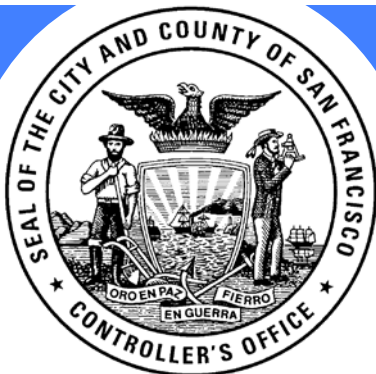


Public Integrity Review

Preliminary Assessment: San Francisco Public Works Contracting



CITY & COUNTY OF SAN FRANCISCO

Office of the Controller

June 29, 2020

Assessment Summary

This preliminary review assesses procurement citywide and focuses on San Francisco Public Works (Public Works). Additional reviews of other internal control processes will be released as our Public Integrity Review progresses. Highlights of our findings and recommendations detailed in this assessment include:

- Public Works awarded 366 contracts worth \$1.4 billion during July 2017 through March 2020. Contracts with a value of \$1.1 billion were awarded through construction contracting procedures. Although low-bid and other competitive requirements provide protections, some procedures and policies could be strengthened to provide additional safeguards to reduce the risks of fraud and abuse.
- Weaknesses in other allowable procurement approaches at Public Works create undue risk of abuse and should be improved. Of particular note, the department awarded 15 contracts for projects addressing homelessness worth \$25 million through legally permitted exceptions to standard procurement processes without adequate safeguards. Public Works has instituted new controls over these procedures, which should be continued and expanded citywide.

Assessment Summary *(continued)*

- Citywide laws, guidance, requirements, and monitoring processes need improvement to reduce risks of fraud and abuse in the citywide contracting process. These include requiring competitive solicitation of grants, use of further selection methods within prequalified contracting pools, better guidance regarding certain steps in the procurement process, and eliminating gaps in gifts restrictions.
- The City's centralized oversight of procurement practices has significant gaps that should be closed to ensure adequate citywide monitoring of these activities. No entity is charged with full oversight over citywide procurement. We believe the role of the Office of Contract Administration or some other city entity should be expanded to serve this function, and it should be adequately resourced to perform this work.

Background on the Nuru Investigation

The City Attorney's Office (City Attorney) is leading the investigation into alleged wrongdoing by city employees outlined in criminal charges brought by the U.S. Attorney's Office against Mohammed Nuru, former director of Public Works; Nick Bovis, owner of Lefty's Grill and Buffet at Fisherman's Wharf; Sandra Zuniga, former director of the Mayor's Office of Neighborhood Services; Florence Kong, former member of the Immigrant Rights Commission; Balmore Hernandez, chief executive of engineering firm AzulWorks, Inc., a company with large city contracts, and Wing Lok "Walter" Wong, permit expeditor with numerous entities that do business with the City. The City Attorney has focused its investigation into misconduct by current city employees as well as any remedies for specific decisions or contracts tainted by conflicts of interest or other legal or policy violations.

The Office of the Controller (Controller) will continue to support the City Attorney's investigation by reviewing implicated contracts, purchase orders, and payments.

Background on the Nuru Investigation

Given the overwhelming public interest in this matter, the City Attorney will provide periodic public updates on components of its investigation. However, there are strict limits to what can be disclosed publicly. For instance, a public report disclosing compelled statements made by a city employee as part of an internal investigation could taint any criminal prosecution of that employee. Because a criminal conviction is a prerequisite to forfeiture of a city pension as well as a significant aid in any debarment proceeding of a complicit city contractor, the City has every interest in preserving the integrity of these criminal prosecutions. Also, some disclosures might impair an ongoing internal investigation or be restricted by employee privacy rights.

The City Attorney's priorities continue to be rooting out bad employees, recouping illicit gains, and helping ensure unethical contractors cannot do business with the City.

