

SPECIAL AUDIT

**STUCCO AND PARGING/WATER PROOFING
REQUIREMENTS CONTRACTS**

MAY 2009



CITY OF PHILADELPHIA

OFFICE OF THE CONTROLLER
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ALAN BUTKOVITZ
City Controller

JOHN H. THOMAS
Deputy City Controller

June 24, 2009

Hugh Ortman, Commissioner
Procurement Department
Room 130 Municipal Services Building
1401 John F. Kennedy Boulevard,
Philadelphia, PA 19102-1679

Fran Burns, Commissioner
Department of Licenses & Inspections
Room 1130 Municipal Services Building
1401 John F. Kennedy Boulevard
Philadelphia, PA 19102-1679

Dear Commissioners:

The Office of the Controller has conducted a special audit of the procurement process pertaining to the awarding of requirements contracts. This review was conducted pursuant to Section 6-400 (c) of the Philadelphia Home Rule Charter. A synopsis of the results of our work is provided in the executive summary to this report. The conditions giving rise to the findings and recommendations contained in this report occurred under previous commissioners.

We discussed our findings and recommendations with you at an exit conference. We have included your written response to our comments as part of the report. We believe that our recommendations, if implemented by management, would improve the procurement process pertaining to the awarding and administration of requirements contracts.

We would like to express our thanks to you and your staff for the courtesy and cooperation displayed during the conduct of our work.

Very truly yours,

A handwritten signature in black ink, appearing to read "Alan Butkovitz", written over a horizontal line.

ALAN BUTKOVITZ
City Controller

cc: Honorable Michael A. Nutter, Mayor
Honorable Anna C. Verna, City Council President
All Honorable Members of City Council



Review of Requirements Contracts Stucco and Parging/Waterproofing

Executive Summary

Why the City Controller's Office Conducted this Review

The Office of the City Controller initiated this special audit in response to allegations that there were several violations and irregularities with the Fiscal 2004 contracts and subsequent extensions for Residential Stucco and Residential Parging/Waterproofing. The Bid Number for this work is #T4-YE703-9 - NTI Residential Construction Services (Non-Demolition). Subsequent to the contract awards, the Controller's Office received complaints from City employees and non-City employees indicating that one of the low bidders for the stucco work lacked the requisite experience necessary to qualify as a bidder at the time of bids. In addition we received numerous complaints about outside influence or the appearance of outside influence over the awarding of contract amendments/extensions and the administration and enforcement of the contracts.

During our investigation of the 2004 bids/contracts, the Controller's Office received several requests that we carefully monitor the bid process and contract awards for the following 2008 stucco and parging/waterproofing work:

- #S8YE5400 – Residential Stucco Finish to Exterior Masonry Walls; and,
- #S8YE5390 – Residential Parging, Waterproofing Services and Additional Work.

The objectives of our investigation were to:

- (1) determine whether the 2004 Stucco and Parging/Waterproofing Bid and Contract Processes were fair and in compliance with applicable policies and procedures;
- (2) determine whether payments under the 2004 contracts were made in compliance with the terms and conditions of the contracts and applicable laws, regulations and disbursement procedures; and,
- (3) determine whether the 2008 Stucco and Parging/Waterproofing Bid and Contract Processes were fair and in compliance with applicable policies and procedures.

What the City Controller's Office Found

The Office of the City Controller found that:

- (1) allegations were substantiated regarding irregularities with the Fiscal 2004 contracts and subsequent extensions for Residential Stucco and Residential Parging/Waterproofing;
- (2) payments under the 2004 contracts were in compliance with terms and conditions of the contracts and applicable laws; however, we found that the contract extension process was not in compliance with the City's standard procedures;
- (3) the 2008 Stucco and Parging/Waterproofing Bid and Contracting Processes were fair and in compliance with applicable policies and procedures; however, we found the low bidder's prices for the stucco work were substantially lower than its prices for similar work under the 2004 Stucco contract.

