

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF THE INSPECTOR GENERAL**

**AUDIT OF THE DISTRICT OF COLUMBIA  
HEALTH AND HOSPITALS  
PUBLIC BENEFIT CORPORATION**



**CHARLES C. MADDOX, ESQ.  
Inspector General**

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Office of the Inspector General**

Inspector General



March 29, 2001

Michael Barch, Chief Executive Officer  
Public Benefit Corporation  
1900 Massachusetts Avenue, SE  
Washington, D.C. 20003

Dear Mr. Barch:

Enclosed is the final report summarizing the results of our audit of the District of Columbia Health and Hospitals Public Benefit Corporation (PBC) procurement and contract processes and procedures (OIG No. 00-02-13JB).

As a nonprofit corporation within the District of Columbia Government, the legislation chartering the PBC required the agency to establish procurement regulations that would be consistent with competitive procurement practices. However, we found that PBC procurement activities were nearly devoid of any meaningful measure of management controls and oversight, primarily due to a lack of commitment to procurement laws and regulations prior to the tenure of the current Chief Executive Officer (CEO). Against this backdrop, the PBC's solicitation, award, and administration processes were deficient. We recognized these conditions at the audit's mid-course, and subsequently issued a Management Alert Report (MAR) to the current CEO of the PBC. The enclosed report provides greater detail regarding the conditions, which the current PBC leadership acknowledged as indications of a "failure to follow applicable procurement procedures." Conclusions of the audit are as follows:

- During the tenure of a previous CEO, the PBC did not consistently follow its procurement regulations;
- Contract solicitation, execution, and administration processes at the PBC were defective; and
- Current procurement regulations need to be revised for use by the PBC or its successor.

PBC had programs and procedures, albeit insufficient, to help ensure effectiveness and efficiency of operations, reliability of financial integrity, and compliance with applicable laws and regulations. However, management's commitment to them was lacking. Accordingly, any internal controls that may have been in place were degraded, causing the effectiveness and efficiency of PBC operations to become impaired.

Based on our analysis of contracting actions and initiatives, we concluded that executive management often exceeded its authority by not adhering to procurement policies and procedures. Also, we believe these management practices, to some degree, fostered an organizational culture that devalued accountability as a basic operational standard. Specifically, subordinate managers emulated executive management practices for contract awards and administration. As a result, we questioned costs of about \$3.8 million and identified funds totaling nearly \$3 million that may have been put to better use. Additionally, we identified deficiencies related to competition practices, contract monitoring, and financial management.

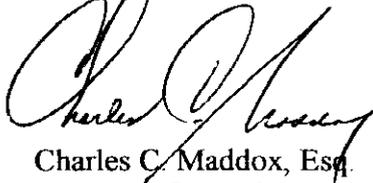
While we are aware that plans are underway to dissolve the PBC as it has existed, this report provides detailed information that should prove useful to any management entity whose responsibilities will include procurement and contracting activities. Furthermore, this report may have fiscal consequences on the District of Columbia as one of our recommendations is that PBC initiate action to address the monetary impacts totaling approximately \$6.8 million identified in this audit.

We also believe that this report exists as a cautionary advisement to all independent agencies that have been chartered to operate outside the framework of District Government procurement regulations. Accordingly, agencies that are given the latitude to establish their own set of procurement standards and regulations should take action to ensure compliance with these regulations.

PBC's comments to the draft of this report are generally responsive to the intent of the recommendations. Additionally, PBC's comments and our evaluation of the comments are incorporated where appropriate. The full text of the PBC's response is included at Exhibit B.

We appreciate the cooperation and courtesies extended to our staff during this audit. If you have any questions, please call me or William J. DiVello, Assistant Inspector General for Audits, at (202) 727-2540.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles C. Maddox". The signature is fluid and cursive, with the first name "Charles" being particularly prominent.

Charles C. Maddox, Esq.  
Inspector General

Enclosure

CM/fb

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**EXHIBITS**

- A. CRITERIA: PBC PROCUREMENT REGULATIONS
- B. PBC'S RESPONSE TO DRAFT REPORT

## EXECUTIVE DIGEST

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### **OVERVIEW**

This report summarizes the Office of the Inspector General's (OIG) audit of procurement and contract activity at the District of Columbia Health and Hospitals Public Benefit Corporation (PBC). The legislation chartering the PBC as a nonprofit corporation within the District of Columbia Government required the agency to establish regulations that would be consistent with competitive procurement practices. This report addresses in detail the OIG's review of 33 contracts, valued at approximately \$18 million, which were representative of the solicitation, award, and administration processes and procedures at the PBC. We also reviewed over 100 transactions totaling about \$80,000 involving small purchases obtained through a PBC credit card account, and disbursements made from the individual PBC checking account to vendors.

While we are aware that plans are underway to close the PBC as it has existed, this report also provides detailed information that should prove useful to any management entity whose responsibilities will include procurement and contracting activities. Furthermore, this report may have fiscal consequences on the District of Columbia as one of our recommendations is that the PBC initiate action to address the monetary impacts identified in this audit.

### **CONCLUSIONS**

We found that PBC procurement activities were nearly devoid of any meaningful measure of management controls and oversight, primarily due to a lack of commitment to sound procurement policies, prior to the tenure of the current Chief Executive Officer (CEO). Against this backdrop, the PBC's solicitation, award, and administration processes were deficient. We recognized these conditions at the audit's mid-course, and subsequently issued a Management Alert Report (MAR) to the current CEO of the PBC. The enclosed report provides greater detail regarding the conditions, which the current PBC leadership acknowledged as a "failure to follow applicable procurement procedures." Conclusions of the audit are as follows:

- During the tenure of a former CEO, the PBC did not consistently follow its procurement regulations;
- Contract solicitation, execution, and administration processes at the PBC were defective; and
- Current PBC procurement regulations need to be revised for use by PBC or its successor.