Investigative Update

As part of this investigation, the City Attorney has:

- Issued 10 subpoenas to companies and nonprofits suspected of being involved in funneling donations through a nonprofit to fund city programs and events, including a Public Works holiday party.
- Issued an additional 14 subpoenas focused on the mixed-use project at 555 Fulton Street and on Walter Wong, a building permit expediter and contractor, and firms associated with him.
- Cancelled the \$171,000 portable toilet contract with a company tied to Nick Bovis.
- Contributed to the release of four employees or officials from their city positions and is continuing its employee misconduct investigations.

From February 4 through June 12, 2020, the Controller's Public Integrity Tip Line received 54 tips related to this investigation, which were reviewed and referred to agencies with the appropriate jurisdiction to investigate. From January 1 through June 25, 2020, the City's Whistleblower Program received approximately 284 complaints on this and other topics, including 17 complaints referred from the Public Integrity Tip Line.

Public Integrity Review

While the City Attorney's investigation proceeds, the Controller is conducting related assessments of targeted processes, procedures, and practices within city contracting, with the goal of offering recommendations to improve transparency, reduce the risk of fraud, and safeguard public funds. The results of each of these reviews will be made available to the public, first as a preliminary assessment report and later as a final report.

This preliminary assessment report is on [Public Works Contracting](#) and is the first in the series. This assessment is offered for public comment and review and may be revised in the future as our work continues.

Other reviews are underway, one focusing on support of city activities by "friends of" and similar nonprofit organizations, another on ethical standards for commissions' contract approval processes at the Airport and other City commissions, and other topics outlined at the close of this report. Additional review topics may be added as the investigation continues.

Fraud Risks in Contracting

All governments procure goods and services to support their delivery of public services. In any government organization, risk is associated with this activity. The risk increases as the complexity of these services, the volume of agreements, and their value increases.

The City maintains a control environment with **internal controls** to minimize a host of risks, including fraud. This includes an array of federal, state, and local laws and procedures that create **preventive**, **detective**, and **corrective** controls designed to minimize these risks.

Effective internal controls provide reasonable assurance and increase the likelihood that an organization will achieve its objectives. To achieve objectives, management needs to **effectively balance risks** and **controls**. Although ineffective or lax control activities increase organizational risk, too stringent or overly prescriptive control requirements may encourage shortcuts or control overrides.

