

# CITY OF FONTANA

Review Report

## INTERNAL CONTROLS OVER COMPENSATION AND CONTRACTING PROCESSES

*July 1, 2019, through June 30, 2021*



MALIA M. COHEN  
CALIFORNIA STATE CONTROLLER

December 2024



MALIA M. COHEN  
CALIFORNIA STATE CONTROLLER

December 20, 2024

Mr. Matthew C. Ballantyne, City Manager  
City of Fontana  
8353 Sierra Avenue  
Fontana, CA 92335

Dear Mr. Ballantyne:

The State Controller's Office reviewed the City of Fontana's internal controls over its compensation and contracting processes for the period of July 1, 2019, through June 30, 2021. Our review found deficiencies in the city's controls over its contracts.

The city should develop a comprehensive plan to address these deficiencies. The plan should identify the tasks to be performed, as well as milestones and timelines for completion. The City Council should require periodic updates at public meetings of the progress in implementing this plan. Furthermore, we request that the city provide the State Controller's Office with a progress update of its plan six months from the issuance date of the final report.

We appreciate the city's assistance and cooperation during the engagement, and the willingness to implement corrective actions.

If you have any questions regarding this report, please contact Efren Loste, Chief, Local Government Audits Bureau by telephone at 916-324-7226, or email at [eloste@sco.ca.gov](mailto:eloste@sco.ca.gov). Thank you.

Sincerely,

*Original signed by*

Kimberly A. Tarvin, CPA  
Chief, Division of Audits

KAT/ac

Mr. Matthew C. Ballantyne

December 20, 2024

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Copy: The Honorable Acquanetta Warren, Mayor

City of Fontana

Peter A. Garcia, Mayor Pro Tem

City of Fontana

Phillip W. Cothran, Council Member

City of Fontana

John B. Roberts, Council Member

City of Fontana

Jesus Sandoval, Council Member

City of Fontana

Jessica Brown, Chief Financial Officer

City of Fontana

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# Review Report

## Summary

The State Controller's Office (SCO) reviewed the City of Fontana's (the city) internal controls over compensation and contracting processes for the period of July 1, 2019, through June 30, 2021 (fiscal year 2019-20 and fiscal year 2020-21). When information obtained from the city's officials, independent auditors, and other audit reports merited further review, we expanded our testing to include prior-year and current-year transactions.

Our review found deficiencies in the city's contracting internal controls, as described in the Finding and Recommendation section.

## Background

The city is a general law municipality in San Bernardino County, California. The city has a total area of 52.4 square miles, with a population of approximately 213,000 as of 2019.

The city is led by a five-member City Council under the council-manager form of government. The City Council consists of the mayor and four other members, elected on a non-partisan basis. The mayor is elected at large to serve a four-year term. Council members are elected by district to serve four-year staggered terms, with two council members elected every two years. The City Council is responsible for, among other things, passing ordinances, adopting the budget, appointing committees, and hiring both the City Manager and City Attorney. A number of citizen boards and commissions serve as advisory bodies to the City Council. The City Manager is responsible for carrying out the policies and ordinances of the City Council, for overseeing the day-to-day operations of the government, and for appointing the heads of the various departments.

## Review Authority

We conducted this review pursuant to Government Code (GC) section 12422.5, which authorizes the SCO to "audit any local agency for purposes of determining whether the agency's internal controls are adequate to detect and prevent financial errors and fraud."

## Objective, Scope, and Methodology

The objective of our review was to evaluate the adequacy of the city's internal controls over its compensation and contracting processes for the period of July 1, 2019, through June 30, 2021.

To achieve our objective, we performed the following procedures:

- We evaluated the city's internal compensation and contracting policies and procedures.
- We conducted interviews with city employees and observed the city's business operations related to compensation and contracting processes to evaluate the city's internal controls.
- We reviewed city council meeting minutes, city ordinances, financial data and reports that were relevant to the city's internal controls over compensation and contracting processes.

