

Fraud Hotline Report of Purchase Order Approvals

SEPTEMBER 2023 | OCA-24-03

Conclusion 1

Confirming purchase order memos were used 240 times in fiscal year 2022 to make purchases totaling over \$4 million. While this is a small percentage of the City's total contracting volume, this process is not defined in the San Diego Municipal Code. As a result, no dollar limits are set and no public disclosure is required.

Conclusion 2

Staff errors and poor planning created the need for most confirming purchase orders. Some purchases appeared to violate the City Charter and SDMC requirements. For example, a vendor was paid approximately \$2 million for services after their contract with the City had expired.

Conclusion 3

Four prior OCA reports recommended contract administration training and better purchase order monitoring that would likely reduce the need for confirming purchase orders, however eight recommendations from those reports dating back to 2015 have not been fully implemented.

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CITY OF SAN DIEGO



OFFICE of the CITY AUDITOR

About the Fraud Hotline:

The Office of the City Auditor administers the City's Fraud Hotline program. The primary objective of the Fraud Hotline is to provide a means for a City employee or resident to confidentially report any activity or conduct—related to or involving City personnel, resources, or operations—for which he or she suspects instances of fraud, waste, or abuse.

The City's Fraud, Waste, and Abuse Hotline is operated pursuant to California Government Code §53087.6. The Statute defines fraud, waste, or abuse as "any activity by a local agency or employee that is undertaken in the performance of the employee's official duties, including activities deemed to be outside the scope of his or her employment, that is in violation of any local, state, or federal law or regulation relating to corruption, malfeasance, bribery, theft of government property, fraudulent claims, fraud, coercion, conversion, malicious prosecution, misuse of government property, or willful omission to perform duty, is economically wasteful, or involves gross misconduct."

The statute also requires that investigations conducted pursuant to its authority be 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.

An independent third-party provider accepts calls from City employees and the public at **(866) 809-3500** or online at www.sandiego.gov/fraudhotline. Callers can choose to remain anonymous and all information provided via the Hotline will remain confidential. The third-party provider prepares a report for each report received and sends them to the Office of the City Auditor via email notification. Reports can also be submitted directly to the Office of the City Auditor, or online by following a link labeled "Fraud, Waste, and Abuse Hotline" on the City Auditor's home page.



DATE: September 6, 2023

TO: Eric Dargan, Chief Operating Officer
Claudia Abarca, Purchasing and Contracting Department Director

FROM: Andy Hanau, City Auditor
Office of the City Auditor

SUBJECT: Fraud Hotline Report of Purchase Order Approvals

Summary

The City spends approximately \$2 billion a year using purchase order¹ payments to vendors. Over each of the past three years, an average of over 36,000 purchase orders were processed annually to pay for items ranging from goods and services to public works projects. The City Charter, San Diego Municipal Code (SDMC), and other legal authorities define the procedures to be used for City purchases.

While most of the City's purchase order transactions are routine, unanticipated events create a need to process purchase orders outside of the normal course of business. One type of non-routine purchase order is referred to internally as a "confirming purchase order."

The Purchasing and Contracting Department (P&C) tracks the number of confirming purchase order approvals it processes by department. According to the P&C data, 240 confirming purchase orders² were approved for payments totaling over \$4 million in fiscal year 2022.

The procedures governing confirming purchase orders are not defined in the SDMC. Rather, they are described in an internal memorandum from 2015 and in the P&C Procurement Manual, which defines an emergency as "an event or condition"

¹ Purchase orders are agreements between the City and a vendor to purchase goods or services at a specified price. Additional City-required terms and conditions may be outlined in a separate formal contract, or simply included in the purchase order itself. A purchase order is considered a legal contract by the City Attorney's Office.

² We note that this constitutes less than 1 percent of the total volume of purchase orders by both number and dollar amount.

impacting a department, “that could not be planned for by operational staff.” This definition is not consistent with the existing SDMC definition of an emergency.

We initiated this investigation after a City employee expressed a concern that the confirming memorandum process is being abused. Our investigation considered whether the City may be unnecessarily exposed to fraud, waste, or abuse related to confirming purchase order approvals. Also, the confirming memo process may be unfair to vendors seeking to do business with the City using the standard procurement process. Our investigation concluded that:

Investigative Conclusion 1: Confirming purchase order procedures are not defined in the San Diego Municipal Code, these approvals are not disclosed publicly as they are required to be in other government agencies, and no dollar limit on the transactions has been established. We found that confirming memos were used 240 times in fiscal year 2022 alone, totaling over \$4 million; most were issued for under \$25,000.

Investigative Conclusion 2: Most confirming purchase order memorandums appeared to be necessary because of staff errors and poor planning. Some of the confirming purchase order memorandums we reviewed appeared to violate the City Charter and SDMC requirements related to contracts. For example, a department paid a vendor approximately \$2 million for services which continued for well over a year after the contract expired, without the required Council approval.

Investigative Conclusion 3: Four prior OCA reports recommended contract administration training and better purchase order monitoring that would likely reduce the need for confirming purchase orders, however eight recommendations from those reports dating back to 2015 have not been fully implemented as of this report date.

