

JEA PURCHASING

SEPTEMBER 18, 2001

Report #533

OFFICE OF THE COUNCIL AUDITOR
Suite 200, St. James Building



September 18, 2001

Report No. 533

Honorable Members of the City Council
City of Jacksonville

INTRODUCTION

Pursuant to Section 5.10 of the Charter of the City of Jacksonville and Chapter 102 of the Jacksonville Municipal Code, we examined the activities of the JEA Purchasing Department and present this report thereon.

The JEA was created for the express purpose of acquiring, constructing, operating, and financing with respect to electric, water, sewer, natural gas and such other utility systems as may be under its control now or in the future. Article 21, Section 21.09, states that *JEA shall not be subject to the provisions of Chapter 26, Ordinance Code of the City of Jacksonville...and may establish such rules, regulations or procedures as it may deem desirable or necessary in connection therewith.* The JEA established a purchasing code that was effective February 1, 1996 which mirrors the Florida Statutes except in cases where it was made more stringent. It was revised effective August 1, 1997.

STATEMENT OF OBJECTIVES

The objectives of the audit were as follows:

1. To determine that JEA is in compliance with the Purchasing Code and their Operational Procedures in regards to Requests for Proposals, Invitation for Bids, and Contracts.
2. To determine that JEA is in compliance with the Purchasing Code and their Operational Procedures in regards to Sole Source Purchases, Emergency Purchases, and Standard, Proprietary and Original Equipment Manufactured Items.
3. To determine that JEA is in compliance with the Minority Business Enterprise (MBE) Program and that established goals have been met.
4. To determine that the appeals filed with the Procurement Appeals Board were reviewed in accordance with the Purchasing Code and Operational Procedures.

STATEMENT OF SCOPE

The audit period is October 1, 1998 through March 31, 2001, with the exception of Objective 2. The audit period for Objective 2, testing the Certifications for Sole Source, Emergencies, and Standard, Proprietary, and Original Equipment Manufacturer Items, was October 1, 1998 through December 31, 2000 due to the availability of data. The universe that was utilized to select the sample was supplied by JEA and could not be independently confirmed through the system.

STATEMENT OF METHODOLOGY

The major areas of the purchasing audit are contracts, the Minority Business Enterprise (MBE) Program, and the appeals process that is regulated by the Procurement Appeals Board. The different types of contracts are Requests for Proposals, Invitation for Bids, Sole Source procurements, Emergency procurements, and Standard, Proprietary, and Original Equipment Manufactured Items procurements. All contracts over \$50,000, with the exception of fuels, were included in the universe. A statistical sample was selected from each area using the Stat. V.1.1 statistical sampling program based upon a 90% confidence level and an error rate of + or – 5%.

STATEMENT OF AUDITING STANDARDS

We conducted our audit in accordance with generally accepted government auditing standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to afford a reasonable basis for our judgements and conclusions regarding the organization, program, activity, or function under audit. This audit also included an assessment of applicable management controls and compliance with requirements of laws and regulations when necessary to satisfy audit objectives. We believe that our audit provides a reasonable basis for our conclusions.

AUDIT CONCLUSIONS

We noted the following conclusions for each audit objective:

1. We found that JEA is primarily in compliance with its Purchasing Code and Operational Procedures in regards to Requests for Proposals, Invitation for Bids and Contracts; however, we noted two findings of non-compliance and one internal control weakness where a procedure needs to be documented in the Purchasing Code and Operational Procedures.
2. We found that JEA is primarily in compliance with its Purchasing Code and Operational Procedures in regards to Sole Source Purchases, Emergency Purchases and Standard, Proprietary and Original Equipment Manufactured Items; however, we did find some instances where certificates could not be located and were not approved by the Awards Committee.
3. We found that JEA is not in compliance with its Purchasing Code for the MBE Program due to incomplete vendor files and a report summarizing the MBE's certification activity and program results has not been submitted to the JEA Board since required in June 1997.
4. We found that JEA is in compliance with its Purchasing Code and Operational Procedures in regards to appeals filed with the Procurement Appeals Board.

AUDIT OBJECTIVE #1

To determine that JEA is in compliance with the Purchasing Code and their Operational Procedures in regards to Requests for Proposals, Invitation for Bids, and Contracts.

We noted several findings and one internal control weakness for Objective #1 as follows:

Background for Finding #1

Operational Procedure 3-202.1, *Public Notice – Competitive Sealed Bidding*, states that *the normal times a solicitation shall be noticed before bid opening are (a) between three and four weeks for supplies, services and real estate; and (b) between four and five weeks for construction.* Florida Statutes 255.0525, *Advertising for competitive bids or proposals*, states that *for any state construction project that is projected to cost more than \$200,000 shall be publicly advertised once...at least 21 days prior to the established bid opening. For state construction projects that are projected to cost more than \$500,000, the advertisement shall be published...at least 30 days prior to the established*

bid opening. Per JEA, FS 255.0525 is the guideline used to determine the time a solicitation shall be noticed.

