



**Program Evaluation and Audit**

***Central Corridor Light Rail Transit  
Procurement***

25 October, 2010

# INTRODUCTION

## Background

When complete, 50 percent of the Central Corridor Light Rail Transit (CCLRT) project will have been funded with federal grants, primarily from the Federal Transit Administration's (FTA's) New Starts program. As of February 2010, the FTA had contributed more than \$20 million toward the project's preliminary engineering. Because it receives these funds, the Metropolitan Council must abide by FTA regulations for using them. In particular, FTA circular 4220.1F, *Third Party Contracting Requirements*, sets forth the requirements a grantee must adhere to in the solicitation, award and administration of its third party contracts. These requirements apply not only to contracts but to any procurement made with federal funds, because a contract is implied whenever a purchase order is issued to a vendor. More positively, the circular defines the control environment and contract system that must exist for grantees to administer federal funds reliably, including the procurement of goods and services.

Council Procurement—as (until October 2, 2010) administered by two departments, Metro Transit Purchasing and the Contracts and Procurement Unit (CPU)—has been subject to several reviews in recent years. Program Evaluation and Audit conducted a review in 2006 that recommended better training of procurement professionals, a clearer segregation of duties, and more scrutiny of blanket purchase orders. The FTA conducted a systematic *Procurement Systems Review*, or PSR, in 2009, finding the Council not deficient in 47 of 56 mandatory procurement standards and deficient in nine, including a lack of required elements in its Policies and Procedures, inadequate competition for some contracts, and some missing independent cost estimates in its procurement files. Also, in its first in-depth report for CCLRT, in 2008, Program Evaluation and Audit found some required elements missing from some procurement files in its document management center (DMC), and recommended that both Council procurement units preface their files with a checklist that would promote commonality and consistency.

Procurement is a high-risk area in general, and procurement for CCLRT—the largest capital project the Council has undertaken—is especially high-risk. Given that CCLRT is presently advertising and awarding its largest contracts, another review of procurement, focused on the CCLRT project, is warranted.

## Purpose

The main purpose of this audit is to evaluate the compliance of CCLRT procurement with FTA regulations and Metropolitan Council policies and procedures, as several major contracts have been or are being executed for the project and final FTA approval for a Full-funding Grant Agreement (FFGA) is anticipated within the next few months.

A second purpose of the audit is to evaluate the efficiency and effectiveness of CCLRT procurement, and whether greater efficiencies can be found.

## Scope

The scope of the audit is the length of the Central Corridor project, from the start of preliminary engineering for CCLRT on December 13, 2006 to the present.

## Methodology

The audit was conducted using both qualitative and quantitative procedures.

- CCLRT managers were interviewed, to assess their satisfaction with procurement activities and the flow of information to them from Procurement.
- A sample of CCLRT vendors was selected, to verify their legitimacy and check that federal tax identification numbers are on record for them.
- The bid opening for the largest contract for CCLRT (the CCLRT Civil East contract) was observed on May 18, 2010, and bid files for all contracts awarded for CCLRT to September 2010 were reviewed, to assess compliance and competitiveness.
- The CCLRT Contract Administration Manual was reviewed and project principals were interviewed, to evaluate the stated capacity of the contract administration system.

To determine if CCLRT procurement transactions are following FTA requirements, the universe of CCLRT procurement transactions were divided into five strata, representing the basic types of procurements, as outlined by Council Procurement Procedure 3-4-3a:

- Micropurchases--any goods or services with total value of \$2500 or less
- Goods--equipment, supplies or materials, including printed materials
- Services acquired through quotes or formal sealed bids
- Services acquired through competitive proposals
- Construction services

A statistically valid sample of transactions from the “micropurchases” and “goods” strata—the first two strata—was selected. Because the number of vendors providing services to CCLRT—collectively, the last three strata—is not large, the earliest or foundational transactions of all of them were examined. This included all services that

resulted in a contractual relationship between the Council and the vendor: all professional services contracts and all construction contracts procured on the project to date. The strata, number of transactions within each stratum, and their sample sizes were:

Stratum	Number of Transactions	Sample Size
Micropurchases	231	37
Goods	355	40
Services, no contract	24	All
Services, contract	13	All
Construction services (contract)	6	All

## Assurances

This audit was conducted in accordance with the Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing* and the U. S. Government Accountability Office's *Government Auditing Standards*.

# OBSERVATIONS

## Micropurchases

The majority of individual transactions at the Council are “micropurchases,” defined as purchases less than \$2500. “Most procurements require some sort of competitive process to ensure that the Council spends public money wisely” (Council Procedure 3-4-3a, 1.6). Micropurchases do not require a competitive process, but they are subject to FTA regulations discussed in FTA circular 4220.1F:

- The price must be determined to be fair and reasonable, and it must be documented how that determination was derived.
- They cannot be “split” to avoid competition (that is, you cannot divide a \$5,000 purchase that would be subject to a competitive procurement into two procurements of \$2,500 each, to make them seem like micropurchases).
- They must be equitably distributed among qualified suppliers.

From a universe of 231 micropurchases, Audit selected a random sample of 37. (That sample corresponded to a confidence level of 95 percent and an expected error rate of three percent.) Among those 37, 36 transactions were in compliance. One transaction was missing a fair and reasonable statement: \$200 to rent a large room at St. Paul’s Hallie Q. Brown Center for a DBE (Disadvantaged Business Enterprise) event in December 2009.

A fair and reasonable statement for a micropurchase does not have to be elaborate. FTA circular 4220.1F says that “FTA does not require the recipient to provide its rationale for the procurement method used, selection of contract type, or reasons for contractor selection or rejection.” Knowledge of the market can serve to assert that a purchase is fair and reasonable, and even if that knowledge is acquired by comparing the price to the prices of other vendors, a purchaser need not document the price quotes.

Furthermore, if the micropurchase is acquired from a vendor for whom the Council subscribes to a cooperative purchasing agreement, or contract, or if the Council is buying the product from another government entity’s cooperative purchasing agreement (the Council uses many such agreements that were negotiated between vendors and the State of Minnesota, and has used federal and county agreements as well), the Council is assumed to have done its “due diligence” about pricing when the contract was agreed to. It can be helpful to attach a fair and reasonable statement to the purchase order anyway, but as long as evidence of the contract is documented, it is not strictly necessary. Among the 37 transactions that Audit sampled, there were two that did not supplement the citation of the contract with a separate fair and reasonable statement.

