

# **Audit Follow-Up**

**As of March 31, 2013**



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City Auditor**

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

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

**Report #1322**

**July 29, 2013**

### ***Summary***

**This is the second follow-up on the Audit of the City's Vendor Incentive Programs (Report #1110 issued May 6, 2011). As of March 31, 2013, 11 (61%) of the 18 action plan steps established to address issues identified in that audit have been completed. Eight steps were completed in the previous follow-up, three were completed during this follow-up period, and actions are on-going to complete the seven remaining 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.

We commend the Department of Management and Administration (DMA) for completing three of their remaining action plan steps during this follow-up period. The steps completed by DMA during this period include:

- 1) 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 to increase the number of local bids awarded.
- 2) Reconsider the costs versus the benefits of the Volume of Work Program to determine if the program is meeting its intended purpose.

- 3) Should the Volume of Work 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.

The one step for which actions by DMA are in progress, but not yet completed is to reconsider the costs versus the benefits of the Charitable Contribution Incentive Program to determine if the program is meeting its intended purpose.

The six steps for which actions by the MBE office are in progress, but not yet completed 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 U.S. Supreme Court rulings related to race and gender neutral alternatives.
- 2) Should the MBE program continue, obtain a new Disparity Study, and update the MBE Policy based on the study's data, results, and recommendations.
- 3) Should the MBE program continue, 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) Develop and implement a process to regularly visit job sites during the year to verify MBE participation.
- 5) Resume producing annual reports to showcase the accomplishments of the MBE program.
- 6) Work with Accounting Services to implement a process to ensure all intended data is being captured and reported.

As part of their efforts to complete the six remaining action plan steps, the MBE Office worked with the City Attorney's Office to prepare a draft MBE policy to address the recommendations provided in the original audit report. In the coming months, the MBE Office is planning to present the draft policy to two City Commission Target Issue Committees (Financial Viability and Economic Development) and then to the full Commission.

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 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 11 similar Florida cities to determine how their vendor incentive programs were utilized in comparison to the City of Tallahassee's vendor incentive programs. 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 office that administers the MBE Program, and DMA'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.

Based on our testing of bid solicitations 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.

A brief description and key conclusions from report #1110 are provided below for each of the four incentive programs.

MBE Program

The City adopted an MBE Policy in 1991 to provide opportunities for MBEs to obtain work from the City. The MBE Office works with the Procurement Division to provide information regarding MBE vendors during the City's bid evaluation process. Key results related to the MBE program from the original audit included:

- The MBE program policies were outdated and may not have been in agreement with federal laws and related U.S. 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

Ordinance No 89-O-0074, "Local Vendor Ordinance" was passed in November 1989, creating an incentive program to provide additional opportunities for local businesses in procuring contracts for goods and services from the City of Tallahassee. Key results related to the Local Vendor Incentive Program from the original audit included:

- Fewer local vendors were winning bids due to local incentive points.
- We noted only 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

The City established the Charitable Contribution Vendor Incentive Program in September 2006, through Ordinance 06-07-47AA, "Charitable

Contribution Incentive Program." The City Commissioners wanted to implement an incentive to reward vendors for making charitable contributions in the local community. Key results related to the Charitable Contribution Vendor Incentive Program from the original audit included:

- 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 Contribution 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

The City established the Volume of Work provision in 1983 for architects and engineers with a goal of "equitable distribution of contracts among qualified firms" during the bid evaluation process. In effect, the more work an architect or engineer performs for the City, the fewer points they receive when proposing to contract for needed services. The key results related to the Volume of Work Program from the original audit included:

- 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.

addressed in each of the four vendor incentive programs. Management created an action plan consisting of 18 action plan steps, with all due for completion before or by March 31, 2013. Eight steps were completed in the previous follow-up period. As shown in Table 1 below, three steps were completed during this follow-up period. Completion of the remaining seven steps has been deferred as explained in Table 1.

