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Date: May 11, 2010

To: Audit and Finance Committee

From: Jennifer Ruttman, City Auditor 

Subject: Custodial Services Contracts Audit

cc: Bryan Raines, Deputy City Manager  
Dennis Ray, Facilities Maintenance Director  
Marc Heirshberg, PRCF Director  
Tom Lavell, Contracts Administrator

Pursuant to the Council-approved audit plan, we have completed an audit of the City's Custodial Services Contracts. Attached please find the audit report, which includes three corrective action plans. Management's response to each recommendation has been incorporated into the report.

We would like to thank the staffs of Facilities Maintenance and PRCF, and the City's Contracts Administrator, for their cooperation, professionalism and assistance throughout the audit process. If you have any questions please feel free to contact me at x3767.

## **AUDIT REPORT**

**Report Date:** May 11, 2010

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**Audit Subject:** Custodial Services Contracts

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**Objectives:** The objectives of this audit were to:

- Verify compliance with the contracts' terms.
- Verify that contractors and subcontractors are complying with federal and state immigration laws and regulations, including requirements to verify the employment eligibility of their employees.
- Determine whether there are opportunities for improvement in economy, efficiency and/or effectiveness in the monitoring of custodial services contracts.

**Scope:** Fall 2008 – Spring 2010

**Methodology:** To accomplish this audit we:

- Conducted interviews and observations with City staff members.
- Reviewed the Facilities Maintenance department's work request database, customer service surveys, email correspondence and other relevant documents.
- Obtained and reviewed employment records for the City's custodial contractors' employees.

**Background:** Most of the City's custodial services are provided under contracts monitored by the Facilities Maintenance department, with a few departments providing their own specialized services. We focused this audit primarily on the Facilities Maintenance contracts, as they represent over 60 percent of the City's custodial services expenditures.

Citywide custodial services are organized under two contracts. One applies to secured facilities, such as Police and Court buildings and the City Plaza; and the other applies to other facilities, such as the Convention Center, Library branches, and the Arizona Museum for Youth. Custodial tasks range from daily wipe-downs to semi-annual carpet cleaning and floor waxing. The combined annual cost for these contracts is about \$1.3 million, with the contractor providing all supplies and equipment. Currently, both contracts are held by GCA Services, Inc. Another company previously held one of the contracts, but the City terminated the contract after the company failed to comply with immigration laws. This was brought to light publicly after the Maricopa County Sheriff's Office raided City facilities in October 2008. Facilities Maintenance employs three contract monitors, who conduct daily inspections related to these and other department contracts and work closely with the contractors to remediate any problems.

The Mesa Arts Center (MAC); Parks, Recreation and Commercial Facilities (PRCF); and Fleet Support Services receive additional custodial services outside of the Facilities Maintenance contracts, generally due to special requirements. A brief description of these departments' custodial services follows:

- The MAC employs four in-house employees and several temporary staff to clean its campus, which involves irregular and unpredictable cleaning hours depending on show schedules. Labor and supplies for the MAC's custodial services totaled about \$440,000 in fiscal year 2009.
- PRCF holds a separate custodial contract for the cleaning of its parks restrooms and another vendor provides custodial services at Hohokam Stadium. Fiscal year 2009 expenditures for these custodial services were about \$138,000 and \$69,000, respectively.
- Fleet Support Services employs one employee to clean its shop, which is a 24-hour operation. Labor and supplies for this cleaning totaled about \$48,000 in fiscal year 2009.

**Conclusions:** Overall, we found that the City's custodial contractors have provided services in compliance with the contracts' terms; however, some significant security weaknesses should be resolved. We also identified opportunities for improvement in contract monitoring processes and procedures, including those related to immigration requirements. Our findings are summarized below. Please see the attached Corrective Action Plans (CAPs) for detailed findings and recommendations.

