

CITY OF NEW ORLEANS



COMPLIANCE AUDIT
ISSUED MAY 19, 2010

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LOUISIANA LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA

May 19, 2010

**THE HONORABLE MITCHELL J. LANDRIEU, MAYOR,
AND MEMBERS OF THE CITY COUNCIL
CITY OF NEW ORLEANS**
New Orleans, Louisiana

We have audited certain transactions of the City of New Orleans. These transactions occurred from April 2005 through December 2009 under the previous administration. Our audit was conducted in accordance with Title 24 of the Louisiana Revised Statutes to determine the credibility of certain allegations.

Our audit consisted primarily of inquiries and the examination of selected financial records and other documentation. The scope of our audit was significantly less than that required by *Government Auditing Standards*; therefore, we are not offering an opinion on the City of New Orleans' financial statements or system of internal control nor assurance as to compliance with laws and regulations.

The accompanying report presents our findings and recommendations as well as management's response. This correspondence is intended primarily for the information and use of management of the City of New Orleans. Copies of this report have been delivered to the District Attorney for the Orleans Judicial District of Louisiana and others as required by law.

Respectfully submitted,

Daryl G. Purpera, CPA
Legislative Auditor

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Background of City Administration and Audit Difficulties

The Louisiana Legislative Auditor (LLA) received an allegation regarding improper procurement practices within the City of New Orleans (City). As a result of this allegation, the LLA reviewed available City records as well as selected City vendor records to determine the credibility of the allegation.

The City's departments and divisions operate with considerable autonomy on a decentralized procurement system. The City does not follow standardized records management policies, procedures, or protocols. Organizational methods are often determined on a departmental level, making it difficult to locate City records.

During our review, City records were not always accessible. They were maintained in multiple locations or missing. It was extremely difficult, time consuming and, in some cases, impossible to obtain some records. At the beginning of the audit, we informed City officials of our need to have unfettered access to City records. The chief administrative officer, Dr. Brenda Hatfield, responded with several memorandums to City employees instructing them of our presence and our need for assistance and access to City records. Despite the notifications, we were constantly confronted with limited access to records and slow responses to our requests for documentation.

In addition, we also experienced problems obtaining City records maintained by outside vendors. For example, the City contracts with a vendor to manage Federal Emergency Management Agency (FEMA) reconstruction projects. This vendor stores all City documentation related to these projects at an offsite facility. On several occasions, auditors were denied direct access to City records from the outside vendor and were instructed to make record requests through the City. We made requests through the City for records on multiple occasions. If records were supplied, they were delivered several weeks after the request and were labeled as records created for the auditor review. The City departments responsible for these records informed auditors they have the same problems obtaining records from the vendor and that they did not have direct access to their own records. Because we were never given direct access to these records, we have no assurance to the completeness or accuracy of the records received.

During our review of City records, we noted several transactions where it appears the City had a breakdown in its procurement system and procedures. The first part of this report documents instances in which poor procurement practices led to issues with information technology vendors. The second part of this report outlines additional breakdowns in the City's procurement process noted during an expanded sample of professional service contracts.

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Software System Not Provided

On May 25, 2006, the City paid CIBER, Inc. (CIBER) \$1,850,000 to provide a K-12 student information and specialized student information software system called GoalView, which was never provided. While reviewing payments made to CIBER from January 1, 2005, to June 30, 2009, auditors discovered the \$1,850,000 invoice and corresponding cancelled check for the software. According to the invoice, the payment was made for the GoalView software and additional software including GSMSS, Courts, Crimes and Scales system software. We were unable to find anyone at the City familiar with any of these additional software packages and found no evidence that it was ever provided.

On November 19, 2009, CIBER provided LLA representatives with documentation related to the GoalView software purchase indicating that immediately following Hurricane Katrina, the Mayor's Office of Technology (MOT) asked them to assist with preparation for potentially starting 20 charter schools. According to the information provided by CIBER, the City requested that CIBER purchase and install a student information system. On December 26, 2005, the City contracted with CIBER to purchase and install GoalView, a Student Information System for \$1,850,000. The contract included installation and software licenses for 70,000 general education students, 12,000 special education students, 1,500 staff licenses and 25 school licenses. The contract, which was signed by former Chief Information Officer Greg Meffert, appears to have circumvented state law¹ and the City's procurement process as there was no formal request for proposals, it was not signed by the mayor, and there was no competitive process. Instead, the contract appears to have originated from Mr. Meffert's department (MOT) and was simply amended to an existing contract. We could find no information in City records related to the charter schools.

The president of Learning Tools International (LTI), the company that sold CIBER the GoalView software, recollected that CIBER purchased a single software license for GoalView software valued at approximately \$100,000 to \$120,000. She stated that CIBER purchased only the software license and no form of technical support for the software. She recalled that CIBER informed her of the City's intention to use the software in schools referred to as the "Mayor's schools," which at the time were charter schools that were later absorbed into the Louisiana Recovery School System. Since the sale of the license to CIBER, her company has had no further interaction with CIBER relating to the purchase. Invoices to support the purchase were requested from LTI, but were not provided. LTI told auditors they should obtain the invoices directly from CIBER. We requested the invoices from CIBER, but they were never provided.

According to documentation received from CIBER, the City was never given approval to move forward with the charter schools and requested a refund for the GoalView software. In lieu of a refund, CIBER negotiated an agreement with the City to provide support on future initiatives. However, neither CIBER nor the City could provide LLA with the agreement. In addition, neither the City nor CIBER could provide proof that the software was ever purchased. According to CIBER, in June 2008, it provided the City with a reconciliation agreement for the services it provided, which the City agreed to. However, once again neither party was able to

¹ R.S. 38§2237 provides in part that a political subdivision may lease, rent, or purchase telecommunications or data processing systems, including equipment, and related services, through a request for proposals.

provide documentation of the June 2008 reconciliation. CIBER later provided LLA with several reconciliation documents it created in February 2010. According to these documents, CIBER estimated the value of the services it provided in lieu of a refund between \$2,654,674 and \$3,473,941, which included the services listed in the table below. It should be noted that some of the services listed were performed after the June 2008 reconciliation.

Schedule of GoalView Reconciliation - CIBER, Inc. February 2010	
Labor - FEMA Collection	\$1,225,832.18
Consulting fees - FEMA Collection	301,390.20
Labor - Implementation CRIMES Software for District Attorney	40,800.00
Labor - HMGP Support, ECRS User Guide, ECRS Support	20,720.00
Labor - Crime Cameras	916,240.10
Labor - Electronic Contract Routing System	659,106.15
Product/Labor - Mainframe Product and Services	247,500.00
Expenses - Camera Project	62,352.64
Total	\$3,473,941.27

According to CIBER, some of the labor hours were just estimates because some of the area directors involved in the project were not required to submit hours. In the case of the New Orleans project, they worked additional billable hours that were not recorded. Because of the lack of detail to support any of the services, we were unable to determine if these services were actually provided to the City. In addition, it appears the City may have violated Article VII Section 14 of the Louisiana Constitution by paying CIBER in full for a service that was not yet provided (GoalView) and for services that cannot be substantiated.²

In addition to the charges associated with the GoalView reconciliation, CIBER included approximately \$224,863 in expenses related to the New Orleans project that it stated was never charged to the City. According to CIBER, because it was difficult to collect payments from the City, it was a common practice not to bill the City for some of its contractual expenses in an effort to encourage the City to pay CIBER within the negotiated time period. According to documentation provided by CIBER in February 2010, the non-billable expenses included items labeled “gift cards,” “client gifts,” and “golf memberships” totaling \$11,489. In addition, one of the charges totaling \$235 was labeled “client gifts” and listed the recipients as City of New Orleans department heads. Because of the nature of the charges, it is possible the employees violated Louisiana ethics law³ by receiving gifts from a City vendor. In addition, because of the way CIBER and City records were organized, we could not determine if the City was actually charged for the expenses or if additional gifts or gratuities were purchased for City employees.

² **Article 7, Section 14 of the Louisiana Constitution** provides, in part, that except as otherwise provided by this constitution, the funds, credit, property, or things of value of the state or of any political subdivision shall not be loaned, pledged, or donated to or for any person, association, or corporation, public or private.

³ **R.S. 42:1115** provides, in part, that no public servant shall solicit or accept, directly or indirectly, anything of economic value as a gift or gratuity from any person or employee of any person who has or is seeking to obtain contractual or other business or financial relationships with the public servant's agency.

Information Kiosks

The City is currently incurring costs to update and maintain at least 20 computer information kiosks; however, the City cannot provide documentation to indicate how the kiosks were purchased, their purchase price, or how much it costs to maintain them. According to the City's Management Information Systems (MIS) project leader, the kiosks were purchased shortly after Hurricane Katrina to provide residents with remote access to City services, including building permits, public notices, contact information and access to the City's web site. He stated they were purchased directly from Five Point LLC, a national kiosk vendor, but the City does not have a contract with Five Point LLC. In addition, he stated that the kiosks were being maintained by City employees, but the software running on them was handled by one of the City's information technology (IT) vendors as part of an existing service contract. He further stated that the City plans to purchase more kiosks in the future and place them in Winn Dixie stores around the City. The contract with Winn Dixie has already been signed.

We requested all documentation related to the procurement and ongoing maintenance of the kiosks from the City, but neither the purchasing department nor IT departments were able to locate any information. We were however able to obtain records directly from Five Point LLC, the manufacturer of the kiosks. Invoices from Five Point LLC indicate that between November 16, 2005, and February 1, 2006, 20 kiosks totaling \$119,000 were purchased by Dell. According to these invoices, the kiosks were shipped directly to the City in the name of Greg Meffert, former city chief information officer (CIO). Because there was no documentation related to the kiosks in any City procurement records, including the City's Dell records, we were unable to determine if the City purchased the kiosks and if so, the purchase price.

Because there is no documentation to indicate how or when the kiosks were purchased, we cannot determine whether the City complied with applicable state law⁴ as well as the City Charter and Executive Order in the acquisition of these kiosks.

Information Technology Issues

From April 2, 2005, to June 30, 2009, the City paid approximately \$40,740,465 in IT services to two City vendors. During our review of the documentation supporting these payments, we noted instances in which one contract differed from the City's request for proposals (RFP) for the services; contracts lacked detail in describing the services to be performed; or the contracts were missing completely. In addition, the documentation to support these contractual services lacked detail and was often difficult to locate because of a large network of subcontracts. It also appears the vendors may have been duplicating services.

⁴ R.S. 38§2237 provides in part that a political subdivision may lease, rent, or purchase telecommunications or data processing systems, including equipment, and related services, through a request for proposals.

Differences Between RFP and Contract

On June 2, 2005, the City awarded a \$5,500,000 contract to CIBER to provide IT services. A review of the procurement documentation provided by the City indicated that the contract differs significantly from the RFP that the contract was based on. The main purpose of the RFP was to migrate the City's Novell/Microsoft network and its IBM OS/390 mainframe environments from a location in Orange County, California, back to New Orleans. The systems were transferred to California by the previous IT vendor in charge of the services. Additional RFP requirements included the following:

- Provide a plan how the vendor will migrate data from California to Louisiana including a schedule of events from contract signing to putting the system in place
- Provide a mainframe environment sufficient in size to support the applications currently running in California
- Helpdesk support for the City's mainframe and Intel/Microsoft based systems
- Mainframe programming/analyst support for the City's mainframe applications
- Migration and support of all applications in production on the mainframe environment to an Intel/Microsoft/Web-based platform
- Provide support for all the City's network, telephone network and desktops, including approximately 125 WAN links, 4,000 workstations, telephones and printers
- Continue converting the City's 4,000 workstations network architecture from a Novel protocol to active directory (approximately 1,300 have been migrated)
- Support for approximately 60 Dell servers at City Hall and 30 remote servers
- Support of over 75 City SQL databases
- Support other continuing projects including security cameras, web presence, automated ticket writer, automated police report, imaging upgrade/voiceover IP and GIS

When the contract was awarded on June 2, 2005, nothing in the contract listed the migration of data from California back to Louisiana as a contract deliverable. The RFP and contract were significantly different. The contract stated a main purpose to quickly migrate business applications from an IBM mainframe environment to a Microsoft browser-based environment and listed the following as the deliverables:

- The contractor will implement and maintain a Government Integrated Services Platform (GFSP) that will apply e-Service applications to provide at least internal and external web services and web services management, asynchronous messaging, workflow process management, and electronic data and document workflow between City agencies.
- The contractor will develop, implement, and maintain a system to operate integrated E-Government Applications, including, but not limited to, e-procurement, e-logistics, City maintenance, Property Management, Physical Security, Digital Surveillance, Labor Management, City Planning, Public Safety, Court and Judicial Services, and Records Management, all provided by the contractor. The system will enable all e-Service and e-Government applications to share data using industry-standard interfaces built into the architecture. It will enable the City to communicate in such applications with other governmental bodies and the public using standard and other application-programming interfaces (API's).
- The contractor will develop, apply, and maintain interactive GIS Portal technologies where ESRI standard GIS combines map technology with Intelligent Document Management (IDM).
- The contractor will effect the transition from existing to projected City systems, supplying all expertise, planning, development, execution, transition software, hardware and equipment, maintenance, and all other factors required or useful in purpose. The contractor will specially identify and retain responsibility for all software, hardware, and equipment it provides to complete the transaction, whether attached to or installed in City property, equipment, and systems or not. The contractor's transition work and systems will anticipate and enable the contractor to remove its applied software, hardware, and equipment after the transition without affecting the GFSP or the applications and systems it operates, and promptly following the transition the contractor will so remove them.

Contracts Lacking Detail -Vague Language and Lack of Description of Services

All five CIBER contracts we reviewed contained vague language that did not clearly describe the deliverables to be provided to the City. Starting with the original contract in June 2005, the contracted services included multiple items related to IT migration, development and maintenance, without ever detailing clear deliverables. The

contracts lacked performance measures, schedules, and monitoring plans to ensure work was being performed and on schedule. In addition, the original \$5,500,000 contract was amended five times from April 16, 2006, to February 2, 2009, totaling an additional \$41,291,468; however, none of the amendments listed the additional services to be provided to the City for the additional compensation. According to CIBER officials, they were performing additional duties for the compensation including special projects and services related to Hurricane Katrina.

