

INTERNAL AUDIT REPORT

2023-04

Sole Source Purchases

Purchasing Department

August 11, 2023

MUNICIPALITY OF ANCHORAGE
Office of Internal Audit
632 W 6th Avenue, Suite 710
P.O. Box 196650
Anchorage, Alaska 99519-6650
www.muni.org/departments/internal_audit



OFFICE OF INTERNAL AUDIT
Scott Lee
Acting Director
Phone: (907) 343-4438
E-Mail: scott.lee@anchorageak.gov



MUNICIPALITY OF ANCHORAGE
MAYOR DAVE BRONSON

OFFICE OF INTERNAL AUDIT

August 11, 2023

Honorable Mayor and Members of the Assembly:

I am pleased to present for your review the **Internal Audit Report 2023-04, Sole Source Purchases, Purchasing Department**. A summary of the report is presented below.

In 2022, we performed an audit of sole source purchases and issued Internal Audit Report 2022-02, dated April 28, 2022. To assess the effectiveness of corrective actions and the adequacy of controls, we were requested to perform a follow-up audit.

The objective of this follow-up audit was to determine the effectiveness of corrective action taken by Purchasing on the Findings contained in Internal Audit Report 2022-02. Our audit included a review of all sole source purchases identified in SAP reports from July 2021 through December 2022, and sole source purchases reported on Assembly Information Memorandums and approved on Assembly Memorandums to determine if the sole source purchases were properly identified, accurately reported, and had reasonable justification during the same time period. In addition, we evaluated if there was adequate transparency in the sole source purchasing process.

Management action taken in response to the 2022 audit partially improved some of the identified issues. Our follow-up audit revealed that action taken by Purchasing Department personnel partially corrected 3 of 5 deficiencies. However, we found that further management action is still required to improve the reporting of sole source purchases, and public notification of sole source purchases, and the strengthening of Anchorage Municipal Code Title 7, *Purchasing and Contracts and Professional Services*.

There were six findings in connection with this audit. Management was responsive to the findings and recommendations in this report.

Scott Lee



Acting Director, Internal Audit



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Internal Audit Report 2023-04
Sole Source Purchases
Purchasing Department

Introduction. In 2022, we performed an audit of sole source purchases and issued Internal Audit Report 2022-02, dated April 28, 2022. To assess the effectiveness of corrective actions and the adequacy of controls, we were requested to perform a follow-up audit. This report contains the results of the follow-up audit.

The Municipality of Anchorage's (Municipality) Purchasing Department (Purchasing) is responsible for the purchase of supplies, services, and construction. The National Association for State Procurement Officials (NASPO) defines a sole source procurement as a purchase “. . . entered into without a competitive process, based on a justification that only one known source exists or that only one single supplier can fulfill the requirements.” Anchorage Municipal Code (AMC) section 7.20.080, *Proprietary and non-competitive procurements*, states that “The purchasing officer may contract, without the use of the competitive source selection procedures of this chapter, for the following supplies, services, professional services or construction.... For contracts where the purchasing officer determines in writing that the municipality's requirements reasonably limit the source for the supplies, services, professional service or construction to one person.” Municipal departments needing to make a sole source purchase submit a sole source purchase request memorandum to the Purchasing Officer to justify the purchase. This memorandum is then approved by the Purchasing Officer. In addition, AMC section 7.15.040, *Assembly approval of contracts*, requires that sole source purchases exceeding \$30,000 need Assembly approval through an Assembly Memorandum (AM). Finally, each month Purchasing also reports sole source purchases between \$10,000 and \$30,000 to the Assembly through an Assembly Information Memorandum (AIM).

Objective and Scope. The objective of this audit was to determine the effectiveness of corrective action taken by Purchasing on the Findings contained in Internal Audit Report 2022-02. Our audit included a review of all sole source purchases identified in SAP reports from July 2021 through

December 2022, and sole source purchases reported on AIMs and approved on AMs to determine if the sole source purchases were properly identified, accurately reported, and had reasonable justifications during the same time period. In addition, we evaluated if there was adequate transparency in the sole source purchasing process.

We conducted this performance audit in accordance with generally accepted government auditing standards, except for the requirement of an external quality control review. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. The audit was requested by the Administration.

