

CITY OF LOS ANGELES
CALIFORNIA

DEPARTMENT OF
GENERAL SERVICES

TONY M. ROYSTER
GENERAL MANAGER AND
CITY PURCHASING AGENT

OFFICE OF THE
CITY PURCHASING AGENT
ROOM 110, CITY HALL SOUTH
111 EAST FIRST STREET
LOS ANGELES, CA 90012



ANTONIO R. VILLARAIGOSA
MAYOR

RECEIVED MAY - 7 2013

May 1, 2013

Honorable Wendy J. Greuel
Los Angeles City Controller
200 N. Main Street, Suite 300
Los Angeles, CA 90012

Attention: Farid Saffar, Director of Auditing

**RESPONSE TO THE STATUS OF RECOMMENDATIONS -- REVIEW OF
PAYMENTS TO EXPRESS ENVIRONMENTAL CORPORATION FOR
WASTEWATER PUMPING AND DISPOSAL CONTRACT NO. 57811**

The General Services Department has received your request and updated our response to the recommendations for your Review of Payments to Express Environmental Corporation, Contract No. 57811. This contract has expired and was replaced by a personal services contract administered by Public Works Bureau of Sanitation.

This issue has been turned over to the City Attorney's Office for collection. Updates on collection efforts are to be reported by Public Works Bureau of Street Services. This status has been updated and reflected on the attached worksheet.

If you have any questions regarding this matter, please contact Yolanda Raphael at (213) 928-9505 or via email at Yolanda.Raphael@lacity.org.

Tony M. Royster, General Manager and
City Purchasing Agent

Attachment

OFFICE OF THE CONTROLLER AUDITING DIVISION
 LIST OF AUDIT FINDINGS AND RECOMMENDATIONS

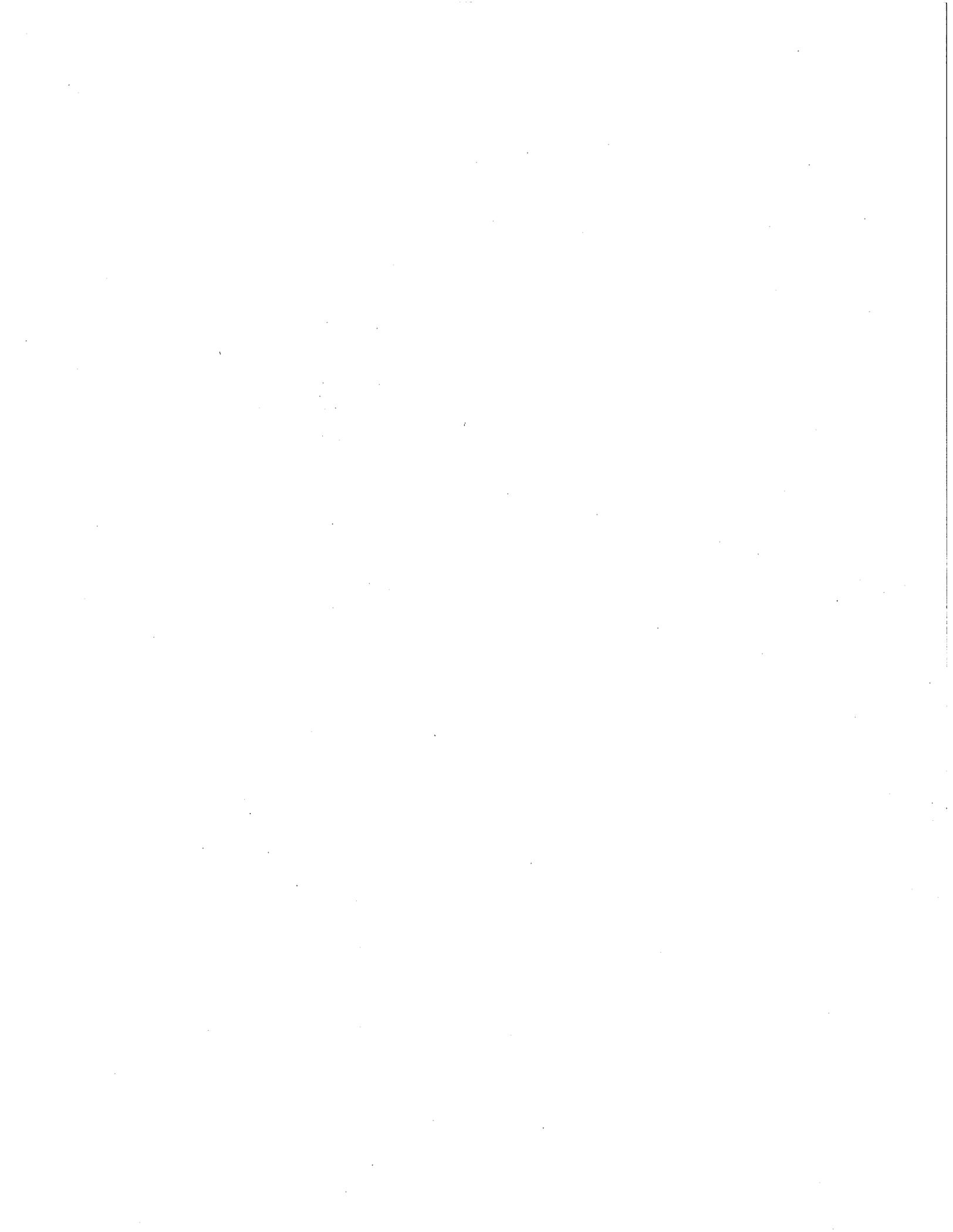
Department:

General Services (GSD)
 Payments to Express Environmental
 Corporation for Wastewater Pumping &
 Disposal (Contract # 57811)
 5/1/2013

Title of Audit Report:
 Date of Report:

Finding Number	Summary Description of Finding	Rec. No.	Recommendations	Current Status	Basis for Status	Target Implementation Date	Auditor's Evaluation
1	Based on disparities in the quantity of wastewater reported as disposed, Express overbilled the City by as much as \$1 million.	1	GSD and BSS work with the City Attorney's Office to seek reimbursement from Express for the overbilled amount.	PI	This issue has been turned over to the City Attorney's Office for collection. Public Works/BSS will continue to work with the City Attorney's Office; GSD will assist only as needed.	Public Works/BSS will provide updates until implementation is complete.	

- I - Implemented
- PI - Partially Implemented or In Progress
- NI - Not Implemented
- D - Disagree



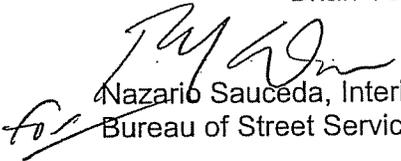
CITY OF LOS ANGELES
INTERDEPARTMENTAL CORRESPONDENCE

Date: November 30, 2011

To: Wendy Greuel, City Controller

RECEIVED DEC - 6 2011

Attention: Farid Saffar, Director of Auditing
Brian Young, Special Investigator II

From:  Nazario Saucedo, Interim Director
Bureau of Street Services

Subject: **STATUS OF RECOMMENDATIONS - REVIEW OF PAYMENTS TO EXPRESS ENVIRONMENTAL CORPORATION FOR WASTEWATER PUMPING AND DISPOSAL CONTRACT NO. 57811**

This is a status response per your request. The Bureau of Street Services [BSS] is finalizing a Request for Bidders anticipated for advertisement in January 2012. The resulting waste disposal contract is expected to yield savings by providing open bid unit prices specifically intended to handle the waste profile regularly encountered by BSS. We do not anticipate any problems at this time moving forward as planned.

[NS:RO:HL:hl/ExpressAuditStatus.wpd](#)

cc: Dennis Rogers
Pamela Ostrander
Chang Lin
Hugh Lee

CITY OF LOS ANGELES
CALIFORNIA

TONY M. ROYSTER
GENERAL MANAGER
AND
CITY PURCHASING AGENT



ANTONIO R. VILLARAIGOSA
MAYOR

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RECEIVED
LOS ANGELES CITY CONTROLLER
2010 DEC 16 AM 9:10

December 9, 2010

Honorable Wendy J. Greuel
Los Angeles City Controller
Room 300, City Hall East

Attention: Farid Saffar
Director of Auditing

**RESPONSE TO STATUS OF RECOMMENDATIONS — REVIEW OF
PAYMENTS TO EXPRESS ENVIRONMENTAL CORPORATION FOR
WASTEWATER PUMPING AND DISPOSAL CONTRACT NO. 57811**

The General Services Department has received your request and updated our response to the recommendations for your Review of Payments to Express Environmental Corporation, Contract No. 57811. Please see the attached spreadsheet.

Should you have any questions, please contact Alfred Lopez at (213) 928-9520 or via e-mail at Alfred.Lopez@lacity.org.