Inadequate Documentation of Services Performed

During our review, we found that the City paid CIBER without adequate documentation of the services provided. CIBER invoices lacked sufficient detail to determine the services being provided to the City. Invoices either listed a job title or an employee name and the total hours worked for the month. On a limited number of invoices, both employee name and job description were listed; however, none of the invoices listed services provided for the hours worked. See examples below.

ciber 5251 DTC Parkway, Suite 1400 Greenwood Village, CO 80111 303.720-6100		Invoice		ciber 5251 DTC Parkway, Suite 1400 Greenwood Village, CO 80111 303.720-6100		Invoice	
PLEASE REMIT TO Department 1301 Denver, CO 80291-1301		INVOICE NO. Ciber / \$5.5M Contract 04-100010 - Contract		PLEASE REMIT TO Department 1301 Denver, CO 80291-1301		INVOICE NO. Ciber / \$5.5M Contract 04-100009 - Contract	
		DATE OF INVOICE 03/07/2007				DATE OF INVOICE 02/07/2007	
		CUSTOMER ACCOUNT NO. 04141CNO01004				CUSTOMER ACCOUNT NO. 04141CNO01004	
		PAYMENT TERMS Net 30				PAYMENT TERMS Net 30	
		BILLING PERIOD BEGINNING END 02/01/2007 02/28/2007				BILLING PERIOD BEGINNING END 01/01/2007 01/31/2007	
ORIGINAL TO: City of New Orleans Greg Moffitt 1300 Poydras Street New Orleans, LA 70112		PURCHASE ORDER NO./REFERENCE		ORIGINAL TO: City of New Orleans Greg Moffitt 1300 Poydras Street New Orleans, LA 70112		PURCHASE ORDER NO./REFERENCE	
Hours/Qty	Description	Rate	Amount	Hours/Qty	Description	Rate	Amount
164	Mainframe Operator/ Programmer	\$93.10	\$15,268.40	153	[REDACTED] - 31475	\$74.28	\$11,364.84
175.5	Mainframe Operator/ Programmer	\$109.65	\$19,243.58	273.5	[REDACTED] - 19439	\$109.65	\$29,989.28
173.75	Mainframe Support	\$109.65	\$19,051.69	167	[REDACTED] - 30542	\$74.00	\$12,358.00
108.25	Mainframe Support	\$93.10	\$10,078.08	182.5	[REDACTED] - 30510	\$93.10	\$16,990.75
159	Mainframe Support/ Programmer	\$93.10	\$14,802.90	202	[REDACTED] - 28473	\$109.65	\$22,149.30
169	Mainframe Support/ Programmer	\$93.10	\$15,733.90	181	[REDACTED] - 30935	\$109.65	\$19,846.65
150	Mainframe Applications and Database Team Leader	\$109.65	\$16,447.50	211.75	[REDACTED] - LC03678	\$93.10	\$19,713.93
163	Network Engineer	\$74.28	\$12,107.64	176	[REDACTED] - 30988	\$109.65	\$19,298.40
114.5	Network Engineer	\$74.28	\$8,505.06	233	[REDACTED] - LC04058	\$93.10	\$21,692.30
166	Network Team Leader	\$109.65	\$18,201.90				

According to the CIBER's director of deliverables for the City, CIBER never submitted time for specific projects at the City but rather submitted time to the overall City contract. As a result, CIBER was unable to correlate hours to specific projects. The only detailed invoices we found were ones submitted to FEMA for storm cost reimbursements. According to CIBER's accounting department, these invoices were created at FEMA's request by the City, after the fact and would be very difficult to re-create and understand. In addition, CIBER stated that a CIBER employee may have helped with this process. We could not find anyone at the City nor CIBER that could explain how the FEMA invoices were created.

Significant Change in Scope or Dollar Amount of Contracts

From April 16, 2006, to February 2, 2009, the City amended CIBER's original \$5,500,000 contract five times for a total of \$46,791,468, without ever modifying the original contract's scope or deliverables. The original one-year contract's main purpose was to migrate the City's business applications from an IBM mainframe environment to a Microsoft browser based environment. When the first contract amendment was issued in 2006, it referred to the original contract as a Master Services Agreement. The amendment increased the total amount payable to \$15,248,579 and extended the contract for another year without modifying the original contract's scope or documenting the reason for the extension and increase. The amendments continued to increase dollar amount and term, but nothing was added to the contract to support any additional services being provided to the City. This trend continued until 2009 when services for Capital Projects employees were added to CIBER's Fifth Amendment.

Schedule of CIBER Contracts April 16, 2006, to February 2, 2009			
Contract Number	Effective Date	End Date	Contract Amount
05-MYR-022	6/1/05	5/31/06	\$5,500,000
K07-429	4/16/06	5/31/07	9,748,579
K07-428	4/16/06	5/31/08	5,650,000
K08-509	4/25/08	5/31/09	15,500,000
K09-664	7/6/09	12/31/09	9,800,000
K09-879	2/2/09	12/31/09	592,889

According to CIBER, its understanding was that the original contract was a services contract and was expected to increase every year. In addition, many special projects were being performed to justify the extra expenses incurred by the City; however, nothing was ever added to its contract amendments or documented at the City for these projects.

Work Performed Without a Contract

In four of the five CIBER amendments we examined, City officials entered into verbal contracts, without valid purchase orders, with the formal written contracts only being signed when work was well underway, near completion, or completed. In other cases, a contract was never issued. According to City code Sec. 70-420, the City is forbidden to procure and receive any materials, supplies, or commodities of any nature without having first obtained a proper purchase order through the bureau of purchasing. As a best practice, the terms and conditions of any contract issued must be in writing and the contract signed by the authorized departmental official and the representatives of the contractor prior to any commencement of work. According to Executive Order 95-016 and its replacement CRN 08-07, contracts are required to be routed through an approval process from the law department, Civil Service, chief administrative officer, finance and then to the mayor for final signature. All these steps must occur before issuing a purchase order and corresponding contract for the services.

In at least four of the five CIBER contract amendments we reviewed, the City allowed the vendor to perform work without a contract. Some were issued almost a year after the City was billed for the services. The City was billed for all the work included in CIBER's fifth contract amendment before the amendment was issued. The contract was issued nine months after its effective date and added \$592,889 to cover payroll expenses for non-IT related staff. The expenses had already been incurred and the contract was issued after we requested the contract for these employees in March 2009. According to CIBER company officials, they were doing the City a favor by providing the staffing of the employees. The duties were clearly outside the scope of the contract as none of the employees were performing IT related functions.

In addition, CIBER added additional services to existing contracts even though the services were outside the contract scope. CIBER employees referred to these services as special projects and stated they were added to existing contracts, at times retroactively. Examples include the following:

- Approximately \$2,809,439 for network related services to install the City's crime cameras
- Approximately \$659,106 to develop an electronic routing system for City contracts
- \$1,850,000 for GoalView Student Information System Software

GSA Contract

From January 1, 2006, to June 30, 2009, CIBER billed the City approximately \$4,657,413 for work performed under a Governmental Supply Agency (GSA) contract; however, job descriptions, billable rates and the services performed at the City differed greatly from the GSA schedule. On June 23, 2004, Executive Order CRN 04-02 was signed authorizing City departments to bypass the City's competitive procedures for professional services and procure IT professional services through GSA Schedules. According to City records, the City entered into a GSA contract with CIBER on August 1, 2005, to provide Information Technology Professional Services. The City provided a two-page document signed by Greg Meffert, former CIO, as proof of the GSA contract. The document contained labor rates for 15 contract employees at the City but failed to provide any contract deliverables. The document referenced a valid CIBER GSA contract, and then provided alternative roles and rates that differed significantly from the valid GSA contract.

According to the GSA, it was unsure how CIBER derived the alternative rate schedules and stated that some of them should not have occurred. In addition, it appears that some of the new job positions were not IT related. When asked about the specifics of the GSA work, CIBER stated that it essentially provided a labor employment service to the City. They were told which employees to place at the City and were not responsible for monitoring the employees and were unsure as to the functions and duties the employees were performing.

Lack of Subcontractor Transparency

During our review of City IT services, we found it difficult to determine the IT vendors providing City services because of a large network of non-documented subcontracts. In multiple instances, auditors found employees working for companies not found in City records. Many of these subcontracted employees informed auditors that it was difficult at times to determine their employer and they had no idea of the contracting structure at the City. They were directly supervised by City employees and often discovered who they were working for when they filled out tax-related paperwork.

In addition, the City does not maintain a listing of subcontractors nor does it require them to be documented in City contracts. During the audit, we found it difficult at times to find the actual subcontractors performing work. CIBER felt this was the City's problem because they did not directly supervise subcontracted employees and were not always sure what services they were performing. The City provided direction and supervision and if they were not happy with the services performed, the City would let them know. Vision IT stated that it did have a problem with the structure and it is one of the reasons for choosing not to renew its contract in 2009.

Possible Duplication of Contract Deliverables - Vision IT and CIBER

As of June 30, 2009, the City had issued a total of seven contracts to Vision IT and CIBER totaling approximately \$57,541,468 for what appears to be an overlap of services. Because of the lack of detail in City records, we were unable to determine exactly what services each vendor provided in respect to the migration of City applications from a mainframe to Intel/Microsoft/Web-based platform; however, according to the contracts, it appears both contractors were being paid to provide some of the same services. As of June 30, 2009, the City's systems still have not been fully migrated.

On October 22, 2007, the City awarded Vision IT a \$5,950,000 contract to complete services provided through CIBER's original contract; however, CIBER continued to provide the services even though they were part of Vision IT's contract. As part of Vision IT's contract, Vision was to provide the following services:

- Continue migration of all applications that are in production on the mainframe environment to an Intel/Microsoft/Web-based platform
- Provide the City with the necessary services and personnel to continue the migration and subsequently support the City's applications, Wide area, and local area networks

According to the scope of work in CIBER's original 2005 contract, CIBER was to quickly migrate the City's business applications from an IBM mainframe environment to a Microsoft browser based environment. The contract issued to Vision IT was to continue that process. After Vision IT's contract was issued, the City amended CIBER's original contract three more times totaling \$25,892,889, with no change in scope. Correspondence from Vision IT indicates that CIBER remained in control of certain City functions despite the fact that under the terms of Vision IT's contract, it was to provide the services. One of Vision IT's subcontractors estimated that the City refused to turn over approximately 30 to 50 percent of the IT functions because the City owed CIBER a significant amount of money under the terms of its contract.

According to Vision IT, the contractual relationship with the City was unusual from the beginning. First of all, the City never provided Vision IT with a Scope of Work (SOW) for the IT services. As part of their contract, Vision IT was to provide the City with a high level statement of work of how it would migrate and subsequently manage the City's network and application infrastructure. According to Vision IT, it has never provided the SOW to the City because the City would never provide essential information. Vision IT attempted on several occasions to engage the City, but City officials would not accept meeting requests or respond to e-mails and phone calls.

In addition, Vision IT stated it was never allowed an oversight role with regard to the personnel working on the contract and the processes being followed to achieve City goals even though this was part of the contract. The City selected and controlled all oversight of the subcontractors and employees. Anthony Jones, the head of information technology at the time, informed Vision IT management that it would have to use the IT personnel he wanted them to use and not necessarily the personnel who were the best qualified to perform the work. He also structured the subcontractor arrangements how he wanted and in one case, appears to have contracted with a company created just to perform work under the Vision IT contract.

Analysis of Procurement Procedures and Documentation

Guidelines and procedures for the procurement of professional and non-professional contractual services are pursuant to and in accordance with the provisions of the Home Rule Charter of the City of New Orleans, Executive Order, and state law. Professional service contracts over \$15,000 and non-professional service contracts over \$20,000 must follow competitive procedures outlined in the City's charter and state law. As part of this competitive process, the City is required to maintain specific documentation and must follow proper City, state, and federal procurement laws and regulations.

Based on the number of issues discovered while examining two of the City's IT vendors, we sampled an additional 18 vendors to ensure the City followed proper City, state, and federal procurement laws and regulations. The 18 vendors were judgmentally selected based on payments received from the City for professional service and public works contracts from January 1, 2008, to June 30, 2009. Procurement related documentation was then reviewed including accounting records, bid documentation, RFPs, requests for quotes (RFQs), contracts, and contract amendments. In some instances, the City was unable to provide any procurement related documentation to support payments. Our evaluation included the two IT vendors to bring our sample to 20 vendors, which consisted of 18 original contracts and 52 contract amendments totaling an estimated \$146,951,670. The exact value of the contract sample cannot be determined because some contracts excluded maximum amounts payable. Because of the considerable amount of amendments to contracts, some original contracts dated back to 1997. Our sample of 20 original contracts included 10 professional service contracts, 4 public works contracts, and 4 public works contracts procured during an emergency. Two of the original contracts were missing from City records. We found the following:

Missing Contracts

We requested all original contracts and amendments for our 20 sample vendors that supported specific payments made during the period January 1, 2008, through June 30, 2009. The City supplied 18 original contracts and 52 amendments to these contracts. The City was unable to provide six contracts, including two original contracts and four contract amendments. The City's legal department, who is the custodian of the records, was able to provide us with some of the contracts but could not provide all the contracts we requested. Some of the contracts we requested were either missing from the City's contract tracking system or were missing from legal department records. Other

contracts in our sample were missing from both legal records and the contract tracking system but obtained either from City departments or the vendors directly.

Because of the manner in which contracts were stored, it was impossible to determine if the vendors in our sample were only issued a total of 76 contracts. We were never given direct access to the contracts and some contract amendments did not contain amendment numbers or reference an original contract, making it impossible to verify that we obtained all contracts. As a result, we cannot be certain that the contracts we examined or were provided represent all contracts of our 20 vendors.

Missing Procurement Documentation

It appears that the City did not maintain public records as required by R.S. 44:36. During our review, we noted that the City did not maintain procurement documentation for all 20 vendors we reviewed. At a minimum, the City should maintain basic documentation related to the procurement of both public works and professional service contracts including proof of advertisement, project specifications, scoring sheets, and all bids or proposals submitted for the service or project. The City should also maintain bid specific documentation including documents related to bonding and insurance, tax clearance, contractor licenses, and DBE (Disadvantaged Business Enterprise) compliance. During our review, we noted that this information was not maintained in a central location, was often located in multiple departments, or was missing. The City failed to provide most of these items for all 20 vendors in our sample including the following:

- Seven of the 12 (58%) professional service contracts were lacking required RFP or RFQ specifications.
- Three of the four (75%) projects requiring sealed bids in our sample were missing proof of advertisement in an official journal or the City's Web site.
- All 12 (100%) professional service contracts were lacking minutes or records of review panel meetings documenting the review and rating of RFP proposals.

Contracts Lacking Vital Information

We found that 57 of the 70 (81%) contracts we reviewed did not clearly include all basic contract provisions according to City charter, Executive Order, and best practices. For example, 20 (29%) contracts did not include contractual amounts. Ten (14%) contracts did not include beginning and ending dates. Fifty-four of the 70 (77%) contracts were not dated when signed and 20 (29%) contracts were lacking proper contract approval steps, including CAO, Budgetary, Civil Service, and legal approvals. Without clearly stated critical provisions in its contracts, City officials cannot effectively monitor the deliverables and payments for each contract.