(4) the following inefficiencies or weaknesses in the procurement process:

- Pre-Qualification/Pre-Bid Procedures - The Pre-Qualification/Pre-Bid Procedures create an environment which leads to questions and concerns regarding the integrity of the bid process. Currently pre-qualification packages and bid packages are submitted on the same day; however, the two packages are opened on two separate days. Pre-qualification packages are opened first and sometime later the bid packages containing the price data are opened.
- Vague Contract Language - The contracts in question did not contain standard clauses limiting the annual price increases. The ambiguous contract language led to contractors circumventing the bid process by low-balling the original bids and receiving excessive increases for renewal period.
- Approval of Extensions – Our audit disclosed inadequate review procedures and approvals of contract extensions. Currently, Procurement and the operating department receiving the services can approve contract extensions for three subsequent years after the original contract without input and approval from the Office of the City Controller and the Office of Economic Opportunity, formerly the Minority Business Enterprise Council (MBEC).
- Outside Influence or the Appearance of Outside Influence - Various controls over the issuance of contracts can be easily bypassed with the current system of contract extensions. Since there are no bids involved with contract extensions, this creates an environment for outside influence or the appearance of outside influence in the contractual process. Contract extensions can be approved and awarded without regard to qualifications or quality of work.

What the City Controller's Office Recommends

The Controller's Office has developed a number of recommendations to address our findings. The recommendations can be found in the body of the report.

- We recommend that the pre-qualification/pre-bid procedures be separated into two distinct processes. The pre-qualification packages should be received and opened on one day; and the pricing packages should be received and opened on a subsequent date. This recommendation will reduce vendors' uncertainty and misconceptions about the fairness of the pre-qualification and pre-bid processes.
- We recommend that all contracts contain a specified maximum allowable annual percentage increase. Procurement's options should be limited and any deviations must be documented. A limit in the range of 4% would prevent a contractor from low-balling the original bid, with the intent of excessive increases in the subsequent years.
- We recommend that the approval path for all contract extensions be changed to include the Office of the City Controller and the Office of Economic Opportunity, formerly the Minority Business Enterprise Council (MBEC). This recommendation will increase the integrity of the contract extension process adding two levels of independent review and approval.
- We recommend that all reasonable measures be taken to exclude outside influence or the appearance of outside influence from the procurement process. We recommend the Procurement Department, with the assistance of the Controller's Office, develop a contract checklist to evaluate vendor performance and contract compliance. Contract extensions should only be

granted when earned by the contractor. Poor work and other deficiencies should not be rewarded with contract extensions.

If implemented these recommendations could also help to insure the integrity of the procurement process, and prevent outside influence or the appearance of outside influence in the process.

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BACKGROUND

In Fiscal 2004, the City of Philadelphia was seeking qualified contractors to provide Stucco, Parging, Chain Link Fencing and Waterproofing Services for abandoned residential structures. Via Bid Number T4-YE703-9, the Procurement Department invited qualified vendors to submit bids to provide these **Supplemental NTI Residential Construction Services (Non-Demolition)**. This Invitation to Bid asked vendors to submit pricing for three general line items: (1) Residential Stucco Finish to Exterior Masonry Walls (Stucco); (2) Residential Parging, Waterproofing Services & Additional Work (Parging/Waterproofing); and, (3) Fencing.

For the Stucco portion of the Invitation and Bid, the City was divided into four (4) quadrants as follows:

- NE – Broad St. and Cecil B. Moore Ave. on the Northeast side
- NW – Broad St. and Cecil B. Moore Ave. on the Northwest side
- SE – Broad St. and Cecil B. Moore Ave. on the Southeast side
- SW – Broad St. and Cecil B. Moore Ave. on the Southwest side

Requirements Contract

Requirements contracts were utilized because the City determined that stucco, parging/ waterproofing and fencings were required in the continued revitalization of various City neighborhoods; however, exact quantities could not be determined at the time of the bids. Estimates were listed in the Invitation to Bid, but vendors were informed that the quantities listed could be increased or decreased to meet the requirements of the City during the period of the proposed contract. Minimum quantities were not guaranteed. Vendors were informed any purchase orders issued as a result of these bids would be for services and related materials to be performed generally on an as-needed basis.

