



## **PUBLIC PROCUREMENT**

## **PERFORMANCE AUDIT**

**JULY 1, 2005 THROUGH DECEMBER 31, 2009**

**CITY OF CHESAPEAKE, VIRGINIA  
AUDIT SERVICES DEPARTMENT**

June 24, 2010

The Honorable Alan P. Krasnoff and  
Members of the City Council  
City of Chesapeake  
City Hall – 6<sup>th</sup> Floor  
Chesapeake, Virginia 23328

Dear Mayor Krasnoff and Members of the City Council:

As part of the annual audit plan, we reviewed the City of Chesapeake's Public Procurement processes for the period of July 1, 2005 to December 31, 2009. Our review was conducted for the purpose of evaluating the function's procurement practices to determine whether (1) processes were effective and efficient, and (2) written procedures ensured that goods and services were procured "...in a fair and impartial manner with avoidance of any impropriety or appearance of impropriety, that all qualified vendors had access to public business and that no offeror be arbitrarily or capriciously excluded, and that competition be sought to the maximum feasible degree" consistent with the Virginia Public Procurement Act (VPPA). This Public Procurement audit focused significantly on automated controls and system processes.

We conducted this performance 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 findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

For Fiscal Year (FY) 2009-2010, Public Procurement had an operating budget of \$793,636 and an authorized compliment of 9 full-time personnel. Of these, one Procurement Specialist was temporarily assigned to work on the Human Resources Information System implementation project and was not available for regular purchasing duties during most of the review process. Public Procurement occupied offices on the fifth floor of City Hall and operated the City Hall mailroom on the first floor.

The City's procurement practices were subject to the VPPA, City Ordinances Chapter 54, and Administrative Regulations 4.01 and 4.12. These laws, rules and regulations were established to provide fair and equitable treatment for all persons involved in providing goods and services to the City, and were intended to maximize the purchase value of public funds in procurement, establish purchasing authority within the City, and to provide safeguards for maintaining a procurement system of equality and integrity. Small businesses and businesses owned by women and minorities were encouraged to participate in the City's

procurement transactions. Public Procurement was also charged with the responsibility to dispose of all City owned property that was declared surplus by City departments.

To conduct this audit, we reviewed and evaluated City and Public Procurement policies, procedures, and operations, contract documents and reports. Also, we reviewed the Virginia Public Procurement regulations, the related Vendor Manual, as well as PeopleSoft (PS) documentation and manuals. We discussed these audit areas and conducted interviews with the Deputy City Manager for Finance and Administration, the former Purchasing and Contract Manager, acting Procurement Administrator, Office Coordinator, both Office Assistants, Assistant Buyer, and the Procurement Specialists. We also held in depth discussions with Information Technology's (IT) independent PeopleSoft consultant contracted to assist with the 9.0 upgrade, and extracted data from PeopleSoft for analytical purposes.

Based on our review, we determined that although Public Procurement strived to provide a responsive, efficient, and cost effective purchasing operation which would safeguard Chesapeake's resources, there were several significant operational issues that hindered Public Procurement's ability to carry out its objectives. These issues included significant system implementation deficiencies, excess use of certain contracts by departments, lack of centralized contract administrative procedures, changes in Public Procurement's reporting structure, purchase order creation and management issues, potential for conflict-of-interest, and service delivery perception issues.

We recommended that Public Procurement revisit its system implementation, ensure that departments use contracts consistent with their intended purposes, and work with the City to develop an administrative regulation for contract administration. Also, the City should stabilize Public Procurement by returning it to full departmental status, and Public Procurement should develop procedures for purchase order creation and management, develop written conflict-of-interest procedures for internal use, and continue to work with departments to improve perceptions of its service delivery.

This report, in draft, was provided to Public Procurement officials for review and response, and their comments have been considered in the preparation of this report. These comments have been included in the Managerial Summary, the Audit Report, and Appendix A. Public Procurement management, supervisors, and staff were very helpful throughout the course of this audit. We appreciated their courtesy and cooperation on this assignment.

Sincerely,



Jay Poole  
City Auditor  
City of Chesapeake, Virginia

C: William E. Harrell, City Manager  
Betty J. Meyer, Ph.D., Deputy City Manager  
Michael L. Thomas, Procurement Administrator

## **Managerial Summary**

### **A. Introduction, Background, and Scope**

As part of the annual audit plan, we reviewed the City of Chesapeake's Public Procurement processes for the period of July 1, 2005 to December 31, 2009. Our review was conducted for the purpose of evaluating the function's procurement practices to determine whether (1) processes were effective and efficient, and (2) written procedures ensured that goods and services were procured "...in a fair and impartial manner with avoidance of any impropriety or appearance of impropriety, that all qualified vendors had access to public business and that no offeror be arbitrarily or capriciously excluded, and that competition be sought to the maximum feasible degree" consistent with the Virginia Public Procurement Act (VPPA). This Public Procurement audit focused significantly on automated controls and system processes.

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For Fiscal Year (FY) 2009-2010, Public Procurement had an operating budget of \$793,636 and an authorized compliment of 9 full-time personnel. Of these, one Procurement Specialist was temporarily assigned to work on the Human Resources Information System implementation project and was not available for regular purchasing duties during most of the review process. Public Procurement occupied offices on the fifth floor of City Hall and operated the City Hall mailroom on the first floor.

The City's procurement practices were subject to the VPPA, City Ordinances Chapter 54, and Administrative Regulations 4.01 and 4.12. These laws, rules and regulations were established to provide fair and equitable treatment for all persons involved in providing goods and services to the City, and were intended to maximize the purchase value of public funds in procurement, establish purchasing authority within the City, and to provide safeguards for maintaining a procurement system of equality and integrity. Small businesses and businesses owned by women and minorities were encouraged to participate in the City's procurement transactions. Public Procurement was also charged with the responsibility to dispose of all City owned property that was declared surplus by City departments.

To conduct this audit, we reviewed and evaluated City and Public Procurement policies, procedures, and operations, contract documents and reports. Also, we reviewed the Virginia Public Procurement regulations, the related Vendor Manual, as well as PeopleSoft (PS) documentation and manuals. We discussed these audit areas and conducted interviews with the Deputy City Manager for Finance and Administration, the former Purchasing and Contract Manager, acting Procurement Administrator, Office Coordinator, both Office Assistants, Assistant Buyer, and the Procurement Specialists. We also held in depth discussions with Information Technology's (IT) independent PeopleSoft consultant contracted to assist with the 9.0 upgrade, and extracted data from PeopleSoft for analytical purposes.

### **Major Observations and Conclusions**

Based on our review we determined that, although Public Procurement strived to provide a responsive, efficient, and cost effective purchasing operation which would safeguard Chesapeake's resources, there were several significant operational issues that hindered Public Procurement's ability to carry out its objectives. These issues included significant system implementation deficiencies, excess use of certain contracts by departments, lack of centralized contract administrative procedures, changes in Public Procurement's reporting structure, purchase order creation and management issues, potential for conflict-of-interest, and service delivery perception issues.

We recommended that Public Procurement revisit its system implementation, ensure that departments use contracts consistent with their intended purposes, and work with the City to develop an administrative regulation for contract administration. Also, the City should stabilize Public Procurement by returning it to full departmental status, and Public Procurement should develop procedures for purchase order creation and management, develop written conflict-of-interest procedures for internal use, and continue to work with departments to improve perceptions of its service delivery.

This report, in draft, was provided to Public Procurement officials for review and response, and their comments have been considered in the preparation of this report. These comments have been included in the Managerial Summary, the Audit Report, and Appendix A. Public Procurement management, supervisors, and staff were very helpful throughout the course of this audit. We appreciated their courtesy and cooperation on this assignment.

