

Special Report

# City Contracting Practices

October 2018



Currently, the City manages nearly 2,700 contracts with a total authorized value of \$5.5 billion. The Office of the City Auditor performed 28 projects (21 audits and 7 investigations) that addressed contract management between Fiscal Year 2010 and Fiscal Year 2018. Results from these audits and investigations indicate there are weaknesses in the way the City manages contracts, many of which have persisted citywide for several years. These contracting weaknesses negatively impact the City's ability to properly safeguard City resources, maintain public trust, and ensure service delivery to residents.

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## Objective

The objective of this special report was to evaluate the City's approach to developing, awarding, monitoring, and closing out contracts. This report summarizes contract administration issues noted in 21 prior audits and 7 investigation cases performed by the Office of the City Auditor for the period FY 2010 through FY 2018.

## Background

The City of Austin uses contracts to obtain a variety of goods and services. Management of contracts is decentralized meaning there is not one group or department responsible for overseeing the contracting process. Instead, contracts are typically overseen by the individual departments primarily contracting with the outside entity.

The City manages a significant number of contracts. Exhibit 1 shows the contract categories and authorized amounts for each category.

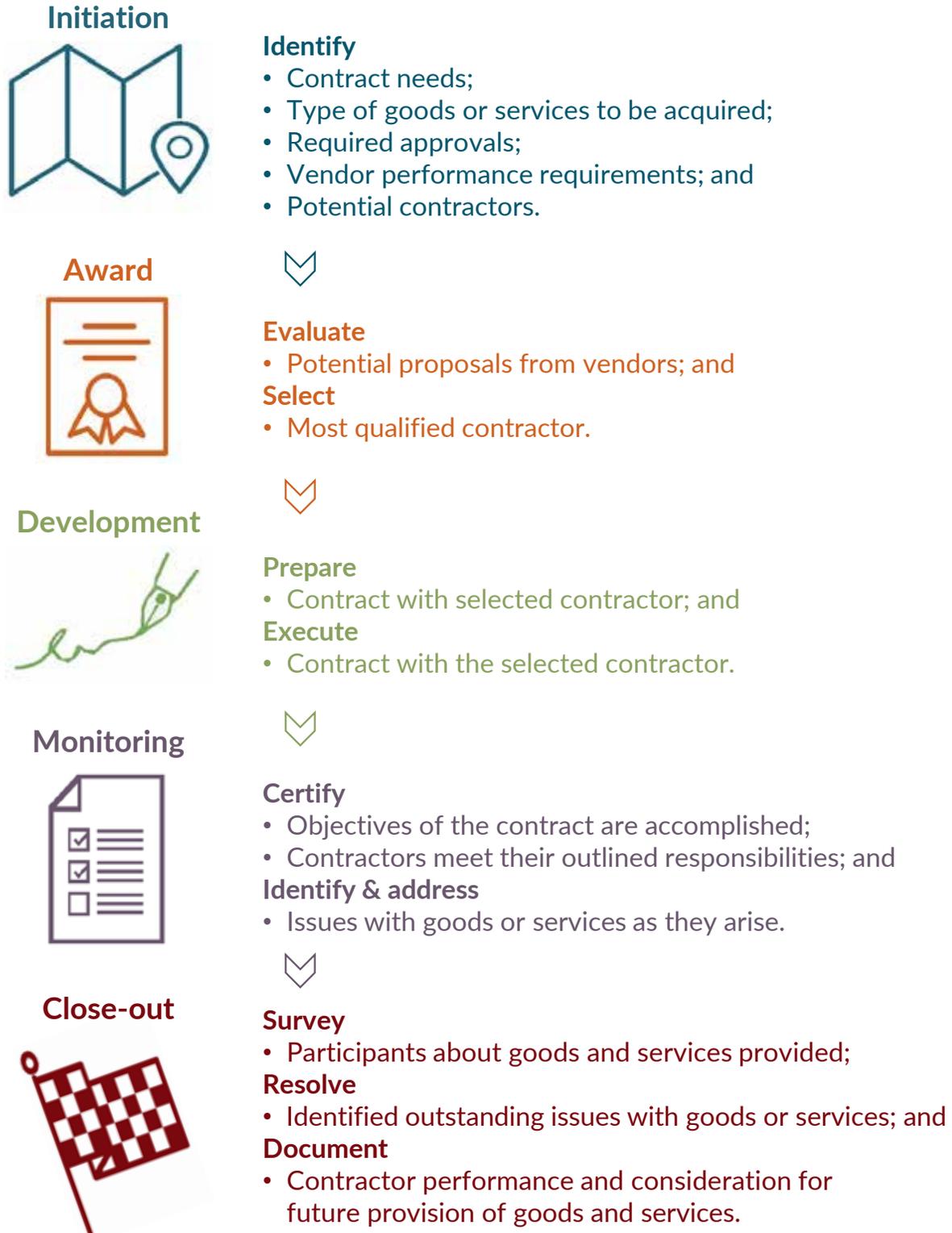
**Exhibit 1: Number of contracts with authorized amount by category**

| Category of contract    | Number of contracts | Authorized amount      | Detail   |
|-------------------------|---------------------|------------------------|--|
| Construction            | 129                 | \$1,115,863,450        | Construction trades and some related professional services   |
| Professional            | 69                  | \$353,869,454          | Services other than those included in construction, such as physicians and accountants   |
| Non Professional        | 685                 | \$1,170,325,589        | Labor that is not considered professional  |
| Single/Sole Source      | 704                 | \$776,363,316          | Goods or services that can only be provided by one source  |
| Cooperative/ Interlocal | 246                 | \$552,827,984          | Contracts created using the competitive contracts of other governments   |
| Goods                   | 514                 | \$885,002,044          | Wide array of items, including office supplies, auto parts, and first-aid materials  |
| Other                   | 344                 | \$679,402,311          | Variety of non-competitive contract activity not classified as cooperative/interlocal agreements or as sole/single source procurements |
| <b>Total</b>            | <b>2,691</b>        | <b>\$5,533,654,148</b> |  |

SOURCE: Analysis of reports related to contract management, June 2018

The contract management process starts with initiation and ends with contract closeout. This process involves several components as noted in Exhibit 2 below.

