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## Audit Update: Intentions for equity in construction contracting are good, progress is slow

News Article



This is a one-year follow-up to our 2020 report, "Equity in Construction Contracting: Some goals achieved despite, mismanagement, waste, and gamesmanship."

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The Procurement Division of the Office of Management and Finance made little progress toward implementing the audit's recommendations. Management said its progress was slowed while a new Chief Procurement Officer was hired and its intention to solicit community input on how to implement the audit recommendations. The issues identified in the audit are long standing and have persisted for years through numerous Bureau and Procurement leadership changes.

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Most recommendations were in progress but Procurement decided not to pursue two that were intended to shore up the integrity of the programs. Two recommendations have been implemented: one related to advertising upcoming projects and one to report progress toward equity goals.

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## Recommendations not implemented



- **Will not collect data to monitor for bid-rigging**

We recommended that Procurement collect data on prices submitted for bid items to protect against collusion and bid-rigging. This risk is higher when equity programs limit the eligible pool of potential contractors. Instead of collecting data on prices, the Chief Procurement Officer said he will develop an accountability system and report issues to the Chief Financial Officer.

- **No staff assigned to monitor for integrity of equity programs**

We recommended that Procurement appoint a procurement inspector to monitor, investigate, report on, and make recommendations to the authorities about (a) the sufficiency of procurement regulations, (b) project-specific or citywide compliance with procurement regulations, (c) bid collusion, (d) questionable certifications, or (e) other procurement matters as appropriate, based on self-initiation or complaint. We made this recommendation because we observed potential issues, such as problematic certifications, that staff said they could not investigate. Instead of dedicating staff to monitor the integrity of equity programs, the Chief Procurement Officer said he will develop an accountability system and report issues to the Chief Financial Officer.

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## Recommendations in process



- **Bureau intends to evaluate grant program outcomes, but no plan in place**

We recommended that Procurement evaluate the results of grant awards on growth in the construction market. The office said that because the program has only been in place for one year, not enough time has passed to evaluate its effect on the construction market. It said that it will be assessing the grant program but did not provide an evaluation plan. Instead, it provided documentation that it required grantees to develop performance criteria for individual grants. Evaluation of individual grant performance does not replace management's responsibility for overall program evaluation.

- **Still considering goals for new prime contractors**

We recommended that Procurement set a goal for the use of certified prime contractors on construction projects. Procurement added this to a list of program changes to consider but is behind schedule in prioritizing options and making recommendations to Council.

- **Debate over future of the Prime Contractor Development Program continues**

We recommended that Procurement eliminate barriers by awarding all small contracts to certified firms without requiring participation in the Prime Contractor Development Program. Procurement added this to a list of program changes to consider but is behind schedule in prioritizing options and making recommendations to Council.

- **Discussion ongoing on future of technical assistance programming**

We recommended that Procurement eliminate technical assistance offerings, which we found to be disorganized, wasteful, and in conflict with Procurement's role. Procurement said it was working with stakeholders and the Fair Contracting Forum to develop a strategy to respond to this recommendation and address it in a future workplan.

- **Discussing development of criteria to prevent project bundling**

We recommended that Procurement create criteria to prevent project bundling, which can negatively affect minority- and women-owned firms if it is used to group projects to exceed the threshold that qualifies projects for the Prime Contractor Development Program. Procurement added this to a list of program changes to consider but is behind schedule in prioritizing options and making recommendations

to Council.

- **Procurement and Prosper Portland are completing program assessments**

We recommended that Procurement implement the oversight processes outlined in the agreement with Prosper Portland to administer the Community Opportunities and Enhancement Program.

Procurement said Prosper Portland is completing its assessment of data collected as a part of the oversight process. Prosper's initial reports describe the businesses and workers that received technical assistance. The reports include details such as participant demographics, success stories, and challenges.

- **Steps taken to confirm funding sources for grants program**

We recommended that Procurement confirm funding sources for the Community Opportunities and Enhancement Program. The City has asked the Multnomah County Circuit Court to confirm it can use ratepayer funds for this program and expects a decision from the court before the end of 2021 that will inform the Fiscal Year 2022-23 budget. In the meantime, Procurement said it will not spend ratepayer funds.

- **Exemptions are being tracked, but rules are not yet followed**

We recommended that Procurement follow rules for documenting exemptions to the Prime Contractor Development Program.

Procurement began tracking exemptions and said it is following applicable rules. It did not follow the rule, however, that exemptions be requested by bureaus – not Procurement – and be signed by the director of the requesting bureau. Procurement said that it would revise its procedures to comply with the rule.

- **New Procurement position will be responsible for supplier diversity and inclusion**

We recommended that Procurement centralize and formalize outreach to ensure fairness. The Bureau moved the role of the Supplier Diversity Officer back to Procurement from the Grants Office. It also created a new Inclusive Contracting Manager position that will be responsible for ensuring supplier diversity and inclusion. Procurement said that it would develop additional strategies to implement the recommendation.

- **New position will be responsible for making sure communications about projects are fair**

We recommended that Procurement formalize tracking of communications between staff and vendors. Procurement said that the new Inclusive Contracting Manager would develop an outreach strategy to ensure fairness, increase opportunities, and remove barriers.

- **Post project evaluations completed, but still working to identify trends and lessons learned**

We recommended that Procurement use post-project reports to identify trends and lessons learned. Procurement continued to conduct post-project assessments as part of the contract close-out process. Staff considered the evaluation information during the subsequent contractor pre-qualification process. Procurement said that it would develop a workplan to examine the need for a new policy to use the information to identify overall trends and lessons learned.

- **Planning to recognize firms and bureaus in next annual report**

We recommended that Procurement recognize firms and bureaus that were successful at meeting goals. Procurement said that it planned recognize successful firms and bureaus in its Fiscal Year 2020-2021 annual report, but a draft of the report was not available at the time of this follow-up.

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## Recommendations implemented



- **Construction project forecasts are now posted online**

We recommended that Procurement post upcoming projects on its website. Procurement has since posted quarterly construction project forecasts for Transportation, Environmental Services, Parks, and Water on the Fair Contracting Forum section of its website.

- **Procurement reported progress meeting equity goals**

We recommended that Procurement produce reports on the City's progress toward contracting equity goals. Procurement's Fiscal Year 2019-2020 annual report and contracting data dashboards fulfilled this recommendation. The annual report includes narratives and data that explain outcomes on equity goals. The dashboards allow users to explore disaggregated contracting equity data.

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View the [original 2020 audit report and recommendations](#).

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