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Date: May 26, 2011

To: Audit, Finance & Enterprise Committee

From: Jennifer Ruttman, City Auditor

Subject: Follow-up Review of Custodial Services Contracts – Final Report

cc: Kari Kent, Deputy City Manager
Trisha Sorensen, Assistant to the City Manager
John Pombier, Acting Assistant to the City Manager
Dennis Ray, Facilities Maintenance Director
Marc Heirshberg, PRCF Director
Tom LaVell, Contracts Administrator

Pursuant to the Council-approved Audit Plan, the City Auditor's office has completed a follow-up review of our May 2010 audit of the City's custodial services contracts. The final report, appendix, and management's responses are attached. Please feel free to contact Jason Taylor at x3635 or me at x3767 if you have any questions.

FOLLOW-UP REVIEW

CITY AUDITOR

Report Date: May 18, 2011
Departments: Various
Subject: Follow-up Review of the Custodial Services Contracts Audit

OBJECTIVE

The objective of this review was to determine whether Facilities Maintenance; Parks, Recreation, and Commercial Facilities (PRCF); and the City Manager's Office have effectively implemented the action plans presented in their responses to our May 2010 audit of the City's Custodial Services Contracts.

SCOPE & METHODOLOGY

To accomplish our objectives, we questioned City staff members and reviewed security-related policies and procedures, ID/access card listings, Arizona Legal Workers Act (ALWA) verification documents, and contract master files.

BACKGROUND

On May 11, 2010, we issued a report on our audit of the City's Custodial Services Contracts. The objectives of that audit were to verify compliance with the contracts' terms; verify compliance with federal and state immigration laws and regulations; and determine whether there are opportunities for improvement in the monitoring of custodial services contracts.

The audit report included several recommendations, which can be summarized as follows:

1. Facilities and PRCF should ensure that custodial contractors receive background checks. Further, City management should revise policies and procedures to explicitly require background checks for individuals who will be granted unaccompanied access to non-public areas.
2. In verifying ALWA compliance, the Contracts Administrator should review actual employment records, such as e-Verify reports, for evidence of current work eligibility.
3. Facilities should better document and monitor performance-related communication with the custodial contractor.

In response to the report, the respective departments agreed with the recommendations and presented corrective action plans.

CONCLUSION

The majority of the corrective action plans have been implemented; however, two are still "in progress". A complete list of corrective action plans, along with our findings regarding their implementation status at the time of this review, is presented in the attached [Appendix](#).

Responses from the respective departments are also attached. We plan to conduct another follow-up review in approximately 9 months, to re-assess the status of the two remaining corrective action plans.

RECOMMENDATIONS

We recommend that management complete the implementation of the two corrective action plans listed below, which were still in progress at the time of this review. If a plan cannot or should not be implemented due to changing circumstances, systems, or processes, alternative corrective actions should be substituted to effectively address the original finding.

1. Parks, Recreation, and Commercial Facilities

Response to original audit recommendation:

"Parks, Recreation and Commercial Facilities will request monthly employee lists and will work with Municipal Security to verify and reconcile the list of eligible employees to those that have been issued access/ID cards. Any discrepancies identified will be immediately addressed with the vendor."

Follow-up Finding: Implementation in progress

PRCF has not had a chance to implement this because the custodians only recently received ID cards.

[PRCF Response](#) is attached to this report.

2. City Manager

Response to original audit recommendation:

"... The City's Contracts Administrator is currently working with the Human Resources Department to develop a new Management Policy to ensure that a consistent, citywide process (and corresponding contractual language) is developed and implemented."

Follow-up Finding: Implementation in progress

Draft revisions have been made to an existing Management Policy requiring a successful background check prior to issuance of ID/Access cards. However, the revised draft has not yet been finalized. Poor communication, inconsistent guidance, conflicting priorities, and the absence of a single responsible party have prevented the implementation of a consistent process citywide.

[City Manager Response](#) is attached to this report.