## **B. Performance Information**

Public Procurement had a direct impact on all other agencies, departments, and functions of the City of Chesapeake. City Ordinances established Public Procurement as the City's key control for processing and monitoring purchases valued at \$5,000 or more in accordance with procurement laws and regulations. Their objective was to ensure that goods and services processed through their department were competitively awarded prior to purchase, and to act as responsible stewards of public funds. However, purchasing processes were not limited solely to Public Procurement. Various components were decentralized into other areas of the City. They included purchases under \$5,000, direct connects, and purchase cards. These areas were not included in the scope of this audit, although both purchases under \$5,000 and credit cards have been addressed in previous audits.

## **C. System Implementation and Contract Management Issues**

Although Public Procurement strived to provide a responsive, efficient and cost effective purchasing operation that safeguarded the City's resources, we identified several significant operational issues that hindered Public Procurement's ability to achieve its objectives. These issues included significant system implementation deficiencies, excessive use of a maintenance contract, lack of compliance with competitive requirements, and a lack of centralized contract administration procedures.

### **1. System Implementation Deficiencies**

**Finding** - The City did not adequately implement the purchasing components of the PeopleSoft system. The lack of an adequate implementation process had a significant adverse impact on the City's Public Procurement operations.

**Recommendation** - The City should identify resources to adequately implement and update the purchasing functions of the PeopleSoft system.

**Response** – Purchasing and Information Technology staffs have reviewed the audit findings surrounding this recommendation. While not every module was deemed necessary, Procurement Contract and Supply Chain Portal Pack modules were recommended. \$350,000 has been identified in FY 2009-10 resources to move forward on implementation of these modules. The Contract Management module will provide a framework to create and manage the transactional procurement contracts used for executing purchasing, as well as providing document management authoring capabilities to create and manage the written contract document using Microsoft Word. PeopleSoft Supply Chain Portal Pack provides data from PeopleSoft Order Management, PeopleSoft Promotions Management, and PeopleSoft Billing in pagelets.

## **2. Excessive Use of HVAC Contract**

**Finding** - The \$122,500 HVAC maintenance contract awarded to a City vendor appeared to have been used as a sole source for equipment replacement and confirming orders, which resulted in the vendor receiving \$2,407,051 over the life of the five-year contract.

**Recommendation** - The City should take steps to ensure that contracts are utilized consistently with their intended purposes.

**Response** – Purchasing is conducting training sessions with user departments emphasizing the importance of using existing contracts within the scope of work, and the importance of the competitive bid process. Purchasing and Finance are working together to limit the use of confirming POs unless absolutely necessary. Purchasing is specifying spending limits on all ID/IQ contracts, and will ensure that invoices and other payment documents are submitted with sufficient details. This will allow the City to monitor the usage of the contracts.

Change orders exceeding 10% of contract are reviewed by the City Manager's Office staff. Departments are being advised that large changes are not an acceptable alternative to sizing the contract for the needed services during the bid process nor will large changes continue to be allowed to avoid procuring a new contract for additional services.

## **3. Compliance with Competitive Requirements**

**Finding** - Public Procurement did not comply with the Code of Virginia in its initial negotiations for the City's recycling contract.

**Recommendation** - Public Procurement should ensure that it follows State requirements when initiating negotiations with potential vendors.

**Response** – Administrative Regulation 4.01 is being revised in accordance with the City's ordinance that relate to professional services.

## **4. Contract Administration Policies and Procedures**

**Finding** - The City did not have centralized contract administration policies and procedures. The absence of centralized contract administration policies and procedures adversely impacted monitoring and enforcement of contractual requirements.

**Recommendation** - The City should develop an Administrative Regulation as quickly as possible that addresses policies and procedures for contract administration.

**Response** – Purchasing will develop an Administrative Regulation describing the policies and procedures for contract administration.

## **D. Other Operational Issues**

We noted that, beginning in 2001, Public Procurement underwent a number of reporting level changes that appeared to adversely impact City oversight of the function. In addition, City departments required additional training on the creation and management of purchase orders. Also, Public Procurement needed to develop internal policies on conflicts-of-interest. Finally, Public Procurement had to work within the City to address perceptions about its service delivery.

### **1. Changes in Management Oversight**

**Finding** - Beginning in 2001, City Management transferred Public Procurement's line of reporting from the City Manager's Office to the Finance Department and then later to the General Services Department. These transfers adversely impacted oversight of the City's procurement processes.

**Recommendation** - The City should strongly consider returning Public Procurement to full department level status to promote stability in its oversight as well as enhance the authority and independence of the function.

**Response** – The Purchasing Division has reported directly to the Deputy City Manager for Administration and Finance since April 2009. This has the effect of providing high-level consistent oversight of the Division. In addition, in April 2010, the Procurement Administrator was added to the list of those attending monthly Management Meetings which include all department heads.

### **1. Purchase Order Creation and Management**

**Finding** - Public Procurement lacked procedures that instructed users how to properly create purchase orders, especially multi-year purchase orders. The lack of procedures led to inappropriate use of Non-PO vouchers, as well as difficulties in closing out purchase orders at year-end for financial reporting purposes.

**Recommendation** - Public Procurement should develop procedures that instruct users on proper creation and management of purchase orders within the PeopleSoft system.

**Response** – Purchasing will develop an Administrative Regulation on procedures that will instruct users on proper creation and management of purchase orders within the PeopleSoft system. These procedures will also consist of close-out of purchase orders at year-end.

### **2. Conflict of Interest Procedures**

**Finding** - Public Procurement did not have any written policies and procedures that defined and emphasized the need to avoid conflicts-of-interest.

**Recommendation** - Public Procurement should develop policies and procedures that address the need to avoid conflicts-of-interest.

**Response** – All staff members will be required to sign an Ethics in Public Contracting Employee Agreement in accordance with the Virginia Public Procurement Act stating that they fully understand and agree to comply with the provisions of the policy and that violation of this policy will be subject to disciplinary action, up to and including termination.

### **3. Service Delivery Perceptions**

**Finding** - Public Procurement attempted to respond to User Departments' concerns over the need for improved service and system processes. Public Procurement developed an action plan to address the perception of "bottlenecks" in the purchasing approval processes and departmental concerns regarding communications, inaccessibility, and responsiveness. However, the problems inherent within both Public Procurement Procurement's PeopleSoft purchasing processes and their related training issues limited their response.

**Recommendation** - Public Procurement should continue to attempt to address user department concerns about its service delivery.

**Response** – Purchasing has begun taking appropriate steps to deal with the perceived "bottleneck" in the approval processes as well as departmental concerns regarding communications, inaccessibility and responsiveness. Purchasing began meeting with all department heads establishing lines of communications and addressing any concerns that they might have. Purchasing will meet with all department heads on a yearly basis. Purchasing is working diligently to establish process time lines for Invitation for Bids, Request for Proposals, Request for Quotes, etc. Purchasing will revisit the survey to ensure that customer needs are being met. Purchasing will continue to educate users on the procurement processes while providing a level of transparency by giving user departments access to check the status of requisitions and related purchase orders on a share drive in cooperation with Information Technology. Attendance of the Procurement Administrator at management meetings will enhance communications on issues of concern.