*Standards for Internal Control in the Federal Government* (the Green Book), issued by the Government Accountability Office, describes the fundamental components, principles, and attributes of effective internal control systems. We applied these standards to assess the city's internal controls included in our review. This review is intended to assist city management improve its internal controls over its compensation and contracting practices.

## **Conclusion**

Our review found deficiencies in the city's contracting controls, as described in the Finding and Recommendation section.

During our review of the city's hiring and compensation practices, we noted that the city had paid a former City Manager \$1.12 million. This amount included payments for accrued vacation and leave balances, in addition to severance and administrative leave pay in accordance with a settlement agreement. The city cited legal and confidentiality requirements that prevented them from providing certain information necessary for us to assess the reasonableness of the severance and administrative leave payment.

## **Follow-up on Prior Review Findings**

We have not previously conducted a review of the city's internal control system.

## **Views of Responsible Officials**

We issued a draft review report on August 12, 2024. The city's representative responded by email on September 16, 2024, agreeing with most of the review results. In the email, the city's representative also emphasized that the reported finding occurred before the current administration was in office, including the Chief Financial Officer and the City Manager.

In the Finding and Recommendation section, we have included excerpts of the sections of the city's response that directly address our finding. The city's complete response is included in this report as an attachment.

## **Restricted Use**

This report is solely for the information and use of the city and the SCO; it is not intended to be, and should not be, used by anyone other than these specified parties. This restriction is not intended to limit distribution of this review report, which is a matter of public record and is available on the SCO website at [www.sco.ca.gov](http://www.sco.ca.gov).

*Original signed by*

Kimberly A. Tarvin, CPA  
Chief, Division of Audits

December 20, 2024

# Finding and Recommendation

## **FINDING— Lack of controls over city contracts**

During our review of the city’s contracting process from June 1, 2019, through July 31, 2021, we found that city management had not properly awarded contracts for professional services and public works projects. In general, we found that the city had not always followed its procurement policies and procedures for contracts. Not following procurement practices, such as competitive bidding, increases the risks of paying higher than the market rates or other contract terms that may not be in the best interests of the city.

### **Failure to consistently follow policies and procedures**

We found that the city had not conducted an informal bid process before procuring services from Urban Futures and Worthington Partners, worth \$25,000 and \$15,000 respectively. We asked the city to provide documentation supporting a competitive process or justification for a sole-source contract; however, the city was unable to provide either.

City officials stated that the City Manager has the authority to approve contracts up to \$100,000 without the approval of the City Council. Formal bids are requested for contracts over \$25,000, and informal quotes are allowed for contracts under \$25,000. However, the official acknowledged that the City Manager has not consistently followed these guidelines.

The city’s Municipal Code states that, whenever possible, open market purchases should be made after at least three bids; and that contracts should be awarded in the best interests of the city. The Municipal Code also states that bids can be obtained by written requests to prospective vendors or by telephone. Section 14.9, “Methods of Source Selection & Bidding,” of the city’s *Purchasing Policies Manual* states that “all supplies, materials, equipment, and services” acquired by the city should be purchased “from the lowest, responsible, responsive bidder after taking bids if the estimated total cost . . . exceeds \$2,500.”

By not consistently adhering to its own policies and procedures, the city cannot ensure that it is obtaining the most competitive price for procured services. The city might be vulnerable to vendors charging costs above market rate when it does not conduct a competitive bidding process.

### **Large contract awarded without a competitive bidding process**

The city’s Municipal Code states that the city will award public projects exceeding \$125,000 to the lowest responsible, responsive bidder. Section 14.9.3, “Formal Competitive Request for Proposal,” of the city’s *Purchasing Policies Manual* states that a request for proposal can be used “when it is determined that the use of competitive sealed bidding is not practical.” Section 14.9.3 also states that the request for proposal process ensures that the city will obtain “the best combination of pricing, quality, service, and availability of products and services.”

In February 2019, the city entered into an energy services agreement worth over \$4.5 million with Alliance Building Solutions (ABS) for energy efficiency upgrades and used GC section 4217.10 as a justification for not conducting a competitive bidding process.