## EXECUTIVE DIGEST

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Moreover, as a consequence of the above conditions, the monetary impact that resulted is as follows:<sup>1</sup>

Questioned Costs:	\$3,754,936
Funds Put to Better Use:	\$2,975,315
Disallowed Costs:	<u>\$98,779</u>
	<u>\$6,829,030</u>

### CORRECTIVE ACTIONS

We directed 8 recommendations to the CEO of the PBC that represented actions considered necessary to address the concerns described above. (Please refer to the consolidated list of recommendations on page 21 of this report.) The recommendations, in part, center on:

- Revising the PBC procurement and contract administration regulations;
- Completing its standard operating procedures with a view toward ensuring that management controls are in place throughout the entire procurement process;
- Conducting an annual assessment of procurement needs, as required by its procurement regulations; and
- Examining the questioned costs, funds put to better use, and disallowed costs, as identified in Table II, and providing responses to the OIG on proposed actions.

In his response to our draft report, the CEO of the PBC continued to commit to improving the PBC's contracting and procurement processes. The CEO agreed to initiate corrective actions in accordance with the recommendations contained in this report. We summarized the CEO's response to the recommendations on page 21 of this report. In addition, we summarized the CEO's response relating to individual vendors, as necessary.

Finally, we believe that this audit report exists as a cautionary advisement to other independent agencies that have been chartered to operate outside the framework of District Government procurement regulations. Accordingly, agencies that are given the latitude to establish their own set of procurement standards and regulations should take action to ensure compliance with these regulations. The matter of accountability needs to be of paramount concern to any agency that receives government monies, regardless of the status that has been provided to that agency.

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<sup>1</sup> Because many of the contracts that we examined contained violations that related to multiple findings, we refrained from repeating the effect of the violations under each individual finding. Instead, we have chosen to summarize the monetary impact of the violations under Table II, page 18 of this report.

## INTRODUCTION

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### **BACKGROUND**

The D. C. Health and Hospitals Public Benefit Corporation (PBC) was established in 1996 as a nonprofit corporation within the District of Columbia Government under the authority of D.C. Law 11-212, the Health and Hospitals Public Benefit Corporation Act of 1996.<sup>2</sup> While the District of Columbia General Hospital (DCGH) is the key component organization of the PBC serving the general population of the District community, to include the needs of the indigent and uninsured, the PBC also operates seven health clinics within the District. In addition, the PBC is also responsible for the District's school nurse program, an organization of about 150 nurses.

The law that created the PBC also required the PBC to enact procurement policies and procedures that "are consistent with principles of competitive procurement..." D.C. Code §32-262.5(f). Accordingly, until 1998, the DCGH Procurement Regulations, pursuant to Title 22 of the District of Columbia Municipal Regulations (DCMR), governed procurement activity at the PBC. In June 1998 the Council of the District of Columbia, under Proposed Resolution 12-696, approved the present-day PBC procurement regulations.

### **OBJECTIVES**

The Office of the Inspector General's (OIG) audit effort at the PBC began with the intent to review the PBC's individual checking accounts and its credit card account. However, because many of the transactions within these accounts involved disbursements made to contractors, vendors, and consultants, our audit objectives were to determine if the PBC was in compliance with its procurement regulations, and whether PBC internal controls over its procurement processes were effective. Finally, to a lesser extent, the audit included the review of several supplemental cash transfers from the PBC Foundation<sup>3</sup> to the PBC.

### **SCOPE AND METHODOLOGY**

The audit generally covered procurement transactions that occurred during the period July 1997 to July 2000. Transactions outside this timeframe were included in our review when related contract activity occurred.

We reviewed 33 contracts and credit card and checking account activity, for a total value of approximately \$18 million. Initially, 23 of the contracts reviewed were based on the disbursement amounts and disbursement activity recorded in the PBC checking account. However, PBC management requested that we include an additional 10 contracts in our review. The 33 contracts covered 17 vendors. The following table identifies these contracts.

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<sup>2</sup> D.C. Law 11-212 is codified at D.C. Code §§32-261.1-32-263.3.

<sup>3</sup> The PBC Foundation is a separate entity from the PBC. This organization receives, disburses, and monitors grant monies.

## INTRODUCTION

**TABLE I**                      **CONTRACTS REVIEWED AT THE PBC**

<b>Vendor</b>	<b>Type of Services Offered</b>	<b>Number of Contracts</b>	<b>Total Value of Contracts</b>
A	Clinic licensing requirements	1	\$84,915
B	Legal services	4	535,000
C	Community development	1	80,000
D	Financial consultant	1	449,810
E	Management consultant	4	85,893
F	Health management/collections	3	471,744
G	Food and Environmental services	2	7,804,826
H	Information systems	1	186,000
I	Financial consultant and auditing services	1	56,000
J	Computer trouble-shooting	1	1,725,000
K	Legal services	1	95,600
L	Legal services	1	41,000
M	Information systems	1	807,000
N	Health management/collections	1	4,500,000
O	Human resources services	1	135,600
P	Financial and management consultant	8	1,042,127
Q	Legal and investigative services	1	100,000
-	Other supplies and services (credit card account)	-	79,050
<b>Totals</b>		<b>33</b>	<b><u>\$18,279,565</u></b>

To accomplish our objectives, we examined contract files and accompanying correspondence and documentation. We interviewed key PBC contracting officials, financial staff, and managers who had a day-to-day relationship with contracting personnel. We also made third-party contact with seven of the contractors that did business with the PBC. In addition, we coordinated our requests for documentation through the General Counsel of the PBC. Finally, we coordinated our work with the Internal Audit and Internal Security Divisions of the Office of the Chief Financial Officer.