Bid Pricing

The Invitation to Bid included the following requirements for bid pricing:

- Parging/Waterproofing & Fencing – Bidders shall submit a price for each job for Parging and Waterproofing and a price per linear foot for Chain Link Fencing. Bidder must bid on both items to receive an award.
- Stucco Finish – Bidders shall submit a price per square foot. Bidders do not have to bid on all quadrants to be eligible for an award.

Contract Award

As will be discussed in more detail in our findings and recommendations, the competitive bids resulted in the selection of two contractors for the Stucco work and one contractor for the Parging/Waterproofing and the Fencing work.

Contract Terms

The terms for the contracts were June 1, 2004 to May 31, 2005 (“Initial Term”), with an option to renew for up to three (3) additional one (1) year periods, (“the Renewal Term”) exercisable, at the City’s sole discretion, as of the expiration of the initial term or then current renewal term. The contracts also provided that the City, at its sole discretion, may renew the contract for up to three (3) months at the

INTRODUCTION

beginning of each renewal period(s) (the “Additional Performance Period”), if a decision had been made not to renew the contract for an entire year.

Responsible Agencies

The Procurement Department was responsible for managing the bid process and awarding the initial contracts and all contract renewals. The Department of Licenses and Inspections was the purchasing agency responsible for administering and monitoring the above referenced requirements contracts.

OBJECTIVE, SCOPE AND METHODOLOGY

Objective

The primary objectives of this special audit were to:

- determine whether the 2004 Stucco and Parging/Waterproofing Bid and Contract processes were fair and in compliance with applicable policies and procedures;
- determine whether payments under the 2004 contracts were made in compliance with the terms and conditions of the contracts and applicable laws, regulations and disbursement procedures; and,
- determine whether the 2008 Stucco and Parging/Waterproofing Bid and Contract processes are fair and in compliance with applicable policies and procedures.

Scope

The scope of this audit was generally limited to bid, contract, and payment issues related to the FY 2004 and FY 2008 Stucco and Parging/Waterproofing contracts. We also analyzed the impact of our findings on both financial data and management related matters.

Methodology

Pursuant to Section 6-400 of the Philadelphia Home Rule charter, we reviewed the procurement process pertaining to the awarding of requirement contracts. Our investigation included interviews with key personnel in Procurement, Licenses and Inspections, the Labor Standards Unit, and other relevant agencies; analytical reviews of contract and payment data; and a review of the internal controls process for the bid opening and contract awarding processes.

A representative from the Controller’s Office Verification Unit is present at all original bid openings to provide independent verification of the number of bids submitted and to ensure all required bid information is included. In addition, staff from our Technical Unit performs pre-audit tests to ensure contracts have appropriate authorization, are classified correctly, and are properly recorded. Accordingly, our examination focused on the following areas of interest:

- Allegations questioning the integrity of the bid process.
- Allegations regarding inappropriate payments.
- Allegations of outside influence in the contract award and enforcement processes.
- Concerns regarding vague contract language.

FINDINGS AND RECOMMENDATIONS

Our analysis disclosed the following weaknesses or inefficiencies that could have a material effect on the administration of the requirements contracting process by the Procurement Department and Department of Licenses & Inspections.

Pre-Qualification/Pre-Bid Procedures

Allegations were made questioning the integrity of the bid process for requirements contracts. Suspicions begin with the pre-qualification/pre-bid process because procedures are fragmented and disjointed, causing participants to lose faith in the concept that the lowest qualified bidder is awarded the contract. Currently, two bid packages are required to be submitted by each vendor by the advertised Bid Opening Date and Time (the "bid opening date"). One package is to be submitted for pricing data and the other is for qualifications information.