Other government agencies throughout the State have laws and procedures in place that address purchase orders that do not conform to normal procedures and are not related to emergencies like natural disasters and floods. Many of those policies define urgent procurements, include dollar limits, and require public disclosure of the transactions. In contrast, the SDMC does not specifically allow for confirming purchase orders as an allowable option.

We make one recommendation to improve confirming purchase order approval procedures by including them in the San Diego Municipal Code, establishing dollar limits, and requiring public disclosure. City Management agreed to implement our recommendation. See **Attachment C**.

Investigative Conclusion 1

Confirming Purchase Orders Are Not Specifically Defined in the San Diego Municipal Code

In general, the legal requirements³ and procedures related to routine purchases are described in the City's Charter, the San Diego Municipal Code (SDMC), and other authorities such as Administrative Regulations and Council Policies. Most purchases are processed routinely, but two exceptional circumstances are outlined in the SDMC related to "materials and supplies" purchases to complete work in progress and emergency purchasing procedures.

Materials and Supplies Purchase Procedures to Complete Work in Progress Are Specifically Defined in the SDMC

SDMC section 22.3208(e), allows the City to process purchase orders for "commercially available materials and supplies" when they are:

1. Required "for (the) immediate completion of work in progress."
2. For an expenditure greater than \$25,000 and less than \$150,000.

We note that this SDMC section is limited to purchases of "materials and supplies" (not services) that are related to "work in progress."

Emergency Purchase Procedures in Response to Emergency Situations Are Specifically Defined in the SDMC

In addition to routine procurements, the SDMC establishes legal procedures for emergency purchases.

³ See the City Attorney's [2015 Memorandum of Law](#), titled "Overview of City Charter and Municipal Code Requirements for City Contracts" for a complete discussion of the legal requirements related to City contracts.

Under limited circumstances, an emergency contract or purchase order may be awarded without public advertisement or a competitive bidding process. According to SDMC section 22.3208(b), an emergency is defined as a “contract necessary to safeguard life, health, or property due to extraordinary fire, flood, storm, epidemic, or other disaster...” Two conditions must be met. First, the emergency award must be “immediately” reported to the City Council in writing and include the justification for the emergency award. Second, the Council must ratify the emergency award by a two-thirds vote in order for the contract to be valid.

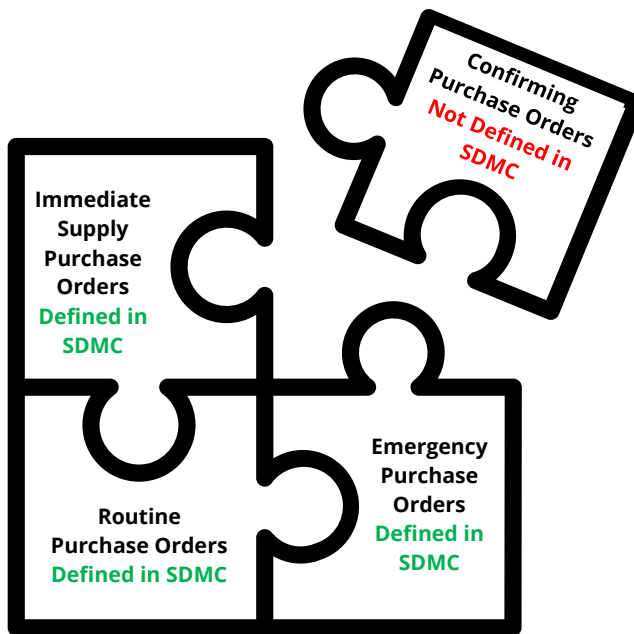
While both routine and emergency purchase order procedures are authorized by the Charter, defined in the SDMC, and further described in other legal authorities, other non-routine purchase orders are approved based on procedures internally referred to as “confirming purchase orders.” It appears that the P&C Director has the legal authority to approve confirming purchase orders. However, confirming purchase orders are not specifically defined in the SDMC.

Confirming Purchase Order Procedures Are Not Defined in the SDMC

An illustration of the current circumstances where routine, immediate supply, and emergency purchase orders are all defined in the SDMC, but confirming purchase orders are not defined in the SDMC, is shown in **Exhibit 1**, below.

Exhibit 1

Immediate Supply, Routine, and Emergency Purchase Order Procedures Are Defined in the San Diego Municipal Code (SDMC), But “Confirming Purchase Orders” Are Not



Source: OCA generated based on San Diego Municipal Code section 22.3208 procedures.

Other California Government Jurisdictions Define Emergency Circumstances More Broadly Than the San Diego Municipal Code Does and Include Public Disclosure and Dollar Limits

As part of our investigation, we looked at the definitions used by other California government agencies to describe an emergency circumstance that would allow the agency to bypass the normal contracting procedures. The relevant parts of three definitions are included in **Table 2** below.