Contracts With Vague Language and Lack of Description of Services

Fifty-two of the 70 (76%) contracts we reviewed contained vague language that did not describe the deliverables to be provided to the City. Good business practices including written policies and procedures should be in place to ensure that contract price, terms and conditions are reasonable and adequately justified to prevent fraud, waste and abuse of public funds. Project scope, objectives, responsibilities and deliverables should be identified to provide authorization and expectations for the project. The terms and conditions should be adequately detailed to protect the agency in its dealings with vendors. Examples of contracts that did not clearly state the services to be provided include the following:

- On June 6, 2008, the City contracted with Three Fold Consultants to provide professional design and contract administration services to repair damaged lighting to four New Orleans Recreational Department (NORD) fields as a result of Hurricane Katrina. Although there were no additional contracts and/or amendments, correspondence dated September 11, 2008, indicates Three Fold was working on as many as 23 lighting projects. On February 10, 2009, the City amended the contract, increased the contract amount, and added an unlimited number of fields for repair. As a result, auditors were unable to determine exactly which fields the contractor was repairing and it appears work was being performed outside the scope of the original contract.
- On December 1, 2006, Disaster Recovery Consultants (DRC) entered into a \$600,000 one-year contract with the City to perform various tasks related to the FEMA Public Assistance program including, but not limited to, eligibility requirements, required documentation, development of projects, scopes of work, cost estimates, and assurance that the project formulation process is in accordance with state, FEMA, and federal requirements. The contract also included any other related work as determined by the City. During this period, several vendors were contracted to perform similar services as DRC. DRC's contract, like the other contracts, did not provide specific areas or recovery projects DRC would handle. The contract specified hourly rates for employees without

clear deliverables and did not justify the \$600,000 contract amount. Four months later, on April 5, 2007, the contract was amended, increasing employee hourly rates and the contract amount to \$2,395,000. No other deliverables, services or explanation for the contract increase were provided.

Contract Amendments With Significant
Change in Scope or Dollar Amount

Forty of the 52 (77%) contract amendments in our sample demonstrated a significant change in scope or contractual amount without justification. The amendments significantly changed the original nature and scope of the work required or dollar amount without proper justification. As a best practice, contract amendments should be made in the best interest of the governmental agency. Original contracts should be written in a manner as to reduce probable amendments. Contracts should be properly administered to avoid unanticipated amendments, including adequate initial funding and adequate pre-planning. Many of the contract amendments appear to have circumvented the competitive process and should have been procured through competitive RFP or bid, not merely added onto an existing contract.

- On August 1, 1997 Montgomery Watson Harza (MWH) was awarded a \$230,000 contract to evaluate the City Department of Sanitation's compliance with applicable laws and regulations and provide recommendations regarding compliance and recordkeeping systems and report preparation. Although the original contract only allowed five one-year contract extensions, the contract was amended 12 times from August 1, 1998, to June 30, 2009, totaling \$37,672,845. Throughout the 13 years, the scope changed several times to include such services as project management, maintenance, engineering, debris removal, and storm drainage cleaning without a competitive process as required by City Charter and executive order.
- On September 1, 2005, the City issued a \$24,665,561 contract amendment to MWH to assist the City with emergency debris clean-up monitoring of the City because of Hurricane Katrina. City records indicate two purchase orders were issued for the work on August 15, 2006, and December 31, 2006, totaling \$34,318,222. In March 2008, the City issued another MWH contract amendment to continue assistance with the monitoring and provide construction management services for storm drain cleaning. The \$9,755,284 contract had an effective date of December 2005 and included work that was completed prior to the March 2008 issue date. It appears the contract was issued to cover the difference between the September 2005 contract (\$25,000,000) and the actual amount incurred, which was \$34,755,284.

Inadequate Documentation of Services Performed

Controls over disbursements need to be strengthened. Good business practices dictate that payments for services and/or purchases are supported by appropriate documentation and be approved prior to payments being made. Without documentation and approval, there is a greater risk of paying for services not performed. During our review, we noted several payments made without adequate documentation of the services provided. Invoices submitted for payment described the services as “Products/Services” or “Consulting Services” and listed an amount owed for each. However, the invoices do not further describe the exact services provided. For example:

- Beginning in June 2007, Affiliated Computer Systems (ACS) billed the City \$125,547 a month for staffing the City’s 311 system without providing a detailed listing for the charges. Invoices submitted to the City for payment combined all the labor cost into one line item without listing hours worked or the employees performing the work. According to its contract with the City, ACS was to provide 15 employees to man the 311 system at a cost of \$125,547 a month. Without the detailed invoices, it was impossible to determine through City records if the employees were provided and contract deliverables were met.

Work Performed Without a Contract

Twenty-three of the 70 (33%) contracts we reviewed indicate that City officials entered into verbal contracts, violating City law, without valid purchase orders and with the formal written contracts only being signed when work was well underway, near completion, or completed. According to City code Sec. 70-420, the City is forbidden to sell and deliver any materials, supplies, or commodities of any nature without having first obtained through the bureau of purchasing a proper purchase order.

For example, on April 2, 2009, the City issued an \$820,000 contract amendment to Sizeler, Thompson and Brown architects for testing, surveying and specialty services related to the Municipal Yacht Harbor. According to vendor invoices, a large portion of the services were completed before the contract was issued. As a best practice, the terms and conditions of any contract issued must be in writing and the contract signed by the authorized departmental official and the representatives of the contractor prior to any commencement of work.

Significant Differences Between RFP and Contract

In one of the 20 contracts we reviewed, the RFP submitted to the review panel was significantly changed between RFP scoring and the contract award.

- On July 20, 2006, ACS submitted a joint RFP with Unisys Incorporated and Oracle to provide a comprehensive public information system to include a 3-1-1 contact center. According to the RFP, Unisys was to handle unique IT functions, ACS was to handle staffing, and Oracle was to provide system software. On December 4, 2006, the City awarded the contract to ACS, Unisys and Oracle based on the joint RFP proposal. On January 2, 2007, the City issued a contract only to ACS for the 3-1-1 contact center implementation. According to City records, Unisys no longer wished to go forward with the proposal nor to participate in the delivery of the 3-1-1 system so the contract was written using ACS as the sole provider of the services. In addition, ACS chose not to use the Oracle software solution and instead used software from Lagan Technologies.

Emergency Contracts Bid Improperly

Two of the 20 contracts in our sample were improperly bid through an emergency bid process. “Emergency situations” shall mean any circumstance wherein imminent peril to public health, safety or welfare may occur or a natural or man-made disaster or occurrence causing widespread destruction and distress to life and property has occurred. According to Executive Order CRN 05-01 and the state Bid Law, the City has the option to procure goods using an expedited process during declared emergencies. The process expedites the bid process by allowing telephone and fax bids and shorter bid advertisement periods. The emergency procedures apply for the duration of the declared emergency or until the proclamation is specifically rescinded by the mayor or operation of law.

- On September 24, 2008, an emergency resource was requested to repair park benches and picnic shelters for a park in New Orleans during the Hurricane Gustav emergency declaration. The emergency request listed an estimated cost of \$50,000 for the repairs. On April 2, 2009, the City issued a \$269,700 contract to Russo Construction, in excess of the emergency declaration amount and outside the emergency declaration period to repair the benches and shelters. According to design documents obtained for the project, the damages to the benches and shelters were actually caused by Hurricane Katrina not Hurricane Gustav, nearly four years earlier.
- On October 14, 2008, an emergency resource was requested to perform mold remediation and restoration to the civil district court during the Hurricane Gustav emergency declaration. The emergency request had an estimated cost of \$40,000. On December 15, 2008, the City awarded a \$79,900 contract in excess of the emergency declaration for the work. According to City records, the restoration and mold remediation work was

a direct result of Hurricane Katrina which was detailed in a mold investigation report issued on April 14, 2008, several months before Hurricane Gustav.

Contract Amounts Improperly Encumbered

The City is not ensuring contractual amounts are fully encumbered during the contract period; therefore, the City may be overstating available budgetary funds. An encumbrance is established to obligate funds within an account for a specific future use to avoid budgetary overspending. According to the City budget administrator, at the beginning of each year the departments are required to encumber their annual contractual obligations. According to the City charter, this would occur by issuing properly approved requisitions for the contract amounts. During our review, we noted several instances where contractual amounts were not fully encumbered, encumbered for the wrong amounts, or not encumbered at all. The City has a practice of encumbering funds only when paying specific vendor invoices for completed work. The result is that vendors are performing work and the City owes them payment, but the amounts are not reflected in City records. During our review, we noted several instances in which vendors were owed a substantial amount of money; however, the amount was not reflected in City records. In addition, most invoices are sent to individual departments, so purchasing is often unaware of any outstanding invoices. For example:

- In October 2007, Vision IT was awarded a one-year contract totaling \$5,900,000. The City encumbered \$500,000 for the project on April 22, 2008, when several outstanding invoices were supplied to the City for payment. In the following 13 months, at least 20 requisitions were issued to match vendor invoices for completed work, but the total contract amount was never encumbered. In one instance, a requisition was issued to cover six months of outstanding invoices totaling \$818,297.

Lack of Oversight and Controls

Good controls over purchases dictate the use of an automated system that would ensure purchase orders are created only when budgeted funds are available. Although functionality varies by software, a typical automated system includes purchase requisitions, purchase orders, and invoice processing. The system should manage the entire procurement process, including turnaround time for invoices, tracking of total spending by contract, as well as financial commitments and cash flow management. In addition to these core requirements, most automated systems include an array of reporting tools, built-in approval processes, internal controls, and fund management tools designed around best practices that enable management to effectively monitor expenditures.

IT System Failure

The City currently uses five segregated IT systems to manage purchasing, accounting, budgeting, and contract monitoring functions, which results in problems with the entire procurement process. Before 2006, the City was exclusively using an older mainframe system (AFIN) to handle all purchasing and accounting functions. Since 2006, the City has contracted with several vendors to migrate data out of the mainframe system and into two new windows based platforms: BuySpeed to handle purchasing and Great Plains for accounting. As of December 2009, only a small amount of City information was migrated to the new systems, with a majority of the City's accounting and purchasing data still residing in the older mainframe system. The result is three systems that do not communicate with each other and lack proper controls and security.

In addition to three systems for purchasing and accounting functions, the City uses two systems to monitor contracts. In 2008, the City implemented a new contract monitoring system ECRS (Electronic Contract Routing System) to track the entire contractual process from initial approval to contract execution. Before implementation, contracts were tracked and monitored using an older Microsoft Access database. The City is currently dependent on both systems because older contracts are still stored in the Access database and have not been migrated to the new system. During a review of ECRS, auditors found that documentation was often missing, not updated or routed outside the system, and then entered at a later date. As a result, the City is unable to run accurate reports, therefore, limiting its ability to effectively monitor and track contractual obligations. In addition, the use of multiple purchasing, accounting, and contract management systems is causing problems with administering system security, budgetary controls, and access to City records. Good practices dictate that public funds be safeguarded through proper segregation of duties, monitoring, and reporting.

Monitoring and Reporting

The City maintains accounting, procurement and contract data in five segregated systems with limited reporting and audit functions, therefore, limiting its ability to monitor contract data. We found no evidence of contract monitoring activities at the City's administrative or departmental level. Reports are not produced or reviewed for the ongoing performance management of contracting processes or practices. In addition, the exact value of contracted services cannot be readily extracted from the systems, and as a result, we could not reconcile contractual data between the five systems. Therefore, our confidence in the completeness of contractual data is low.

Currently, system reporting functions lack the ability to track expenditures and budgetary constraints to specific contractual obligations. City employees that monitor contracts rely heavily on comments left in the system from other employees and personal knowledge. In addition, purchasing department employees do not compare invoices to contracts so there is no reconciliation to determine if invoices are in agreement with the contracts. According to the director of purchasing, although the City was procuring

services and supplies without contracts and making payments over contractual limits, there was no mechanism in place to prevent such occurrences.

At a minimum, the City should evaluate overall spending patterns using reports and information extracted from the procurement system. Contract budgets and/or budget limits should be compared to actual costs and invoices should be examined to make sure work is in accordance with contract scope and deliverables. The City should have the reporting ability to track the status of contracts being prepared and those outstanding in addition to consolidating City purchasing information. Reports should be available that summarize total expenditures to specific contractual obligations, track budgeted to actual expenses and detail payments made on contracts over contractual limits and outside of contract periods. In addition, the contract tracking system should be able to monitor the preparation of the contract through the final contract approval.

Lack of System Security

City procurement systems lack proper security, segregation of duties, and maintenance. During our review, City employees lacked general knowledge of system security in the different systems. The employee responsible for administering systems access to employees stated that he assigns access based on what supervisors request for employees and was unsure what access employees had in each system.

During our review, we noted several employees that were given system access that allowed them to bypass basic segregation of duties in all three purchasing and accounting systems. For example, we found two individuals in the Finance Department that had administrative rights to one of the financial systems that would allow them to issue, approve, and increase the limits on purchase orders and issue vendor checks without proper authority.

In addition, there were instances where terminated employees still had active user IDs and passwords to key financial systems. The City employee responsible for administering the security roles was not sure why the terminated employees were still active. After informing City employees of this problem, we re-examined security roles several months later and still found terminated employees with active user profiles, including the former head of IT, Anthony Jones. To complicate the problem, audit features (that record when and who made changes to data) in all five systems are limited or disabled making it impossible for the City to track changes made to critical and non-critical data.

Lack of Budgetary Controls

The City lacks policies, procedures, and controls to ensure outstanding liabilities are monitored and reported properly. According to the City charter, the term “encumbrance” refers to an expenditure commitment evidenced by a valid properly approved requisition. These “encumbrances” should reflect the City’s outstanding liabilities and therefore match outstanding contractual obligations. According to the

City's budget director, requisition amounts should equal yearly contract amounts and then be invoiced against until the funds are depleted. Once these encumbered funds are depleted, no other payments can be made without a properly approved change order, which ensures vendors do not exceed contractual and budgetary constraints. City purchasing records indicate the City is not fully encumbering yearly contract amounts. Requisitions were often issued to pay specific invoices, not contract amounts and did not represent the total amount outstanding. In addition, the AFIN system allows users to issue requisitions without encumbering any funds.

On several occasions, through direct communication with vendors, we discovered unpaid invoices that were never encumbered by the City. These outstanding liabilities were not reflected in City records. In some cases, the City was not processing invoices in a timely manner, resulting in years of unpaid invoices. In other cases, vendors were performing work without contracts and purchase orders. We noted in at least 25 instances, vendors were issued notices to proceed prior to the issuance of a contract and without active purchase orders. City staff informed us that this often happened because it was difficult for the City to process vendor invoices. Multiple systems, budgetary constraints and lack of help often added to the problems.

