



AUDIT & FINANCE COMMITTEE

October 28, 2010

The Audit & Finance Committee of the City of Mesa met in the lower level meeting room of the Council Chambers, 57 East 1st Street, on October 28, 2010 at 10:12 a.m.

COMMITTEE PRESENT

Scott Somers, Chairperson
Dina Higgins
Kyle Jones

COMMITTEE ABSENT

Christopher Brady, Ex-Officio

STAFF PRESENT

Bryan Raines
Debbie Spinner

Chairperson Somers excused Ex-Officio member Christopher Brady from the entire meeting.

(Items on the agenda were addressed out of order, but for purposes of clarity will remain as listed on the agenda.)

1. Items from citizens present.

There were no items from citizens present.

2-a. Hear a presentation, discuss and provide direction on the following audits:

1. Proceeds from 2008 Bond Authorization

City Auditor Jennifer Ruttman advised that an audit of the 2008 General Obligation bond authorization determined that the proceeds were expended only for the intended voter-approved purposes.

2. Fire Overtime Follow-up Review

Ms. Ruttman noted that the report is a follow-up to a December 2008 audit report regarding Fire Department overtime expense. She said that eleven recommendations were designed to reduce overtime usage and the average cost per overtime hour. Ms. Ruttman reported that the Fire Department has successfully implemented a majority of the corrective action plans, although budget reductions prevented the implementation of some of the recommendations. She referred to charts (**see Attachment 1**) that depicted total overtime hours, total costs and the average cost per hour for the past two fiscal years.

Chairperson Somers questioned what amount of the cost reduction is attributable to the corrective action plans and what is attributed to the reorganization of personnel, changes in service levels and the fact that a recruit academy has not been held for two years. He expressed concern that overtime costs would increase as the budget situation improves, services are restored and recruits are hired.

Ms. Ruttman noted that the Fire Department has experienced drastic budget reductions, and only the Fire Department could speak as to the impact on service levels. She explained that as staffing levels increase, there would be less need for overtime. She added that when a department has no need for overtime, the department is overstaffed.

In response to a question from Chairperson Somers, Ms. Ruttman stated the opinion that the current balance in staffing is precarious because of the new fire stations that are becoming operational.

Assistant Fire Chief Dan Stubbs came forward to address the Committee and confirmed that a great amount of the cost reduction was driven by budget cuts. He added that the audit in 2008 identified specific areas in which the department could improve, and he noted that the recommendation to utilize the leave pool to offset the need for overtime was implemented by the department. Chief Stubbs said that as the new stations become operational, the overtime numbers are likely to increase.

Chairperson Somers stated that the overtime reductions were commendable, but he expressed concern that the reductions would not be sustainable.

Responding to questions posed by Councilwoman Higgins, Ms. Ruttman reported that although most of the personnel paid at the 40-hour rate were returned to the field and the 56-hour personnel were utilized for overtime hours, she could not attribute all of the reduction in overtime costs to that factor. She added that CityEdge, the City's new computer system, has enabled some procedural improvements and additional benefits are anticipated when the system is fully implemented.

Discussion ensued regarding the fact that the City must comply with the *Fair Labor Standards Act* by paying each individual at the appropriate pay rate, whether that rate is for 40 hours or 56 hours.

3. Skilled Trades Contracts Follow-up Review

Ms. Ruttman reported that an August 16th follow-up review addressed corrective actions that were to be implemented in response to a March 2009 report by Contracts Administrator Tom LeVell regarding the skilled trade contracting practices utilized for small jobs by the City's Facilities Maintenance and Business Services Departments. She stated that Facilities Maintenance Department Director Dennis Ray and Business Services Department Director Ed Quedens responded to the report by outlining corrective actions to be taken, which included issuing a Request for Proposals that resulted in awards to five vendors for the painting contract and five vendors for the maintenance services contract. Ms. Ruttman advised that although an audit indicated that the maintenance services contract was being used as intended, the painting services contract has not been properly utilized. She noted that one firm received approximately

95 percent of the painting jobs when the intent was to have more than one contractor perform the work.

In response to a question from Chairperson Somers, Deputy City Manager Bryan Raines explained that utilizing a rotational approach could result in a job being awarded to a high bid firm, but he added that the City does want to utilize more than one contractor for these types of jobs.