Table 2
Definitions of an Emergency in Other Government Agencies Are More Expansive Than the City of San Diego’s Definition

Agency	Definition
Chula Vista	“...an immediate threat to public health, safety or welfare and which requires immediate purchase of supplies, equipment, or contractual services...” Chula Vista Municipal Code 2.56.100 A.
Sacramento	“...when public interest and necessity demand immediate action, repair or replacement to safeguard life, health, or property, to permit the continued conduct of city operations or services, or to mitigate further damage.” Sacramento, California City Code 3.60.070 A.
San Francisco	“...to make repairs, to safeguard the lives or property of the citizens or the property of the City or to maintain public health or welfare as a result of extraordinary conditions created by war, epidemic, weather, fire, flood, earthquake or other catastrophe, or the breakdown of any plant equipment, structure, street or public work.” San Francisco Administrative Code Section 21.15 (a).

Source: OCA generated based on legal requirements as cited.

We found that these other jurisdictions have more expansive definitions of emergencies than the City of San Diego does. As stated previously, SDMC section 22.3208(b) defines an emergency as a “contract necessary to safeguard life, health, or property due to extraordinary fire, flood, storm, epidemic, or other disaster...” As such, when circumstances do not meet the SDMC definition of an emergency, the normal contracting procedures are required to be followed.

None of the 240 confirming purchase orders we reviewed for fiscal year 2022 appeared to meet the existing SDMC definition of an emergency.





Public Disclosure of Confirming Purchase Orders Is Not Required in San Diego

In an agency the size of the City of San Diego, it is inevitable that situations will arise that necessitate obtaining services outside the normal process. In such situations, transparency is key to ensure oversight and prevent abuse when standard controls are being bypassed. However, we found that purchases made through the confirming memo process are not disclosed to the public or City Council.

Currently, only emergency purchases that deviate from the competitive procurement process are required to be disclosed to the City Council. Specifically, SDMC section 22.3208(b) requires City Management to “immediately” report the emergency award and justifications to City Council in writing. In contrast, the less-formal procedures related to confirming purchase orders do not include requirements for the public disclosure of the memorandums. In fact, confirming purchase order procedures are not defined in the SDMC.

Other California government agencies require public disclosure for urgent purchases under circumstances similar to those described in the City of San Diego’s confirming purchase order procedures memorandum. **Table 3**, below, shows a comparison of the City of San Diego’s transparency requirements.

Table 3
Public Disclosure of Urgent Purchase Orders is Required in Other California Government Agencies

Agency	Public Report or Ratification
City of San Diego	
Chula Vista	
Sacramento	
San Francisco	

Source: OCA generated based on the legal requirements for each jurisdiction.

Dollar Limits for Urgent Purchase Orders Are Set in Other California Government Agencies, But Are Not Established for the City of San Diego

Other California jurisdictions include provisions to ensure that only relatively small dollar value purchase orders are approved using a process that does not conform to the standard procurement requirements. In contrast, the 2015 City Management memorandum describing San Diego's confirming purchase order procedures makes no mention of a dollar value limit.⁴

Fixed dollar limits on transactions are an important internal financial control. In situations where procurement controls are being bypassed because of urgency, a dollar limit is essential to ensure that the confirming purchase order process is not abused. The City of San Diego's policy does not have a dollar limit specified for these purchase orders. Although most of the confirming purchase orders we reviewed were for small dollar amounts, there were five vendors in fiscal year 2022 that were paid over \$150,000. In total, those vendors were paid over \$2.2 million.

We found that other government agencies set dollar limits for emergencies and other urgent purchase orders. **Table 4**, below, shows dollar limits for purchases

⁴ Other SDMC sections define dollar-limit thresholds for various contract awards. For instance, contracts for good and services over \$3 million must be approved by the City Council.

specified by other California government agencies compared to the City of San Diego's policy.

Table 4
Summary of Dollar Limits for Emergency and Other Purchase Orders in Other Government Agencies

Agency	Dollar limit
San Diego	Not Addressed
Chula Vista	\$100,000
Sacramento	\$250,000
San Francisco	\$100,000

Source: OCA generated based on legal requirements for each jurisdiction.

In summary, while other jurisdictions in California provide statutory definitions of the circumstances under which purchase orders may be approved under quasi-emergency circumstances, include provisions for public transparency regarding these payments, and limit the dollar amounts for these awards, the City of San Diego does not. Rather, the definition for an emergency listed in the P&C Procurement Manual is "an event or condition that has an operational effect on a department that requires the securing (of) goods or services that could not be planned for by operational staff."

Confirming Purchase Order Procedures Are Outlined in an Internal Memorandum

Our investigation identified a December 2, 2015 memorandum from a former Deputy Chief Operating Officer that describes the confirming purchase order procedures currently in use (see **Attachment A**). According to the memorandum, after a City department receives an invoice for goods or services that were not previously authorized, the department's director (or other appointing authority) is required to request approval from P&C via a memorandum.

According to the memorandum outlining the procedures, a confirming purchase order request must:

1. Describe the nature of emergency (time and location);
2. Itemize the goods, supplies, or services required; and
3. Include the name of the vendor, the total cost, and the invoice or bill relating to the goods and/or services.