Tony M. Royster
General Manager
and City Purchasing Agent

Attachment



OFFICE OF THE CONTROLLER AUDITING DIVISION
 LIST OF AUDIT FINDINGS AND RECOMMENDATIONS

Department: General Services (GSD)
 Payments to Express Environmental
 Corporation for Wastewater Pumping &
 Disposal (Contract # 57811)
 Title of Audit Report:
 Date of Report: October 5, 2009

Finding Number	Summary Description of Finding	Rec. No.	Recommendations	Current Status	Basis for Status	Target Implementation Date	Auditor's Evaluation
1	Based on disparities in the quantity of wastewater reported as disposed, Express overbilled the City by as much as \$1 million.	1	GSD and BSS work with the City Attorney's Office to seek reimbursement from Express for the overbilled amount.	PI	This issue has been turned over to the City Attorney's Office for collection; Public Works and BSS will continue to work with the City Attorney's Office; GSD will assist only as needed.	Public Works and BSS will provide updates until implementation is complete.	

I - Implemented
 PI - Partially Implemented or In Progress
 NI - Not Implemented
 D - Disagree

CITY OF LOS ANGELES

CALIFORNIA



ANTONIO R. VILLARAIGOSA
MAYOR

BOARD OF PUBLIC WORKS MEMBERS

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PRESIDENT

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COMMISSIONER

VALERIE LYNNE SHAW
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OFFICE OF THE BOARD OF PUBLIC WORKS

200 NORTH SPRING STREET
ROOM 361, CITY HALL
LOS ANGELES, CA 90012

JAMES A. GIBSON
EXECUTIVE OFFICER

GENERAL INFORMATION

Tel: 213-978-0261
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November 9, 2009

2009 NOV 13 PM 3:31

The Honorable Wendy Greuel
City Controller
200 North Main Street, Suite 300
Los Angeles, CA 90012

Dear Controller Greuel:

Thank you for providing the Department of Public Works with the opportunity to respond to the findings and recommendations discussed in the Controller's report entitled Payments to Express Environmental Corporation for Wastewater¹ Pumping and Disposal (Contract No. 57811) ("The Audit").

I. DEPARTMENTAL STATEMENT

The Department of Public Works ("DPW") is committed to providing quality and efficient services to the public, while simultaneously protecting the fiscal interests of the City of Los Angeles. The DPW is responsible for awarding and managing numerous contracts on behalf of the City, thus, the integrity of our contractual process is of paramount importance. Accordingly, the DPW has taken significant and proactive steps to ensure that its contracting processes are fair, open and transparent. In fact, in 2005, the DPW was recognized by the Controller as having "developed the best policies and procedures regarding contracting that (it) found in any of (its) audits to date."² Nonetheless, despite the DPW's efforts to protect public and City interests, The Audit has identified areas where further improvements can and will be made.

II. THE CONTRACTS

The contract in question, Express Environmental Contract No. 57811 ("Express Contract"), originated from an RFQ issued by the General Services Department ("GSD") in 2001. As its procurement agent, GSD was historically responsible for executing the City's hazardous waste service contracts. Thus, although the daily management of the service provision under the Express Contract was vested in the DPW's Bureau of Street Services (BSS), the contract itself was drafted and executed pursuant to GSD's contracting policies. As such, it was not subject to the DPW's stringent contractual procedures described above.

However, over time, GSD was relieved of the responsibility for establishing waste management contracts. Instead, that responsibility shifted to individual City Departments. Pursuant to this shift, BSS worked directly with its sister bureau, the Bureau of Sanitation (BOS), to utilize an existing DPW contract for a hazardous waste provider.

Accordingly, in May 2008, the DPW executed two amendments to the existing hazardous waste

¹ The Audit title expressly references "wastewater" pumping, however, the Express Environmental Corporation contract pertained specifically and exclusively to "hazardous waste". See Section III of this response for a more detailed explanation of the distinctions between "hazardous waste" and "wastewater".

² Review of the Department of Public Works Contracting Practices, City Controller Laura Chick, March 30, 2005.

management contracts with Clean Harbors Environmental Services (“Clean Harbors Contracts”):

- Routine Hazardous Waste Management (Contract #C113379)
- 24-Hour Emergency Response Hazardous Waste Services (Contract #C113382)

Fitting with the DPW’s extensive contractual processes, the Clean Harbors Contracts were reviewed and adopted by the Board of Public Works in open public session and with concurrence by the City Attorney. Because these Clean Harbors Contracts were executed under the authority of the DPW, their contractual terms differ from the terms of the Express Contract, as written by GSD. Thus, many of The Audit’s findings pertaining to contractual ambiguities have been resolved as noted below.