The Procurement Department's normal, but undocumented, practice is to open the two bid packages on different days. On the bid opening date, the qualifications packages are opened to record all the bidders. The pricing packages are secured by Procurement in a safe location, remaining unopened for an extended period. The pricing envelopes are unmarked by either Procurement or the Controller's Office. Since the pricing envelopes are no longer in the possession of the individual vendors, suspicions of bid manipulation exist. In addition, the informal manner by which vendors are notified about the two-day process for opening vendor qualifications and pricing packages creates confusion and increases the suspicions that the process can be circumvented. Neither the Invitation to Bid nor the corresponding Addendum(s) include written instructions or guidelines regarding the procedures for opening the bid packages.

The April 29, 2008 bid opening was an example of disorganization and conflicting communication. Because the procedures for the pre-qualification and bid opening were not clearly communicated in writing, several vendors in attendance assumed the bidders' qualifications packages and pricing packages would be opened and announced on the advertised bid opening date.

Prior to the bid opening on that date Procurement Department personnel verbally informed the vendors in attendance that the normal process involved opening the pre-qualification packages and the pricing packages on separate days. The vendors vocally objected and questioned the integrity of the bid process.

At this point the Procurement Department was faced with two options. Under Option #1, Procurement could follow its usual practice of opening the qualifications packages and the pricing packages on separate days. However, this option would have given credence to assertions of potential bid rigging. Under Option #2, the Procurement Department would open each bidder's qualifications and pricing packages on the bid opening date. This option would eliminate suspicions that the pricing data could have been manipulated after the bid opening date and time.

The Procurement Commissioner, with the concurrence of all bidders, chose Option #2. Both the pricing and the qualifications packages were read on the bid opening date while all stakeholders were present in the bid room. However, the bidders were informed by the Commissioner that the bids would be recorded but the final determination of low bidder could not be determined until the qualifications were reviewed and accepted.

We recommend the following steps to increase controls and eliminate potential conflict and suspicion:

- 1. Written procedures covering the pre-qualification and bid opening process should be developed and distributed to all interested vendors and City personnel involved. This would eliminate conflict and suspicion and add uniformity and constancy to the process.***

FINDINGS AND RECOMMENDATIONS

2. *The two bid packages should be submitted on separate days. The qualifications packages should be received and opened one day; and, the pricing packages should be received and opened on a subsequent date. Thus, only qualified vendors could be asked to go through the time and expense of preparing pricing packages.*
3. *If recommendation #2 above is not adopted, any unopened documents received prior to the bid opening date and time should be stamped by the Controller's Office personnel. This procedure should be done in a fashion that would reveal any attempt to access the information within the envelope prior to the official public bid opening.*

Approval of Options to Renew

The standard provisions of most requirements contracts contain a clause that states "with an option to renew for up to three one year periods exercisable, at the City's sole discretion, as of the expiration of the initial term or current renewal term". The operating department receiving the services requests the extension. Upon receipt of the request, Procurement issues a letter of renewal, notifying the contractor that the contract is renewed for the renewal term. There are no other approvals needed. Although the Office of Economic Opportunity and the Office of the City Controller are included in the approval path for all original contracts, these agencies are not included in the approval path for renewals.

We recommend that the approval path for all contract renewals be changed to include the Office of the City Controller and the Office of Economic Opportunity. And, we recommend any and all outside influences be excluded from the process. Options to renew should only be granted when earned by the contractor. Poor work and other deficiencies should not be rewarded with contract renewals. Rather, they should be handled with debarment or some other form of limitation.

Vague Contract Language

We randomly selected a representative sample of contracts for review. This review disclosed an inconsistency with the section of the contract that relates to increases in the subsequent year of a contract. Some contracts have a clause specifically limiting the annual increase to 4% while others only required a written request, received by the City at least 60 days prior to the expiration of each contract period. The two Stucco contracts examined did not contain a standard clause limiting the annual price increase. The vague and ambiguous language of the contracts led to excessive increases and raised the possibility that the bid process could have been circumvented.