### Exhibit 2: Components of the contract management process



SOURCE : Analysis of reports related to contract management, October 2018

The City's contract administration activities involve multiple parties as shown in Exhibit 3. The Corporate Purchasing Office has the sole authority to negotiate and execute contracts, but the Corporate Purchasing Officer can delegate authority for certain types of contracts to other City departments. Some of the departments that have received delegated authority for executing contracts, including: the Capital Contracting Office, the Economic Development Department (EDD), and Neighborhood Housing and Community Development (NHCD). The Law Department is responsible for providing legal services related to contracting activities. Individual departments are generally involved in contract initiation and are responsible for contract monitoring activities.

**Exhibit 3: Contracting responsibilities by department**

| Department/Office   | Key Summary Responsibilities   |
|---|--|
| <b>Corporate Purchasing Office*</b>   | <ul style="list-style-type: none"> <li>• Negotiates contracts, handles contract terminations, and vendor probation/suspension</li> <li>• Develops contracts and contract extensions, executes contracts, authorizes contract changes and modifications, provides guidance on contract interpretations, and resolves vendor and department contract disputes and performance issues</li> <li>• Manages contractual relationships with vendors</li> <li>• With assistance from the Law Department, develops and revises the City's Purchasing Standard Terms and Conditions, develops City-wide policies and procedures, and provides contract administration and management-related guidance to City departments</li> </ul> |
| <b>Law Department</b>   | <ul style="list-style-type: none"> <li>• Contracts for legal services</li> <li>• Provides legal services related to purchasing, contracting, claims, and litigation</li> </ul>   |
| <b>Individual Department</b>  | <ul style="list-style-type: none"> <li>• Procures goods and services for amounts less than \$5,000</li> <li>• Performs contract monitoring activities related to: compliance, payments, performance, funding, close-out activities, and contract extensions or new contracts as needed</li> </ul>  |
| <b>Capital Contracting Office*</b>  | <ul style="list-style-type: none"> <li>• Procures construction and public works professional services</li> </ul>   |
| <b>Neighborhood Housing and Community Development &amp; Austin Housing Finance Corporation*</b> | <ul style="list-style-type: none"> <li>• Delegates procurement authority for limited purposes of construction</li> </ul>   |
| <b>Economic Development Department</b>  | <ul style="list-style-type: none"> <li>• Procures certain economic development contracts (as described Local Government Code, Chapter 380)</li> </ul>  |
| <b>Austin Police Department</b>   | <ul style="list-style-type: none"> <li>• Conducts purchasing and contracting activities using seized funds</li> </ul>  |
| <b>Austin Energy</b>  | <ul style="list-style-type: none"> <li>• Executes contracts related to utility services and operations**</li> </ul>  |

\*Has commercial contract authority. A commercial contract provides for delivery of a definite quantity of specific supplies or services for a fixed period, with deliveries to be scheduled at designated locations upon order.

\*\*Including agreement authorized by ordinance; energy purchase and sale agreement; lease agreement; routine agreements relating to utility operations; sale of Austin Energy goods, products, and services; short-term energy and/or fuel purchase and sale agreement authorized by Council; and hedging contracts, brokerage agreements; ISDA agreements; and any such agreements necessary to govern any transactions under the Austin Energy Policy for Risk Management authorized by Council.

SOURCE : Analysis of reports related to contract management, October 2018

# What We Learned

## Summary

Currently, the City manages nearly 2,700 contracts with a total authorized value of \$5.5 billion. The Office of the City Auditor performed 28 projects (21 audits and 7 investigations) that addressed contract management between Fiscal Year 2010 and Fiscal Year 2018. Results from these audits and investigations indicate there are weaknesses in the way the City manages contracts, many of which have persisted citywide for several years. These contracting weaknesses negatively impact the City's ability to properly safeguard City resources, maintain public trust, and ensure service delivery to residents.

**Exhibit 4: Several contract-related issues have been persistent**

| Component   | Number of Issues  | Key Issues   |
|---|---|--|
| <b>Initiation</b><br>    | 3 (14%) prior contract-related audits found issues in this area                     | <ul style="list-style-type: none"> <li>Projects designed without full review and review process changed due to external pressure</li> <li>Decentralized contract management with limited coordination between departments</li> </ul>   |
| <b>Award</b><br>       | 3 (14%) prior contract-related audits found issues in this area                     | <ul style="list-style-type: none"> <li>Contracts awarded without following established process</li> <li>Inconsistent use of vendor evaluation forms in award decisions</li> <li>Concerns regarding independence of inspectors, designers, and builders</li> </ul>  |
| <b>Development</b><br> | 11 (52%) prior contract-related audits & 1 investigation found issues in this area  | <ul style="list-style-type: none"> <li>Poorly developed contract terms and expectations</li> <li>Key contract clauses modified without seeking legal advice</li> <li>No or limited legal review of contracts</li> <li>Contractors not required to submit supporting documentation</li> <li>Delayed drafting and renewal of contracts</li> <li>Contracts signed before department approval</li> <li>Contracts developed based on what third parties offered rather than goals or established community needs</li> </ul> |
| <b>Monitoring</b><br>  | 17 (81%) prior contract-related audits & 6 investigations found issues in this area | <ul style="list-style-type: none"> <li>Ineffectively coordinated monitoring roles and responsibilities</li> <li>Monitoring procedures were not documented or implemented</li> <li>On-site reviews not always performed</li> <li>Contractors not monitored to ensure compliance with contract terms</li> <li>Contract changes not documented or approved</li> <li>Penalties for delays not assessed</li> </ul>  |
| <b>Closeout</b><br>    | 2 (10%) prior contract-related audits found issues in this area                     | <ul style="list-style-type: none"> <li>Clients not always surveyed at the end of the project, and when they were surveyed, the information was not used in future contracting decisions</li> </ul>   |

SOURCE : Analysis of the Office of the City Auditor reports related to contract management, October 2018

## Prior audits have identified several weaknesses in the way the City manages contracts

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The City needs to make comprehensive changes to ensure that all contracting activities are managed in a way that protects the City's interests and ensures contractors comply with all applicable contract requirements.

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Previously issued audits and investigations found several weaknesses in the City's contracting processes, which impacts the City's ability to effectively administer the contracts. Specifically, the City does not always:

- initiate contracts based on accurate information;
- award contracts in compliance with established processes and procedures;
- develop contracts in ways that ensure all the City's interests are protected and resources are safeguarded;
- effectively monitor the contracts to ensure that the City received all the contracted deliverables and that the contractors complied with all contract requirements; and
- close projects in compliance with established processes and procedures.