APPENDIX

 = Implemented

 = In Progress

 = Not Implemented

<u>Corrective Action</u>	<u>Implementation Status</u>	
CAP#1: Security Weaknesses		
<p>FACILITIES MAINTENANCE DEPT: Facilities Maintenance will work with the current custodial contractor to ensure that all of the contractor's employees receive background checks conducted through municipal security. Facilities Maintenance will further ensure that all future employees of the current contractor and future all contractors abide by the requirement for background checks as specified in the contract.</p>	<p>Partially Implemented Prior to Follow-up Review / Fully Implemented After Follow-up Review</p> <p>Due to a miscommunication between Facilities Maintenance and Municipal Security, 6 custodians had not been background checked at the time of this review. However, Facilities subsequently ensured that the background checks were performed, and has improved their process to ensure compliance in the future.</p>	
<p>FACILITIES MAINTENANCE DEPT: The Facilities Maintenance custodial services contractor currently provides a monthly employee list to Facilities Maintenance and Municipal Security. The Facilities Maintenance Contract Specialist will meet with Municipal Security each month to reconcile the list of eligible employees and to resolve any discrepancies. Facilities Maintenance will also meet with the custodial contractor on the first Wednesday each month to resolve any clearance, access/ID card, and service issues. Facilities Maintenance is also developing a formal written escalation procedure that defines how failures to adhere to contractual terms will be documented and how liquidated damages will be applied.</p>	<p>Implemented</p> <p>Facilities is consistently reconciling custodian lists, following up on discrepancies, and verifying that ID/access cards are returned upon termination.</p> <p>Facilities no longer believes it is necessary to develop a formal escalation procedure beyond the contract terms. However, this was not part of our audit recommendation.</p>	
<p>PRCF DEPARTMENT: The contract for custodial services at the HoHoKam Stadium is held by the HoHoKams and is not a City contract. However, PRCF agrees that all custodial services employees assigned to the stadium should have photo ID cards issued through municipal security. PRCF is working with the HoHoKams to ensure that photo ID cards are issued for all custodial services employees working at the stadium. In addition, when this contract expires (Aug. 2010) the City will assume control of any new contract and include requirements for background checks.</p>	<p>Implemented</p> <p>Beginning February 2011, the custodians serving HoHoKam Stadium were issued ID cards based on successful background checks.</p> <p>The City has not assumed control of a new contract. However, this was not part of our audit recommendation.</p>	

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 = Implemented

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Corrective Action		Implementation Status
<p>PRCF DEPARTMENT: Parks, Recreation and Commercial Facilities will request monthly employee lists and will work with Municipal Security to verify and reconcile the list of eligible employees to those that have been issued access/ID cards. Any discrepancies identified will be immediately addressed with the vendor.</p>	<p>Implementation in progress</p> <p>PRCF has not had a chance to implement this because, as indicated above, the custodians only recently received ID cards.</p>	
<p>CITY MANAGER'S OFFICE: Currently the only City policy or procedure that addresses background checks for City contractors is Personnel Rule 210. The City's Contracts Administrator is currently working with the Human Resources Department to develop a new Management Policy to ensure that a consistent, citywide process (and corresponding contractual language) is developed and implemented.</p>	<p>Implementation in Progress</p> <p>Draft revisions have been made to an existing Management Policy requiring a successful background check prior to issuance of ID/Access cards. However, the revised draft has not yet been finalized. Poor communication, inconsistent guidance, conflicting priorities, and the absence of a single responsible party have prevented the implementation of a consistent process citywide.</p>	
<p>CAP#2: Noncompliance with the Arizona Legal Workers Act (ALWA)</p>		
<p>CITY MANAGER'S OFFICE: The City's ALWA compliance verification process and work instructions have been updated to require contractors selected through the ALWA compliance verification process to submit appropriate e-Verify reports for each of the contractor's employees identified as working under a City of Mesa contract.</p>	<p>Implemented</p> <p>A consistent process for ALWA verification has been successfully implemented by the City's Contracts Administrator.</p>	
<p>CAP#3: General Contract Monitoring Improvements</p>		
<p>FACILITIES MAINTENANCE DEPT: Facilities Maintenance will be adopting the CityWorks CMMS within the next two months. This system will allow Facilities Maintenance to more fully document, integrate, track, and evaluate all performance-related communications, work requests, contract changes, and other contract performance documentation.</p> <p>Until the CityWorks CMMS is implemented, Facilities</p>	<p>Implemented</p> <p>Facilities Maintenance has not found the CityWorks CMMS to be as functional as expected for tracking/monitoring performance-related communication.</p> <p>However, performance-related communications are now consistently copied to the Contract Specialist, and</p>	