We recommend that the City implement the following practices:

1. Develop and implement formal written policies and procedures that include a mechanism to use for recording all contracts issued by the City. We further recommend that the policies and procedures state how the City should record and maintain its contracts.
2. Develop a checklist or contract template that includes all basic contract provisions as required by ordinance, executive order and policy and procedure to use for all contracts issued by the City.
3. Develop and implement formal policies and procedures to ensure that contract deliverables are received on time, under what conditions the City will accept or reject deliverables, and how the City will handle billing or payment disputes.
4. Develop and implement formal written policies and procedures for monitoring contracts to include documentation to track budgets to compare invoices and charges to contract terms and conditions; ensure that deliverables are received on time; accept or reject the deliverables, including a policy to withhold payments until deliverables are received; and ensure that the City retains documentation supporting discrepancies against the contractor's work.
5. Develop and implement formal written policies and procedures for tracking City contract payments and that they include a requirement to record and scan into electronic format all invoices that have been approved for payment.

6. Develop and implement a comprehensive set of formal policies and procedures that detail the complete RFP, contract approval, and contract amendment approval processes to be used.
7. Specify what documentation staff should retain, where staff is to house files for active and expired contracts, and which staff should oversee those files.
8. Require staff to document how they determined the price for each contract.
9. Develop and implement a formal, comprehensive set of detailed policies and procedures covering all aspects of contract monitoring.

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New Orleans, the largest city in Louisiana, was founded in 1718 and incorporated in 1805. The City's system of government is established by its Home Rule Charter which became effective in 1954. The Louisiana Constitution prohibits the state legislature from enacting any law affecting the structure, organization, or distribution of the powers and functions of any local subdivision which operates under a Home Rule Charter. The City's Home Rule Charter may be amended only by the vote of a majority of the qualified voters in the City, voting at an election called by the City Council on its own initiative, or upon receipt of a petition of not less than 10,000 registered voters.

The City has a mayor-council form of government. The mayor is elected for a four-year term and is limited to two consecutive terms. The mayor appoints the chief administrative officer, who is his principal assistant and budget officer for the city. The chief administrative officer appoints all department heads, subject to the mayor's approval, except the city attorney, who is appointed by the mayor, and the personnel director, the City Civil Service Department, who is appointed by the Civil Service Commission. The City has 13 executive departments and numerous affiliated boards and commissions, and provides a full range of services including police and fire protection, sanitation services, the construction and maintenance of streets, infrastructure, and recreational activities and cultural events.

The council is the legislative body of the City government, comprised of five council members elected from five geographic districts and two elected at large, all for four-year terms. Laws are enacted through council ordinance. The council adopts the City's annual capital and operating budgets. Ordinances of the council may be vetoed by the mayor. Vetoes may be overridden by a two-thirds vote of the council.

The Louisiana Legislative Auditor (LLA) received an allegation regarding improper procurement practices involving the City. As a result, LLA reviewed available City records as well as selected City vendor records to determine the credibility of the allegation.

The procedures performed during this examination consisted of:

- (1) interviewing employees and management of the City and other persons as appropriate;
- (2) examining selected City documents and records;
- (3) obtaining documents from various external parties;
- (4) reviewing City policies; and
- (5) reviewing applicable laws and regulations.

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Management's Response

CITY OF NEW ORLEANS

C. RAY NAGIN
MAYOR

BRENDA G. HATFIELD, Ph.D.
CHIEF ADMINISTRATIVE OFFICER

VIA E-Mail/PDF & U.S. Mail

April 27, 2010

Mr. Daryl G. Purpera, CPA
Louisiana Legislative Auditor
1600 North Street
Post Office Box 94397
Baton Rouge, LA 70804-9397

Dear Mr. Purpera:

On behalf of the City of New Orleans, I am submitting a response to the draft compliance report received and presented by your staff in an exit conference held April 7, 2010.

Should you have any questions, please contact Reginald Zeno, Finance Director at (504) 658-1504 or rezeno@cityofno.com.

Respectfully,



Brenda G. Hatfield, PhD
Chief Administrative Officer

xc: Mayor C. Ray Nagin
City Attorney Penny Moses-Fields
Reginald Zeno, Finance Director



Response to the Draft Report Issued by the Louisiana Legislative Auditor (LLA) to the City of New Orleans

April 27, 2010

INTRODUCTION

On April 7, 2010, the City of New Orleans received a draft compliance audit report from the Louisiana Legislative Auditor (LLA) regarding contracting and procurement procedures of the City. The audit began in October 2008, the week after Hurricane Gustav, and the City recently learned that the audit is ongoing. The City must ask why the LLA has issued this draft report if they are not done with the audit. At the outset of its investigation, the LLA failed to specify a particular subject focus or designate a beginning and ending period of time for the scope of its review. This contributed to uncertainty and impeded the ability of the City to retrieve records being requested. Although an exit conference was held on April 7, 2010, the LLA did not provide critical information at that time to the City regarding the methods used for the report, data sources, or even which specific contracts had been sampled and which documents could not be located by the LLA. The City was originally given only 14 days to respond to this comprehensive draft report, a deviation from standard audit practice which is typically 30 days. On April 8, 2010 the LLA approved an extension for an additional six days to respond. While it appears that the LLA wanted to be sure they were responded to by the current administration, the short turnaround time is unfair.

The auditors complained that they were not provided unfettered access to the departments and their records, and criticized the Administration for this unsatisfactory situation. However, it should be noted that the Chief Administrative Officer (CAO) sent three directives to all departments, boards, and commissions – on October 1, 2008, on January 15, 2009, and on April 22, 2010 – to open their doors upon request and to be cooperative with the auditors. (Attachments A, B, and C). The auditors' presence and requests to cooperate were also made known at staff meetings of department heads. Further, the Finance staff always assisted the auditors when the auditors reported difficulties gaining entry to departments. The auditors must understand that for security reasons, departments cannot be left open, leaving staff vulnerable to unsafe potential circumstances and leaving the City open to theft. Often the auditors came upon very lower level staff and student interns who felt uncertain and intimidated by their intrusion into the department without the courtesy of being introduced by a department head. A better protocol is needed for the LLA whereby they request to see a department head or senior staff member, which would result in a much more productive investigation.

Even while the LLA conducted their investigations, the City had already recognized many weaknesses of the past and begun improvements. The City has conducted its own internal evaluations of procurement and contracting policies and practices, and made many improvements over the past few years which were not reflected in the draft report. Such improvements include the institution of an Electronic Contract Routing System (ECRS) which tracks and documents all stages of the contract approval process and posts all executed contracts to the City's web portal. Many of these changes and improvements to its policies and procedures

were not reflected in the report due to the broad time span under investigation. The draft report makes it seem that all of the issues spotted are current and concurrent, when in fact many occurred even before Hurricane Katrina and have since been corrected.

Considering the lack of clarification and documentation provided by the LLA and the short time frame to respond, the City is unable to address every unsubstantiated finding and sweeping generalization made in this report. Thus, in this audit response, the City will relate the actions that have already been undertaken to improve the areas focused on by the audit – procurement, contracts, and technology. In doing so, the City requests further discussion with the LLA regarding any specific questions that still may be outstanding, as well as identification of any documents that could not be located by the LLA. This will allow the City to respond more comprehensively with greater specificity and clarity, as well as provide the LLA with a better grasp of the information that they have been seeking.

The LLA draft report states that procurement and document maintenance is decentralized, which is correct and is as it should be. Each department has a specific responsibility in the procurement process, and must maintain the appropriate records to be able to fulfill their responsibilities as mandated under the City Charter. For example, Requests for Proposals (RFPs) and their responses are maintained in the originating department; bid documents are filed in the Purchasing Bureau; and executed contracts are archived in the Law Department. Vendors are contractually required to provide access to documents related to the performance of contracted services, which are the property of the City of New Orleans and must be available for review upon request. The City did request that vendors provide the requested information to the LLA, however, the LLA did not inform the City that those records had not been provided. A simple consultation with a department director or a request for assistance from a senior member of the Finance Department would have quickly alleviated the problem. Again, if the LLA would provide the City with a list of specific documents that it wishes to cite or locate, the City will assist further and assure the cooperation of its vendors. This is in the best interest of the LLA, the City, and its citizens if the purpose of this report is in fact to provide recommendations for improving procedures and increase efficiencies.

The City takes very seriously any potential abuses or waste of City resources, and is constantly looking for ways to improve the effectiveness and efficiency of its procurement and contracting processes while maintaining compliance with all applicable laws and regulations. The purpose of the City's response to the LLA's draft report is to clarify and correct any inaccurate statements in the report, and to detail what changes and improvements have been made to the City's procurement, contracting, and technology practices. With this purpose in mind, the City provides the following response to the LLA's draft report. *Please note that because findings were not numbered or ordered in the LLA draft report, the City will label its responses to specific findings using the same format as used by the LLA in the draft report.*

TECHNOLOGY

In August of 2008, the City hired a new interim Chief Technology Officer and immediately tasked him with conducting a comprehensive review of the CIBER contract and instituting measures to improve the terms and condition under which IT services were provided. This

resulted in a review and assessment, and the implementation of management measures to (1) improve the specificity for all services being provided, (2) review and reconcile all paid invoices and outstanding CIBER obligations, and (3) institute a detailed contract management and oversight processes. This review resulted in the following outcomes:

1. Cost reduction of 30 percent in staffing and hourly rates in 2008-2009.
2. Elimination of \$1.8 million dollars in CIBER invoices for network services associated with crime camera surveillance system installation.
3. Realignment and transfer of services previously provided by CIBER to City employees.
4. Award of a competitively procured contract for IT services in September 2009 that restructured all network services and staff augmentation, and further reduced expenditures on IT professional services by approximately 60 percent.

The following are specific responses to findings in the LLA draft report:

Software Systems

In response to the LLA's assertion regarding the acquisition of Goal View educational and other related software, the City initiated an internal review and requested that CIBER, Inc. ("CIBER") provide all related documentation. Should it be determined that there was a failure on the part of CIBER to perform or comply with the terms and condition of the contract for software acquisition, the City will pursue the proper legal recourse. Unfortunately, due to the limited period provided for a response to this report and the failure of the LLA to notify the City of these concerns prior to the conclusion of this review, the City has not had an opportunity to complete a subsequent examination. With respect to the assertion that the former Chief Information Technology Officer may have circumvented State law and the City procurement process, there were instances where that official may have mistakenly acted outside the scope of his authority in an effort to expedite the response to the City's needs during the disaster. However, these instances were noted, and subsequent policies and procedures have since been established to prevent future deviations from procurement laws and policies. See PROCUREMENT Section of the City's response.

Information Kiosks

The City has successfully deployed information kiosks around the city that provide the citizens of New Orleans with remote access to City services. In the period immediately following Hurricanes Katrina and Rita, the City secured and deployed remote information kiosks in an effort to provide citizens with a way to remotely process applications for permits through the City's Department of Safety and Permits. As indicated in the LLA report, the City operates and maintains these remote information kiosk computers with existing City employees. Regarding the method of procurement and associated documentation, the Mayor's Office of Technology (MOT) is conducting a follow-up review and intends to make whatever information is retrieved available to the LLA. Due to the current 2010 budget shortfall, all plans to further expand the deployment of kiosks have been postponed until further notice. However, it is noteworthy that the kiosks receive an average of 375 visits per month from citizens.

Information Technology Issues

The period of this examination (April 2005 – June 2009) encompassed the events of Hurricane Katrina and Rita and their aftermath along with the City's ongoing recovery from these catastrophic events. During this period, the City experienced a 50 percent forced reduction in employees, and underwent a comprehensive restructuring of its IT infrastructure. The initial \$5.5 million dollar contract with CIBER was for a one year period with several options for renewal. When the City entered into this contract agreement, it was anticipated that subsequent option years might be executed depending upon the City's on-going requirements. For each year that the contract was subsequently executed, the original contract cost was increased. The increase in contract value reflected the execution of five option years under the original contract. Further, the five year cost identified for contracted technology services (\$40,740,465) is reflective of a major system overhaul along with the cost for technology staff augmentation services.

Differences between RFP and Contract

As indicated by the LLA in this report, during the period under investigation the City determined the need to undertake a comprehensive upgrade to its existing IT infrastructure. This included the migration of the entire IT network platform from a remotely hosted solution in California to a server-based platform located in City Hall.

Inadequate Documentation of Services Performed

The City transferred management of 311 to the Mayor's Office of Technology (MOT) in September 2008. An immediate review was undertaken and a determination made that the City should initiate efforts to re-negotiate the terms and conditions of the services being provided by Affiliated Computer Systems (ACS). As a result of that process, the City was successful in reducing the cost for 311 services by \$1 million dollars in 2009.

GSA Contract

Replacement Executive Order CRN 08-01 (Attachment D), and subsequent replacement Executive Order CRN 09-01 (Attachment E), removed the Governmental Supply Agency (GSA) procurement authority previously provided in CRN 04-02. City practice now regularly obtains professional services by approved RFP and RFQ procurement.

Possible duplication of contract deliverables – Vision IT and CIBER

The LLA claimed that there was a potential for duplication on contract deliverables through separate contracts awarded to CIBER and Vision IT. However, a subsequent review of these contracts and the services found no evidence to support these allegations. The City awarded a contract to Vision IT in June of 2009 in an effort to transition some of the services being performed by CIBER to Vision IT. Since the Vision IT contract was used primarily for IT staff augmentation, there were no duplications, but there was a corresponding reduction in CIBER

responsibilities. After further review, the City determined that the desired outcomes were not being achieved through the use of Vision IT. Therefore, the City subsequently decided to restructure both contracts and to reissue them for competitive procurement.

PROCUREMENT

Overview of City Procurement Law and Practice

The Home Rule Charter of the City of New Orleans contains concise but strict procurement requirements. Charter Section 6-308(5) requires the City to procure professional services according to a “competitive selection” (“RFP”) procedure established by Executive Order. It requires the City to obtain all other needed goods and services, including construction, by competitive bid.¹ City procurement requirements apply in a much broader scope than the Louisiana Public Bid law, which directs only public works and materials and supplies purchases procurements valued above stated thresholds. (R.S. 38:2212, 2212.1)

The City updated and expanded administrative provision for City procurement practice in recent years. Revised Executive Order CRN 09-01 (2/09) develops professional service procurement practice. Expanded Policy Memorandum 24R (3/08) directs movable property and non-professional services procurements. New Policy Memorandum 113 (10/09) states first-ever comprehensive procurement guidance for City public works projects. Policy Memorandum 119 (10/09) regulates City procurements during declared emergencies. In 2008, the City activated a computer-based “Electronic Computer Routing System” (“ECRS”) to regularize, speed, and document contract approval routing.