Audit found no evidence that CCLRT micropurchases were being split to avoid competition. Individual micropurchases were equitably distributed among qualified suppliers. The cooperative purchasing agreements under which many micropurchases are

made are competitively bid. This is intended to ensure that suppliers have an equal opportunity for the Council's business.

## Goods

Goods are defined as equipment, supplies, or materials. The goods commonly procured at CCLRT are the information technology equipment and office furniture used to equip the project office, IT software, and office supplies. (For the purposes of this audit, if the blanket PO under which a good was purchased was issued for more than \$2500 it was included in the universe of goods, even if the individual transaction was for less than that.)

According to the Council's Procurement Procedure 3-4-3a, "The competitive process used to procure goods is the informal solicitation of quotes or the formal solicitation of sealed bids. The procurement is awarded based on the lowest quote or to the lowest responsive, responsible bidder." For a bidder to be "responsive," it must show with its bid that it meets the requirements of the solicitation. For a bidder to be "responsible," it must show with its bid that it has the capacity to do the work, or to provide the good.

Audit identified a universe of 355 goods transactions for CCLRT and selected a random sample of 40. Drawing from FTA and Council regulations concerning the procurement of goods, the transactions were evaluated with the following criteria:

- A cost or price analysis must be performed in connection with every procurement action, including contract modifications.
- "[A]s a starting point" to this cost or price analysis, "the recipient must make independent estimates before receiving bids or proposals" (FTA circular 4220.1F, VI, 6).
- "For procurements valued between \$25,001 and \$100,000, procurement staff (or the requestor working with procurement staff) will obtain 3 or more informal quotes or formal sealed bids and make a good faith effort to include disadvantaged businesses." For procurements valued at more than \$100,000, a formal bid process must be used. (Council Procedure 3-4-3a, 5.2.) (This is a state requirement.)

*All sampled bid files had a sufficient number of price quotes or bids.*

In many instances, the purchases were made from a contract, which was competitively procured. In other instances, the purchases were sole source purchases. In the remaining cases, either a sufficient number of quotes were found, or the purchase did not exceed the Council's \$2,500 threshold to solicit quotes.

Because the objective of making estimates and cost analyses is to determine that the price of a good is fair and reasonable, Audit evaluated them in that context.

*Four of the 40 transactions sampled lacked cost or price analyses leading to fair and reasonable determinations.*

All four of these transactions were processed through the Contracts and Procurement Unit (CPU) rather than Transit Procurement. Three of these four transactions were clustered around the time of the setup of the Central Corridor Project Office (CCPO). The fourth transaction missing a fair and reasonable determination--like the first three made under a contract--occurred later in the project.

*Ten sole source transactions lacked independent cost estimates.*

Although it may seem counterintuitive, an independent cost estimate (ICE) is especially critical for sole source purchases. When there is no competition, the grantee must demonstrate that the price it is being offered is not being inflated to take advantage of the situation.

This is a repeat observation. The 2009 *Procurement Systems Review* determined that the Council was deficient in providing a “cost analysis” for selected sole source purchases, and explained:

Four deficiencies were noted for proprietary software purchases that were made to accompany systems that were already in place at the Council. The files contained justification that a sole source procurement was necessary. However, a cost analysis was not performed to ensure that the cost charged by the vendor was fair and reasonable.

The PSR suggests that such a cost analysis can be provided by “evaluating Metropolitan Council’s own history with the vendor on the cost per module or other reasonable basis; or inquiring with other facilities using the software.” The CCLRT transactions noted in this observation, like the four in the PSR, did contain justification that a sole source procurement was necessary. They did not contain independent cost estimates, however, and, beyond the price quotes listed on the Council’s own Information Technology Request (ITR) form, they did not contain a cost or price analysis.

*Two transactions lacked independent cost estimates.*

The ten sole-source purchases that lacked ICEs were for proprietary software. Another transaction processed through the CPU, for providing and installing computer cable at CCPO, lacked an independent cost estimate as well, as did a transaction for office furniture processed through Transit Procurement. Neither of these goods was a sole source purchase.

*Two of the independent cost estimates contained in the procurement file were undated.*

The 2009 PSR found that one of the 41 files examined contained an undated cost estimate that appeared to have been performed after the proposals had been received. In the

sample of 40 goods transactions examined for this audit, two--both for the vendor Intereum, and both for furniture to equip the project office--contained undated cost estimates. The same estimates were also unsigned. It is not a requirement that the cost estimate be signed, but it does help to validate the estimate.

## **Services**

Services are acquired through the solicitation of quotes or sealed bids, or competitive proposals. According to Council Procedure 3-4-3-a, the type of service determines whether bids or proposals are solicited. Bids are solicited when it is possible for the purchaser to specify what needs to be done in an “invitation for bid,” and although there may be a contract involved, it does not involve negotiation. The contract is awarded to the lowest responsive, responsible bidder. Bids for services usually involve the construction or repair of tangible property. Proposals are solicited for architectural and engineering (A&E) services, or other professional and technical services that are intellectual in nature, and that cannot be exactly or comprehensively specified at the time the award is made. If the award is to result in a contract, it may involve subsequent negotiation before it is signed.

All services transacted for CCLRT until January 2010 (the original scope) were examined for this audit, and all services that resulted in a contract until May 2010. All the services that resulted in a contract were procured through Transit Procurement except for one: the procurement of CCLRT’s project management software (a contract that was awarded to the vendor e-Builder) was procured through the CPU. At the Council, a purchase of more than \$50,000 must start with the issuance of a Contract Initiation Memo. (If a purchase is for less than that, the Project Manager may issue a CIM, but it may also result in just a purchase order.) Perhaps the best way to observe the procurement of a professional services or construction contract is to trace it from beginning—by describing the control environment from which contracts are initiated—to the end: to the award of the contract, the issuance of the notice to proceed letter, and the establishment of the contract administration process.

## ***Control Environment***

At CCLRT (as well as elsewhere in the Council), most goods purchases and all micropurchases, at the time of this audit, were initiated by the CCLRT administrative staff member who foresees the need for the item and who is in the best position to perform the cost or price analysis and acquire the comparative quotes needed to move the purchase along. Major CCLRT procurements—all services procured through bids or proposals, and some larger goods purchases other than technology goods—however, were guided by a Principal Contract Administrator formally attached to Transit Procurement who, while not dedicated to the project exclusively, has an office at CCPO and meets regularly with the administrative group. The Contract Administrator reports directly to Transit Procurement and indirectly to CCLRT’s Manager of Transitways Administration.