### **CRITERIA**

For most of the audit, we utilized the District of Columbia Health and Hospitals Public Benefit Corporation *Procurement Regulations* as our source of reference for measuring agency compliance with procurement activity. The regulations were issued under the authority of the then Chief Executive Officer/General Manager and the Chief Contracting Officer. The regulations became effective on June 19, 1998, and succeeded the June 1994 DCGH Procurement Regulations. See Exhibit A for a detailed listing of applicable PBC criteria.

## INTRODUCTION

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In addition, because there were instances where the PBC regulations were deficient (see Finding 1, page 7), we measured PBC's performance against similar government agencies' standards. We believe that this process of evaluation was acceptable since the law that created the PBC made it incumbent upon the PBC to establish competitive procurement policies that similar government agencies followed. Accordingly, Title 27 DCMR, Contracts and Procurement, was also a source of reference used during this audit.

### **PRIOR AUDIT ACTION**

On January 8, 2001, the OIG issued a Management Alert Report (MAR) to the Chief Executive Officer of the PBC. The purpose of the MAR was to apprise PBC officials of deficient procurement practices at the PBC so that immediate corrective action could be initiated. In its response, the PBC concurred with the issues identified and assured us that it was committed to achieving full recovery of a procurement program that experienced a near-total breach of management controls. PBC's comments to the MAR indicated that they had taken immediate steps to reverse the deficient trends. We recognize that the remedial process continues to be an on-going effort.

### **OTHER AUDIT MATTERS**

Our attempt to determine the basis for the nearly \$1.7 million in cash transfers from the PBC Foundation to the PBC over an 18-month period (from January 1999 to June 2000) was unsuccessful due to the unauditability of the PBC Foundation records. Ostensibly, the transfers represented reimbursements for salary and administrative expenses for PBC employees who performed work that was related more to PBC Foundation matters than to their duties as hospital employees. The articles of incorporation identify educational, charitable, scientific, and social welfare as the primary purposes of the PBC Foundation. While we were unable to determine why the PBC hired employees who worked primarily for the PBC Foundation and not the hospital, the PBC Foundation nevertheless could not provide documentation to support the reimbursements. The PBC is not responsible for the actions of the PBC Foundation or its records.

Finally, the OIG did not address the issue of whether the PBC violated the provisions of the Anti-Deficiency Act, even though it was evident that funds were expended for contracts where monies were not available for obligation. Anti-Deficiency was not raised in this report because the matter has been previously addressed in the January 26, 2001, Independent Auditors' Report on Compliance and on Internal Control over Financial Reporting Based on an Audit of Financial Statements Performed in Accordance With Government Auditing Standards. In Appendix A of that report, the auditors reported that, pursuant to OMB Circular A-34, the District of Columbia government issued a letter on September 6, 2000, to the President and Congress, reporting a potential violation of the Anti-Deficiency Act during fiscal year 2000 by both the District and the PBC.

## INTRODUCTION

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### **PERSPECTIVE**

We believe that the integrity of PBC's procurement processes and the award of contracts has been compromised. The discussion that follows outlines the conditions that we observed and documented.

With each of the 33 contracts that we reviewed, several of which were reviewed in response to management's request, either the award or administration process did not meet the procurement standards set by the PBC. This condition is particularly problematic given the fact that PBC's procedures and regulations are far less comprehensive than other District government regulations.

Finding 1 of this report deals with the inadequacy of the PBC regulations and management's failure to follow its procurement regulations. This finding lays the groundwork for the ensuing deficiencies. Findings 2 through 4 discuss in detail the lack of compliance with government procurement policy. While the breach in procurement controls reached wide proportions and existed as an unfortunate commentary on PBC management practices, the more consequential findings relate to the disregard of the regulations which had a material impact on the effectiveness and efficiency of the PBC procurement operations.

The corrective action that we recommended for the PBC should address the deficiencies that are noted throughout this report. However, we remain concerned by the extent to which management failed to comply with its own procurement regulations for the 33 contracts we reviewed. Our assessment of procurement processes and procedures, as well as our evaluation of contracts and related correspondence in the contract files, further supports this conclusion.

We had many discussions with PBC personnel to determine why PBC regulations were not always followed. We were also interested in determining why there seemed to be general indifference toward government procurement policies and practices. In nearly every discussion of this type, PBC personnel indicated that standards and regulations were bypassed in favor of expediency. Based on our review of the contracts, none of the procurements qualify for designation as "emergency" procurements as described in the PBC regulations, which allow for purchases under grave and imminent circumstances.

Consistent with our recommendations, we believe that there should be an effort to revise and solidify the PBC procurement regulations. Any undertaking to revise the regulations should be conducted in concert with a contract specialist within the District Government who can be an impartial advocate. Inclusion of a reliable and proven resource from the District Government should help to improve the PBC's procurement regulations, its standard operating procedures, and, the integrity of its procurement management.

## INTRODUCTION

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### **REVISIONS TO THE DRAFT REPORT**

This final report contains minor revisions to the draft report that the OIG circulated for comment on March 9, 2001. We made a change to the monetary impact statement in the transmittal letter and Executive Digest based on a minor computation error. Further, under Table I on page 4, the dollar amount reviewed was changed from \$18,274,538 to \$18,279,565, also due to a computation error.