If P&C approves the confirming purchase order request—which it does in almost all cases once sufficient details are provided—it generates a purchase order using the existing procedures for purchase order processing. Occasionally, the P&C Deputy Director may reject a confirming purchase order request and direct the department to go to a Committee of the City Council or the full City Council for approval. We identified one example of a confirming purchase order request from fiscal year 2022 that P&C denied related to a multi-million dollar contract for construction-related services.

Urgent circumstances may create a need for purchase orders to be approved quickly using the confirming purchase order process, rather than the normal procurement procedures. For example, a contract for private security services may expire, but the continued services are needed on an interim basis until a new contract can be established. In this case, the new contract should have been in place prior to the expiration of the original contract. Although this situation does not appear to meet the SDMC definition of a “disaster,” the services are needed immediately in order to ensure continued public safety. While the existing SDMC procedures do not specifically address urgent and unplanned purchase orders, the confirming purchase order memorandum provides a procedure for City departments to follow.

Confirming Purchase Orders Were Used to Pay Hundreds of Invoices in Fiscal Year 2022 Alone

In fiscal year 2022, P&C reviewed and approved 240 confirming purchase order memorandums from City departments⁵ for a total amount of over \$4 million. Most of these requests (204, or 85 percent of the 240), were for relatively small dollar amounts under \$25,000. Under the City’s normal purchasing guidelines, these relatively small purchases do not require multiple competitive quotes or any advertised solicitation. As such, these contracts can be processed relatively quickly. However, some large expenditures were included in the memorandums we reviewed. Three of the confirming memo invoices were over \$200,000 and one totaled over \$357,000. A breakdown of the fiscal year 2022 confirming memos approved by P&C is shown in **Table 5** below.

Table 5
Summary of Fiscal Year 2022 Confirming Memorandums Approved by P&C

	Number of Memos	Percent of Memos	Total Dollar Amount	Percent of Dollars
Under \$25K	204	85%	\$828,024	19%
\$25K-\$49.9K	12	5%	\$429,915	10%
\$50K-\$150K	19	8%	\$1,412,127	32%
Over \$150K	5	2%	\$1,700,051	39%
Total	240	100%	\$4,370,117	100%

Source: OCA generated based on P&C confirming memorandums.

⁵ We note that at the end of June 2022, the Office of the City Auditor requested a confirming purchase order through the established process to pay a vendor for electrical work related to a workspace re-configuration project. A standard purchase order was in process at the time, but the vendor’s insurance policy was not approved prior to the deadline for the work to be completed. Our \$14,435 confirming purchase order request was approved based on the extenuating circumstances.

During this period, the Library Department had the most confirming memorandum requests (47), followed by the Public Utilities (37) and Parks and Recreation (32) Departments, and the Department of Real Estate and Airport Management (9). Most departments had only one confirming memorandum, but the dollar amounts did not necessarily correlate with the number of requests because one confirming memorandum may be associated with several invoices of varying amounts, as shown in **Table 6**, below.

Table 6
Summary of the Top Four Confirming Memorandums by Department (Fiscal Year 2022)

Department	Total Amount	Memo Count	Invoice Count
Library	\$1,132,535	47	100
Public Utilities	\$1,197,495	37	131
Parks and Recreation	\$312,233	32	53
Real Estate and Airport Management	\$854,912	9	29
Total	\$2,364,639	78	213

Source: OCA generated based on P&C confirming memorandums.

Investigative Conclusion 2

Most Confirming Memorandums Were Necessary due to Staff Errors and Poor Planning

Our review of confirming purchase order memorandums for fiscal year 2022 found that City departments cited various reasons for their requests. Out of the 240 memorandums that we reviewed, 140 (or 59 percent) were associated with various staff errors in processing contract-related paperwork, or failure to plan for and anticipate future expenditures, according to our analysis of the stated rationale. This suggests that additional training related to contract administration could reduce the number of exceptions due to staff errors and poor planning.

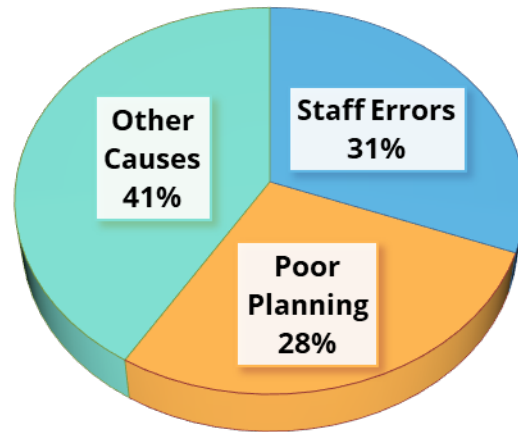
An additional 100 (41 percent) of the memorandums cited various other circumstances that led to the need for urgent procurements. Most related to documentation delays, staffing issues, and other situations such as miscommunications between vendors and City departments. Roughly two dozen confirming memorandums cited “emergency” circumstances. For example, parts were needed to repair critical infrastructure systems, or goods and services were needed urgently to address public health and safety situations. However, none of the confirming purchase orders cited SDMC section 22.3208(b) or followed the emergency procurement procedures requiring City Council approval.