III. BSS’ ROLE IN HAZARDOUS WASTE MANAGEMENT

BSS is primarily responsible for maintaining the public right-of-way in commercial, industrial, and residential areas. This responsibility includes clean-up and disposal of oil or other hazardous waste materials on City streets, alleys and sidewalks because they are a public safety hazard. Given the dangerous nature of hazardous waste, even small scale incidents require immediate response. Currently, BSS has the capacity to respond to smaller service requests, but unfortunately it does not have the technical expertise or the resources to respond to large scale hazardous waste disposals. As a result, large scale incidents are serviced by Clean Harbors.

Hazardous Waste vs. Wastewater

Hazardous waste is markedly different from *wastewater*. Hazardous waste is subject to different, but equally stringent, technical and legal regulations as wastewater. For example, Federal and State laws demand extensive analysis of waste to determine if it is in fact “hazardous”. In the more likely case that a liquid is *not* deemed “hazardous”, it can be disposed of as “wastewater” and may be removed and dumped in an adjacent sewer for treatment at one of the City’s wastewater treatment plants. However, in the case that sludge and/or solids are present, it is more likely to be deemed “hazardous”, thus, it will require more sensitive handling. Furthermore, because Federal and State regulations differ, liquids that may not be deemed “hazardous” under Federal standards could still potentially be “hazardous” under State code. These extensive layers of analysis are indicative of the distinct differences between State and Federal definitions of hazardous waste. Here, it should be noted that the Express Contract and the Clean Harbors Contracts pertain exclusively to hazardous waste, not wastewater.

IV. CONTROLLER’S RECOMMENDATIONS

Recommendation 1 – GSD and BSS work with the City Attorney’s Office to seek reimbursement from Express Environmental for the overbilled amount, from contract inception through expiration.

The DPW is working with the City Attorney’s Office to determine if civil and/or criminal action should be taken against Express Environmental for over-billing the City. All invoices, manifests and related records are currently under review to determine the extent of Express’ potential liability. The DPW will provide updates to the Controller related to these efforts.

Recommendation 2 – Review the current contract used for hazardous waste disposal³ to ensure that all contract terms and requirements are clearly articulated, and if necessary seek contract modifications, either through an amendment to the current contract, or a new selection process.

As noted above, the Express Contract, upon which the Audit was based, was executed pursuant to GSD policies. However, the current Clean Harbors Contracts were executed pursuant to DPW policies and mirror the form of DPW contracts, but are managed by BSS.

³ The Audit recommendation number 2 expressly references “wastewater pumping”, however, the contracts in question relate specifically and exclusively to “hazardous waste disposal.”

The Clean Harbors Contracts are comprehensive and clearly articulate all terms and requirements. For example, some key contractual terms are as follows:

- **DISPOSAL RATES:** Appendix VIII, Section VIII F of the Clean Harbors Contracts expressly lists the types of materials that qualify as hazardous waste and their corresponding disposal rates. The list includes the per drum rate for the disposal of various acids, aerosols, alcohols, ammunition, asbestos, cyanides and gasses.
- **COMPENSATION:** Section 10.11 of the Clean Harbors Contracts includes two compensation tables. The first table for "Personnel Service Rates" lists the job position description, cost per hour and the overtime cost per hour (Table VIII A). The second table for "Waste Transportation Charges" lists various drum sizes and costs per container (Table VIII B).
- **SUPPORTING DOCUMENTATION:** Section 10.7 of the Clean Harbors Contracts requires that, "when submitting requests for payment, all invoices must include all supporting documents."
- **SUSPENSION AND TERMINATION:** Article 8 of the Clean Harbors Contracts stipulates the circumstances whereby suspension or termination of the contract is warranted. In the event of "substantial failure" to perform, the City retains the right to terminate the contract in whole or in part.
- **AUDITS:** Section 6.1 of the Clean Harbor Contracts states that, "the Bureau reserves the right to audit any facility owned by the contractor or subcontractor which is used for any purpose under this contract. The contractor shall provide the Bureau with all assistance required to gain access to such a facility to perform an audit."

The Clean Harbors Contracts are for a term of three years and expire on May 11, 2011, thus, the remainder of the term is approximately 19 months. If modifications are required during the remainder of the term, such amendments will be subject to open, public discussion as well as review and approval by both the City Attorney and the Board of Public Works.