CCLRT's Manager of Transitways Administration has the authority to approve purchase orders up to \$15,000. The Deputy General Manager can authorize contracts up to \$125,000. Most of the major contracts for CCLRT, however, are for greater amounts than that, and ultimately require the approval of the Council itself.

CCLRT managers are informed about procurement actions through weekly Project Management Team (PMT) meetings and the monthly FTA report.

### *Recent Changes*

On October 2, the control environment (for CCLRT and the rest of the Council) underwent a fundamental shift when Metro Transit Purchasing and Contract Services (Transit Procurement) was combined with the Environmental Services / Regional Administration Contracts and Procurement Unit. Under the new organizational structure, the consolidated Contracts and Procurement Department will become part of the Finance and Administration area within Regional Administration. This consolidation of the Council's procurement departments was designed to ensure consistency of policies and procedures, provide clearer lines of accountability, and enhance service to customers. As such, it should simplify CCLRT procurement, by reducing the reporting relationships to a single line, from the Director of Transit Procurement, to the newly created Acting Director of the new Contracts and Procurement Department, and finally to the Chief Financial Officer. Following consistent policies and procedures, including documentation requirements, indexing, etc., may also streamline procurement activities for CCLRT.

### *Vendor Setup, Maintenance and Validation*

CCLRT vendors are no different than other Council vendors. The Council's two procurement departments use different computerized systems to track their vendors: Transit Procurement uses TXbase, and CPU uses Oracle WAM (also known as Synergen). Both link to the Council's PeopleSoft system, where the master list of vendors doing business with the Council and vendor numbers is maintained. The vendor is entered into PeopleSoft first, before it is entered into the department-specific systems.

Vendors are added to the system when a "vendor add" form signed by two Council employees is received. Federal tax identification numbers are on record for all vendors, and the numbers are verified in an online IRS database.

Audit took a sample of vendors from CCLRT purchase orders, and checked that the information on file for them was consistent with the information about them listed on the internet. Consistency among systems—PeopleSoft, TXbase, and Oracle WAM—was also checked. The information on file between the systems was consistent.

***Bid Process***

For those CCLRT services acquired through quotes or sealed bids, Audit evaluated if:

- bids are sealed.
- bids are received by a certain time and date.
- as the bids arrive, they are date- and time-stamped and placed in a secure location until the bid opening.
- when bids are opened, they are logged, and once all bids are reviewed, a summary is prepared that identifies each company, its bid, which company was selected, and why it was selected.

An actual bid opening—that for the Civil East Construction—was observed. The opening occurred at the Purchasing offices at Metro Transit’s Overhaul Base, 515 North Cleveland Avenue, St. Paul, on May 18, 2010. The sealed bids arrived within an hour of the bid opening, and were date and time-stamped and secured as they arrived. At 2 p.m. the bids were opened, read aloud, and logged by the Purchasing clerk.

For CCLRT services acquired by competitive proposals as well as bids, Audit evaluated if:

- independent cost estimates are prepared for each procurement action before receipt of proposals, and made a part of the contract file.
- a cost or price analysis is conducted for every procurement action and documented in the contract file.
- the contract file is clear that, for proposals, profit is either negotiated or analyzed for fair and reasonable, and costs are analyzed for fair and reasonable.
- complete sole source justifications are prepared, approved, and made a part of the contract file when required.
- the contract file contains a history of the procurement.
- there is a form or memo that explains how the contractor’s proposal was evaluated and negotiated.
- the determination of contractor responsibility is in writing and made a part of the contract file.
- Brooks Act procedures, where appropriate, are applied, and that it is clear in the contract file that price was excluded as an evaluation factor, and why.
- a review has been performed that assures all contracts are sound and complete agreements.

From its review, Audit concluded that the contracting process is used to identify the most qualified companies to supply goods and services at the best prices, and that contracting is an open and competitive process to ensure that no one bidder has an undue advantage over the other bidders. Some deficiencies in the files were found.

*22 service transactions were compliant. Two of the 24 service transactions sampled (including contracts) lacked an independent cost estimate, and the ICEs of two of the 24 were undated.*

For one of the transactions lacking an ICE, the purchase was completed before a purchase order was even requested. The business unit contacted the printer for a printing job on September 3 and the Contract Administrator on September 11. The lack of an ICE may be attributable to the after-the-fact nature of the procurement. One of the undated ICEs was for “design review services,” and the other was to provide computer cables for the Central Corridor Project Office.

The other service transaction lacking an ICE was for delivery services for CCPO from FedEx Corporation. FedEx is a vendor that the Council has done business with in the past, and there exists a cooperative purchasing agreement with the state of Minnesota that the CCLRT could have used. That contract was not cited on the purchase order, however, and there was no ICE when the master purchase order for CCLRT services was set up. (There was a fair and reasonable statement.) Such requirements may be easy to overlook, because payments to FedEx on the purchase order occur every month at regular intervals, and no individual transaction is larger than a micropurchase. The master purchase order itself was opened for \$5000, however, and it constitutes a service, not a micropurchase.

*Of the 24 examined, four contract files contained inconsistent or insufficient documentation.*

- The procurement file for DMJM Harris/AECOM, the engineering services consultant for CCLRT, contained two different ICEs, one dated two months earlier than the other.
- Two files lacked a cost or price analysis.
- One file lacked a notice to proceed letter to the contractor.
- Two files lacked a summary memo or other documentation that explained how the proposals were evaluated.

One file had several elements missing, which is why this list adds up to more than four.

*The procurement of e-Builder project management software was delayed.*

The Council’s Procurement Policy states that “The Council will procure goods and services as economically as feasible, in a manner that is efficient, straightforward, and equitable.” The file documenting the procurement of the e-Builder project management software--the only one of the major contracts for CCLRT procured through CPU--was well-organized and thorough. The procurement itself, however, was delayed by nearly six months. The projected schedule called for the notice to proceed to be issued to the vendor in July 2009. The NTP was finally issued to e-Builder in February 2010.

The cause of the delay in the procurement of e-Builder is agreed on by all participants: for most of 2009, the Office of General Counsel was in a personnel transition and was understaffed. Projects had to be prioritized. Given other urgent pending legal matters, the review of e-Builder's contract was delayed.