As we note later in this report, we have identified the need for additional training and improved contract monitoring in prior reports dating back to 2015. Eight of those recommendations have not been implemented.

Data from fiscal year 2022 may or may not be typical of other years, but qualitative and anecdotal evidence we obtained from interviews with City staff and management suggests that this pattern is typical and may have increased in fiscal year 2023. The proportion of exception memorandums that were due to staff errors and poor planning versus all other stated reasons is shown in **Exhibit 1**, below.

Exhibit 1

The Majority (59 percent) of the Confirming Purchase Order Memorandums Were Needed Due to Staff Errors and Poor Planning



Source: OCA generated based on our analysis of 240 confirming purchase order memorandums approved in fiscal year 2022.

Overall, common patterns of staff errors and poor planning emerged from our review of confirming memorandums processed in fiscal year 2022:⁶

- Target values set up in the City's financial system, SAP, can be configured to set maximum spending limits for contracts. However, several confirming purchase orders were needed because the spending limits were apparently never set up in SAP, which led to expenditures in excess of the approved amount.
- The unanticipated expiration of existing contracts or purchase orders was the stated cause of numerous confirming purchase orders. Under normal circumstances, establishing a contract can take several months to complete, so when an agreement expires, staff often need to request a confirming purchase order in order to maintain critical City operations. Better planning, closer monitoring of contract expirations, and additional staff training were

⁶ See the Investigative Conclusion 3 section of this report for more information regarding prior recommendations that remain unimplemented, including recommendations related to spending limit controls.

recommended in prior performance audits.

- A lack of staff training, turnover, and misunderstandings related to the City's internal financial controls related to purchasing procedures was the stated cause of many confirming purchase orders. In one unusually large-dollar example, a department cited an "administrative misinterpretation" which led to staff incurring over \$119,000 in expenditures to a vendor with no contract in place, as required. To address the error, the department planned to offer additional training regarding procurement rules to the staff who were responsible.

One example of a large exception due to staff errors was a nearly \$219,000 confirming purchase order that was needed to pay three invoices on a large information technology project due to staff "confusion" during a turn-over in the management of the project. The funds were available related to an existing contract for the project, but the expenditure was not authorized in advance per the City's requirements. Normally, a "purchase requisition" approval is required before a purchase order may be generated. This pre-approval of the expenditure ensures that City staff comply with existing financial internal controls. In this case, the work was completed by the vendor and invoiced without the normal authorization in advance. As a corrective action, a recently hired project manager was tasked with oversight of the contract to include monthly reporting of contract activities.

Confirming Purchase Orders Were Used to Extend a Contract Beyond Five Years Without the Required City Council Approval

Our investigation identified six confirming purchase order memorandums processed in fiscal year 2022 that related to the same expired contract for janitorial services. The services were continued throughout fiscal year 2022 even though the 5-year contract term expired on April 13, 2021 (near the end of fiscal year 2021). We also determined that additional confirming purchase orders for the same vendor, by the same department, continued through fiscal year 2023. Thus, it appears that this contract was extended to a 7-year term without the required Council approval. (The extended payments were also not awarded through a competitive contract bidding process, as required by the SDMC.)

City Charter section 99 states, "No contract, agreement or obligation extending for a period of more than five years may be authorized except by ordinance adopted by a

two-thirds' majority vote of the members elected to the Council." According to a 2015 Memorandum of Law from the City Attorney's Office, extending the janitorial services contract beyond five years without City Council approval could violate the City Charter and place the vendor at risk of non-payment. In relevant part, the Memorandum of Law states:

Charter section 99 requires that contracts exceeding five years be approved by the City Council, by ordinance, by a two-thirds' vote after a public hearing that has been noticed in the official City newspaper. Contracts that are extended beyond five years without Council's two-thirds' vote are void or unenforceable against the City. *G.L. Mezzetta, Inc.* 78 Cal. App. 4th at 1094; *Katsura*, 155 Cal. App. 4th at 109-10. Contractors performing an extension not properly approved by Council are doing so at the risk that they will not be paid for their services. *Katsura*, 155 Cal. App. 4th at 111.

The total amount paid to the janitorial vendor after the 5-year contract ended, through the date of this report, using confirming purchase orders is approximately \$2 million. We note that the confirming purchase order memorandums referred to a procurement process that was expected to be completed "very soon." The memorandums acknowledge the need to begin the procurement process "well in advance" of the expiration of a contract.

According to the department, "factors outside of our control thwarted the (contracting) process," including "extended periods of staff being out on leave and employee turnover." The City Council was not notified of the extenuating circumstances and did not approve the contract extension beyond five years as required by the City Charter. Payments for janitorial services to the vendor ranged from \$75,000 to \$95,000 a month, according to the department.