The contract management weaknesses discussed below negatively impact the City's ability to properly safeguard City resources, maintain the public trust, and ensure service delivery to residents. Given the large number of contracts managed by the City and the significant amount of taxpayer money involved, the City needs to make comprehensive changes to ensure that all contracting activities are managed in a way that protects the City's interests and ensures contractors comply with all applicable contract requirements.

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## Contract Initiation



Three of the twenty one (or 14%) prior contract-related audits reviewed found issues related to contract initiation. The City does not always initiate contracts based on accurate and verified information. One audit noted that staff submitted project designs for bid and construction without subjecting them to the full quality management process.

### Issued Audit

The Capital Project Delivery Process Audit found Public Works management authorized staff to overlook comments from the Quality Management Division on the designs for the New Central Library; as a result, staff submitted the designs for bid and construction without subjecting them to the full quality management process. In some cases, external pressure regarding high profile or time-sensitive projects resulted in modified or expedited quality reviews.

Causes of these issues noted in prior audits include pressure from department management for staff to complete modified or expedited reviews of high profile or sensitive projects.

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## Contract Award



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Contracts should be awarded in accordance with established processes and procedures.

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Three of the twenty one (or 14%) prior contract-related audits reviewed found issues relating to how the contracts were awarded. Prior audits reviewed found inconsistencies in the contract award process. For example, the contracts were not always awarded in accordance with applicable processes and procedures. The audits noted two key weaknesses in the way the City awarded contracts. First, projects bypassed the required bidding processes including those related to competitive bidding. This increases the risk of the City failing to select the best offer. This could also later be challenged by other bidders.

### Issued Audit

The Performance Audit of Citywide Contract Management identified instances when a department bypassed competitive procurement by using other methods (active Master Agreements or Cooperative Purchases) to acquire goods or services not covered under the agreements.

Secondly, one audit noted inconsistencies in the way the City evaluated potential contractors. Specifically, in cases where vendors were required to be selected based on the most qualified bidder, staff incorrectly calculated vendor scores for one of the projects. In some instances vendor scores were changed, but the changes were not reflected in the total vendor scores.

### Issued Audit

The Airport Construction Projects Audit found one instance where a vendor's score was incorrectly calculated which affected the final score. The report also noted at least two instances where evaluation score changes were not consistently reflected in the total vendor scores.

The key cause for the inconsistencies in the award of contracts was inadequate oversight by departmental management. For example, the Airport Construction Projects noted that the department had developed a standard vendor evaluation form, but the evaluators were not required to use the evaluation forms.

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## Contract Development



Eleven of the twenty one (or 52%) prior contract-related audits and 1 investigation reviewed found recurring issues related to the way the City develops contracts. Multiple prior audits found that the City does not always develop contracts in ways that ensure the City's interests are protected and resources are safeguarded. In particular:

- key contract terms and deliverables were poorly defined leading to inconsistencies in monitoring of contracts;
- contracts were missing some key clauses;
- contracts were not always renewed timely resulting in lost time (when work could have been done but was not) as well as periods when contractors continued to work on behalf of the City in the absence of a valid contract;
- contracts received limited review by City legal staff; and

- key contract clauses were modified by departments without first seeking legal advice.

Some key contract terms and deliverables were poorly developed leading to inconsistencies in contract monitoring practices. In some instances the contracts contained vague language or insufficient detail relating to contract requirements.

#### Issued Audits

The Workforce Development Audit found that some key contract terms, such as “unduplicated clients served,” were not well-defined or were treated differently by various contractors. This led to inconsistencies in the way contract agencies reported information on this performance measure.

A performance audit of construction contracts monitoring found that a contract requirement for the collection of “minimal documentation” to support contractor payment requests was not well defined. This led to inconsistencies in how individual project managers interpreted and applied this contract provision.

Several audits noted that while contracts required the contractors to be paid on a reimbursement basis, these contracts did not require contractors to provide sufficient supporting documentation with their payment requests. Also, one audit found that the City developed contracts based on what third parties offered to provide rather than City goals or established community needs.

Some audits found that clauses, which were designed to safeguard the City’s interests and/or identified as “essential” in best practices were not consistently included in all City contracts and contract templates.

#### Issued Audit

The Cultural Arts Contract Monitoring Audit found that a subset of contracts did not contain important clauses that are included in the templated developed by the Law department to protect the City’s best interests. These include clauses that give the City the right to audit contractors and provide procedure to terminate the contract.

Multiple audits found that the City did not renew contracts timely resulting in periods where contractors performed work in the absence of a valid agreement. This limited the City’s protection in the event of a dispute. In other cases, when the contracts expired, the contractors stopped providing services until the contracts were renewed, which impacted the contractors’ ability to meet established goals and more importantly, the City’s ability to effectively deliver key services to residents.

#### Investigation

One investigation noted that while Austin Pets Alive continued to operate at the Town Lake Center, there was no enforceable contract between the City and Austin Pets Alive related to the use of the Center.

Some audits noted that City Law Department staff developed contract templates that comply with City Code and Charter, as well as applicable state and federal laws. However, departments modified some key contract clauses without first seeking legal advice. The Law Department staff did not review the contracts after departments modified these key clauses.

#### Issued Audits

The Contract Development and Approval Audit found significant differences between the contract and the applicable template in 9 (64%) of the 14 contracts reviewed. The audit further noted that there was no evidence that the changes were reviewed by the Law Department.

A performance audit of citywide contract monitoring found that while the City Charter required that the Law Department “pass upon” all contracts, the Law Department was not directly involved in each contract. In addition, the audit noted that while Law Department had drafted templates for all contracts, tests indicated some inconsistency in the use of these templates.

The causes for these issues include limited reviews of the developed contracts by the Law Department staff and the City’s poor planning for contract renewals. In addition, one audit noted that the City failed to establish strategic direction on what it wanted from third parties. In the absence of that strategic direction, the City let third parties guide the contracts towards deliverables and goals of their choosing rather than city priorities.

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## Monitoring



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The City should verify work performed by contractors prior to approving the contractors’ payment requests.

