

# Internal Audit Department

O R A N G E C O U N T Y C A L I F O R N I A

## AUDIT ALERT: COUNTY PROCUREMENT OFFICE POLICY ON SOLE SOURCE CONTRACTS

AS OF JUNE 1, 2008

In conjunction with our audit of Sheriff-Coroner Administration's sole source procurements for Fiscal Years 2006-07 and 2005-06, we have issued an Audit Alert to the County Procurement Office. Our alert identifies areas to enhance the County's *Contract Policy Manual* on sole source contracts. Specifically, we recommend clearer guidelines and examples on policy requirements, most notably in the documentation requirements to justify deviating from the County's standard competitive bidding process.

AUDIT No: 2766-5  
DATE: JULY 17, 2008

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## Internal Audit Department

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## Transmittal Letter



**AUDIT NO. 2766-5 July 17, 2008**

**TO:** Ron Vienna, County Purchasing Agent  
CEO/County Procurement Office

**FROM:** Dr. Peter Hughes, CPA, Director  
Internal Audit Department

**SUBJECT:** Audit Alert: County Procurement Office  
Policy on Sole Source Contracts

During the course of conducting our audit of Sheriff-Coroner Administration's sole source procurements, issues came to our attention concerning the policy on sole source contracts contained in the County's *Contract Policy Manual*. Attached is our Audit Alert describing the issues we noted.

Please note we have a structured and rigorous **Follow-Up Audit** process in response to recommendations and suggestions made by the Audit Oversight Committee (AOC) and the Board of Supervisors (BOS). As a matter of policy, our **first Follow-Up Audit** will begin at six months from the official release of the report. A copy of all our Follow-Up Audit reports is provided to the BOS as well as to all those individuals indicated on our standard routing distribution list.

The AOC and BOS expect that audit recommendations will typically be implemented within six months and often sooner for significant and higher risk issues. Our **second Follow-Up Audit** will now begin at six months from the release of the first Follow-Up Audit report, by which time **all** audit recommendations are expected to be addressed and implemented.

At the request of the AOC, we are to bring to their attention any audit recommendations we find still not implemented or mitigated after the second Follow-Up Audit. The AOC requests that such open issues appear on the agenda at their next scheduled meeting for discussion.

We have attached a **Follow-Up Audit Report Form**. Your department should complete this template as our audit recommendations are implemented. When we perform our first Follow-Up Audit approximately six months from the date of this report, we will need to obtain the completed document to facilitate our review.

Each month I submit an **Audit Status Report** to the BOS. Accordingly, the results of this report will be included in a future status report to the BOS.

# Letter from Director Peter Hughes



As always, the Internal Audit Department is available to partner with your staff so that they can successfully address or mitigate difficult audit issues. Please feel free to call me should you wish to discuss any aspect of our report.

## ATTACHMENTS

Other recipients of this Audit Alert are listed on page 4.

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County Procurement Office  
Policy on Sole Source Contracts  
Audit No. 2766-5**

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## AUDIT ALERT

AUDIT No. 2766-5

JULY 17, 2008

TO: Ron Vienna, County Purchasing Agent  
CEO/County Procurement Office

FROM: Dr. Peter Hughes, CPA, Director  
Internal Audit Department

SUBJECT: Audit Alert: County Procurement Office  
Policy on Sole Source Contracts

### Audit Alert

In conjunction with our audit of Sheriff-Coroner Administration's sole source procurements for Fiscal Years 2006-07 and 2005-06, we have issued an Audit Alert to the County Procurement Office. Our alert identifies areas to enhance the County's *Contract Policy Manual* on sole source contracts. Specifically, we recommend clearer guidelines and examples on policy requirements, most notably in the documentation requirements to justify deviating from the County's standard competitive bidding process.

At the request of the Audit Oversight Committee on November 7, 2007, we conducted an audit of sole source procurements of Sheriff-Coroner Administration and the outlying divisions for the Fiscal Years 2006-07 and 2005-06. During the course of the audit, we noted the following issue regarding the County's *Contract Policy Manual* for sole source contracts.

#### **Contract Policy Manual (CPM) on Sole Source Requests**

Our review of *CPM Section 4.4 – Sole Source and Proprietary Requests* found the language of the policy lends itself to varying interpretations by the users and could be improved upon to provide better guidance for departments/agencies to follow concerning sole source justification.

For instance, the policy is not clear as to whether all of the following sole source justification items stated in the policy are required for each request, or if a subset of the items only need to be answered:

- i. Why the particular source is the only one capable of providing the required goods or services;
- ii. If any other sources have been contacted and why they cannot fulfill the County's requirements;
- iii. If the price and contract conditions being offered are within market guidelines; and
- iv. How the County would fulfill its requirement if this source were not available.