These developments have substantially improved City procurement practice. The administrative guidance assigns and integrates specific procurement responsibilities between operational, purchasing, and legal authorities. It requires advance approval, justification and financial provision for City procurements. It requires fully detailed contract specifications approved by the responsible City department. It directly applies City and state law to City procurement practice. For process and records maintenance improvements, ECRS directs and tracks contract routing for operational, financial, legal, and executive approvals. It maintains scanned .pdf copies of relevant procurement documents. For bid solicitations, ECRS contains the procurement authorization, solicitation, bid tabulation, responsiveness and responsibility approvals, selection and selected bid, award, legal form and legality approval, executed contract, and supporting documents. For professional services solicitations, ECRS contains the procurement authorization, solicitation, proposal evaluations, Mayor’s selection, legal form and legality approval, executed contract and supporting documents. These advances all but eliminate the possibility of missing documents and approvals and significantly reduce contract processing time.

¹ Charter Sect. 6-308(5) permits non-competitive procurement of “unique and non-competitive articles.” Section 6-301 (2)(b) requires competitive movable property procurements, “... except in cases where competitive bids are not required by state or municipal law.”

The Legislative Auditor's report reflects misunderstandings about certain aspects of City procurement law and practice. In the purpose to improve the understanding and analysis, the City notes the following:

1. The report generally notes missing contract "documentation" and criticizes the lack of central document maintenance. The comments miss an essential distinction. Contracting practice operates in two separate categories. Procurement selects the contractor, produces the contract, and maintains related documents in a completed file. Management thereafter applies the contract in the operational purpose and maintains related documents pending project completion or contract expiration. City Charter Section 4-404 requires the Law Department to maintain executed City contracts. Functional need dictates that responsible departments maintain operational contracts and related records. Except for a possible later consolidation for completed and expired contracts, central records maintenance would not serve City purposes or requirements.
2. Similarly, the audit confuses contract procurement and contract management. Procurement and management are separate operations, and they merit separate review and assessment.
3. The report challenges differences between RFP purposes and contract requirements. It states that contract requirements absent from the solicitation lack required procurement. The analysis and conclusion are incorrect. Of their nature, professional services solicitations seek proposals in a general purpose. Proposals serve two purposes. They demonstrate provider qualifications to perform needed services. They also advance ideas and information helpful to the City's understanding of the need and of ways to satisfy it. Nothing in professional services procurement practice requires the City to prolong a limited or even incorrect understanding into the subsequent contract. Nothing constrains a smaller or larger service scope contracted in the general purpose. The test for correct professional services procurement is not whether the contract mirrors the solicitation. The test is whether the contract serves the general solicitation purpose and the public interest.
4. The audit reports contract extensions and related funding as though they demonstrate improper use. The referenced June 2005 Ciber contract extended five times is an example. The assessment is incorrect.
 - a. City Charter Section 6-308 limits contracts to terms corresponding to related funds appropriation. Because the City Council approves a budget and appropriates funds annually, City term contracts commonly bear one-year terms, subject to five one-year extensions at the City's option.
 - b. City Charter Section 6-308 also requires the Finance Department to approve funds availability for contract financial obligations. Because the Council appropriates funds annually, contract financial obligations cannot extend beyond twelve months.² Accordingly, City contracts and contract extensions containing financial obligations dedicate particular funding. A services

² Financially-obligated multi-year City contracts contain a "non-appropriation" clause.

contract generally intended for use over several years will initially commit only first-year funding. Lawful extensions will dedicate newly-appropriated funding for the new term.³

c. Extensions to City services contracts commonly, lawfully, and simply maintain the provider in the ongoing work. For example, a contract to supply network support will continue to supply network support during an extended period without further specification. Comments such as “[N]one of the amendments listed the additional services to be provided to the City for the additional compensation.” and “The amendments continued to increase dollar amount and term, but nothing was added to the contract to support any additional services being provided to the City” reflect a deficient understanding.⁴

With respect to the various issues of procurement and contracting, the City has made many revisions and improvements to its policies and procedures that may not have been reflected in the report due to the broad time span under investigation. The draft report makes it seem that all of the issues spotted are current and concurrent, when in fact many occurred even before Hurricane Katrina and have been improved in the years since.

Over the past several years, the Purchasing Bureau implemented the following actions to improve policies and procedures:

March 28, 2008 Revised CAO Policy Memorandum 24(R) – Movables and Non-Professional Services Procurements. This revised CAO Policy Memorandum provides administrative guidance for the procurement of movables and non-professional services, detailing policies and procedures for Executive Branch Departments, Boards, and Commissions. (Attachment F).

October 8, 2009 Created CAO Policy Memorandum 119 – Emergency Procurement Practice. This CAO Policy Memorandum provides administrative procurement guidance during declared emergencies and applies to all Executive Branch Departments, Agencies, Offices, Boards and Commissions. (Attachment G).

October 12, 2009 Revised CAO Policy Memorandum 113(R) – Public Works/Construction Procurement. This revised CAO Policy Memorandum provides City administrative guidance for City Public Works procurements and applies to all Executive Branch Departments, Agencies, Offices, Boards, and Commissions (“Departments”). It supplements City Public Works procurement law for practical City application. (Attachment H).

March 23, 2009 Created CAO Policy Memorandum 114 – “Design-Build Procurement Procedures” For Construction Projects. The City of New Orleans adopted a Design-Build Ordinance No. 23168 M.C.S., approved July 18, 2008. CAO Policy Memorandum 114 develops City policies and procedures implementing design-build procurement procedures for eligible

³ This legally-required funding practice causes frequent misunderstanding. A service contract with \$40,000 dedicated for the first year becomes a “\$40,000 contract.” Three annual extensions with three additional \$40,000 funds dedications becomes an abuse where the City has applied a “\$40,000 contract” to task work valued at \$160,000. Such claims are wrong. They are wrong because the referenced sum is only the amount dedicated against contract obligations as required by law and responsible budget practice. It is not a contract “amount.” (See references to “\$600,000 contract amount,” and “\$230,000 contract” on audit p. 13)

⁴ Audit p. 6, 7

City repair and reconstruction projects and applies to eligible initiatives by Executive Branch Departments, Boards and Commissions ("Departments") and supplements La. R.S. 38:2225.2.1 (Attachment I).

The Purchasing Bureau Continuously Provides Procurement Training To Departments, Agencies, Boards, And Commissions. In 2008, the Purchasing Bureau provided 45 sessions of Purchasing/Procurement Training Classes Outlining Citywide Procurement/Policies. In 2009, 49 of the same training sessions were conducted.

Analysis of Procurement Procedures and Documentation

The LLA states that non-professional service contracts over \$100,000 must follow competitive procurement procedures. In fact, according to CAO Policy Memorandum 24(R), all non-professional services contracts over \$20,000 must follow competitive procurement procedures (Attachment F). In addition, all public works services contracts follow competitive procedures outlined in CAO Policy Memorandum 113(R) (Attachment H).

Missing Procurement Documentation

All formal Invitation to Bid documents released through the Purchasing Bureau are maintained online in the Department of Finance Purchasing Bureau's shared drive and the online purchasing system, BuySpeed. The Purchasing Bureau also maintains hard copies of construction documents. All informal Invitation to Bid documents received from departments are maintained either in BuySpeed tagged as an informal bid, in BuySpeed attached to the purchase order, or as a paper receipt attached to the purchase order when the AFIN system is utilized.

If the LLA would provide a list with the names of the contracts mentioned in the report as missing documentation, and provide the list of documentation that they could not locate, the City will assist them with locating the information.

Emergency contract bid improperly

The City previously researched the referenced procurements and corrected the conditions that permitted them. Updated policies and procedures and electronic contract routing confirm proper procurement practice.

Lack of Oversight and Controls

In June 2008, the City tasked PFM to conduct a comprehensive review of the City's Enterprise Resources Planning (ERP) Software. In March 2009, PFM in conjunction with the Government Finance Officers Association (GFOA) published a comprehensive study with specific recommendations for upgrading the City's IT system and creating a unified software platform for purchasing, accounting, budgeting, and contract administration. The total estimated project cost by GFOA was \$30 million. (Attachment J). Since that time, the City has continued the process of assessment and transition, completed the end user requirements analysis, and developed an RFP for the solicitation of an ERP software solution.

Lack of System Security

As stated earlier, the City determined the need for a new ERP system that would also provide a more modernized security system. The City acknowledges that there are currently two individuals who have administrative rights that allow them broad authority in the City's oldest financial system. In the past, the City's external auditor noted the same issue, conducted "substantive samples," and reviewed the existing paper trail such as paying documents with dual signatures. Based on this review, the external auditor determined that other "compensating controls" are adequately in place.

Further, in 2009 the MO initiated a review and updated security policies to address deficiencies in departmental notification of personnel terminations. As a result, MOT now performs a periodic check through payroll records to confirm the employment status of all authorized personnel with financial security access.

Lack of Budgetary Controls

Starting in 2009, the Budget Office instructs departments to encumber funds for annual contracts at the beginning of the year (Attachment K). In instances where vendors were issued notices to proceed prior to issuance of a contract, the Bureau of Purchasing reports this deviation from the rule to the Budget Office and CAO for corrective action. Finally, the Department of Finance persists in instructing departments to process vendor payments in a timely manner.

CONTRACTING

Work Performed Without a Contract

City contract approval procedures do not always obtain needed extensions by base contract expiration dates. In such cases, by consent of the parties, extensions apply retroactively for short periods. The extensions serve City needs and violate no City or state law. City Code Sect. 70-420 applies to materials, supplies, and commodities procurements and does not guide City services contracting.

In the case of the CIBER IT contract, prior or retroactive extension amendments covered all service periods. The City discovered and promptly cancelled a tasking beyond the contract scope, and it executed Amendment 5 to cover related costs.

Lack of Subcontractor Transparency

The City's procurement process obtains a services contract with a selected contractor, not sub-contractors. The contractor determines the means by which to perform contract obligations and is responsible for results. The City does not manage or take responsibility for sub-contractors.

Contracts with vague language and lack of description of services and Contract amendments with significant change in scope or dollar amounts

Professional services procurement practice reasonably permits contract applications in the general purpose. A rule excluding applications of a properly procured professional services contract to additional projects similar to those first described and needing the same qualifications would obtain procurements not required by law and would disserve City operations. Thus, the City's decision to apply Three-Fold Consultants in lighting design projects beyond those first contracted served both law and efficiency. The same analysis applies to the DRC contract. The LLA audit does not dispute the contractors' qualifications to perform the additional work. It does not state that different qualifications were applied to the additional projects. It does not state that the City's evaluation failed to consider qualifications needed for the additional projects. The audit objects only that the City applied the contract in additional similar work. Professional services procurements evaluate and obtain professional capability against identified needs. The City lawfully applies that capability against like needs.

Conclusion

The City understands that this audit is ongoing. Therefore, the City considers this an interim response to the draft review presented April 7, 2010. The Legislative Auditor and his team are assured of the City's continuous cooperation as the audit goes forward.

The City's response was not included in its entirety due to its size. A copy of the City's entire response is on file for inspection at our office.

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April 21, 2010

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Baton Rouge, Louisiana 70804-3987

Attn: Darryl G. Purpera, CPA, Temporary Legislative Auditor

Re: CIBER Response to the Draft City of New Orleans Audit Report

Dear Mr. Purpera:

Thank you for the opportunity to review and respond to the Draft City of New Orleans Audit Report ("Draft Audit Report"). CIBER is providing additional information via this letter that is essential to a proper understanding of the transactions addressed in the Draft Audit Report. We hope you will find it helpful. Before we address the specific audit items in the pages you provided to us, we should establish the historical background.



Background

CIBER began doing business with the City of New Orleans through CIBER's GSA Schedule in the fall of 2004. Though CIBER can't verify this, we believe that the City came to CIBER because it was dissatisfied with price and value it was receiving from its current providers on their GSA Schedules. At the same time, the City was planning to replace its then current mainframe services provider, Affiliated Computer Services ("ACS"). ACS provided mainframe services to the City from ACS computers located in Orange County, California. The City published the competitive Request for Proposals cited in the Draft Audit Report (the "RFP"), seeking, among many other things, to migrate the services from Orange County back to the City and to migrate the IBM mainframe operations to a more modern platform. On June 2, 2005, CIBER was awarded the Services Agreement 05-MYR-022 to provide these migration services and other services as directed by the City (the "Services Agreement" or the "contract"). This contract has been mislabeled and misunderstood by most reviewers as a fixed price contract for \$5.5 million. That is simply not the case. Services Agreement 05-MYR-022 was awarded to CIBER as a time and materials / level of effort contract with an interim funding limit of \$5.5 million. The City always intended that the contract would grow to cover additional projects and tasks assigned by the City and to cover the five option years included in the RFP and the contract, and that additional funds would be provided as available and needed for this purpose.

Hurricane Katrina

The events that closely followed the contract award drove dramatic changes to everyone's expectations for the contract requirements and performance. On August 29th 2005, Hurricane Katrina hit the City and surrounding areas. The City suffered severe damage from both high winds and the massive flooding caused by breaches of the levees. Before normal City operations could be restored, the City had to provide emergency IT operations and services out of the City data center while an Emergency Operating Center was established. The City charged CIBER with helping to define the necessary projects to initiate a recovery and with executing the work required to maintain

Citywide services (both IT and non-IT) and support for citizens and city employees, and for local, state, and federal agencies responding to the disaster. Even after the City laid off 39 MIS employees (80% of its total IT staff) following the hurricane, CIBER kept all City IT systems running including payroll, networking, and wireless support for every City Department, City Police, First Responders, and many other functions necessary to help the City recover from the storm. *See Attachment A for a list of some of the functions the City directed CIBER to assume.*

Before the disaster, CIBER anticipated a staff of approximately 30 employees (or full time equivalents) to perform the migration of the City's IT from ACS to the City and other IT contract operations at the time of contract award. In the aftermath of hurricanes Katrina and Rita, the City tax base was devastated. The City laid off thousands of City employees. Many other City employees evacuated and never returned. *See, e.g., Attachment B, NY Times, October 5, 2005, Mayor of New Orleans Announces Layoffs of City Worker, by Christine Hauser.* The City directed CIBER to ramp up to assume the added recovery and rebuild responsibilities and to hire or replace the City IT personnel that were no longer available. Although CIBER arguably was not contractually obligated to respond to every City request in the midst of a very real *force majeure* event, CIBER recognized the City's dire situation and provided the requested support. CIBER's staff at the City rose to more than 100 FTEs after the hurricanes. These staff levels gradually came down as the recovery and rebuilding was completed. During 2008 and 2009 staff levels returned to approximately the levels anticipated before the hurricane.