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Seventeen of the twenty one (or 81%) prior contract audits and 6 investigations reviewed found weaknesses relating to contract monitoring. Prior audits noted that departments did not effectively monitor contracts to ensure that the City received the contracted deliverables and that contractors complied with all applicable contract requirements. Specifically, departments did not consistently:

- verify the contractor’s work, such as ensuring contractor met the contractual performance measures and expected quality;
- enforce all contract terms specifically, those related to liquidated damages;
- maintain complete and reliable documentation of contract-related information; and
- coordinate monitoring roles and responsibilities.

Multiple audits found that departments did not always verify the contractor’s work. Specifically, City staff consistently approved payment requests submitted by the contractors without sufficient review of supporting documentation. In addition, departments did not consistently perform inspections of contractor work. As such, there was no assurance that the City received the services for which it paid. Also, in some cases the City paid the contractors based on rates or transactions that conflicted with contract terms.

#### Issued Audits and Investigations

An audit of the African American Youth Harvest Foundation found that Austin Public Health staff did not request or obtain necessary supporting documentation to verify the deliverables and accuracy of the expenditures related to the African American Youth Harvest Foundation payment requests.

The Cultural Arts Contract Monitoring Audit found that the Economic Development Department may have paid two contractors when reported work was not performed in accordance with the contract.

An investigation found that between October 2009 and May 2012, Neighborhood Housing and Community Development Department and Austin Housing Finance Corporation inappropriately overpaid Austin Area Urban League \$242,072 of federal funds. These overpayments were the result of staff improperly approving transactions that violated various contractual requirements.

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The City should conduct random inspections of contractor records and the delivery of services to ensure that all terms of the contract are being fulfilled.

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Several audits found that the City did not perform sufficient on-going monitoring of contractor work to assess the quality of work. While multiple contracts required periodic inspections, the departments did not consistently perform the inspections. In some instances, staff asserted they performed the inspections but inspection results were not documented.

#### Issued Audits

The Social Services Contract Monitoring Audit found that none of the five contracts reviewed during the audit conducted on-site monitoring as required.

The Capital Project Delivery Process Audit found that Public Works did not always assign inspectors to each project under construction or ensure that inspectors were documenting all required information.

One audit found inconsistencies in way the City enforced contract terms related to penalties for late projects. For example, contracts included penalties when a contractor did not fulfill contractual obligations. However, the City's contract monitoring process did not always include assessment of penalties or documented decisions why the penalties were not assessed. This resulted in the City's inability to recover money for administrative costs incurred due to project delays without documented justification for the delays.

#### Issued Audit

A performance audit of construction contract monitoring found that while the Sand Hill contract final completion was behind schedule by 16 days, liquidated damages of approximately \$32,000 were not assessed, and decisions not to assess damages were not documented.

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The City should maintain complete and reliable information relating the contract activities.

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Many audits found that departments did not consistently document contract-related information and in multiple cases the data maintained was incomplete and unreliable.

#### Issued Audit

The audit of Visit Austin contract found that staff reviews of Visit Austin's reported performance were informal and were not documented.

The Workforce Development audit found program information was not tracked, or if tracked, was unreliable. For example, the numbers of "unduplicated clients served" reported for the audit did not match the numbers that had been previously reported to the City. The contractors repeatedly modified client numbers during the audit, and contractors excluded some participants who appeared to have received workforce development.

Some audits found departments did not effectively coordinate their contracting monitoring.

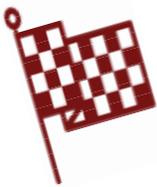
#### Issued Audit

The Workforce Development Audit found that management of the workforce development contracts was decentralized, and the departments did not coordinate their contract monitoring. Specifically, there were at least eight City Departments that managed adult workforce development contracts. While Imagine Austin called for a lead department no lead was assigned. Also, monitoring responsibilities overlapped for some of the contracts, but there was limited internal coordination among the various departments.

Based on the prior audits reviewed, weaknesses identified with the City's contract monitoring practices stem from several factors including: poorly developed contract terms, lack of sufficient guidance and training for staff involved in contracting activities, inadequate contract-specific monitoring tools, failure of City staff to provide adequate oversight of the contracts, and differing priorities set by management.

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## Closeout



Two of the twenty one (or 10%) prior contract audits reviewed found issues related to contract closeout. While contracts required department staff to collect feedback from customers at the close of projects, the departments either did not consistently collect the feedback, or in cases where they collected the feedback, they did not use this information for contracting decisions going forward.

Customer satisfaction surveys help to improve performance because the feedback can be used to notify the vendor when specified aspects of the contract are not being met. In addition, management can use the information on past performance in subsequent contract awards.

One audit found the City's process for assessing contractor performance on capital projects discouraged constructive feedback and lacked nuance, which could negatively affect the outcome of future procurement and thus the quality of future capital projects.

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The City should close all projects following the established project closeout processes.

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### Issued Audit

The Capital Project Delivery Process Audit found that negative evaluations were rare due to evaluation process barriers and legal agreement preclusions. In one of the contracts reviewed, the City had explicitly promised to issue a positive reference about the contractor if asked. These types of agreements do not allow the City to document a vendor's past negative performance or consider it when awarding future contracts without violating the terms of the settlement.

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## Additional Observation

### Implementation of audit recommendations

The Office of the City Auditor issues recommendations to address risks noted in audits. Once departments agree with recommendations in an audit, they develop action plans including the steps they plan to take, with associated timelines, to address the recommendations. Also, the departments are required to periodically report the status of the recommendations to the City's Financial Services Department. The Office of the City Auditor follows up on a sample of recommendations to determine if the department's action plans have been implemented. Of 19 contract-related recommendations we tested, we confirmed that only 9 were fully implemented at the time of our follow-up.

The remaining 10 were not fully implemented. An analysis of these 10 recommendations showed that while the departments had promised to implement these recommendations within approximately 1 year after report issuance, the recommendations were still outstanding for almost 2 years after the initial audit.

### Contract administration training and guidance

The City has developed contract administration-related training to ensure that departmental contract administrators have adequate knowledge, skills, and ability to oversee contracts. Currently, the City mandates training on two City systems: Advantage (the City's financial management system) and eCAPRIS (the City's contract management system). However, this training is only provided to employees responsible for entering information in the two systems who are not always the same staff who monitor contractor performance. Other non-mandatory training provided includes:

- "The City of Austin Contract Monitoring, Administration, and Scope of Work";
- "Writing Statements of Work: The Heart of Any Contract"; and
- "Purchasing Law Rules".