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<u>Corrective Action</u>		<u>Implementation Status</u>	
<p>Maintenance will ensure that all performance related communications are copied to the Facilities Maintenance Contract Specialist and the Facilities Maintenance Financial Coordinator. The Facilities Maintenance Contract Specialists will meet on a weekly basis to discuss any contractual issues observed in the various facilities under their purview and contractor performance in general. In addition, a copy of any performance related communications will be kept and filed with the appropriate vendor invoice.</p>	<p>are discussed at regular meetings with the Contract Monitors and the contractor. Issues have been escalated as appropriate.</p>		

interoffice MEMORANDUM



Date: May 23, 2011

To: Jennifer Ruttman, City Auditor

Through: Christopher J. Brady, City Manager
Kari Kent, Deputy City Manager

From: Marc Heirshberg, Parks, Recreation and Commercial Facilities Director

Subject: May 18, 2011 - Follow up Review of Custodial Services Contracts Audit

This memo is in response to the recommendations made from the City Auditor's office in your May 18, 2011 memo regarding the follow up review of custodial services. The PRCF Department concurs with your findings and all custodial services contract personnel at Hohokam Stadium have received city issued ID cards. As indicated in your review enough time had not passed between the issuing of ID cards and the report to conduct a reconciliation of personnel working and those issued ID cards by Municipal Security. However, the department believes that when a follow-up review is done in nine months your office will find that a system is in place to verify and reconcile with Municipal Security and the contractor that the appropriate eligible personnel are properly credentialed.

Again, I would like to thank the City Auditor's office for their assistance in this review and for providing the PRCF Department with useful recommendations.

Please don't hesitate to contact me if you have any additional questions or concerns.



DATE: May 25, 2011

TO: Jennifer Ruttman, City Auditor

COPY: Chris Brady, City Manager
Trisha Sorensen, Assistant to the City Manager

FROM: Tom LaVell
Financial Services Administration

SUBJECT: Custodial Services Audit Follow-up

The following Corrective Action was identified as “In Progress” on the Follow-up Review of the Custodial Services Contracts Audit issued by your office on May 18, 2011. Below is a brief update on progress made to date in completing the Corrective Action, issues that are still outstanding, and estimated completion date of the Corrective Action.

Corrective Action: Currently the only City policy or procedure that addresses background checks for City contractors is Personnel Rule 210. The City’s Contracts Administrator is currently working with the Human Resources Department to develop a new Management Policy to ensure that a consistent, citywide process (and corresponding contractual language) is developed and implemented.

The Human Resources Department undertook a review of their policies and procedures in relation to contractor background checks and Personnel Rule 210. It was determined that Personnel Rule 210 would need to be modified to allow for background checks to be applied to a broader scope of contractors (the rule was initially very narrowly defined and only applied to a specific subset of “independent contractors”).

In addition, Human Resources developed a Background Check Guidelines procedure that defines how the City conducts background checks for non-employee contractor personnel. The guidelines incorporate a tiered process whereby the extent of the background checks applicable to contractors is dependent upon the security of the area or facility where they are working and the risks inherent in the environment they are working in (e.g. working around minors, the elderly, etc.). The guidelines are intended to provide the most flexibility to departments using contractors and to expedite the background check process to the degree that is reasonable and prudent given the circumstance involved in each unique situation. The guidelines are posted on the Human Resources/Personnel web site on InsideMesa and are attached for reference.

In addition to the changes in Personnel Rule 201 and the Background Check Guidelines, Management Policy 116 needed to be updated to reflect the changes in procedures and to specifically reference the Human Resources Background Check Guidelines. The Management Policy has been revised, reviewed by Human resources and was submitted to the City's executive management staff for review and comment on April 13, 2011; comments on the revised policy were received on April 28. A significant number of suggested changes and edits were submitted by City staff and have not yet been fully reviewed. Comments received will be evaluated and incorporated into a second revision of the Management Policy as appropriate.

The challenge continues to be coordinating multiple City policy statements and guidelines as well as coordinating implementation of those policies and guidelines across multiple departments and areas of responsibility with differing business needs. Due to the extent of the suggested revisions, the Policy will be revised and submitted again to the City's executive management staff for review. Ideally the Management Policy will be finalized and in place no later than mid-July 2011.

Background Check Guidelines Contractor/Non-Employee Staff

Purpose

These guidelines were established in an effort to provide guidance to departments in determining when a contractor(s) and/or non-employee staff would be subject to a background check.

For the purpose of this document the term “contractor” is defined as an independent contractor and/or contract worker. The term “Non-employee staff” is defined as a temporary agency worker, volunteer, intern, extern, etc.

Guidelines

The levels referenced below (0 through 3) were developed to assist departments in determining the appropriate type of background needed, if any, for all contractors and/or non-employee staff members providing services to the City.

Determining the appropriate type of background is primarily based on the work the contractor/non-employee staff will be performing, the location, the duration and his/her exposure to minors, disabled and the homebound or high security facilities, systems, information, etc.