***Previous Conditions and Current Status***

In report #1110, we provided recommendations to City management related to areas that need to be

**Table 1  
Action Plan Steps from Audit Report #1110  
Due as of March 31, 2013, and Current Status**

Action Plan Steps Due as of March 31, 2013	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 U.S. Supreme Court rulings related to race and gender neutral alternatives. <i>[Report #1110 Action Plan Step A.1]</i></li> </ul>	<ul style="list-style-type: none"> <li>❖ <b>In progress.</b> The MBE Office worked with the City Attorney’s office to draft a revised MBE policy which includes policies and procedures for a new Minority Women and Small Business Program. The draft policy will be presented to two City Commission Target Issue Committees, 1) Financial Viability and 2) Economic Development. The completion date has been amended to September 30, 2013.</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. <i>[Report #1110 Action Plan Step A.2]</i></li> </ul>	<ul style="list-style-type: none"> <li>❖ <b>In progress.</b> See status of the MBE Program Policy in the explanation for Action Plan Step A.1 above. In their draft revisions to the MBE Policy, the MBE Office mentions using the latest local market economic and statistical business availability and utilization studies to help remedy the effects of past discrimination. While a current Disparity Study could provide local economic and statistical information, one has not yet been obtained.</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. <i>[Report #1110 Action Plan Step A.3]</i></li> </ul>	<ul style="list-style-type: none"> <li>❖ <b>In progress.</b> See status of the MBE Program Policy in the explanation for Action Plan Step A.1 above. Race and gender based set asides have been eliminated in the revised draft policy. The details of the policy specific to set asides and preference points to be awarded to minority and small businesses have not yet been determined.</li> </ul>

<ul style="list-style-type: none"> <li>• Make the MBE Policy available to all City employees. <i>[Report #1110 Action Plan Step A.4]</i></li> </ul>	<ul style="list-style-type: none"> <li>✓ Completed during a prior period.</li> </ul>
<ul style="list-style-type: none"> <li>• Develop and implement a process to regularly visit job sites during the year to verify MBE participation. <i>[Report #1110 Action Plan Step A.5]</i></li> </ul>	<ul style="list-style-type: none"> <li>❖ <b>In progress.</b> See status of MBE Program Policy in the explanation for Action Plan Step A.1 above. To date, the MBE Office has visited some job sites; however, a process to regularly visit job sites to verify and document MBE participation has not been developed or implemented. In their draft MBE policy revisions, the MBE Office is planning to strengthen the program’s compliance through increased monitoring.</li> </ul>
<ul style="list-style-type: none"> <li>• Resume producing annual reports to showcase the accomplishments of the MBE program. <i>[Report #1110 Action Plan Step A.6]</i></li> </ul>	<ul style="list-style-type: none"> <li>❖ <b>In progress.</b> There has been no change from the prior period. The MBE Office is working on developing processes to produce annual reports of program accomplishments. The completion date has been amended to December 31, 2013. We will review the status of this step in a subsequent follow-up engagement.</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. <i>[Report #1110 Action Plan Step A.7]</i></li> </ul>	<ul style="list-style-type: none"> <li>❖ <b>In progress.</b> There has been no change from the prior period. The MBE Office is planning to develop processes to capture all intended data and produce annual reports of program accomplishments. The completion date has been amended to December 31, 2013. We will review the status of this step in a subsequent follow-up engagement.</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. <i>[Report #1110 Action Plan Step A.8]</i></li> </ul>	<ul style="list-style-type: none"> <li>✓ Completed during a prior period.</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. <i>[Report #1110 Action Plan Step A.9]</i></li> </ul>	<ul style="list-style-type: none"> <li>✓ Completed during a prior period.</li> </ul>
<p><b>Procurement – Local Business Program</b></p>	
<ul style="list-style-type: none"> <li>• 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 to increase the number of local bids awarded. <i>[Report #1110 Action Plan Step B.1]</i></li> </ul>	<ul style="list-style-type: none"> <li>✓ <b>Completed.</b> On March 9, 2011, the City Commission approved the Local Business Certification Pilot Program to promote the utilization and participation of local businesses. The pilot program expired on November 9, 2012, reverting incentives for</li> </ul>