Mr. Ray explained that small project contracts under \$2,500 do not require a competitive bid and foremen often become comfortable utilizing a certain contractor. He noted that a successful low bidder for many larger projects was often given the contract for smaller jobs. Mr. Ray added that a checklist (**see Attachment 2**) is now in place and utilized to ensure that proper procedures are followed.

Responding to a question from Committeewoman Higgins, Mr. Raines acknowledged that staff did not fully implement the requested correction actions. He referred to the document titled "Facilities Maintenance Audit Response" (**see Attachment 3**) and advised that staff is committed to implementing the changes as listed.

Mr. Ray assured the Committee that his department is committed to auditing their progress in addition to submitting a quarterly report to Ms. Ruttman and the City Manager.

Chairperson Somers noted that this situation points out the difference between public and private management.

Ms. Ruttman confirmed that the Audit Department would provide periodic updates to the Committee, and she advised that the City Manager seriously addressed the situation and handled the issues personally.

Chairperson Somers suggested that the personnel involved receive additional training, and he thanked staff for the presentation.

4. Request for Proposal/Bid Process

Ms. Ruttman advised that the audit was designed to ensure that the Request for Proposal process provides value to the City. She noted that the Policy was in the process of being updated. Ms. Ruttman stated that some polices were perceived as not being mandatory and a need for additional staff training was identified.

Ms. Ruttman reported that although the current computer system provides limited data with which to monitor Citywide purchasing activity, the Audit process determined that staff was not properly utilizing the available data. She noted that the City of Mesa has a decentralized purchasing philosophy in order to expedite processes and provide flexibility. Ms. Ruttman said that the Audit Department felt that oversight of these purchases was insufficient in that different departments may be purchasing the same item in low quantities, but a combined purchase order for the item could result in cost savings to the City. She added that the audit identified some discrepancies in the manner in which data was detailed in the Council Reports. Ms. Ruttman explained that staff did not intend to mislead the Council, and they have agreed to implement changes.

Ms. Ruttman advised that another area of concern identified by the audit was changes, many of which were very minor, to Council-approved contracts. She stated that when a contract returned to the Council, some of the interim changes were not properly identified.

In response to concerns expressed by Chairperson Somers, Ms. Ruttman stated that when a vendor is unable to perform the provisions of a Council-approved contract, staff awards the contract to the next successful bidder without returning to Council for approval.

Business Services Department Director Ed Quedens clarified that staff's selection of an alternate vendor was based on the original bid process and was an accepted practice that had been in place for many years. He added that in 2008 or 2009, a contract was returned to the Council for approval and the process of returning the contract for Council approval is now a part of the department's policy.

Chairperson Somers stated that the Council trusts that staff will provide accurate information that will enable the Council to make the best decisions. He added that an erosion of trust would result in a more complicated and longer decision-making process.

Mr. Quedens emphasized that there was no intent on the part of staff to withhold information from the Council. He said that Ms. Ruttman's review provided staff with a different point of view regarding the changes, and he stated that Council's trust was very important to staff.

Discussion ensued relative to the fact that the Charter does not require contracts for services to be competitively bid; that the updated policy will require competitively bid contracts for general (non-professional) services in excess of \$25,000; that contracts for professional services do not require a competitive bid process, which is the current policy; that the City Manager or his designee has the authority to determine when a bid process is not in the best interest of the City; and that the determination to forego the bid process may result from a timeliness issue.

Mr. Quedens noted that challenges exist regarding efforts to coordinate purchases of similar items by several departments. He said that CityEdge should provide opportunities to code certain purchases that will enable the generation of reports to identify areas that purchase similar commodities.

Ms. Ruttman commented that CityEdge could be a valuable tool, but she added that the employee mindset must change. She advised that a twelve-month review is typical, and she suggested that additional reviews be done beyond the twelve month timeframe as CityEdge becomes operational. Ms. Ruttman noted that Engineering has agreed to be more consistent in assigning local bid points.

In response to a question from Chairperson Somers, City Attorney Debbie Spinner advised that the City does not have a formal policy regarding local bid points, but the Council has informally given direction to staff to consider local bid preference.