If the City adopts our recommendations regarding the contract renewal process, Procurement's options for contract extensions would be limited to a maximum percentage increase and any deviations would have to be documented. The chart in Table 1 and graphs in Exhibit A below illustrate the annual excessive increases discussed above.

We recommend that all contracts include a maximum percentage increase that is allowable annually. A limit of the Consumer Price Index (CPI) or 4% would prevent a contractor from low-balling the original bid, with the intent of excessive increases in the subsequent years. Any deviation from the stated maximum percentage should be documented, with a detailed explanation as to the reason for the increase.

Allegations of Outside Influence

The integrity of the procurement process relies on transparency and objectivity. Under the current system of contract extensions various controls can be easily bypassed. Since there is no bidding, contracts can be

FINDINGS AND RECOMMENDATIONS

awarded without regard to performance or quality of work. A case in point is the 2004 contract awarded to LP Group, Inc. for the Stucco work. During our audit, staff from Procurement and Licenses & Inspections informed our auditors that LP Group did not have the required previous experience.¹ Notwithstanding these staff concerns, LP Group was deemed to be an acceptable bidder. This appears to be a clear violation of the General Requirements (1.9.1.6.3) of the Invitation to Bid which stated:

“No bid shall be accepted from any bidder having less than four (4) years experience in the business of providing stucco, parging, etc. services. The bidder is to indicate the number of years it has been in the residential construction business.”

Within one year of receiving the award, the vendor was discovered to be having problems paying prevailing wages. Furthermore the Department of Licenses and Inspections had numerous problems with billings, quality of work, and adherence to specified requirements within the context of the contract.

In spite of numerous contract compliance and quality related problems, we were informed by L & I personnel that attempts by L&I and Procurement staff to remove LP Group as a contractor were stopped by the former L&I Commissioner. A re-bid of this contract was requested by L&I's Contractual Services Unit in early 2005. April 29, 2005 was designated the public bid opening day for the new bids. However, on the day of the scheduled bid opening, at the last minute, with bidders and representatives of the Inspector General's Office in attendance, the proposed contract was removed from consideration by the Procurement Department. Procurement did not provide an explanation as to why the action was taken. This created a hostile situation in the bid room including allegations of outside influence. In 2006, another attempt to re-bid the contract was met with resistance by the former Procurement Commissioner.

In addition, attempts to enforce the prevailing wage clause of the contract have been delayed for over two and a half years. Enforcement procedures, begun in early 2005, have yet to be finalized. A hearing on this matter was scheduled and postponed on several occasions.

We recommend the Procurement Department draft guidelines outlining procedures and conditions for granting contract renewals at the sole discretion of the City. These guidelines should be publicly disclosed prior to a bid.

FY 2008 Stucco Bid

During our investigation of the 2004 bids/contracts, the Controller's Office received several requests that we carefully monitor the bid process and contract awards for the 2008 Stucco and Parging/Waterproofing work. We found that the low bidder for the Stucco work may have engaged in an attempt to circumvent the competitive bid process by low-balling the original bid with the intent of later requesting substantial price increases with contract extensions.

- Bid #S8YE5400 – Residential Stucco Finish to Exterior Masonry Walls

¹ On May 26, 2009, after reviewing our draft audit report, the current Procurement Commissioner provided the Controller's Office with a copy of a document titled "Qualifications of The L.P. Group2 Inc. To Perform NTI Program Residential Construction Services, Bid No. T4YE703-9" which include summary statements and resumes indicating that L.P. Group2's staff had some experience performing stucco, purging and waterproofing work. However, this document was not provided during our audit, and there is no evidence that the City verified the resumes and statements included in the qualifications document. At most, it appears the previous administration approved the qualifications of the LP Group2 for the FY 2004 Stucco and Parging/Waterproofing Contract with no verification of the vendor's expertise and experience.

FINDINGS AND RECOMMENDATIONS

The winning Stucco bid price of \$4.95 per square foot by NICHOLAS DELLA VECCHIA, INC. (“Della Vecchia”) was 24% lower than the Della Vecchia’s \$6.51 contract price for the 4th Year (2007) of the 2004 extended contract.

