

# **Audit**

## **Follow-Up**

**As of March 31, 2012**



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## **Audit of the City's Vendor Incentive Programs**

**(Report #1110 issued May 6, 2011)**

**Report #1215**

**July 11, 2012**

### **Summary**

This is the first follow up on the Audit of the City's Vendor Incentive Programs (Report #1110 issued May 6, 2011). Sixteen of 18 action plan steps were due March 31, 2012. As of March 31, 2012, eight (50%) of the steps due have been completed, and actions are on-going to complete the other eight steps.

In audit report #1110 we provided recommendations for each of the City's four vendor incentive programs: Minority Business Enterprise (MBE) Program; Charitable Contribution Incentive Program; Volume of Work Incentive Program, and Local Vendor Incentive Program.

For the MBE Program, management completed three of the eight action plan steps due. The completed steps included: making the MBE Policy available to all City employees; implementing a process to improve tracking of City payments to MBE subcontractors through the prime contractors; and continuing to seek out qualified individuals who have the necessary time and desire to attend quarterly meetings to provide advice and guidance to the MBE Office.

The remaining steps to be completed related to the MBE Program are in progress. These include: 1) reconsider whether the MBE program is still suitable in meeting the needs of the community, or should be revised to a Small Business Enterprise Program to better comply with US Supreme Court rulings related to race and gender neutral alternatives; 2) if the

program continues, obtain a new Disparity Study, and update the MBE Policy based on the study's data, results, and recommendations; 3) if the program continues, the updated MBE Policy should eliminate set asides, and assign equitable points to minority businesses, and add a dollar range and percentage to limit additional amounts the City pays for awarding a bid to a vendor that receives MBE incentive points, but is not the lowest bidder; 4) resume producing annual reports to showcase the accomplishments of the MBE program; and 5) work with Accounting Services to implement a process to ensure that all intended data is being captured and reported.

For the Charitable Contribution Program, management completed five of the six action plan steps due. The completed steps included: 1) updating the Charitable Contributions procedures to reflect the current policy and make it available to City employees for reference and guidance; 2) modifying language on the contribution form and use the same language regarding the 12-month window that the ordinance uses to provide consistency, and help avoid confusion for prospective donors and verifiers; 3) continuing working with the agents to make sure the correct form is consistently being utilized; 4) clarifying and communicating with staff and UPHS what information is to be recorded and reported, when it is to be recorded and reported, and by whom the information is to be recorded and reported; and 5) clarifying and documenting responsibilities contracted with UPHS and monitor to verify satisfactory completion.

The one step in progress related to the Charitable Contribution Incentive Program is to reconsider the costs versus the benefits of the Charitable Contribution Vendor Incentive Program to determine if the program is meeting its intended purpose.

For the Volume of Work Incentive Program, both of the action steps due are in progress. These include: Reconsider the costs versus the benefits of the Volume of Work Program to determine if the program is meeting its intended purpose; and should the program continue, management will consider changing the program to provide opportunities for all vendors that have never received work from the City, while at the same time addressing the need to acquire goods and services at a competitive price.

For the Local Vendor Incentive Program, the action plan step due was to compare the costs of the Local Vendor Incentive Program to the benefits, and either discontinue the program, or change the program structure and/or incentives so the program makes a difference. The City Commission initiated a Local Business Certification Pilot Program from April 1, 2011 through March 31, 2012. All action plan steps due will be addressed in a separate audit of the Pilot Program.

We appreciate the cooperation and assistance provided by the MBE Office and Procurement in completion of this audit follow up.

### ***Scope, Objectives, and Methodology***

We conducted this audit follow-up in accordance with the International Standards for the Professional Practice of Internal Auditing and Generally Accepted Government Auditing Standards. Those standards require we plan and perform the audit follow-up to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence

obtained provides a reasonable basis for our findings and conclusions based on our audit follow-up objectives.

### ***Report #1110***

The scope of report #1110 was to audit of the City's four vendor incentive programs, Minority Business, Locality, Charitable Contributions, and Volume of Work (i.e. encouraging sharing work among vendors). The audit objectives were to:

- 1) Obtain and document our understanding of vendor incentives in the procurement of goods and services.
- 2) Evaluate the internal controls related to each vendor incentive program in the procurement of goods and services.
- 3) Determine compliance with laws, regulations, and policies related to vendor incentives in procurement of goods and services.
- 4) Identify program strengths, potential weaknesses, and areas for improvement for each vendor incentive program.