Fraud Risks in Contracting *(continued)*

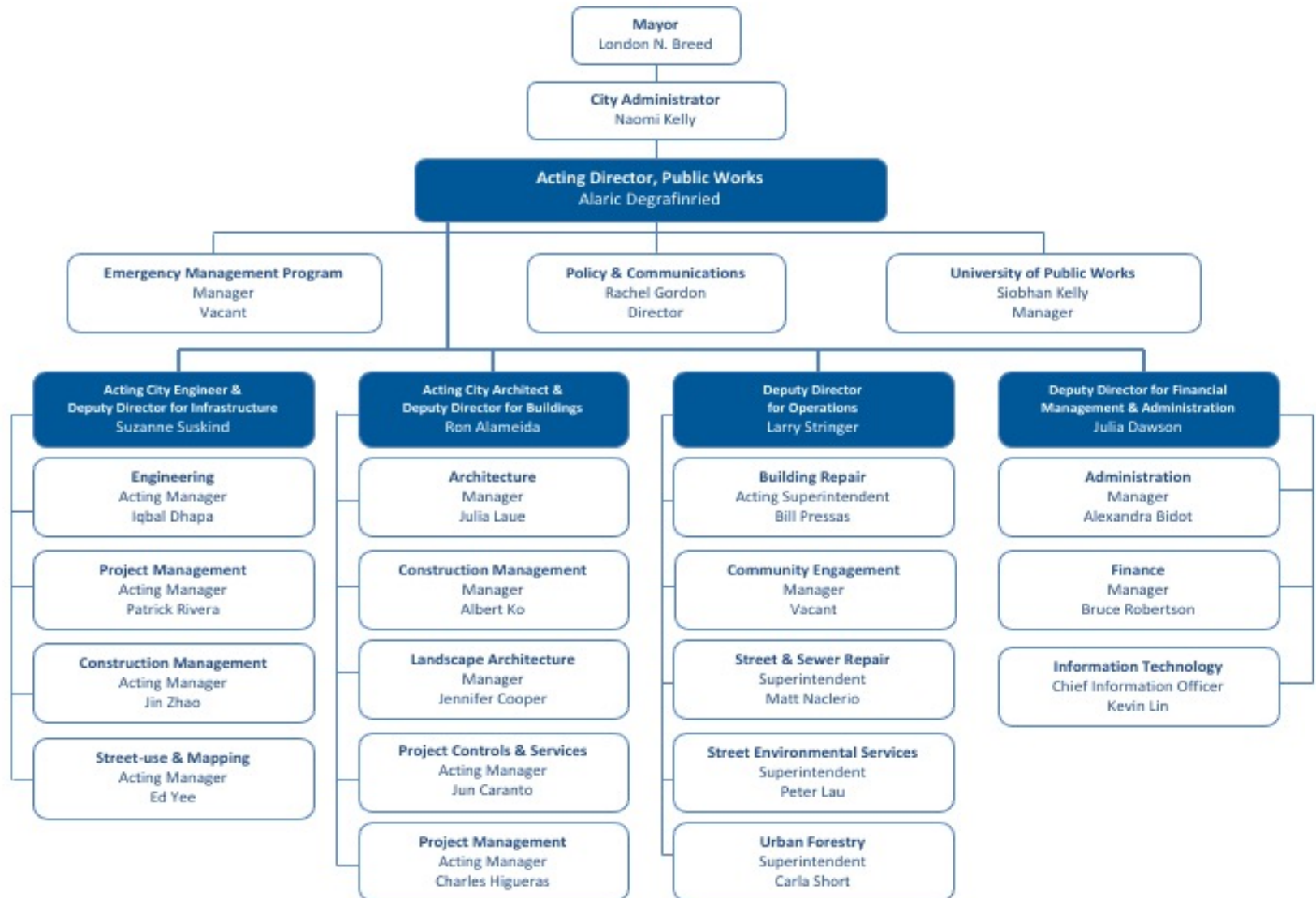
This preliminary review assesses the adequacy of the internal controls at Public Works over contracting activities, with a focus on each of the procurement methods Public Works uses to select vendors and award contracts itself or with the assistance of the Office of Contract Administration when applicable. These methods include standard, low-bid procurements and others permitted under city code, including use of prequalified pools of eligible vendors, emergency procurements, and other allowed methods.

Background on Public Works

San Francisco Public Works (Public Works) is a department reporting to the city administrator. The Office of Contract Administration, which is responsible for the purchases of non-construction commodities, professional services, and general services under the San Francisco Administrative Code (Administrative Code), Chapter 21, also reports to the city administrator, who in turn reports to the Mayor.

Public Works is charged with a host of responsibilities, including design, construction, cleanliness, and improvement of the City's infrastructure, public right of way, and facilities. The department is organized into several bureaus and divisions to meet these responsibilities, including Building Design and Construction, Infrastructure Design and Construction, Building Repair, Street and Sewer Repair, Street Environmental Services, Street Use and Mapping and Urban Forestry. A central Finance and Administration Division supports these units.

Public Works Reporting and Organizational Structure



Background on Public Works Contracting

During July 1, 2017, through March 31, 2020, Public Works awarded **366** contracts worth **\$1.4 billion**.

Contract Type	Number of Contracts	Percentage of Contracts	Contract Not-to-Exceed Amount	Percentage of Contract Not-to-Exceed Amount
Construction	198	54%	\$1.2B	86%
Professional services for construction	142	39%	\$173M	12%
Non-construction professional and general services	7	2%	\$6M	0%
Grants	19	5%	\$24M	2%
Total Contracts Awarded 7/1/17-3/31/20	366	100%	\$1.4B	100%

Background on Public Works Contracting *(continued)*

During July 1, 2017, through March 31, 2020, Public Works paid **\$636 million** for 366 contracts worth \$1.4 billion.