PUBLIC PROCUREMENT

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JULY 1, 2005 TO MONTH DECEMBER 31, 2009

Table of Contents

<u>Contents</u>	<u>Page</u>
A. Introduction, Background, and Scope	1
B. Performance Information	4
C. System Implementation and Contract Management Issues	6
D. Other Operational Issues	16
Appendix A – Response from Public Procurement Officials	

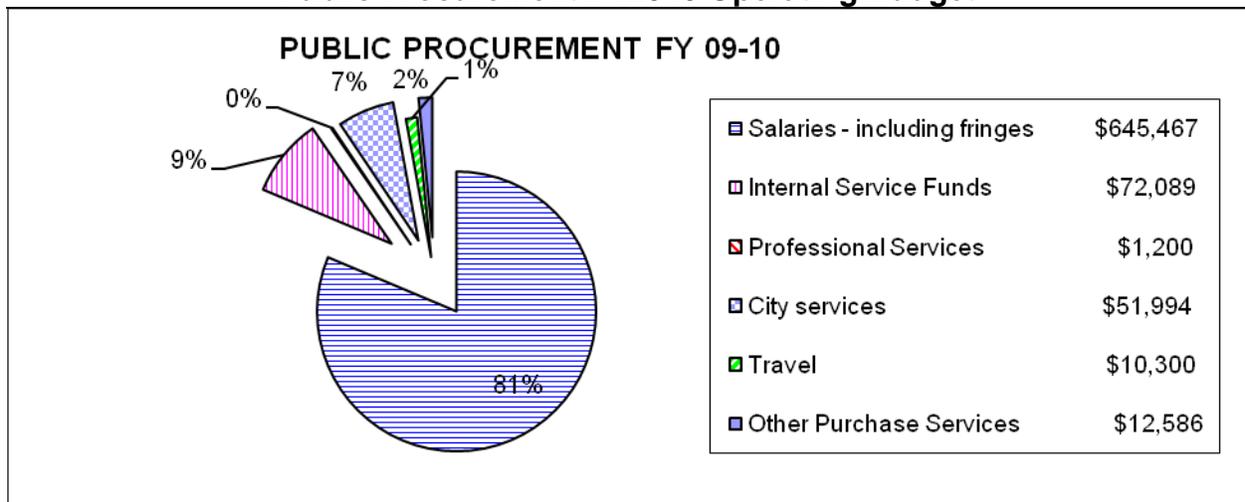
## A. Introduction, Background, and Scope

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**Exhibit 1  
Public Procurement FY2010 Operating Budget**



The City's procurement practices were subject to the VPPA, City Ordinances Chapter 54, and Administrative Regulations 4.01 and 4.12. These laws, rules and regulations were established to provide fair and equitable treatment for all persons

involved in providing goods and services to the City, and were intended to maximize the purchase value of public funds in procurement, establish purchasing authority within the City, and to provide safeguards for maintaining a procurement system of equality and integrity. Small businesses and businesses owned by women and minorities were encouraged to participate in the City's procurement transactions. Public Procurement was also charged with the responsibility to dispose of all City owned property that was declared surplus by City departments.

From FY2006 through FY2008, the City processed a yearly average volume of approximately \$91.5 million using purchase orders. Public Procurement processed a yearly average in excess of \$85 million, which was 93% of the all of the City's major purchases for the three-year period. Public Procurement processed 3,364 purchase orders, which was lower than the volume of direct connect purchase transactions and purchase orders processed in Finance. This occurred because Public Procurement had to spend significant time on solicitation, negotiation, and creation of contracts, which did not exist in the direct connect and Finance purchasing processes.

In April 2009, the City Council amended City Municipal Ordinance Chapter 54 to eliminate the classification of Purchasing & Contracts Manager which previously reported to the Department of General Services, and granted the City Manager authority to appoint a Procurement Administrator under his direction. This new position would serve as the City's principal procurement officer responsible for the procurement of goods and services valued at \$5,000 or more. As of the date of our report, however, the City had not yet reinstated Public Procurement to full departmental status.

To conduct this audit, we reviewed and evaluated City and Public Procurement policies, procedures, and operations, contract documents and reports. Also, we reviewed the Virginia Public Procurement regulations, the related Vendor Manual, as well as PeopleSoft (PS) documentation and manuals. We discussed these audit areas and conducted interviews with the Deputy City Manager for Finance and Administration, the former Purchasing and Contract Manager, acting Procurement Administrator, Office Coordinator, both Office Assistants, Assistant Buyer, and the Procurement Specialists. We also held in depth discussions with Information Technology's (IT) independent PeopleSoft consultant contracted to assist with the 9.0 upgrade, and extracted data from PeopleSoft for analytical purposes.

### **Major Observations and Conclusions**

Based on our review we determined that, although Public Procurement strived to provide a responsive, efficient, and cost effective purchasing operation which would safeguard Chesapeake's resources, there were several significant operational issues that hindered Public Procurement's ability to carry out its objectives. These issues included significant system implementation deficiencies, excess use of certain contracts by departments, lack of centralized contract administrative procedures, changes in Public Procurement's reporting structure, purchase order creation and management issues, potential for conflict-of-interest, and service delivery perception issues.

We recommended that Public Procurement revisit its system implementation, ensure that departments use contracts consistent with their intended purposes, and work with the City to develop an administrative regulation for contract administration. Also, the City should stabilize Public Procurement by returning it to full departmental status, and Public Procurement should develop procedures for purchase order creation and management, develop written conflict-of-interest procedures for internal use, and continue to work with departments to improve perceptions of its service delivery.

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### **Methodology**

To conduct this audit, we reviewed and evaluated City and Public Procurement policies, procedures, and operations, contract documents, internal correspondence, and reports. Also, we reviewed the VPPA regulations, Vendor Manual, and PeopleSoft documentation. We then reviewed contract files and directly observed several procurement processes, including the process for the City's recycling contract.

We discussed these audit areas and conducted interviews with the Deputy City Manager for Finance and Administration, the Former Procurement Administrator, Acting Procurement Administrator, Office Coordinator, both Office Assistants, Assistant Buyer, and the Procurement Specialists. We also held in depth discussions with IT's PeopleSoft consultant, and extracted data from PeopleSoft system for analytical purposes, including use of purchase orders (POs) as well as use of non-purchase order (non-PO) vouchers. We then analyzed this data to evaluate how the PeopleSoft system was being utilized relative to the City's procurement processes.

## **B. Performance Information**

Public Procurement had a direct impact on all other agencies, departments and functions of the City of Chesapeake. City Ordinances established Public Procurement as the City's key control for processing and monitoring purchases valued at \$5,000 or more in accordance with procurement laws and regulations. Their objective was to ensure that goods and services processed through their department were competitively awarded prior to purchase and to act as responsible stewards of public funds. However, purchasing processes were not limited solely to the Public Procurement. Various components were decentralized into other areas of the City. They included purchases under \$5,000, direct connects, and purchase cards. These areas were not included in the scope of this audit, although both purchases under \$5,000 and credit cards have been addressed in previous audits.

### **1. Organization**

Public Procurement was managed by a Procurement Administrator who was responsible for the overall operation of the office and of the City's purchasing processes. Assisting the Procurement Administrator were two Procurement Specialists or Buyers as they were more commonly known, two temporary Buyers, and two Assistant Buyers. The Buyers were responsible for helping departments develop the Scope of Work for items to be bid. They also decided what types of bidding to use, whether it would be two-step, or made an ID/IQ (Indefinite Delivery/Indefinite Quantity), an RFQ (Request For Quote), RFP (Request For proposal), or an IFB (Invitation For Bid). The Buyers helped establish the bid criteria, developed the language of the vendor solicitation, and helped negotiate the contract terms. Public Procurement also had two Office Assistants, one Coordinator, one Business Systems Analyst, and one Mail Courier at the time of this audit. Some of these positions were part-time. They were responsible for maintaining the contract files, vendor listings, and responding to vendor queries of all types. They were also in charge of ensuring the proper public solicitation and placement of the various bids and requests.

### **2. RFP, IFB, and RFQ**

Purchases requiring an RFP, IFB, or a RFQ were handled by Public Procurement. These purchases underwent a thorough review by a Buyer who assisted the departments in identifying the needs and developing the Scope of Work. The Buyer also assisted the departments by informing them if the item was already under contract.

### **3. Two-Step Invitation For Bid**

The two-step process was a hybrid of the RFP and the sealed IFB. Public Procurement conducted an RFP requesting the necessary technical proposal. They then also simultaneously requested a sealed bid for the cost of the job. The technical proposals were opened and the vendors were prequalified for the work needed based on the proposals. Vendors that were not prequalified had their proposals and unsealed bids sent back to them. Vendors that were prequalified then had their bids opened with the lowest bid being awarded the contract.

