 57 percent of the temporary worker services (by dollar amount) that were provided by the Vendor. These two departments each increased their payments to the Vendor from FY2001 to FY2002.

At the rate that the Cultural Services Department has made payments to the Vendor through May of FY2003, its FY2003 total will likely be similar to the amount of its FY2001 payments to the Vendor. It appears that without the Vendor's employees, some Cultural Services Department divisions could not function. For example, there are 49 Vendor employees working at the BioPark Division. The City has 116 permanent City employees and 21 temporary part-time City employees at the BioPark Division. Therefore, the Vendor supplies 26% of the workforce at this Division.

The Library Division has a similar situation. There are 49 Vendor employees at the Libraries. The Library Division has 126 full-time permanent City employees, 13 part-time permanent City employees and 2 temporary part-time City employees. Therefore, the Vendor supplies 26% of the Library Division's workforce. It appears that the Cultural Services Department cannot maintain its operations without utilizing significant numbers of Vendor employees.

The following departments have already made payments to the Vendor in FY2003, which exceeded their FY2001 payments to the Vendor: Corrections and Detention (this department is the third largest user), Senior Affairs, and Human Resources.

At the rate that the following departments have made payments to the Vendor through May of FY2003, their FY2003 total will likely be similar to the amount of their FY2001 payments to the Vendor: Family and Community Services (this department is the fourth largest user), Capital Projects, and the Albuquerque Police Department.

FOLLOW-UP RECOMMENDATION

We recommend that Human Resources Department finalize the City procedures and issue the procedures to departments, that specify the allowable use of private agency temporary staff.

We recommend that the DFAS Purchasing Division closely monitor the use of Vendor employees. DFAS should promptly notify the CAO of violations of the procedures for use of the Vendor contract, when they are finalized.

EXECUTIVE RESPONSE FROM HUMAN RESOURCES DEPARTMENT

“The Administration will create a committee comprised of the directors of Finance and Administrative Services (DFAS), Human Resources (HR), Family and Community Services (FCS) and Senior Affairs, the budget officer, purchasing officer and an advisory member from Internal Audit. This committee will draft policies and procedures for the use of contract temporary staff with a targeted completion date of December 31, 2003.”

EXECUTIVE RESPONSE FROM DFAS

“The Administration agrees that the use of vendor employees should be closely monitored. The above-mentioned committee will address this issue and determine the responsible party or department.”

Recommendation No. 2: The audit recommended that the CAO determine if guidelines were necessary to limit the length of time that a City position may be filled by Vendor temporary employees. At the time of the audit, there were no written guidelines for user departments to follow regarding the length of time that a position may be filled by Vendor temporary employees. The audit had determined that City departments were having some positions filled by Vendor temporary employees for indefinite lengths of service. For example, two vendor temporary employees had each worked more than 225 weeks at the Cultural Services Department, BioPark Division.

The CAO responded as follows:

“The procedures currently being developed by the Human Resources Department will address the authorized length of time for a private agency temporary employee.”

As of December 6, 2001, there were 290 Vendor temporary employees assigned to City departments. The Vendor’s personnel records indicate that 49 of these employees had a hire date in 2000, seven in 1999, one in 1998, two in 1997, and two in 1996. Some of the long-term positions are as follows:

- APD Administrative Supervisor, hired 1996
- Parks and General Services Truck Driver, hired 1996

- Cultural Services/BioPark Program Specialist, hired 1997
- Cultural Services/BioPark Administrative Supervisor, hired 1997
- Transit/Parking Cashier III, hired 1998
- Transit/Parking Cashier III, hired 1999

ACTIONS TAKEN

The audit recommendations have not been implemented. City procedures have not been finalized, to provide guidelines for user departments to follow limiting the length of time that a position may be filled by Vendor temporary employees. See Recommendation No. 1 for comments from the Director of the Human Resources Department, regarding why procedures have not been implemented.