A review of attendance reports for a sample of departments indicates that only a few staff members from the various departments attended these trainings (see exhibit 5).

**Exhibit 5: Number of employees who attended contract administration-related trainings for select departments**

| Department                                   | Contract Monitoring, Administration, and Scope of Work Training |      |      |      | Purchasing Law Rules Training |      |      |      |
|--|---|------|------|------|-------------------------------|------|------|------|
|  | FY15  | FY16 | FY17 | FY18 | FY15                          | FY16 | FY17 | FY18 |
| Austin Public Health                         | 1   | 3    | 1    | 1    | 0                             | 0    | 2    | 0    |
| Aviation                                     | 4   | 0    | 4    | 1    | 0                             | 0    | 3    | 0    |
| Convention Center                            | 2   | 3    | 2    | 1    | 0                             | 1    | 0    | 0    |
| Neighborhood Housing & Community Development | 2   | 1    | 4    | 0    | 0                             | 0    | 2    | 0    |
| Parks and Recreation                         | 20  | 14   | 9    | 2    | 0                             | 1    | 1    | 1    |

SOURCE: Analysis of training reports related to contract administration, October 2018

To assist departments, the City’s Purchasing Office has created a contract monitoring tool box. The tool box contains various documents, contract monitoring templates and checklists including: scope of work, kick-off meeting, contract monitoring, contract management, contract close out, and other contract management manuals. Applying these tools may prove useful in resolving some of the issues noted in the report.

## Appendix A: City contracts by department with authorized amount and expenditure as of June 5, 2018

| Department                                     | Number of Contracts | Authorized Amount      | Expenditures           |
|--|---------------------|------------------------|------------------------|
| Public Works                                   | 272                 | \$1,938,791,261        | \$1,158,076,378        |
| Austin Energy                                  | 575                 | \$1,172,612,434        | \$438,126,223          |
| Communications and Technology Management       | 253                 | \$294,800,379          | \$135,102,983          |
| Financial Services                             | 84                  | \$254,157,969          | \$154,012,116          |
| Economic Development                           | 69                  | \$253,757,896          | \$70,393,800           |
| Fleet Services                                 | 107                 | \$236,859,850          | \$93,986,589           |
| Human Resources                                | 52                  | \$210,011,619          | \$145,594,776          |
| Austin Water                                   | 229                 | \$187,357,216          | \$89,973,185           |
| Austin Public Health                           | 158                 | \$147,428,352          | \$109,594,479          |
| Public Works-Transportation                    | 28                  | \$116,972,008          | \$51,322,683           |
| Police   | 98                  | \$103,415,904          | \$28,375,478           |
| Aviation                                       | 77                  | \$90,634,395           | \$30,872,335           |
| Wireless Communication Services                | 25                  | \$81,123,717           | \$29,589,015           |
| Building Services                              | 32                  | \$57,776,740           | \$29,448,855           |
| Parks and Recreation                           | 71                  | \$55,777,337           | \$33,879,453           |
| Austin Resource Recovery                       | 43                  | \$53,084,508           | \$36,482,137           |
| Neighborhood Housing and Community Development | 36                  | \$44,149,161           | \$24,263,286           |
| Emergency Medical Services                     | 25                  | \$39,206,918           | \$17,098,184           |
| Austin Transportation                          | 60                  | \$38,334,717           | \$12,637,144           |
| Watershed Protection                           | 64                  | \$37,652,109           | \$16,550,741           |
| Austin Convention Center                       | 52                  | \$34,601,071           | \$17,564,958           |
| Austin Public Library                          | 22                  | \$20,066,232           | \$12,702,854           |
| Fire   | 37                  | \$17,236,757           | \$8,863,969            |
| Law  | 105                 | \$12,849,066           | \$6,567,667            |
| Municipal Court                                | 11                  | \$7,521,141            | \$5,819,710            |
| Animal Services                                | 17                  | \$7,413,120            | \$4,592,342            |
| Public Works-Capital Projects Management       | 9                   | \$3,172,552            | \$2,673,098            |
| Office of the City Clerk                       | 5                   | \$2,983,847            | \$1,515,560            |
| Management Services                            | 13                  | \$2,330,326            | \$1,587,543            |
| Development Services                           | 7                   | \$2,254,603            | \$501,153              |
| Social Service Contracts                       | 12                  | \$2,006,099            | \$820,319              |
| Contract Management                            | 1                   | \$1,590,000            | \$302,095              |
| Small and Minority Business Resources          | 4                   | \$1,504,583            | \$1,359,490            |
| Telecommunications and Regulatory Affairs      | 20                  | \$1,328,608            | \$313,676              |
| Planning and Zoning                            | 2                   | \$1,077,525            | \$1,073,641            |
| Communications and Public Information          | 8                   | \$826,829              | \$449,822              |
| Intergovernmental Relations                    | 2                   | \$744,000              | \$483,500              |
| Austin Code                                    | 4                   | \$159,342              | \$90,850               |
| Office of City Auditor                         | 1                   | \$57,960               | \$56,702               |
| Labor Relations Office                         | 1                   | \$26,000               | \$-                    |
| <b>Total</b>                                   | <b>2,691</b>        | <b>\$5,533,654,149</b> | <b>\$2,772,718,790</b> |

SOURCE: Analysis of the City contract reports, June 2018.