#### **4. Purchases Under \$5,000.00**

In an attempt to decentralize and streamline the purchasing process the City delegated the responsibility for purchases less than \$5,000 to the departments. As required by Administrative Regulation 4.12, departments were still required to seek three price quotes before a purchase exceeding \$1,000 could be made, and then their requisitions were sent directly to Finance for PO processing and payment, bypassing Public Procurement.

#### **5. ID/IQ Contracts**

Public Procurement awarded all of the City's ID/IQ contracts through IFB processes. Many of these contracts were used for such things as emergency items, emergency repairs, meals at the City Jail, and water treatment plant fuel. These contracts committed the City to hourly rate charges or pricing for single items known to be needed across City departments. Exact quantities and delivery dates were not defined for IDIQ contract items since these were unknown variables. The vendor solicitation packets typically provided vendors with estimates of the prior year's purchases as a courtesy to any vendor wanting to participate in the bid process.

#### **6. Direct Connect Contracts**

Direct connect contracts were awarded to vendors who bid for the right to sell City departments entire groups of related products, such as office supplies. These contracts attempted to save the City money and time by locking in low prices for the most commonly used items, discount prices for the remainder, and providing next day delivery service. These contracts might not have always had the cheapest price for each individual item, but they offered the lowest aggregate price for all of the items.

#### **7. Purchase Cards (P-cards)**

In October 2009, the City began distributing P-cards to departments for purchases with a low dollar threshold. These cards were not intended for use in the purchase of items that should have received a minimum of three bids, but occasionally had to be used for that purpose. It was incumbent upon the departments to ensure that the proper bids were received prior to purchase. The P-card statements were sent directly to the Finance Department for reconciliation and to verify that items were purchased appropriately.

#### **8. Cooperative Agreements**

Cooperative agreements were contracts that had already been issued by another jurisdiction that the City utilized. In this manner the City could obtain needed goods or services without putting the item out for a bid or quote itself. The use of cooperative agreements was controlled under the VPPA. The City could also use cooperative agreements that had been issued through US Communities and other organizations.

## **C. System Implementation and Contract Management Issues**

Although Public Procurement strived to provide a responsive, efficient and cost effective purchasing operation that safeguarded the City's resources, we identified several significant operational issues that hindered Public Procurement's ability to achieve its objectives. These issues included significant system implementation deficiencies, excessive use of a maintenance contract, lack of compliance with competitive requirements, and a lack of centralized contract administration procedures.

### **1. System Implementation Deficiencies**

**Finding - The City did not adequately implement the purchasing components of the PeopleSoft system. The lack of an adequate implementation process had a significant adverse impact on the City's Public Procurement operations.**

The City implemented the PeopleSoft Enterprise Resource Program (ERP) on July 1, 2005. In its FY 2006 operating budget submission, Public Procurement listed as one of its goals "Implement PeopleSoft ERP." They reiterated this goal in their FY 2009 budget submission. For their FY 2010 budget submission they expanded their goal statement to include "upgrade procurement software to include electronic bids, abstracts, and change order processing. Implement PeopleSoft ERP changes and updates."

In reviewing Public Procurement operations, we noted many instances that demonstrated that the initial implementation of PeopleSoft within Public Procurement was not well executed and, in addition, the inability to adequately implement the PeopleSoft system adversely impacted Public Procurement's operating practices. Specifically, we identified issues related to training, manual bid/quote processes, commodity codes, system performance and contingency back up plans, vendor management, access to purchasing information, and purchasing modules. These issues were as follows:

**Training.** Based on our discussions with Public Procurement staff, we noted that almost all Public Procurement users of the system needed re-training in two general areas: 1) how to enter data, navigate, develop reports, and accomplish tasks in PeopleSoft; and 2) how to perform their new procurement tasks. Training scenarios, materials, and language were not tailored specifically for government procurement, and the trainer for Public Procurement was not effective because of lack of experience in the use of PeopleSoft procurement processes. The lack of training adversely impacted both operational performance and workflow.

**Manual Bid/Quote Processes.** The bid/quote process remained entirely manual and paper-based. Although opportunities to bid were posted to the internet, staff had to do so manually. According to a 2005 Project Link "To Be" process, PeopleSoft purchasing software had the ability to create, approve, dispatch, award, reconcile, and provide a level of transparency of purchase orders through the Request For Quote Module. However, approximately 31,000 vendors would have had to be migrated from the former

purchasing software (BuySpeed) to the new PeopleSoft software in order for this module to work effectively and allow Public Procurement Buyers to efficiently source vendors. Unfortunately, despite Public Procurement's objections, the City decided during implementation to migrate only 2,500 vendors to the new system. The remaining 28,500 vendors had to be entered manually into the PeopleSoft database, taking time away from ongoing Public Procurement operations. After months of loading vendor data to make the software work, Public Procurement elected to discontinue the process, losing a significant part of the City's vendor history in order to address ongoing City purchasing needs. Therefore the bid/quote process remained manual, inefficient, and difficult.

**Commodity Codes.** Public Procurement relied on National Institute of Governmental Purchasing (NIGP) Commodity Codes, a standard used to source vendors and review City purchases. The PeopleSoft system was not preloaded with the codes, so the City purchased and uploaded them into the new system. Unfortunately, the NIGP Commodity Codes were erroneously entered into a data table that could not be accessed by Public Procurement. Thus, Public Procurement lost its ability to categorize vendors by commodity type for solicitation purposes, as well as its ability to perform any spending analyses of City purchases. These missing processes would have saved time in sourcing vendors, and also would have identified opportunities to obtain bulk purchase discounts for frequently purchased commodities.

**System Performance and Contingency Back-up Plan.** After the July 1, 2005 PeopleSoft implementation, Public Procurement continued to utilize its existing BuySpeed system for vendor sourcing, and at the recommendation of Information Technology, continued maintenance of the BuySpeed system for approximately two years. However, during that time period, the City did not provide Public Procurement the support and resources necessary to test the new system, or perform parallel tests using the BuySpeed system - basic controls needed to ensure a successful implementation. After the two-year period, Public Procurement lost all capability of using the BuySpeed software to access its sourcing vendor data. Since prior historical vendor files were no longer available to source from, Buyers were left to source vendors through the use of the hard copy purchasing and contract files, public phone books, the internet, and other external sources. Furthermore, when time constraints and external pressures were peaking, Buyers would at times resort to sourcing the same vendors used during previous solicitations, self-limiting the competition and potentially minimizing cost saving efforts.

**Vendor Management Issues.** We noted there was no standard nomenclature for entering vendor data. We observed that payment history for a single vendor could easily be stored under two or more variations of the same vendor name. Additionally, the PeopleSoft system truncated the vendor name on checks if the name exceeded the number of characters allotted by the system. This system limitation caused disagreements between Public Procurement and Finance over the correct vendor listing.

**Access to Purchasing Information.** When the PeopleSoft system was implemented, Public Procurement lost its ability to view purchase order data summarized by vendor, and its ability to produce reports to manage the workload of the office. Public Procurement also lost its ability to easily view the status of purchase orders by vendor, review change orders and payments made against them, and conduct vendor/contract analysis and produce reports for small, women, and minority business activities.

**Purchasing Modules Installation** - When PeopleSoft (PS) was originally implemented, the City purchased four procurement modules that were not installed, and paid approximately \$39,000 for software maintenance on them. These module were (1) PS Enterprise eSupplier Connection (2) PS Enterprise Contracts, (3) PS Strategic Sourcing, (4) PS Enterprise Supply Chain Portal Pack. These modules had the capability of managing vendor registration and activity, managing City contracts, assisting Public Procurement in efficiently sourcing vendors, and comprehensively managing the PeopleSoft procurement processes, respectively. Thus these modules could have addressed many of the deficiencies that we have identified in the implementation process. Unfortunately, since these modules were never installed, Public Procurement was unable to utilize them for operational purposes.