The response to the hurricanes drove other dislocations. CIBER's migration of the City's mainframe operations from ACS to the City was delayed for several months to allow completion of recovery work that was more urgent, and to prepare appropriate facilities for the transferred operations. The task was nonetheless completed. The City elected to remove the task of migrating of City payroll and other operations from the IBM mainframes to another platform from CIBER's scope of work. The City initiated a separate contract effort with other providers to implement a Microsoft Great Plains solution.¹

Services Agreement 05-MYR-022

Services Agreement 05-MYR-022 was a time and materials level of effort contract with a governance model similar to many government and commercial outsourcing contracts for IT services.² Most outside parties reviewing the contract have incorrectly assumed that it was a fixed price contract for fixed deliverables. We refer you to both the RFP and the contract. Page 3 of the RFP states that the "proposals should include hourly rates for staffing based on skill level, certifications and experience." Not surprisingly, CIBER's Proposal to the City did not include a firm fixed price either. As required by the RFP, CIBER's Proposal pricing includes only a table of hourly rates. The contract itself states that the "City will pay the contractor for the services according to the fee schedule made a part hereof as Attachment A." Contract Attachment A is a table of hourly rates for labor categories; it is not a schedule of fixed price deliverables. A review of the statements of work approved by the City confirms this.

¹ CIBER believes that the City decided to implement the Microsoft Great Plains product. The Vision IT effort referred to in the Draft Audit Report may have been part of that effort. CIBER assumes that this can be verified independently. The City should have records of its separate contracts and efforts to implement the Microsoft solution.

² Time and materials / level of effort contracts with a governance mechanism are regularly used by government and commercial customers when the scope of work for specific tasks can't be defined at the time the RFP is issued and when the customer requires the flexibility to quickly adjust daily contract performance to react to the changing needs and priorities of a large and complex operation. The use of these types of contract appears to be authorized under Louisiana law provided the procuring entity makes a written determination justifying the type of contract used. See, R.S. 39:1611-1613, and Louisiana Purchasing Rules and Regulations, Section 1707. CIBER assumes that the City officials made the required determinations before they issued the RFP and the Contract.

All billing will be based on an actual (time and materials) based [sic] with individual billing roles based on CIBER invoices. Travel will be billed on a monthly basis. See, e.g., *CONO IT Operations and Support, August 1, 2005; CONO GIS and Kiosks, August 1, 2005; CONO K-12 Student Information and Specialized Student Information Systems.*

Under the contract, CIBER was required to provide an approved number of CIBER resources to be managed in accordance with the City's direction and oversight against a changing list of tasks provided by the City. CIBER met with City officials on a regular basis (weekly and bi-weekly) to go over the staff resource mix and levels, the tasks, and any performance issues and concerns. CIBER was not free to do what it pleased without City supervision or control. City officials were always aware of the staff levels and hourly rates and charges, the specific tasks assigned, and the performance of the work as it was being performed. The City monitored CIBER's performance, had the authority to add and delete tasks and direct changes and adjustments to CIBER's performance, and the City did so regularly. We acknowledge that this form of contract governance does not always provide ideal documentation for an audit occurring years after the performance of the work, but it does ensure that the customer has all of the information necessary to assess the contractor's performance contemporaneous with the contractor's delivery of the services.³

The absence of more detailed contract documentation understandably was not a priority immediately after the hurricane. All parties were focused on providing emergency services, restoring interim operations, and rebuilding the City's infrastructure. The City never required more detailed documentation from CIBER as it moved forward and evidently did not retain much of the documentation CIBER did provide.⁴ As your report notes, the gaps in the City's contract documentation and processes have made audit more difficult. Better City documentation would have shown the course of negotiations, the nature of the contract, and established the time and materials basis for the pricing to the City. City inspection and receiving reports would establish for auditors, who were not present during the delivery, what tasks were assigned and completed. For whatever reasons, the City apparently did not see the need to create and preserve better documentation for the activities it directed under the contract.⁵

The City's contractors have suffered as much as any for the absence of City documentation. CIBER has spent tens of thousands of dollars to re-establish the details of its performance many years after the fact. This would not have been necessary had the City kept a better record of the contract performance as the performance occurred.⁶ This is not to suggest that underlying critical activities were not undertaken, merely that they were not always well-documented by the City. For example, City agencies did inspect and accept work and require corrections when warranted, but formal acceptance documents were not regularly required or kept by the City.

³ With the benefit of hindsight, one might argue that this was not the best form contract for the City, but it is the contract the City wrote and administered. Nothing in the Services Agreement would have prevented the City from keeping more complete documentation. On the other hand, the Services Agreement did not require either CIBER or the City to provide more documentation.

⁴ The auditors can confirm from their own experience that CIBER was asked to provide documentation that it had already provided to the City on multiple occasions, but that the City no longer had available for the audit.

⁵ CIBER believes that more documentation is available in the City files and systems. When CIBER was providing services to the City, it was often asked to provide documentation and support. Many of these files were stored at City facilities and in City systems. Supporting documentation can also be found in City databases and IT systems, if one knows how to find it. CIBER no longer has access to these files and systems.

⁶ Contractors have a limited ability to protect themselves from a dysfunctional government customer. They can supply some documentation, but they cannot create the government procurement files, requisitions, purchase orders, change orders, receiving reports and other documents that good government procurement practices require. CIBER's experience with the City was particularly frustrating. Many of documents we did provide to the City were not regularly kept or filed and often were lost and had to be provided again.

Katrina also introduced FEMA to the City and its contractors. Without any legal basis in the contract, the City required its contractors to first assist the City in seeking reimbursement from FEMA before the City would make payment to them. While CIBER understands the City's motivation, the cost of assisting the City has been staggering. CIBER has spent hundreds of thousands of dollars in this effort. Five years after the hurricane, CIBER has not yet been paid for all of the services it provided nor has the City reimbursed CIBER for its FEMA related costs incurred on the City's behalf and at the City's direction.

Goalview Software System

CIBER is providing a copy of the quote that LTI provided to us for the license and support services to City. *See Attachment C.* The quote provides an enterprise license to the City for 20 schools for five years for \$1.5 million. The actual license negotiated to the City was expanded to cover 25 schools. See the order issued by the City on December 22, 2005, K-12 Student Information and Specialized Student Information Systems.⁷ This accounts for the difference between the amount quoted and amount paid by the City. The quoted hardware costs were not incurred because the City anticipated running the software on the existing City hardware.⁸ The quoted services costs and maintenance charges were not incurred because the City cancelled the implementation. Per the order dated December 22, 2005, the invoiced amount of \$1.85 million is only for the licensed Goalview software. We are aware of an invoice for the Goalview software that included "Goalview and additional software including: GSMSS, Courts, Crimes and Scales system software," but the items other than Goalview were not included in the order placed by the City. We are not sure why this invoice was issued, but the invoice in CIBER's accounting system is only for the Goalview software ordered on December 22, 2005.⁹ *See, Attachment D.* That is consistent with the revised statement of work. *See, Attachment E.*

CIBER has not been able to confirm the delivery of the Goalview software to the City, but delivery should have occurred in late 2005 or early 2006 when all parties were still struggling with the recovery from the hurricane and flooding. This software may have been delivered electronically.¹⁰ The City's cancellation of the project makes the issue irrelevant.

In January 2007, the Mayor's office of Technology ("MOT") (Mark Kurt) asked CIBER for a refund for the Goalview expenditure because the City could not to move forward with the Mayor's special school district. In lieu of a refund, CIBER negotiated support for the City of New Orleans on future initiatives. CIBER agreed to support the City in several areas. The primary area was to support the City's efforts to secure FEMA funding for the City's IT recovery. The City did not have the ability to develop the project documentation and project worksheets required by FEMA and it did not have the additional funds to pay for this critical service. Under this agreement CIBER has led the collection efforts of the City recovering over \$6 million in FEMA reimbursements for disaster recovery activities. At the time the reimbursement agreement was made, the City owed CIBER nearly \$9 million for services performed supporting Katrina recovery activities and normal IT operations. Because of this outstanding debt, the City was willing to work with CIBER on reimbursement for the Goalview expenditure.

⁷ Page 2 of the order indicates that it was "provided in response to a proposal submitted by CIBER to the City in accordance with the master services contract (05-MYR-022) between the City of New Orleans and CIBER." 05-MYR-022 is the contract dated June 2, 2005 between CIBER and the City. See below at "Differences between the RFP and the Contract" for a more complete discussion of this contract.

⁸ Based on the LTI quote for 20 schools, the license fee per school was \$75,000. The charge for five additional schools is \$375,000. Less a \$25,000 discount, the total license fee is \$1,850,000.

⁹ This invoice may simply reflect some post hurricane confusion in our own organization. CIBER was supporting the effort from multiple offices, including San Francisco and Tallahassee. Unfortunately, the CIBER Tallahassee office has closed and key personnel in both offices in 2005 and 2006 are no longer with the company, making confirmation of these details impossible in the time allocated for this response.

¹⁰ As noted in Footnotes 5 and 9, CIBER no longer has access to all of the resources familiar with these activities or to the records of CIBER's operations. Under these circumstances, verification of specific details is often not possible.

In June 2008, CIBER provided the City of New Orleans MOT Department (Anthony Jones) with a reconciliation sheet noting that the \$1.8M reconciliation was complete. It should be noted that CIBER costs did not stop after this reconciliation. A number of costs, such as, the City FEMA and HMGP collection efforts funded by CIBER will continue through 2010. CIBER's reconciliation allocates the charges to specific tasks and the total credits far exceed the \$1.85 Million the City paid to CIBER for the Goalview Software.

The Draft Audit Report states that the reconciliation documents provided by CIBER for services lacked sufficient detail to support delivery of the services. These services were provided on a time and materials basis using the employee hours recorded in CIBER's time-keeping and accounting system. This same system supports invoicing and payment of all of our time and materials charges to the City and has provide the basis for the detailed invoicing to FEMA.¹¹

Alleged Client Gifts

The Draft Audit Report noted \$11,489 in CIBER expenses that included items listed as "client gifts". The Draft Audit Report did not provide details regarding these charges, but CIBER analyzed the unbilled expenses to identify the items listed below by date. CIBER has confirmed that all of the listed items are non-billable expenses that were not invoiced to the City. With the exception of Items 4 and 9, none of these items included gifts to City employees.

Item	Date	Amount	Description
1	5/22/2007	\$5450.00	University Club - CIBER Corporate Golf Membership
2	7/1/2007	\$67.93	University Club Meals - CIBER Corporate
3	8/1/2007	\$212.70	University Club Meals - CIBER Corporate
4	8/6/2007	\$450.00	Three \$150.00 Target Gift Cards – Employee Baby Shower
5	9/30/2007	\$392.64	University Club Monthly Dues - CIBER Corporate
6	11/30/2007	\$633.34	University Club Monthly Dues - CIBER Corporate
7	12/5/2007	\$1867.95	Christmas Gifts to CIBER Employees at CONO
8	12/10/2007	\$324.34	Christmas Gifts to CIBER Employees at CONO
9	12/10/2007	\$235.35	Christmas Gifts to CONO Employees
10	1/21/2008	\$293.21	University Club Monthly Dues - CIBER Corporate
11	1/31/2008	\$321.55	University Club Monthly Dues (\$293.21) & Golf Balls (\$28.34) - CIBER Corporate
12	12/21/2008	\$1381.56	Christmas Gifts to CIBER Employees at CONO
	Total	\$11,630.57	
	Per LLA report	\$11,489.00	
	Difference	\$141.57	

CIBER isn't certain why there is a difference of \$141.57 between the figure in the Draft Audit Report and the figures from CIBER's accounting system, but we assumed the figures in our accounting system are correct. Details for the two gifts to City employees are as follows:

¹¹ CIBER's time-keeping and billing systems do not permit billing the same hour to multiple clients or to both billable and non-billable categories. Each hour or portion thereof is either billable or non-billable and is recorded to only one customer account or to a corporate account.

Item 4 - The \$450 expense on August 1, 2007 was for three \$150 gift cards that CIBER contributed to a baby shower organized by City and CIBER employees for three co-workers. Two of these co-workers were CIBER employees and one was a City employee.

Item 5 - The \$235.35 expense on December 10, 2007 was for Christmas gifts to one CIBER employee and five City employees.

The amounts at issue are small, but CIBER takes them seriously. CIBER has reminded the CIBER employees involved that gifts to government employees are often prohibited by law or policy and that they have the obligation under CIBER's Code of Business Conduct to verify that such gifts are not prohibited before they are made.

Differences Between the RFP and the Contract

The competitive contract awarded to CIBER has grown from the \$5.5 million funding limit authorized in the original award to approximately \$40 million.¹² This growth was anticipated by the competitive RFP issued by the City and hourly rates for the subsequent growth were included in the competitive evaluation and contract award.¹³ As already noted, the intent of the maximum sum payable of \$5,500,000 in the contract at Section 2 has been widely misunderstood and misrepresented. This maximum sum payable amount is an interim funding limit to ensure that the selected contractor does not exceed the appropriations currently available to the City and obligated to the Contract. The practice of stating an interim funding limit is very common in indefinite quantity / indefinite delivery, level off effort, and time and materials contracts. An interim funding limit permits the contractor to start the work and protects the government customer from exceeding the appropriated funds currently available for the contract. Additional funds are added as they become available and as additional work is authorized or directed by the government. The limit on funds in the City's contract with CIBER was never intended as a fixed limit on the total contract value in either the base year or in the option years. The RFP and CIBER's Proposal accepted by the City anticipated additional undefined scope and projects in the base year and the option years. The RFP states:

Although the City has an aggressive schedule to complete this project, it is envisioned that this will be an ongoing project that will last for several years. Due to the aggressive schedule of these endeavors, many of the projects will be handled concurrently.

As projects are identified, the successful vendor will work with the City to develop a work plan and a cost estimate for approval by the City. As projects increase in volume, scope and complexity, the City may need to acquire specific and on-going technical expertise and support. This expertise and support may include developers, network administrators, desktop support, and project managers. Some of the projects may require the vendor to provide third party hardware, services, and/or software. [Underlining supplied.] See, City of New Orleans, Request for Proposal, Migration and Development Services, February 23, 2005 (the "RFP"), p. 2, paragraphs 5 and 6.

¹² This contract has been mislabeled as the "\$5.5 million contract." Clear reading of the contract and the RFP show that the contract was always intended to grow well beyond that initial funding limit. For the reasons set forth in this section, a more accurate name is City of New Orleans Services Agreement 05-MYR-022.