According to the city's 2019 staff action report, ABS approached city officials in 2016 and proposed that the city use GC section 4217.10 to procure its services. The city believed that Government Code authorized it to contract with ABS as long as the City Council determined in a public hearing that the contract was in the best interest of the city, and that the savings over the lifetime of the project outweighed the cost of the project.

GC section 4217.10 states:

To help implement the policy set forth in Section 25008 of the Public Resources Code, . . . public agencies may develop energy conservation, cogeneration, and alternate energy supply sources at the facilities of public agencies in accordance with [Chapter 3.2 of Government Code].

GC section 4217.12(a) states, in part:

Notwithstanding any other provision of law, a public agency may enter into an energy service contract . . . on terms that its governing body determines are in the best interests of the public agency if the determination is made at a regularly scheduled public hearing, public notice of which is given at least two weeks in advance, and if the governing body finds:

(1) That the anticipated cost to the public agency for thermal or electrical energy or conservation services provided by the energy conservation facility under the contract will be less than the anticipated marginal cost to the public agency of thermal, electrical, or other energy that would have been consumed by the public agency in the absence of those purchases. . . .

GC section 4217.16 permits an agency to request proposals prior to awarding contracts:

Prior to awarding or entering into an agreement or lease, [emphasis added] the public agency may request proposals from qualified persons. After evaluating the proposals, the public agency may award the contract on the basis of the experience of the contractor, the type of technology employed by the contractor, the cost to the local agency, and any other relevant considerations. The public agency may utilize the pool of qualified energy service companies established pursuant to Section 388 of the Public Utilities Code and the procedures contained in that section in awarding the contract.

Despite the city's interpretation of GC section 4217.10, the city's decision to procure services from ABS without conducting a competitive bidding process did not ensure the costs incurred were in the taxpayers' best interests. Furthermore, the city subsequently procured services from ABS two additional times. It entered into agreements worth over \$3.6 million and \$1.5 million, both times using GC section 4217.10 as justification for not conducting a competitive bidding process. In total, the city awarded contracts totaling \$9.7 million to ABS. To properly safeguard taxpayer



funds, the city should ensure that it conducts a competitive bidding process when awarding large contracts.

### **Questionable use of sole-source designations**

We tested the city's professional services agreement for \$78,888 with Garner Holt Education Through Imagination, LLC (Garner Holt) to determine whether the city had used a competitive process or had instead documented justification for a sole-source contract. We found that the city misused the sole-source designation when it awarded the contract to Garner Holt. The company was contracted to provide after-school program assemblies and presentations with a focus on the science, technology, engineering, arts, and mathematics (STEAM) curriculum.

The city's policies and procedures contain exceptions to normal purchasing procedures, such as when services are unique and possess specific characteristics that can be filled by only one source. The city's policies further state it should maintain a sole-source file containing letters, justifications, and other written documentation for all sole-source purchases.

According to the city's staff action report, the contract was to be awarded to a vendor who provided educational and literacy elements in one or more core academic subjects: reading/language arts, mathematics, history and social studies, and science. We noted that Garner Holt is located in Redlands, California, approximately 24-minutes by car from the city. We found several other after-school education providers with a specialty in science, technology, engineering, and mathematics (STEM) curriculum located within a similar driving distance from the city. Specifically, the Tech STEAM Center and STEM Center USA are located approximately 29 minutes and 31 minutes away. Given that other nearby vendors provided a similar curriculum, the city should have conducted a competitive procurement process.

City officials did not adhere to city policies and procedures regarding sole source designation or required documentation requirements because they did not maintain a sole-source file for Garner Holt. The city did not adequately safeguard taxpayer funds when it misused the sole-source designation. The city should conduct a competitive bidding process to ensure that it purchases services, supplies, and equipment at competitive prices.

### **City authorized a task order after the contract expired**

We reviewed the city's contract with NCM Engineering and found that the city had followed proper procurement procedures by soliciting bids from other qualified firms prior to selecting NCM Engineering to provide project management and engineering design services. However, the city authorized an approximately \$88,500 task order for engineering and design services on February 11, 2020, although the contract's expiration date was January 7, 2018.