*Proposers for insurance broker services were informed that a competitor had been awarded the contract before the decision to award was officially made by the Council.*

Transit Procurement, in consultation with the Council's Risk Management Department, procured the services of an insurance broker to assist the Council in purchasing insurance to protect its interests during construction for CCLRT. A contract initiation memo for this procurement, for the estimated amount of \$400,000, was issued on February 1, 2010. After the solicitation and evaluation of proposals and a cost analysis, the RFP evaluation panel decided to recommend that the Council negotiate and execute a contract with Willis for insurance services. The recommendation was presented to the Council on April 28, 2010. On April 23, however, the other proposers were informed via a memo from the Principal Contract Administrator that a decision had been made to award the contract to Willis. That disclosure violated Council policy, because only the Council has the authority to award a contract for more than \$250,000.

## Construction Services

The dollar value of each of the major CCLRT construction contracts is greater than that of any other CCLRT procurement (except for the professional engineering services contract, awarded to AECOM [formerly DMJM Harris] on June 13, 2007 for a not to exceed amount of \$91 million). The high dollar value, complexity of design and construction and the regional impact of the project make the CCLRT construction contracts arguably the highest risk activity of the Council at present. Audit examined the procurement files for the six construction contracts procured for CCLRT to September 22, the date the Systems contract was awarded to Aldridge/Collisys. They are as follows in Table 1:

**Table 1. CCLRT Construction Contracts Awarded To September 22, 2010**

Contractor	Contract	Award Amount	Date Awarded (Council Action)
Carl Bolander & Sons	4 <sup>th</sup> Street Advanced Utility Construction	\$12,501,162	8/26/09
Graham Construction Services	Advanced Traffic Improvements	\$3,616,440	3/24/10
Walsh	Civil East Construction	\$205,111,234	6/23/10
Ames Construction/C. S. McCrossen	Civil West Construction	\$113,804,000	8/25/10
Siemens	Low Floor Light Rail Vehicles	\$153,211,516	8/25/10
Aldridge/Collisys	Systems	\$87,850,350	9/22/10

Source: [www.metrocouncil.org](http://www.metrocouncil.org)

All but one of these construction contracts were procured through sealed bids, which will result in fixed-price contracts when signed. Invitations for Bid were issued, and the contracts awarded to the lowest responsive, responsible bidder. The exception was the Low Floor Light Rail Vehicles procurement, which was a “best-value” procurement. To award that contract, the Council first issued a Request for Proposals, evaluated the first round of proposals by weighing their technical merits against their cost estimates, and then requested a “best and final offer” from the qualifying proposers.

Electronic and hard copy versions of procurement files were examined for required FTA elements, and whether the Council observed federal and Minnesota state regulations regarding the bid process, contracting requirements, prevailing wages, and other legal requirements.

*Minnesota state prevailing wages were omitted from the “Civil East” bid documents.*

Federal and state law require that construction contracts funded with public monies pay “prevailing wages” to construction workers employed on the contract. Prevailing wages are determined by comparing corresponding classes of laborers and mechanics employed on similar projects in the area. For the wages to be paid, they must be incorporated into the contract. Specifically, Minnesota Statute 177.43, Subd. 3, states:

The contract must specifically state the prevailing wage rates, prevailing hours of labor, and hourly basic rates of pay. The contracting authority shall incorporate into its proposals and all contracts the applicable wage determinations for the contract along with contract language provided by the commissioner of labor and industry to notify the contractor and all subcontractors of the applicability of sections 177.41 to 177.44.

The Minnesota prevailing wages that would pertain to the Civil East contract—those for “Highway and Heavy” construction in Region 9 (which includes Hennepin and Ramsey Counties)—were omitted from the Civil East bid documents. Transit Procurement explained that Minnesota prevailing wages were left out because they were not listed on a template that they used to determine what sections of the Council’s standard construction contract to include in the bid documents, but according to other procurement specialists prevailing wage rates are included as a matter of course, even without the remainder of a template.

*Minnesota truck rental rates were omitted from the “Civil East” bid documents.*

In Minnesota, the wages of contracted (independent) truck drivers are covered by prevailing wage statutes (177.44, Subd. 3). The wages for the drivers and the costs for the trucks that they operate are added together to create a minimum truck rental rate, which functions as a prevailing wage. Minnesota truck rental rates were left out of the Civil East bid documents for the same reason as prevailing wages.

*The ratings system used for the pre-qualifying process for Civil East, Civil West and Systems could create a false impression that pre-qualification was a qualitatively based rating system, which was not the case.*

The Council used a two-step process to award the Civil East, Civil West, and Systems construction contracts. Because of the highly technical nature of the work, contractors were invited to submit a “Prequalification Submittal Document” that was evaluated using stated prequalification criteria. In the second step, the Council issued an Invitation for Bid to those interested contractors who had been prequalified by the Council in the first step. Bids for these three contracts were only accepted from contractors who had been prequalified by the Council.

Prequalification is a useful step in public works construction: it can distinguish contractors with previous experience in specialized work (like light-rail construction), and save the public time and money. Both federal and state regulations, however, warn against preferring one contractor to another at the prequalification stage. FTA Circular 4220.1F, *Third-Party Contracting Requirements*, allows and even encourages prequalification as the first step in a two-step award process, defining it as “a review of the prospective contractors’ technical qualifications and technical approach to the project. The recipient may then narrow the competitive range to those prospective contractors with satisfactory qualifications that demonstrate a technically satisfactory approach” (VI.3.e.[1]) and eliminate any unqualified contractors from submitting a bid that would require evaluation. FTA reportedly endorsed a pre-qualification phase for this project. The criteria that are applied at the first step to prequalify proposals evaluate whether the contractor has the technical capacity to fulfill the contract. In that way, free and open competition at the second, decisive step, where the contract is awarded to the lowest responsive, responsible bidder, is more efficient and effective.

Seven contractors submitted PSDs for the Civil East contract. A combination voting/technical panel prequalified six of the seven with a stated set of criteria that included “Transit and Technical Experience” and “Technical Competence.” The evaluation worksheets and selection document for the Civil East procurement, however, show that the voting panel initially used these criteria to arrive at a “group qualitative rating” for each proposer ranging from “excellent” to “unsatisfactory.” The naming of the ratings could be taken to imply that contractors could be ranked based on whether their rating was excellent vs simply good. That was not the case. After discussing the process with members of the panel, it is clear that the contractors were evaluated objectively and any who passed the established threshold for ability to meet the needs of the project were permitted to move on to the invitation for bid. However, the team used a set of ratings sheets and other documents that were not designed for this type of process. They were designed for a qualifications based proposal evaluation, not a pre-qualification process. As a result, in filling out the forms, panel members stretched their opinions to fit within the form’s definitions, resulting in evaluation documents that do not accurately reflect the pre-qualification process.

