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PRESS RELEASE

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Controller Brady Issues Review of City Contracts Exempt from Public Bidding

Report identified departments that awarded contracts totaling \$15 million that were not exempt from the public contracting process

PHILADELPHIA – City Controller Christy Brady today issued a special report on the City’s contracting process that found departments awarded contracts totaling more than \$15 million that were not competitively bid, violating the Philadelphia Code. The departments utilized the City’s exemption rule for non-profits to award the contracts, but they were not authorized to do so.

The Department of Aviation, the Managing Director’s Office and the Office of the Chief Administrative Officer spent \$15,178,134 over fiscal years 2021 and 2024 on the identified contracts without adhering to the city’s proper bidding process. The Philadelphia Code requires an open and public process for contracts that fall under these departments. The Code allows for an exemption for some departments if the services are being provided by a nonprofit and are deemed emergencies or meet other exceptions.

“We conducted this review to determine whether contracts exempt from the public bidding process are being awarded properly and fairly as stipulated in the Philadelphia Code,” Controller Brady. “When non-exempt departments use the non-profit exemption, those departments are bypassing the City’s procurement rules and disregarding the code.

“This practice can also lead to the City overspending for services because other service providers did not have an opportunity to bid, and the City might not have received the best costs for the services.”

The exempt city departments and offices include:

-Division of Housing and Community Development	- Department of Human Services
-Department of Public Health	- Department of Parks and Recreation
-Office of Homeless Services	- Behavioral Health and Intellectual disAbility Services
-Office of Adult Services	- Community Empowerment & Opportunity
-Prisons	- Commission on Disabilities
-Commission on Aging	- Office of the District Attorney

The Controller's Office reviewed the procurement policies of the five largest U.S. cities. None of them have an exemption for non-profits. Most cities require a written justification as to why an emergency service must be exempt from public bidding. Chicago allows an emergency exemption but only allows emergency contracts up to \$500,000. Houston requires written justification and city council approval if it's in excess of the established dollar amount. New York City requires competition when it's practicable under the circumstances and a written justification.

"The Mayor and City Council should work collaboratively to assess the need for the non-profit special exemption for certain city departments to ensure transparency and compliance with City regulations," said Controller Brady. "We hope the practices implemented in other large cities can serve as a foundation for these discussions."

The City Controller's review also found encumbrances were improperly recorded in the City's accounting system, with a few initially recorded as one dollar rather than the contract amount. Additionally, the review identified four out of 10 contracts tested for the Department of Behavioral Health and Intellectual disAbility Services where the department encumbered almost \$85 million less than total amount of the contracts.

Encumbrances are a budgetary tool used to compare anticipated spending against the City's appropriated budget. According to Controller Brady, "when departments enter into contracts with vendors, they should encumber the maximum potential expenditure to ensure budgetary compliance.

"If encumbrances are not accurately recorded in the City's accounting system, there is a risk that a department could spend more than its allocated budget."

Visit <https://controller.phila.gov/> to view the City Controller's latest report.

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