



OFFICE OF THE INSPECTOR GENERAL
City of Chicago



REPORT OF THE INSPECTOR GENERAL'S OFFICE:

***OFFICE OF EMERGENCY MANAGEMENT
AND COMMUNICATIONS***

DISBURSEMENTS AUDIT

April 2011

866-IG-TIPLINE (866-448-4754)
www.chicagoinspectorgeneral.org



OFFICE OF THE INSPECTOR GENERAL City of Chicago

Joseph M. Ferguson
Inspector General

180 N. Michigan Avenue, Suite 2000
Chicago, Illinois 60601
Telephone: (773) 478-7799
Fax: (773) 478-3949

April 7, 2011

To the Mayor, Members of the City Council, the City Clerk, the City Treasurer, and the residents of the City of Chicago:

The Inspector General's Office ("IGO") performed an audit of payments disbursed by the Office of Emergency Management and Communications ("OEMC") from January 1, 2008 to September 30, 2009. The purpose of the audit was to review, test, and evaluate procedures related to payment disbursements and contract management to determine whether OEMC had effective and efficient operations and internal controls, as well as adequate policies and procedures in place.

Based upon the results of our audit, we determined that internal controls *were not* adequate to prevent waste and misconduct and, therefore, resulted in substandard disbursement and contract management processes.

More specifically, the audit found deficiencies in internal controls resulting in the following negative consequences:

- **Voucher Manipulation:** OEMC's non-payroll disbursements between January 1, 2008 and September 30, 2009 totaled \$72,880,188. The sample reviewed during the audit included \$38,633,405, or 53% of the total amount disbursed. We found that at least \$13,678,786, which equates to an extraordinarily high 35% of the commodities purchased in the sample, did not match the goods and services of the original invoices and/or that the actual commodities purchased were not related to the contracts from which they were paid.
- **Missing Inventory:** During the review of vouchers, we identified a sample of goods received totaling \$134,583. We met with OEMC representatives to validate the existence of these goods. Of the sample, 38 laserjet printers, 10 computer carrying cases, seven notebook computers and a digital camera could not be located. These missing goods were valued at \$19,001, or 15% of the sample.
- **Common Law Employees:** During the audit period, the auditors identified 50 individuals contracted through seven different vendors who were identified as contractors/consultants. Based upon initial discussions with OEMC personnel, the auditors suspected some of these contractors/consultants to be common law employees in violation of the *Shakman* Accord. A parallel IGO disciplinary investigation focused on one of the seven vendors and subsequently determined that eleven of the contractors/consultants associated with that one vendor alone were, in fact, common law employees. The investigative findings essentially substantiated the existence of the

broader common law employee/*Shakman* violations within OEMC that were preliminarily identified by the IGO auditors.

During performance of IGO audit fieldwork, OEMC began formulating and implementing policy and procedural changes responsive to the broad scale, systemic deficiencies revealed by the audit. Accordingly, the IGO credits OEMC officials with acknowledging the audit findings and promptly moving to address them through remedial measures, the nature and effectiveness of which we will evaluate in a future public follow-up report.

Respectfully,

A handwritten signature in black ink, appearing to read 'J. Ferguson', with a long horizontal flourish extending to the right.

Joseph M. Ferguson
Inspector General
City of Chicago

TABLE OF CONTENTS

AUDITOR'S REPORT2
EXECUTIVE SUMMARY3
BACKGROUND.....4
SCOPE, OBJECTIVES AND PURPOSE4
FINDING 09-01: VOUCHER MANIPULATION6
FINDING 09-02: COMMON LAW EMPLOYEES.....10
FINDING 09-03: MISSING INVENTORY15

AUDITOR'S REPORT

We have completed an audit of payments disbursed by the Chicago Office of Emergency Management and Communications ("OEMC"). The audit included a review of vouchers processed from January 1, 2008 through September 30, 2009.

The authority to perform such an audit is established in the City of Chicago Municipal Code § 2-56-030 which states that the Inspector General's Office has the power and duty to review the programs of City government in order to identify any inefficiencies, waste and potential for misconduct, and to promote economy, efficiency, effectiveness and integrity in the administration of City programs and operations.

Our purpose was to review, test, and evaluate activities performed to determine whether OEMC had effective and efficient operations and internal controls as well as adequate policies and procedures related to disbursements and contract management.

