

From: Dona Newman
Sent: Thursday, June 29, 2006 10:47 AM
To: 'Michael Kessler'
Cc: 'Timothy J. Stahl'; Alan Bray; Dona Newman
Subject: Feed Back on Draft UEP Report

Michael,

We have reviewed the June 27th Draft Report you provided and have some comments and questions for you. I have documented them here, am sending them to you through e-mail, and will call you after you have had a chance to read them.

Let me start out by saying you have provided a very thorough report complete with exhibits. We appreciate having the documentation for our files. This is a much longer report than we generally issue. Not everyone will read such a lengthy document. Therefore, I would rather see a much more succinct report from you to issue to Council. I understand you are working on an executive summary report. Would it be possible to make this the report for issuance?

I noticed that you did not comment on the objectives of the audit rather than to list them. I was expecting to see a short result statement about each objective.

In addition, I was expecting to see a more standard audit report format that had stated findings and recommendations. In some sections of the draft report you stated the facts as you saw them but did not explicitly state what your finding was and what you recommend the City do about it. In order for my office to follow up and report on Management's action as a result of the report, we need to be clear on what the issue is.

I have attached a copy of one of our issued reports so that you can see an example of what we are used to working with at the City of Cape Coral. The report is in the file labeled Exec Summary and Attachment A is in the file labeled Finding-Recom.

In addition, we use a standard finding sheet in our audits. This creates a clear record for our internal use when following-up on audits. You can see that it captures in very brief form the following information about each finding:

- The condition or finding itself
- The criteria or standard to which it is being compared
- The cause of the condition
- The effect or consequences of the finding
- The recommendation for action to correct or prevent future occurrences of the condition

I have gone through the draft report you have provided and started a finding sheet on each finding that I was able to identify. I completed the first one as an example for you to refer to. These finding sheets are attached to this e-mail.

In some cases, I was able to pick up language word-for-word from your report. In most cases, I paraphrased what was presented throughout a section. If you are able to accommodate our request to complete the finding sheets please review my statements of the findings to ensure they say what you mean. My intention is to assist you with this portion of the request, not to restate or change your findings.

In your draft report, you make reference to information coming from the City Auditor's Office. I am concerned that the way this information is presented is misleading.

The first one, on page 29, states "Kessler has been informed by the City Auditor's Office that hiring a CM with a pre-selected "team" is not a common City practice." Who in this office made that statement? As far as I know, none of us is thoroughly knowledgeable about the City's purchasing practices on major construction projects.

The second one, on page 78, states "From the point in this engagement when City Internal Audit personnel concurred with concerns of questionable bidding activity, Kessler was authorized to refer its findings to the US Attorney-Anti Trust Division and Federal Bureau of Investigation." This implies that we had personal knowledge of your findings and their significance as evidence bid rigging was occurring. This was not the case. We authorized you to share your findings during the course of our audit engagement based on your recommendation that this was the appropriate action to take. We were relying on your experience in an area where we do not have expertise – construction contract management.

Other questions and comments about the report are listed below.

Page 12, Restrictions by Public Works

The original plan for this audit was to review the documentation the City had and evaluate whether or not the contract was being managed properly from this information. We had scaled down the scope of the audit from the previous year when we had not received any responses to an RFP that were anywhere within our budget. In an effort to proceed within the budget provided to us by Council through the annual budget process, we purposefully narrowed the scope.

Public Works personnel were aware of this conscious decision. Therefore, they were acting accordingly. While it is true, this inhibited your ability to interact freely with MWH and KBR, I'm not so sure it was strictly Public Works personnel that initiated this hindrance.

Pages 16-17, Conference Call with City Administration

I agree with your statements in the section but I don't understand what your conclusion is. I can attest from attending City Manager Staff Meetings that he routinely follows all public records requests and lets those affected know that they have been made. This allows everyone involved in an issue to review documentation and prepare for questions that may follow. I don't understand the significance of the relationship in time between the City Manager becoming aware of your difficulties in obtaining records and his alerting those affected that a public records request had been made.

Pages 23-27, Documents Received from FDEP, Angie Brewer & Associates, LC, and Pre-qualification and Selection of Subcontractors

What are the findings and recommendations of these sections?

Pages 30-33, Subcontractor Bidding

Explicitly stated findings and recommendations would assist the reader in understanding your points in this section.

Page 42, Licensing

Alan raises this point, have you determined MWH actually provided engineering services for this project?

Page 53, Hourly Billable Rates

Did the differences in Position Titles affect the billable rate applied? What is the effect of these title changes?

Page 70, Contingency Funds

What is the finding and recommendation of this section?

Page 73, Discounts

I don't understand the relationship between the 90% City purchasing and the discount credits due the City. Again, a statement of the finding and recommendation would be helpful.

Pages 77-78, Recommendations

In order for change to occur, we need specific conditions and recommendations to correct them. Rather than making a broad call for reform, it would be much more helpful to state the specific area needing attention and the recommended action.

I hope this review and comment is helpful for you. I will be calling shortly to discuss any questions you may have and determine our timeline of actions in order for you to present your report to Council on July 24th.

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City Auditor
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