This situation occurred because, during the original system implementation process, the Finance and Budgetary Control processes were the City's primary focus because of the need to pursue accurate financial reporting. Thus, procurement was a secondary issue. Also, work load issues prevented Public Procurement from identifying all of their system implementation needs. In addition, the City did not implement the four additional procurement modules because it lacked the funding (approximately \$100,000) to fully implement them at the time.

The inability to properly execute the system implementation as it related to Public Procurement operations led to purchasing practices that were not efficient and effective and adversely impacted the entire City. In addition, the implementation deficiencies created additional risk for the City in the execution of all of its procurement activities.

**Recommendation - The City should identify resources to adequately implement and update the purchasing functions of the PeopleSoft system.**

Consistent with Public Procurement's budgetary goals, the City should take steps to ensure that PeopleSoft functions related to the Public Procurement process are adequately implemented, updated, and functional. Along those lines, the City should:

- ensure that Public Procurement users of the system receive the required re-training in entering data, navigating, report development, and accomplishing tasks in PeopleSoft,
- automate to the greatest extent possible the bid/quote processes,
- allow Public Procurement access to the table that includes the updated commodity codes,
- periodically test the system to ensure proper functioning,
- develop a standard nomenclature for entering vendor data,

- ensure that Public Procurement has access to information needed to properly manage the City's overall procurement operations,
- identify resources to implement the four procurement modules that were not installed when PeopleSoft was originally implemented.

These actions will allow Public Procurement to better utilize the existing functionality within PeopleSoft, and should improve Public Procurement's operations, management capabilities, and workflow.

**Response - Purchasing and Information Technology** staffs have reviewed the audit findings surrounding this recommendation. While not every module was deemed necessary, Procurement Contract and Supply Chain Portal Pack modules were recommended. \$350,000 has been identified in FY 2009-10 resources to move forward on implementation of these modules.

The Contract Management module will provide a framework to create and manage the transactional procurement contracts used for executing purchasing, as well as providing document management authoring capabilities to create and manage the written contract document using Microsoft Word. It will also provide a structured method to develop and manage the contract clause library and the life cycle and approval processing for documents. This module will allow Purchasing to:

- Create transactional purchasing contracts for purchase execution.
- Develop contract clause libraries, document configurators, and user-defined wizards used for document generation.
- Author contract documents related to the transactional purchasing contract using the contract library.
- Author ad hoc type documents that are not related to the transactional purchasing contract using the contract library.
- Create document types to categorize and control the life-cycle management of various contract and noncontract-related documents you want to maintain, such as requests for contracts or nondisclosure agreement-type documents.
- Create, update, and monitor contract agreements to track deliverables and compliance for PeopleSoft Purchasing contracts and PeopleSoft Strategic Sourcing requests for quotes.
- Manage the document life cycle and track executed contracts and amendments.

PeopleSoft Supply Chain Portal Pack provides data from PeopleSoft Order Management, PeopleSoft Promotions Management, and PeopleSoft Billing in pagelets. Pagelets are windows on the Portal to show users information. Employees and customers can view pertinent information when they log into the system. The PeopleSoft Supply Chain Portal Pack is a collection of portal pagelets for corporate intranet or extranet homepages that provides access to key data and transactions that are within the PeopleSoft Supply Chain Management applications for use in employee and customer portal registries.

**Training:** Purchasing is partnering with the Finance Department to get re-trained on how to enter data, navigate, develop reports, and accomplish tasks in PeopleSoft.

**Manual Bid/Quote Processes:** This process is being handled by Onvia DemandStar (an access guide to government contracting) This system allows the Purchasing Division to:

- Automatically notify vendors of bids and RFPs
- Distribute bid specifications and blueprints online that reduces the manual effort of copying and mailing documents
- Track all bid activity
- Verify vendors have received bid documents and addenda
- Research their ever-growing bid library of more than 80,000 specifications to develop bids and RFPs (Request for Proposals)
- Solicit quotes electronically, with automatic tabulation or responses
- Evaluate quotes online quickly and easily
- Notify vendors automatically of awards

**Commodity Codes:** Onvia DemandStar also allows purchasing to enter solicitations by commodity codes with access to a large vendor data base.

**System Performance and Contingency Back-up Plan:** Onvia DemandStar allows access to over 80,000 specifications to assist with developing bids and RFPs. This will increase competition.

**Access to Purchasing Information:** Purchasing is working with the Finance Department to:

- View the status of purchase orders by vendor
- Review change orders and payments made against them
- Conduct vendor/contract analysis
- Produce reports for small women and minority business activities

**Vendor Management Issues:** Purchasing will partner with the Finance Department to rectify this problem.

## **2. Excessive Use of HVAC Contract**

**Finding -** The \$122,500 HVAC maintenance contract awarded to a City vendor appeared to have been used as a sole source for equipment replacement and confirming orders, which resulted in the vendor receiving \$2,407,051 over the life of the five-year contract.

Prior to April 2009, City Ordinance, Section 54-33 (a) was amended to state, "Under the oversight of the City Manager or designee, the Procurement Administrator or designee shall purchase all supplies and services for the City." Also, City Ordinance, Section 54-35, stated that it was "...unlawful for any officer, employee

or agent of the City to purchase any supplies, services, or equipment or to incur any obligation on the part of the City without first having obtained the approval of the Purchasing and Contracts Manager and the head of the department or agency...” In addition, when expenditures on a contract exceeded the contract value, it was considered a contract modification. Previously, City Code required advance approval from the City Manager for all modifications that (prior to April 2009) exceeded contract value by more than 25%.

In 2005, Chesapeake Controls was successful in acquiring the City's HVAC maintenance contract with a bid of \$122,500. In reviewing contract activity we noted that Facilities Management, a division of General Services, utilized this contract for obvious equipment replacements, with the vendor benefiting as a sole source vendor. This was accomplished, in most cases, when Facilities Management initiated contact with the vendor to begin work, bypassing Public Procurement, and then subsequently submitting confirming orders using the City's PO voucher and non-PO voucher payment processes.

During the four-year plus period between July 1, 2005 and September 29, 2009, 113 purchase orders were processed for Chesapeake Controls. Of the 113 requisitions, four (or 3.54%) were characterized as urgently needed A/C services. Sixty-one (61) (or 54%) were for obvious equipment replacements, and 39 (or 34.51%) were submitted as confirming requisitions for items that were already acquired before the requisitions were sent to Public Procurement. There were also 957 non-PO voucher payments. These actions negated the possibility of Public Procurement soliciting competitive bids for the items. A listing of some of these transactions follows:

<b>Exhibit 2 Equipment Replacements</b>		
<b>Date</b>	<b>Description</b>	<b>Cost</b>
09/30/05	New AC - Central Library	\$45,536.00
09/12/06	Replace heat pump - Western Branch Library	\$11,285.00
03/06/07	Replace piping - City Jail	\$16,950.00
05/04/07	Replace AC unit - Western Branch Community Center	\$96,875.00
05/04/07	Replace AC unit - Deep Creek Community Center	\$96,875.00
05/04/07	Replace AC unit - South Norfolk Community Center	\$99,550.00
05/04/07	Replace AC unit - River Crest Community Center	\$99,750.00
05/04/07	Replace AC unit - Indian River Community Center	\$95,601.00
06/19/08	Replace compressor - Tidewater Detention Home	\$14,552.41
03/04/09	Replace water chiller coils - Circuit Court	\$31,850.00