Chairperson Somers suggested that the Council as a whole should approve a policy regarding local bid preference if that is the direction Council wishes to adopt.

Further discussion ensued relative to adopting a policy that awards local businesses extra points in the bid process; and that awarding extra points to local businesses could have a negative impact if other cities adopt the same process.

It was moved by Committeewoman Higgins, seconded by Committeemember Jones, that the Committee recommends that the full Council discuss in a Study Session the possibility of adopting a policy that provides City of Mesa businesses with extra points in the bid process.

Carried unanimously.

Mr. Raines clarified that the local bid points referenced by Ms. Ruttman are utilized only by the Engineering Department on certain contracts. He added that CityEdge is a tool to be utilized and that staff will have to adapt to the changes that result from the implementation process.

2-b. Hear presentation, discuss and make a recommendation on amendments to the Mesa City Code, Title 1, Chapter 21 City Purchase of Tangible Personal Property.

Mr. Quedens displayed a PowerPoint presentation (**see Attachment 4**) and outlined staff's recommendations for an update to the City Code, Chapter 21: Purchase of Tangible Personal Property.

Chairperson Somers referenced slides regarding "Lobbying Prohibition" (see pages 4 and 5 of Attachment 4) and suggested that this topic be discussed by the full Council at a Study Session.

Mr. Quedens noted that the update also addresses an exception to the bid process for items that can only be obtained from one source (see page 4 of Attachment 4).

It was moved by Committeemember Jones, seconded by Committeewoman Higgins, that staff's recommendation regarding amendments to the Mesa City Code, Title 1, Chapter 21, City Purchase of Tangible Personal Property, be moved forward to the full Council for discussion at a Study Session.

Carried unanimously.

2-c. Hear a presentation, discuss and make a recommendation on an ordinance amending the Mesa Tax Code.

Mr. Quedens advised that this item requires Council approval of the ordinance that amends the Mesa Tax Code.

It was moved by Committeewoman Higgins, seconded by Committeemember Jones, that staff's recommendation for an ordinance amending the Mesa Tax Code be moved forward to the full Council with a recommendation for approval.

Carried unanimously.

