



Press Release

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Controller's Office releases assessment of Public Works contracting as part of Public Integrity Review

In parallel with the City Attorney's investigation stemming from alleged wrongdoing by former Public Works Director Mohammed Nuru, the Controller's Office has released its first policy and process assessment to prevent fraud and violations of local law.

SAN FRANCISCO (June 29, 2020) — City Controller Ben Rosenfield announced today the release of a [preliminary assessment report on Public Works contracting](#). The assessment, which is the first in a series of planned reviews, lays out recommendations to improve transparency, reduce the risk of fraud, and safeguard public funds. The results of each review will be made available to the public for comment, first as a preliminary assessment report and later as a final report. The preliminary assessment report will be heard at the Board of Supervisors Government Audit and Oversight Committee.

The City Attorney continues to lead the investigation into alleged wrongdoing by City employees and contractors outlined in criminal charges brought by the United States 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 commissioner on the Immigrant Rights Commission; Balmore Hernandez, CEO 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's Office has focused its investigation on misconduct by City employees and City contractors as well as any remedies for specific decisions or contracts tainted by conflicts of interest or other legal or policy violations.

While the City Attorney's investigation proceeds, the Controller's Office is conducting a phased review of the broader control environment designed to prevent violations of local law and will release assessments on a variety of City policies and practices stemming from the City Attorney's investigation. This first assessment covers contracting activities at Public Works. It focuses 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.

"Our job is to ensure the transparency, accountability, and ethical behavior that San Franciscans are owed when it comes to the delivery of city services and the use of their tax dollars." Rosenfield said. "In simple terms, the Controller's Office is seeking to rectify bad policies and practices that undermine those goals."

"It is our duty to ensure that San Franciscans have a government they can trust," said City Attorney Dennis Herrera. "The City Attorney's Office is focused on rooting out bad actors, recouping illicit gains and preventing unethical contractors from doing business with the City. We won't stop until we get to the bottom of this. There is no place for self-dealing or abuses of public trust in San Francisco government."

Given the overwhelming public interest in this matter, the City Attorney will provide periodic public updates on components of its investigation. But there are strict limits to what can be disclosed publicly by the Controller and City Attorney. For example, any public report disclosing compelled statements made by an 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.

Our key findings

- Public Works awarded 366 contracts with a value of \$1.4 billion from July 2017 to March 2020. We found weaknesses in various department and citywide procurement approaches, concentrated in several contracting methods, that create risks for abuse and fraud.
- Public Works awarded 15 contracts worth \$25 million through a code-permitted contracting process to expedite homeless service purchases. Seven of these contracts, worth \$10 million, were awarded through no discernable selection process and are at the greatest risk of fraud or abuse in the award process.
- Public Works established 114 contracts with a value of \$151 million through the use of pre-qualified pools during our review period. Tighter citywide procedures that require competitive selection in pre-qualified pools such as these would minimize fraud risks in all City departments.

- The interim Director of Public Works has put new procedures in place to better control high-risk activities. Those controls should be continued and, in some cases, promoted citywide.
- Gaps in city and state restrictions about soliciting and receiving gifts can enable unethical behavior and manipulation through the giving of gifts.
- Gaps in citywide monitoring of purchasing activities – given both code-driven decentralization of some contracting methods and lack of effective citywide systems to monitor these activities – need to be addressed.
- No control environment can control all risks created by a bad actor, particularly in a position of leadership. Throughout our review, we found significant lapses in the “tone at the top” created by Mr. Nuru that provided the pressure, rationalization, and ability to carry out unethical and unacceptable acts.

Recommendations to rectify inadequate policies and processes

- To improve contracting safeguards, the Mayor should reverse a previous 2011 delegation that gave the director of Public Works the final authority to approve contracts for the department. The Mayor and Board of Supervisors should amend City law to prohibit such a delegation in the future.
- To minimize the risk of contract steering, the Board should adopt laws requiring competitive selection processes within prequalified contracting pools.
- To create clearer rules on risk-prone parts of the procurement process, the City, either through code amendments or policy, should create clear requirements, including minimum schedules for bid extensions and role of project managers and contract administrators in the procurement process.
- To ensure City funds are allocated in a fair and transparent process, the Mayor and Board should adopt laws requiring competitive bidding of grants, comparable to requirements for contracts.
- 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 by city employees and officials.
- To ensure public oversight and transparency, the Ethics Commission should require that all Statements of Economic Interests (Form 700s) are filed electronically, and should conduct annual compliance reviews of those filings.
- To improve monitoring and transparency, the City should require use of its central purchasing system for contracting processes. To meet that goal, the system must be improved to better meet department needs.

- The City should close gaps in centralized monitoring of all procurement activities by strengthening and resourcing the Office of Contract Administration or another entity to citywide oversight of all City purchasing activities.

What happens next?

Our Public Integrity Review of inadequate policies and procedures exposed in the Nuru investigation will continue, with future assessments on: the use of “friends of” organizations in the City; ethical practices in contract award decisions at the Airport and other commissions; the design and application of the City’s contractor debarment process; the Department of Building Inspection’s permitting process; and other issues. Those assessments will be released in phases as our work moves ahead in coming months, and additional topics added as the investigation progresses.

Tips

Investigators from both the Controller’s Office and City Attorney’s Office work hand-in-hand with the public and City employees to fight abuses to public integrity citywide. To report suspected public integrity abuses regarding this investigation, please contact the Public Integrity Tip Line. You can provide information via e-mail at publicintegrity@sfgov.org or by phone at (415) 554-7657. All tips may be submitted anonymously and will remain confidential. Information regarding City payments, searchable by department and vendor, are available on the Controller’s public transparency website at openbook.sfgov.org. As always, any member of the public may file any allegation of improper or illegal public activity with the City’s Whistleblower Program at sfcontroller.org/whistleblower-program. That program, administered by the Controller’s Office, often partners with the City Attorney’s Office on investigations.

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