We recommend that annual price increases be limited to a 4% maximum for the Bids #S8YE5400 – Stucco and #S8YE5390 - Parging/Waterproofing. Any deviation from the 4% percentage price increases should be justified with a detailed explanation for the proposed increases.

FINDINGS AND RECOMMENDATIONS

TABLE 1

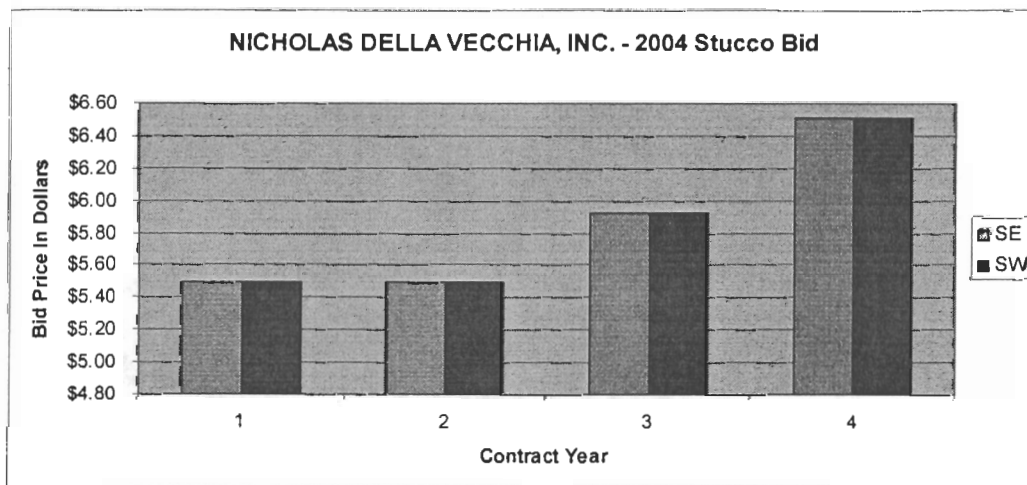
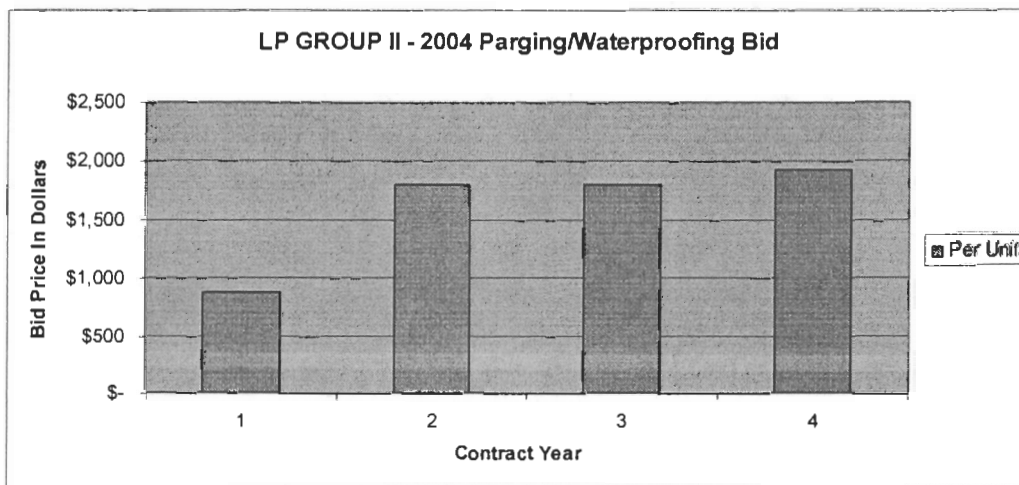
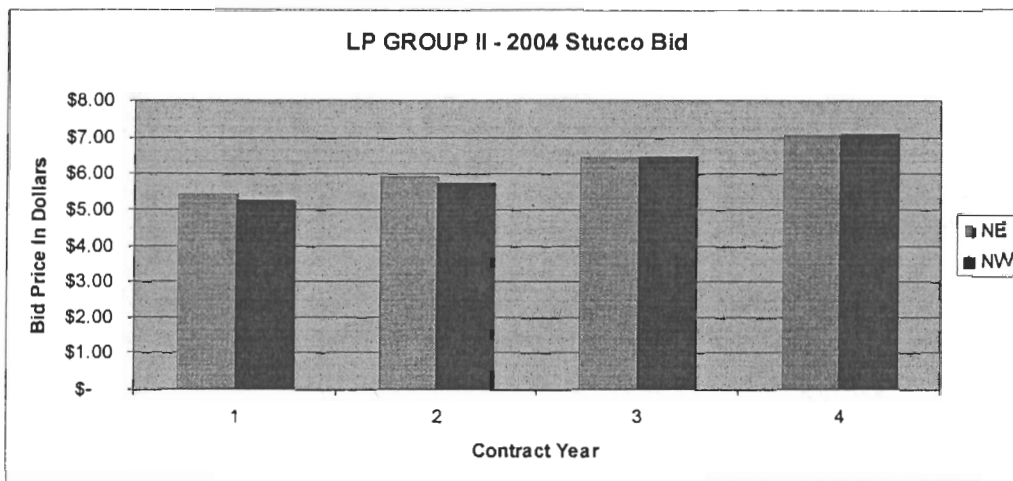
**Analysis of Stucco, Parging/Waterproofing, and Fencing Contract Pricing
Bid No. T4YE7039
Fiscal Years 2004 through 2007**