In addition, certain factual clarifications are included in this final report in response to the PBC's comments (as presented verbatim in Exhibit B of this report). We removed the reference to Vendor A on page 16 relating to government furnished equipment. On page 11, we changed the word "associate" to "Counsel" under Vendor B. Concerning Vendor D, we have removed the reference to the losing vendor on page 11. For Vendor E, we have changed the disallowance on page 17 to reflect that all amounts owed are due from Vendor E, and not any staff consultants. We have changed the language on page 17 and in Table II relating to Vendor F to reflect the full recovery of the duplicate payment. For Vendor G, we recognized that the management oversight amounts were about 30 percent of the contract costs and have made the changes on pages 10, 12, and 17. On page 17, for Vendor M, we changed the reference regarding "Assistant General Counsel" to "Deputy General Counsel and Chief of Staff." We also made necessary changes regarding the PBC Foundation on page 5, stating that the PBC is not responsible for the actions or records of the PBC Foundation.

## FINDINGS AND RECOMMENDATIONS

### FINDING 1: MANAGEMENT ACCOUNTABILITY AND CONTROLS

#### SYNOPSIS

PBC's existing operating procedures were incomplete. PBC had programs and procedures, albeit insufficient, to help ensure effectiveness and efficiency of operations, reliability of financial integrity, and compliance with applicable laws and regulations. However, management's commitment to them was lacking. Accordingly, any internal controls that may have been in place were inadequate, causing the effectiveness and efficiency of PBC operations to become impaired.

Based on our analysis of contracting actions and initiatives, we concluded that executive management exceeded its authority by not adhering to procurement policies and procedures. Also, we believe these management practices, to some degree, fostered an organizational culture that devalued accountability as a basic operational standard. That is, subordinate managers emulated executive management practices at the PBC in terms of how contracts were awarded and administered. As a result, we questioned the costs of over \$4 million and identified funds totaling \$2.7 million that may have been put to better use. Additionally, we identified deficiencies related to competition practices, contract monitoring, and financial management.

#### AUDIT RESULTS

As we discussed in the Perspective Section of this report, the PBC did not follow its own procurement regulations, irrespective of their need to be more comprehensive. Furthermore, the regulations that existed were lacking in many basic areas. Topics such as small purchases, conflicts of interest, contract documentation requirements, sole source justification, and contract evaluation factors lack sufficient coverage, and need to be thoroughly and accurately defined.<sup>4</sup>

Moreover, the responsibilities of a Contracting Officer Technical Representative and/or a Contracting Officer Representative are not defined in the procurement regulations. These responsibilities are essential to an effective acquisition management program. There is a particular need to establish management controls that delineate separation of duties in this regard.

We were informed by the General Counsel of the PBC that, on its own initiative, the PBC is developing standard operating procedures (SOPs) for procurement activity. While we concur with this action, we emphasize that the SOPs will need to ensure that duties and responsibilities are separated sufficiently to preclude an individual from maintaining complete control over an acquisition, purchase, receipt, or other procurement action.

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<sup>4</sup> In an audit report dealing with PBC procurement and contracts, issued on April 5, 2000, by a consulting firm on contract with the PBC, a similar finding appeared, outlining approximately 20 areas relating to PBC contract policies and procedures that were in need of clarification and specificity.

## FINDINGS AND RECOMMENDATIONS

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In summary, the PBC's procurement regulations need to be revised to be consistent with the principles of competitive procurement. The revision should be similar to those set forth in Title 27 of the DCMR, *Contracts and Procurement*. In addition, as mentioned in the Perspective Section, a third-party District agency, which we recommend to be the Office of Contracts and Procurement, should act as an advisor to the PBC in the revision of the regulations. Also, the completion of the SOPs needs to occur as a collaborative effort with the revision of the procurement regulations. Finally, through periodic certifications, all PBC managers and employees associated with procurement execution should acknowledge their commitment to the regulations.

Findings 2, 3, and 4 of this report provide details of our audit concerning the deficiencies identified over procurement operations at the PBC.

## FINDINGS AND RECOMMENDATIONS

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### FINDING 2: SOLICITATION PROCESSES

#### **SYNOPSIS**

Solicitation and award processes at the PBC were inadequate, and contracts and procurements were often based on faulty award procedures. The award process for 14 of the 17 vendors that we examined was flawed, with some form of sole source impropriety as the primary deficiency. These 14 vendors had contracts that totaled nearly \$13.2 million.

PBC's lack of commitment to its procurement policies and procedures resulted in practices that potentially suggest contract irregularities with 4 contracts valued at nearly one million dollars. For these contracts, the files contained documents to indicate that pre-selection occurred. Specifically, we determined that the PBC conducted privileged conversations with contractors, abandoned requirements meant to protect the government's interests, misrepresented project costs to prospective bidders, and exchanged favors with vendors.

Finally, there were six occasions when the PBC outsourced for services that possibly could have been provided by PBC salaried staff. These contracts totaled over \$9 million. For example, the PBC spent nearly \$8 million for two contracts in food services and environmental services. About 30% of the cost of these contracts, or over \$2.5 million, was for "management oversight", a function that could have been provided internally. In another instance, over \$800,000 was spent for management information services over a 21-week period. Before and after this timeframe, PBC staff handled these operations. We found no documentation justifying the need to contract for these services, as required by Section 205 (r) of the D.C. Health and Hospitals Public Benefit Corporation Act of 1996.

#### **AUDIT RESULTS**

For fourteen of the 17 vendors, solicitation and subsequent award processes did not follow PBC's procurement regulations. First, contracts at the PBC did not comply with two standards contained in the PBC's procurement regulations. Section 9516.1 requires that sole source purchases be avoided whenever possible. If sole source awards occur, there must be written justification to support the acquisitions. Second, Section 9516.2 and Section 9500.6 of the procurement regulations require the PBC to allow employees to submit bids or proposals for services prior to contracting out a service or activity performed by PBC employees. We found several occasions in which PBC contracted with vendors without giving its employees an opportunity to compete. It is incumbent upon PBC management to document that contracting out will achieve increased efficiencies and cost savings, as required by Section 205(r) of the D.C. Health and Hospitals Public Benefit Corporation Act of 1996. (See Exhibit A for additional criteria.) We summarize the details by vendor.