Two Cultural Services/BioPark temporary employees who were previously listed with start dates of 1999 and 1997, are now listed with start dates of April 2001 and March 2003 respectively. Another Cultural Services/BioPark temporary employee who was previously listed with a start date of 1999 is now listed with a start date of March 2003. One of these employees is in the same position with the same hourly billing rate as listed in a December 2001 report. The other two employees were previously listed as Administrative Supervisors and are now listed as Senior Administrative Supervisors. Their billing rates increased from \$9.17 per hour to \$11.79 (see Other Items Noted During the Follow-Up Audit, E.)

FOLLOW-UP RECOMMENDATION

We recommend that Human Resources Department finalize the City procedures and issue the procedures to departments, to address the length of time that a private agency temporary employee may fill positions in City Departments.

We recommend that the DFAS Purchasing Division closely monitor the use of Vendor employees. DFAS should promptly notify the CAO of violations of the procedures for use of the Vendor contract, when they are finalized.

EXECUTIVE RESPONSE FROM HUMAN RESOURCES DEPARTMENT

“The Administration will create a committee comprised of the directors of DFAS, HR, FCS and Senior Affairs, the budget officer, purchasing officer and an advisory member from Internal Audit. This committee will draft

policies and procedures for the use of contract temporary staff a targeted completion date of December 31, 2003.”

EXECUTIVE RESPONSE FROM DFAS

“The Administration concurs. The above-mentioned committee will address the issue of duration for contract temporary employees.”

Recommendation No. 3: The audit recommended that the Purchasing Division of DFAS, the Albuquerque Housing Services (AHS), and the Transit Department (Transit) comply with the public purchases ordinance and federal statutes, and not take local preference into consideration in a bid award when federal funds will be used to pay for contract expenditures. The audit recommended that the Purchasing Division consider preparing a separate request for bid for City departments that will pay for those contract expenditures with federal funds.

The audit determined that AHS and Transit had used federal funds to pay for temporary employees from the Vendor, under a contract that had been awarded by the Purchasing Division based upon the use of local preference. This was prohibited by the public purchases ordinance and federal regulations.

ACTIONS TAKEN

The audit recommendation is fully implemented. When the existing contract with the Vendor expired, the Purchasing Division prepared a Request for Bid (RFB), which included a separate tabulation for those positions that would be paid with federal funds. The separate tabulation did not take local preference into consideration, which is the correct procurement practice according to federal regulations. Separate purchase orders were then issued for the use of those City departments who pay for these contract expenditures with federal funds.

Recommendation No. 4: The audit recommended that if user departments and the Purchasing Division desired to allow Vendor temporary employees to work overtime, then DFAS should modify the contract to allow the practice. The audit also recommended that the CAO should consider providing instructions to City departments regarding the use of overtime by Vendor temporary employees.

The audit had determined that although the contract did not address the issue of Vendor temporary employees working overtime, several City departments had paid for overtime hours worked by Vendor temporary employees.

The CAO responded as follows:

“The issue of paying overtime will be addressed in the procedure and discussed with the Purchasing Office.”

DFAS responded as follows:

“DFAS agrees with this recommendation and will modify the current contract, in writing, to address the use and payment of overtime.”

ACTION TAKEN

The recommendations are partially implemented. In March 2003, the City and the Vendor executed a purchase order amendment, which states, “Overtime is permitted on this contract as needed and determined by the user department Supervisors and directors.” This purchase order amendment included procedures for departments and the vendor to follow regarding Vendor temporary employees working overtime. The purchase order amendment also states, “City or Vendor may impose limits on the number of overtime hours.”

