



**School Board of the City of Richmond, Virginia
Richmond Public Schools
Internal Audit Services**

SPECIAL REVIEW

Procurement of Professional Architectural and Engineering Services for the Design of an Elevator at William Fox Elementary School

Audit Assignment No.: S-3300-09-003

November 25, 2008



MEMORANDUM

Internal Audit Services

DATE: November 25, 2008

TO: Audit Committee of the School Board of the City of Richmond, Virginia
Yvonne W. Brandon, Ed.D.
Interim Superintendent

FROM: Debora R. Johns, CGAP
Chief Auditor

SUBJECT: Special Review: Procurement of Professional Architectural and Engineering Services for the Design of an Elevator at William Fox Elementary School

In response to requests from the Audit Committee Chair and the Interim Superintendent, our special review of the procurement of professional architectural and engineering services for the design of an elevator at William Fox Elementary School is complete. The results of our review, recommendations for corrective action, and management's response are contained in this report.

If you have any questions concerning this report, please contact me. My telephone number and e-mail address are shown below.

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INTRODUCTION

Following a media report regarding the procurement procedures used to award a contract for the design of an elevator at William Fox Elementary School, the Audit Committee Chair and the Interim Superintendent requested Internal Audit Services to review the procedures. The media report highlighted concerns that the evaluation criteria used to select the successful offeror were “very narrow criteria that’s very hard to meet”.

BACKGROUND

In January 2006, the School Board of the City of Richmond, Virginia adopted a court ordered settlement agreement that ensured that Richmond Public Schools (RPS) would comply with the American with Disabilities Act (ADA). The plaintiffs and the School Board agreed to a five-year remediation plan. The installation of an elevator at William Fox Elementary School is included in Year 1 of the remediation plan.

On September 26, 2008, Richmond Public Schools, Division of Purchasing released Request for Proposals (RFP) No. 08-6054-9. Contractors were invited to submit a proposal to provide professional architectural and engineering services necessary to design an elevator at William Fox Elementary School. Sealed proposals were due on or before October 10, 2008, but not later than 2:30 p.m.

The Division of Purchasing received five proposals from the following vendors:

- Ballou Justice Upton Architects
- BAM Architects, LLC
- Crabtree, Rohrbaugh & Associates
- Kelso & Easter, Incorporated
- Rawlings Wilson & Associates

On October 10, 2008, the Senior Purchasing Officer sent a memorandum to the RFP Evaluation Committee members notifying them that they had been selected to evaluate

the vendors' proposals. The evaluation committee consisted of three voting members and one non-voting member. The evaluation committee members were:

- RPS ADA Coordinator
- RPS Construction Inspector
- McDonough Bolyard Peck (MBP) Representative
- Senior Purchasing Officer (non-voting member)

MBP is a vendor that provides services in construction management to the school division. The school division no longer employs a construction engineer and that function was outsourced to MBP.

The offerors' proposals were evaluated using the following criteria and weighting factors:

<u>No.</u>	<u>Criteria</u>	<u>Weight</u>
1	Firm's previous experience in design of an addition at Fox Elementary School	20%
2	Qualification of personnel assigned to the project	20%
3	Basic understanding of the scope of work, familiarity of RPS, the City of Richmond and knowledge of RPS facilities	20%
4	Ability of Architect & Engineer project team to perform the work in the required time frame	20%
5	Minority Business Participation	20%
	Total	100%

On October 20, 2008, the Purchasing Division notified Ballou Justice Upton that it was the successful offeror. A contract was issued for the period of October 20, 2008 through October 19, 2009. RPS agreed to pay the contractor a not to exceed fee of \$291,080.00.