**Security:** Our primary concern related to custodial services is the lack of consistent and thorough security-related practices. We discovered that background checks are not performed for many contracted custodians, and the citywide contractor does not inform the City of staffing changes or return the corresponding identification/access badges in a timely manner. As discussed in the attached Corrective Action Plans, we believe that revising the current policies and procedures, and implementing a key review step, would reduce these security risks.

**Immigration requirements:** We did not identify any immigration violations involving the City's custodial contractors. However, in our opinion, the City's ongoing immigration compliance verification procedures do not fully comply with the Arizona Legal Workers Act (ALWA). This Act was passed in 2007 and, among other things, requires governments to verify their contractors' employment records to ensure compliance with immigration laws. However, the City's current process does not involve reviewing actual employment records such as e-Verify reports.

**Contract monitoring:** While we did not note any other significant instances of noncompliance with the citywide contracts, we did identify opportunities for improvement in the contract monitoring process, such as tracking when numerous or repeated warnings are given for the same performance shortfalls. To help resolve this, Facilities Maintenance should continue its plans to implement a Computerized Maintenance Monitoring System to better track communication and analyze the contractor's performance.

**Other pertinent  
information:**

The City recently filed suit against GCA related to a flood that took place in 2008. Specifically, the City has alleged that, on August 6, 2008, a GCA employee left a faucet running and flooded the Mesa City Plaza. The suit claims that the flood caused a major power failure, building damage, and lost productivity for 21 City divisions. Total alleged damages are \$109,510.92, as follows:

Work time lost	\$67,304.58
Time worked	\$20,174.00
Commodities/Outside services	\$22,032.34

As of the end of our audit, this suit is still pending.

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## **CAP #1: Security Weaknesses**

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### **Observations:**

We noted the following security weaknesses during the audit:

1. Background checks are not performed for many contracted custodians.
2. Facilities Maintenance does not ensure that the citywide contractor communicates staffing changes and returns the corresponding identification/access badges in a timely manner.

### **Comments:**

For GCA employees who work under the citywide "non-secured facilities" contract, Municipal Security issues ID and access cards without requiring background checks, which appear to have been omitted based on a verbal directive sometime in the past. The City's policies and procedures are vague on which contractors are required to have background checks. For example, although the City's Personnel Rules require background checks for all independent contract workers "anticipated to work in security sensitive areas," they do not define "security sensitive areas." We believe that all unaccompanied access to non-public areas warrants a background check. In fact, some of the buildings included under the "non-secured facilities" contract are especially sensitive, including the Municipal Building, Council Chambers, and the Arizona Museum of Natural History. The Management Performance and Accountability Office also recently noticed ambiguities in the City's policies and procedures related to background checks, and recommended that the City form a team to develop more specific protocols in this area.

Even after the City's policies and procedures in these areas are improved, stricter contractor compliance will be necessary. We found that GCA has not informed the City of staffing changes within 24 hours, as required by the contracts. GCA also has not returned the corresponding identification and access badges in a timely manner, as required by Management Policy 116, *Identification/Access Cards*. As of the end of audit fieldwork, we had identified one individual who had been terminated at an unknown date, but had not returned her ID/access cards. A Municipal Security representative indicated that similar instances have occurred in the past under these contracts.

### **Recommendations:**

1. Facilities Maintenance and PRCF should work with Municipal Security to immediately perform background checks and issue ID cards for all custodial contractor employees who are granted unaccompanied access to non-public areas on City premises.
2. City management should revise the City's policies and procedures to explicitly require background checks for any individuals who will be granted unaccompanied access to non-public areas on City premises.
3. Facilities Maintenance and PRCF should each obtain an employee list from their contractors on a monthly basis and reconcile it to Municipal Security's list of individuals with ID/access cards. When breaches are discovered, such as a failure to notify the City of staffing changes or return the ID/access cards in a timely manner, the contract monitors should take appropriate action as outlined in the contract. This may include the application of liquidated damages.

