



THE CITY OF SAN DIEGO

DATE: March 30, 2016

TO: Stacey LoMedico, Assistant Chief Operating Officer

FROM: Eduardo Luna, CIA, CGFM, City Auditor
Office of the City Auditor

SUBJECT: Hotline Investigation of Vendor Fraud

Summary

The Office of the City Auditor obtained new information regarding two individuals who were previously suspected of committing fraud. This information was forwarded to City management to determine whether adequate evidence exists to debar the two named individuals and business entities.

Investigation

Two anonymous Fraud Hotline reports were received regarding two individuals who allegedly committed fraud in the past while working as vendors selling products to the City. One of the individuals was allegedly continuing to do business with the City. The two individuals named in the reports were identified in our previous Fraud Hotline Investigation Report that recommended they be referred for debarment action, which could have prevented them both from doing business with the City.

The first Fraud Hotline report was received on October 1, 2014, and named one of the individuals who is allegedly currently doing business with the City as an employee of a different vendor than previously reported. The second Fraud Hotline report was received on November 20, 2014, and also included the name of the second individual who allegedly committed fraud in the past, but is no longer doing business with the City.

Both people, and their affiliated businesses, were previously identified in our March 18, 2014 report titled, "[Hotline Investigation Report of Public Utilities Warehouse Supply Purchases](#)." Our prior investigation determined that one of the individuals provided a City employee with two generators and cash payments in order to continue to do business with the City. The second individual refused to cooperate with our investigation and would not provide documentation to support questionable deliveries of items purchased by the City. The results of our investigation were referred to the San Diego Police Department for evaluation and appropriate action.

Prior to receiving the two Fraud Hotline reports in late 2014, we contacted City management to follow up on the recommendations for debarment that we had made in our earlier report. Soon after the Fraud Hotline reports were received, City management informed us they were looking to enhance the current debarment language as it pertains to individuals and overall procedures with respect to the vendor who was confirmed to be conducting business with the City as an employee of a different vendor. A debarment action was not being pursued with respect to the second individual, who refused to cooperate with our investigation, because the last payment from the City to the company in question was made in December of 2013.

In early 2015, City management informed us they were reviewing the San Diego Municipal Code (SDMC) provisions regarding debarment procedures in conjunction with the Office of the City Attorney. At the same time, we began monitoring expenditures made by the identified individual who was actively conducting business with the City. We obtained additional documentation and conducted additional interviews to mitigate the identified risk. The second individual did not appear to be conducting business with the City, but was found to have an active business registration with the County of San Diego.

We have provided the updated information regarding these individuals to City management in a detailed confidential report. Although we recommended a debarment evaluation for these individuals in our previous Hotline Report, our current recommendation below is based on the new information contained in the confidential report. We believe that there is sufficient information to warrant a referral of both individuals to City management to determine whether adequate evidence exists to debar these individuals, consistent with the procedures set forth in the SDMC, once they are finalized.

We understand City management determined not to move forward until the proposed revisions to the debarment procedure sections of the SDMC were completed. As the revisions are anticipated to be completed this fiscal year, we believe the new information provided should be considered as part of the debarment referral.

Recommendation and Management's Response:

1. We recommend that City management review the additional information provided in the Confidential Hotline Investigation of Vendor Fraud report to determine whether adequate evidence exists to debar the two named individuals and business entities.

Management Response: Agree

Management agrees to use the additional information provided to us by the Office of the City Auditor in the review for possible debarment. In early 2015, in consultation with the City Attorney's Office, staff reviewed the information provided by the City Auditor for possible debarment under San Diego Municipal Code (SDMC) 22.0807. The policy decision was to wait to proceed once the SDMC sections were clear as to the procedures of debarring individuals.

Based upon the initial timing, it was anticipated the review and changes would be presented to Council for consideration by August 2015. Due to management changes within the Purchasing and Contracting Department as well as the decision to combine the SDMC changes for both vendors and construction contractors into one SDMC for City Council review and action, the proposed changes were delayed. It is anticipated the proposal will be presented to City Council by the end of June 2016.

This investigation was conducted under the authority of California Government Code §53087.6 which states:

- (e) (2) Any investigative audit conducted pursuant to this subdivision shall be kept confidential, except to issue any report of an investigation that has been substantiated, or to release any findings resulting from a completed investigation that are deemed necessary to serve the interests of the public. In any event, the

identity of the individual or individuals reporting the improper government activity, and the subject employee or employees shall be kept confidential.

(3) Notwithstanding paragraph (2), the auditor or controller may provide a copy of a substantiated audit report that includes the identities of the subject employee or employees and other pertinent information concerning the investigation to the appropriate appointing authority for disciplinary purposes. The substantiated audit report, any subsequent investigatory materials or information, and the disposition of any resulting disciplinary proceedings are subject to the confidentiality provisions of applicable local, state, and federal statutes, rules, and regulations.

Respectfully submitted,

A handwritten signature in black ink that reads "Eduardo Luna". The signature is written in a cursive style with a large initial "E" and a long, sweeping tail on the "L".

Eduardo Luna
City Auditor