
Hired Equipment Review

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Hired Equipment Review

1. Introduction

On November 23, 2004, a City employee contacted the Office of the City Auditor (OCA) with concerns relating to fair and equitable distribution of work to hired equipment contractors within the City. This was followed by an additional complaint from an external vendor alleging that X Co. was awarded a contract because of personal relationships. The OCA agreed to investigate these concerns and identify other control weaknesses that may be apparent during this review.

2. Background

In June 2003, IBM Business Consulting Services completed a review of the Hired Equipment process within Mobile Equipment Services (MES). The objective of that review was to survey other jurisdictions, identify options and make recommendations for changes in the hired equipment process as Edmonton moves towards SAP integration and transition. Two recommendations from this review were to transition from allocating work using the rotational hired equipment list to implementing a full tendering process and to change the reporting from MES to Materials Management section of Corporate Services in the future.

2.1. History

In the 1970's, Materials Management administered procurement of hired equipment services on behalf of departmental clients. Departmental clients became dissatisfied with the process and began going directly to the market for services. A departmental client approved payments to a relative for more services than were rendered. The Mayor and Council of the day charged the Administration to develop a transparent process that preserved the principles of fairness and equity. MES was then charged with administration of the hired equipment process.

Under the MES hired equipment administration process, the hired equipment team focused on satisfying the ad hoc service and equipment requirements of various routine and emergency service providers on a 24/7 basis. The MES process ensured that equipment requirements were met first with City equipment with MES contracting for additional needs. The objective of MES was to procure hired equipment services at a fair cost while satisfying political and environmental constraints, providing a high level of customer service and transparency.

2.2. Rotational Equipment Process

The vendor selection process used by MES is based on rotating through a vendor list in a fair and equitable manner. Vendors are qualified by MES following inspection of their equipment. They then agree to the hourly rates set by MES and are added to the bottom of the rotational list. This entitles them to approximately 300 hours of work

(based on equipment group) when their turn comes up on the rotation list and it entitles them to bid on larger projects in the future. The rotational process was designed as follows:

- Work is offered to the vendor at the top of the list until that vendor's hours are depleted;
- Hours refused or work hours completed is deducted from remaining entitled hours;
- When the vendor hours are completed (done) he goes to the bottom of the list and the next vendor in line on the rotational list is offered work.
- The equipment Foreman or Project Manager (client) identifies his equipment needs and calls the MES Dispatcher to order the equipment.
- The dispatcher refers to the vendor rotation list for the specified equipment developed and managed by MES to ensure a fair distribution of work among suppliers.
- The vendor undertakes and completes the work assignment.

Materials Management will, in the short term, continue this process using a manual system until such time that all equipment hiring can be done through a more formal tendering process.

3. Objectives

The objectives of this review included:

1. Establishing whether the procedures for procuring equipment and operators were established and enforced and determining whether there was transparency and fairness in allocating work assignments.
2. Ensuring that MES's allocation of work where personal relationships exist or gifts and gratuities are received adheres to the City's Code of Conduct.

4. Methodology

The OCA:

- Interviewed employees to understand and document the hired equipment rotational contracting process.
- Reviewed and analyzed all data on the MESIS data base for hired equipment rotational work allocation.
- Met with respective parties (clients, vendors, dispatchers, and management) to obtain clarification of information in the files.
- Obtained assistance and clarification on the Code of Conduct from Strategic Services, Human Resources and Law Branches of Corporate Services Department.

- Reviewed the hired equipment rotational process to be implemented within SAP for appropriate controls to ensure fair and equitable distribution of work.

5. Summary of Results

5.1. Procedural issues

During preliminary discussions with Hired Equipment employees, the OCA observed that rotational procedures for procuring hired equipment had not been adhered to in the past year. MES had decided following the review by IBM to transfer hired equipment procurement to Materials Management where the detailed procurement and control guidelines would provide better controls. As a result of this undertaking, key hired equipment resource people were assigned to the transition project, leaving few resources to dispatch and manage the hired equipment rotation list.