The *CPM* also states there be "strong technological or strong programmatic justifications," but does not provide examples of the level of detail to be considered "strong."

In addition, *CPM Section 4.4* states "If a contractor develops a particular expertise through demonstrated past performance, which has been investigated and determined satisfactory, then such contractor may be awarded a subsequent contract for any related work."



This part of the policy is permissive and allows departments/agencies the ability to subsequently hire vendors for any related work after initially obtaining the contract by sole source. The phrase “related work” is unclear as to whether it pertains to an expansion or extension of the current contract or entirely new and different contracts. Furthermore, the policy is not clear whether this clause exempts the department from still having to justify its selection in accordance with the four sole source justification criteria. The concern is the most permissive interpretation of this clause could waive the need to ever conduct a Request for Proposal or seek competitive bids for any similar work again.

Finally, the policy does not require approval or oversight of department/agency sole source procurements by the County Procurement Office. A dollar threshold should be established that would require review and approval of any County sole source procurements prior to being agendized for approval by the Board of Supervisors. This would help ensure consistency and propriety of justification requirements for high-dollar sole source procurements.

We believe enhancements need to be made to the *Contract Policy Manual* to provide County departments/agencies with specific guidelines and examples when requesting sole source procurements. This is because sole source contracting is considered an exception, or deviation, from the County’s standard competitive bidding process. Therefore, justification should be clear and convincing to an independent, **third-party reviewer** and adequately support the use of sole source. The policy enhancements should include at a minimum:

1. Documentation requirements to justify the use of sole source in lieu of standard competitive bidding. Sample justifications should be included that show the expected level of detail and support necessary to justify a sole source request.
2. Training programs by the County Procurement Office on sole source contracting. Training could be accomplished as part of the Purchasing Council meetings or other meetings involving Deputy Purchasing Agents.
3. Oversight by County Procurement Office of high-dollar sole source requests by establishing a threshold in which review and approval by the County Procurement Office would be part of the approval process for department/agency sole source requests.
4. Reporting of department/agency sole source contracts to the County Procurement Office and Board of Supervisors as a means to track the extent that sole source is being utilized in departments/agencies. This information can be obtained from the Extended Purchasing System (EPS) function of CAPS, and can be used to track excessive uses of sole source. Information should be summarized by department, category of procurement, vendor and dollar value.



The following are recommendations to the County Procurement Office. These are considered **Efficiency/Effectiveness Issues**. See *Attachment A* for description of Report Item Classifications.

### **Recommendation No.1**

County Procurement Office evaluate and revise the *Contract Policy Manual Section 4.4 – Sole Source and Proprietary Requests* – for additional clarification and guidance on sole source requests, which should include examples of documentation requirements to justify sole source and specific criteria for issuing subsequent contracts with sole source vendors.

### **CEO/County Procurement Office Management Response:**

Concur. The Procurement Office is currently partnering with the Auditor-Controller, CAPS+ Program Office to engage the National Institute of Government Purchasing (NIGP) to conduct a thorough review of County procurement policies and procedures. At the completion of this study, which is anticipated to be in first quarter of fiscal year 08/09, the County will receive draft policies and procedures that reflect best practices in similar sized government organizations. The new policies and procedures, that will include sole source provisions, will be presented to the Board for adoption.

### **Recommendation No. 2**

County Procurement Office provide periodic training to departments and agencies on sole source procurements.

### **CEO/County Procurement Office Management Response:**

Concur. The Procurement Office has established a Deputy Purchasing Agent (DPA) Training and Certification Program. The program trains and certifies DPAs on an annual basis. As part of further enhancements to this program, additional training classes are continuously being added. A class on Sole Source Procurements has been identified by the program and due to this Audit Alert, will now be given a higher priority. We anticipate that this training class can be drafted and fully implemented into the program within the next 6 months.

### **Recommendation No. 3**

County Procurement Office consider establishing a threshold by which the County Procurement Office would review and approve certain high-dollar sole source procurements prior to Board of Supervisors' approval.

### **CEO/County Procurement Office Management Response:**

Concur with suggestions. The Procurement Office has similar procedures in place for use of contract contingency amounts approved by the Board. Any procedure developed for this type of review should also be included in the CAMS process during filing of ASRs.



This will ensure that sole source requests will not advance to the Board, unless they have been reviewed and approved by the Procurement Office within the CAMS system. One issue to note is that the filing process for these types of procurements may require additional processing time to allow ample time for CEO review of contract documents. In addition, the Procurement Office resources are limited and adding additional review requirements will add risk to other areas of business.