To ensure that the contract terms are updated and that the city had maintained a competitive process, the city should have authorized an

amendment to extend the contract with NCM Engineering instead of issuing the task order, or it should have solicited other bids to complete the task.

City officials stated that when a professional services contract approaches its end, the city will determine whether to extend the contract. However, the city does not have policies and procedures for this process.

### Recommendation

We recommend the city:

- Conduct informal competitive bidding processes for small contracts, and document the justification for any exemptions to competitive bidding;
- Follow its purchasing policies and procedures pertaining to competitive and sole-source procurement in order to ensure that requirements to use a competitive procurement process are not circumvented;
- Undergo training on sole-source procurement;
- Conduct competitive procurement for large contracts to protect taxpayer funds; and
- Establish written policies and procedures for when contracts expire. These policies and procedures should: 1) ensure that projects are completed within their terms; and 2) stipulate that, if additional tasks are required near a contract's end, an amendment to extend the contract should be authorized, or bids should be solicited from other vendors.

### City's Response

Regarding the city's failure to consistently follow its own policies and procedures, the city stated:

Management acknowledges that there was no informal bid conducted for the Urban Futures and Worthington Partners contracts. The interim City Manager during the time of the procurement of Urban Futures and Worthington Partners, requested staff to issue contracts without doing any informal process. The services of Worthington Partners were to assist with the hiring of the City Manager position. Urban Future was hired to assist the interim City Manager [with] development related projects and services.

With the hire of the new City Manager, along with the executive staff, have communicated the importance to follow the city's procurement policies and procedures. The city updated Fontana City Code Article V. – Purchasing, along with the *Purchasing Policy and Procedure Manual* in December of 2022.

Regarding the large contract awarded without a competitive bidding process, the city stated:

The City Manager at the time of the procurement of the energy services agreement(s) under GC section 4217.10, determined that it authorized a

public agency to utilize an alternative procurement process. At the time of the information that the city had obtained, Council acted in the best interest of the city as guided by consideration of the public welfare.

[GC section 4217.16] states that public agency may [emphasis added by the city] request proposals from a qualified person. It does not prohibit agencies from entering into an agreement. If the section stated that public agency shall request proposals, then only that procedure can be conducted. The code was established for the governing body to determine what is in the best interest of the public agency and their taxpayers.

Regarding the city's questionable use of the sole-source designation, the city stated that "The deficiencies in processes have all been addressed through training and with the updated *Purchasing Policy and Procedure Manual* in December 2022."

Regarding the task order that was authorized after expiration of the related contract, the city stated:

Management acknowledges that [Amendment No. 1.1 was approved] after the expiration date of Task Order No. 1. The department overseeing the task order did not notify Purchasing that the consultant was still providing the service.

Purchasing has implemented the Contract Management system for monitoring contracts and revised the business process for maintaining contracts. The revisions to the user's manual of the city's ERP [enterprise resource planning] system and staff training will be available to all staff members.

#### SCO Comment

Our finding and recommendation remain unchanged.

With regard to the large contract awarded without a competitive bidding process, we would like to clarify that our finding and recommendation did not state that the city's alternative procurement process was not allowable per GC section 4217.10. Our primary concern is that the city entered into a \$4.5 million energy services agreement with ABS without conducting a competitive bidding process, and subsequently entered into two further agreements, for an approximate total of \$5.2 million, also without conducting a competitive bidding process.

We recommend that the city use a more competitive procurement process for larger contracts to ensure that it is safeguarding taxpayer funds.