Contracting Method	Number of Contracts	Contract Not-to-Exceed Amount	Payment Amount
Formal Competitive Solicitation (Higher Value)	298	\$1.4B*	\$597.3M
Construction (non-pool)	125	\$1.1B	\$569.7M
Construction (pre-qualified pool)	45	\$65.9M	\$4.9M
Professional services for construction (non-pool)	7	\$21.3M	\$5.6M
Professional services for construction (pre-qualified pool)	114	\$150.7M	\$16.0M
Non-construction professional and general services	7	\$6.2M	\$1.1M
Informal Solicitation (Lower Value)	26	\$4.0M	\$2.8M
Construction and non-construction	14	\$3.9M	\$2.8M
Under \$10,000	12	\$0.1M	\$0.07M
No Solicitation Required	23	\$28.0M	\$25.9M
Sole source	2	\$0.2M	\$0.2M
Emergency authority	6	\$3.2M	\$3.0M
Projects addressing homelessness	15	\$24.6M	\$22.7M
Grants	19	\$23.8M	\$10.0M
Total Contracts and Payments Remitted	366	\$1.4B	\$636.0M

* Rounded

Formal Competitive Solicitation

Formal competitive solicitation is required at certain thresholds, which have different requirements under Chapter 6 and Chapter 21 of the Administrative Code. Chapter 6 governs construction and construction-related professional services, which are generally procured directly by certain departments. Chapter 21 governs general services, professional services, and commodities procured by the Office of Contract Administration, in coordination with the requesting department.

The City's procurement laws require formal solicitation for:

- Most construction contracts and construction-related professional services above \$706,000, per Chapter 6.
- Most commodities and professional services above \$129,000, and general services above \$706,000, per Chapter 21.

Chapter 6 Formal Competitive Solicitation

Public Works is one of six departments with authority over construction procurement under Administrative Code Chapter 6, which grants authority over construction procurement. Other Chapter 6 departments include the Airport Commission, Port Commission (Port of San Francisco), Recreation and Park Department, Municipal Transportation Agency, and Public Utilities Commission. All Chapter 6 departments except Public Works are overseen by a board or commission, which approves the department's contracts in excess of a threshold amount.

In compliance with Chapter 6, in August 2011 Mayor Edwin M. Lee designated Mr. Nuru as the director of Public Works to act on the Mayor's behalf in the approval of various aspects of the contracting process, including to award all public work, professional service, and construction contracts in excess of the threshold amount, which is currently set at \$706,000. Mr. Nuru, in turn, designated three deputy directors to serve as contract approvers.

Chapter 6 Formal Competitive Solicitation *(continued)*

Preliminary Finding

- Unlike other Chapter 6 departments, Public Works is not overseen by a board or commission, and the designation authority provided by the Mayor to the director of Public Works to approve contracts over the threshold amount is inconsistent with practices at other Chapter 6 departments. As such, **there is no external oversight over Public Works' Chapter 6 procurement.**

Chapter 6 Formal Competitive Solicitation *(continued)*

According to the criminal complaint against Balmore Hernandez filed on June 4, 2020, there is probable cause that Mr. Hernandez bribed Mr. Nuru, allegedly in exchange for details about open or upcoming requests for proposals (RFPs). Mr. Nuru forwarded these details from his personal e-mail account to Mr. Hernandez, giving him an unfair advantage in preparing a response to an RFP and, ultimately, in his attempt to win a city contract.

Preliminary Finding

- **A city employee acting in bad faith could circumvent the City's procurement controls and avoid detection.** Mr. Nuru allegedly violated Public Works' Statement of Incompatible activities, which states that no officer or employee of the department may knowingly provide selective assistance (i.e., assistance that is not generally available to all competitors) to individuals or entities, including nonprofit entities for whom an officer or employee volunteers, in a manner that confers a competitive advantage on a bidder or proposer who is competing for a city contract.

Gaps Exist in Gifts Restrictions and Enforcement

City officers and designated employees must disclose reportable financial interests, including gifts, by filing the Statement of Economic Interests (Form 700). Elected officials, department heads, board members, and commissioners must file this form annually and electronically, while designated employees must also file it annually but can only file it in paper form.