Investigative Conclusion 3

Four Prior OCA Reports Recommended Contract Administration Training and Better Purchase Order Monitoring, But Many Recommendations Remain Unimplemented

In recent years, four prior City Auditor reports⁷ have recommended improvements to the City's contract administration procedures that likely would have reduced the number of confirming purchase orders that were processed in fiscal year 2022. Our investigation identified staff errors as major contributing factors that created the need for most confirming purchase orders.

Normally, we would have recommended that P&C provide contract administration training and improved purchase order monitoring. However, recommendations that address the root causes of most of the confirming purchase orders we reviewed have already been made in prior reports. To date, 8 of the 29 recommendations related to those four prior reports regarding contract administration improvements remain in progress. We report on the status of open recommendations semi-annually. For more information, visit our [recommendation follow-up dashboard](#).

1. We previously noted that the internal control related to contract target values could be circumvented.

In January of 2015, we released an interim memorandum with the subject, "The City Needs to Address the Lack of Contract Administration and Monitoring on Citywide Goods and Services Contracts." We noted that there were "significant deficiencies in the manner in which the City oversees and monitors Citywide goods and services contracts." Specifically, we found that City staff could circumvent an internal control related to target values for contracts. The target values define the maximum dollar amount authorized under a purchase order (or contract if one is in place). City staff were able to bypass the target value limit by intentionally or unintentionally omitting the contract information in the financial system.

At the time of the report, P&C stated that it was aware of the control weakness and was working on reports to detect the activity. However, in our March 2, 2023

⁷ The four prior reports are: [Interim Memorandum on the Performance Audit of Citywide Contract Oversight](#), [Performance Audit of Citywide Contract Oversight](#), [Hotline Investigation of Landscape Contracts](#), and [Audit of Selected Contracts](#).

Recommendation Follow-Up Report, the outstanding recommendation regarding target values for purchase orders was still in process. The newest response from P&C noted that a new report had been developed that will assist in identifying purchase orders associated with a vendor, including those purchase orders that are not tied to a contract, and that P&C will provide additional training regarding the report's use. Since our current investigation found that staff errors related to purchase order spending limits set by target values was a root cause of many confirming purchase orders, better internal controls and training related to target values will likely reduce the number of those exceptions.

2. Five recommendations to improve contract administration remain outstanding from a 2015 performance audit.

Our April 2015 Performance Audit of Citywide Contract Oversight made five recommendations to improve contract administration that remain outstanding to date. One recommendation was for P&C to track expiration dates and not-to-exceed amounts for all City contracts. Our current investigation into confirming purchase orders identified numerous instances in which contract amounts were exceeded through staff errors or poor planning. As such, better planning and training could have reduced the number of these exceptions.

Another recommendation from the April 2015 Performance Audit was for P&C to develop policies and procedures for contract administration. Specifically, a Quality Assurance Surveillance Plan should be established for each contract awarded, staff training in contract monitoring and ethics should be provided, and annual reviews of the City's contract administration process should be conducted by P&C staff. In its most recent response to that recommendation, P&C stated that it will finalize a contract administration manual and provide quarterly training dates. As we found in our current investigation, better planning and awareness of key contract dates could have reduced the need for confirming purchase orders. Several exceptions we found were due to contracts expiring without enough time to issue a new contract.

In response to another recommendation from the April 2015 performance audit regarding vendor debarment training, P&C stated that it "stopped working on this task to focus on the development of the Procurement Academy..." We confirmed that P&C completed its first Procurement Academy in November of 2022 and held a second session in April of 2023, but P&C has not yet provided the recommended contract administration training, nor updated its contract administration manual.

Although the recent procurement training is helpful for the award phase of procurements, our current investigation determined that additional training in contract administration and improved internal controls could reduce the number of confirming purchase orders needed.

3. Our 2016 fraud hotline report found deficiencies in oversight of landscape maintenance contracts.

In April of 2016, we issued a Hotline Investigation of Landscape Contracts report. The investigation was based on an allegation that there was a lack of expenditure oversight for landscape maintenance contracts in a City department. Our review of the identified contracts in fiscal year 2015 identified questioned costs of over \$16,000 related to landscape contracts. In that investigation, we also noted several contract administration deficiencies, such as missing documentation and overcharges on invoices that were not identified before being approved.

Our current investigation into fiscal year 2022 confirming purchase orders found over \$58,000 in invoice payments to a landscape contractor that were needed because the existing contract expired and the services were needed on an interim basis from a different vendor. All of the recommendations from our earlier Fraud Hotline report were specific to the particular landscape contracts we reviewed and have been implemented, but the contract administration training recommendation from the earlier performance audit has not been implemented.

4. Our 2016 performance audit recommended a purchase order monitoring program.

Also in April of 2016, we issued a Performance Audit of Selected Contracts report that included two recommendations related to contract administration that remain outstanding to date. The audit found that, among other things, three contracts were allowed to lapse and were then renewed through an extension option as if the contract had never expired. The audit also found that four vendors charged more than \$1 million through invoices even though no contract was in place when the charges were made. The first recommendation from the report was for P&C to develop a purchase order monitoring program to periodically review all purchasing information for errors and provide training to help eliminate those errors. The second recommendation was to ensure that invoiced prices are reviewed against

contracted amounts. In response to the recommendation, P&C indicated that it was working on a final version of a Contract Administration Manual.

