

Schedule of Federal Audit Findings and Questioned Costs

Clark County Fire and Rescue January 1, 2012 through December 31, 2013

- The District did not have adequate internal controls to ensure compliance with federal procurement and suspension and debarment requirements.**

CFDA Number and Title:	97.083 Staffing for Adequate Fire and Emergency Response
Federal Grantor Name:	U.S. Department of Homeland Security
Federal Award/Contract Number:	EMS-2010-FF00493, EMW-2011-FH- 00949, EMW-2008-FF-00116-002
Pass-through Entity Name:	City of Woodland
Pass-through Award/Contract Number:	NA
Questioned Cost Amount:	\$0

Description of Condition

During fiscal year 2013, the District spent \$440,272 in Homeland Security funds to recruit, hire and retain firefighters. The District also purchased telecommunications and video conferencing equipment and software for \$49,601 using these federal funds. While these purchases are allowable, the District must follow federal procurement and suspension and debarment requirements when selecting vendors.

Procurement

The District chose to procure the equipment and software using state procurement requirements for data processing and telecommunication equipment and software. This requires the District to request and evaluate proposals based on identified factors, including price and their relative importance established by the District.

The District requested proposals to be submitted for evaluation; however, did not maintain documentation to demonstrate they properly evaluated proposals received and awarded the contract to the most qualified bidder.

Suspension and Debarment

Federal grant regulations prohibit grant recipients from doing business with or making subawards to parties that have been suspended or debarred. For vendor contracts of \$25,000 or more, the District must ensure the vendors are not suspended or debarred.

To meet this requirement, the vendor can certify in writing that it has not been suspended or debarred, either as part of the contract or in a separate certification. Alternatively, the

District can check for suspended or debarred parties by reviewing the federal Excluded Parties List System maintained by the U.S. General Services Administration.

Although the District did state that they were aware of these federal requirements and did verify that this vendor was not suspended or debarred, the District did not maintain documentation to evidence they had verified the vendor's status using one of the three options.

Cause of Condition

The District has experienced turnover in key staff responsible for ensuring compliance with federal procurement and suspension and debarment requirements. In addition, the District has not historically received significant federal grants and was not aware of the necessity to maintain adequate documentation to demonstrate compliance with federal requirements. We consider this control deficiency to be a material weakness.

Effect of Condition and Questioned Costs

Without supporting documentation for the selection of the bidder, the District cannot demonstrate that the most qualified and advantageous bidder was selected during the request for proposal process.

Furthermore, the District cannot ensure federal funds are paid to vendors that are eligible to participate in federal programs if the vendor's status is not confirmed. Any payments made to an ineligible party are unallowable and would be subject to recovery by the funding agency.

We were able to verify that the vendor was not suspended or debarred and therefore, are not questioning costs paid under this agreement.

Recommendation

We recommend the District establish and follow internal controls to ensure compliance with federal requirements. Specifically, the District should ensure staff responsible for grant compliance are knowledgeable and maintain sufficient documentation to demonstrate compliance.

District's Response

The District appreciates the opportunity to respond to the proposed finding. To the extent the proposed finding suggests that the District's process did not comply with the federal procurement requirements and bid laws, the District respectfully disagrees. The District used a valid process, confirmed the selected vendor was the most qualified and advantageous bidder and that the vendor was not suspended or debarred. The District recognizes that it should better document its process and actions and will institute the

necessary internal practices to better document compliance with the bid laws and federal procurement requirements for future acquisitions.

Auditor's Remarks

We appreciate the District's commitment to resolve this finding and thank the District for its cooperation and assistance during the audit. We will review the corrective action taken during our next regular audit.

Applicable Laws and Regulations

U.S. Office of Management and Budget Circular A-133, *Audits of states, Local Governments, and Non-Profit Organizations*, Section .300 – Auditee Responsibilities, states in part:

The auditee shall:

(b) Maintain internal control over Federal programs that provides reasonable assurance that the auditee is managing Federal awards in compliance with laws, regulations, and the provisions of contracts or grant agreements that could have a material effect on each of its Federal programs.

(c) Comply with laws, regulations, and the provisions of contracts or grant agreements related to each of its Federal programs.