Despite these requirements, gaps exist in gifts restrictions. San Francisco Campaign and Governmental Conduct Code, Section 3.216 and Ethics Commission regulations state that no officer or employee may solicit or receive any gift from any person or entity that contracts or is seeking to contract with the department of the officer or employee, or any person who knowingly attempted to influence the officer or employee in any legislative or administrative action during the prior 12 months. However, current restrictions apply narrowly and may not restrict gifts to officials or employees when the gift giver is the owner of or employed by a company that could do business with their department, based on the definitions of a person in the Campaign and Governmental Conduct Code, Section 3.216(b), Gifts from Restricted Sources.

Gaps Exist in Gifts Restrictions and Enforcement *(continued)*

Further, the Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations, Section 18942, allow a payment provided to an official by an individual with whom the official has a long-term, close personal friendship unrelated to the official's position with the agency, unless the individual providing the benefit is a person who has, or may reasonably foreseeably have, a contract, license, permit, or other entitlement for use pending before the official's agency . . . if the official makes or participates in making those governmental decisions.

The Ethics Commission may take steps to initiate enforcement of late filers of Form 700 and may conduct random audits of filings submitted. Any person who violates any of the City's governmental ethics laws may be subject to criminal, civil, and administrative penalties (Campaign and Governmental Conduct Code, Section 3.242).

Preliminary Finding

- **Loopholes in city and state restrictions in this area create avenues for unethical behavior and manipulation through the giving of gifts that are permitted and are difficult to enforce against.**

Chapter 21 Formal Competitive Solicitation

Preliminary Findings

- **Formal solicitation requirements for procurement under Chapter 21 and supplemental procedures from the Office of Contract Administration are generally sufficient, but there are opportunities to improve transparency in the solicitation award process.**
- **The processes used to award the contract that is the subject of the federal complaint against Mohammed Nuru generally complied with Chapter 21 requirements for competitive solicitations. However, these processes would not have identified the behind-the-scenes bid steering that allegedly occurred.** The Office of Contract Administration, which managed the solicitation for two ADA-compliant portable restroom trailers on behalf of Public Works, advertised the bidding opportunity longer than the required five days, and the contract was awarded to the lowest responsible bidder, although there was only one bid, so no comparison of bids was possible.

Chapter 21 Formal Competitive Solicitation *(continued)*

Preliminary Finding

- The Office of Contract Administration invited 22 vendors to the pre-bid conference for portable restroom trailers, including the 8 contacted through outreach and the 14 that were already in the City's bid system as previous bidders or city vendors. Of the 3 vendors that attended the pre-bid conference (2 of whom were from the same entity), only 1 submitted a bid.
- **Unlike Chapter 6, which has special requirements for departments to follow when no bid or only one bid is received, no such requirements exist in Chapter 21 or the Office of Contract Administration's policies.** The Office of Contract Administration has a guidebook that recommends but does not require contacting vendors on the bidder's list when no or only one bid is received to determine why they did not bid. For this formal competitive solicitation, the Office of Contract Administration deemed the one bid received to be reasonable and did not contact the other vendors on the bidder's list.

Pre-Qualified Contracting Pools

Both Chapter 21 (Section 21.4) and Chapter 6 (Sections 6.62, 6.64) allow city departments to use pre-qualified contracting pools, where departments can prequalify a group of vendors using a competitive solicitation process and then establish a contract with one of the vendors from the pool when the need arises. Once the pool is created, the department can select its preferred vendor instead of going through another solicitation for the specific scope of work.

Preliminary Finding

- **The City does not have standard procedures for selecting vendors once they are in a pre-qualified contracting pool.** According to Public Works, there have been instances in which the same vendor would be selected repeatedly from a pre-qualified pool, at times by the direction of the department's former director, Mr. Nuru. Although this practice is not prohibited, it presents opportunities for ethical breaches and unethical favors, such as accepting gifts in exchange for bid steering. Additional processes can be implemented to ensure fairness and promote competition and transparency.