**Management Response:**

CAP #1 Rec #	Agree/ Disagree	Brief Summary of Implementation Plan	Estimated Implementation Date (Month/Yr)
1.	Agree	<b>FACILITIES MAINTENANCE DEPT:</b> 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.	8/1/2010
1.	Agree	<b>PRCF DEPARTMENT:</b> 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.	6/1/2010
2.	Agree	<b>CITY MANAGER'S OFFICE:</b> 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.	8/1/2010
3.	Agree	<b>FACILITIES MAINTENANCE DEPT:</b> 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.	6/1/2010
3.	Agree	<b>PRCF DEPARTMENT:</b> 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.	6/1/2010

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**CAP #2: Noncompliance with the Arizona Legal Workers Act (ALWA)**

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**Observations:** The City's current ALWA compliance verification procedures do not involve verifying employment records, as required by the Act.

**Comments:** The ALWA requires Arizona employers to use the federal government's e-Verify program to verify employment eligibility of employees hired after December 31, 2007 (A.R.S. §23-214).

In addition, A.R.S. §44-4401 requires government entities to:

- A) Require contractors to warrant their compliance with all applicable federal and state immigration laws and regulations.
- B) Conduct random verifications of the employment records of their contractors to ensure that they are complying with their warranties.

As part of this audit, we verified the employment records of the City's custodial contractors; however, we noted that the City's ALWA verification procedures do not require this. Instead, the City's procedure requires selecting a sample of service contractors and obtaining a signed warranty of compliance and an employee list from each one. This does not involve verifying actual employment records, such as the e-Verify reports that we reviewed during the audit.

In light of the history of immigration violations by the prior contractor and MCSO immigration raids at City facilities, we believe the risks of future raids and the resulting negative publicity, as well as other potential consequences of noncompliance, warrant a higher level of due diligence.

**Recommendations:** 1. The City's Contracts Administrator should revise the ALWA compliance verification Work Instruction procedures to include reviewing actual employment records, such as e-Verify reports, for evidence of current work eligibility.

**Management Response:**

CAP #2 Rec #	Agree/Disagree	Brief Summary of Implementation Plan	Estimated Implementation Date (Month/Yr)
1.	Agree	<b>CITY MANAGER'S OFFICE:</b> 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.	Completed

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**CAP #3: General Contract Monitoring Improvements**

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**Observations:** Facilities Maintenance does not document performance-related communication with the contractor in a central location, or track the communication to identify significant performance trends.

**Comments:** Facilities Maintenance is ensuring material compliance via regular inspections and communication with the contractor, and performance issues appear to be relatively infrequent and/or minor. However, as discussed in the City's Contract Monitoring Procedure, tracking all performance issues and communication in a central location fosters early detection of potential problems and allows the City to better substantiate any Notices of Default that may arise. This is especially important for Facilities Maintenance, as there are multiple contract monitors assessing performance at different locations. For example, some of the monitors' emails suggested that they have given numerous warnings for the same issues. Tracking this communication would assist the monitors in knowing when to withhold payment or apply liquidated damages, rather than give additional warnings that require follow-up inspections. This is especially relevant for security-related issues, which pose a higher risk for the City and for which Facilities Maintenance has communicated a commitment to zero-tolerance.

Toward the end of fieldwork, Facilities Maintenance had just negotiated a \$43,000 expansion of the Computerized Maintenance Management System (CMMS) currently used by the Transportation and Utilities departments. The system should be implemented in mid-Summer, and will likely facilitate performance and communication tracking.

**Recommendations:** 1. The Facilities Maintenance custodial services contract monitors should document, in a central location, performance-related communication such as emails, phone calls and meetings; and should regularly track and analyze that communication to improve monitoring efficiency and effectiveness. Either the current work request database or a Computerized Maintenance Monitoring System may facilitate such monitoring and analysis.

**Management Response:**

CAP #3 Rec #	Agree/Disagree	Brief Summary of Implementation Plan	Estimated Implementation Date (Month/Yr)
1.	Agree	<b>FACILITIES MAINTENANCE DEPT:</b> 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.	7/1/2010

Until the CityWorks CMMS is implemented, Facilities 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.

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