Overall Evaluation. Management action taken in response to the 2022 audit partially improved some of the identified issues. Our follow-up audit revealed that action taken by Purchasing personnel partially corrected 3 of 5 deficiencies. However, we found that further management action is still required to improve the reporting of sole source purchases, public notification of sole source purchases, and the strengthening of reporting requirements. Finally, we had a new finding regarding the strengthening of AMC Title 7, *Purchasing and Contracts and Professional Services*.

AUDIT FINDINGS FOLLOW-UP

1. **Prior Audit Finding (Internal Audit Report 2022-02): Sole Source Purchases Not Always Approved/Reported as Required.** Sole source purchases were not always approved/reported as required. As a result, an inaccurate representation of sole source purchases and amounts spent had been reported to the Assembly and the public.
 - a. **Corrective Action.** Sole source purchases are still not being accurately reported. As a result, an inaccurate representation of sole source purchases and amounts spent had been reported to the Assembly and the public. Specifically, we found the following:

- *Sole Source Purchases Over \$30,000 Not Always Approved* – From July 2021 to December 2022 we reviewed 169 purchase orders (POs) that were identified as sole source purchases in SAP, which included all 88 purchase orders approved on AMs.

Of the 169 POs, we determined that 119 were not sole source purchases or questionable for a variety of reasons as explained below. However, 40 (34%) of these were submitted to the Assembly for approval as sole source purchases. Of the remaining 50 (169 – 119) POs, 48 were approved on AMs and two purchases should have been included on AMs for sole source approval.

We then reviewed all 88 purchases that were approved on AMs. Of these we found that 35 were not sole source purchases. The table below summarizes our review of sole source purchases exceeding \$30,000 and requiring Assembly approval through an AM.

Sole Source Purchases Exceeding \$30,000 from July 2021 through December 2022								
<u>Approved on AMs as Sole Source</u>	+	<u>Sole Source but not Approved on AMs</u>	=	<u>Total</u>	-	<u>Approved on AMs but not Sole Source or Questionable</u>	=	<u>Total Purchases That Should Have Been Approved on AMs</u>
88		2		90		40*		50

*Of these 40 AMs, 5 of them appeared questionable and 35 were not sole source.

Source: Auditor's analysis of SAP Sole Source Report and AMs.

-Sole Source but Not Approved: We identified two sole source POs that were not approved by the Assembly. Specifically, in 2021 a sole source purchase to “. . . provide support during the review of the Municipality of Anchorage (MOA) Central Service Cost Allocation Plan (CSP) and Indirect Cost Rate Plan (ICP)”

had an initial PO amount of \$60,000 and was approved by the Assembly on an AM. However, the PO had four amendments that increased the PO amount to \$146,000, but only amendments three and four were submitted to the Assembly for approval. AMC 7.15.080 states that “. . . any contract amendment or change order, or cumulative or successive contract amendments or change orders, that will cause the total contract amount to exceed \$30,000.00, or continue to exceed \$30,000.00, as amended” need Assembly approval. In another case, in 2021 a \$35,000 sole source contract was issued to provide for the publication of supplements to the Municipal Code. This contract was not approved by the Assembly through an AM.

-Approved but Not Sole Source: We identified 35 sole source purchase orders that were approved by the Assembly as sole source purchases but were not sole source purchases. These purchases may have been grant awards that went through a selection process or they may have been part of a central contract. Most of these POs that were mistakenly entered as a sole source in SAP indicate that training is needed to correctly classify purchases as sole source in SAP. Below are some examples:

Grants - In 2021, grant awards totaling \$3,081,000 to 10 Anchorage nonprofits were approved as a sole source on a single AM. However, according to AMC Title 7 grantees are selected from applicants who competed for grant funds by submitting grant proposals.

Central Contract Purchase - In 2022 a \$218,282 sole source purchase for “. . . Neptune meter interface units, meter reading equipment, and meter reading software. . .” was approved by the Assembly. However, this purchase should have been made using an SAP Central Contract. A SAP Central Contract is a contract that was previously sourced through a competitive process.