# Appendix B: Contract-related audit recommendations issued between FY10 and FY18

| # | Recommendation   | Contract Audits*  | Issue Date | Recommendation Addressed to:**  | OCA Followed-up? | Date of OCA Follow-up | Status on OCA Follow-up | Last Reported Status to Controller*** | Reported Implemented on: |
|---|--|---|------------|---------------------------------|------------------|-----------------------|-------------------------|---------------------------------------|--------------------------|
| 1 | The Director of PARD should work with the Purchasing Office and the Law Department to identify necessary amendments to the cemetery contract to clarify contractual terms and responsibilities of each of the contracting parties.   | Cemetery Contract Review                                | Jun-10     | Parks and Recreation Department | Y                | Aug-12                | Underway                | Implemented (after follow-up)         | 11/5/2013                |
| 2 | In order to provide assurance that the contractor is providing all the services for which the City is paying, the Director of PARD should put in place and enforce an effective contract monitoring system for the cemetery contract.  | Cemetery Contract Review                                | Jun-10     | Parks and Recreation Department | Y                | Aug-12                | Underway                | Implemented (after follow-up)         | 3/22/2013                |
| 3 | AE's General Manager should address the need to standardize the administrative and general expense practices within the Participation Agreement up to and including amending the Participation Agreement or creating a Project Agreement.  | Austin Energy Fayette Power Project Contract Compliance | Oct-10     | Austin Energy                   | N                | N/A                   | N/A                     | Implemented                           | 2/6/2012                 |
| 4 | AE's General Manager, independent of LCRA, address the need to protect AE's interests in negotiating changes in the Participation Agreement terms. This includes an appropriate AG expense method that assures AE clear, stable costs, assurance of the appropriateness of costs and a cap to mitigate the risk to the City.   | Austin Energy Fayette Power Project Contract Compliance | Oct-10     | Austin Energy                   | N                | N/A                   | N/A                     | Implemented                           | 2/6/2012                 |
| 5 | AE's General Manager, reviews the AE Management Committee membership to ensure that appropriate expertise is present and no situation exist for potential undue influence. Changes could include ensuring financial expertise on the committee and independent voting representatives (i.e., not in a reporting relationship).   | Austin Energy Fayette Power Project Contract Compliance | Oct-10     | Austin Energy                   | N                | N/A                   | N/A                     | Implemented                           | 8/8/2011                 |
| 6 | "We recommend that in order to strengthen controls over city contracting practices, the City Purchasing Officer design a standardized contracting process Citywide, including the following elements:<br>a. a comprehensive Contract Management Manual, which should provide a roadmap to guide the contract process Citywide, and<br>b. clearly defined roles and responsibilities for all parties involved in the contracting process, including the Purchasing Office, Law Department, and the various departments. | Performance Audit of Citywide Contract Management       | Oct-10     | Purchasing                      | Y                | Dec-12                | Underway                | Implemented (after follow-up)         | 11/19/2013               |
| 7 | We recommend that the City's Purchasing Officer formally assess options for creating an automated Citywide Contract Management System that allows for uploading, managing, tracking monitoring, and generating reports of contracts and that is accessible to all City staff involved in the contracting process.  | Performance Audit of Citywide Contract Management       | Oct-10     | Purchasing                      | Y                | Dec-12                | Implemented             | N/A                                   | N/A                      |

| #  | Recommendation  | Contract Audits*                                       | Issue Date | Recommendation Addressed to:** | OCA Followed-up? | Date of OCA Follow-up | Status on OCA Follow-up | Last Reported Status to Controller*** | Reported Implemented on: |
|----|---|--|------------|--------------------------------|------------------|-----------------------|-------------------------|---------------------------------------|--------------------------|
| 8  | We recommend that the City's Purchasing Officer establish a standard contract monitoring process to ensure that the City is receiving all goods and services contracted for. Such system should include:<br>a. communicating policies and procedures to relevant staff to ensure that departments monitor contracts on an ongoing basis;<br>b. providing necessary training to guide contract monitoring staff and establishing a Citywide certification process for all contract monitoring staff, such as the Contracting Officer's Technical Representative (COTR) certification program established by the Office Of Federal Procurement Policy; and<br>c. establishing a process for conducting periodic reviews of contract monitoring activities within the departments. | Performance Audit of Citywide Contract Management      | Oct-10     | Purchasing                     | Y                | Dec-12                | Underway                | Implemented (after follow-up)         | 6/10/2014                |
| 9  | The Director of the Austin Convention Center Department should adopt an organizational structure and assign job duties in such a manner as to ensure an appropriate segregation of duties and delegated authorities comparable to that outlined in Administrative Bulletin 08-01 "Roles and Responsibilities for Financial Management."   | Armark Contract Audit                                  | Apr-11     | Austin Convention Center       | N                | N/A                   | N/A                     | Implemented                           | 2/6/2012                 |
| 10 | The Director of the Austin Convention Center Department should ensure that contractual requirements and controls intended to safeguard City funds are properly adhered to.  | Armark Contract Audit                                  | Apr-11     | Austin Convention Center       | N                | N/A                   | N/A                     | Implemented                           | 2/6/2012                 |
| 11 | Public Works Director should ensure that policies and procedures are reviewed and revised to assure sufficient and appropriate documentation is collected, reviewed, and maintained by staff in order to provide reasonable assurance that goods and services were delivered in accordance with contract terms and paid at the correct amount.  | Performance Audit of Construction Contracts Monitoring | Jul-11     | Public Works                   | N                | N/A                   | N/A                     | Implemented                           | 2/3/2012                 |
| 12 | Austin Energy General Manager should either require staff to comply with PW contract monitoring policies and procedures or develop adequate policies and procedures for AE, and ensure that staff is trained in and following contract monitoring procedures.   | Performance Audit of Construction Contracts Monitoring | Jul-11     | Austin Energy                  | N                | N/A                   | N/A                     | Implemented                           | 2/3/2012                 |
| 13 | Public Works Department Director should ensure that an effective process is created and implemented to assure that an independent inspector is assigned to perform inspections for design-build contracts in accordance with state law.   | Performance Audit of Construction Contracts Monitoring | Jul-11     | Public Works                   | N                | N/A                   | N/A                     | Implemented                           | 2/3/2012                 |
| 14 | Austin Energy General Manager should ensure that an independent engineer or architect is formally assigned to conduct inspections, in accordance with state law.  | Performance Audit of Construction Contracts Monitoring | Jul-11     | Austin Energy                  | N                | N/A                   | N/A                     | Implemented                           | 9/17/2012                |
| 15 | Austin Energy General Manager should ensure amounts owed for liquidated damages are collected by staff and any exceptions are appropriately documented.   | Performance Audit of Construction Contracts Monitoring | Jul-11     | Austin Energy                  | N                | N/A                   | N/A                     | Implemented                           | 2/3/2012                 |