During this audit, we conducted two surveys to gather information from other cities and City vendors. First, we surveyed 12 comparable Florida cities (including Tallahassee) to compare the extent vendor incentive programs were utilized. Second, we surveyed 867 City of Tallahassee vendors to obtain their level of satisfaction with the services provided by the Department of Economic and Community Development's Minority Business Enterprise (MBE) Office that administers the MBE Program, and the Department of Management and Administration's Procurement Services Division that administers the local businesses, charitable contributions, and volume of work programs.

## Background

The City has four vendor incentive programs designed to assist vendors in procuring bids and contracts from the City: Minority Business, Locality, Charitable Contributions, and Volume of Work.

The MBE Program is managed in the City's MBE Office, located in the Economic and Community Development Department in the Safety and Neighborhood Services area. The MBE Office staff oversees the two business enterprise programs, MBE, and Disadvantaged Business Enterprise (DBE). The MBE Program was established by the City to provide opportunities for MBEs to obtain work from the City's procurement activities. The MBE Program is also set up to provide training, education, and technical assistance to MBEs. The DBE Program is a federal designation for businesses experiencing a social or economic disadvantage and is not limited to certain ethnic groups.

The Department of Management and Administration Procurement Services Division (Procurement) oversees the Local, Charitable Contribution, and Volume of Work incentive programs.

Based on our testing of bid solicitation in the original audit, we provided assurances that bids involving MBE, Local Vendor, and Charitable Contribution incentives were awarded in accordance with City incentive program ordinances and policies. None of the bids we tested were awarded based on Volume of Work incentive points.

Key conclusions in report #1110 for each of the four incentive programs are provided below.

### MBE Program:

- The MBE program policies were outdated and may not have reflected federal laws and related US Supreme Court opinions.

- The City's current MBE Policy was based on the results and recommendations from an outdated Disparity Study (1990). A Disparity Study addresses how proficient the City is in representing the community's business population in the entity's purchasing activities, with a particular emphasis placed on the community's minority business makeup.
- The MBE Office had not conducted job site visits to monitor MBE participation on jobs, tracked prime contractor payments to MBE subcontractors, or regularly reported the accomplishments of the MBE Office.

### Local Vendor Incentive Program:

- Three of 57 bids reviewed were shown to be won due to the Local Vendor Incentive Program. A majority of bids (33 of 57) were won by local vendors without local vendor incentives.

### Charitable Contribution Program:

- Few vendors were winning bids due to the Charitable Contribution incentive points. Procurement management estimated there had been only one or two instances where the charitable contribution was the deciding factor in the bid decision since the program began in September 2006.
- None of the other 11 Florida cities surveyed had a Charitable Contributions Incentive Program similar to Tallahassee.
- The Charitable Contribution Incentive Tracking Log was not accurate, in that some contributions were missing and some were duplicated.
- The United Partners for Human Services (UPHS) had been paid \$40,000 annually since 2006 to perform services related to verification of charitable contributions without a formal written contract defining the deliverables expected by the City. They had also not provided an annual report to the City since 2007.

Volume of Work Program:

- Procurement management reported incentive points awarded for volume of work were rarely the deciding factor in bid awards. In our review of 120 bids, none of the bids we evaluated were awarded based on Volume of Work Incentive points.

*Previous Conditions and Current Status*

In report #1110, we provided recommendations to City management related to areas that need to be addressed in each of the four vendor incentive programs. Action Plans consisted of 18 action plan steps, 16 being due for completion by March 31, 2012. The status of action plan steps due is provided in Table 1.