Pre-Qualified Contracting Pools *(continued)*

- One common practice at other city departments – including in many instances in Public Works – to ensure a fair, competitive process when using pre-qualified vendor pools is to require a relatively limited and quick solicitation process for vendors in the pool, whereby they must bid on the specific scope of work.
- According to Public Works, one practice the department uses to further promote competition within the pool is to rank candidates based on their qualifications, and only admit the top candidates to the pool, rather than admitting all vendors that simply meet the minimum qualifications. However, without a further process to select a vendor, even based on price, it still allows a city official to simply select his or her favorite.
- General as-needed contracts under Chapter 6 only require the department head's written determination that the work is needed and written justification for using this contracting process rather than a formal competitive process. Such contracts made up 90 percent of Public Works Chapter 6 professional services contracts for construction (pre-qualified pool), equivalent to \$135.7 million in contract value.

Informal Solicitation

Contracts valued at over \$10,000 and under the Threshold Amount (\$706,000 for construction and general services) or under the Minimum Competitive Amount (\$129,000 for commodities and professional services) may be informally solicited (as opposed to formally solicited) under Chapter 21 and Chapter 6, and per the Contract Monitoring Division's Chapter 14B Rules & Regulations. This means departments must solicit at least three quotes.

Preliminary Finding

- **The review did not identify any issues related to contracts under informal solicitation at this time.** Public Works' general practice is to competitively bid all contracts over \$10,000, and it generally does not use informal solicitation.

No Solicitation Required

There are some instances in which competitive solicitation requirements can be waived, including:

- *Sole Source Contracts*, where goods or services can only be obtained from a single source. The reason the vendor is the sole source of the good or service must be documented.
- *Emergency Authority*, where in the event of a declared emergency, departments can procure goods and services in the most expeditious manner without following the City's usual competitive bidding requirements.
- *Projects Addressing Homelessness Authority*, where certain departments may establish or amend any contract for any construction or professional service without following the usual competitive bidding requirements.

Sole Source

Sole source contracts are those where goods or services can only be obtained from a single source, such as the inventor of a new vaccine or the only regional provider of integrated pest management.

Under Chapter 21, sole source requires approval by the Office of Contract Administration and the Contract Monitoring Division. Chapter 6 departments require their commission's or the Mayor's approval. Because Public Works is the only Chapter 6 department that does not have a commission, it needs the approval of the Mayor or mayoral designee for a sole source waiver.

During the review period, Public Works had two sole source contracts with total contract value of \$214,080.

Preliminary Finding

- **The review did not identify issues related to sole source contracts at this time.**

Projects Addressing Homelessness

According to Public Works, it awarded 15 contracts with a value of \$24.6 million related to projects addressing homelessness under Chapter 21B and Section 6.76,* which became effective in 2019. However, the practice to award such contracts started two years earlier, in 2017, under an uncodified ordinance.

The Administrative Code defines “Projects Addressing Homelessness” as projects designed to prevent homelessness through housing subsidies or services, and projects to provide shelter, housing, food, and/or social services. The code states that competitive procurement requirements may be waived for such contracts, grants, and procurement processes. Within one year, departments must report to the Board of Supervisors on the use of this authority.

In response to the federal complaint, the acting director of Public Works issued new policies and procedures requiring solicitation for all projects addressing homelessness, regardless of their value. According to Public Works, it is now implementing the new procedures.

* Section 6.76 is titled “Public Works Addressing Homelessness” and became effective in 2019.

Projects Addressing Homelessness *(continued)*

Preliminary Findings

- **Although Chapter 21B and Section 6.76 allow for departments to bypass the standard competitive solicitation process, needed controls over such solicitations were lacking in Public Works.** Expected procedures to ensure minimum solicitation requirements, vendor qualifications, and fair selection were not uniformly applied nor required, either by code or by department procedure.
- Although the code allowed Public Works to bypass the competitive solicitation process, Public Works staff conducted some outreach and documented solicitations for projects addressing homelessness, as discussed on the next slides.