The department representative will be responsible for determining the type of background required and for sending the contractor/non-employee staff to Human Resources (HR), Preferred Support Services (PSS), or Mesa Police Department (PD) to initiate the background process as outlined below. If there are any questions, please contact:

Jackie Hale, HR Specialist II
Jackie.hale@mesaaz.gov
(480) 644-3180

Lisa Angiano, Sr. HR Specialist
Lisa.angiano@mesaaz.gov
(480) 644-4414

Temporary Agency Workers Note

Temporary agency workers hired through Allstaff Temporary Agency will complete a web-based (Level 1) background check conducted by Allstaff Temporary Agency prior to assignment.

Important Note

For Level 1 through 3, background results must be received **prior to** a badge and/or building access being granted by the PD /Facilities Access.

LEVEL 0

No Special Security Requirements. No background check or fingerprinting required.

This level represents projects/assignments occurring in areas that are not normally secured (even after hours), including street, utility, and landscape projects and/or similar projects occurring **outside** of secured areas. **Projects/assignments to Police Department facilities will require a Level 3 background clearance.**

NOTE: Although not required, the department may request HR conduct a web-based background by following the **Requesting a Web-Based Background Check** referenced as part of the Level 1 background process.

Requesting a City Identification Badge from Police Department/Facilities Access

Background Check Guidelines Contractor/Non-Employee Staff

LEVEL 1

Web Based Background Check through Priority Research, Inc. No fingerprinting required.

This level is required for all secured City buildings and sites not included in Levels 2 or 3 and includes: utility treatment plants, well sites, PRV stations, MCP Building, fire stations, service centers, maintenance shops, 55 N. Center, Council Chambers, Utilities Building, Transportation Bldg, electrical substations, UCC, TMC, etc.

This type of background check is based on: name, date of birth, social security number and address; and will provide criminal history for at least the past 7 years. Results are typically received within 24 to 48 hours. Although this type of background is not as extensive as the fingerprint background, it does allow the City to obtain criminal history on individuals who don't meet the fingerprinting criteria as indicated in the City's ordinance (i.e., Personnel Rules).

The cost is minimal at \$7.50 per search, which includes a nationwide criminal search, nationwide sex offender search and Social Security trace. The cost of this search is charged back to the department by HR upon receipt of invoice from Priority Research, Inc.

Requesting a Web-Based Background Check

To request a web-based background check through Priority Research, Inc:

1. Have individual(s) **complete** the appropriate form. **NOTE:** Incomplete information will delay the process and notification of clearance:
 - a. Contractor PR Form
 - b. Non-Employee Staff PR Form
2. Submit the form, along with a legible copy of the contractor's/non-employee staff member's driver's license (**front and back**), to Human Resources – Mesa City Plaza Building, Personnel Office, 20 E. Main Street, Suite 130.
3. Human Resources (Jackie Hale or Lisa Angiano) will contact the City contact/supervisor and the Police Department/Facilities Access, via email, once results have been received and clearance determined.
 - a. Unsatisfactory background information will be relayed to the applicable Department Director for further review and approval/denial.
4. Upon confirmed clearance from HR you can begin PD's process for badging and, if applicable, building access.

LEVEL 2, LEVEL 3 - ESCORTED, AND LEVEL 3 - UNESCORTED

LEVEL 2 (non-Criminal Justice facilities): Fingerprint based background through Department of Public Safety (DPS) and Federal Bureau of Investigation (FBI) per Personnel Rules, Section 210.

This level is required for high security non-Criminal Justice Facilities and/or where the contractor/non-employee staff may have contact with minors, disabled or homebound persons,

Background Check Guidelines Contractor/Non-Employee Staff

including (but not limited to): ITD Data Center, libraries, museums, Red Mountain Multi-Generation Facility, Mesa Arts Center.

LEVEL 3 - ESCORTED (Criminal Justice facilities): This level is required on all contractors/non-employee staff assigned to high security facilities associated with the criminal justice system (Police Department facilities, City Prosecutor and Courts) and includes any type of work in Police Department facilities, 911 Communications Building, Prosecutor's offices and Courts. This level of clearance requires escorted access to these facilities, which means the contractor/non-employee staff member must be escorted by an employee, or designee, of that facility.

Both background levels include a search of DPS/FBI databases by name, date of birth, and social security **AND** fingerprints. This is a true state and nationwide search of all criminal offenses since 18 years of age. Results can take up to 4 to 6 weeks to receive. The City's fingerprinting vendor is Preferred Support Services (54 S. Center St., Mesa). The cost of fingerprinting is \$32.00 per card for volunteers and \$36.00 per card for all others, which is charged back to the department by HR upon receipt of invoice from PSS.