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|----|--|---|------------|--------------------------------|------------------|-----------------------|-------------------------|---|--------------------------|
| 16 | The HHSD Director should create a complete contract monitoring system that includes the following components: <ul style="list-style-type: none"> <li>• contract monitoring policies and procedures that comply with best practices, are formally adopted, and communicated to staff;</li> <li>• contract monitoring is performed and documented in accordance with HHSD policies, procedures, and best practices;</li> <li>• review of organizational structure, job duties, and personnel within the contract monitoring function, in order to determine whether changes are needed to ensure objectivity and independence in performing contract monitoring roles and responsibilities; and,</li> <li>• a formal, documented training program specific to training needs that is provided to staff.</li> </ul> | Social Services Contract Monitoring Audit                             | Oct-11     | Austin Public Health**         | Y                | Feb-14                | Implemented             | N/A                                     | N/A                      |
| 17 | The HHSD Director should consider consulting with Communication and Technology Management and should ensure that parameters regarding management system access, security, and data reliability comply with industry best practice.   | Social Services Contract Monitoring Audit                             | Oct-11     | Austin Public Health**         | Y                | Feb-14                | Implemented             | N/A                                     | N/A                      |
| 18 | The HHSD Director should: <ul style="list-style-type: none"> <li>• ensure that contract monitoring is performed in accordance with applicable grant requirements.</li> <li>• implement procedures to ensure that double billing is detected and corrected, and monitoring is performed to ensure compliance with key contract terms.</li> </ul>  | HIV Grant Contract Monitoring Audit                                   | May-12     | Austin Public Health**         | Y                | Feb-14                | Partially implemented   | Status not reported after OCA follow-up | N/A                      |
| 19 | The HHSD Director should enhance its processes to ensure contract renewals are executed timely and prevent operating without an enforceable contract.  | HIV Grant Contract Monitoring Audit                                   | May-12     | Austin Public Health**         | N                | N/A                   | N/A                     | Implemented                             | 11/4/2013                |
| 20 | The HHSD Director should ensure that: <ul style="list-style-type: none"> <li>• monitoring policies and procedures include methodologies for reviewing accuracy of data in systems used to document support for services delivered and submission of payments.</li> <li>• duties for entering and reviewing contractor data are appropriately segregated.</li> </ul>  | HIV Grant Contract Monitoring Audit                                   | May-12     | Austin Public Health**         | Y                | Feb-14                | Implemented             | N/A                                     | N/A                      |
| 21 | HHSD should work with the City of Austin Law Department to determine if self-reporting to the granting Federal Agency, the auditor's exceptions related to the ARRA-funded HPRP and CSBG programs is required.   | American Recovery and Reinvestment Act (ARRA) Grants Monitoring Audit | Aug-12     | Austin Public Health**         | Y                | Feb-14                | Implemented             | N/A                                     | N/A                      |

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|----|--|--|------------|--|------------------|-----------------------|-------------------------|--|--------------------------|
| 22 | The City Attorney should work with the Purchasing Office to develop, implement, communicate, and monitor a process to ensure that:<br>a) contract templates used by City departments are followed or changes to the templates are reviewed and approved by the Law Department; and<br>b) all contract templates used by City departments are periodically reviewed for completeness and compliance with laws, regulations, and contracting best practices.                       | Contract Development and Approval Audit                            | Mar-14     | Law  | Y                | Jan-16                | Implemented             | N/A  | N/A                      |
| 23 | The NHCD Director should implement, communicate, and monitor process improvements to ensure that all NHCD contracts are efficiently and effectively monitored. Such improvements should include:<br>a. developing contracts that clearly specify the contractual requirements including deliverables and payment terms;<br>b. consistently enforcing all contractual agreed-upon terms and conditions; and<br>c. developing and implementing contract-specific monitoring tools. | Neighborhood Housing and Community Development Contract Monitoring | Aug-14     | Neighborhood Housing and Community Development | Y                | Jan-16                | Underway                | Status not reported after OCA follow-up          | N/A                      |
| 24 | The Capital Contracting Officer should develop, document, and implement a procedure related to projects that receive only one bid. This procedure should seek to determine the reason for lack of multiple responses and what course of action best serves the interests of the City.  | Airport Construction Projects Audit                                | Dec-15     | Capital Contracting                            | N                | N/A                   | N/A                     | Implemented                                      | 5/31/2016                |
| 25 | The Capital Contracting Officer should develop, document, and implement procedures to ensure that:<br>a) bid evaluation teams follow a standard procedure for documenting vendor bid scoring and<br>b) evaluation team vendor bid scores are accurately recorded and calculated to yield the most qualified bidder.  | Airport Construction Projects Audit                                | Dec-15     | Capital Contracting                            | N                | N/A                   | N/A                     | Implemented                                      | 5/31/2016                |
| 26 | The City Manager pursue opportunities to expand oversight functions through changes to City Code and/or the City's agreement with the Austin Police Association.   | Audit of the Austin Police Department's Handling of Complaints     | Sep-16     | City Manager                                   | Y                | Jun-18                | Underway                | Too soon for reported status after OCA follow-up | N/A                      |
| 27 | The Economic Development Department Director should strengthen the review procedures that address the documentation concerns identified in this audit to ensure the City obtains conclusive evidence of the business' compliance.  | Audit of Development Agreements Monitoring                         | Feb-17     | Economic Development                           | N                | N/A                   | N/A                     | Underway   | 11/15/2017               |
| 28 | Recommendation issued in report, but report was confidential.  | Management of User Access for the Utility Billing System           | May-17     | Austin Energy                                  | N                | N/A                   | N/A                     | Confidential                                     | Confidential             |