We conducted this audit in accordance with generally accepted Government Auditing Standards issued by the Comptroller General of the United States, except standard 3.55 which requires 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.

Based upon the results of our audit, we determined that internal controls *were not* adequate to prevent waste and misconduct and, therefore, led to disbursement and contract management processes lacking integrity.

We thank the management and staff of the Office of Emergency Management and Communications for their cooperation during the audit. Their assistance contributed significantly to its successful completion.

Wendy Funk
Chief Auditor

EXECUTIVE SUMMARY

The Inspector General's Office ("IGO") performed an audit of payments disbursed by the Office of Emergency Management and Communications ("OEMC") from January 1, 2008 to September 30, 2009. The purpose of the audit was to review, test, and evaluate procedures related to disbursements and contract management to determine whether OEMC had effective and efficient operations and internal controls, as well as adequate policies and procedures in place.

Audit steps included:

- interviewing office management and employees;
- reviewing contract, direct and order payment vouchers to ensure goods and/or services purchased were associated with the appropriate and related contract;
- validating the physical existence of a sample of inventory items.

Based upon the results of our audit, we determined that internal controls *were not* adequate to prevent waste and misconduct and, therefore, led to disbursement and contract management processes lacking integrity. We found, among others, the following deficiencies in internal controls and resulting negative consequences:

- **Voucher Manipulation:** OEMC's non-payroll disbursements between January 1, 2008 and September 30, 2009 totaled \$72,880,188. The sample reviewed during the audit included \$38,633,405, or 53% of the total amount disbursed. We found that at least \$13,678,786, or 35% of the commodities purchased in the sample, did not match the goods and services of the original invoices and/or that the actual commodities purchased were not related to the contracts from which they were paid.
- **Common Law Employees:** During the audit period the auditors identified 50 individuals contracted through seven different vendors who were identified as contract/consultants. Based upon initial discussions with OEMC personnel, the auditors suspected some of these contractors/consultants to be common law employees. However, learning that an IGO investigation had begun in the same area, the auditors halted further review. The investigation focused on one of the seven vendors and subsequently determined that eleven of the contractor/consultants associated with that one vendor alone were, in fact, common law employees.
- **Missing Inventory:** During the review of vouchers, we identified a sample of goods received and totaling \$134,583. We met with OEMC representatives to validate the existence of these goods. Of the sample, 38 laserjet printers, 10 computer carrying cases, seven notebook computers and a digital camera could not be located. These missing goods were valued at \$19,001.

On March 28, 2011 we met with OEMC management to discuss the report. They indicated that they agreed with the report findings and recommendations. Additional details regarding these findings can be found in the "Audit Findings and Recommendations" section of this report beginning on page 7.

BACKGROUND

The City of Chicago launched the Office of Emergency Communications (OEC) on September 25, 1995 to coordinate the City's delivery of police, fire and emergency medical services resources to 911 calls. After September 11, 2001 the OEC began coordinating the City's planning for issues related to Homeland Security. The department took on the responsibilities performed by the Fire Department's Bureau of Emergency Preparedness and Disaster Services and created what is now known as Office of Emergency Management and Communications (OEMC) which came into statutory existence on December 4, 2002. The department includes 911 emergency services, 311 City services, City operations and emergency management.

The Department mission, as reported on the City of Chicago website, states:

“The Office of Emergency Management and Communications works to keep Chicago as safe and prepared as any big city can be by operating the public safety communications system, managing emergency situations and coordinating major events.”

SCOPE, OBJECTIVES AND PURPOSE

Scope and Methodology

The scope of this audit consisted of OEMC's non-payroll disbursements processed from January 1, 2008 to September 30, 2009 and totaling \$72,880,188. Audit steps included:

- selecting samples from the disbursements population based upon random sampling techniques and auditor's judgment;
- interviewing office management and employees;
- reviewing contract, direct and order payment vouchers to ensure goods and/or services purchased were associated with the appropriate and related contract;
- validating the physical existence of a sample of inventory items.

Objectives

The objectives of this audit were to:

- gain an understanding of the disbursement and contract management processes within OEMC;
- evaluate the policies and procedures regarding the OEMC disbursement and contract management processes;
- assess the adequacy and effectiveness of internal controls relating to disbursements;
- test and evaluate activities performed to ensure effective and efficient operations and compliance with procedures and policies; and

- identify inefficiencies, waste, loss, and potential for misconduct.