The OCA reviewed the information on the MESIS hired equipment database to verify whether the lack of adherence to procedures lead to unfair and inequitable distribution of business. In all twelve examples the OCA tested, evidence showed that rotational procedures were not followed, resulting in the following issues:

- Work was given to contractors at the bottom of the rotational equipment list instead of those next in line.
- Work was given to those who had depleted their 300 hours (maximum allowed per cycle) of work.
- Insufficient documentation and audit trails existed to indicate why some contractors were chosen over others.
- Contracts that should have been tendered, were not.
- Rates paid that did not correspond to the rate book (rate book was not updated regularly).

5.1.1. Example 1

In 2004, X Co. worked 1,114 hours of regular time and 311.5 of overtime doing general excavation work using a backhoe for total fees of \$171,000. This exceeded the rotational equipment hiring guidelines of 300 hours and other backhoe operators did not get a share of the work, resulting in an unfair and inequitable distribution of work. In addition, the MES book rate for this equipment is \$87.45 per hour while the vendor was paid \$107.00 per hour. MES staff indicated that the higher rate was likely paid to the contractor as a result of negotiations or they were unable to get contractors to work at the quoted rate.

5.1.2. Example 2

X Co. (same contractor as referred to in example 1) was hired to do general work on job sites using a bulldozer. The contractor worked 655 hours of regular time and 190 hours

of overtime for a total fee of \$79,500. This once again exceeded the rotational equipment guidelines and resulted in other bulldozer operators not getting a share of the work, resulting in an unfair and inequitable work distribution. The base rate paid was higher than the MES rate book at \$80.00 versus \$69.30. No explanation was provided to support the increased rate.

These contracts were discussed with the Project Manager and MES employees who were involved in hiring this contractor. The Project Manager's explanation provided was that the contractor's work is good, the contractor uses some specialized equipment and that he is not concerned about excessive hours if the work is required and money is available to pay. However, the hired equipment dispatcher indicated that no specialized equipment was requested upon initial request and that the contract should have been tendered if the work was to go on this long and exceed 300 hours. In this case, the rotational list that should have been used to determine which contractor was next in line was not used. In addition, it is necessary in incidents such as this to have increased communication and monitoring between the client group (project manager) and hired equipment dispatchers to ensure that contracted hours are not exceeded.

5.1.3. Example 3

B Co. (a trucking company) was hired to provide lowboy equipment to transport large equipment. Hired Equipment did not follow the rotational equipment guidelines to ensure fair and equitable distribution of work, and as a result other lowboy operators did not get a share of the work. This contractor received \$58,290 in 2004.

The OCA discussed this contract with those involved in hiring this contractor. The explanation provided was that going through the rotational listing, documenting and updating which contractors are or are not available is time consuming, so it is faster to circumvent the rotational guidelines and contact a contractor that is known to be available at a price the City is willing to pay. In this example and the others identified above, it is of most importance to those hiring equipment to ensure that proper procurement rotational procedures are consistently followed and enforced to ensure fair and equitable distribution of work.

The contractors noted in the above examples stopped working for the City in 2004 when weather conditions deteriorated and all future work using this equipment will be tendered under Material Management guidelines.

5.1.4. Recommendations

Recommendation 1

The OCA recommends that Materials Management ensure:

1. That equitable procedures for hiring ad hoc equipment are in place;
2. That all future hired equipment procurements follow those procedures;
3. That each vendor contact be formally documented, at a minimum documenting who was called, when they were called, reasons for declining work, and providing justification for any rate changes.
4. That procedures ensure appropriate separation of duties related to procurement practices.

Management Response and Action Plan

Accepted

Planned implementation date: already in progress

Action Plan:

We have recently implemented new procedures under the New HE system – we request OCA review these and advise if they are adequate to address the concerns raised during this audit.

The following ‘rotational’ process has been implemented:

If a Hired Equipment contractor is new to the COE, and has the right equipment and qualifications, and agrees to our contractual terms and conditions, and is willing to work for the specified rate we pay, the new Hired Equipment contractor goes to the bottom of the rotational list for that specific area of specialty; further, that contractor will be allotted up to 300 hours of opportunities.