## FINDINGS AND RECOMMENDATIONS

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<u>Vendor</u>	<u>Results</u>
A	No sole source justification or contract modifications were in the files even though we believe that the contractor performed a valuable service for the PBC involving clinic licensing. The contractor was paid nearly \$85,000, despite the fact that the contract was limited to about \$39,000.
B	<p>While all 4 contracts that this vendor entered into with the PBC were lacking or contained no sole source justification, the most egregious condition involved the award of a \$200,000 (approximate) contract where the following solicitation scenario occurred:</p> <ul style="list-style-type: none"><li>• The firm's Counsel was on contract to the PBC as acting General Counsel when this person's firm was awarded this additional \$200,000 contract. The associate was privy to solicitation correspondence emanating from the CEO's office.</li><li>• The chief contracting officer sent 3 other firms a request for a contract proposal, but allowed them less than 24 hours to respond. In the interim, the PBC already had a version of the selected firm's proposal on file prior to the request to the 3 firms.</li></ul>
C	No sole source justification was in the files. In addition, while initially requiring the contractor to certify and guarantee that private funding was available to repay the \$80,000 contract, (which represented an "advance payment" for architectural and engineering services), the PBC retracted and inexplicably provided the funds to the contractor.
D	The Request For Information on this solicitation for financial services clearly indicated that project funding was limited to \$200,000. Only two of four vendors responded. Unaccountably, in ensuing discussions with the two remaining vendors, project monies were identified as not being problematic. A subsequent contract was awarded for \$450,000.
E	This vendor had four contracts with the PBC. In two instances, the contracts were modified, bringing the total value of each contract above \$25,000. With both contracts, it appeared that the PBC was splitting requirements to avoid competitive solicitation processes since the modifications in both instances were dated after the services were performed (see Finding 3). In a third contract that exceeded \$25,000, there was no sole source justification in the contract files.

## FINDINGS AND RECOMMENDATIONS

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Finally, in all four contracts, there were services provided by this contractor that could have been performed by PBC employees. Such services include recruiting personnel and establishing and writing performance standards.

G In violation of Sections 9508.1 and 9508.2 of its regulations, the PBC did not allow firms 30 days to respond to the two solicitations eventually awarded to this vendor. In both instances, the response was due to the PBC in nine days. More importantly, the vendor received payments of nearly \$8 million, of which approximately 30% represented “management oversight” services that possibly could have been performed by PBC employees.

H Improper sole source award. Another contractor (not Vendor H) doing business with the PBC offered the PBC monthly discounts if Vendor H received an award to develop a timekeeper system for the PBC. Vendor H subsequently was awarded a \$186,000 contract with the PBC. The timekeeper system was never completed (See Finding 4 Vendor H).

I-M, O-P No sole source justification, or insufficient justification, in the contract files for these 7 vendors. In addition, three of the seven vendors provided services totaling nearly \$2 million that possibly could have been performed by PBC employees. Such services include providing routine management information services, developing human resources programs, and performing oversight and project management for the PBC with another contractor.

It was difficult to determine why the PBC awarded an inordinate amount of sole source contracts because documentation in the contract files was scarce. We generally concluded that this practice occurred because there was a lack of acquisition planning and coordination by the PBC’s executive staff and contracting office. The chief contracting officer stated to us that his office had not completed an acquisition plan during his incumbency with the PBC.<sup>5</sup> An acquisition plan, at a minimum, would identify procurement needs, timelines for the solicitation and award of the contract, type of service, deliverables, and other critical user needs.

Based on our observations, it appears that PBC management viewed many significant acquisitions as “emergency” procurements. Consequently, established policies and procedures were sacrificed for the sake of expediency. We concluded that the contracting actions we reviewed did not meet the definition of emergency procurement as cited in PBC’s procurement regulations Section 9601. The absence of planning, with regard to acquisitions, led to inefficiency, ineffectiveness, and questionable practices at the PBC.

Inadequate time to respond to proposals was yet another breach of policy which effectively created uncompetitive processes for prospective bidders. These bidders, who might

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<sup>5</sup> Section 9507.1 of the PBC’s procurement regulations requires the PBC to prepare an annual acquisition plan.

## FINDINGS AND RECOMMENDATIONS

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otherwise offer cost-effective proposals, were disadvantaged by the unrealistic time constraints placed on them by the PBC.

There are also significant concerns relating to over \$9 million in outsourced services covering 6 contracts that could have potentially been avoided had the services of PBC employees been considered fully. We could find no support to justify contracting out these collective services (See Table II for the monetary impact of this finding).

## FINDINGS AND RECOMMENDATIONS

### FINDING 3: CONTRACT EXECUTION

#### SYNOPSIS

Nearly every contract examined contained some type of authorization or approval error. Generally, the PBC did not ensure that funding authorizations and requisite approvals were obtained prior to executing contracts. Because of a lack of planning, it appeared to be standard practice to allow vendors to commence services prior to contract award. As a result of these weak processes, the PBC post-dated contracts and modifications, as well as purchase requisitions and purchase orders, thereby jeopardizing the legitimacy of the contracts associated with 14 of the 17 vendors.