- *Sole Source Purchases Between \$10,000 and \$30,000 Not Always Reported* – From July 2021 to December 2022 we reviewed 175 POs that were identified as sole source purchases in SAP, from Purchasing’s computer G: drive, and Purchasing’s analysis of AIMs. In addition, we reviewed all 105 purchase orders reported on AIMs, which were included in the 175 POs previously mentioned.

Of the 175 POs, we determined that 76 were not sole source purchases or questionable for a variety of reasons as explained below. However, 28 (37%) of these were reported to the Assembly as sole source purchases. Of the remaining 99 POs (175 – 76), 77 were correctly reported on AIMs and 22¹ purchases should have been included on AIMs for sole source reporting.

We then reviewed all 105 purchases that were reported on AIMs. Of these we found that 18 were not sole source purchases. The table below summarizes our review of sole source purchases between \$10,000 and \$30,000 that should have been reported to the Assembly through an AIM.

**Sole Source Purchases Between \$10,000 and \$30,000
 from
 July 2021 through December 2022**

<u>Reported on AIMs as Sole Source</u>	+	<u>Sole Source but not Reported on AIMs</u>	=	<u>Total</u>	-	<u>Reported on AIMs but not Sole Source or Questionable</u>	=	<u>Total Number That Should Have Been Reported on AIMs</u>
105		22		127		28*		99

*Of these 28 reported on AIMs, 10 of them appeared questionable and 18 were not sole source.

Source: Auditor's analysis of Purchasing Sole Source Report, AIMs, and Purchasing’s computer G drive data.

¹Seven of these 22 purchases belonged to the Assembly. Therefore, the Assembly may have already been aware of these purchases.

-Sole Source but Not Reported: We identified 22 sole source POs that were not reported to the Assembly. For example, in 2021 a \$18,272.41 sole source purchase for "...parts so AFD can make repairs as needed to SCBA systems" was not reported to the Assembly on an AIM. In another case, in 2022 a \$26,280 sole source purchase for tank mixers which "...creates a powerful vortex flow pattern inside water storage tanks to circulate the entire volume..." was not reported to the Assembly on an AIM.

-Reported but Not Sole Source: We identified 18 sole source purchase orders that were reported to the Assembly on AIMs but were not sole source purchases. These purchases may have been competitively selected and were mistakenly marked as sole source or they may have been grant awards that go through a selection process. Most of these POs that were mistakenly entered as a sole source in SAP indicate that training is needed to correctly classify purchases as sole source in SAP. Below are some examples:

Cooperative Purchase - In 2021 a \$12,392.58 sole source purchase for "...a cooperative purchase of 2021 NetApp Maintenance from Bridge Data Solutions..." was reported to the Assembly as a sole source purchase. However, this purchase used a contract already established by the State of Minnesota using a purchasing method called "piggybacking". "Piggybacking" uses a vendor agreement established by another public entity to ensure the Municipality receives the same competitively sourced terms, conditions, and pricing.

Grant Award - In 2022 a \$11,587 purchase for "...glass collection for recycling" was reported to the Assembly as a sole source purchase. However, this was a grant award to a selected grantee.

b. Evaluation of Corrective Action. Not Effective.

- c. **Recommendations.** The Purchasing Officer should ensure that sole source purchases are correctly identified and reported to the Assembly. This may require training regarding the proper identification of sole source purchases.

 - d. **Management Comments.** “Concur. Purchasing will provide additional training to Shopping Cart users and to its staff to help ensure that each sole source purchase is reviewed to confirm that the vendor is correctly identified as a sole source provider. Purchasing did work with the Office of Information Technology to determine how/if SAP can be used to better identify sole source purchases and has been using this tool for 7 months.”

 - e. **Evaluation of Management Comments.** Management comments were responsive to the audit finding and recommendations.
2. **Prior Audit Finding (Internal Audit Report 2022-02): Sole Source Purchasing Justifications Sometimes Questionable.** Departments did not always adequately justify their decision to contract with a sole source provider.
- a. **Corrective Action.** Departments continued to not always adequately justify their decisions to contract with a sole source provider. Specifically, of 193 (88 AMs + 105 AIMs) reviewed purchases that were either reported or approved as sole source purchases, we found that 15 (8%) had questionable justifications. Anchorage Municipal Code subsection 7.20.080A.5. states that the competitive source selection is not required “For contracts where the purchasing officer determines in writing that the municipality’s requirements reasonably limit the source for the supplies, services, professional service or construction to one person.” Having appropriate justification to not seek other providers is important because these sole source purchases bypass full and open competition. For example:

- *Grant Management Services* – In 2022, a sole source purchase for “...Grant Management SVCS” for \$27,000 was reported to the Assembly on an AIM. However, the justification memo states that the vendor was chosen because they were “...the best of the few options that were explored.” No other information was provided regarding the “. . . few options that were explored.”
- *Ocean Netless Fenders* – In 2022, a \$177,967 sole source purchase for “...two (2) Ocean Netless Fenders...” that provide dock protection was approved by the Assembly. However, from the justification memorandum, it appears that similar items are available from multiple vendors.
- *Clothing* – In 2022, a \$19,187.50 sole source purchase for pants was reported to the Assembly on an AIM. The sole source justification stated “...a sole source PO totaling \$19,187.50...for the purchase of MedPro pants...The clothing is used by Lion First Responder and SeaWestern is the local distributor for Lion.” Although the sole source justification described the purchase, it did not elaborate on why this was a sole source purchase. We identified the same type of sole source purchase in our previous Internal Audit Report 2022-02.

Purchasing did provide a Sole Source Guidance document after the completion of our prior audit that helped clarify what should be included in a sole source memorandum to justify the purchase. Specifically, the Sole Source Guidance document states that “A memorandum generally has two sections. One that briefly explains what the requested item or service is used for. The second justifies, in detail, why only one contractor/vendor is requested, i.e., explaining why the requested purchased is *not* be [sic] competed.” However, it appears Purchasing did not adequately review the sole source justification memorandums for completeness.

In many of the justification memorandums we reviewed, the factor used to justify the sole source purchases continued to have the appearance of preference for the vendor,

rather than the supply or service being available from only one source as required by AMC Title 7. A NASPO briefing paper titled *Non-Competitive/Sole Source Procurement: Seven Questions*, states that “An agency requirement for a particular proprietary product or service does not automatically justify a sole source procurement if there is more than one potential bidder or offeror for that item.”

- b. **Evaluation of Corrective Action.** Partially Effective
 - c. **Recommendation.** The Purchasing Officer should ensure that Purchasing staff adequately review sole source justifications for completeness and departments are provided guidelines to what constitutes a sole source purchase.
 - d. **Management Comments.** “Concur. Purchasing has communicated to MOA staff and the Purchasing staff in multiple meetings over the year what should be in a sole source justification and what validates a sole source. As part of the sole source process that is in development, as recommended in Finding 2, Purchasing will continue providing guidance on what qualifies as a sole source purchase. This guidance may include examples of what is and what is not a sole source purchase to help departments better understand the difference.”
 - e. **Evaluation of Management Comments.** Management comments were responsive to the audit finding and recommendations.
3. **Prior Audit Finding (Internal Audit Report 2022-02): No Template for Sole Source Purchasing Justification Memorandums.** When reviewing sole source justification memorandums, we noted that there were no requirements stating what a sole source justification memorandum should include.
- a. **Corrective Action.** Although Purchasing did provide a Sole Source Guidance document after the completion of our prior audit that helped clarify what should be

included in a sole source memorandum to justify the purchase, a template has not been developed.

b. **Evaluation of Corrective Action.** Partially Effective

c. **Recommendation.** The Purchasing Officer should develop a standard template for sole source purchase justification memorandums to ensure that sufficient information is provided when approving a sole source purchase or recommending a sole source purchase for approval by the Assembly.

d. **Management Comments.** “Concur. Purchasing agree that a sole source template will help Departments to better provide sufficient information to justify their sole source purchases and will also help Purchasing staff in determining if the sole source purchase is justified. Purchasing has a draft template as part of its review of many Purchasing’s processes.”

e. **Evaluation of Management Comments.** Management comments were responsive to the audit finding and recommendations.

