CITY OF SAN ANTONIO

P.O. Box 839966
SAN ANTONIO TEXAS 78283-3966

March 12, 2015

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Shirley Gonzales
Councilwoman, District 5

Ron Nirenberg
Councilman, District 8

SUBJECT: Audit Report of Finance Department Local Preference Program

Mayor and Council Members:

We are pleased to send you the final report of the Audit of the Finance Department Local Preference Program. This audit began in September 2014 and concluded with an exit meeting with department management in January 2015. Management's verbatim response is included in Appendix B of the report. The Finance Department management and staff should be commended for their cooperation and assistance during this audit.

The Office of the City Auditor is available to discuss this report with you individually at your convenience.

Respectfully Submitted,

Kevin W. Barthold, CPA, CIA, CISA
City Auditor
City of San Antonio

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CITY OF SAN ANTONIO

OFFICE OF THE CITY AUDITOR

Audit of Finance Department

Local Preference Program

Project No. AU14-012

March 12, 2015

Kevin W. Barthold, CPA, CIA, CISA
City Auditor

Executive Summary

As part of our annual Audit Plan approved by City Council, we conducted an audit of the Finance Department Local Preference Program (LPP). The audit objective, conclusions, and recommendations follow:

Is the implementation of the Local Preference Program in compliance with the established ordinance?

Yes, implementation of the LPP is in compliance with the established ordinance. However, we did note an area that needs improvement. We identified no control over the verification of the identification form used to establish a bidder's local presence. Although the contract award was not affected, we identified one instance when the bidder received local preference points even though they were not within the incorporated limits of the City of San Antonio.

We recommend the Director of Finance:

Establish procedures to verify the bidder's responses on the LPP identification form. Specifically, bidders should be required to submit relevant documentation that confirms their local presence in San Antonio. Finally, update the identification form to clarify information requested from bidders.

The Finance Department Management's verbatim response is in Appendix B on page 5.

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Background

On March 21, 2013, the City Council passed an Ordinance adopting a local preference contracting program. The goal of the City of San Antonio is to use its spending powers to promote fiscal responsibility and maximize the amount of resident tax dollars that remain in the local economy for the benefit of its citizens by utilizing all available legal opportunities to contract with City-located businesses. In addition, City Council amended the ordinance on November 13, 2014 to clarify application of the program in regard to joint ventures and the principle places of business.

The City places an affirmative duty on its departments to grant a preference to local businesses, unless doing so would be contrary to the best interests of the City. The program requires firms responding to City solicitations to self certify, via use of a signed identification form, that the requirements for the local business designation have been met. In addition, when a contract is awarded based on application of the program, the price differential to the overall low, non-local bid will be reported in the RFCA Memo portion of any Council action item.

A local business is considered a business headquartered in San Antonio or a business that meets the following conditions:

- An established place of business for at least one year in the incorporated limits of the City and
- From which at least 20% of its full time and part time and contract employees are regularly based or a minimum of 100 employees and
- From which a substantial role in the business performance if a commercially useful function or a substantial part of its operations is conducted

Additionally, the LPP is applicable to the following contracts:

- For goods/supplies if their bid is within 3% of the lowest non-local for contracts over $50,000
- For non-professional services if their bid is within 3% of the lowest non-local bidder for contracts of $50,000 - $500,000
- For construction contracts if their bid is within 3% of the lowest non-local bidder for contracts of $50,000 - $100,000
- Other professional services not governed by Statue.

The Finance Department administers the program and provides quarterly reporting to City Council regarding local business awards made as a result of this program.

Audit Scope and Methodology

The audit scope included assessing the compliance of processes in place for fiscal year 2014 to ensure the Local Preference Program (LPP) was implemented in accordance with City ordinance.

We interviewed the Procurement Administrators in charge of non discretionary and discretionary contracts to obtain an understanding of their specific responsibilities related to the LPP. Additionally, we interviewed staff to understand the LPP's reporting requirements and data records.

We tested 40 out of 84 non discretionary LPP eligible contracts for FY 2014 to verify the LPP was implemented correctly. We judgmentally selected the 40 contracts based evenly on dollar values. Specifically, we recalculated the bid tabulations to verify the local preference was applied correctly. Additionally, we verified that the contracts were qualified under the LPP thresholds. Finally, we selected 10 contracts, based on varying dollar values that were not awarded LLP points and verified they did not qualify for the program.