3. Adjournment.

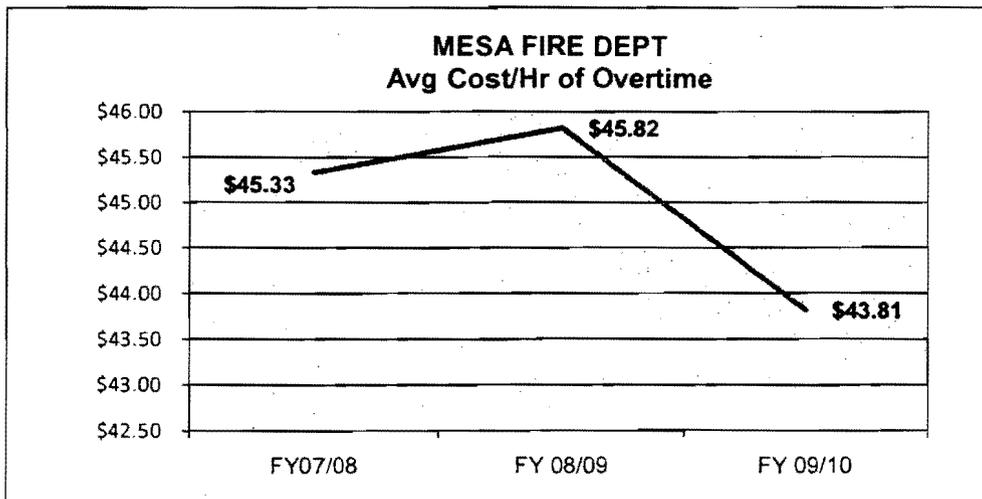
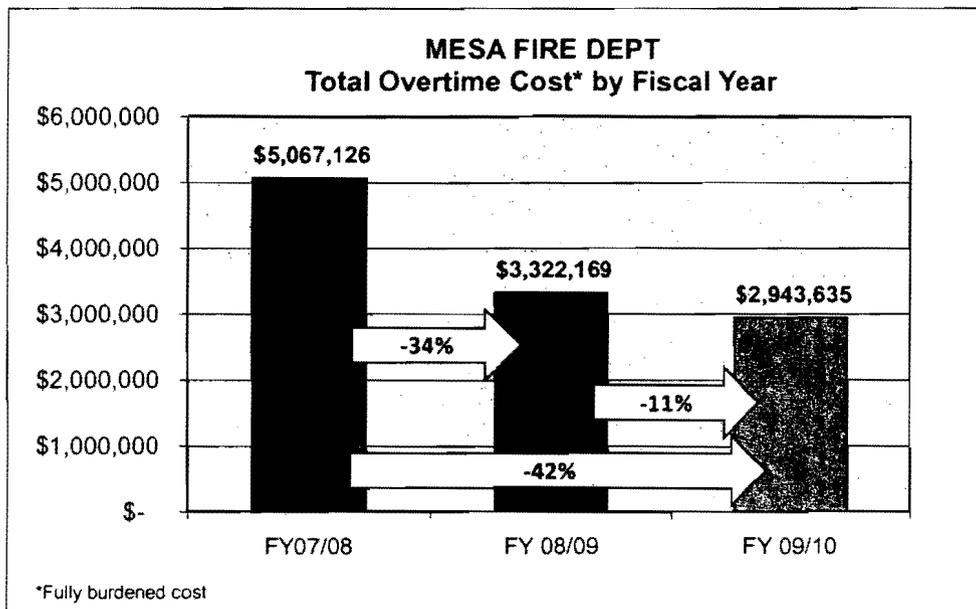
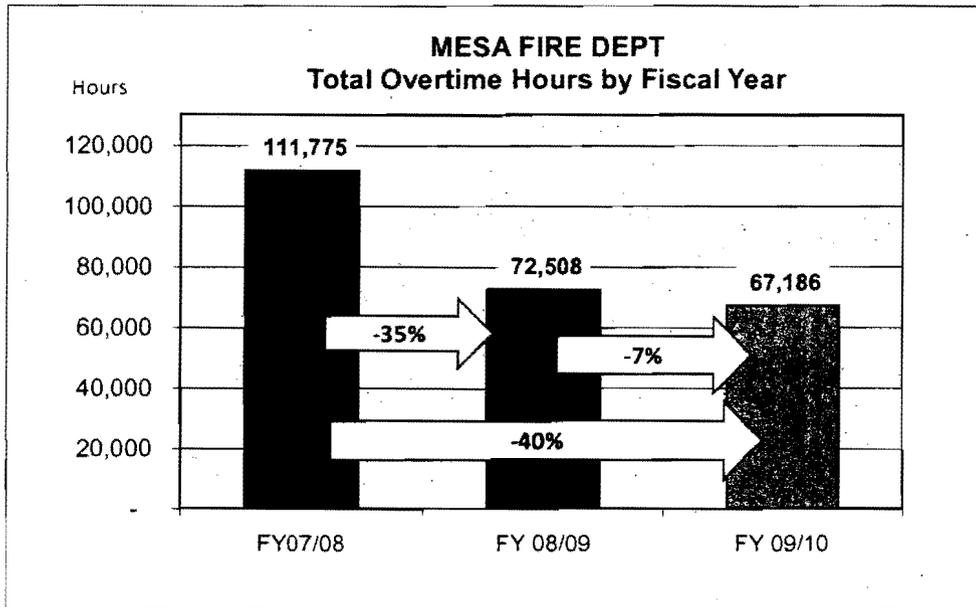
Without objection, the Audit & Finance Committee meeting adjourned at 11:22 a.m.

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Audit & Finance Committee meeting of the City of Mesa, Arizona, held on the 28th day of October 2010. I further certify that the meeting was duly called and held and that a quorum was present.

LINDA CROCKER, CITY CLERK

baa

Attachments (4)



COOPERATIVE CONTRACT USAGE CHECKLIST

Contract Title: _____

Contract Number: _____ **Contracting Agency:** _____

Effective Date: ____/____/____ **Expiration Date:** ____/____/____

Renewals: Yes ____ No ____ **If yes, Renewal Expiration Date:** ____/____/____

CHECKLIST:

- Copy of contract
- Contract has pertinent cooperative language
- Insurance Certificates/Coverage required
- Awarded vendor has positive history with contracting agency
- Award information, including PO's issued, pending renewals, etc.

