

*A Review of the Request
For Proposal For
The New Civic Center
Converged Network*

By Gerald A. Silva, City Auditor
San Jose, California

Background

- CUSP RFP
- San Jose Mercury News Article
- SBC Complaint

Audit Objectives—Six Key Questions

1. Was the standardization on Cisco equipment and other system requirements in the RFP in accordance with San Jose Municipal Code requirements?
2. What was Cisco's participation in the RFP process?
3. Did a former City Deputy Chief Information Officer violate the City's revolving door policy after leaving City employment in September 2003?
4. Was the RFP evaluation process fair, objective, and accurate?
5. Was the City's analysis of the final three vendors' cost proposals complete and accurate?
6. Was the RFP process for the procurement of "General Services" the appropriate procurement process?

Audit Findings

- The City's standardization on Cisco equipment and other system requirements in the RFP was not in accordance with SJMC Section 4.12.149.

- Staff's representations to the City Council and members of the Office's of the City Attorney and Auditor notwithstanding, Cisco's participation in the RFP process was significant and pervasive. As far as we can determine, Cisco's participation in the RFP process began in May 2003, and extended through June 2004. Cisco's participation in the RFP process included

- 1) designing the Converged Network System,
- 2) assisting staff to prepare the RFP,
- 3) preparing several versions of the Bill of Materials that constituted the entire equipment requirements for the RFP and included over 18,000 items,
- 4) assisting staff with vendor and small business issues related to the RFP,
- 5) providing staff with answers to the technical questions vendors posed during the RFP process and
- 6) participating in numerous meetings with staff regarding various aspects of the entire RFP process.

- In our opinion, the NCC Converged Network overall evaluation process was on balance fair, objective, and accurate. However, we did note some issues during various phases of the evaluation process. Of particular concern is the adequacy of the request for and subsequent review of one of the minimum qualifications requirements. A more rigorous process may have materially affected the selection of the three vendor finalists.

- We found that the “Cost Comparison” in staff’s June 16, 2004 memorandum to the City Council was not entirely accurate and complete. Specifically, the memorandum left out some RFP required items that would have significantly increased

- 1) the total amount of the contract and
- 2) the dollar disparity between SBC and Unisys.

- The RFP for the NCC Converged Network System complied with City Code requirements for contracts for general services in SJMC Chapter 4.13 and the resulting contract is not required to be awarded to the lowest responsible bidder.

Recommendations

1. The City Attorney review with the City Manager's Office and the General Services Department the need for clarifications or other amendments to the SJMC standardization provisions. (Priority 2)
2. The Administration develop a policy to require a formal contract with scope of service and nondisclosure provisions for non-compensated outside parties who are providing technical or specialized assistance to the City. (Priority 3)
3. The City structure its RFPs to facilitate the evaluations of minimum qualifications requirements. (Priority 3)
4. The City include in its RFPs the relative importance of price and other factors and subfactors. (Priority 3)

Recommendations (continued)

5. The General Services Department work with the City Attorney to look for ways to improve how the City evaluates and scores responses to RFPs and considers price relative to other evaluative factors. (Priority 3)
6. SJMC Section 4.13.010 be amended to clarify that the request for proposal method of procurement is authorized where the provision of services and the purchase of equipment are integral to each other in accomplishing the purpose of the project and the services are not merely incidental to the equipment purchase. (Priority 3)

Aftermath

- News media firestorm
- Staff resignations and demotion
- District Attorney Investigation
- Personnel Investigation
- Outside Investigation
- Audit of CMO proposed reforms