Purpose

The purpose of this review was to assess whether OEMC's disbursements were processed with minimal waste, loss or misappropriation of assets.

Audit Team

Darwyn Jones, Senior Auditor
Larry Dakof, Senior Auditor
Wendy Funk, Chief Auditor

AUDIT FINDINGS AND RECOMMENDATIONS

Finding 09-01: Voucher Manipulation

OEMC disbursements between January 1, 2008 and September 30, 2009 totaled \$72,880,188. The sample reviewed during the audit included \$38,633,405, or 53% of the total amount disbursed. We found that at least \$13,678,786, or 35%, of commodities purchased in the sample did not match the goods and services of the original invoices and/or that the actual commodities purchased were not related to the contracts from which they were paid.

The Department of Finance relies upon the *Commodity/Description* section of the voucher to determine whether the request for payment is proper, i.e., the payment is for items covered by the contract. However, for the 35% of commodities mentioned above, the *Commodity/Description* section did not match the goods/services actually received. Instead, the actual commodity was described in a memo field on the voucher, which is not used by the Department of Finance. The discrepancies between the *Commodity/Description* section of the vouchers and the actual commodities purchased were so prevalent in the vouchers reviewed, we are led to conclude that such manipulation had evolved into a standard operating procedure engrained within the culture of OEMC. This manipulation allowed for the following:

- Avoidance of the City's procurement process;
- Circumvention of the City's hiring process;
- The operation of a pass-through scheme for services unrelated to existing contracts;
- Purchase of goods and/or services unrelated to contracts;
- Waste of City funds to pay surcharges on pass-through invoices;
- Waste of City funds to pay for goods held by a subcontractor after the contractor had previously been paid but filed bankruptcy;
- Waste of City funds to purchase laptops, cameras and other goods which could not be located during the audit.

Specific examples include the following:

- A. \$4,973,193 for a "new 911 system" which was paid on an unrelated contract for general telecommunication services instead of the contract specifically for "911 System Network Replacement." The Director of Information Systems, while listed as the contact on the blanket releases, indicated he never saw invoices for the project. When asked why the invoices were paid on unrelated contracts, the Director of Finance, whose signature appears on the blanket releases, indicated he could not recall. The Deputy Director of OEMC, however, indicated these vouchers were paid from the wrong contract in error and that both the Director of Finance and the employee who processed the transaction have been counseled to ensure they use correct contracts in the future.

- B. \$790,823 for salaries related to individuals assigned to OEMC full-time, but paid on three different contracts. (See Finding 09-02 for additional information.) In each case, the duties assigned to the individual were not related to the contract.

	<u>Contract Description</u>	<u>Assigned Duties</u>
Contract 1:	IT Management Consulting	Traffic Management Finance Support, General Administrative Support, Event Planning Security
Contract 2:	Hardware/Software Maintenance	Java Programmer
Contract 3:	Computer Management	Audio/Visual Support

- NOTE: In addition, the amount of one particular invoice, totaling \$28,285.63, was split and paid on two different vouchers. The split payments, however, were calculated incorrectly and totaled \$30,285.63, resulting in a \$2,000 overpayment to the vendor.

- C. \$291,563 described as “networking equipment” but was actually goods and services related to a new video conferencing center and the replacement of ten-year old equipment. This included such items as plasma televisions, cameras, a video projector, a podium, and a phone.

- It should be noted that some of this equipment was *paid for twice*, resulting in an additional \$80,000 of waste. The \$291,563 mentioned above included fees for the purchase of two new monitors, loudspeakers, a new projector, and the refurbishment of a video wall. The primary contractor subcontracted the work to a vendor who was not identified as a subcontractor within the contract. The City of Chicago paid the original contractor for the goods and service and soon thereafter the vendor declared bankruptcy without paying the subcontractor. The subcontractor still had possession of the assembled equipment and OEMC paid it \$80,000 directly to obtain the goods.