Recommendation⁸ and Management's Response

Given the volume of purchase order payments processed using the confirming purchase order process, we determined that additional disclosure and dollar limitations would improve transparency and accountability over this critical City process. Additional recommendations identified by prior performance audits that are intended to improve internal controls and training remain in process.

- 1. We recommend that the Purchasing and Contracting Department Director propose an amendment to the San Diego Municipal Code to define procedures for confirming purchase orders, and provide public disclosure of the approved purchase orders, such as reports to the City Council and/or online disclosures. The development of this proposal should consider including dollar limits for confirming purchase orders. (Priority 2)**

Management Response: Agree. The P&C will work with the Office of the City Attorney to clarify its definition of emergency purchase procedures and circumstances. Clarifying the definition will alleviate ambiguity while providing necessary pathways for the procurement of goods or services when urgent and unforeseen needs arise, including but not limited to purchases outside of normal working hours to avoid the disruption of operational services. P&C will also work to determine the best approach to reporting/disclosing these types of procurement transactions.

Target Implementation Date: May 2024

⁸ See **Attachment B** for definitions of Fraud Hotline recommendation priorities.

Conclusion

Our investigation did not include an in-depth review of the underlying contracts, invoice details, or other potential sources of fraud, waste, or abuse that have been identified in prior Fraud Hotline investigations and performance audits. Nevertheless, our review of the stated circumstances described in the 240 confirming purchase order memorandums we reviewed for fiscal year 2022 strongly suggests that additional training on contract administration and improved financial internal controls would likely reduce the number of these exceptions—some of which could be considered mismanagement. Since eight prior audit recommendations remain outstanding from as far back as 2015, we do not recommend contract administration training or other financial internal controls since they have already been recommended and P&C expects to implement those corrective measures soon.


Other California jurisdictions include more expansive definitions of emergency circumstances under which procurements may be processed more quickly. Fixed dollar limits defined in laws and procedures outside of the City of San Diego also help mitigate the potential losses due to fraud related to purchase orders that are processed outside of the existing control environment. Also, public transparency related to quasi-emergency purchase orders is incorporated into the laws of other jurisdictions. Therefore, we recommend that the City formalize the definition, dollar limits, and disclosure of confirming purchase orders in a manner similar to other government agencies.

Attachment A – Confirming Purchase Orders Memorandum (page 1 of 3)



THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: December 2, 2015
TO: Distribution
FROM: Kristina Peralta, Director, Purchasing and Contracting Department
via Ronald H. Villa, Deputy Chief Operating Officer 
SUBJECT: Emergency and Unplanned Purchases

In rare instances, City departments must react to unplanned emergencies involving weather events, epidemics, or other disasters. This memorandum describes options available to departments in which unplanned purchases of goods and services takes place outside of the normal procurement process due to an emergency. An emergency is described in San Diego Municipal Code (SDMC) section 22.3208 (b) as an “*extraordinary fire, flood, storm, epidemic, or other disaster.*”

Confirming Purchase Order

If a City department requires services or goods outside of normal business hours, the department may take delivery of these as to not jeopardize services provided to our citizens. Once normal business hours have resumed, the affected Department Director must send the corresponding invoice or bill of service attached to a memo to the Purchasing Agent requesting a confirming purchase order. The memorandum must:

- Describe the nature of emergency (time and location);
- Itemize the goods, supplies or services required; and
- Include the name of the vendor, the total cost, and the invoice or bill relating to the goods and/or services.

Sole Source for Goods and Services

SDMC section 22.3208 (d) allows departments to secure goods and services needed for remediation of emergencies, as defined above, via a Sole Source contract. Departments are not required to obtain a Sole Source justification before securing the emergency goods or services. The Purchasing Agent must immediately report the emergency award and justifications for the

Attachment A – Confirming Purchase Orders Memorandum (page 2 of 3)

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December 2, 2015

purchase to the City Council in writing, and the City Council must ratify this contract award by resolution and a two-thirds vote.

Emergency Purchase Orders

SDMC section 22.3208 (e) allows departments to establish purchase orders in an amount up to \$150,000.00 annually for goods that are “required by City forces for immediate completion of work” and “not normally kept in City stores.” A requisition must be created with the following information:

- Text in the requisition stating the goods are for storm preparations or remediation; and
- A description of possible goods that may be required.

Accordingly, departments may prepare in advance for an emergency by having an approved requisition in advance of anticipated emergencies.

Understanding that not everything can be planned, the Purchasing and Contracting Department staff are available to assist departments with these unforeseen circumstances and procurement needs.

If you have further questions, please contact Miguel Duran, Principal Procurement Specialist at (619) 236-6653.