Finding #1

Proof of public notice was not advertised within the time guidelines listed in Section 255.0525 of the Florida Statutes in one of 51 Invitation for Bids tested.

Recommendation

We recommend that sufficient public notice be given prior to the bid opening to allow adequate time for the preparation of bids/proposals in accordance with its adopted guidelines. We also recommend that if the JEA continues to use Section 255.0525 of the Florida Statutes as its guideline, that JEA's Operational Procedure 3-202-1 be amended to reflect the same requirements.

Auditee's Response to Finding #1

All public notices now follow the procedures. Procedures will be amended to be consistent with the less stringent requirements of FS 255.0525.

Finding #2

A reason for the lack of competitive bidding could not be located in the contract file for five (11%) out of 44 contracts tested.

Recommendation

We recommend that a checklist of required items be developed which should be checked off and initialed after the inclusion of each item in the file and reviewed prior to the award of the contract to ensure that all required documents are present.

Auditee's Response to Finding #2

JEA's practice has been to include reasons for limited competition bidding in the request for award document, rather than using a separate document. Procedures will be amended to include this process.

Internal Control Weakness #1

Throughout our testing we encountered several instances in which a purchase order for over \$50,000 was issued by means of a limited competition bid, which is when a bid is solicited from select vendors and it is not advertised. There are not any written procedures for limited competition bids.

Recommendation

We recommend that JEA draft and implement procedures for Limited Competition Bids and include them in their Purchasing Code and Operating Procedures.

AUDIT OBJECTIVE #2

To determine that JEA is in compliance with the Purchasing Code and their Operational Procedures in regards to Sole Source Purchases, Emergency Purchases, and Standard, Proprietary and Original Equipment Manufactured Items.

We noted the findings for Objective #2 are as follows:

Finding #3

The Certification of Sole Source could not be located or verified in Oracle or in the file in two (18%) out of 11 purchases tested.

Recommendation

We recommend that a copy of the applicable certificate be kept with the purchase order and attached to the award prior to the approval by the Awards Committee.

Auditee's Response to Finding #3

Sole source certificates are now electronic documents. Procedures have been implemented to ensure sole source certificates are confirmed prior to approval by the Awards Committee and documented in the award document itself.

Finding #4

Approval by the awards committee could not be located for Emergency Purchases for three (10%) out of 29 purchases.

Recommendation

We recommend that all purchases over \$50,000 be reviewed to ensure that the awards committee has approved the purchase.

Auditee's Response to Finding #4

Procedures have been implemented to ensure all emergency purchases over \$50,000 are ratified by the Awards Committee.

AUDIT OBJECTIVE #3

To determine that JEA is in compliance with the Minority Business Enterprise (MBE) Program and that established goals have been met.

Our findings for Objective #3 are as follows:

Finding #5

All of the required documentation was not present in the files for 44 (98%) of the 45 MBE vendors tested.

Recommendation

We recommend that the employee responsible for creating and maintaining the MBE Vendor files be properly trained to include all of the documents required in the application in the MBE vendor files. In addition, we recommend that the checklist present in the MBE application be completed prior to the approval of each MBE file and that each file be reviewed annually to ensure that all of the required information is present in the file prior to re-certification.

Auditee's Response to Finding #5

Our outsource consultant was using a checklist that appears to be more restrictive than our Purchasing Code. By code, not all documents listed on the checklist are required for certification. We have reviewed the checklist and the outsource consultant will revise it to reflect only what the Purchasing Code requires. The Manager of Procurement will now receive all MBE applications. Once the outsource consultant has completed the certification process and made a recommendation for certification or denial of certification, the Manager of Procurement will ensure the file is complete, review the documentation, and approve or disapprove the recommendation.

Finding #6

The Chief Purchasing Officer has not submitted a report summarizing JEA's MBE certification activity and program results to the JEA Board as required by Article 11-303 of the JEA Purchasing Code. The first report was due in June 1997.

Recommendation

We recommend that the Chief Purchasing Officer prepare and submit a report to the JEA Board immediately and continue to do so annually. We also recommend that JEA develop a procedure to ensure that all required reports are submitted to the JEA Board upon the required due dates.

Auditee's Response to Finding #6

A report summarizing JEA's MBE program results was submitted to the JEA Board on July 17, 2001. Copy is attached. Procedures have been implemented to ensure future reports are submitted on required due dates.

Internal Control Weakness #2

There is not a separation of duties for Minority Business Enterprise (MBE) Certification. Currently, the MBE Manager receives the MBE applications, conducts site visits, performs the review, and has the final approval for certifying a vendor as an MBE.

Recommendation

We recommend that someone review all of the work of the MBE Manager to ensure that all MBE certified vendors meet the requirements dictated in the Purchasing Code and Operational Procedures.