- D. \$236,787 described as “radio parts” which were actually for infrastructure repair, network monitoring, dispatch services, technical support services and contract administration services. The OEMC contact explained these services related to the Wireless Network Gateway (WNG) system (which allows mobile systems to connect to the central computer and database systems) as well as other products. The OEMC contact also indicated the vendor no longer supports the products because they are outdated, but OEMC still uses them. Therefore, OEMC believes it has no choice but to 1) pay the vendor an inflated fee to service the products and 2) to pay through any contract it has available.

- E. \$137,236 described as “radio parts” but actually related to the installation and dismantling of radio towers. These were also paid to one company which then relayed payment to the vendor who actually completed the work. While the vendor completing the work was listed as a subcontractor on a different contract, these payments were not made on that contract.

- F. \$126,625 related to ongoing audio/video support and FCC licensing but described on the vouchers as “networking equipment.” A representative from the vendor to whom payment was disbursed indicated the work completed was not relevant to the contract and that the vendor simply acts “solely as a payment vehicle for two [other] companies providing the services.” This represents a blatant pass-through operation. The representative also stated that the vendor began serving as a pass through for the two companies sometime during the first quarter of 2008 at the request of a former Managing Deputy Director of OEMC. It should be noted that these payments reviewed during the audit included \$6,047 in surcharges paid to the contracted company for simply acting as a payment agent.
- G. \$22,598 for the redesign of consoles which was listed as 736.12 machine screws, 38.17 halogen light fixtures, 116.98 power supplies, 26.82 brackets, and 5.29 connectors. The section head who approved the invoice to be paid could not explain why the parts listed on the voucher did not match the invoice. Additionally, it appears that no one at OEMC questioned how there could be .12 machine screws, .17 light fixtures, .82 brackets, etc.
- H. \$12,028 of contractor travel expenses listed as “hardware/software maintenance.”
- The disbursement includes a 20% upcharge, totaling \$2,005, on all expenses (including airfare, hotel, meals, ground transportation, office supplies, ATM fees, parking and telephone charges). The Director of Information Systems for OEMC stated that he believed the 20% upcharge was due to the vendor because of his interpretation of the Time and Materials Charges section of the contract.
 - The disbursement also included reimbursements in violation of the City of Chicago Travel Guidelines. This included hotel, meal and ground transportation expenses in excess of travel reimbursement rates (\$387), personal expenses (\$168), and incidental expenses with no supporting original receipt (\$105). The Director of Information Systems for OEMC stated that he was not aware of these because he did not review the supporting documentation related to the vendor’s invoice.
- I. \$9,074 of cameras, laptops and other items described on vouchers as “networking equipment.” An inventory review revealed \$8,262 of the items could not be found by the department at the time of the audit. See Finding 09-03 for further detail.

Chapter Three of the City’s Procurement Policy and Process Manual addresses Contract Management, Monitoring and Compliance. It states, “Contract management refers to the activities related to the performance of the contract by the contractor/vendor, and is the responsibility of the department using the contract (in cooperation with the Department of Procurement Services).” The same chapter states, “Verifying and documenting contractor or vendor performance to ensure contract deliverables are of the best quality and value to the City and in accordance with the contract terms are a crucial aspect of the contract management process.”

As to the Contract Manager, the City's procurement manual states, "During the contract management phase, the Department CM/PM is the main point of contact between the City and the contractor/vendor."

During the audit, two OEMC representatives, who regularly authorized payments to vendors, indicated they did not consider which contracts to use when authorizing payments. One indicated he felt no choice but to get the work completed and ultimately used any contract available with the particular vendor to pay for it. Another indicated that he was not involved in how an invoice was paid at all, but left that to the OEMC Finance Division.

At the beginning of the audit, OEMC's Director of Finance indicated there were no written policies or procedures regarding purchasing. Since that time, however, OEMC issued a memo on the subject of "Procurement Policies and Procedures" (November 14, 2009) and a Financial Policy (January 29, 2010).

The OEMC financial policy provides guidance to each OEMC Section Head regarding his/her responsibility for the correct use of contracts, stating:

"The purpose of this financial policy document is to establish a unified method of payment for good(s) and/or service(s) for all OEMC sections. Established procedures are needed to ensure the following:

1. A standard policy is in place for the payment of good(s) and/or service(s).
2. The correct contract and the correct purchasing lines are utilized.
3. Availability of funding."

In addition to the policy, the Deputy Director indicated procedures have been implemented allowing for the justification and approval of purchases prior to order processing. If Section Heads and Project Managers do not follow proper procedures, they will be subject to discipline per the finance policy.