| #  | Recommendation  | Contract Audits*                 | Issue Date | Recommendation Addressed to:**                | OCA Followed-up?                             | Date of OCA Follow-up | Status on OCA Follow-up | Last Reported Status to Controller*** | Reported Implemented on: |
|----|---|----------------------------------|------------|---|--|-----------------------|-------------------------|---------------------------------------|--------------------------|
| 29 | Public Works Department should work with the Capital Contracting Office and the Law Department to reduce barriers to incorporating constructive feedback in the vendor evaluation process. The vendor evaluation process should include a section for documenting subcontractor performance.  | Capital Project Delivery Process | Sep-17     | Public Works                                  | N  | N/A                   | N/A                     | Underway                              | 11/22/2017               |
| 30 | The City Manager should name a lead department to oversee and coordinate workforce development programs and collaborate with regional partners to better target City workforce development investments towards programs that meet the needs of local employers.   | Workforce Development Audit      | Nov-17     | City Manager                                  | N  | N/A                   | N/A                     | Underway                              | 11/15/2017               |
| 31 | The City Manager should work with the lead department to establish Citywide goals and performance expectations relating to workforce development.   | Workforce Development Audit      | Nov-17     | City Manager                                  | N  | N/A                   | N/A                     | Underway                              | 11/15/2017               |
| 32 | The City Manager should work with the lead department to ensure that future contracts include clear and consistent performance measures that can be used to measure the impact of these programs. Further, the City Manager should consider whether contractors should be fully or partially paid based on performance.   | Workforce Development Audit      | Nov-17     | City Manager                                  | N  | N/A                   | N/A                     | Underway                              | 11/15/2017               |
| 33 | The Director of the Economic Development Department and Director of Austin Public Health should enhance monitoring of contractors and ensure that program data maintained is complete, accurate, and reliable.  | Workforce Development Audit      | Nov-17     | Austin Public Health and Economic Development | N  | N/A                   | N/A                     | Underway                              | 11/15/2017               |
| 34 | The City Manager should work with the lead department to establish Citywide goals and performance expectations relating to workforce development.   | Workforce Development Audit      | Nov-17     | City Manager                                  | N  | N/A                   | N/A                     | Underway                              | 11/15/2017               |
| 35 | The Director of the Convention Center should strengthen existing contract administration and monitoring practices for the Visit Austin contract, which should include:<br><ul style="list-style-type: none"> <li>• having a trained contract manager to coordinate contract administration activities, and;</li> <li>• enhancing existing practices for reporting and review of Visit Austin's performance under the contract.</li> </ul> | Contract Audit - Visit Austin    | Jun-18     | Austin Convention Center                      | Audit Issued in FY18; too soon for follow-up | N/A                   | N/A                     | N/A                                   | N/A                      |

| #  | Recommendation  | Contract Audits*                         | Issue Date | Recommendation Addressed to:** | OCA Followed-up?                             | Date of OCA Follow-up | Status on OCA Follow-up | Last Reported Status to Controller*** | Reported Implemented on: |
|----|---|--|------------|--------------------------------|--|-----------------------|-------------------------|---------------------------------------|--------------------------|
| 36 | The Director of APH should ensure more effective monitoring of the Youth Harvest Foundation contracts by: <ul style="list-style-type: none"> <li>• Requesting additional supporting documentation related to payment requests;</li> <li>• Requesting all existing monitoring reports from other funders;</li> <li>• Eliminating the Youth Harvest Foundation's ability to change information about their contracts' budgets in APH's contract monitoring system;</li> <li>• Not informing the Youth Harvest Foundation in advance about the specific scope of on-site monitoring; and</li> <li>• Ensuring staff responsible for monitoring the Youth Harvest Foundation contracts have an appropriate understanding of the purposes of their role.</li> </ul>   | Contract Audit: Youth Harvest Foundation | Sep-18     | Austin Public Health           | Audit Issued in FY18; too soon for follow-up | N/A                   | N/A                     | N/A                                   | N/A                      |
| 37 | The Director of APH should ensure that all payments made under both Youth Harvest Foundation contracts were appropriate, and seek reimbursement for any payments made for unallowable or unjustified expenses claimed by the Youth Harvest Foundation.  | Contract Audit: Youth Harvest Foundation | Sep-18     | Austin Public Health           | Audit Issued in FY18; too soon for follow-up | N/A                   | N/A                     | N/A                                   | N/A                      |
| 38 | The Director of Economic Development Department should strengthen the monitoring process for cultural arts contracts by: <ul style="list-style-type: none"> <li>• Ensuring that Cultural Arts Division's contract monitoring manual is updated to reflect current practice;</li> <li>• Ensuring that the Division consistently follows the updated manual;</li> <li>• Developing and implementing a documented, risk-based approach to select contracts for event attendance and detailed review;</li> <li>• Developing and implementing a documented risk-based approach to select contracts for verification of reported information;</li> <li>• Developing a plan to verify the accuracy of the audience numbers reported as performance measure to clarify that the numbers are self-reported.</li> </ul> | Cultural Arts Contracts Audit            | Sep-18     | Economic Development           | Audit Issued in FY18; too soon for follow-up | N/A                   | N/A                     | N/A                                   | N/A                      |
| 39 | The Director of the Economic Development Department should work with the Law Department to ensure all cultural arts contract templates include clauses that safeguard the City's interests.   | Cultural Arts Contracts Audit            | Sep-18     | Economic Development           | Audit Issued in FY18; too soon for follow-up | N/A                   | N/A                     | N/A                                   | N/A                      |

\*In May 2011, the Office of the City Auditor released a report titled "Review of the Public Works Inspection Division" with areas of concern; however, no recommendations were issued. Additionally, in June 2012, the Office of the City Auditor released a report titled "Audit of ARAMARK Financial Statements Reporting" with findings; however, no recommendations were issued.

\*\*In December 2016, Health and Human Services Department was renamed to Austin Public Health.

\*\*\*Departments report the status of outstanding recommendations to the controller on a 6-month cycle. If no OCA follow-up activity was performed, the most recent status was included. If OCA follow-up activities noted that the status was not fully implemented, the most recent status was included.

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## Why We Did This Report

This report summarizes the key issues associated with the City's contract administration activities as reported in 21 prior audits and 7 investigations performed between Fiscal Year 2010 and Fiscal Year 2018.

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## Scope

The project scope included Office of the City Auditor and investigation reports on the City's contracting processes for the period FY 2010 through FY 2018.

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## Methodology

To accomplish our objectives, we performed the following steps:

- interviewed Purchasing Office staff;
- analyzed contracting-related findings from previous Office of the City Auditor's reports;
- analyzed contract-related findings from prior Office of the City Auditor investigation reports;
- analyzed recommendation implementation status reports from the City Financial Services Department;
- analyzed recommendation implementation status form prior Office of the City Auditor follow-up audits; and
- analyzed contract administration-related training reports from the Corporate Purchasing Office.

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## Project Type

Special request projects conducted by the Office of the City Auditor are considered non-audit projects under Government Auditing Standards and are conducted in accordance with the ethics and general standards (Chapters 1-3).

The Office of the City Auditor was created by the Austin City Charter as an independent office reporting to City Council to help establish accountability and improve City services. Special requests are designed to answer specific questions to assist Council in decision-making. We do not draw conclusions or make recommendations in these reports.

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