AUDIT OBJECTIVES

The objectives of our review were to:

- Determine whether the procedures used to award the contract were in accordance with the Virginia Public Procurement Act and established Richmond Public Schools policies and procedures
- Review the composition of the RFP evaluation committee
- Determine if internal controls were adequate
- Report on the results of our review
- Recommend corrective actions

AUDIT SCOPE AND METHODOLOGY

The scope of our review was limited to contract number 6054 (RFP No. 08-6054-9) issued to Ballou Justice Upton on October 20, 2008. We conducted our review in accordance with the *International Standards for the Professional Practice of Internal Auditing*. These standards require that we plan and perform the audit to afford a reasonable basis for our judgments and conclusions regarding the organization, program, activity, or functions under audit. An audit includes assessments of applicable internal controls and compliance with requirements of laws and regulations when necessary to satisfy the audit objectives. We believe that our audit provides a reasonable basis for our conclusions. Our work may be summarized as follows:

- Interviewed key personnel in the Purchasing Division, ADA Office, and Plant Services
- Reviewed all documents in the contract file, such as the RFP, contract, contractor correspondence, evaluation team rating sheets, etc.
- Reviewed the Virginia Public Procurement Act
- Reviewed Purchasing Division policies and procedures
- Reviewed staff e-mails related to the RFP and contract
- Researched best practices for RFP Evaluation Committees
- Reviewed offerors' proposal

AUDIT OBSERVATIONS/FINDINGS

1. The adopted Fiscal Year 2005 capital improvement budget included funds for the design of an elevator at William Fox Elementary. The Department of Plant Services hired Ballou Justice Upton Architects to provide diagrammatic sketches of design alternatives and the corresponding pros and cons for each. On January 12, 2005, the contractor provided four sketches at a cost of \$4,400.00. The diagrammatic sketch in RFP No. 08-6054-9 is from the January 2005 Ballou Justice Upton document.
2. In September 2008, the ADA Office contacted Ballou Justice Upton and requested a cost proposal for the design of the Fox elevator. A cost proposal was received from Ballou Justice Upton on September 23, 2008, which was 3 days prior to the release of the RFP on September 26, 2008. The ADA Office contacted the Purchasing Division to determine whether a \$291,080 purchase order could be issued to Ballou Justice Upton. The Purchasing Division advised the ADA Office that competitive negotiation was required and a Request for Proposals must be issued.
3. The Ballou Justice Upton proposal dated September 23, 2008 included the following language:

“This project includes an independent, 3-story masonry baring wall and steel framed addition to the existing historic school. The 4050 ± SF three story addition will house a new building entrance, stairwell, and elevator.”

The Purchasing Division used the same language in the scope of services paragraph in the Request for Proposals issued on September 26, 2008:

“The project includes an independent, 3-story masonry baring wall and steel framed addition to the existing historic school. The 4050± SF three story addition will house a new accessible building entrance, stairwell, and elevator.”

4. A review of e-mail dated Friday, September 26, 2008, disclosed that the ADA Office deemed the release of an RFP an urgent matter. The Purchasing Division used information received from the Department of Plant Services and the MBP representative, and quickly developed the RFP. The RFP was advertised in the Richmond Times-Dispatch on Sunday, September 28, 2008.
5. The Purchasing Division was consulted late into the procurement process. The result was a RFP that was developed by the end user. In this case, the end user is the ADA Office. Purchasing staff failed to identify potentially restrictive language. Another RFP dated October 9, 2008, was released for an elevator at Richmond Community High School with the same language used for the evaluation criteria. The Purchasing Division later issued an addendum to this RFP after a vendor called and questioned the language.
6. The contract file did not reflect supervisory review of the RFP prior to its release.
7. The Division of Purchasing has adequate written procedures based on School Board policies and the Virginia Public Procurement Act.
8. The RFP evaluation committee had a limited number of members. It was noted that some of the offerors listed RPS staff and/or MBP as references. These individuals were also on the evaluation committee. However, we found no reference letters written by any of the evaluation team members. A review of the scoring sheets used by the committee disclosed that members had a different interpretation of evaluation criterion number one. One evaluation team member stated that an offeror received a score for criterion number one if the offeror had performed work at any RPS facility. The other two team members did not award a score if the work had not been performed at Fox Elementary.