OEMC admitted that the manipulation of vouchers and the use of contracts for non-related procurements became the "mode of operation" for two OEMC employees, but that these employees have since been fired or forced to resign.

Recommendation(s):

The IGO recognizes that, with the issuance of the Financial Policy and the Procurement Policies and Procedures, OEMC has made efforts to stop the manipulation of vouchers. Because the abuse of the procurement process was so prevalent, the IGO recommends that OEMC Management expressly communicate to all personnel involved in procurement of goods and services, contract management, and voucher and disbursement processes generally that practices previously implemented and viewed as "the norm" are prohibited. OEMC has agreed and indicated that a memo will be drafted, distributed to all OEMC users who procure goods and services, and shared with the IGO.

Finding 09-02: Common Law Employees

Through the review of vouchers, we found 26 contractors/consultants specifically named within invoices of five different vendors. After a request for disclosure of identification of all current contractors/consultants, OEMC management named 24 other individuals who worked as contractors/consultants. The majority of these additional individuals were paid from one of the original five vendors, but two additional vendors supplied three of the newly identified contractor/consultants. Therefore, during the audit period, 50 individuals—contracted through seven different vendors—worked for OEMC.

The IGO had an active investigation regarding common law employees at OEMC, therefore the audit team suspended further review of this subject matter to avoid redundancy. That investigation focused on one of the seven vendors and a report was issued on December 22, 2010. The investigation resulted in the following sustained allegations:

- Most of the consultants from this one vendor were actually common law employees of the City of Chicago and, therefore, their employment was subject to all City hiring rules and procedures. OEMC's past and continuing use of vendors constitutes a long-running and pervasive violation of the Agreed Settlement Order and Accord, the new hiring plan, and multiple City memoranda regarding contractor hiring and common law employees.
- Numerous individuals were placed and paid for at OEMC through a Master Consulting Agreement (MCA) despite the fact that their services were wholly unrelated to the scope of that MCA. In 2008 alone, OEMC paid the vendor nearly \$500,000 for at least seven individuals who provided administrative, traffic management, and catastrophic event planning services, all services well outside the scope of the vendor's contract with the City.
- OEMC did not properly manage the MCA as a result of ineffective contract monitoring. OEMC's operational managers routinely used contractors for services outside the contract scope and blamed OEMC's administrative managers for not stopping the practice; OEMC's administrative managers blamed the operations managers for abusing the contracts and falsifying payment information, and said there was nothing they could do to stop the practice.
- The vendor related to the contract was improperly credited with over \$198,000 in Minority Business Enterprise (MBE) participation through its use of an MBE certified subcontractor. This subcontractor did not serve any commercially useful function in the MCA. Instead, at the vendor's direction, it merely acted as a payment vehicle for former consultants of the vendor placed on the subcontractor's payroll for the sole purpose of the vendor claiming MBE participation.

The investigation also stated the following:

“OEMC did not just blatantly disregard City policies and federal court orders. In order to make its end-run around the hiring rules, OEMC had to also get around the City's procurement, contract management and payment rules. Several of the people

OEMC hired had nothing to do with the express scope of the [vendor's] contracts and therefore—separate and apart from the common law employee issue—could not properly be paid through those contracts. OEMC circumvented those control measures by preparing requests for payment that described the work performed in a materially false and/or incomplete manner. OEMC also violated the City's competitive procurement process by directing almost all of this “work” to [the vendor].

The schemes described above were not the fault of one or two people. Rather, they reflect a long-running and pervasive failure of management at OEMC that spans several executive teams.”

During the audit period payments associated with eleven individuals referenced above totaled \$1,161,852. This payment included \$247,008 representing a fee to the vendor for simply acting as a paying agent, which was not a commercially useful function and constituted a complete waste of taxpayer funds.