**Table 1  
Action Plan Steps from Audit Report #1110  
Due as of March 31, 2012, and Current Status**

Action Plan Steps Due as of March 31, 2012	Current Status
<b>MBE Office</b>	
<ul style="list-style-type: none"> <li>• Reconsider whether the MBE program is still suitable in meeting the needs of the community, or should be revised to a Small Business Enterprise Program to better comply with US Supreme Court rulings related to race and gender neutral alternatives.</li> </ul>	<ul style="list-style-type: none"> <li>❖ <b>In Progress.</b> Management reports that the policy revision is substantially completed and the policy is currently being reviewed by the City Attorney’s Office and City Departments. The completion date has been amended to October 1, 2012.</li> </ul>
<ul style="list-style-type: none"> <li>• If the program continues, obtain a new Disparity Study, and update the MBE Policy based on the study's data, results, and recommendations.</li> </ul>	<ul style="list-style-type: none"> <li>❖ <b>In Progress.</b> The need for a new Disparity Study depends on the type of program going forward. This is related to the above action step. The completion date has been amended to October 1, 2012.</li> </ul>
<ul style="list-style-type: none"> <li>• If the program continues, the updated MBE Policy should eliminate set asides, assign equitable points to minority businesses, and add a dollar range and percentage to limit additional amounts the City pays for awarding a bid to a vendor that receives MBE incentive points, but is not the lowest bidder.</li> </ul>	<ul style="list-style-type: none"> <li>❖ <b>In Progress.</b> This is related to the above action steps. The completion date has been amended to October 1, 2012.</li> </ul>
<ul style="list-style-type: none"> <li>• Make the MBE Policy available to all City employees.</li> </ul>	<ul style="list-style-type: none"> <li>✓ <b>Completed.</b> The MBE Policy is available to all City employees on the City’s intranet site.</li> </ul>
<ul style="list-style-type: none"> <li>• Resume producing annual reports to showcase the accomplishments of the MBE program.</li> </ul>	<ul style="list-style-type: none"> <li>❖ <b>In progress.</b> The MBE Office plans to release their next annual report in December 2012. The completion date has been amended to December 31, 2012.</li> </ul>

<ul style="list-style-type: none"> <li>• Work with Accounting Services to implement a process to ensure all intended data is being captured and reported.</li> </ul>	<ul style="list-style-type: none"> <li>❖ <b>In progress.</b> The MBE Office is developing procedures to capture and report in their annual reports all payments made to MBEs. This includes capital projects where MBEs are often subcontractors, as well as operating and P-card expenditures. The next annual report is due December of 2012. The completion date has been amended to December 31, 2012.</li> </ul>
<ul style="list-style-type: none"> <li>• Implement a process to improve tracking of City payments to MBE subcontractors through the prime contractors.</li> </ul>	<ul style="list-style-type: none"> <li>✓ <b>Completed.</b> Contractors are now required to submit with each pay request, how much work the MBE has completed toward the MBE goal, and how much the MBE has been paid. This allows the MBE Office to monitor the MBE utilization throughout a project.</li> </ul>
<ul style="list-style-type: none"> <li>• Continue to seek qualified individuals who have the necessary time and desire to attend quarterly meetings to provide advice and guidance to the MBE Office.</li> </ul>	<ul style="list-style-type: none"> <li>✓ <b>Completed.</b> There are three new members to the eight-member MBE Advisory Committee. Additionally, one person was recently reappointed for a new term; therefore, half of the committee has been newly appointed or reappointed in the last 18 months.</li> </ul>
<p><b>Procurement – Charitable Contribution Incentive Program</b></p>	
<ul style="list-style-type: none"> <li>• Update the Charitable Contributions procedures to reflect the current policy and make it available to City employees for reference and guidance.</li> </ul>	<ul style="list-style-type: none"> <li>✓ <b>Completed.</b> The Charitable Contribution Procedures have been updated and posted on the City’s intranet for employees to access as needed.</li> </ul>
<ul style="list-style-type: none"> <li>• Modify language on the contribution form and use the same language regarding the 12-month window that the ordinance uses to provide consistency, and help avoid confusion for prospective donors and verifiers.</li> </ul>	<ul style="list-style-type: none"> <li>✓ <b>Completed.</b> Procurement has revised and is using the revised Charitable Contribution Verification Form.</li> </ul>
<ul style="list-style-type: none"> <li>• Continue working with the agents to make sure the correct form is consistently being utilized.</li> </ul>	<ul style="list-style-type: none"> <li>✓ <b>Completed.</b> Procurement has discussed the revised form with their staff and staff has been using the revised form.</li> </ul>
<ul style="list-style-type: none"> <li>• Clarify and communicate with staff and UPHS what information is to be recorded and reported, when it is to be recorded and reported, and by whom the information is to be recorded and reported.</li> </ul>	<ul style="list-style-type: none"> <li>✓ <b>Completed.</b> Management has communicated with staff and UPHS what is to be documented for the Charitable Contribution Vendor Incentive Program.</li> </ul>
<ul style="list-style-type: none"> <li>• Reconsider the costs versus the benefits of the Charitable Contribution Vendor Incentive Program to determine if the program is meeting its intended purpose.</li> </ul>	<ul style="list-style-type: none"> <li>❖ <b>In Progress.</b> The contract with UPHS was renewed for another fiscal year, and at the conclusion of the current contract, management reported they will make a determination whether the Charitable Incentive Program will be continued or not.</li> </ul>