Projects Addressing Homelessness *(continued)*

According to Public Works, it used the following methods to award 15 contracts totaling \$24.6 million for projects addressing homelessness:

- Four contracts totaling \$10.7 million resulted from informal solicitations, for which Public Works conducted outreach and documented the multiple quotes it received. These contracts were valued at:
 - \$7.8 million
 - \$1.6 million
 - \$0.8 million
 - \$0.5 million

Projects Addressing Homelessness *(continued)*

- Seven contracts totaling \$10.5 million did not go through solicitation of any kind and were directly awarded by Public Works. These contracts were valued at:
 - \$4.7 million
 - \$2.7 million
 - \$2.0 million
 - \$0.9 million
 - \$110,595
 - \$70,685
 - \$4,800
- It is unclear what method was used to award four contracts totaling \$3.5 million because no outreach or solicitation documentation exists. These contracts were valued at:
 - \$2.9 million
 - \$315,000
 - \$170,295
 - \$130,000

Emergency Purchasing Authority

Public Works awarded 6 contracts with a value of \$3.2 million through an emergency procurement process during the review period. Administrative Code Section 6.60 authorizes the Board of Supervisors to declare an emergency and direct any department head to perform repair or other emergency work in a manner the board determines to be in the City's best interest.

The code defines an actual emergency as "a sudden, unforeseeable and unexpected occurrence involving a clear and imminent danger to life, health, property or essential public services." The department head responsible for addressing the emergency may also declare an emergency with immediate notice to the Board of Supervisors, Mayor, Controller, and board or commission with jurisdiction over the area affected by the emergency. The department head may proceed with the required work without additional approvals if the emergency work is estimated to cost \$250,000 or less. Emergency work estimated to cost more than \$250,000 requires the written approval of the Mayor or board or commission concerned, and the Board of Supervisors.

Grants

For the review period, city departments granted 5,746 awards with a value of \$5.4 billion, of which Public Works awarded 19 grants with a value of \$23.8 million (0.4% of the total citywide award amount).

Public Works awarded grants for a variety of workforce development, job training, and other services. According to Public Works, its practice is to competitively bid all grants, but it also applies the same process for awarding grants through a pre-qualified pool process.

Preliminary Finding

- **City law and rules have historically provided insufficient requirements or guidance on the procurement process for grants awarded to nonprofit organizations.** Specifically, the only citywide guidance on this process is a nonbinding agreement that has no force of law to require competitive solicitation. Consequently, practices vary significantly among departments and, in some cases, lack adequate controls.

Grants *(continued)*

- Before September 2018, there were two instances when guidance was developed to help departments distinguish a grant award from a contract for goods or services. These are summarized by a 1984 City Attorney opinion and a 1997 “Summary of Consensus” reached by the City Attorney, Controller, Department of Human Resources, and the Office of Contract Administration.
- Because some departments raised issues about strict application of the 1997 Consensus, the new factors for the four-prong bright-line test were updated in a 2018 Consensus (underlined sections represent changes made):
 1. The grantee must be either a nonprofit entity that serves the public interest or a government agency;

Grants *(continued)*

2. The grantee must be selected through a competitive grant application and award process, unless the grant is to a government agency for programs, activities, or services that can only be practically performed by that particular government agency and cannot be performed by any other party;
3. The agreement must not involve the acquisition of goods or services for the direct benefit or use of the department or commission; and
4. The agreement must not involve the contracting out of, or delegation of the responsibility for, any services that have at any time been performed by employees of the department or commission.

Grants *(continued)*

Preliminary Finding

There is no centralized monitoring of citywide grant solicitation or grant spending.

- According to the Office of Contract Administration, “the City has provided very little guidance to city departments regarding the grant development and/or grant writing process. In addition, OCA has no oversight authority on grants.”

Other Topics – Tone at the Top

According to Public Works staff, the “tone at the top” promulgated by the former director of Public Works prioritized low cost and expediency and created a lack of organizational transparency among staff.

Tone at the top refers to the ethical atmosphere that is created in the workplace by the organization's leadership. According to the Institute of Internal Auditors, all organizations are exposed to a degree of fraud risk in any process where human input is required. The degree to which an organization is exposed relates to the fraud risk inherent in the business process, the extent to which effective internal controls are present to either prevent or detect fraud, and the honesty and integrity of those involved in the process.

Although some of the opportunities to commit the schemes alleged in the federal government's complaint were created by the control weaknesses outlined, it was the “tone at the top,” lack of cross-functional sharing of information, and disregard of ethics and gift laws propagated by the former director of Public Works that provided the pressure, rationalization, and ability necessary to carry out these actions.