	<p>local businesses back to the original Local Vendor Incentive Program. Management decided the original program structure was adequately effective.</p>
<p><b>Procurement – Charitable Contribution Incentive Program</b></p>	
<ul style="list-style-type: none"> <li>• Update the Charitable Contribution procedures to reflect the current policy and make it available to City employees for reference and guidance. <i>[Report #1110 Action Plan Step C.1]</i></li> </ul>	<p>✓ Completed during a prior period.</p>
<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. <i>[Report #1110 Action Plan Step C.2]</i></li> </ul>	<p>✓ Completed during a prior period.</p>
<ul style="list-style-type: none"> <li>• Continue working with the agents to make sure the correct form is consistently being utilized. <i>[Report #1110 Action Plan Step C.3]</i></li> </ul>	<p>✓ Completed during a prior period.</p>
<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. <i>[Report #1110 Action Plan Step C.4]</i></li> </ul>	<p>✓ Completed during a prior period.</p>
<ul style="list-style-type: none"> <li>• Reconsider the costs versus the benefits of the Charitable Contribution Incentive Program to determine if the program is meeting its intended purpose. <i>[Report #1110 Action Plan Step C.5]</i></li> </ul>	<p>❖ <b>In progress.</b> One of the necessary aspects of a cost-benefit analysis for the program is the amount of donations received by UPHS certified organizations. As part of their contract with the City, UPHS is required to submit an annual report of donations made to all eligible organizations for current and prior fiscal years. DMA discovered the donation amounts reported by UPHS was inaccurate because many of the donations were reported as being received multiple times. As a result, an accurate and meaningful cost-benefit analysis is currently not practicable. To address that issue, staff from DMA and Economic and Community Development are working with UPHS to help UPHS verify and correct the data. Additionally, DMA is assisting UPHS in developing a more efficient and effective way of tracking and reporting future donations. The completion date has been amended to August 31, 2013.</p>

<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. <i>[Report #1110 Action Plan Step C.6]</i></li> </ul>	<ul style="list-style-type: none"> <li>✓ Completed during a prior period.</li> </ul>
<p><b>Procurement – Volume of Work Incentive Program</b></p>	
<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. <i>[Report #1110 Action Plan Step D.1]</i></li> </ul>	<ul style="list-style-type: none"> <li>✓ <b>Completed.</b> DMA evaluated the Volume of Work Program and decided to discontinue the program. Procurement intends to phase the program out by the end of the current fiscal year (September 30, 2013).</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. <i>[Report #1110 Action Plan Step D.2]</i></li> </ul>	<ul style="list-style-type: none"> <li>✓ <b>Completed.</b> Since the program is being discontinued, this step is no longer needed. However, for acquisitions of certain professional services not requiring competitive solicitations, DMA indicated it will encourage departments to consider vendor’s prior volume of City work with an emphasis on consideration of vendors who have never received work from the City.</li> </ul>

**Table Legend:**

- Issue to be addressed from the original audit.

- ✓ Action item addressed and resolved.

- ❖ Action item initiated but not completed.

**Conclusion**

Table 1 above shows 11 of 18 action plan steps have been completed as of March 31, 2013, and efforts are in progress to complete the remaining seven steps. The completion dates for the items in progress have been amended.

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

**Appointed Official's Response**

**City Manager:** I am pleased to see that progress has been made in addressing the action plan items due for the follow-up report on the Audit of Vendor Incentive Programs. Out of the total 18 action step items, staff has completed 11 and the remaining seven steps are currently in progress. We continue to evaluate the recommendations related to the remaining steps and are confident that these will be addressed by the next follow-up report. I would like to thank the City Auditor and the departments involved in ensuring that we continue to make progress on completing the identified actions steps within established deadlines.

Copies of this audit follow-up #1322 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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