	The completion date has been amended to December 31, 2012.
<ul style="list-style-type: none"> <li>Should the program continue, a contract will be put in place between the City and UPHS, to clarify and document responsibilities related to the Charitable Contribution Vendor Incentive Program, and follow ups with UPHS will be conducted to verify they are completing those responsibilities.</li> </ul>	<ul style="list-style-type: none"> <li>✓ <b>Completed.</b> A new contract with UPHS is in place, including set goals and objectives for UPHS designed to create awareness of the Charitable Contribution Program, which should ultimately help increase donations to local human service non-profits.</li> </ul>
<b>Procurement – Volume of Work Incentive Program</b>	
<ul style="list-style-type: none"> <li>Reconsider the costs versus the benefits of the Volume of Work Program to determine if the program is meeting its intended purpose.</li> </ul>	<ul style="list-style-type: none"> <li>❖ <b>In progress.</b> The volume of work program is being reconsidered as a component of the revised MBE Program or Small Business Program Enterprise (SBE) program being developed. The completion date has been amended to December 31, 2012.</li> </ul>
<ul style="list-style-type: none"> <li>Should the program continue management will consider changing the program to provide opportunities for all vendors that have never received work from the City, while at the same time addressing the need to acquire goods and services at a competitive price.</li> </ul>	<ul style="list-style-type: none"> <li>❖ <b>In progress.</b> This is related to the above action step. The completion date has been amended to December 31, 2012.</li> </ul>

**Table Legend:**

- Issue to be addressed from the original audit.
- ✓ Issue addressed and resolved.
- ❖ Action initiated but not completed.

**Conclusion**

Table 1 above shows eight of 16 action plan steps due have been completed. Efforts are in progress to complete the remaining eight steps. The completion dates were amended accordingly.

The action plan steps related to the Local Vendor Incentive Program to compare the costs of the program to the benefits, and either discontinue the program, or change the program structure and/or incentives so the program makes a difference are being reviewed in a separate audit of the Local Business Certification Pilot Program.

We appreciate the cooperation and assistance provided by the MBE Office and Procurement in completion of this audit follow up.

**Appointed Official's Response****City Manager:**

I am pleased to see that the majority of the previously identified action steps have been completed, as reflected in the follow-up audit of the City's Vendor Incentive Programs. Staff is already in the process of addressing the remaining action plan items identified for Charitable Contribution and Volume of Work Vendor Incentive Programs.

As noted in the action plan update significant progress has been made in responding to the recommendations regarding the City's Minority Business Enterprise (MBE) Program. The City is developing revisions to the MBE Program which include expansion to a Small Business Enterprise (SBE) approach which will offer new opportunities for area businesses. This and other program revisions will update this incentive program so that it reflects current legal and regulatory requirements. Additionally a more intensive contract monitoring program has been implemented using field staff from multiple departments to augment the efforts of the MBE Office. We have conducted extensive outreach efforts, conducting workshops and focus groups with private contractors and internal staff and incorporated their input into the revised policy documents which are under review. I appreciate the hard work by the City Auditor's Office as well as the hard work and cooperation of the Department of Management and Administration, Economic and Community Development and the United Partners for Human Services Organization.

Copies of this audit follow-up #1215 or audit report #1110 may be obtained from the City Auditor's website (<http://talgov.com/auditing/index.cfm>) or via request by telephone (850 / 891-8397), by FAX (850 / 891-0912), by mail or in person (Office of the City Auditor, 300 S. Adams Street, Mail Box A-22, Tallahassee, FL 32301-1731), or by e-mail ([auditors@talgov.com](mailto:auditors@talgov.com)).

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