

TESTIMONY OF CHARLES J. WILLOUGHBY, INSPECTOR GENERAL

**BEFORE THE COMMITTEE ON GOVERNMENT OPERATIONS
AND THE ENVIRONMENT
COUNCIL OF THE DISTRICT OF COLUMBIA**

**PUBLIC OVERSIGHT ROUNDTABLE ON
GOVERNMENT CONTRACTING REFORM IN THE
DISTRICT OF COLUMBIA**

DECEMBER 10, 2009

GOOD MORNING CHAIRPERSON CHEH AND MEMBERS OF THE COMMITTEE. I WELCOME THE OPPORTUNITY TO TESTIFY ON THE STATE OF PROCUREMENT IN THE DISTRICT, WHAT THE MAJOR ISSUES AND CONCERNS ARE, AND HOW REFORM CAN BE ACHIEVED. ACCOMPANYING ME TODAY ARE WILLIAM J. DIVELLO, ASSISTANT INSPECTOR GENERAL FOR AUDIT, SALVATORE D. GULI, DIRECTOR OF AUDIT GROUP ONE, AND RON HODGES, GROUP DIRECTOR FOR PROCUREMENT AUDITS.

STATE OF PROCUREMENT IN THE DISTRICT

FOR THE PAST SEVERAL YEARS, WE HAVE CITED PROCUREMENT IN OUR ANNUAL AUDIT PLANS AND ANNUAL REPORTS AS A HIGH-RISK AREA DUE TO LAPSES IN PROCUREMENT AND CONTRACTING OPERATIONS. FURTHER, PAST INDEPENDENT AUDITORS' REPORTS ON INTERNAL CONTROL AND COMPLIANCE OVER FINANCIAL REPORTING (YELLOW BOOK REPORTS) HAVE CITED PROCUREMENT AS A MATERIAL NONCOMPLIANCE WITH LAWS AND REGULATIONS. WHILE DISTRICT MANAGERS HAVE MADE SOME GAINS IN

ADDRESSING PROCUREMENT DEFICIENCIES, OUR MOST RECENT AUDITS DISCLOSED THAT MANY OF THE FINDINGS ARE REPEAT FINDINGS OR FINDINGS OF A SIMILAR NATURE. ACCORDINGLY, THERE CLEARLY IS ROOM FOR IMPROVEMENT IN THE STATE OF PROCUREMENT, OR THE EFFICIENCY, EFFECTIVENESS, AND ACCOUNTABILITY FOR THE PROCUREMENT FUNCTION IN THE DISTRICT.

ISSUES AND CONCERNS

OUR AUDIT OVERSIGHT OF THE DISTRICT'S PROCUREMENT FUNCTION HAS BEEN INTENSIVE: BEGINNING WITH A MANAGEMENT IMPLICATION REPORT (MIR) ON PROCUREMENT ISSUED IN SEPTEMBER 2002, FOLLOWED BY APPROXIMATELY 50 PROCUREMENT OR PROCUREMENT-RELATED AUDIT REPORTS, AND SEVERAL TESTIMONIES. SINCE THAT TIME, WE HAVE CONSISTENTLY IDENTIFIED SYSTEMIC PROCUREMENT ISSUES AND NUMEROUS DEFICIENCIES IN DISTRICT CONTRACTING ACTIONS. FOR EXAMPLE, AUDITS DISCLOSED A LITANY OF DEFICIENCIES INCLUDING INEFFECTIVE COMPETITION, MISSING CONTRACT FILE DOCUMENTATION, FAULTY SOLE SOURCE JUSTIFICATIONS, LETTER CONTRACTS THAT DO NOT ACCURATELY DEFINITIZE DELIVERY OF SERVICES, LACK OF PROCUREMENT TRAINING, NON-COMPLIANCE WITH AND DISREGARD OR LACK OF KNOWLEDGE OF LAWS AND REGULATIONS, LITTLE OR NO EFFECTIVE CONTRACT ADMINISTRATION AND RECORDKEEPING, UNAUTHORIZED COMMITMENTS AND PURCHASES RESULTING IN VIOLATIONS OF

ANTIDEFICIENCY LAWS, EXCESSIVE PROFITS PAID TO CONTRACTORS, AND OTHER CONTRACT ISSUES.

ALTHOUGH THESE LAPSES HAVE RESULTED IN COSTLY SIDE EFFECTS AND INEFFICIENCIES, WE DO NOT BELIEVE THEY HAVE DETRIMENTALLY AFFECTED THE OVERALL FINANCIAL HEALTH OF THE CITY. NEVERTHELESS, SYSTEMIC PROBLEMS IN THE DISTRICT'S PROCUREMENT AND CONTRACTING PROGRAMS ARE UNACCEPTABLE BECAUSE THEY DRAIN SCARCE RESOURCES, AND OFTEN DO NOT RESULT IN THE BEST VALUE FOR THE DISTRICT.

OTHER OVERSIGHT EFFORTS

THE GOVERNMENT ACCOUNTABILITY OFFICE (GAO) REPORTED IN 2007 THAT THE DISTRICT'S PROCUREMENT SYSTEM NEEDED MAJOR REFORM. THE GAO REPORT FOUND THAT THE DISTRICT DID NOT INCORPORATE A NUMBER OF GENERALLY ACCEPTED KEY PRINCIPLES AND PRACTICES FOR PROTECTING TAXPAYER RESOURCES FROM FRAUD, WASTE, AND ABUSE.