Title 44, Code of Federal Regulations, Section 13.36 – Procurements, states in part:

(b) Procurement standards.

(1) Grantees and subgrantees will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section...

(9) Grantees and subgrantees will maintain records sufficient to detail the significant history of a procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(d) Methods of procurement to be followed.

(3) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one

source submitting an offer, and either a fixed-price or cost reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

(i) Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;

(ii) Proposals will be solicited from an adequate number of qualified sources;

(iii) Grantees and subgrantees will have a method for conducting technical evaluations of the proposals received and for selecting awardees;

(iv) Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(v) Grantees and subgrantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

RCW 39.04.270 Electronic data processing and telecommunication systems – Municipalities – Acquisition method – Competitive negotiation, states:

(1) The legislature finds that the unique aspects of electronic data processing and telecommunications systems and the importance of these systems for effective administration warrant separate acquisition authority for electronic data processing and telecommunication systems. It is the intent of the legislature that municipalities utilize an acquisition method for electronic data processing and telecommunication systems that is both competitive and compatible with the needs of the municipalities.

(2) A municipality may acquire electronic data processing or telecommunication equipment, software, or services through competitive negotiation rather than through competitive bidding.

(3) "Competitive negotiation," for the purposes of this section, shall include, as a minimum, the following requirements:

(a) A request for proposal shall be prepared and submitted to an adequate number of qualified sources, as determined by the municipality in its discretion, to permit reasonable competition consistent with the requirements of the procurement. Notice of the request for the proposal must be published in a newspaper of general circulation in the municipality at least thirteen days before the last date upon which proposals will be received. The request for proposal shall identify significant evaluation factors, including price, and their relative importance.

(b) The municipality shall provide reasonable procedures for technical evaluation of the proposals received, identification of qualified sources, and selection for awarding the contract.

(c) The award shall be made to the qualified bidder whose proposal is most advantageous to the municipality with price and other factors considered. The municipality may reject any and all proposals for good cause and request new proposals.

Title 2, Code of Federal Regulations, Section 180.220 – Are any procurement contracts included as covered transactions?

(b) Specifically, a contract for goods or services is a covered transaction if any of the following applies:

(1) The contract is awarded by a participant in a nonprocurement transaction that is covered under § 180.210 and the amount of the contract is expected to equal or exceed \$25,000.

(c) A subcontract also is a covered transaction if,

(1) It is awarded by a participant in a procurement transaction under a nonprocurement transaction of a Federal agency that extends the coverage of paragraph (b)(1) of this section to additional tiers of contracts (see the diagram in the appendix to this part showing that optional lower tier coverage); and

(2) The value of the subcontract is expected to equal or exceed \$25,000.

Title 2 Code of Federal Regulations, Section 180.300 – What must I do before I enter into a Covered transaction with another person at the Next lower tier?

When you enter into a covered transaction with another person at the next lower tier, you must verify that the person with whom you intend to do business is not excluded or disqualified. You do this by:

- (a) Checking the EPLS; or
- (b) Collecting a certification from that person if allowed by this rule; or
- (c) Adding a clause or condition to the covered transaction with that person.

U.S. Office of Management and Budget Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, Section 500, states in part:

- (a) The audit shall be conducted in accordance with GAGAS.

Government Auditing Standards, December 2011 Revision, paragraph 4.23 states:

4.23 When performing GAGAS financial audits, auditors should communicate in the report on internal control over financial reporting and compliance, based upon the work performed, (1) significant deficiencies and material weaknesses in internal control; (2) instances of fraud and noncompliance with provisions of laws or regulations that have a material effect on the audit and any other instances that warrant the attention of those charged with governance; (3) noncompliance with provisions of contracts or grant agreements that has a material effect on the audit; and (4) abuse that has a material effect on the audit.

The American Institute of Certified Public Accountants defines significant deficiencies and material weaknesses in its *Codification of Statements on Auditing Standards*, section 265, as follows:

.07 For purposes of generally accepted auditing standards, the following terms have the meanings attributed as follows:

Material weakness. A deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected, on a timely basis.

Significant deficiency. A deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness yet important enough to merit attention by those charged with governance.