We reviewed all 9 discretionary contracts with LPP approved by City Council for FY2014 and verified the accuracy of local preference points awarded. Additionally, we reviewed 10 contracts that were not qualified for the LPP to determine if they were correctly withheld from the program.

Finally, we determined the adequacy of companies self certifying their local presence through the LPP identification forms.

Testing criteria included the LPP City Ordinance and Purchasing departmental policy and procedures. Additionally, the audit team performed a brainstorm session to discuss ideas on improving the LPP process and eliminate potential loop holes that may exist for companies to claim local preference beyond the intent of the ordinance.

We conducted this audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our audit results and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our audit results and conclusions based on our audit objectives. Our audit included tests of management controls that we considered necessary under the circumstances.

Audit Results and Recommendations

A. Bidder Incorrectly Awarded LPP Points

Although the contract award was not affected, the Finance department incorrectly awarded local preference points to a non local bidder. Specifically, we identified a bidder whom received LPP points even though it was a non local company.

The Finance department does not verify the identification form responses and awarded local preference points to a non local bidder. For each solicitation, a bidder is asked to self certify whether or not they are headquartered in San Antonio or have a business located in the incorporated San Antonio city limits for at least a year. Based on this self certification, they are awarded local preference points without verification as to the accuracy of these responses.

It is the Purchasing departments understanding that this program was intended to be self certifying and consequences are in place to deter a bidder from misrepresenting their local presence. However, without proper verification of the bidder's response, the City of San Antonio is at risk of awarding contracts to bidders that do not have a local presence. Additionally, the City of San Antonio could potentially be liable for errors in awarding contracts based on local preference.

Recommendation

The Director of Finance should establish procedures to verify the bidder's responses on the LPP identification form. Specifically, bidders should be required to submit relevant documentation that confirms their local presence in San Antonio. Finally, update the identification form to clarify information requested from bidders.

Appendix A – Staff Acknowledgement

Buddy Vargas, CFE, Audit Manager
Danny Zuniga, CPA, Auditor in Charge

Appendix B – Management Response

CITY OF SAN ANTONIO

P.O. Box 839966
SAN ANTONIO TEXAS 78283-3966

February 25, 2015

Kevin W. Barthold, CPA, CIA, CISA
City Auditor
San Antonio, Texas

RE: Management's Corrective Action Plan for the Audit of the Local Preference Program

The Finance Department has reviewed the audit report and has developed the Corrective Action Plans below corresponding to report recommendations.

Recommendation					
#	Description	Audit Report Page	Accept, Decline	Responsible Person's Name/Title	Completion Date
1	Bidder Incorrectly Awarded LPP Points The Director of Finance should establish procedures to verify the bidder's responses on the LPP identification form. Specifically, bidders should be required to submit relevant documentation that confirms their local presence in San Antonio. Finally, update the identification form to clarify information requested from bidders.	3	Accept	Norbert Dziuk, Assistant to the Director	

Recommendation					
#	Description	Audit Report Page	Accept, Decline	Responsible Person's Name/Title	Completion Date
	Action plan: The Local Preference Program was previously a self-certification program. Bidders submitted a signed affidavit certifying they meet the definition of a local business as defined in the ordinance. The information submitted on the affidavit was then utilized by staff to assign the appropriate preference. In the instance where points were awarded to a non-local respondent as referenced in the audit, there was no impact on the contract award. The Local Preference Identification form has been updated to require respondents to City solicitations submit documentation to establish and validate that they meet the definition of a City Business as prescribed in Ordinance 2014-11-13-0923. The updated form is required for solicitations with a due date on or after January 1, 2015. Required documentation may include, but not be limited to the following, depending upon the type of business structure: Texas Comptroller's listing of names/addresses of officers and directors, partnership agreements to include documents identifying current managing partners and their current work addresses, utility bills, real property lease agreements, equipment leases, personal property taxes, real property taxes, organizational charts and payroll records by location. In addition, the Compliance and Resolution Division of Finance has been engaged to assist with the validation of supporting documentation submitted by respondents for the Local Preference Program. The Compliance and Resolution Division will review all Local Preference Identification forms as follows: • Prior to the evaluation process for all High Profile solicitations • Randomly sample after contract award for discretionary solicitations not categorized as High Profile • Prior to award of a bid(s) when the Local Preference program impacts contract award.				

We are committed to addressing the recommendations in the audit report and the plan of actions presented above.

Sincerely,

Troy Elliott, CPA
Finance Director

2/25/15
Date

Ben Gorzell, Jr., CPA
Chief Financial Officer

2/25/15
Date

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