<b>Exhibit 3 HVAC Contract Confirming Purchase Orders</b>			
<b>P.O. Number</b>	<b>Invoice Date</b>	<b>Requisition Date</b>	<b>Amount</b>
0000001119	08/05/05	08/18/05	\$2,750.00
0000001762	07/20/05	08/18/05	\$6,600.00
0000003474	01/05/06	01/10/06	\$16,252.50
0000004955	03/08/06	03/13/06	\$24,750.00
0000006346	05/18/06	05/23/06	\$57,900.00
0000007542	07/20/06	07/28/06	\$6,900.00
0000008222	09/01/06	09/07/06	\$11,285.00
0000009001	10/11/06	10/16/06	\$22,025.00
0000009003	09/27/06	10/04/06	\$5,195.00
0000009670	11/26/06	11/28/06	\$5,129.95
0000010758	01/18/07	01/24/07	\$6,875.00
0000011047	01/30/07	02/08/07	\$19,500.00
0000011054	01/30/07	02/28/07	\$38,275.00
0000011307	02/26/07	03/06/07	\$7,101.60
0000012519	04/10/07	04/24/07	\$21,525.00

<b>Exhibit 4 Non-PO Voucher Payments</b>		
<b>Category</b>	<b>Quantity</b>	<b>Value</b>
Under \$5,000.00	952	\$755,758.80
Over \$5,000.00	5	\$61,317.91
<b>Total</b>	<b>957</b>	<b>\$817,076.71</b>

It should be noted that the City had an obvious and genuine need to keep its facilities well-maintained and operational. However, many of these purchases, particularly the AC unit replacements at the Community Centers, appeared to be well beyond what was necessary for preventative maintenance purposes.

Because the HVAC contract was expiring in February 2010, Audit Services advised Public Procurement of the specific findings mentioned above and recommended an overall maximum contract value for the upcoming 2010 contract, the need to discontinue confirming PO's, and the need for clarification of the Scope of Work.

Facilities Management appeared to utilize the HVAC maintenance agreement with the vendor as an obvious equipment replacement program throughout the local governmental offices – contrary to the Scope of Work. The original Scope of Work included "equipment, labor, and/or materials for repair, renovation, or installation of HVAC equipment on an on-call basis" for what was intended for maintenance only.

Unfortunately, the contract was set up as an ID/IQ contract without a contract maximum amount, allowing for a wide variety and volume of charges against it.

When this contract was utilized to acquire HVAC replacement equipment beyond the original contract terms, the other eight vendors who had originally bid on the contract were not allowed an opportunity to bid on these purchases. The goods and services were directly procured through emergency requisitions and confirming purchase orders, which circumvented the purchasing process. Thus, these payments were processed without having to subject the related purchases to competition.

**Recommendation - The City should take steps to ensure that contracts are utilized consistently with their intended purposes.**

City management should remind user departments of their responsibilities to use existing contracts only within their intended Scope of Work. Departments should also be trained, as the Public Procurement Buyers were, on their obligation to promote competition. The City should discontinue the use of confirming POs except in genuine emergencies; discontinue the practice of paying contracts through the non-PO voucher payment process; and develop measures to monitor departments to ensure that contracts are properly administered and enforced to prevent sole sourcing of contracts. Also, the City should place clearly defined spending limits on all ID/IQ contracts, and ensure that invoices and other payment documents submitted by the vendors contain sufficient detail to allow the City to properly monitor the actual usage of the contracts. Furthermore, Public Procurement should work with City management to develop methods of preventing User Departments from using contracts for purposes outside of their Scope of Work. These methods could include consequences for non-compliance with procurement regulations and competitive requirements.

In addition to these items, the City should keep Public Procurement abreast of upcoming purchasing needs for the purpose of advanced procurement planning during the budget process. This notification would help reduce the high incidence of emergency and sole source requests, the routine increase in contract funding, and other inefficient practices resulting from untimely requisitions, and allow Public Procurement to carry out its procurement processes in compliance with legal requirements for competition.

**Response - Purchasing is conducting training sessions with user departments emphasizing the importance of using existing contracts within the scope of work, and the importance of the competitive bid process. Purchasing and Finance are working together to limit the use of confirming POs unless absolutely necessary. Purchasing is specifying spending limits on all ID/IQ contracts, and will ensure that invoices and other payment documents are submitted with sufficient details. This will allow the City to monitor the usage of the contracts.**

**Change orders exceeding 10% of contract are reviewed by the City Manager's Office staff. Departments are being advised that large changes are not an**

**acceptable alternative to sizing the contract for the needed services during the bid process nor will large changes continue to be allowed to avoid procuring a new contract for additional services.**

### **3. Compliance with Competitive Requirements**

**Finding - Public Procurement did not comply with the Code of Virginia in its initial negotiations for the City's recycling contract.**

The Code of Virginia §2.2-4301 stated that Competitive Sealed Proposal Process for Goods and Non-Professional Services over \$50,000 required Cities within Virginia to negotiate with the top two or more offerors based on scoring. Negotiations had to be documented with any changes put in writing.

In April 2009, the RFP process for the City's Residential Recycling Service Contract had to be redone because Public Procurement did not engage in discussions with more than one qualified company before awarding the contract as required by State Code. This necessitated a second solicitation. In August of 2009, Public Procurement remedied the negotiation issue, and a contract was awarded after the second RFP process was completed in November 2009.

The initial difficulties with the RFP occurred because Public Procurement utilized a section of the City's Administrative Regulation 4.01, Section (V)(D) that was contrary to the Code of Virginia in that it allowed the City to negotiate with only one vendor instead of the top two. Public Procurement's inability to properly negotiate the original bid resulted in the need to conduct a second RFP process. This second process delayed the start-up of the City's recycling project and almost certainly resulted in additional refuse disposal costs for the City.

**Recommendation - Public Procurement should ensure that it follows State requirements when initiating negotiations with potential vendors.**

Public Procurement should request that the Administrative Regulation 4.01, which erroneously suggested that the City could negotiate with only one qualified vendor, be revised. The revisions included should also be reviewed by the City Attorney's Office to ensure compliance with State Code.

**Response - Administrative Regulation 4.01 is being revised in accordance with the City's ordinance that relate to professional services.**

### **4. Contract Administration Policies and Procedures**

**Finding - The City did not have centralized contract administration policies and procedures. The absence of centralized contract administration policies and procedures adversely impacted monitoring and enforcement of contractual requirements.**

In order to ensure that the City received the value it anticipated receiving from contracts, it needed to have centralized contract administration policies and procedures. These procedures would provide managers with the tools necessary to monitor and manage both vendor performance and expenditures on City contracts.

We noted that the City had no centralized policies and procedures for contract administration. Therefore the responsibility for monitoring contract activity was left to individual departments, and few departments had procedures that extensively addressed contract administration.

This situation occurred because the City had not developed a centralized administrative regulation that addressed contract administration policies and procedures, threshold amount(s), purchase order amount(s), and corresponding payment(s). The absence of contract administration policies and procedures, combined with the City's decisions not to implement the contract administration modules from the PeopleSoft system, resulted in great difficulty for Public Procurement and the departments in monitoring contracts and their related expenditures.

**Recommendation - The City should develop an Administrative Regulation as quickly as possible that addresses policies and procedures for contract administration.**

Public Procurement should work with the City Manager's Office, Information Technology, Finance, and User Departments to develop both the Administrative Regulation and data sharing management tools to gain feedback on vendor performance for the duration of any contract. In August 2009, the City's IT Director presented Microsoft SharePoint 2007 to City Directors. The business intelligence reporting feature of SharePoint could be used to document scorecards of Key Performance Indicators (KPI) throughout the organization. As such it could be a tool for monitoring contract performance.

**Response - Purchasing will develop an Administrative Regulation describing the policies and procedures for contract administration.**

## **D. Other Operational Issues**

We noted that, beginning in 2001, Public Procurement underwent a number of reporting level changes that appeared to adversely impact City oversight of the function. In addition, City departments required additional training on the creation and management of purchase orders. Also Public Procurement needed to develop internal policies on conflicts-of-interest. Finally, Public Procurement had to work within the City to address perceptions about its service delivery.