Kristina Peralta

KAP

Distribution:

Stephen Puetz, Chief of Staff, Office of the Mayor
Scott Chadwick, Chief Operating Officer
Stacey Lo Medico, Assistant Chief Operating Officer
Mary Lewis, Chief Financial Officer
Ronald H. Villa, Deputy Chief Operating Officer
Paz Gomez, Deputy Chief Operating Officer
David Graham, Deputy Chief Operating Officer
Jan Goldsmith, City Attorney
Elizabeth Maland, City Clerk
Andrea Tevlin, Independent Budget Analyst
Eduardo Luna, City Auditor
Stacy Fulhurst, Ethics Director

Attachment A - Confirming Purchase Orders Memorandum (page 3 of 3)

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Distribution
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Department Directors, Mayoral and Non-Mayoral
Department Deputy Directors, Mayoral and Non-Mayoral
Mara Elliott, Chief Deputy City Attorney
Lara Easton, Deputy City Attorney
Justin Matice, Office of the City Auditor
Department Staff, Purchasing & Contracting

Attachment B – Definition of Fraud Hotline Recommendation Priorities

DEFINITIONS OF PRIORITY 1, 2, AND 3 FRAUD HOTLINE RECOMMENDATIONS

The Office of the City Auditor maintains a priority classification scheme for Fraud Hotline recommendations based on the importance of each recommendation to the City, as described in the table below. While the City Auditor is responsible for providing a priority classification for recommendations, it is the City Administration's responsibility to establish a target date to implement each recommendation taking into considerations its priority. The City Auditor requests that target dates be included in the Administration's official response to the findings and recommendations.

Priority Class⁹	Description
1	Fraud or serious violations are being committed. Significant fiscal and/or equivalent non-fiscal losses are occurring. Costly and/or detrimental operational inefficiencies are taking place. A significant internal control weakness has been identified.
2	The potential for incurring significant fiscal and/or equivalent non-fiscal losses exists. The potential for costly and/or detrimental operational inefficiencies exists. The potential for strengthening or improving internal controls exists.
3	Operation or administrative process will be improved.

⁹ The City Auditor is responsible for assigning Fraud Hotline recommendation priority class numbers. A recommendation which clearly fits the description for more than one priority class shall be assigned the higher priority.

Attachment C – Management’s Response Memorandum (page 1 of 2)



THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: September 1, 2023

TO: Andy Hanau, City Auditor, Office of the City Auditor

FROM: Claudia C. Abarca, Director, Purchasing & Contracting Department
via Alia Khouri, Deputy Chief Operating Officer *AK*

SUBJECT: Management Response to the Office of the City Auditor’s Hotline Investigation of Purchase Order Approvals

This memorandum serves as the Management Response to the City Auditor’s Hotline Investigation of Purchase Order Approvals Report (Report). When this response was written, the draft Report provided to Management contained three investigative conclusions and one recommendation, one of which was directed to the Purchasing and Contracting Department (P&C).

Management appreciates the Report the Office of the City Auditor prepared and thanks the staff involved. Management agrees with the recommendation and notes that successful implementation of the recommendation will require cooperation and collaboration among several departments, including the Office of the City Attorney (OCA).

The City of San Diego’s procurement process outlines procedures for planned and emergency purchases. However, not all procurement needs fit within these two very distinct areas. The Report identifies several instances where unplanned and urgent services to meet service levels the public at large expects are required. However, our governing documents do not explicitly illustrate the mechanism to procure those urgent services. P&C will benchmark best practices and work closely with the Office of the City Attorney to address the recommendation proposed by the Office of the City Auditor to arrive at procurement solutions that provide the service level residents of the City of San Diego expect.

RECOMMENDATION 1. We recommend that the Purchasing and Contracting Department Director propose an amendment to the San Diego Municipal Code (SDMC) to define procedures for confirming purchase orders and provide public disclosure of the approved purchase orders, such as reports to the City Council and/or online disclosures. The development of this proposal should consider including dollar limits for confirming purchase orders. (Priority 2)

Management Response: Agree. The P&C will work with the Office of the City Attorney to clarify its definition of emergency purchase procedures and circumstances. Clarifying the definition will alleviate ambiguity while providing necessary pathways for the procurement

Attachment C – Management’s Response Memorandum (page 2 of 2)

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Andy Hanau, City Auditor, Office of the Auditor
September 1, 2023

of goods or services when urgent and unforeseen needs arise, including but not limited to purchases outside of normal working hours to avoid the disruption of operational services. P&C will also work to determine the best approach to reporting/disclosing these types of procurement transactions.

Target Implementation Date: May 2024.

Thank you,


Claudia C. Abarca

CCA

cc: Honorable Mayor Todd Gloria
Paola Avila, Chief of Staff, Office of the Mayor
Eric K. Dargan, Chief Operating Officer
Charles Modica, Independent Budget Analyst
Matthew Vespi, Chief Financial Officer
David Nisleit, Chief, Police Department
Colin Stowell, Chief, Fire-Rescue Department
Casey Smith, Deputy Chief Operating Officer
Kris McFadden, Deputy Chief Operating Officer
Kristina Peralta, Deputy Chief Operating Officer
Jessica Lawrence, Director of Policy, Office of the Mayor
Christiana Gauger, Chief Compliance Officer, Compliance Department
Luis Briseño, Program Manager, Compliance Department