In a memorandum to the City’s prior CFO and the DFAS Director, the Purchasing Division informed them that the Vendor was paid for 6,411 hours of overtime during the first year of the new contract with the vendor, which started August 2001. The largest users of overtime were:

Solid Waste Management	2,241
Corrections and Detention	1,658
Convention Center	788
Cultural Services/BioPark	387

FOLLOW-UP RECOMMENDATION

We recommend that DFAS and the Human Resources Department draft a policy addressing the number of overtime hours that can be approved for Vendor temporary employees. The policy should be presented to the CAO for approval and adoption. The DFAS Purchasing Division and the Human Resources Department should monitor the use of overtime by Vendor temporary employees and notify the CAO of any violations of established limits.

The Solid Waste Management Department (SWMD), Corrections and Detention Department, Convention Center Department and the Cultural Services Department should document the justification for use of overtime by Vendor temporary

employees.

EXECUTIVE RESPONSE FROM DFAS

“The Administration concurs. The above-mentioned committee will address the issue of overtime by contract temporary employees.”

EXECUTIVE RESPONSE FROM HUMAN RESOURCES

“The Administration will create a committee comprised of the directors of the DFAS, HR, FCS and Senior Affairs, the budget officer, purchasing officer and an advisory member from Internal Audit. This committee will draft policies and procedures for the use of contract temporary staff with a targeted completion date of December 31, 2003.”

EXECUTIVE RESPONSE FROM SWMD

“The department is open seven days a week, 363 days a year, and has utilized the temporary employees from the vendor. The use of vendor temporary employees working overtime is discouraged, but does occur. The Department will maintain necessary documentation for justification of overtime hours.”

EXECUTIVE RESPONSE FROM CORRECTIONS AND DETENTION

“The department concurs. The director will preapprove any overtime for vendor temporary employees.”

EXECUTIVE RESPONSE FROM CONVENTION CENTER

“The department concurs. Currently the department uses vendor temporary employees very sparingly. The department now uses an overtime authorization form in the event overtime is necessary.”

EXECUTIVE RESPONSE FROM CULTURAL SERVICES

“The department concurs and will implement any policies and procedures that are developed to deal with the issue of vendor temporary employee overtime.”

Recommendation No. 5: The audit recommended that City departments should comply with the state statute prohibiting Vendor temporary employees from performing construction work. The audit noted that the Purchasing Division informed City Departments of this restriction, when the

previous purchase order was issued to the Vendor in 1999. This notification from the Purchasing Division stated, "CONSTRUCTION CATEGORIES – DUE TO STATE LAW (ARTICLE 13A, EMPLOYEE LEASING), THIS CONTRACT CANNOT BE UTILIZED TO FILL POSITIONS IN THE CONSTRUCTION CATEGORIES."

The audit identified work performed by Vendor employees at the Solid Waste Management Department and the Department of Family and Community Services, Albuquerque Housing Services Division (AHS) that appeared to be construction activities. The AHS and the Solid Waste Management Department responses to the audit stated that work performed by Vendor employees would only be activities that could not be construed as construction work under the state statute.

ACTIONS TAKEN

The recommendation is partially implemented. The BioPark has charged approximately \$87,000 of labor, related to the Vendor's temporary employees, to the Animals of Africa construction project. The BioPark Fiscal Manager informed us that three of the Vendor employees who were charged to the Animals of Africa construction project in 2000 and 2001 ". . . have been involved in the planning, graphics and fabrication as it relates to Africa." The BioPark Director informed us, "These are the people that do the design, graphics, and make the special plastic items etc. None of these people are involved in construction."

One of these three Vendor temporary employees was hired as a City employee on January 13, 2001, with the position title of "Bio Park Construction Supervisor." During the week ending January 13, 2001, he was a Vendor employee, working at the BioPark, with the title of "Planner." In November 2002, the Bio Park Assistant Operations Manager informed the auditor that this individual had been a temporary employee for eight years, working in BioPark construction projects. It appears that when this individual was a Vendor temporary employee, he was more likely involved in actual construction activities than "planning" activities. Additionally, there may be little, if any, distinction between "fabrication" work (as referred to by the BioPark Fiscal Manager), and construction work.