¹³ Assuming no growth in scope year-to-year and no impacts as a result of Hurricane Katrina, the total value of the base contract and five option years is \$33,000,000. As noted, Katrina had a significant impact because of the damage to IT infrastructure, emergency services, and permanent loss of a significant portion of City's IT staff. The City directed CIBER to fill the gap. CIBER could have refused citing the *force majeure* imposed by the hurricane. It never considered doing so. CIBER's IT staff remained in the City during and after the hurricane to assist the City in restoring and maintaining emergency communications and in restoring all IT related services. Any contractor who had received the contract award would have been in the same situation. One can only speculate as to how another contractor might have responded to the City's requests for additional resources and the millions of dollars in payments delayed for years.

Note the use of the plural “projects” and the clear indication that unspecified projects will be identified in the future. As further evidence of the intent of the City, the RFP included a requirement for hourly rates for staffing and a pricing structure for purchases of third party software, hardware and services. *See the RFP, p. 3, paragraphs 1 and 2.* Note also the use of the words “cost estimate.” *Id.* The RFP did not request or require firm fixed prices for fixed deliverables and CIBER did not propose firm fixed prices to the City.

In fact, the City had no way to describe the specific scope of all services in the base year, let alone in the option years, and the offerors competing for the contract had no way to price that scope other than in their competitive rates. That said, the City clearly anticipated scope growth and described that growth in general terms.

Non-Appropriation: In the event that the City Council fails to appropriate necessary funding to sustain this agreement during the specified term, the contract may be immediately cancelled by the City with no further obligation on the part of the City except for services already rendered. *See the RFP, p. 6.*

Option to Renew: The City, at its option, may extend any contract award from this RFP, provided that funds are allocated by the Council of the City of New Orleans and the extension of the agreement facilitates the continuity of services provided herein. The contract may be extended by the City on an annual basis for no longer than five (5) one year periods. If the proposer would require a change in either the compensation rate or scope of services to extend the contract then the proposal should include same for each option year. However, the City of New Orleans reserves the right to refuse contract extensions without cause. *See the RFP, p. 8.*

The growth in contract scope and contract value was the subject of the price competition in the RFP as were the five option years.¹⁴ Any contractor receiving this competitively awarded contract would have expected comparable growth in the contract scope and amount, particularly in light of the unforeseen additional emergency support and rebuilding required in the aftermath of hurricane Katrina. The City lost the majority of its IT staff because of the storm. Some staff evacuated and elected not to return, and the City dramatically reduced the remaining IT staff because it no longer had sufficient tax revenue to meet payroll. The City directed CIBER to fill the gap and CIBER stepped up to help the City in its time of need.

As noted above, after the hurricanes the City elected to remove the migration of City payroll and other operations from the IBM mainframes from CIBER’s contract tasks. The City undertook a separate effort to implement a Microsoft solution.¹⁵ CIBER doesn’t believe there are any other material issues with respect to its performance of the tasks described in the contract.

Contracts lacking details – Vague language and a lack of description of service

CIBER agrees that it would have been better practice had the City created and kept better contract documentation and better contract documentation by the City would have better served the City, the City

¹⁴ The inclusion of annual renewal options is a standard government procurement practice driven by practical business and economic factors. Each formal competition and selection imposes significant administrative costs. When agencies replace contractors who are providing critical systems and services they incur significant non-recoverable transition costs and they must accept the additional operational risks and lost efficiencies inherent in any transition to a new contractor. Options are included to avoid these costs and risks except in the case where the contractor is not performing well or changes in the market suggest that a re-competition will yield sufficient additional value to offset these costs and risks. *See, e.g., Louisiana Purchasing Rules and Regulations, Chapter 19, Multi-Year Contract.*

¹⁵ Again, CIBER assumes that this can be verified independently. The City should have basic records of its separate contracts and efforts to implement the Microsoft solution.

taxpayers, and the contractors in the audits that have followed. In fairness, for a substantial period following the hurricanes, the City was in a state of disarray and was scrambling just to restore and maintain essential services and payroll for City employees and to support emergency services and first responders. Understandably, the City's focus was not on procedures and documentation. As already noted, the City imposed a model of governance that allowed it to control, manage, task, and monitor its various contractors as the work was being performed. In CIBER's experience, contractors were not free to do as they pleased. Unfortunately, the City's chosen method had some shortcomings. The absence of City documentation does not always support independent audit and accountability many years after the delivery of the services and the absence of formal process may have contributed to a lack of adequate planning and budgeting by City officials for larger, more complex projects.¹⁶

Inadequate documentation of services performed

Again, CIBER agrees that it would have been better practice had the City created and kept better contract documentation and better contract documentation would have made subsequent audits much easier for all parties. To the City's credit it did impose a form of governance that allowed it to control, manage, and monitor CIBER's performance as the work was being performed. Because of regular meetings with the CIBER, the City always knew the levels and mix of resources CIBER had in place and the details as to how those resources were deployed against the City's changing list of tasks and priorities. The City was free to request additional information and details from CIBER at any time and it did so. The City did not always adequately document the meetings with its contractors, the tasks assigned, corrections, and completion sufficient to support a later audit, but the RFP anticipated this type of time and materials / level of effort contract and governance. Page 3 of the RFP states that the "proposals should include hourly rates for staffing based on skill level, certifications and experience." We note that CIBER's accounting for this type of contract was appropriate. CIBER's time-keeping systems tracked the hours by individual assigned and invoiced the City on a time and materials basis against the staffing and level of effort approved by the City. CIBER did not invoice for non-billable hours or expenses, such as, vacation and sick leave.¹⁷

CIBER does wish to correct the record regarding the FEMA invoices. CIBER does have individuals who are very familiar with the details in FEMA invoices. The CIBER accounting person who was working with the auditor is not familiar with these details because he was not involved in their preparation. FEMA has very specific, extensive invoicing requirements, and additional detail and support were added to CIBER's regular invoice to comply with those requirements. In fact, the detailed FEMA invoices were submitted to multiple reviews both by the City and FEMA and to corrections before they were paid by FEMA.¹⁸ The submittals are in multiple volumes. FEMA and the City did not pay any invoices until they were satisfied with the invoices and the supporting documentation. That review process is ongoing with respect to the invoices that have not been paid.

Significant change Scope or Dollar amount of contracts

Please see our comments above addressing the differences in the RFP and the contract. The "five amendments to CIBER's contract" were to add funds for continuing work and to exercise extension

¹⁶ The mere act of preparing detailed statements of work, cost estimates, and schedules forces a procuring agency to think more critically. It results in fewer mistakes, changes, budget overruns, and schedule delays. The City did not seem to have the culture, the people (i.e., sufficient staff with the required training and experience), the procedures, or the systems to support this more disciplined approach. CIBER is not suggesting that lack of adequate numbers of experienced trained personnel was entirely within the City's control. The wholesale loss of City personnel after Katrina was a significant contributing factor.

¹⁷ As noted in Footnote 6, CIBER's time-keeping and billing systems do not permit billing the same hour to multiple clients or to both billable and non-billable categories. Each hour or portion thereof is either billable or non-billable and is recorded to only one customer account or to a corporate account.

¹⁸ State resources were also invited to participate in this review.

options in accordance with the RFP and the contract. Per the RFP and the Services Agreement 05-MYR-022, the City had the right to extend the contract in annual increments through May 31, 2011. The City elected to exercise the options through May 31 2009 (Extension Option 3). CIBER and the City agreed to a partial exercise of Extension Option 4 through December 31, 2009. Under the RFP and the contract the City also had the obligation to provide additional funds for the time and materials services and additional levels of effort it ordered, including the services provided during the extension periods. Any contractor who won the award would have expected that the City would exercise these options and provide the additional funding as necessary. We can't comment on the City's internal processes, but we assume that the City followed those processes required for the proper exercise of these competitively awarded options.

CIBER does not agree with the statement that "special projects were added to justify the extra expenses incurred by the City." Remember, the City had the right under the RFP and contract to order additional services, hardware, and software on a time and materials basis within the general scope of the contract.

As projects are identified, the successful vendor will work with the City to develop a work plan and a cost estimate for approval by the City. As projects increase in volume, scope and complexity, the City may need to acquire specific and on-going technical expertise and support. This expertise and support may include developers, network administrators, desktop support, and project managers. Some of the projects may require the vendor to provide third party hardware, services, and/or software. [Underlining supplied.] See, City of New Orleans, Request for Proposal, Migration and Development Services, February 23, 2005 (the "RFP"), p. 2, paragraphs 5 and 6.

The City exercised that contractual right. A contract amendment was not required. If CIBER refused the direction of the City without a sound legal basis for that refusal, CIBER would have been in breach of the contract. Please note that some of these modifications added funds for previous work that was not paid for until FEMA approved the work and provided funding to the City.

Work performed without a contract

We are not sure how to respond to the finding that work was issued to CIBER without a contract or a purchase order. With the exception of the work under the GSA Schedule, all work was performed under Services Agreement 05-MYR-022. Both the RFP and the contract reserved for the City the ability to add projects and other work to Services Agreement 05-MYR-022. Services Agreement 05-MYR-022 was signed by an authorized departmental official prior to the commencement of the work.

CIBER is not sure who provided the comments to the auditors about special projects. For the reasons set forth above addressing the differences in the RFP and the contract, we don't agree that these projects were beyond the scope of the contract award. As we have already noted, the City RFP and the contract expressly intended that such future projects could and would be added to the contract. This isn't just CIBER's understanding. This is the only fair reading one can give the RFP, the proposal, and the contract documents. As noted above, the RFP expressly anticipated the addition of future unspecified projects. As defined by the RFP, these projects were within the scope of the contract. There was no need to modify the contract scope to add them.

CIBER does agree that some funding was added to Services Agreement 05-MYR-022 after work had occurred and was invoiced by the City. The City was strapped for funds because of the painstakingly slow FEMA process and the other demand on the City. The City asked CIBER to proceed with this work to be funded later. CIBER agreed to do the work at its risk until funding was available.

GSA Contract

CIBER offers some clarification to the discussion of the selection and management of the subcontractors by the City. The City selected the subcontractors and personnel that it wished CIBER to provide under the GSA Schedule. CIBER assumes the City did so with due regard for the descriptions in the GSA

Schedule and for their own internal requirements. The orders the City placed against the Schedule were placed on a time and materials basis to provide consultants to work under the City's direction and control. Orders including contractor management responsibility for the work and described deliverables can be placed through the GSA Schedule, but they would include hours and costs for the project management or supervisory personnel and a description of the deliverables and responsibilities of the Contractor for management of the work. The City clearly did not wish to purchase management supervision. It selected the resources and elected to manage them directly. In our experience, the City's chosen approach is more typical than the alternate approach, both on the GSA Schedules and on similar commercial contracts. The use of a time and materials contract maximizes the customer's flexibility in directing the work and making changes as changing circumstances dictate. Under a time and materials order like those placed by the City, the customer is responsible for tasking the individuals, supervising and inspecting the work, and verifying the hours weekly or bi-weekly and on the monthly invoicing as the work is being performed. The contractor will respond to any customer complaints about the performance or qualifications of the consultants or the invoiced hours. As far as we are aware, the City never stated any concerns to CIBER about these consultants or the services they provided.

Lack of subcontractor transparency

CIBER can only comment on its experience with its subcontractors. CIBER's time-keeping and accounting records establish who was a CIBER employee and who was a subcontractor employee. CIBER never had a serious problem in this regard. As a general proposition, we believe that the City managers and employees also knew which CIBER provided resources were subcontractors and who those subcontractors were, though the level of awareness would vary depending on the manager and employee and the extent of their interactions with specific subcontractors and subcontractor employees.

With respect to management responsibility for subcontractors, it is not fair to say that CIBER thought this was the City's problem. CIBER took responsibility for managing the work of its subcontractors who provided services to CIBER under Services Agreement 05-MYR-022. With respect to subcontracted consultants provided under the GSA Schedule, the City assumed responsibility for selecting the individuals and the subcontractors, tasking the individuals, supervising and inspecting the work, and verifying the hours weekly or bi-weekly and on the monthly invoicing as the work is being performed. CIBER was responsible for responding to any City complaints about the performance or qualifications of the consultants or the invoiced hours. As far as we are aware, the City never stated any concerns to CIBER about these consultants or the services they provided.

Possible duplication of contract deliverables – Vision IT and CIBER

CIBER does not believe that there was a duplication of effort between the services it provided and those provided by Vision IT. The City's governance model should have prevented any materials duplication of effort. In regular weekly and bi-weekly meetings, the City was made aware of the tasks and areas of responsibility assigned to CIBER. Based on our experience, CIBER would have informed the City if we became aware of an overlap between our work and work being performed by another contractor. As noted above, Katrina delayed the migration of the City's mainframe operations from ACS to the City for several months, but CIBER completed this task. After Katrina, CIBER ran the core City IT functions and accomplished other assigned tasks directed by the City as the level of resources approved the City permitted. The City directed CIBER to focus on repair and recovery efforts and the rebuilding of the IT infrastructure. The City removed the migration of City payroll and other operations from the IBM mainframes from the scope of CIBER's contract responsibilities and undertook a separate effort to implement a Microsoft solution. *See Footnote 1.*

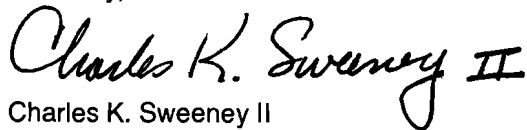
Conclusion

The use of a time and materials contract maximizes the customer's flexibility in directing the work and making changes as changing circumstances dictate, but almost always results in less contract documentation than the parties would have with a contract for fixed price deliverables. By definition, the deliverable on a time and materials contract is a fully loaded labor hour. The accepted measure of that

deliverable is the time entered into the contractor's time-keeping system and the contemporaneous review and approval of the hours and work by the customer. The City was aware of the hours and work as it was being performed and approved them, both on the GSA Schedule and on Services Agreement 05-MYR-022. The attempt to establish full fixed priced contract accountability for time and materials services months and years after the services were delivered is futile and expensive, and it fosters the erroneous impression that value was not received for the services that were provided. We agree that the City would have been better served had it kept better documentation, but that absence of documentation is not proof that value was not received. These services must be properly measured by the contract standards and governance that applied when they were delivered. With respect to important issue of better understanding value received, the parties would do well consider the FEMA process. A huge percentage of the services CIBER provided to the City were subjected to minute and detailed multiple reviews by the City and FEMA to establish both value and accountability before FEMA funds were made available to the City. As far as we are aware, those reviews have not revealed a material concern about the value received for the hours invoiced. On the other hand, the detailed reconstruction of events for FEMA has cost all parties hundreds of thousands of dollars and has distracted all of the parties from more productive activities. One has to question the value received for that effort.

Again, CIBER appreciates the opportunity you have provided us to comment on the Draft Audit Report. We hope that our comments are helpful and we stand ready to assist you in any way we can. Please contact us if you would like additional information.

