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Fraud Hotline Report: Purchasing problems lead to inefficiency and mistrust

Report



To call it out, call it in.

The Auditor's Office found evidence of inefficiency when investigating a tip about sole source contracting by the Community Safety Division. We shared our findings and recommendations to Community Safety and Procurement Services, which provided guidance and training to the Division.

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Tip to the Fraud Hotline

Tip



The Auditor's Office operates a Fraud Hotline to receive tips about suspected fraud, waste, inefficiency, and abuse.

A July 2022 tip raised concerns about a \$200,000 sole source contract proposed by the Community Safety Division. Community Safety planned to contract with an organization called TrustLab to prepare the Portland Police Bureau for a Truth and Reconciliation process. A Truth and Reconciliation process was proposed by community members because a 2019 community survey sponsored by the Police Bureau found that "an acknowledgement of the history of racism in Portland and in the Portland Police Bureau is a necessary first step to improved trust and legitimacy."

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The tip alleged waste and abuse because Community Safety tried to contract directly with TrustLab, instead of using an open, competitive procurement process. The tipster raised additional concerns about the contract, including that:

- TrustLab is a new organization with less experience in truth and reconciliation, restorative justice, or policing than other local and national providers;
- TrustLab’s relationships with community leaders and current and former Police Bureau members may have inspired the contract; and
- Although Community Safety framed the project an urgent need, there was time to use an open, competitive selection process to give qualified providers an opportunity to bid.

Background

The City’s procurement process is based on the principle that the public is best served, and public monies are best spent, when contracts result from a competitive selection process. However, exceptions apply if specific criteria are met. Bureaus are allowed to contract directly with a contractor, without inviting others to bid, through a “sole source” process. Sole source procurements are allowed if only one contractor, supplier, or product can fulfill the project’s requirements. Sole source procurements are also allowed for pilot projects.

Sole source procurements result in contract awards without an open, competitive selection, so they require full justification and complete documentation. Bureaus must document how the procurement meets sole source criteria and obtain approval from Procurement Services. The City must also notify other potential contractors about the sole source decision and offer them a chance to contest.

Bureaus and Procurement are both involved in the process of obtaining goods or services. Bureau staff typically create solicitation documents, evaluate and select contractors, and draft, negotiate, and administer contracts. Procurement provides guidance and oversight.

Investigation Findings



We found evidence of inefficiency in the sole source procurement process

“Inefficiency” involves an inability to do something in a well-organized or competent way, or the failure to implement processes as intended with minimal wasted time or resources. “Inefficiency” may also occur when the design of a program or policy fails to produce desired outcomes, despite the resources invested.

Our investigation found evidence of inefficiency because the Community Safety Division and Procurement Services misused the sole source procurement when contracting for its truth and reconciliation project.

1. City staff improperly used a pilot exemption to justify the TrustLab sole source procurement

Procurement managers acknowledged that they made a mistake when they allowed this project to proceed using a pilot exemption. City rules do not allow for a pilot exemption for this type of project. Procurement staff said that they only considered the pilot exemption for this project and that they would not have approved this project for a sole source using exemptions related to expertise without more proof that only one provider could perform the work.

TrustLab did not have unique capabilities. On the sole source exemption form, Community Safety stated that TrustLab had experience providing social justice and law enforcement systems expertise and unique relationships with police but did not provide documentation. Procurement did not try to verify this experience and expertise because they only considered the pilot exemption. We identified many other organizations with expertise in truth and reconciliation, restorative justice, and policing.

Though Procurement staff acknowledged that they should not have approved this sole source exemption given the rules in place and the documentation provided, they also said that pilot exemptions should be allowed for these types of projects. They said that staff should have included pilot exemptions in the procurement manual when they last updated it.

2. City policy for allowing pilot project exemptions was too vague

City Code allows for pilot sole source exemptions but does not provide any guidance about what should be defined as a pilot.

- Without guidelines, City staff were confused about which projects should be considered pilots and ran afoul of rules.
- Procurement staff said they follow informal guidelines that pilots must be less than one year long and they try to steer bureau staff away from using the pilot exemption.