LP GROUP II Contract No. 04-0520/Bid No. T4YE7039 Contract Amount: \$485,450							
2004 Stucco Bid							
Service Areas	Year 1	Year 2		Year 3		Year 4	
	Bid Price	Price	% Change	Price	% Change	Price	% Change
NE	\$5.45	\$5.94	9%	\$6.47	9%	\$7.05	9%
NW	\$5.25	\$5.72	9%	\$6.47	13%	\$7.05	9%
2004 Parging / Waterproofing & Fencing							
Line Item	Year 1	Year 2		Year 3		Year 4	
	Bid Price	Price	% Change	Price	% Change	Price	% Change
P/W Per Unit	\$880.00	\$1800.00	105%	\$1,800.00	0%	\$1,925.00	7%
Fencing - LF	\$15.50	\$15.50	0%	\$15.50	0%	\$15.50	0%
NICHOLAS DELLA VECCHIA, INC. Contract No. 04-0519/Bid No. T4YE7039 Contract Amount: \$109,800							
2004 Stucco Bid							
Service Areas	Year 1	Year 2		Year 3		Year 4	
	Bid Price	Price	% Change	Price	% Change	Price	% Change
SE	\$5.49	\$5.49	0%	\$5.92	8%	\$6.51	10%
SW	\$5.49	\$5.49	0%	\$5.92	8%	\$6.51	10%
2004 Parging / Waterproofing & Fencing							
(THESE LINE ITEMS WERE NOT AWARDED TO THIS VENDOR)							

The following graphs in Exhibit A illustrate the huge price increases which occurred during the terms of the 2004 Stucco and Parging/Waterproofing Contracts as extended.

FINDINGS AND RECOMMENDATIONS

EXHIBIT A





CITY OF PHILADELPHIA

PROCUREMENT DEPARTMENT
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Hugh Ortman
Procurement Commissioner

June 5, 2009

Alan Butkovitz, City Controller
Office of the Controller
1230 Municipal Services Building
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Philadelphia, PA 19102

RE: Special Audit of Requirements Contracts

Dear Mr. Butkovitz:

This letter is in response to your *Special Audit of Requirements Contracts* dated May 2009.