Although the evaluation panel’s process itself was not problematic, the documentation could be misleading. It would be advisable to use formats and ratings that are more

descriptive of the pre-qualification process to avoid any potential misunderstanding in the future.

*The Notice of Award for the Civil East contract cited an incorrect contract figure. The Notices of Award letters for all CCLRT construction contracts awarded to this point were signed by the Principal Contract Administrator rather than by the Regional Administrator or his delegate.*

The bids for the Civil East contract were opened on Tuesday, May 18, 2010. The original bid of the winning bidder, Walsh Construction, was \$205,398,234.05. On June 23, 2010, the Council officially awarded the contract to Walsh in the amount of \$205,111,234.05. The difference between the two amounts was the withdrawal by District Energy of two betterments that had been included in the project as bid. On July 14, 2010, the Notice of Award letter was sent to Walsh Construction. It cited the original, as bid figure for the contract, not the amount approved by the Council. The Notice of Award letter was later revised. However, it is important to take note of inaccuracies like these to ensure that they do not ultimately lead to the same errors in contract documents.

Item 1.29 of Section 700 of the General Conditions for all of the CCLRT construction contracts awarded to this point—4<sup>th</sup> Street Advanced Utilities, Advanced Traffic Improvements, Civil East, Civil West, and Systems—defines the Notice of Award letter as:

Written Notice given by COUNCIL to the low, responsive, responsible Bidder stating that upon the Bidder's compliance with the conditions stated therein and in the Bidding Documents, COUNCIL will sign and deliver the Agreement. The notice shall be effective only after: (i) conditional acceptance of CONTRACTOR's Bid by formal resolution of COUNCIL; and (ii) CONTRACTOR's receipt of the Notice Of Award signed by the COUNCIL's Regional Administrator or designated representative.

The Notice of Award letters for these contracts were signed by the Principal Contract Administrator assigned to CCLRT from Transit Procurement, not by the Regional Administrator or the Director of Purchasing. Although the Director of Purchasing (or the Acting Director of the Contracts and Procurement Department under the recent restructuring) has the delegation of authority to initiate contracts, Principal Contract Administrators do not.

### ***Contract Administration System***

FTA circular 4220.1F requires grantees “to maintain a contract administration system to ensure that it and its third party contractors comply with the terms, conditions, and specifications of their contracts or purchase orders and applicable Federal, State and local requirements.” Systems may be less than adequate, adds the *Procurement System Self-Assessment Guide*, when grantees focus on contract procurement to the neglect of

contract administration; spread contract administration functions among several departments, which can result in overlap or missed duties; or fail to find or produce necessary documentation during systems reviews.

CCLRT has a Contract Administration Plan that is closely based on Metro Transit's Contract Administration Manual. The CCLRT Plan lays out "General Contract Administration Requirements," then describes the requirements that are specific to the administration of consultant (professional and technical services) contracts, master contracts, and construction contracts. For construction contracts, for example, the Plan assigns the primary responsibility for administering the contract to the Project Manager, and the responsibility for communicating with the contractor to the Council's Authorized Representative, or CAR. The CAR observes the work on the job site, reviews the invoices and estimates the work completed, and negotiates the schedule with the contractor.

To evaluate the efficiency and effectiveness of the CCLRT contract administration system itself is beyond the scope of this audit. The written policies, regulations, and procedures in the CCLRT Contract Administration Plan, however, establish a contract administration system with corresponding authorities, responsibilities, and record keeping requirements, which are within the scope of this review.

### ***Document Management***

Document management was the subject of the first audit for CCLRT. The impetus for that evaluation was CCLRT's own internal procedure about document management, 225-01, which commits the CCLRT's document management center (DMC) to retaining "the official project record file" of "significant" documents on the project." The electronic document management system that CCLRT shares with other Council divisions, ApplicationXtender (AX), needs to be the file of record, because Transit Procurement retains hard copies of procurement files (until July 1, 2010 and electronic copies since then) for only three years, and federal requirements extend far beyond that. The requirement specified in FTA circular 4220.1F is also three years, but the retention period does not begin until all subrecipients have made final payment and "all other pending matters are closed." According to circular 5010.1D, those pending matters include closing out the project and the grant for the project. After that, if any legal issues or claims are pending, all of those must be settled as well before the three year retention period begins.

In the document management audit, poor compliance was noted for procurement packages, a separate file type in AX. Much progress was made after the audit in improving compliance: in particular, the files for all CCLRT contracts to that point were scanned into the system.

Some gaps remain, however. For this audit, the required elements that were missing from procurement packages, whether electronic or hard copy, have already been noted. However, one key issue remains.



*Although DMC files were present and largely complete for procurement transactions, several required FTA elements found in hard copy procurement files were missing from CCLRT's DMC.*

They are:

For micropurchases:

- Two fair and reasonable statements

For goods:

- Eight procurement packages (five that were processed through TXbase, and three through Oracle WAM)

For services:

- Two independent cost estimates (counting the five artists' contracts as one transaction)
- One contract initiation memo (counting the five artists' contracts as one transaction)
- One notice to proceed letter (counting the five artists' contracts as one transaction)
- Six procurement packages (the only documents filed in the DMC for the e-Builder project management software procurement were the independent cost estimate, the contract initiation memo, and the scope of work from the request for proposals)

For construction:

- All required procurement files were found in the DMC for the 4<sup>th</sup> Street Advanced Utilities contract, albeit not as a single "procurement package."
- Several required procurement files were missing from the DMC for the Advanced Traffic Improvements contract, including the independent cost estimate, the cost or price analysis, and the bid summary.

Improvement is needed to comply with the requirement that the CCLRT DMC be the official project record file of past procurements on the project. An opportunity for improvement may be coming, however, since the debut on July 1, 2010 of procurement's own "folder" on the Council-wide AX document management system. From now on, all CCLRT procurements that result in the issuance of a contract will be entered into the AX system by procurement staff, not from the CCPO document management staff. (Procurements that result in a purchase order will continue to be entered into the Finance folder on the Council-wide AX system.) Entering procurement documents in Procurement may facilitate improved indexing using a procurement-specific template rather than the more general default template for the CCLRT system. That may also lead to greater compliance for entering complete procurement files and documents into the system. The previously discussed merged Procurement structure, by making processes and forms more consistent, may also help to make document entry more consistent and accurate.