In response to the investigation, OEMC indicated that the current Deputy Director of Administration—hired in December 2007—has actively sought to reduce the number of consultants. Corrective actions include the following:

- April 30, 2008 – Upon learning that the Assistant Director of Information Systems requested a technology consultant directly from the vendor, a policy was implemented putting an end to OEMC's hiring of additional consultants without the prior approval of both the Deputy Director of Administration and the Executive Director. This new policy was communicated directly to the Assistant Director of Information Systems in an e-mail and was communicated to division heads and other key personnel in a staff meeting. The Deputy Director of Administration indicated that during the staff meeting he explained what the term common law employee meant, he explained that the addition of contractors would require his approval, and he explicitly stressed that OEMC personnel are not to be a part of the vendor's consultant selection process.
- May 1, 2008 – Seven consultant positions were identified as candidates to be eliminated or combined with other positions for a savings of \$60,000 per month. A memo detailing the savings indicates, “Our 2008 hiring plan includes hiring a Chief Data Base Analyst, a PR Systems Programmer, a GIS Manager, and a Director of Information Systems. As we hire these employees we should be able to further reduce our dependence on [the vendor].”
- July 24, 2008 – OEMC sent a memo regarding Budget Reductions for the OEMC to the Office of Budget and Management (OBM). OEMC indicated it did not receive any official reply from OBM. This memo proposed the following consultant reductions:
 - The reduction of eight (8) external consultants via the reduction of some internal programs resulting in a cost savings of \$905,123.
 - Hiring a City GIS Manager at \$96,216 and laying off an external GIS consultant at a cost savings of \$210,405.

- August 14, 2008 – OEMC’s 2009 IT Management request to OBM included hiring a GIS Database Analyst. OEMC indicated the one position requested was included in the budget, but after working with the Department of Human Resources to hire for the position, the hiring was denied by OBM.
- June 4, 2009 – OEMC sent a memo regarding 2010 Consultant Replacement Request to OBM. OEMC indicated it did not receive any official reply from OBM. This memo stated the following:
 - “The Office of Emergency Management and Communications currently has seven consultants performing technology services at a total cost of approximately \$1.1 Million in 2009. If these duties were performed by City employees, it would cost the City approximately \$630,000; a savings of \$505,000. Including a 30% benefits cost to these employees’ salary would increase the salaries to \$850,000 and the City would still realize a savings of \$260,000, still a 23% savings.”
 - “Besides the cost savings, the OEMC would realize greater control of these employees. Currently, the majority of OEMC’s technology group is consultants and this limits our employee flexibility. For example, when the Director of Information Systems is off a consultant must replace him. In addition, if they were city employees, they would live, pay taxes and spend money in the city.”
- August 5, 2009 – OEMC’s 2010 IT Management request to OBM included hiring City employees for the following positions: Manager of Telecommunications, two Chief Programmer/Analysts, a Manager of CAD Systems and Operations, and two Manager of Network Support positions. OEMC indicated the positions were removed from the budget by OBM.
- August 31, 2009 – During the 2010 Departmental Hearing with OBM, OEMC requested six new IT positions to replace consultants. The agenda from that meeting indicated that internalizing those IT functions would save \$280,000 annually.
- January 6, 2011 – OEMC devised a policy stating that all technology requests (including, but not limited to geographic information system maps, website updates, desktop support and database creation) must be approved by the Managing Deputy Director of OEMC Technology, who will ensure the work is allowable under the contract or task order. OEMC is also in the process of redrafting all the statements of work the current IT consultants are working under and will submit them to the Department of Information Technology to solicit bids.

We held a meeting with the current Budget Director to gain an understanding of OBM’s position regarding OEMC’s previous requests. The Budget Director indicated that he has an aversion to hiring more employees, however would be open to it if it made sense for the City. He indicated that the memos referenced above do not constitute true cost/benefit analyses and that there would be many considerations taken into account when deciding between hiring an employee versus using a contractor/consultant. These considerations include the duration of the project, the hourly rate, the amount of additional markups, the replacement plan, whether or not it is a bargaining unit position, etc. When asked if one of the considerations would be whether the current contractors were in essence common law employees, the Budget Director indicated he does not take that into consideration. He assumes that the department is “following the rules.”

Again, while the investigation focused on eleven individuals contracted through one vendor, the audit identified 50 individuals contracted through seven vendors. The names of the individuals and the vendors have been passed on to the Hiring Oversight section of the IGO for further review.

Recommendation(s):

While OEMC has communicated a desire to reduce the number of consultants by hiring additional employees, they have not fully explained that the positions to be replaced are often outside the scope of the contracts from which they are currently paid. In like manner, OBM ignores the issue when considering hiring requests, instead relying on the assumption that the department is “following the rules” and not abusing the contract process. The net effect of OEMC’s lack of candor and OBM’s blind eye about common law employees is that the issue is not effectively addressed. OEMC can blame OBM for denying hiring requests and OBM can claim ignorance to the fact that common law employees were a consideration.