#### AUDIT RESULTS

With the exception of only two vendors, the PBC allowed vendors to provide services prior to the effective date of the contract (“after the fact procurements”),<sup>6</sup> and/or it did not ensure that adequate contract funds were available through the execution of timely purchase requisitions or purchase orders. These practices were in violation of PBC procurement regulations, especially the requirements set forth in Sections 9501 and 9504 that address the conditions for executing contracts, purchase orders, and modifications. In addition, Section 9701 discusses the importance of securing adequate funding for each contract, order, and modification. (See Exhibit A for specific criteria.) We verified the aforementioned conditions by comparing available invoices (which include start dates) against the dates contained on the PBC executing documents (contracts, contract modifications, purchase requisitions, and purchase orders). We also found instances where either the contract was not dated either by the PBC or the vendor, or, more commonly, where the purchase requisition or purchase order was undated. In addition, the review of the credit card expenditures showed that, for 25 percent of the 112 transactions, purchase requisitions were either unavailable or not approved.

On one occasion when we questioned the chief contracting officer about the apparent unavailability of a purchase order, he stated that if a vendor payment was made through the PBC checking account (vis-à-vis through the District’s System of Accounting and Reporting payment system), it became common practice to forego the issuance of a purchase order. We informed PBC personnel that the method of disbursement does not supplant the need to issue purchase orders or purchase requisitions. (See Section 9609.1 of the PBC procurement regulations.)

We note with greater concern that the contracts with Vendors D, G, M, and P exceeded the \$250,000 threshold, but did not have PBC Board approval as required by Section 9501.5 of the PBC procurement regulations. Further, while the contract with Vendor G exceeded \$1 million, the required approval from the D.C. Council and the District of Columbia Financial Responsibility and Management Assistance Authority was not obtained.

<sup>6</sup> A condition noted in the consulting report previously mentioned.

## FINDINGS AND RECOMMENDATIONS

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PBC's contract funding inadequacies are problematic in light of the continual trend that we noted relating to after-the-fact procurements and missing dates on contracts, purchase requisitions, and purchase orders. Concerning the matter of missing dates, we could not determine with certainty the issue of whether or not these omissions occurred with a deliberate attempt to disguise the effective date of the executing documents (contracts, modifications, requisitions, or orders), or if the omissions were unintentional.

Nevertheless, we did document instances of irregularities. In one scenario, PBC contracting officials and a vendor ignored the terms and conditions of a contract modification. The modification pertained to a deadline to further modify the contract, which was issued in violation of the contractual deadline. Neither side dated the modification. While both sides indicated that the missing dates were oversights, we received contradictory information from PBC personnel.

In another instance, a vendor stated that a previous CEO of the PBC would customarily request services from him without the benefit of contracts and purchase orders. Nevertheless, the firm was led to believe payment for services would occur. Additionally, another vendor voiced the same sentiment concerning PBC contracts. This vendor's grievance regarding "out of scope" services is noted in Finding Number 4.

## FINDINGS AND RECOMMENDATIONS

### FINDING 4: CONTRACT ADMINISTRATION

#### SYNOPSIS

PBC procurement personnel and contract administrators did not adequately monitor contractors to ensure compliance with contract provisions and terms. Generally, the deficiencies in contract administration point to a lack of oversight by either the contract officers' technical representative (COTR) or the program offices at the PBC. The PBC procurement regulations relating to contract administration are not entirely adequate. That is, Section 9708.3 of the procurement regulations, requiring complete documentation in the contract files needs to specify in greater detail COTR responsibilities relating to invoices and deliverables. Most contracts contained boilerplate language instructing the vendor to submit accurate and comprehensive invoices, and for the COTR to verify and review invoices and related reports. Yet, there were at least 14 instances where contractor invoices were not reviewed properly. As a result of this breach in management oversight, invoices were not verified as accurate or reliable, deliverables were questionable, vendors performed work that was out-of-scope, duplicate payments were made, and unauthorized advance payments were provided to vendors.

#### AUDIT RESULTS

Contract administration at the PBC was not managed effectively. A summary of these details is as follows:

<u>Vendor</u>	<u>Results</u>
B	PBC requested the vendor to hold an off-site retreat at the latter's facility, instructing the vendor to bill the retreat expenses (about \$1,725) back to the PBC. The PBC could not furnish documentation to support an off-site retreat in lieu of using PBC facilities. In addition, the PBC overpaid the firm about \$13,000 since it did not enforce the vendor's offer to reduce billings by 10 percent. It is doubtful if these funds can be recovered since the PBC initiated the cost in one instance, and failed to take action in another.
C	Eleven thousand dollars in unexpended funds advanced to the vendor should be recovered by the PBC. A review of these invoices would have identified these funds.
D	We could not determine if over \$54,000 in travel and transportation expenses were accurate, reliable, and in fact associated with this contract, or another contract that the vendor entered into with the PBC later in the year. There was no indication in the files to show that the COTR, who was a former CEO, reviewed the invoices with enough scrutiny to ensure that the government was billed at the most advantageous rates for transportation and per diem.