## CONCLUSIONS

1. *Cost or price analysis documentation is uneven among the various transactions of the CCLRT project. In some cases, documentation is missing altogether. In others, the documentation is present but not adequate.*

The 2009 *Procurement Systems Review* cited the Council for lacking certain elements of cost or price analyses. It found some micropurchases that lacked fair and reasonable statements, and it found two service transactions with deficient independent cost estimates, one missing and one undated. This audit also found one micropurchase that lacked a fair and reasonable statement, as well as four goods transactions lacking cost or price analyses leading to fair and reasonable determinations, two goods and two service transactions lacking independent cost estimates. Two goods and two service transactions had undated ICEs. All but one of the goods transactions lacking cost or price analyses were clustered around the time of the setup of CCPO, which suggests the problem predates the PSR, but the two service transactions missing ICEs were for more recent transactions. There, routine or rushed purchases resulted in overlooking requirements.

This is a repeat audit finding from the 2009 PSR. Cost or price analysis is a required element of federally funded procurements. As a second finding in this area, it requires timely resolution.

2. *The Contracts and Procurement Unit and Information Services have not resolved the prior FTA finding about independent cost estimates for sole source procurements of technology and software from the 2009 PSR.*

As purchases that originated with the requestor filling out the Council's ITR form, 11 of the 12 goods transactions that lacked ICEs did contain cost "estimates" of a sort: the price quotations, provided by the vendors of the good (usually computer software), that the requestor listed on the ITR. Interviews with CPU and IS staff indicated that they considered the quotation on the ITR sufficient as an ICE. When it comes from the vendor, however, the price quoted on the ITR is not "independent," and it cannot thus serve as the basis of a cost analysis to ensure that the price is fair and reasonable. The 2009 PSR suggested that IS should check with other users of the software to get comparable pricing information or should at least look at the rate of increase over time to inject an independent perspective into the cost review. This is also considered a repeat finding from the 2009 PSR.

3. *The delay in procuring CCLRT project management software contributed to inefficiencies.*

CCLRT staff had planned to use the software to prepare and manage the first of seven projected construction contracts for CCLRT, for the 4<sup>th</sup> Street Advanced Utilities work that began in September 2009. Because of the delay in procuring the new system, early

construction records had to be maintained manually. It was not until spring 2010 that users were being trained in e-Builder.

4. *The omission of Minnesota prevailing wage documents from the Civil East (and prior) construction contracts, including truck rental rates, may have financial ramifications for the Council.*

Minnesota Statute 177.43, Subd. 3 additionally states:

Failure to incorporate the determination or provided contract language [i.e., prevailing wage documents] into the contracts shall make the contracting authority liable for making whole the contractor or subcontractor for any increases in the wages paid, including employment taxes and reasonable administrative costs based on the appropriate prevailing wage due to the laborers or mechanics working on the project.

Federal prevailing wage documents were included in the Civil East contract as bid, but Minnesota prevailing wages—the documents that were omitted—are generally higher than federal prevailing wages. The following table shows the differences between the two rates for 15 common job classifications in public works construction:

**Table 2. Federal and Minnesota Prevailing Wages Compared**

Federal/State Classification	Federal. Construction Type: Highway. Counties: Includes Ramsey. MN 05. <sup>1</sup>		Minnesota. Construction Type: Highway and Heavy. Region 9 (includes Hennepin and Ramsey Counties). <sup>2</sup>		Difference Between State and Federal Wages (State - Federal) <sup>3</sup>
	Rates	Fringes	Rates	Fringes	
LABORER, GROUP 1: [incl.] Construction/101 LABORER, COMMON (GENERAL LABOR WORK)	27.72	12.01	26.32	14.97	
<b>Rate + Fringe</b>	<b>39.73</b>		<b>41.29</b>		<b>1.56</b>
LABORER, GROUP 1: [incl.] Blaster Tender/106 BLASTER	27.72	12.01	29.32	14.97	
<b>Rate + Fringe</b>	<b>39.73</b>		<b>44.29</b>		<b>4.56</b>
LABORER, GROUP 1: [incl.] Flagperson/104 FLAG PERSON	27.72	12.01	26.32	14.97	
<b>Rate + Fringe</b>	<b>39.73</b>		<b>41.29</b>		<b>1.56</b>
LABORER, GROUP 2: [incl.] Chain Saw; Compaction Equipment (Hand Operated or Remote Control); Concrete Drilling, etc./102 LABORER, SKILLED (ASSISTING SKILLED CRAFT JOURNEYMAN) <sup>4</sup>	27.92	12.01	26.32	14.97	
<b>Rate + Fringe</b>	<b>39.93</b>		<b>41.29</b>		<b>1.36</b>
LABORER, GROUP 2: [incl.] Concrete Mixer Operator/311 CONCRETE MIXER, STATIONARY PLANT (HIGHWAY AND HEAVY ONLY)	27.92	12.01	31.02	15.85	
<b>Rate + Fringe</b>	<b>39.93</b>		<b>46.87</b>		<b>6.94</b>

Federal/State Classification	Federal. Construction Type: Highway. Counties: Includes Ramsey. MN 05. <sup>1</sup>		Minnesota. Construction Type: Highway and Heavy. Region 9 (includes Hennepin and Ramsey Counties). <sup>2</sup>		Difference Between State and Federal Wages (State - Federal) <sup>3</sup>
LABORER, GROUP 3: [incl.] Brick or Block Paving Setter/703 BRICKLAYERS	28.07	12.01	31.89	17.15	
<b>Rate + Fringe</b>	<b>40.08</b>		<b>49.04</b>		<b>8.96</b>
LABORER, GROUP 5: [incl.] Underground Laborer/109 UNDERGROUND AND OPEN DITCH LABORER (EIGHT FEET BELOW STARTING GRADE LEVEL)	28.42	12.01	27.02	14.97	
<b>Rate + Fringe</b>	<b>40.43</b>		<b>41.29</b>		<b>0.86</b>
LABORER, GROUP 6: Pipelayer, Tunnel Miner Under Pressure/107 PIPELAYER (WATER, SEWER AND GAS)	29.72	12.01	28.32	14.97	
<b>Rate + Fringe</b>	<b>40.43</b>		<b>41.99</b>		<b>1.56</b>
POWER EQUIPMENT OPERATOR, Group 3: [incl.] Asphalt Bituminous Stabilizer Plant; Cableway; Concrete Mixer; [etc.]/309 ASPHALT BITUMINOUS STABILIZER PLANT (HIGHWAY AND HEAVY ONLY)	30.02	15.25	31.02	15.85	
<b>Rate + Fringe</b>	<b>45.27</b>		<b>46.87</b>		<b>1.6</b>
POWER EQUIPMENT OPERATOR, Group 4: [incl.] Air Track Rock Drill; Articulated Hauler Terex, Caterpillar or similar type; Automatic Road Machine (CMI or similar); etc./323 AIR TRACK ROCK DRILL (HIGHWAY AND HEAVY ONLY)	29.72	15.25	30.72	15.85	
<b>Rate + Fringe</b>	<b>44.97</b>		<b>46.57</b>		<b>1.6</b>
POWER EQUIPMENT OPERATOR, Group 5: [incl.] Air Compressor Operator 600 CFM or over/369 AIR COMPRESSOR, 600 CFM OR OVER (HIGHWAY AND HEAVY ONLY)	26.68	15.25	27.68	15.85	
<b>Rate + Fringe</b>	<b>41.93</b>		<b>43.53</b>		<b>1.6</b>
POWER EQUIPMENT OPERATOR, Group 6: [incl.] Air Compressor Operator 600 CFM or over/387 CAT, CHALLENGER, OR SIMILAR TYPE OF TRACTORS, WHEN PULLING DISK OR ROLLER (HIGHWAY AND HEAVY ONLY)	25.47	15.25	26.47	15.85	
<b>Rate + Fringe</b>	<b>40.72</b>		<b>42.32</b>		<b>1.6</b>
Carpenter & Piledrivermen/704 CARPENTERS	31.37	16.1	31.92	17.15	
<b>Rate + Fringe</b>	<b>47.47</b>		<b>49.07</b>		<b>1.6</b>
CEMENT MASON [Hennepin and Ramsey Counties]/CONCRETE FINISHER/706 CEMENT MASONS	30.45	16.5	30.45	16.5	
<b>Rate + Fringe</b>	<b>46.95</b>		<b>46.95</b>		<b>0</b>
IRONWORKER/712 IRONWORKERS	33.8	20.37	33.8	20.37	