Each HE contractor works their way up the list for their specific area of specialty as those before them complete their turn and move to the bottom.

Once each HE contractor reaches the top, they will get 300 hours of opportunity to work based on regular time, overtime and refused time (estimated at time of offer).

Once their 300 hours of opportunity has been reached, they will go to the bottom of the list.

Using the ZHEAvail Report on SAP, we move down the list to contractor #2 if contractor number #1 refuses the job, or we still need more resources, and so on down the list, until we get all the contractors that we need to agree to do the work required. Details of each refusal are documented and the ZHEAvail Report on SAP is continually updated.

NOTE: Although a letter was sent in 2004, terminating by year end the special status and arrangement the City has had with the "Steady 60" truckers, due to existing conditions, the remaining seven Steadies are to remain at the top of the tandem list for the next 8 to 10 weeks. After this time, this area of specialty (tandems) will have been tendered and the rotational system for this group will no longer be in effect.*

** Hired Equipment experiences a lot of refused opportunities from the tandem trucking group. Not many of these truckers will keep their WCB and insurance current during the winter season for the infrequent and short (a few hours to a couple of days) jobs the City offers. The Steadies, due to the history of this matter, continue to give great service and are always available. They keep their WCB and insurance requirements current, and are willing to work for the rate set by the City. In keeping the Steadies at the top of this list for the next while, Hired Equipment would be able to hire a number of tandems in a hurry, without having to go through the other 200 trucks on the list to get to these sure contractors.*

Currently, the separation of duties is accomplished as follows, either:

- a) SAP purchasing transaction performed by HE staff, and SAP service entry transaction performed by department staff (presently, Transportation & Streets and AM & PW); or,*
- b) SAP purchasing transaction and SAP service entry transaction performed by HE staff; SAP service entry transaction performed by HE based on receipt of authorized (signed) service sheet or vendor invoice.*

Recommendation 2

During this review the OCA recommended that all equipment contracts that did not meet the criteria established in the rotational equipment procedures for fair and equitable distribution of work be brought to a close (which happened to coincide with inclement weather conditions). *This recommendation was completed immediately.*

Recommendation 3

The OCA recommends that all future hiring of the contractors involved in this review go through the proper bidding and tendering processes and that the OCA check copies of tender agreements that relate to the contractors identified during this review. A list of contractors names have been supplied to Materials Management.

Management Response and Action Plan

Accepted

Planned implementation date: as instances occur

Action Plan: The following will be implemented.

Future hiring of Hired Equipment contractors will follow proper Materials Management

tendering and contracting processes. The OCA can regularly review Hired Equipment contract awards and determine which of these files require their review. Upon request, Materials Management will make available those files for OCA review.

Recommendation 4

The OCA further recommends that follow-up testing be completed during the hired equipment transition to ensure that fairness, integrity and compliance with procedures are maintained. In addition, the OCA will schedule a follow up review to take place in the next year to eighteen months.

Management Response and Action Plan

Accepted

Planned implementation date: immediately

Action Plan:

Materials Management will perform regular reviews of Hired Equipment transactions to ensure compliance with standard procedures is maintained.

5.2. Favouritism

The OCA investigated the possibility of contracts being awarded based on favoritism resulting from personal relationships or receipt of gifts and gratuities.

The Code of Conduct policy does state that “it is **unacceptable** to accept cash, loans, free services or individual discounts but that civic employees **may accept**: small Christmas gifts (cards, cookies chocolates); advertising material (calendars, scratch pads, disposable pens, t-shirts, caps); corporate discounts; and protocol items”. During this part of the review, the OCA consulted and received information from employees, external contractors, legal and human resource experts, and the Edmonton Police Service. In summary, there was no evidence indicating that gifts or gratuities were received or favors exchanged for special consideration or influence that is in conflict with the City’s Code of Conduct Policy.

6. Conclusion

The OCA believes that implementation of the above recommendations will significantly enhance the internal control processes related to hired equipment procurement.

The OCA acknowledges and appreciates the cooperation we received from the individuals and external resources contacted during this review.