This project was expected to take less than a year. Time limits alone do not provide enough information to identify legitimate pilot projects. This guidance is especially inadequate for Professional Technical Expert services, which are often for less than a year. There are many kinds of short-term projects that are not pilot projects. Other examples include community outreach for a specific small-scale project, developing a one-time marketing campaign, or facilitating strategic planning.

3. Staff were not familiar with whether pilot sole source exemptions were allowed for different types of purchases

Staff involved in the TrustLab procurement were not aware of critical rules related to pilot sole source exemptions.

- A high-level Procurement manager said that the Professional Technical Expert purchasing manual allowed for pilot project exemptions before double checking and discovering that they were not allowed.
- The Community Safety project manager misapplied Goods and Services rules for a Professional Technical Expert project and did not know the criteria for what should be considered a pilot.
- The project manager was not sufficiently trained.
 - They said they tried to take a Professional Technical Expert training but had to leave early due to workload.
 - They took a Goods and Services training, but the training only briefly touched on sole source exemptions and did not cover pilots.

4. Procurement staff posted an unsigned form to the website and delegated signature authority

Goods and Services rules require the City to post a sole source notification form to a website to allow other potential contractors a chance to appeal. The form includes the Chief Procurement Officer’s determination that the project is eligible for an exception.

- In this case, Procurement staff posted an unsigned form on the website.
- Procurement later provided us with a signed form, but the signature was dated after the project was posted and the period to contest the sole source determination expired.

The Chief Procurement Officer is required to approve sole source exemptions but delegated this authority to nine members of his staff. The person who signed this form was two levels below the Chief.

We did not find evidence of waste or abuse.

We did not find evidence of waste because the City ultimately cancelled the project and the did not spend any money on it.

We also did not find evidence indicating that the Community Safety project manager for this procurement abused their position. Members of the TrustLab team were former high-level Police Bureau members, but no current City employees were involved in the organization.

Our Recommendations



TrustLab may have been Community Safety’s top choice for the project, but the decision about which contractor to use should have been made through a competitive procurement process. Competitive procurements ensure that the City receives the best value for public funds and that purchasing decisions are fair and transparent. Avoiding that process increases government mistrust and causes inefficiency. We found it especially troubling that Community Safety avoided an open and competitive process for selecting a contractor to

help set the course for rebuilding trust between the Police Bureau and community members.

To ensure that future sole source projects are properly vetted and comply with City rules:

1. Procurement Services should update the Professional Technical Expert procurement manual to include the option to use a pilot sole source exemption.
2. Procurement should issue additional guidance on sole source procurement processes, including pilot projects. Procurement should especially consider criteria to evaluate whether short-term or one-time projects can be considered a pilot. For example, it could require an evaluation plan to accompany any requests for a pilot sole source exemption.
3. The Community Safety Division and Procurement should ensure that all staff involved in contracting receive sufficient training on procurement processes. Training should include criteria for a pilot and how to distinguish between Goods and Services and Professional Technical and Expert contracts.
4. Procurement should ensure that sole source exemptions are signed by either the Chief Procurement Office or a Procurement Manager and that forms are signed before they are posted on the website.

Response from the Community Safety and Procurement



Community Safety and Procurement responded to the investigation with a statement generally agreeing with the recommendations. Procurement said it would update the Professional Technical and Expert procurement manual, release additional guidance on sole source procurements, and review sole source exemptions before posting. Community Safety said it would have staff take additional procurement training and training specifically about the sole source process and the difference between Professional, Technical, and Expert and Goods and Services procurements.

About Portland's Fraud Hotline

The Auditor's Office administers the Fraud Hotline to enable the public and City employees to confidentially report suspected fraud, waste, inefficiency and abuse of position by or against the City. The Hotline also serves to identify and prevent losses of City funds and act as a deterrent to fraud, waste and abuse of position. Hotline tips can be submitted online at www.PortlandFraudHotline.com or by phone by calling 866-342-4148.

When the Auditor's Office finds waste, inefficiency or abuse of position via the Hotline, it is required by law to notify the Portland City Council of the findings. This report, which is delivered to the City's mayor and commissioners, serves as that notice. It is also released publicly to inform about substantiated Hotline tips.

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