Federal/State Classification	Federal. Construction Type: Highway. Counties: Includes Ramsey. MN 05. <sup>1</sup>	Minnesota. Construction Type: Highway and Heavy. Region 9 (includes Hennepin and Ramsey Counties). <sup>2</sup>	Difference Between State and Federal Wages (State - Federal) <sup>3</sup>
<b>Rate + Fringe</b>	<b>54.17</b>	<b>54.17</b>	<b>0</b>
Notes			
<sup>1</sup> “MN 05” Federal wages are dated February 12, 2010. They are the wage rates that were included in the Civil East bid documents.			
<sup>2</sup> This is the latest revision of the Minnesota Highway and Heavy rates, dated 01/04/2010.			
<sup>3</sup> Positive numbers mean that Minnesota wages are higher than Federal wages; negative numbers mean that Federal wages are higher than Minnesota wages.			
<sup>4</sup> The correspondence between federal and state classifications here is not exact.			

Sources: *wagedeterminationsonline.gov*; *Minnesota Department of Labor and Industry*

The latest revision of the federal prevailing wages, MN 20, brings them into line with Minnesota prevailing wages, but this table reflects the difference between the federal wages included in the Civil East contract and the Minnesota wages that were omitted. The difference between the contract as bid, with the lower rates, and the higher, Minnesota prevailing wage rates may have financial ramifications for the Council.

5. *Pre-qualification processes are valuable and even encouraged for large, complex projects like CCLRT, but documentation standards should be developed for the pre-qualification process to ensure that retained evaluation information accurately reflects a definable, objective pre-qualification process.*

Prequalification is a useful technique on large, complex public works projects like CCLRT to ensure that only qualified bids are submitted for full evaluation, FTA encourages its use for this purpose in 4220.1F. However, since this has not been a frequent path for Transit projects, the evaluation team used an existing set of forms not intended for this purpose and ended up with documentation that could lead to misunderstandings about how the pre-qualification was administered.

6. *As the file of record on the project, the DMC must contain all significant documents for every CCLRT procurement, and those documents must be readily accessible.*

After the audit on document management at CCLRT, procurement packages on the project to that point (early 2009) were scanned into the DMC. Because the scanning was done retroactively, after the procurements were complete, these packages came in whole and intact. Although one large procurement file (URS) was apparently not scanned, for these older files, this audit did not find gaps between the hard copy files in procurement offices and the electronic DMC. After that, the individual elements of procurement packages were scanned dynamically, as the procurement proceeded, and the gaps noted in the “Observations” appeared. With the advent of the new Procurement AX system, such

gaps should diminish. CCPO still needs to assure auditors, however, that all significant procurement documents before July 1, 2010 (the date that Procurement AX went “on-line”), are in the CCLRT AX system, because it is the official project record file.

## RECOMMENDATIONS

Program Evaluation and Audit recommendations are categorized according to the level of risk they pose for the Council. The categories are:

- **Essential** – Steps must be taken to avoid the emergence of critical risks to the Council or to add great value to the Council and its programs. Essential recommendations are tracked through the Audit Database and status is reported twice annually to the Council’s Audit Committee.
- **Significant** – Adds value to programs or initiatives of the Council, but is not necessary to avoid major control risks or other critical risk exposures. Significant recommendations are also tracked with status reports to the Council’s Audit Committee.
- **Considerations** – Recommendation would be beneficial, but may be subject to being set aside in favor of higher priority activities for the Council, or may require collaboration with another program area or division. Considerations are not tracked or reported. Their implementation is solely at the hands of management.
- **Verbal Recommendation** – An issue was found that bears mentioning, but is not sufficient to constitute a control risk or other repercussions to warrant inclusion in the written report. Verbal recommendations are documented in the file, but are not tracked or reported regularly.

**1. Information Services should improve its process of procuring sole source products, to require independent (that is, non-vendor) sources of pricing information (Essential).**

Federally funded procurements require independent cost estimates for goods over \$3000, as a prerequisite to a cost analysis and fair and reasonable determination. IT goods are often sole source procurements. Many software upgrades, for example, can only be purchased from the original vendor. To initiate an IT purchase, Information Services requires the requestor to fill out an ITR form, which asks for a description of the item being requested, including its cost. It is customary simply to list the vendor’s price for the item here, and the practice is reasonable when quotes from other vendors can be attached to the request, or when the purchase is being made from a contract that was competitively bid. In a sole source situation, however, the vendor’s price is not independent. An opinion from an unrelated party is needed. If the ITR continues to provide the basis of an independent cost estimate for a sole source vendor, the form should be revised to include a separate space for an independent cost estimate and staff should be trained on the requirements for such an estimate. Although it may seem that a sole source vendor is the only source of pricing for their product, as the FTA reviewers pointed out in 2009, checking with other product users or looking at previous cost increases would be useful tools for independent cost estimates.