4. **Prior Audit Finding (Internal Audit Report 2022-02): Public Notification to Award Can be Improved.** Public notification of the intent to award sole source purchase contracts can be improved.

a. **Corrective Action.** In response to our prior audit recommendation management stated, “Concur. Purchasing plans to begin posting a public notice of intent to award a sole source purchase to a vendor.” However, at the time of this audit Purchasing does not post, for public viewing, their intent to award a sole source purchase to a vendor.

b. **Evaluation of Corrective Action.** Not Effective

- c. **Recommendations.** The Purchasing Officer should revise AMC Title 7 to include guidelines for posting public notice of intent to award a sole source contract to a vendor.

 - d. **Management Comments.** “Concur. Purchasing revised their public website during 2022. There is a place for sole source postings on the website, pending the approval of a Policy and Procedure. Purchasing plans to begin posting a public notice of intent to award a sole source purchase to a vendor in 2023. In addition, in 2023 Purchasing intends to include this posting in AMC Title 7 as part of an update.”

 - e. **Evaluation of Management Comments.** Management comments were responsive to the audit finding and recommendations.
5. **Prior Audit Finding (Internal Audit Report 2022-02): Reporting Requirements Could Be Strengthened.** Some of the reporting requirements for sole source purchases could be strengthened. While AMC has specific reporting requirements for sole source purchases over \$30,000, there is nothing in AMC to address reporting requirements for sole source purchases of \$30,000 and less. However, in 1988 Purchasing stated in AIM 26-88 that each month “. . . the Purchasing Department will prepare an Assembly Informational Memorandum detailing those sole source procurements that are more than \$10,000 and less than \$30,000. The purchase order number, vendor, dollar amount, and the reason for the sole source will be set forth in the report.” In addition, we did not find any requirement for the reporting of sole source purchases between \$5,000 and \$10,000 to the Assembly.
- a. **Corrective Action.** The Purchasing has not revised AMC to address reporting requirements for sole source purchases between \$10,000 and \$30,000. However, Purchasing had developed an internal process for gathering information and reporting sole source purchases to the Assembly. The process was recently updated to include SAP reporting.

- b. **Evaluation of Corrective Action.** Partially Effective
- c. **Recommendation.** The Purchasing Officer should consider formalizing the reporting requirements for sole source purchases of \$30,000 and less.
- d. **Management Comments.** “Concur. The Purchasing Department had developed an internal process for gathering information and reporting sole source purchases to the Assembly. The process was recently updated to include SAP reporting. Purchasing is confident that the updated procedure will ensure the most accurate information will be provided to the Assembly. In addition, Purchasing also considered developing procedure for reporting sole source purchases between \$5,000 and \$10,000. However, we determined that the resources required for the reporting does not justify the need.”
- e. **Evaluation of Management Comments.** Management comments were responsive to the audit finding and recommendations.

NEW FINDING AND RECOMMENDATION

- 1. **AMC Title 7 Could be Strengthened.**
 - a. **Finding.** Anchorage Municipal Code Title 7 could be strengthened. Specifically, AMC contains no guidelines regarding the splitting of transactions and entering into separate contracts. Specifically, we found consecutive sole source contracts for services that, when combined, exceeded the AMC Title 7 threshold of \$30,000 for Assembly approval. As a result, some contracts appeared to circumvent reporting requirements for Assembly approval. For example, from July 2021 through January 2023, we found three separate, but consecutive 6 month-long, sole source contracts for consulting services for \$29,500 apiece, totaling \$88,500, which appeared to circumvent the \$30,000 threshold for Assembly approval. In another case, in 2022, a

sole source contract for Assembly support services was entered into for \$24,000. However, a separate contract had been entered into in 2021 for \$24,000 using an identical sole source justification.

- b. **Recommendation.** The Purchasing Department should consider revising AMC Title 7 and develop P&Ps to define and document what constitutes a split purchase and whether this practice is prohibited.

- c. **Management Comments.** Concur. Purchasing will continue to provide training to Shopping Cart users, P-Card holders, and to the Purchasing staff to help ensure that the employees understand what constitutes a split purchase. While SAP does not provide a report or mechanism to report split purchases, Purchasing will work towards a method to identify them. The P-Card administrator continues to diligently track and report P-Card purchases to the auditors.

- d. **Evaluation of Management Comments.** Management comments were responsive to the audit finding and recommendations.

Discussion With Responsible Officials. The results of this audit were discussed with appropriate Municipal officials on May 16, 2023.

Audit Staff:
Dalton Benson