The BioPark Financial Analyst informed Zoo Personnel, in June 2000, that "Subject: Contractual services employees . . . (Vendor) employees can not participate in any of the demo [lition] work, not even picking up trash or anything else from or around the area of the construction site. Please make sure (Vendor) employees are not anywhere near the site!"

From FY2001 through May 13 of FY2003, City departments charged \$372,000 of Vendor temporary employee services to Capital Implementation Program (CIP) projects. CIP projects are primarily construction projects. The Vendor's temporary employees are prohibited by state statute from performing construction work. As noted above, it appears that City departments may not be in full compliance with this statute.

FOLLOW-UP RECOMMENDATION

We recommend that the Human Resources Department address the issue of prohibiting Vendor temporary employees from performing construction work in the procedures that it is drafting.

We recommend that procedures for the use of Vendor temporary employees include a requirement that the DFAS CIP Fiscal Section pre-approve the use of Vendor temporary employees on capital projects to ensure that construction categories are not involved.

The Cultural Services Department, BioPark Division should not use Vendor temporary employees to perform construction work.

EXECUTIVE RESPONSE FROM THE ADMINISTRATION

“Human Resources and DFAS concur. The issue of vendor temporary employee performing construction work will be addressed in the new policies and procedures.”

EXECUTIVE RESPONSE FROM CULTURAL SERVICES DEPARTMENT

“The department concurs and will implement any policies and procedures that are developed to deal with the issue of vendor temporary employee involvement performing construction work.”

Recommendation No. 6: The audit recommended that the Transit Department ensure that Vendor temporary employees who work for the Parking Division, and handle City monies, receive the cash handling training required by Administrative Instruction No. 2-6. The Parking Division uses Vendor temporary employees as cashiers in City parking facilities. The audit determined that these Vendor temporary employees had not received the required City cash handling training. We also recommended that DFAS consider including a requirement for background checks in contracts for temporary employees who handle cash.

The Transit Department responded as follows:

“The Transit Department concurs with the findings. The Transit Department, in conjunction with the Treasury Division, will ensure that new Vendor employees are

scheduled for cash handling training once they begin employment with the Parking Division.”

DFAS responded as follows:

“DFAS agrees with this recommendation and will consider adding a requirement for background checks for Vendor employees that will be handling cash for the City. The Purchasing Division will confer with the Human Resources Department, and the Treasury and Risk Management Divisions of DFAS for information as to the current level of background checks for City employees in cash handling positions and for recommendations as to an appropriate background check requirement.”

ACTIONS TAKEN

The recommendations have been partially implemented. In March 2003 the City and the Vendor executed a purchase order amendment, which states, “The city has the option of requesting background checks for contract workers involved in cash handling or working in security sensitive positions. The city will bear the cost of such background checks.” The contract with the Vendor also requires a fidelity bond.

The auditor asked the Parking Division Manager if the current Vendor temporary employees, who handle City cash, have had the required Treasury Division (Treasury) cash handling training. In response to our request for this information, the manager informed us that eight of the Vendor’s employees, who work for the Parking Division, would be scheduled to take the City’s cash handling class in March 2003. During FY2002, the Parking Division received a total of approximately \$2.3 million in revenues from the operations of the City’s parking facilities. Much of the parking revenue received is cash.

In July 2002, the DFAS Director sent a memorandum to all departments, which stated, “In compliance with Administrative Instruction 2-6, all (Vendor) contract workers upon acceptance of an assignment that involves city monies being handled must attend the City’s cash handling training provided by Treasury.” It appears that Transit did not comply with this directive.

During the first year of the new contract with the Vendor, which started August 2001, the following additional departments used Vendor employees as cashiers: the Aviation, Cultural Services, and Family and Community Services Departments.

FOLLOW-UP RECOMMENDATION

We recommend that Transit ensure that Vendor employees who work for the Parking Division, and handle City monies, receive the training required by Administrative