The special audit was conducted in response to allegations that there were several violations and irregularities with the Fiscal 2004 contracts and subsequent renewals for Residential Stucco and Residential Parging/Waterproofing. The findings of the Controller's Office indeed substantiated some of these reports. As a result, your office has made several recommendations. These recommendations, our responses and other comments follow below:

1. *Written procedures covering the pre-qualification and bid opening process should be developed and distributed to all interested vendors and City personnel involved. This would eliminate conflict and suspicion and add uniformity and constancy to the process.*
2. *The two bid packages should be submitted on separate days. The qualifications packages should be received and opened one day; and, the pricing packages should be received and opened on a subsequent date. Thus, only qualified vendors could be asked to go through the time and expense of preparing pricing packages.*
3. *If recommendation #2 above is not adopted, any unopened documents received prior to the bid opening date and time should be stamped by the Controller's Office personnel. This procedure should be done in a fashion that would reveal any attempt to access the information within the envelope prior to the official public bid opening.*

It should be noted that there are only ten (10) contracts that currently require pre-certification packages. It should also be noted that there are three separate procedures used for the submittal of pre-qualification packages and bids. They can both be required on the same day and both opened on the same day. They can both be required on the same day, but the bids are only opened for a vendor that is deemed qualified. Or, the pre-qualifications can be required on one day and bids accepted from those deemed qualified on a future date.

(over)

AGENCY'S RESPONSE TO THE REPORT

Procurement is currently looking at revising the need for pre-qualifications as well as why they are handled in different ways. It is hoped that we can eliminate or at least limit the use of pre-qualifications even further but it should be noted that each of the ten (10) bids using the pre-qualification process have quite detailed vendor qualifications. After Procurement's review, it is anticipated that some forms of the current procedure may need to stay in place. If that is the result then recommendation #3 above will be utilized.

We recommend that the approval path for all contract renewals be changed to include the Office of the City Controller and the Office of Economic Opportunity. And, we recommend any and all outside influences be excluded from the process. Options to renew should only be granted when earned by the contractor. Poor work and other deficiencies should not be rewarded with contract renewals. Rather, they should be rewarded with debarment or some other form of limitation.

The Procurement Commissioner agrees that the City Controller should be included in the renewal process. Office of Economic Opportunity (OEO) will be included on all bids that contain participation. A process will be developed. As an adjunct to this recommendation it has also been recommended that language be included that once a determination has been reached to issue a new bid rather than pick up a specific contract renewal option, the procedure cannot be reversed without the written authorization of the Procurement Commissioner.

We recommend that all contracts include a maximum percentage increase that is allowable annually. A limit of the Consumer Price Index (CPI) or 4% would prevent a contractor from low-balling the original bid, with the intent of excessive increases in the subsequent years. Any deviation from the stated maximum percentage should be documented, with a detailed explanation as to the reason for the increase.

There are several variations of the Price Increase Language, each to be used under certain specific conditions. One of these variations is based on increases in the annual change in the CPI or 4%, whichever is less. The incorrect language was indeed used in the 2004 bid document. The bids for 2008 contained the CPI language. One of the variations used is indeed somewhat vague and is used as little as possible. However, when requesting increase in contracts containing this version, vendors must submit certification to support the requested increase.

We recommend the Procurement Department draft guidelines outlining procedures and conditions for granting contract renewals at the sole discretion of the City. These guidelines should be publicly disclosed prior a bid.

There can be any number of reasons that the City may not want to pick up an option year on a contract. These can range from poor vendor performance, to a change in requirements or just changes in technology, among others. If each possible reason was to be listed in the bid, the City would be limited to only those reasons plus the City could be required to validate those reasons in legal proceedings. Legal proceedings could easily drag on for quite some time thus not allowing a new bid to be issued for the needed item or service.

We recommend that annual price increases be limited to a 4% maximum for the Bids #S8YE5400 – Stucco and #S8YE5390 - Parging/Waterproofing. Any deviation from the 4% percentage price increases should be justified with a detailed explanation for the proposed increases.

As mentioned above, the CPI/4% limit was included properly in the 2008 bid documents.

Sincerely,



Hugh Ortman
Procurement Commissioner