List due diligence performed to check cooperative pricing value: _____

NOTES: _____

Council or Administrative Approval: _____ **Date of Approval:** ____/____/____

Form of COM payment: BPO RPO IFP

PO # and issue date: _____/____/____

Buyer: _____ **Date:** ____/____/____

Purchasing Administrator: _____ **Date:** ____/____/____

**FACILITIES MAINTENANCE AUDIT RESPONSE
SKILLED TRADES CONTRACTING PRACTICES - AUGUST/2010**

Please respond below to the audit recommendations that correspond to your department. If a recommendation will not be implemented, please explain your alternative plan to address the observation noted in the corresponding CAP. The cells of the table will expand as necessary to fit your text.

Recommendation #1: The Facilities Maintenance and Business Services Department Directors should ensure that all of their respective corrective action plans are implemented as stated in their March 2009 memos to the City Manager.			
	Agree Or Disagree	Brief Summary of Implementation Plan (NOTE: If recommendation will not be implemented, please explain your alternative plan to address the observation.)	Estimated Implementation Date (Month/Yr)
CAP # 1	Agree	Education of all supervisory staff of state licensing requirements to ensure that vendors/contractors are properly licensed and only perform work permitted within the scope of their license has been implemented and is ongoing. Foremen must complete the attached FM Contract Checklist as applicable prior to service contract work being performed for the City.	March 9, 2009
CAP # 2	Agree	All supervisors/foremen have participated in the Contract and Grant Agreement Monitoring class offered by the City except for Matt Skinner who was unable to attend the class when offered. Matt has scheduled with Tom LaVell to complete this training September 2, 2010.	September 2, 2010
CAP # 3	Agree	A written Scope of Work/Specification Sheet (see attached), along with drawings when appropriate must be provided by FM staff to all the contractors submitting proposals requiring itemized labor and materials.	August 3, 2010
CAP # 4	Agree	All contractor invoices must include (prior to approval) accurate contract ID when applicable, hourly rates and the number of hours billed when applicable, itemized materials, and any tax. Invoice approval is required by the Foreman, Work Coordinator, and Financial Coordinator before final Director approval is given.	August 3, 2010
CAP # 5	Agree	The FM Contract Specialist has been assigned primary responsibility to assure that all contractors (and cooperative contracts) being utilized by FM have <u>current licenses</u> , <u>current insurance certificates</u> (assuring the City is adequately named as additional insured) are on file, and <u>current security clearances</u> have been provided. He also will continue to work closely with Municipal Security, Purchasing, and Tom LaVell to assure INS and ALWA requirements are fulfilled for both FM and any cooperative contracts the Department may utilize. As of August 26, 2010, six (6) Building Maintenance Service Contractors, and four (4) Painting Contractors have completed all required certifications along with our custodial, generator, landscape, locksmith, pest control, plumbing, and window washing contractors (see attached FM Contracts Master List).	August 26, 2010
CAP # 6	Agree	Use of cooperative contracts by Facilities Maintenance is infrequent with only the state carpet contract utilized four times and the state painting contract used once in the past two years. Tom LaVell has supplied the Co-op Letter Agreement (attached) to be used to assure that all terms and conditions are the same for the City and that those State Contract insurance obligations also apply to the City.	August 3, 2010

**FACILITIES MAINTENANCE AUDIT RESPONSE
SKILLED TRADES CONTRACTING PRACTICES - AUGUST/2010**

CAP # 7	Agree	We are continuing our concentrated efforts over the past eighteen months working with Purchasing to re-write/replace outdated service contracts. In addition to replacing the Carpentry Contract with the Contractor Building Maintenance Contract, we have also replaced the Custodial, Painting, Emergency Generator, Pest Control, and Locksmith maintenance contracts. We are currently working with Purchasing to re-write/re-bid the Automatic Gate, Chiller, Elevator, Fire Equipment Systems, Overhead Door, Plumbing, Water Treatment, and Window Washing contracts.	Began in February, 2009 and is ONGOING
CAP # 8	Agree	We have requested Procurement Services' assistance in training other departments to coordinate maintenance work through Facilities Maintenance. We have also met with the Fire Department, Police, PRCF, and Engineering to coordinate our work efforts.	Began in March 2009 and is ONGOING
CAP # 9	Agree	All invoices are reviewed and approved by the Foreman, Work Coordinator, and Financial Coordinator before final Director approval is given. Checklists have been implemented to assure completeness and accuracy.	August 3, 2010
CAP # 10	Agree	Files have been established for our contractors, containing copies of the contracts, and written communications. Invoices are filed by contractor with all pertinent estimates and other supporting documentation. With the implementation of our CMMS program, it will be easier to accumulate the required documentation and provide progress reports. Tracking of renewals and expirations will be facilitated.	Began in March 2009 and is ONGOING