## FINDINGS AND RECOMMENDATIONS

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- E The PBC limited all expenses associated with one of the four contracts with this vendor to \$300. However, the vendor overran this amount significantly, in travel and transportation costs, and owes the PBC \$17,779. This amount includes expenses for an executive at the PBC, whose history of employment at the PBC vacillates between consultant status and salaried employee status.
- F We identified to PBC financial personnel that a duplicate payment of approximately \$147,000 was made to this vendor for collection services. Based on the documentation provided to us, we determined that the PBC has recovered the full amount of the overpayment in the form of credits from the vendor.
- G There was insufficient documentation in the files to support solicitation and evaluation factors relating to the award of two contracts totaling \$7.8 million. About 30% of these contracts represented costs for management oversight.
- H The contractor agreed to provide a timekeeping system and entered into an \$186,000 contract with the PBC. After receiving contract services totaling \$87,500, PBC terminated funding for this effort. To date, the system has not been implemented.
- I Contractor was provided about \$55,000 to furnish a “charge capture ticket” system to the PBC. The contractor did not furnish the deliverable.
- J The PBC reviewing official approved invoices containing duplicate charges for various computer-related services. More importantly, the vendor furnished services to the PBC that were out-of-scope throughout the life of the contract. Based on our limited review of the invoices, charges for out-of-scope services far exceeded the charges of services that were in scope, and there were numerous unauthorized billings for overtime and weekend charges. When we requested the vendor’s authorization to conduct - and subsequently charge for - the non-scope services, the vendor stated that there was no formal agreement or contract modification entered into with the PBC.
- K and L The PBC’s contracting office could not locate the contracts for these vendors who provided legal services to the PBC. The dollar amounts for these contract totaled \$136,000.
- M A former Deputy General Counsel and Chief of Staff at the PBC was appointed as COTR, even though this was an information systems (IS) contract. According to PBC staff, this former employee had some form of familiarity with the vendor. The contractor billed the PBC over \$800,000 for services provided during a 21-week period. Again, there was no indication in the files that the invoices were scrutinized, which is especially germane since IS employees at the PBC questioned the extent to which the

## FINDINGS AND RECOMMENDATIONS

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contractor's staff was on site. The time specifications were binding conditions of the contract. A PBC official concurred with the employees' statement, further claiming that the invoices were "questionable and inflated." When questioned about time-keeping records by the OIG, the vendor stated that the contract's fixed-price status precluded the need to maintain time and attendance records.

- N The vendor furnished about \$17,000 in data entry services that were out-of-scope. In addition, because contract renegotiations languished in September 1999, the PBC paid approximately \$30,000 in commissions to the vendor that could have been avoided. That is, the vendor was willing to adjust the commission rate from 10 percent to 8 percent under the vendor's proposal for the new contract. However, the PBC did not act promptly on contract renegotiations, and the terms and conditions of the expired contract prevailed.
- O We could not verify that all deliverables relating to human resources/personnel systems have been furnished. In addition, a principal of this vendor's firm, which had a contract with the PBC, left its employ and established a firm. However, on this person's own initiative, this person attempted to re-assign the terms and condition of the contract to himself, a reassignment never recognized by the PBC. We recommended that the PBC not honor, as deemed appropriate, the demand from the individual for \$40,000 in (unauthorized) services.
- P We could not determine if monthly invoices relating to various financial management and consultant services were accurate or reliable because of insufficient documentation.
- Q Some of the services performed by this law firm were out-of-scope. That is, the firm was engaged to investigate compliance with the terms and conditions of a specific employment contract. However, the firm performed services for the PBC relating to another employment contract and matters relating to a potential reduction in force at the PBC.

The following table represents a collective summary of all of the issues presented in this report.

**TABLE II**

Vendor	Value of Contract(s)	Monetary Impact			Comments (Reason for Monetary Disposition)
		Questioned Costs	Funds Put to Better Use	Disallowed	
A	\$84,915	\$45,375			Contract authority was limited to \$39,540.
B	535,000	467,000		\$70,000	No sole source justifications (SSJ). Privileged and improper discussions with vendor. Neither the vendor nor the PBC signed the modification for \$70,000.
C	80,000	69,000		11,000	Improper contract execution. No SSJ. \$11,000 in unexpended funds due PBC.
D	449,810	449,810			PBC misrepresented funding availability in Request For Information to bidders.
E	85,893	56,026	\$29,867	17,779	PBC Staff could have performed services. Contract signed in March 2000 limited expenses to \$300. However, vendor received \$18,079. Difference due.
F	471,744	147,000			Duplicate payment of \$147,000 made to vendor. The overpayment has been recovered.
G	7,804,826		1,470,082		Some of the services provided by contractor could have potentially been performed by PBC employees; employees not given opportunity to submit proposals.
H	186,000	87,500			PBC exchanged favors with another contractor and then awarded contract for a timekeeping system to Vendor H.
I	56,000	55,100			Receipt of deliverable questionable.
J	1,725,000	1,725,000			Services covering more than half of contract amount were out-of-scope. In addition, duplicate payments were made to vendor.

**TABLE II (Continued)**

K	95,600	95,600			PBC could not locate contract.
L	41,000	41,000			PBC could not locate contract.
M	807,000		807,000		Services could have possibly been provided by PBC staff; staff not given opportunity to offer proposal. We also question inordinate amount of hours billed based on PBC staff stating to us that vendor was not present on site as much as their invoices indicated.
N	4,500,000	46,950			Questioned costs represent out-of-scope services (\$16,950) and lost opportunities (\$30,000) by PBC to renegotiate a reduction in commissions.
O	135,600	40,000	115,000		Services (human resources) could have possibly been provided by PBC staff; not given opportunity to submit proposal. Also, PBC was billed \$40,000 in unauthorized services.
P	1,042,127	393,425	553,366		Invoices were insufficient and lacked appropriate detail. Also, some services (\$240,000) provided by vendor could have been provided by PBC staff; not given opportunity to submit proposal.
Q	100,000	36,150			Some services provided by vendor were out-of-scope.
Totals	\$18,200,515	\$3,754,936	\$2,975,315	\$98,779	
<b>Monetary Impact</b>					
<b>Vendor</b>	<b>Value of Contract (s)</b>	<b>Questioned Costs</b>	<b>Funds Put to Better Use</b>	<b>Disallowed</b>	<b>Comments (Reason for Monetary Disposition)</b>

Total Impact            \$6,829,030

## RECOMMENDATIONS

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The Office of the Inspector General recommends that the Chief Executive Officer of the Public Benefit Corporation, or another responsible official, ensure that:

1. The PBC procurement regulations are revised to be consistent with the principles of other competitive procurement regulations within the District Government
2. The PBC request from the District Government's Office of Contracts and Procurement assistance in revising its procurement regulations.
3. The PBC's Standard Operating Procedures are completed as a companion source of reference to its procurement regulations.
4. The Standard Operation Procedures comprehensively address the issues of internal controls and separation of duties and responsibilities.
5. The PBC contracting staff certify annually that they have performed assigned duties and responsibilities in compliance with the PBC regulations and standards.
6. The PBC conduct and complete an annual acquisition plan in accordance with its regulations.
7. The PBC analyze the amounts reported as questioned costs and funds put to better use in Table II, on a vendor-by-vendor basis, and provide documentation that substantiate these disbursements.
8. The PBC initiate action to collect the \$98,779 in disallowed costs identified in Table II.