Internal Control Weakness #3

There are no procedures for the information that must be kept in the MBE vendor files.

Recommendation

We recommend that a procedure be drafted that dictates the documents required to be in the MBE vendor files.

AUDIT OBJECTIVE #4

To determine that the appeals filed with the Procurement Appeals Board were reviewed in accordance with the Purchasing Code and Operational Procedures.

There were no findings for Objective 4.

Respectfully submitted,

Robert O. Johnson, CPA
Council Auditor

Audit Performed by:

Renee Smith, CPA

Jennifer Spinelli

21 West Church Street
Jacksonville, Florida 32202-3139



August 9, 2001

Robert O. Johnson, CPA
Council Auditor
City of Jacksonville

ELECTRIC

WATER

SEWER

We appreciate the professionalism of your audit team and the feedback provided to us in your Report No. 533 dated July 26, 2001. We have listed below our responses to your examination Findings #1 through #6.

Finding # 1

Proof of public notice was not advertised within the time guidelines listed in Section 255.0525 of the Florida Statutes in one of 51 Invitation for bids tested.

Response

All public notices now follow the procedures. Procedures will be amended to be consistent with the less stringent requirements of FS 255.0525.

Finding #2

A reason for the lack of competitive bidding could not be located in the contract file for five (11%) out of 44 contracts tested.

Response

JEA's practice has been to include reasons for limited competition bidding in the request for award document, rather than using a separate document. Procedures will be amended to include this process.

Finding #3

The Certification of Sole source could not be located or verified in Oracle or in the file in two (18%) out of 11 purchases tested.

Response

Sole source certificates are now electronic documents. Procedures have been implemented to ensure sole source certificates are confirmed prior to approval by the Awards Committee and documented in the award document itself.

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Finding #4

Approval by the awards committee could not be located for Emergency Purchases for three (10%) out of 29 purchases.

Response

Procedures have been implemented to ensure all emergency purchases over \$50,000 are ratified by the Awards Committee.

Finding #5

All of the required documentation was not present in the files for 44 (98%) of the 45 MBE vendors tested.

Response

Our outsource consultant was using a checklist that appears to be more restrictive than our Purchasing Code. By code, not all documents listed on the checklist are required for certification. We have reviewed the checklist and the outsource consultant will revise it to reflect only what the Purchasing Code requires. The Manager of Procurement will now receive all MBE applications. Once the outsource consultant has completed the certification process and made a recommendation for certification or denial of certification, the Manager of Procurement will ensure the file is complete, review the documentation, and approve or disapprove the recommendation.

Finding #6

The Chief Purchasing Officer has not submitted a report summarizing JEA's MBE certification activity and program results to the JEA Board as required by Article 11-303 of the JEA Purchasing Code. The first report was due in June 1997.

Response

A report summarizing JEA's MBE program results was submitted to the JEA Board on July 17, 2001. Copy is attached. Procedures have been implemented to ensure future reports are submitted on required due dates.

Respectfully submitted,



Donald A. Boggs
Chief Purchasing Officer

Attachment

DAB/tj



IIA-4
7-17-01

INTER-OFFICE CORRESPONDENCE

July 10, 2001

**SUBJECT: RECORD OF JEA MINORITY BUSINESS ENTERPRISE (MBE)
PROGRAM ACTIVITY**

FROM: Walt Bussells, Managing Director/CEO

TO: Services Committee

J. D. Collins, Chairman
Ernie Isaac, Vice Chairman
Dr. Leroy Polite
Jake Schickel

BACKGROUND:

Section 11-303(2) of the JEA Purchasing Code requires the Chief Purchasing Officer to submit the results of the JEA MBE Program to the JEA Board on an annual basis.

DISCUSSION:

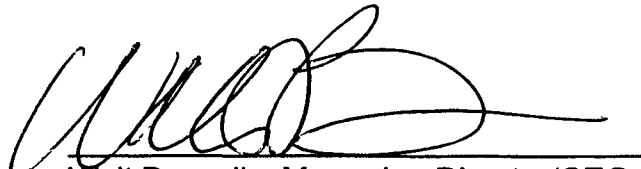
The JEA MBE Program's initial term was three years beginning June 1, 1996, with continuation of the program for two additional years approved by the Board May 15, 2001.

MBE Program Annual Totals:

| | |
|---------------------------|--------------|
| FY 97/98 | \$ 3,765,676 |
| FY 98/99 | \$ 5,442,918 |
| FY 99/00 | \$20,178,083 |
| FY 00/01 (Oct 1 – Jun 30) | \$19,016,214 |

RECOMMENDATION:

No action by the JEA Board is required.


Walt Bussells, Managing Director/CEO

WPB/db/tj

APPROVED BY THE JEA

AT ITS MEETING ON 7-17-01

AGENDA ITEMS # II A-4 CB