#### **Recommendation No. 4**

County Procurement Office consider establishing a process by which all department/agency sole source contracts are periodically reported to the County Procurement Office and to the Board of Supervisors for tracking and oversight of sole source usage in the County.

#### **CEO/County Procurement Office Management Response:**

Concur. The Procurement Office will work with the CAPS+ Program to determine if such reporting is possible in the new ERP system. In accordance with our response to Recommendation No. 3 above, if the review process for higher dollar sole source contracts is done through the CAMS system, CAMS may be utilized to run the necessary reports concerning sole source usage.

#### **Acknowledgment**

If you have any questions regarding this report, please call me directly at 834-5475 or Eli Littner, Deputy Director at 834-5899, or Michael Goodwin, Senior Audit Manager at (714) 834-6066.

Attachment

Distribution Pursuant to Audit Oversight Committee Procedure No. 1:

Members, Board of Supervisors  
Members, Audit Oversight Committee  
Thomas G. Mauk, County Executive Officer  
Robert J. Franz, Deputy CEO, Chief Financial Officer  
Rick Dostal, Executive Director, Sheriff-Coroner Special Services  
Jane Reyes, Director, S-C Financial/Administrative Services  
Foreperson, Grand Jury  
Darlene J. Bloom, Clerk of the Board of Supervisors



## ATTACHMENT A: Report Item Classifications

For purposes of reporting our audit observations and recommendations, we will classify audit report items into three distinct categories:

- ▶ **Material Weaknesses:**  
Audit findings or a combination of Significant Issues that can result in financial liability and exposure to a department/agency and to the County as a whole. Management is expected to address “Material Weaknesses” brought to their attention immediately.
- ▶ **Significant Issues:**  
Audit findings or a combination of Control Findings that represent a significant deficiency in the design or operation of processes or internal controls. Significant Issues do not present a material exposure throughout the County. They generally will require prompt corrective actions.
- ▶ **Control Findings and/or Efficiency/Effectiveness Issues:**  
Audit findings that require management’s corrective action to implement or enhance processes and internal controls. Control Findings and Efficiency/Effectiveness issues are expected to be addressed within our follow-up process of six months, but no later than twelve months.



## ATTACHMENT B: County Procurement Office Management Responses



**County Executive Office**

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**Memorandum**

July 14, 2008

To: Peter Hughes, Director, Internal Audit Department

From: Ron Vienna, County Purchasing Agent

Subject: Response to the Draft Audit Alert (No. 2766-5) – County Procurement Office Policy on Sole Source Contracts

RECEIVED  
INTERNAL AUDIT DEPARTMENT  
2008 JUL 16 AM 10:04

This memorandum provides our response to the Draft Audit Alert #2766-5 concerning County Procurement Office Policy on Sole Source Contracts as noted during a compliance audit of OCSD sole source procurements and related contract payments.

**Recommendation No. 1**  
County Procurement Office evaluate and revise the *Contract Policy Manual Section 4.4 – Sole Source and Proprietary Requests* – for additional clarification and guidance on sole source requests, which should include examples of documentation requirements to justify sole source and specific criteria for issuing subsequent contracts with sole source vendors.

**CEO/County Procurement Office Management Response:**  
Concur. The Procurement Office is currently partnering with the Auditor-Controller, CAPS+ Program Office to engage the National Institute of Government Purchasing (NIGP) to conduct a thorough review of County procurement policies and procedures. At the completion of this study, which is anticipated to be in first quarter of fiscal year 08/09, the County will receive draft policies and procedures that reflect best practices in similar sized government organizations. The new policies and procedures, that will include sole source provisions, will be presented to the Board for adoption.

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**Recommendation No. 3**  
County Procurement Office consider establishing a threshold by which the County Procurement Office would review and approve certain high-dollar sole source procurements prior to Board of Supervisors' approval.



## ATTACHMENT B: County Procurement Office Management Response Continued

**CEO/County Procurement Office Management Response:**

Concur with suggestions. The Procurement Office has similar procedures in place for use of contract contingency amounts approved by the Board. Any procedure developed for this type of review should also be included in the CAMS process during filing of ASRs. This will ensure that sole source requests will not advance to the Board, unless they have been reviewed and approved by the Procurement Office within the CAMS system. One issue to note is that the filing process for these types of procurements may require additional processing time to allow ample time for CEO review of contract documents. In addition, the Procurement Office resources are limited and adding additional review requirements will add risk to other areas of business.

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If you have any questions in regards to this information, please contact Ron Vienna at (714) 834-6889 or via email at [ron.vienna@ocgov.com](mailto:ron.vienna@ocgov.com).

CC: Robert J. Franz, Deputy CEO, CFO