CONCLUSION

The purpose paragraphs of the Virginia Public Procurement Act include the following language:

“ . . .public bodies in the Commonwealth obtain high quality goods and services at reasonable cost, that all procurement procedures be conducted in a fair and impartial manner with avoidance of any impropriety or appearance of impropriety, that all qualified vendors have access to public business and that no offeror be arbitrarily or capriciously excluded, it is the intent of the General Assembly that competition be sought to the maximum feasible degree, that procurement procedures involves openness and administrative efficiency, . . .”

“ . . . that the rules governing contract awards be made clear in advance of the competition, that specifications reflect the procurement needs of the purchasing body rather than being drawn to favor a particular vendor . . .”

In our opinion, poor judgment was used in writing the language for evaluation criterion number 1. The language is restrictive in nature and appears not to meet the intent of the Virginia Public Procurement Act. In addition, it is evident that the Purchasing Division realized the language could be interpreted to be restrictive because it issued an addendum to the RFP for an elevator at Richmond Community High School. It is unknown whether contractors failed to submit a proposal due to the restrictive evaluation criterion. However, we found no evidence that RPS staff willingly and knowingly violated the procurement act. The Purchasing staff failed to follow their own established procedures and the ADA Office should not have requested a proposal from Ballou Justice Upton prior to contacting the Purchasing Division. The Purchasing Division must take the strategic lead in the procurement process and no longer allow the end user to drive the process.

RECOMMENDATIONS AND MANAGEMENT'S RESPONSE

Recommendation 1

The Interim Superintendent should request a legal opinion from the School Board attorney on whether RPS should proceed with the contract or terminate the contract and release another RFP.

Management's Response

I concur with the recommendation. The decision to terminate the contract was mutually and amicably agreed between Ballou Justice and Upton and Richmond Public Schools.

Recommendation 2

The Manager of Procurement and Control should develop written guidelines for RFP evaluation committees. The guidelines should address the committee's objectives, tasks, rules and procedures, scoring system, and a no conflict of interest/confidentiality statement. The selection of committee members should involve members that have the necessary knowledge level (general, technical, or specific) and members whose department or school has a vested interest in the project.

Management's Response

I concur. The Manager of Procurement and Control has developed procedural guidelines for RFP proposals. Guidelines include all of the aforementioned recommendations. In addition, the Manager is establishing an evaluation committee pool of individuals consisting of RPS staff, professionals from the city, state, and the business community.

Recommendation 3

The Manager of Procurement and Control should ensure that all RFP Evaluation Committee members sign a statement of no conflict of interest prior to serving on the committee.

Management's Response

I concur. Conflict of Interest statements are now included in the evaluation process.

Recommendation 4

The Manager of Procurement and Control should develop district-wide training on the procurement process to ensure personnel understand their responsibilities and authority to procure goods and services.

Management's Response

The Manager of Procurement and Control has begun an in-house staff development for procurement personnel on the Virginia Public Procurement Act and RPS internal processes and procedures. The Purchasing Division has begun procurement training for key budget holders to ensure they understand their responsibilities in the procurement process.

Recommendation 5

The Manager of Procurement and Control should implement a quality control system to ensure that procurement documents, i.e. RFPs and IFBs, are accurate prior to public release.

Management's Response

I concur. The manager of Procurement and Control has implemented an internal quality review process. The Manager of Procurement and Control or his designee will review documents for accuracy and completeness prior to public release.

OTHER ITEM OF CONSIDERATION

The September 23, 2008 proposal received from Ballou Justice Upton was addressed to the MBP representative and not to an official in RPS Purchasing Division. The cover letter to the proposal appears to request the signature of the MBP representative. However, the proposal was not signed. An active contract administrator for the MBP contract has not been assigned and a high risk exists that contractual documents may not be sent to the Division of Purchasing for authorization.

Management's Response

The Manager of Procurement and Control has now established contract administration guidelines and responsibilities. An internal contract administrator will be assigned for all contracts in excess of \$15,000.

ACKNOWLEDGEMENTS

The results of our review were discussed with management on November 19 and November 20, 2008. We appreciate the assistance and cooperation provided us by the personnel of the Division of Purchasing, ADA Office, and Department of Plant Services.