Clearly define PERFORMANCE Terms

Recommendations 2(a) – Clearly define the type and size of vehicles that should be utilized by the contractor at service locations.

The vehicles and transportation equipment, including costs, to be used by Clean Harbors are clearly defined in their contracts. Section 10.11 of the Clean Harbors Contracts indicates the various types and sizes of permissible vehicles and transportation equipment (See Table VIII E). These include, for example, flatbed trucks, roll-off trucks, vacuum trucks and others with capacities ranging from 500 to 6,000 gallons. Each of the named vehicles and sizes lists a corresponding cost per hour. Thus, there remains no ambiguity on the types and sizes of vehicles to be used by the contractor.

Recommendation 2(b) – Require the contractor to submit certificates of weight and concentration levels provided by the applicable disposal facility in lieu (or in addition to) measurements performed by the contractor.

Section 4.6 of the Clean Harbors Contracts states that, "the contractor shall provide original, accurate, and easy-to-understand invoice packages. Invoices must include, a copy of the task order, both regular and overtime labor rates by category or position description for travel, clean-up, loading of material onto transport vehicles, pumping, labeling, report preparation, and other necessary costs for responses requested by the Bureau." Thus, it is incumbent upon the contractor to submit all necessary supporting documentation before payments are disbursed.

Specifically, the contractor must submit, as part of the invoice, two types of documentation: the Hazardous Waste Manifest mandated by Federal and State law and the Disposal Facility Manifest. The Hazardous Waste Manifest, prepared at the pickup site and requires authorization and signature by both City and

contractor staff. The Disposal Facility Manifest is generated at the disposal facility and indicates the actual weight or volume of disposed materials. Combined, these two manifests provide the weight and volume information at pick-up and at disposal, thus, ensuring that measurements and subsequent payments are accurate.

Clearly Define PAYMENT Terms

In developing payment terms for this contract, clearly define the method for which billing will be determined to ensure the most favorable terms for the City.

Compensation, invoicing and payment terms are set forth in Article 10 of the Clean Harbors Contracts. The payment terms are consistent with the standard invoicing and billing procedures for DPW personal services contracts, all of which are subject to City Attorney review and Board approval prior to award.

The payment terms are clear, fair and in favor of the City's fiscal interests. As noted above, the terms outline stringent procedures for invoice submission and require that all supporting documentation, namely field activity logs and manifests, be submitted to the City prior to payment being issued. In addition, the provisions in Article 10 specify how hourly charges, itemized charges, subcontract charges, late charges and penalties are to be assessed.

The contracts were reviewed based on cost and proposer qualifications. The contracts were awarded to Clean Harbors because their proposal complied with all Federal and State Hazardous Waste regulations, the contractor was deemed reliable and reputable and they proposed services at the least ultimate cost to the City.

Recommendation 2(c) – Revising the billing criteria based on the standard utilized by the disposal facility (weight vs. volume) and clearly defining the method of conversion (if applicable).

The billing criteria set forth in the Clean Harbors Contracts is compatible with the standards of measurement utilized by disposal facilities. Most disposal facilities use two types of measurements: volume and weight.⁴ If the waste is liquid, then *volume* is the used. However, if the waste is solid, then *weight* is the proper form of measurement. Accordingly, contract section 10.11 contains seventeen pages of exhaustive compensation tables which dictate the cost of disposed waste based on either its volume or weight.

To eliminate the potential for cross contamination and/or extra volume charges, the contractor's tank/barrel/container must be cleaned and empty prior to servicing City requests. The contractor is required to provide a certified weight ticket to prove that the tank is cleaned (triple rinsed) and empty before picking up the DPW's waste. The contractor is prohibited from accepting additional loads from other users at any time while transporting the City's waste to the disposal facility. Upon arrival to the disposal facility, the net weight of the hazardous waste is measured and another certified weight ticket is issued. Based on those two certified weight tickets, the contractor submits its invoices and the Department issues payment for the amount of actual waste disposed.

Recommendation 2(d) – Revising the rate structure for service provided to ensure the best pricing for the City.

The rate structure under the old Express Contract was markedly different from that of the current rate structure under the Clean Harbors Contracts. As discussed in the response to Recommendation 2(b), the current rate structure for services provided under the Clean Harbors Contracts is based on a comprehensive set of cost tables to ensure the best pricing for the City.

⁴ For abandoned chemical waste pick-ups or illicit chemical discharge clean-ups, the costs are based on Compensation and Rate Schedules in both the routine and emergency contracts.