Other Topics – Oversight

The City's centralized oversight over procurement practices has gaps that should be closed to ensure adequate citywide monitoring. The Charter gives responsibility for city procurement to the city administrator, and Chapter 21 delegates that responsibility, as it relates to non-construction procurement, to the city purchaser. Chapter 6 grants authority over construction procurement to six departments.

Because no one entity has full oversight over procurement, the City lacks centralized monitoring to ensure procedures are performed in accordance with the Administrative Code and any corresponding policies. Further, the City lacks comprehensive citywide procurement regulations, policies, or procedures for departments to refer to throughout the procurement process and lacks a formal process for reviewing policy that should include the collaboration of the City's subject matter experts.

Division of purchasing oversight responsibilities among multiple entities by the municipal code and inadequate resources dedicated to policy development and maintenance have resulted in no entity taking responsibility for coordinating monitoring or centralized policies and procedures for all types of purchases.

Other Topics – Centralized Procurement System

City departments do not fully utilize the City's centralized procurement systems. Most departments do not enter contract information into the City's system until a contract has gone through the entire solicitation, vendor selection, and negotiation processes. Only after the City awards a contract and creates a purchase order is certain basic contract information entered into the system.

Greater use of the centralized procurement system would improve the City's ability to monitor pre-award activities, including information on contract planning, solicitation, outreach, and award. This would enable the City to detect red flags, inconsistencies, and noncompliance.

The City's centralized procurement system does not currently meet all department needs. For example, the system does not currently allow departments to fully track the life and details of a construction project, such as when subcontractors are brought on after the notice to proceed has been issued.

Recommendations

Given the findings in this preliminary assessment, we offer the following preliminary recommendations. We will continue to refine these recommendations as our investigation and review continues and will consider the feedback we receive in the review process.

- 1. Under Chapter 6 of the Administrative Code, the Mayor should delegate final approval for Public Works construction contracts to an official other than the department director. The Mayor and Board should amend Chapter 6 to prohibit delegation to the department head for these contracting activities.**
- 2. The Ethics Commission should examine and close loopholes in the San Francisco Campaign and Governmental Conduct Code to ensure that city law does not create avenues for unethical behavior in acceptance of gifts.**

Recommendations *(continued)*

3. The Ethics Commission should expeditiously enable and require that all Statements of Economic Interests (Form 700s) are filed electronically by all required filers, and conduct annual compliance reviews of these filings. The Mayor and Board should prioritize funding and other support necessary to accomplish this goal.
4. The Mayor, Board, and Office of Contract Administration should establish clear guidelines for selecting a vendor or vendors from a pre-qualified pool. Possible methods for such selections include soliciting quotes for a defined item or scope of work from all vendors in the pool.
5. Public Works should adhere to the new procurement procedures implemented by its acting director for projects addressing homelessness and emergency procurement. The City should implement similar procedures for such purchases citywide.

Recommendations *(continued)*

6. The Mayor, Board, and Office of Contract Administration should establish minimum requirements to ensure competitive solicitation of grants, similar to requirements for contracts, and formalize these requirements in code and policy.
7. To promote data-driven decisions and transparency, city departments should be required to use the City's centralized systems throughout the purchasing life cycle, from planning through contract award. To enable this change, these systems should be improved to better meet department needs.
8. The City should close gaps in centralized monitoring of all procurement activities by strengthening and resourcing the Office of Contract Administration or some other city entity to expand its monitoring and oversight to all city procurement activities.

Next Steps

Our Public Integrity Review, performed in consultation with the City Attorney, will continue to conduct assessments of various city procedures and policies to assess their adequacy to prevent abuse and fraud. Future reports and assessments are underway on the following topics:

1. A final report on the topics covered in this preliminary assessment.
2. The use of “friends of” organizations to support city operations.
3. Ethical standards for commissions’ contract approval processes at the Airport and other City commissions.
4. The City’s contractor debarment process.
5. Policies and practices to award permits at the Department of Building Inspection.

Additional reviews and assessments will be determined and performed as the Nuru investigation proceeds.

Any questions or comments?

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