Sincerely,

A handwritten signature in black ink that reads "Charles K. Sweeney II". The signature is written in a cursive, flowing style with a large, prominent "C" and "S".

Charles K. Sweeney II
Senior Counsel

ATTACHMENT A TO CIBER RESPONSE TO DRAFT AUDIT REPORT

SUMMARY OF SERVICES PROVIDED TO THE CITY OF NEW ORLEANS IN 2006:

Since the events of Katrina, CIBER has continued to provide key IT related services which have been categorized as follows:

Normal Operations	Katrina Related Services
Mainframe Services and Support	Critical Systems Security and Backup Support
Systems and Platform Support	Critical Systems Support City Hall Infrastructure
Telecommunications and Network Support	Damaged Equipment Data Recovery and Testing
Helpdesk Services and End User Support	Database Programming
GIS Systems Maintenance and Support	Disaster Recovery Planning
Finance and E-Government Systems Development and Support	Emergency Finance - Payroll
Application Development – .NET	EOC Support 1515 Poydras
	FEMA Administration Functions
	FEMA Supporting Documentation
	GIS ArcSDE Configuration & Maintenance
	GIS Design and development of central dbase
	GIS Mapping support to EOC
	GIS Programming
	GIS Recovery Support
	GIS Search and Rescue Grid map
	Land Base Editor Application
	Land base Data Maintenance
	Mainframe Operations - Finance, NOPD Reporting
	Map book Products
	Miscellaneous IT Disaster Recovery and Support
	New Orleans Planning and EOC Support
	NOFD Remote IT Disaster Recovery and Support
	NOHD Remote IT Disaster Recovery and Support
	NOPD Remote IT Disaster Recovery and Support
	NOPW Remote IT Disaster Recovery and Support
	NORD Remote IT Disaster Recovery and Support
	Provide support to state and federal agencies
	Public Works Enterprise Integration
	SAN Blade Server Installation
	SAN Blade Server Installation - April
	SAN Blade Server Installation - March

	SAN CX700 Installation
	SAN Environmental Staging and Deployment
	SAN Planning and Migration Allocation
	SAN Symantec NetBackup
	SAN Virtual Machine Creation for City-Wide MIS
	SAN VMWARE ESX Installation
	SWB Enterprise Integration
	Hazard Mitigation Services for SRL Properties

ATTACHMENT B TO CIBER RESPONSE TO DRAFT AUDIT REPORT

Mayor of New Orleans Announces Layoffs of City Workers, New York Times, October 5, 2005

By CHRISTINE HAUSER

NEW ORLEANS, Oct. 4 - The mayor of this battered city said Tuesday that about half of its 6,000 public employees would be laid off because there was not enough money to meet the payroll.

"Today it's with great sadness that we announce that we were unable to hold on to some of our dedicated city workers," Mayor C. Ray Nagin said.

The layoffs - emergency leave without pay - will begin Oct. 8 and leave about 3,000 nonessential workers unemployed when completed in about two weeks. Final paychecks will be issued this month.

Workers in essential services like fire, police, emergency medical, and sewage and water services will not be affected, the mayor's communications director, Sally Forman, said.

Employees in recreation, parks, economic development, housing, finance, technology and law, and other departments will bear the brunt. "You have cuts across the board," Ms. Forman said.

Mr. Nagin made the announcement at a news conference just one day after the governor of Louisiana, Kathleen Babineaux Blanco, met with the heads of parishes to assess how much money would be needed to meet payrolls in areas where the tax base has been devastated.

Ms. Blanco said yesterday that she wanted Congress or President Bush to change the Stafford Disaster Relief and Emergency Assistance Act regulations to allow funds to pay regular salaries and not just emergency-related overtime of public employees.

Mr. Bush said at a news conference on Tuesday that Congress had important work to do responding to the destruction of Hurricanes Katrina and Rita.

"I've also made it clear we must do so in a fiscally responsible way," he said. "Congress needs to pay for as much of the hurricane relief as possible by cutting spending. I'll work with members of Congress to identify offsets and to free up money for the reconstruction efforts."

In addition to the New Orleans layoffs, which Mr. Nagin said were an initial cut, the mayor said he was also asking the state to offer bonds to finance some of the city's debt. "I'm hoping those two actions will give us flexibility," he said.

The mayor said the city had checked with federal financial sources, state sources, local banks and other financial institutions but was unable to maintain staffing at current levels.

He said that the city payroll was about \$20 million a month and that the cuts would shave about \$5 million to \$8 million of that amount. "We cannot afford to keep a full complement of city workers under our present financial conditions," he said.

There had been no talk of cutting city jobs before the storms, Ms. Forman said.

Just last week, Mr. Nagin had laid out plans to open most of New Orleans to residents, an effort that had been delayed by Hurricane Rita, by allowing people to return to all neighborhoods except the Lower Ninth Ward, which he said was still flooded.

Mr. Nagin said Tuesday that about 50,000 people were on the west bank and about 30,000 on the east bank, and that the city could handle many more. Water tests were still being conducted and levees repaired.

On Wednesday, almost all the city's areas will be open for residents to inspect their property, the mayor said, with some of the Ninth Ward still closed. People will be kept off the streets from 8 p.m. to 6 a.m.

Many city employees, like other New Orleans residents, lost their homes and evacuated. Others stayed behind and resumed work, to some extent, in their former jobs, cleaning up and maintaining the sites. They were housed in cruise ships along the New Orleans Riverwalk.

City of New Orleans

Project: Phoenix Rising Solution Area Profile – Education Student Information Management System

Overview	This document is produced by a joint team effort between the City of New Orleans, and the “key partners” Imagine Software, CIBER and Microsoft, to provide a response to FEMA following Hurricane Katrina. This document does not constitute an offer, proposal or contract to deliver services or software. The information contained herein is provided on an “AS IS” basis and Microsoft disclaims any and all implied or expressed warranties. This document is considered competition sensitive and is therefore, provided to the City of New Orleans for its internal use only and for the City of New Orleans to further submit to FEMA for its internal use only to evaluate and consider the recommendations and solutions provided from the key partners.
Solution Area	Education
Pre-Existing Solution	SASlxp - Pearson
Damage Assessment	Complete Loss
Proposed Solution	<p>The Student Information System is the centralized system of record for all student data. The SIS publishes student data to other district systems to ensure accurate integration of data. The SIS manages information in the following areas:</p> <ul style="list-style-type: none"> • Scheduling • Student registration • Demographics • Special Education • Attendance • Grading • Test scores • Health tracking • Course info • Program management • Report cards • Transcripts • Discipline reporting • Home-school communications • Academic & career planning • Teacher & resource management
Business Objectives /Justification	<ul style="list-style-type: none"> • Centralized web-based student data system • Central repository of student information for integration with the accountability

ATTACHMENT C TO CIBER RESPONSE TO DRAFT AUDIT REPORT

	<p>and other district systems (via Schools Interoperability Framework)</p> <ul style="list-style-type: none">• Improved communications of student progress to parents• Student status communicated real time to other district systems, i.e., referrals to Special Education• Improved management of instructional staff placements and resources needed• Improved discipline incident outcomes• Analysis of test scores and grades to improve instructional programs and student interventions
Hardware Costs	\$300,000 (teacher workstations, document management and data center hardware) (does not include risk variance)
Software Costs	\$500,000 license; (5 year software license = \$1,500,000) – (based on 20 schools) (does not include risk variance)
Services Costs	\$600,000 initial; (5 year services = \$2,100,000) (based on 20 schools) (does not include risk variance)
Support Costs	\$100,000 per year (based on 20 schools) (does not include risk variance)
Reference	Chicago Public Schools
Dependencies	The Student Information System is dependent upon the Human Resources, Specialized Student System, and Transportation systems for two way communications of student and staff data. The hardware infrastructure at the data center can be leveraged for management of the SIS system and the Schools Interoperability Framework (SIF) infrastructure.

Prepared for: Phoenix Rising

By: Cathy Zier – CIBER / LTI

ATTACHMENT E TO CIBER RESPONSE TO DRAFT AUDIT REPORT



State & Local Government Solutions

1801 Hermitage Boulevard

Suite 450

Tallahassee, Florida 32309



City of New Orleans
Mr. Greg Meffert

K-12 Student Information and Specialized Student Information System

Version: 1.0
Document #: 09212006
Date: December 22, 2005

Rev. 1.0, 12.22.2005

Scope of Agreement

The following equipment, software and services are provided in response to the proposal submitted by CIBER to the City in accordance with the master services contract (05-MYR-022) between City of New Orleans and CIBER.

CIBER Professional Services Resources Provided Under This Agreement

Role	Responsibility	Qty	Hourly rate:
Program Manager	Overall responsibility for scheduling, progress status updates and communication to CONO and within CIBER.	1	\$120.00
Business Analyst	Provide education subject matter expertise	1	\$109.65
Developers	Development of ASP.Net applications	5	\$74.28

All Billing will be based on an actual (time and materials) based with individual billing roles itemized on CIBER invoices. Travel will be billed on a monthly basis.

Ownership

All materials and deliverables prepared for the City by CIBER shall be owned by CIBER. In exchange for payment of the Consultant fees, CIBER grants the City a perpetual, irrevocable, nonexclusive, worldwide, royalty-free license to use, execute, reproduce, display, perform, distribute internally, and prepare for internal use "derivative works" as defined in the Copyright Act, 17 U.S.C. §101, based upon, the CIBER materials and deliverables, in each case solely in conjunction with the Work Product delivered under this Agreement. There is no separate license fee for these materials.

By signing this agreement, you agree to pay charges for the following services, in accordance with our established rates in effect when the services are rendered. Charges will be payable within thirty (30) days of the invoice date. You also agree to reimburse us for any special or unusual expenses incurred at your specific request including license fees.

Rev. 1.0, 12.22.2005

License Software and Fees

You hereby authorize CIBER to purchase the following licensed software and materials of Learning Tools International, Inc. ("LTI") so that work can begin immediately:

<i>Description</i>	<i>Fee</i>
GoalView Student Management System Software	\$1,850,000.00

The LTI software and materials shall be licensed to the City of New Orleans pursuant to LTI's Standard Internet License Terms and Conditions (see attached). Licensed for 70,000 General Education Students, 12,000 Special Education Students, 1500 Staff. 25 School license for SIS.

You agree that our liability for damages hereunder, regardless of the form of action or type of damages, shall not exceed the total amount paid for the services associated with this authorization of interim work and that this will be your exclusive remedy.

Rev. 1.0, 12.22.2005

Processes and Procedures Related to This Agreement

Specialized Student Information System Software:

The Specialized Student Information System is an Individualized Planning System supporting the IEP Process, Intervention, 504, and other specialized student populations, to improve achievement, and ensure accountability. Key objectives of the system are to:

- Manage the Intervention, and IEP Workflow Process – in multiple languages
- Manage Title 1 Learning Plans and student performance
- Create continuous Progress Reports
- Track Alternate Assessments
- Manage student placements
- Produce administrative reports for District and State of Louisiana reporting
- Report services delivery for Medicaid reimbursements
- Ensure accurate IDEA Child Count reporting for funding
- Integration with Student Information System

Features:

GoalView New Orleans Specialized Student Management System

- Student & Staff Information Management
- Staff Secure Permissions

GoalView New Orleans IDEA IEP Process SmartForms™ & Document Archiving

- Intervention Plan
- Referral Notice
- Meeting Notice
- Consent to Evaluate
- Evaluation Summary
- Individualized Education Plan (includes Transition)
- Student Progress Reports
- Student GoalCards

GoalView New Orleans Goals Libraries

- Louisiana Curriculum Standards
- 10,000 Special Education Goals and Objectives in *English and Spanish*
- ISTE Technology Standards for Students and Teachers
- National Skills Standards
- CEC Life Centered Career Education Standards
- District Curriculum Standards

GoalView New Orleans Services & Sessions

- Related Services Delivery Encounter Tracking

GoalView New Orleans IDEA Data Collection and Reporting

- December 1 and June 30th Child Count Data Verification, Views & Export

Rev. 1.0, 12.22.2005

K-12 Student Information System Software:

The Student Information System is the centralized system of record for all student data. The SIS publishes student data to other district systems to ensure accurate integration of data. The SIS manages information in the following areas:

- Scheduling
- Student registration
- Demographics
- Attendance
- Grading
- Test scores
- Health tracking
- Report cards
- Transcripts
- Discipline reporting
- Home-school communications
- Integration with SSM System

Features:

On-Line Student Registration, Enrollment & Student Record

- Search a registration or enrollment
- Register a new student
- Re-register a returning student
- Set-up registration deadline for returning students
- Set-up required document for each grade (immunization etc.)
- Assign students to different grades, sections, subjects

Student Standard Based WEB Grading

- Grade students on-line or via web
- Create course work categories (tests, homework, mid-term)
- Customize letter grade averages and weighted averages
- Add/Edit course-work before or during the term
- Add/Edit grades for the entire class in one place
- Add/Edit teacher comments based on student performance
- Print student grades (midterm, grade reports, or transcripts)

Attendance Tracking

- Track daily student/staff attendance
- Select attendance for any date and make updates
- View student/staff picture on the attendance page
- Customize unlimited attendance codes
- View daily or cumulative attendance summary
- Auto-generate absent/tardy student roster
- Print attendance absent days on the student report card

Rev. 1.0, 12.22.2005

Master Student Scheduling

- Prepare teacher/student/class Master and Dynamic schedule
- View by teacher, student, subject schedule
- Set-up teacher availability for different classes
- Set-up daily and weekly calendars for easy view
- Several built in schedules: 4x4, 8x8, Block, Traditional
- Print detailed School Schedule

Student Discipline On-Line Process

- An automated process to handle student discipline & suspension
- Teachers view to input student area of improvements
- Selection based on school policy corrective measures
- Review process by a counselor or the Dean
- Documented guideline to handle critical student situations

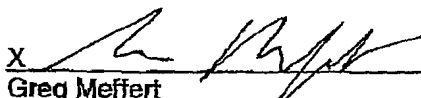
Student Data

- Search a student by name and grade
- Add a student picture for easy recognition
- Search only current school year database or all years
- Track student and sibling information
- Add/Edit/View student profile information
- Add/Edit/View student's parent information
- Add/Edit/View student's family/emergency contact information
- Add/Edit/View student's enrollment history
- Update student status ((registered, in process, suspended)

Rev. 1.0, 12.22.2005


Approval Signatures

For: City of New Orleans

X 
Greg Meffert
Chief Information Officer
City of New Orleans, LA

Date: 12/26/05

For: CIBER, Inc.

X 
Ed Burns
President, State & Local Government Division
CIBER, Inc.

Date: 12/26/05

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