Therefore, we recommend that both departments acknowledge the issue, address it with full candor, and work together to find a solution.

As part of the solution, OEMC management must perform a diligent review of all contractors/consultants to identify those working in the capacity of a common law employee. All of the following criteria should be examined for each contractor/consultant to assess whether aspects of the engagement are truly contractor-like and not employee-like:

- The extent to which City employees may exercise direction and control over their work, and how the work will be performed, as opposed to merely monitoring the end product to ensure that it satisfies the requirements of the contract;
- The reasons the contractor/consultant is needed;
- The nature of the work to be performed;
- The extent to which the work is highly specialized or requires particular skills or expertise;
- The extent to which the contractor is uniquely skilled or qualified to perform the work;
- The similarity of the work to existing work normally performed by City employees;
- The existence of a prior employment relationship between the contractor and the City: prior position(s) held, period(s) of employment, duration, nature of the work performed, and similarity to the services to be performed;
- The similarity of the services to be performed to the services performed by the contractor for non-City clients or customers as part of the contractor’s business or professional practice;
- The extent to which the contractor will be free to continue to provide these services to clients or customers other than the City during the term of the contract;
- The location(s) of the work to be performed;

- The extent to which the City will be providing work space, equipment, materials and staff support for the performance of the work, and conversely, the extent to which the contractor will work from his/her own facilities, and provide his/her own equipment, materials and staff support;
- The anticipated duration of the contract, including relationship to the completion of a specific project and length of a specified contract period, if applicable;
- The basis for determining how many hours the contractor will work, and which hours the contractor will work;
- The basis for determining the contractor's pay (e.g. flat fee due on completion of project, hourly rate based on a record of hours worked, or regular installments).

Secondly, OEMC should perform a cost/benefit analysis which incorporates all OBM's considerations and propose a solution to the common law employee issue. OBM then must include the fact that common law employees are in existence in their consideration.

In addition to the above recommendations, we have referred this finding to the Hiring Compliance section of the IGO to conduct a comprehensive review of contractors/consultants and determine those actually functioning as common law employees.

Finding 09-03: Missing Inventory

During the review of vouchers, we identified a sample of goods received totaling \$134,583. We met with OEMC representatives to validate the existence of these goods. Of the sample, 38 laserjet printers, 10 computer carrying cases, seven notebook computers and a digital camera could not be located. These missing goods were valued at \$19,001.

It should be noted that \$8,262 of the missing goods were acquired through manipulated vouchers as described in Finding 09-01.

Discussion with OEMC representatives indicated that a listing of individuals receiving assets such as printers, computers and cameras is not maintained. In addition, inventory is not verified on an annual basis or tagged for tracking and identification purposes. The Deputy Director of OEMC indicated that each section maintains its inventory with different levels of control. Each section has been left to manage its inventory and determine the information that is required to be tracked. OEMC had originally planned to implement a new inventory system in February 2011 to be used by the entire organization. However, it has since learned that the Department of Innovation and Technology (“DoIT”) is working with the Department of Procurement Services (“DPS”) to obtain a City-wide inventory system. After the implementation of the City-wide system OEMC will conduct quarterly and annual inventory audits.

On a related note, OEMC personnel indicated that upon receiving an invoice for goods, the finance department requested a signature from the appropriate OEMC section to validate the goods were received. Therefore, those individuals had to rely on memory to confirm the receipt of goods. Finally, OEMC personnel also indicated that goods were both ordered and received by the same individuals. Therefore, there was no separation of duties providing additional controls to prevent the misappropriation of goods, as best practices would dictate.

Recommendation(s):

We recommend OEMC move forward with the planned inventory system improvements. We support its reported plans of implementing an inventory system to allow for the tracking and reporting of inventory in all sections of OEMC. We also support OEMC’s planned quarterly and annual inventory audits.

On the related subject of receiving goods, we recommend signatures validating the receipt of goods are obtained at the time quantities and conditions are verified during receipt. To provide additional controls, individuals validating the receipt should not be the same individuals ordering the goods.