In accordance with the Personnel Rules, it is critical that departments understand contractors/non-employee staff should **only** be fingerprinted if the following apply:

1. Contract workers/non-employee staff who are eighteen (18) years of age and older and anticipated to be in contact with minors, disabled or homebound individuals; **OR**
2. Contract workers/non-employee staff assigned to work in security sensitive areas. For the purpose of fingerprinting under the Personnel Rules, security sensitive areas are:
 - a. Criminal Justice Administration (i.e., Police Department facilities, City Court or City Prosecutor Offices)
 - b. Individuals who are eighteen (18) years of age or older and placed in certain ITD assignments
 - c. Individuals who are eighteen (18) years of age or older and will be responsible for handling cash or credit card information

Requesting DPS/FBI Fingerprinting

To request a DPS/FBI fingerprint background:

1. Provide your contractor(s)/non-employee staff with the appropriate fingerprint authorization form. **NOTE:** Incomplete information will delay the process and notification of clearance:
 - a. Fingerprint Auth Form – Contractors
 - b. Fingerprint Auth Form – Non-Employee Staff
2. Direct him/her to Preferred Support Services (address and hours of operation listed at the bottom of the form). No appointment is necessary.

NOTE: Fingerprint cards are hand delivered to DPS in Phoenix twice a week.

Background Check Guidelines Contractor/Non-Employee Staff

3. Original fingerprint cards and results are sent from DPS to the City of Mesa Human Resources office for review:
 - a. Contractors/non employee staff with no criminal history information will be cleared through HR with notification of clearance sent to the City contact and emailed to "Badge and Building Access Request".
 - b. Contractors/non employee staff with criminal history information will require additional review by the Department Director over the area in which the work will be completed.
 - After review of the criminal history information, if the Department Director is still interested in utilizing the contractor/non-employee staff:
 - **LEVEL 2 (non-Criminal Justice facilities):** HR will document approval granted by Department Director and notify the department contact and "Badge and Building Access Request" via email.
 - **LEVEL 3 – ESCORTED (Criminal Justice facilities):** Prior to allowing the contractor/non-employee staff to begin his/her assignment, HR will need to advise the PD Hiring Unit of criminal history information for a review and approval/denial process.
4. Upon confirmed clearance from HR you can begin PD's process for badging and, if applicable, building access.

LEVEL 3 - UNESCORTED (POLICE DEPARTMENT FACILITIES): This level is required and coordinated by Mesa Police Department Hiring Unit (by appointment only) on all City employees, contractors/non-employee staff who will require unescorted access to any Police Department facility. This level of clearance allows the employee, contractor(s)/non-employee staff member(s) to access PD facilities and perform necessary work without the escort of a PD facility employee, or designee.

The background process may include any or all of the following: Live Scan fingerprinting, Wants and Warrants check, Criminal History check, Background Investigation, Pre-Polygraph Questionnaire Review, and/or a Polygraph examination.

Requesting Police Department Background and Clearance

1. Notify PD Hiring, via email, with the following project/assignment information:

Contractors: Isabel Anderson (480) 644-3453

Non-Employee Staff: Nancy Valenzuela (480) 644-3112

- a. Name and contact information of the **City contact**
- b. Location and duration of project/assignment
- c. What the project/assignment will entail
- d. The number of individuals working on the project/assignment
- e. Name and contact information of the **company/individual**

Background Check Guidelines Contractor/Non-Employee Staff

2. After notification email is sent to Isabel/Nancy, advise the company/individual to contact Isabel/Nancy to schedule the background process.
3. Notice of clearance will be provided by PD to the project/hiring contact person and PD Badging and Building Access Office via email.
4. Upon confirmed clearance from PD you can begin PD's process for badging and, if applicable, building access.

REPRINTING REQUIREMENTS – AFTER A BREAK IN SERVICE

LEVEL 2 (non-Criminal Justice facilities):

The Personnel Rules, Section 210 – General Employment Provisions, indicate the following requirements when there is a break in service:

“E.1. The City of Mesa shall obtain a full set of fingerprints from the persons indentified in this section.

- a. 4) All temporary agency workers, independent contract workers, and volunteers eighteen (18) years of age and over who are anticipated to be in contact with minors, disabled or homebound persons, or work in security sensitive areas, unless previously fingerprinted for the City within the last twelve (12) months.”

LEVEL 3 – ESCORTED/UNESCORTED (Criminal Justice facilities/PD facilities):

Upon return of a break in service, a web-based background check may be conducted by Human Resources in lieu of re-fingerprinting if the contractor/non-employee staff member was fingerprinted within the last 12 months. If the individual was fingerprinted outside of the 12 month period, then re-fingerprinting would be required.