**Attachment—  
City of Fontana’s Response to Draft Review Report**

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# State Controller Office

## Internal Controls Review Report (Dated June 2024)

### FINDINGS AND CITY RESPONSES

#### Failure to consistently follow policies and procedures (page 3)

##### FINDING

*"We found that the city had not conducted an informal bid process before procuring services from Urban Futures and Worthington Partners, worth \$25,000 and \$15,000 respectively."*

##### RESPONSE

Management acknowledges that there was no informal bid conducted for the Urban Futures and Worthington Partners contracts. The interim City Manager during the time of the procurement of Urban Futures and Worthington Partners, requested staff to issue contracts without doing any informal process. The services of Worthington Partners were to assist with the hiring of the City Manager position. Urban Future was hired to assist the interim City Manager development related projects and services.

With the hire of the new City Manager, along with the executive staff, have communicated the importance to follow the city's procurement policies and procedures. The city updated Fontana City Code Article V. – Purchasing, along with the Purchasing Policy and Procedure Manual in December of 2022.

#### Large contract awarded without a competitive bidding process (page 3)

##### FINDING

*"...the city's interpretation of GC section 4217.10, the city's decision to procure services from ABS without conducting a competitive bidding process did not ensure the costs incurred were in the taxpayers' best interests."*

*"GC section 4217.16 permits an agency to request proposals prior to awarding contracts:*

*"Prior to awarding or entering into an agreement or lease, [emphasis added] the public agency may request proposals from qualified persons. After evaluating the proposals, the public agency may award the contract on the basis of the experience of the contractor, the type of technology employed by the contractor, the cost to the local agency, and any other relevant considerations. The public agency may utilize the pool of qualified energy service companies established pursuant to Section 388 of the Public Utilities Code and the procedures contained in that section in awarding the contract."*

##### RESPONSE

The City Manager at the time of the procurement of the energy services agreement(s) under GC section 4217.10, determined that it authorized a public agency to utilize an alternative procurement

process. At the time of the information that the city had obtained, Council acted in the best interest of the city as guided by consideration of the public welfare.

In GC section 4217.16, states that public agency may request proposals from a qualified person. It does not prohibit agencies from entering into an agreement. If the section stated that public agency shall request proposals, then only that procedure can be conducted. The code was established for the governing body to determine what is in the best interest of the public agency and their taxpayers.

## Questionable use of sole-source designations (page 5)

### **FINDING**

*“City officials did not adhere to city policies and procedures regarding sole source designation or required documentation requirements because they did not maintain a sole-source file for Garner Holt. The city did not adequately safeguard taxpayer funds when it misused the sole-source designation. The city should conduct a competitive bidding process to ensure that it purchases services, supplies, and equipment at competitive prices.”*

### **RESPONSE**

Management acknowledges that the sole source designation was not defined in the Council Action Report authorizing the contract, or the document wasn't provided. The guidelines of the selection process of Garner Holt were based on section 14.6 Sole Source/Non-Competitive Negotiations and Proprietary Purchases. The selection was based on the type of curriculum and that the curriculum was approved by the San Bernardino County Office of Education. The curriculum provided specific characteristics determined by the using department.

- a. Sole Source Procurement – Sole source purchases are made only when items are unique and possess specific characteristics that can be filled by only one source, or when it is determined by the director of the using department and the Purchasing Officer that competitive bidding is not feasible or not advantageous to the City.

The deficiencies in processes, have all been addressed through training and with the updated Purchasing Policy and Procedure Manual in December 2022.

## City authorized a task order after the contract expired (page 5)

### **FINDING**

*“...the city authorized an approximately \$88,500 task order for engineering and design services on February 11, 2020, although the contract's expiration date was January 7, 2018.”*

*“To ensure that the contract terms are updated and that the city had maintained a competitive process, the city should have authorized an amendment to extend the contract with NCM Engineering instead of issuing the task order, or it should have solicited other bids to complete the task.”*

**RESPONSE**

Management acknowledges that the date of the Amendment No. 1.1 was issued after the expiration date of Task Order No. 1. The department overseeing the task order did not notify Purchasing that the consultant was still providing the service.

Purchasing has implemented the Contract Management system for monitoring contracts and revised the business process for maintaining contracts. The revisions to the user's manual of the city's ERP system and staff training will be available to all staff members.

**State Controller's Office  
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