FURTHER, A REPORT ISSUED BY THE DISTRICT OF COLUMBIA CONTRACTING AND PROCUREMENT TASK FORCE, ESTABLISHED BY FORMER COUNCILMEMBER VINCENT ORANGE TO MAKE RECOMMENDATIONS TO IMPROVE THE DISTRICT'S CONTRACTING AND PROCUREMENT LAWS AND REGULATIONS, CONCLUDED THAT THE PROBLEMS IN THE PROCUREMENT SYSTEM LIE IN OCP'S LACK OF COMMITMENT TO TRAIN ITS PERSONNEL AND FAILURE TO FOLLOW EXISTING

RULES AND GENERALLY RECOGNIZED BEST PRACTICES. THE RESULTS OF THESE TWO REPORTS, WHICH INCORPORATED OTHER DISTRICT AUDIT REPORTS (INCLUDING SEVERAL ISSUED BY THE OIG), CONSISTENTLY SHOWED THE LACK OF ADEQUATE CONTROLS TO PROPERLY ADMINISTER THE PROCUREMENT FUNCTION.

PROCUREMENT REFORM

ABUSIVE AND INEFFICIENT PROCUREMENT PRACTICES OCCUR WHEN INDIVIDUALS ENTRUSTED WITH CONTRACTING AUTHORITY FAIL TO ADHERE TO THE BASIC GUIDELINES. THAT SAID, WE BELIEVE THERE ARE SEVERAL AREAS WHERE AGGRESSIVE ACTION IS NEEDED TO IMPROVE DISTRICT PROCUREMENT AND CONTRACTING: 1) INCREASED ACCOUNTABILITY; 2) CREATING A CADRE OF KNOWLEDGEABLE CONTRACTING OFFICIALS AND SUPPORT STAFF; 3) INCREASING USE OF COMPETITION AND EXPANDING THE DISTRICT'S BUSINESS BASE OF CONTRACTORS, INCLUDING LOCAL AND SMALL BUSINESS ENTERPRISES AND CONTRACTORS; AND 4) ESTABLISHING AND MAINTAINING AN EFFECTIVE CONTRACT ADMINISTRATION PROCESS.

THE DISTRICT NEEDS TO ENFORCE ACCOUNTABILITY FOR INDIVIDUALS WHO INITIATE PROCUREMENT ACTIONS, ESPECIALLY WHEN THOSE ACTIONS FAIL TO COMPLY WITH DISTRICT GUIDELINES AND/OR PROVE TO BE COSTLY OR INEFFICIENT. TO EFFECTIVELY ENFORCE ACCOUNTABILITY, THE OFFICE OF CONTRACTING AND PROCUREMENT (OCP) NEEDS TO ESTABLISH COMPLETE

TRANSPARENCY WITH RESPECT TO ITS OPERATIONS, INCLUDING AN ACCURATE AND COMPLETE CONTRACT FILE MAINTENANCE SYSTEM AND DATA SYSTEM TO CAPTURE ALL CONTRACT ACTIONS.

THE DISTRICT ALSO NEEDS TO EVALUATE ITS CONTRACTING OFFICERS AND SUPPORT STAFF TO ENSURE THAT THE CITY EMPLOYS EDUCATED AND ADEQUATELY TRAINED CONTRACTING PROFESSIONALS TO PROVIDE EFFECTIVE AND EFFICIENT CONTRACTING SERVICES.

I HAVE INCLUDED AN APPENDIX FOR THE COMMITTEE'S REVIEW AND CONSIDERATION. IT DESCRIBES PROCUREMENT REFORM EFFORTS IN TERMS OF IDENTIFIED PROCUREMENT PROBLEMS AND SOLUTIONS THAT MAY PROVE HELPFUL IN YOUR PROCUREMENT REFORM DELIBERATIONS.

THANK YOU FOR PROVIDING ME THE OPPORTUNITY TO SHARE WITH YOU MY THOUGHTS ON THE DISTRICT'S PROCUREMENT AND CONTRACTING FUNCTION. AT THIS TIME, MY COLLEAGUES AND I WILL BE HAPPY TO ANSWER YOUR QUESTIONS.

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**APPENDIX: PROBLEMS AND SOLUTIONS FOR DISCUSSION
RELATIVE TO PROCUREMENT REFORM EFFORTS**

PROBLEM: District Guidance

- Outdated
- Broad
- Need to Build on Accountability

SOLUTION: Working Group

- Review Past Procurement Audit Reports/Studies
- Re-Write Guidance
- Set Time Limit for New Guidance Implementation

PROBLEM: Structural

- Contracting Officers (COs) Collocated at Program Offices
- Undue Influence from Program Offices

SOLUTION: Reorganize

- Locate COs Centrally
- Assign Procurement Analyst to Agencies

PROBLEM: Development and Maintenance of a Cadre of Trained, Professional
Contract Specialists

- Recruitment
- Turnover

SOLUTION: Filling Existing and New Specialized Positions

- Financial Analyst
- Small Business Specialist
- Contract Price Analyst

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PROBLEM: Documentation and Recording of Contract Actions

- Poorly Designed and Enforced
- Outdated System

SOLUTION: Strengthen Procedures and Systems

- Create Records Retention System
- Automated Systems to Capture All Contract Actions
- Review PASS/Modify if Necessary
- Consider 2 Week Stand Down to Inventory Contracting Records

PROBLEM: Contract Administration

- Administration of Contract and Contract Terms Appear to be Secondary
- Poor Enforcement of Payment Terms
- Ineffective Assurance of Deliverables
- Many Other Contract Administration Problems

SOLUTION: Create Administrative Contracting Officer (ACO)

- Administers Post-Award Monitoring
- Ensures Adequacy of Deliverables and Compliance with Contract Terms