Recommendation #2: The Facilities Maintenance and Business Services Department Directors should each provide written quarterly status reports to the City Manager or designee regarding their respective action plans. These reports should include specific data and/or other supporting documentation, and they should continue for a minimum of one year. The need for reports beyond the first year will be determined by the City Manager.

	Agree Or Disagree	Brief Summary of Implementation Plan (NOTE: If recommendation will not be implemented, please explain your alternative plan to address the observation.)	Estimated Implementation Date (Month/Yr)
	Agree	Facilities Maintenance concurs with this recommendation. We are requiring each foreman to submit a summary of projects completed, projects underway, and projects being bid each month including the scope of work, a listing of the contractors invited to bid, and pertinent dates. At the end of each month, the Financial Coordinator will submit copies of the invoices received for service contracts that month. Using the above information, a quarterly report will be prepared by our Facilities Work Coordinator, reviewed/approved by the Department Director, and submitted to the City Manager and/or designees with documentation demonstrating compliance with our action plan. The report will be due by the 15 th of the month following the end of each quarter.	October 15 January 15 April 15 July 15



City Code Update
**Chapter 21: Purchase of Tangible
Personal Property**

City Council
Audit & Finance Committee
October 28, 2010



- **Procurement Policy Update**
 - Mesa City Code Title 1, Chapter 21 (being updated)
 - Management Policy 200 (being updated)
 - Procurement Rules (being created)



Highlights

- 1-21-1 Application

Except as provided herein, the provisions of Title 1, Chapter 21 of the Mesa City Code shall apply to all Procurements of Materials, insurance and Capital Improvements by the City including public monies, including state and federal assistance monies.



Highlights

- 1-21-1 Application

Exceptions:

- Contracts with other government agencies
- Purchase/sale of real property
- Agreements negotiated by legal counsel
- Grants, gifts, bequests or agreements
- Existing contracts



Highlights

- 1-21-4 Procedures for Procurements

Competitive Selection required

Materials & Insurance >\$25K

Exempting:

- Liability Insurance competitively marketed by a broker
- Materials for resale in concessions
- Natural gas through joint purchase authority



Highlights

- 1-21-4.1 Competitive Selection

Clean up existing language

- 1-21-6 Council Approval

Clarifies that \$25,000 Council approval is viewed on annual basis for term contracts and change orders not previously contemplated as contingency.



Highlights

- 1-21-4.2 Sole Source
 - Exception to the bid process
 - Public notice inviting comment
 - Website, or
 - Newspaper, and
 - Those registered for the commodity



Highlights

- 1-21-7 Lobbying Prohibition
 - Prohibits communication with City for the purpose of influencing the award of a solicitation
 - From the time the solicitation is issued until the time of award, cancelation or other end
 - Does not limit public comment at a Council Meeting or Committee Meeting



Highlights

- 1-21-7 Lobbying Prohibition
 - Does not prohibit conversation initiated by the City to conduct the procurement
 - Does not prohibit questions/comments to the appropriate contacts identified
 - Penalty: warning letter or rejection of their bid/proposal depending on the nature of the violation



Highlights

- 1-21-8 Debarment
 - Prohibition against a Person from receiving an award or participating in a City procurement for up to 3 years
 - Conviction of serious offense related to the contracting process
 - Severe violations of contract provisions
 - Responsibility, including debarment by other agencies
 - Ability to protest and appeal debarment



Highlights

- 1-21-9 Protests and Appeals
 - Codifies existing practice that City Manager or Designee resolves protests and appeals



Questions?