## **EVALUATION OF PBC'S RESPONSE**

### **MANAGEMENT'S RESPONSES TO THE RECOMMENDATIONS**

#### THE PBC AGREED TO:

1. Revise its procurement regulations and obtain the necessary approvals.
2. Obtain assistance from the District's Office of Contracts and Procurement in revising its regulations.
3. Complete its SOPs by October 1, 2001.
4. Implement internal controls to ensure that duties and responsibilities are separated adequately.
5. Obtain annual certifications from the contracting staff attesting to PBC's compliance with all procurement rules and regulations.
6. Conduct an annual acquisition plan.
7. Analyze the monetary impact of all the findings and furnish the OIG with a report by October 1, 2001.
8. Initiate legal action, as necessary, on the disallowed costs identified in Table II.

#### OIG COMMENTS

PBC's comments to the draft report are generally responsive to the intent of the recommendations.

### **OTHER MANAGEMENT RESPONSES**

#### MANAGEMENT RESPONSE, VENDOR B

The PBC requested that we reconsider the disallowance of a \$70,000 contract modification since the vendor did, in fact, provide the services.

#### OIG COMMENTS

We disagree. While we do not dispute the fact that the vendor provided services to the PBC, the \$70,000 contract modification occurred during the overall execution of the \$200,000 contract, which the PBC recognized as part of a selection process that was "egregious and inexcusable." The \$70,000 disallowance remains.

#### MANAGEMENT RESPONSE, VENDOR D

The PBC stated that we misrepresented the lack of approval from the PBC Board for this contract, and furnished proof to the contrary. In addition, the PBC stated that the allegations of the losing vendor were unsupported.

OIG COMMENTS

We disagree. An analysis of the minutes of the PBC Board meeting that the PBC provided to us does not conclusively resolve the issue of contract approval since the contract amount for Vendor D was not stipulated in the minutes. Moreover, the vendor submitted a letter contract to the CEO of the PBC on March 2, 2000, signing and accepting the terms and conditions of a \$387,500 contract. The PBC Board did not convene until March 3, 2000.

MANAGEMENT RESPONSE, VENDOR E

The PBC stated that there were three contracts, not four.

OIG COMMENTS

We disagree. The four contracts included one consultant agreement that was signed by the vendor, but not the PBC.

MANAGEMENT RESPONSE, VENDOR F

The PBC stated that the \$147,000 duplicate payment has been recovered in full.

OIG COMMENTS

We concur. We have changed the language on page 17 and Table II to reflect the full recovery of payment.

MANAGEMENT RESPONSE, VENDOR G

The PBC stated that we misrepresented the approvals from the PBC Board, the Council, and the Control Board.

OIG COMMENTS

We disagree. The approvals from the Council and Control Board were obtained well after the contract or modification became effective.

MANAGEMENT RESPONSE, VENDOR H

The PBC stated that they will be entitled to a \$150,000 credit (from another contractor) once the timekeeper system has been installed.

OIG COMMENTS

We disagree. The PBC will not be entitled to the \$150,000 credit since it has not made timely monthly payments to the other contractor referenced.

MANAGEMENT RESPONSE, VENDOR I

The PBC stated that the amounts paid to the vendor were \$48,971.

OIG COMMENTS

We disagree. Our records indicate that the vendor was paid \$55,100.

**CRITERIA: PBC PROCUREMENT REGULATIONS****Finding Number 2**

## Regulation

<u>Citation</u>	<u>Requirement</u>
9500.6	Allows PBC employees to submit proposals for contemplated contracted services.
9507.1	Requires an annual acquisition plan (for all procurements exceeding \$25,000).
9508.1	Publicize solicitations exceeding \$25,000.
9508.2	Advertise solicitations for at least 30 days.
9516.1	Avoid sole source acquisitions.
9516.2	Justify sole source acquisitions.
9518.2	Prohibits the splitting of requirements/purchases.

**Finding Number 3**

## Regulation

<u>Citation</u>	<u>Requirement</u>
9501.3	Only a contract officer may be delegated the authority to execute contracts, purchase orders, and modifications.
9501.5	The PBC Board must approve contracts above \$250,000. The City Council and the D.C. Financial Responsibility and Management Assistance Authority (Control Board) must approve contracts of \$1 million or more.
9504.1 & 2	The PBC purchase requisition form, form DCGH 199, must be used to initiate procurements, and all technical and budgetary approvals must be obtained. (also, see 9701.2).
9609.1	PBC purchase orders shall be used in most instances.
9701.2	Adequate funding must be available for each contract, order, or modification.
9703.1	Only a contract officer can sign and execute contracts.
9703.3	The contractor signs the contract prior to the PBC contracting officer.

**Finding Number 4**

## Regulation

<u>Citation</u>	<u>Requirement</u>
9708.3	Contract files must be complete and contain all documentation.
9710.1	Payment terms and conditions must be identified in the contract.