**Management Response:**

**CCPO response:** Agree. The Central Corridor Project Office (CCPO) understands the importance of an independent cost estimate (ICE) in IT sole source procurement where FTA funds are utilized. Further, CCPO recognizes that the ICE is essential to ensuring that the IT sole source procurement process is fair and reasonable. Finally, the CCPO supports inclusion of language and space on the ITR form requiring that an ICE be provided for each and every sole source IT procurement if FTA funds are involved. CCPO staff understands that the IT Department as a requestor of the sole source procurement is responsible for producing the ICE.

**CPU response:** IT has agreed to provide a designated spot on the Metro Transit ITR to require the ICE as part of the process when FTA funds are utilized.

**Person Responsible:** Dave Hinrichs

**Timeline:** January 1, 2011

2. **CCLRT procurement files should be brought into conformance with the standard format for procurement documents in AX. All significant elements of past CCLRT procurements, including procurement checklists, must be filed in the electronic file of record, and thorough indexing should both link the elements of each package and make the individual elements readily accessible to future reviewers (Essential).**

As previously noted, the current practice of scanning the elements of a procurement package dynamically, as separate documents, complicates the definition of a procurement package. Thorough indexing is needed to make individual elements cohere. Since the Procurement Department is now on AX and has developed a standard format for procurement files, it would be appropriate to capitalize on Procurement's entry into AX and the Department reorganization to file CCLRT procurements consistent with other Council procurement files, although they would remain identified as CCLRT documents for document retention purposes.

**Management Response:**

**CCPO response:** As a result of the internal audit of the Document Management Center (DMC), all procurement packages prior to early 2009 were scanned into the CCPO records management software AX. CCPO, Metro Transit Purchasing and Council Purchasing Unit agreed that scanning would be temporary until both procurement departments converted to AX.

The purpose of this scanning was to assemble all related procurement documents in individual procurement packages with coversheets that summarized the contents. Each package contains all of the required FTA, State and Council documents for the specific purchase. Since early 2009 procurement packages have been scanned by the purchasing agent at the completion of procurement and submitted to CCPO DMC.



*The CCPO agrees that all procurement packages must contain a complete history of the procurement i.e. all the required documents. Further, the CCPO will work with procurement to correct identified deficiencies in documentation for all procurement packages submitted to CCPO DMC prior to July 1, 2010.*

**CPU response:** *The AX system has been utilized by procurement since July 1, 2010 and only a few files have been entered at the present time. Currently, procurement has entered two CCLRT Project solicitation files into its AX module. Security issues are still being addressed in order to comply with any Data Privacy requirements.*

***Person Responsible:*** Micky Gutzmann

***Timeline:*** Complete by January 1, 2011

- 3. Project file checklists should be signed by the person who fills them out and reviews them. If there are missing elements from the file, that person should be the point of contact for future reviewers of the file (Significant).**

Project managers initiate large procurements, and procurement staff guides those procurements from the signing of the contract initiation memo to the issuance of the notice to proceed letter, but the required elements of a procurement file often originate from many different sources. Assigning a specific person the responsibility to compile the project checklist, and to sign it, would assure that there is a single point of contact for future reviewers of the file. Signing and dating the checklist could also authoritatively demonstrate that it has been reviewed for completeness, an FTA requirement. Checklists should also be submitted to CCLRT's DMC as an essential part of a complete procurement package.

***Management Response:***

**CCPO response:** *The procurement documents will be submitted in the Procurement AX module so this recommendation should be discussed with Metro Transit Purchasing and Council Purchasing Unit. The CCPO agrees with the recommendation that a specific person should be assigned the responsibility of collecting required documents and ensuring that the checklist is complete for each procurement package. This added level of accountability would support the ability of future reviewers to search AX and access all documents related to a particular procurement.*

**CPU response:** *The merging of the two individual procurement departments has enabled them to align their processes and procedures. The departments are developing and sharing their "best practices". Procurement will be utilizing a form that will be signed off by the individual who is checking to ensure all required documents are present. The last step of this process will be to scan the form into the AX system.*

***Person Responsible:*** Micky Gutzmann

***Timeline:*** January 30, 2011

- 4. Training should be provided for all staff with responsibility for the development of cost estimates. The training should cover the correct format, information, and authentication (signature and date) required for a cost estimate to ensure that cost estimates are more consistently documented and filed (Essential).**

It has been an ongoing problem for Council purchases that there is some deficiency related to the cost estimates. In some cases, the estimates were missing from the file. In others, the estimate was there, but it was not properly documented with the estimator's signature and date. Finally, some ICEs lack sufficient information to fully identify the project or the costs involved in the estimate. These estimates are a basic requirement of FTA 4220.1F, and the findings in this report repeat those of a 2009 PSR. It is critical that the Council develop and maintain a standard method for developing, documenting and retaining cost estimates for applicable procurements.

***Management Response:***

***CCPO response:*** Agree, CCPO has hired project controls staff who are responsible for ensuring independent cost estimates are developed prior to bid openings or change order negotiations.

***CPU response:*** Procurement is currently in the process of addressing the need for training through FTA/NTI on the independent cost estimate and cost analysis.

***Person Responsible:*** Micky Gutzmann

***Timeline:*** In progress, complete by March 1, 2011

- 5. Any public solicitation for more than \$100,000 for the CCLRT should be reviewed and approved by the Acting Director of the Contracts and Procurement Department before being posted or published (Significant).**

There were material errors made in contracting documents examined in this audit, including pre-qualifications, bid documents, and wage rate information. All could have serious ramifications for the Council without prompt action to correct them. Documents of this significance merit a review by a second set of eyes to ensure that nothing has been missed, added or misstated, before the information is published or posted for potential bidders or other outside audiences to see. Given the size, relative risk, and importance of the Central Corridor Project for the Council, it seems appropriate that the reviewer be the new Acting Director of the Contracts and Procurement Director. A high level review by the Council's chief procurement officer would help to ensure that any potential issues or problems would be identified and correctly in a timely fashion, before the documents are out for bid.

***Management Response:*** Under the newly combined procurement unit the Acting Director of Purchasing signs letters, reviews contract awards and executes documents. Large construction solicitations are discussed with the contract managers and contract terms are reviewed. The Office of General Council is utilized as appropriate. Typically

*managers conduct the first review of solicitations and the Acting Director does the final review. Risk to the Met Council triggers the level of review not the dollar amount.*

***Person Responsible:*** Micky Gutzmann

***Timeline:*** Completed October 2010