### **1. Changes in Management Oversight**

**Finding - Beginning in 2001, City Management transferred Public Procurement's line of reporting from the City Manager's Office to the Finance Department and then later to the General Services Department. These transfers adversely impacted oversight of the City's procurement processes.**

Prior to April 2009, Chapter 54-32 City Code stated "The purchasing and contracts manager shall serve as the principal procurement officer of the city and exercise those powers and duties set forth in this article and shall, *subject to the approval of the director of general services and director of finance*, promulgate city policies and procedures for all procurements and for the disposal of excess or surplus supplies consistent with the terms of this chapter..."

We noted that from FY2001 to 2003, Public Procurement's line of reporting was changed from the City Manager's Office to the Finance Department. During FY 2004, Public Procurement's reporting line was changed to the General Services Department. In April 2009, Public Procurement's line of reporting was changed again to a Deputy City Manager in the City Manager's Office. The table below highlights these changes in the line of reporting.

<b>Exhibit 5</b>		
<b>Reporting Line of Public Procurement</b>		
<b>Fiscal Year</b>	<b>Functional Reporting</b>	<b>Department Level?</b>
2000-2001	City Manager	Y
2001-2002	Finance	N
2002-2003	Finance	N
2003-2004	City Manager	N
2004-2005	General Services	N
2005-2006	General Services	N
2006-2007	General Services	N
2007-2008	General Services	N
2008-2009	General Services	N
April 2009	Deputy City Manager	N

As both the changes in management reporting and the previous ordinance language highlighted in italics suggests, there was an inherent contradiction in designating the Purchasing and Contracts Manager as the City's principal procurement officer while at the same time subjugating the position to the direction of the Finance and General Services Directors.

This situation appears to have occurred because of a desire by management at the time of the initial change to reduce the number of departments reporting to the City Manager's Office. However, the continuing changes in reporting structure diminished the importance of the procurement function. It also substantially undermined the independence and authority of the function.

**Recommendation - The City should strongly consider returning Public Procurement to full department level status to promote stability in its oversight as well as enhance the authority and independence of the function.**

In April 2009, the City Council amended the City Municipal Ordinance Chapter 54 to eliminate the classification of Purchasing & Contracts Manager, which previously reported to the Department of General Services, and granted the City Manager authority to appoint a Procurement Administrator under his direction. This new position would serve as the City's principal procurement officer responsible for the procurement of goods and services valued at \$5,000 or more. However, the City had not yet finalized a decision on returning Public Procurement to full departmental status. Returning Public Procurement to full department status would serve to enhance the change in the function's reporting level as well as further promote the authority and independence of the Public Procurement function both internally and externally in the City.

**Response - The Purchasing Division has reported directly to the Deputy City Manager for Administration and Finance since April 2009. This has the effect of providing high-level consistent oversight of the Division. In addition, in April 2010, the Procurement Administrator was added to the list of those attending monthly Management Meetings which include all department heads.**

## **2. Purchase Order Creation and Management**

**Finding: Public Procurement lacked procedures that instructed users how to properly create purchase orders, especially multi-year purchase orders. The lack of procedures led to inappropriate use of non-PO vouchers, as well as difficulties in closing out purchase orders at year-end for financial reporting purposes.**

Within the PeopleSoft system, purchase orders functioned as part of Commitment Control to establish expenditure controls over the procurement of goods and services. In order for the system to function properly, the purchase orders had to be properly established at the acquisition point of goods and services, and closed out at year-end as necessary to help facilitate financial reporting.

We noted that Public Procurement had not provided specific written instructions to departments on procedures to be used related to the initiation, management, and close-out of purchase orders. As a result, non-PO vouchers were often used to acquire goods and services that purchase orders should have been utilized for. Additionally, departments did not always properly close out purchase orders at year-end.

This situation occurred because Public Procurement had not developed guidelines for the use of purchase orders within PeopleSoft. The lack of guidelines also appeared to be related to Public Procurement's own lack of understanding related to the staging of multi-year purchase orders within the PeopleSoft system.

As a result of the situation, the City processed a large number of non-PO vouchers for contract items (as previously discussed related to the City's HVAC contract). In addition, Finance often had to close out open purchase orders at year-end for reporting purposes. Both of these practices circumvented the internal control processes that Commitment Control in PeopleSoft was intended to create.

**Recommendation - Public Procurement should develop procedures that instruct users on proper creation and management of purchase orders within the PeopleSoft system.**

Once Public Procurement staff have been sufficiently retrained on the use of purchase orders within the PeopleSoft Request for Quote module, Public Procurement should develop written procedures for the initiation, management, and close-out of purchase orders. These procedures should also include procedures on the creation and management of multi-year purchase orders, as well as the close-out of purchase orders at year-end. Development of these procedures will assist the City in the oversight of the purchase order process as well as reduce the use of non-PO vouchers and enhance internal controls over the entire process.

**Response - Purchasing will develop an Administrative Regulation on procedures that will instruct users on proper creation and management of purchase orders within the PeopleSoft system. These procedures will also consist of close-out of purchase orders at year-end.**

### **3. Conflict of Interest Procedure**

**Finding - Public Procurement did not have any written policies and procedures that defined and emphasized the need to avoid conflicts-of-interest.**

Article 6 of the Virginia Public Procurement Act State and Local Government Conflict of Interest Act (Sections 2.2-3106-3109) Virginia Governmental Frauds Act (18.2-498.1 et seq.) Chapter 10 of Title 18.2 stated:

...., no staff member responsible for the procurement transaction may participate in that transaction if that staff member:

- has immediate family or a partner employed by the bidder participating in the transaction

- has immediate family or partner which is seeking employment by a bidder participating in the transaction
- has a personal interest in the procurement transaction as defined by the State and Local Government Conflict of Interest Act

Public Procurement issued a Policy and Procedures Manual in September 2009 as part of an action plan to guide users of the purchasing process. Unfortunately, the manual did not require avoidance of conflict-of-interest or the appearance of conflict-of-interest.

Based on our review of contract files we identified two payments, valued at \$40,589 and 22,500.54 respectively, that were made payable to a vendor whose sales representative was a spouse of one of the City's buyers (Buyer A). Both purchase orders listed the name of Buyer A. We did note that Buyer A had both transactions approved for proper bid solicitation by two other senior buyers who were not associated with the business, and the sales representative in both transactions was not the spouse of Buyer A. However, Buyer A's participation in the transaction still technically violated the provisions of the Conflict-of-Interest Act.

This situation occurred because the City did not have any internal written procedures that required buyers to be independent of vendors with whom the City was doing business. While, in this particular case, the City was fortunate that Buyer A notified the Procurement Manager of the potential conflict, a failure by a future buyer to give the same notification could have adverse financial and legal ramifications for the City.

**Recommendation - Public Procurement should develop policies and procedures that address the need to avoid conflicts-of-interest.**

Public Procurement should develop more comprehensive operating procedures related to buyer participation in transactions where they may be perceived as having conflicts-of-interest. The procedures to be developed should also incorporate the State's statutes as they relate to ethics in public contracting. Development of such a procedure will help the City avoid legal challenges related to the procurement process as well as ensure compliance with the State law.

**Response - All staff members will be required to sign an Ethics in Public Contracting Employee Agreement in accordance with the Virginia Public Procurement Act stating that they fully understand and agree to comply with the provisions of the policy and that violation of this policy will be subject to disciplinary action, up to and including termination.**

#### **4. Service Delivery Perceptions**

**Finding - Public Procurement attempted to respond to User Departments' concerns over the need for improved service and system processes. Public Procurement developed an action plan to address the perception of "bottlenecks" in the purchasing approval processes and departmental concerns regarding communications, inaccessibility, and responsiveness. However, the problems inherent within both Public Procurement's PeopleSoft purchasing processes and their related training issues limited their response.**

In 2008, in an attempt to identify User Department concerns, Public Procurement conducted its own internal customer service survey to determine how users perceived Public Procurement's services, strengths, and weaknesses. Public Procurement planned to use this survey to establish a baseline for measuring progress in its efforts toward continual process improvements.