Recommendation 3(a) – To improve oversight of the contractors, BSS should consider requiring that service requests and schedules be initiated by City staff.

The Clean Harbors Contracts expressly indicate that all service requests and schedules shall be initiated by City staff. Section 4.3 states, “the contractor shall provide requested service within seven (7) calendar days of the initial request by the City”. Thus, all service requests and scheduling shall originate with City staff.

Recommendation 3(b) - Requiring City staff to confirm and document the service provided at each service location.

Under the current Clean Harbors Contracts City staff confirm and document all service provision. Under the Clean Harbors contract for *routine* disposal, the type and quantity of the waste is confirmed by City staff upon pick-up. However, under its contract for *emergency services*, the contractor, Clean Harbors, makes the initial assessment of the type and quantity of the waste. This initial assessment is later verified by City staff upon submission of invoices and all supporting documentation, namely the Hazardous Waste Manifests. All records of the Hazardous Waste Manifests are maintained by Departmental staff, the Contractor and each respective disposal facility.

V. MISCELLANEOUS CONTROLLER CONCERNS

The Controller’s report discusses other concerns which are neither findings nor recommendations. However, the DPW would like to proactively address these concerns. These concerns and the DPW’s course of action are detailed below.

Concern 1: DPW Staff who verify service provision by the vendor were not aware of the contractual requirements.

All Departmental staff vested with the responsibility for any type of contract management are regularly trained on applicable Federal and State regulations. This training is imperative because the technical components of waste management, e.g. its handling, bagging, transportation and disposal, must adhere to all Federal and State regulations.

Additionally, payment requests by any contractor are processed by DPW staff that are familiar with all of the contractual requirements related to the pricing and invoicing of the governing contract. Once processed, all payment requests are also reviewed by the DPW’s Office of Accounting and, subsequently, forwarded to the Controller for final review prior to payment.

Concern 2 : Internal auditing (spot checking) of Clean Harbors’ invoices and/or field work

DPW field staff supervise Clean Harbors’ work at each pickup site. Prior to affixing their signature on the Hazardous Waste Manifest, Department staff carefully check the manifest for accuracy and ensure that all waste is disposed of in compliance with Federal and State waste regulations. In addition, staff is also required to sign off on a Time Worksheet which documents the contractor’s actual time spent on-site.

As noted above, staff receives the contractor invoices with all supporting documentation and reconciles all weights, volumes and costs against the field staff copy of the Hazardous Waste Manifest and Time Worksheet to confirm the actual amount and type of hazardous waste that was picked up. Any deviations result in the rejection of the invoice. Such rejected invoices will remain unpaid unless and until all discrepancies are cured.

VI. CONCLUSION

The DPW would like to thank the Controller for identifying potential ways to strengthen the Department’s contractual oversight. This audit provides the DPW the opportunity to review and reassess its policies,

procedures, and practices to ensure that it continues to deliver excellence in service and contracting.

Thank you for your consideration of this response. We look forward to working with you to bring this audit to a close.

Sincerely,

A handwritten signature in black ink that reads "Cynthia M. Ruiz". The signature is written in a cursive style with a large initial 'C' and a distinct 'R'.

CYNTHIA M. RUIZ, President
Board of Public Works

CITY OF LOS ANGELES
CALIFORNIA

TONY M. ROYSTER
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ANTONIO R. VILLARAIGOSA
MAYOR

October 9, 2009

Honorable Wendy J. Greuel
Los Angeles City Controller
Room 300, City Hall East

Attention: Farid Saffar
Director of Auditing

2009 OCT 13 PM 2:15

**GENERAL SERVICES DEPARTMENT RESPONSE TO FINAL AUDIT REPORT –
PAYMENTS TO EXPRESS ENVIRONMENTAL CORP. FOR WASTEWATER PUMPING AND
DISPOSAL (CONTRACT NO. 57811)**

The Department of General Services (GSD) has received and reviewed your final audit report regarding possible overpayments for the City's Contract No. 57811, with Express Environmental Corp. The following is the response to your recommendation specific to GSD:

1. GSD agrees with this recommendation. As stated in the audit report, Contract No. 57811 is expired. However, GSD will review documentation for this contract and work with the City Attorney's Office to seek reimbursement from Express for any verifiable over billed amount.

Should you have any questions, please contact Curtis Watts at (213) 928-9546 or via email at curtis.watts@lacity.org

Tony M. Royster
General Manager and City Purchasing Agent
Department of General Services

cc: William A. Robertson, Director, Public Works/Bureau of Street Services