Public Procurement distributed 133 surveys to known users, and 82 were returned. Results of the surveys were as follows:

"...[61% of respondents] rated **services** and [59% of respondents] rated **system processes** "unsatisfactory, particularly in the areas of communications, accessibility, and responsiveness. Many perceived that the workflow was frequently held up pending my [Purchasing and Contract Manager's] approval, claiming that the staff could not make decisions."

On the other hand, respondents rated service "Acceptable" to "Excellent" on:

- Ability to provide Effective Solutions, 76%
- Quality of goods and services provided, 78%
- Professionalism (Customer Service), 79%
- Benefits received (reduced costs, improved specs, etc.), 57%
- Understanding of users' needs, 70%
- Evaluation of Training provided by Purchasing, 76%

It appeared that user departments rated Public Procurement's services and system processes low because they were unaware of Public Procurement's lack of knowledge and control over its new system processes and the related purchasing data. Therefore, while the Purchasing and Contracts Manager developed an action plan for his department to follow, those action plans were still subject to limitations cause by the inherent system and processing issues.

**Recommendation - Public Procurement should continue to attempt to address user department concerns about its service delivery.**

Once the system implementation and update is fully completed, Public Procurement should revisit this survey to ensure that its customers' needs were being met. In addition to these surveys, Public Procurement should continue to attempt to

educate users on its procurement processes. In 2009, Information Technology initiated efforts with Public Procurement's cooperation to provide a level of transparency regarding the status of department requisitions and related purchase orders to user departments. We noted that the RFQ process in PeopleSoft could be utilized for this purpose with proper departmental training.

**Response - Purchasing has begun taking appropriate steps to deal with the perceived "bottleneck" in the approval processes as well as departmental concerns regarding communications, inaccessibility and responsiveness. Purchasing began meeting with all department heads establishing lines of communications and addressing any concerns that they might have. Purchasing will meet with all department heads on a yearly basis. Purchasing is working diligently to establish process time lines for Invitation for Bids, Request for Proposals, Request for Quotes, etc. Purchasing will revisit the survey to ensure that customer needs are being met. Purchasing will continue to educate users on the procurement processes while providing a level of transparency by giving user departments access to check the status of requisitions and related purchase orders on a share drive in cooperation with Information Technology Attendance of the Procurement Administrator at Management Meetings will enhance communications on issues of concern.**

# **APPENDIX A**

## **RESPONSE FROM PUBLIC PROCUREMENT OFFICIALS**

**MEMORANDUM**

**TO:** Jay Poole, City Auditor

**FROM:** Betty J. Meyer, Ph.D., Deputy City Manager

**DATE:** June 9, 2010

**SUBJECT: Response to Audit of Public Procurement Performance for period of July 1, 2005 through December 31, 2009**

Thank you for providing time to review the subject draft audit and provide comments and response to the findings of your staff. As you are aware, we have changed management in the Purchasing Division as of August 2009 so many of the issues which are raised in the audit are being addressed. While budget constraints have necessitated a reduction in staff in the division, I am confident that the change in management is creating a team environment which will enable quality work to be completed with reduced resources. Specifically, the following responses are to the recommendations in the audit report.

**Recommendation: The City should identify resources to adequately implement and update the purchasing functions of the PeopleSoft system.**

Purchasing and Information Technology staffs have reviewed the audit findings surrounding this recommendation. While not every module was deemed necessary, Procurement Contract and Supply Chain Portal Pack modules were recommended. \$350,000 has been identified in FY 2009-10 resources to move forward on implementation of these modules.

The Contract Management module will provide a framework to create and manage the transactional procurement contracts used for executing purchasing, as well as providing document management authoring capabilities to create and manage the written contract document using Microsoft Word. It will also provide a structured method to develop and manage the contract clause library and the life cycle and approval processing for documents. This module will allow Purchasing to:

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Training: Purchasing is partnering with the Finance department to get re-trained on how to enter data, navigate, develop reports, and accomplish tasks in PeopleSoft.

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- Review change orders and payments made against them
- Conduct vendor/contract analysis
- Produce reports for small women and minority business activities

Vendor Management Issues: Purchasing will partner with the Finance Department to rectify this problem.

**Recommendation: The City should take steps to ensure that contracts are utilized consistently with their intended purposes.**

Purchasing is conducting training sessions with user departments emphasizing the importance of using existing contracts within the scope of work, and the importance of the competitive bid process. Purchasing and Finance are working together to limit the use of confirming POs unless absolutely necessary. Purchasing is specifying spending limits on all ID/IQ contracts, and will ensure that invoices and other payment documents are submitted with sufficient details. This will allow the City to monitor the usage of the contracts.

Change orders exceeding 10% of contract are reviewed by the City Manager's Office staff. Departments are being advised that large changes are not an acceptable alternative to sizing the contract for the needed services during the bid process nor will large changes continue to be allowed to avoid procuring a new contract for additional services.

**Recommendation: Public Procurement should ensure that it follows State requirements when initiating negotiations with potential vendors and should work with the City to help ensure that City Departments utilized negotiated contracts for their intended purposes.**

Administrative Regulation 4.01 is being revised in accordance with the City's ordinance that relate to professional services.

**Recommendation: The City should develop an Administrative Regulation as quickly as possible that addresses policies and procedures for contract administration.**

Purchasing will develop an Administrative Regulation describing the policies and procedures for contract administration.

**Recommendation: The City should strongly consider returning Public Procurement to full department level status to promote stability in its oversight as well as enhance the authority and independent of the function.**

The Purchasing Division has reported directly to the Deputy City Manager for Administration and Finance since April 2009. This has the effect of providing high-level consistent oversight of the Division. In addition, in April 2010, the Procurement Administrator was added to the list of those attending monthly Management Meetings which include all department heads.

**Recommendation: Public Procurement should develop procedures that instruct users on proper creation and management of purchase orders within the PeopleSoft system.**

Purchasing will develop an Administrative Regulation on procedures that will instruct users on proper creation and management of purchase orders within the PeopleSoft system. These procedures will also consist of close-out of purchase orders at year-end.

**Recommendation: Public Procurement should develop policies and procedures that address the need to avoid conflicts-of-interest.**

All staff members will be required to sign an Ethics in Public Contracting Employee Agreement in accordance with the Virginia Public Procurement Act stating that they fully understand and agree to comply with the provisions of the policy and that violation of this policy will be subject to disciplinary action, up to and including termination.

**Recommendation: Public Procurement should continue to attempt to address user department concerns about its service delivery.**

Purchasing has begun taking appropriate steps to deal with the perceived "bottleneck" in the approval processes as well as departmental concerns regarding communications, inaccessibility and responsiveness. Purchasing began meeting with all department heads establishing lines of communications and addressing any concerns that they might have. Purchasing will meet with all department heads on a yearly basis. Purchasing is working diligently to establish process time lines for Invitation for Bids, Request for Proposals, Request for Quotes, etc. Purchasing will revisit the survey to ensure that customer needs are being met. Purchasing will continue to educate users on the procurement processes while providing a level of transparency by giving user departments access to check the status of requisitions and related purchase orders on a share drive in cooperation with Information Technology (IT). Attendance of the Procurement Administrator at Management Meetings will enhance communications on issues of concern.

**Summary:** It is of note that the period of the audit was July 1, 2005 through December 31, 2009. No one disputes that there were significant performance and accountability issues in the Procurement Division during that period of time. The change in leadership effective in August 2009 was a first step for change but the entire culture of the division needed to be reshaped -- requiring time and attention. The staff in Purchasing have come together in the past year and built a team which is customer friendly and committed to consistent, timely management of procurement requests. What remains to be accomplished is provision of easily accessible guidance for user departments coupled with training and coaching to change the culture of the user departments. The City Manager's Office and the Procurement Division are committed to this change but know some time will be needed to bring all users to accept and use appropriate, competitive transparent procurement processes.

/bjm

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