



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Office of the Inspector General • 7833 Walker Drive, Suite 425 • Greenbelt, Maryland 20770

To: Patricia Colihan Barney, Executive Director
Joseph Zimmerman, Secretary-Treasurer
Anju Bennett, Corporate Policy & Management Operations Division Chief
Stacey Pearson, Purchasing Division Chief

From: Renee Kenney, CPA, CISA, CIA
Acting Inspector General

Renee M. Kenney

Date: November 29, 2017

Subject: Contract Riders – M. Arthur Gensler Jr. & Associates, Inc.
Management Advisory, CW-007-2018

Background

Commissioner Norman Dreyfuss, Montgomery County Planning Board, and Audit Committee Chair requested a review of the Maryland-National Capital Park and Planning Commission's (M-NCPPC or Commission) general procedures for awarding a bridge contract as well as a review of a pending bridge contract with M. Arthur Gensler Jr. & Associates, Inc. (Gensler).

A bridge contract is a contract used (i.e. piggyback) by the Commission, that was previously entered into by another governmental agency. It eliminates the need to complete a full competitively bid solicitation. The Commission's Purchasing Manual, Section 13-516, provides some guidance on the use of bridge contracts.

The pending bridge contract with Gensler involves a study of location alternatives for the Commission's Central Administrative Services (CAS), (i.e. Department of Human Resources and Management, Department of Finance, Office of the Chief Information Officer, Legal Department, Office of the Inspector General, and the Merit System Board). The pending bridge contract utilized an existing Contract with the Federal Government's General Services Administration (GSA).

I. General Procedures for Awarding a Bridge Contract

As mentioned previously, the Commission's Purchasing Manual provides some guidance on the use of bridge contracts. Per the Purchasing Manual:

- The price of the agreement must be examined and determined to be fair and reasonable.
- The Commission's anti-discrimination policy must be addressed.
- The terms and conditions for the Commission must be the same or better than the public agencies terms and conditions.
- Bridge contracts may only be used when the contract to be ridden was competitively bid or the item or service is a legitimate sole source purchase.

As part of this review, the Office of the Inspector General (OIG) requested a list of all bridge contracts issued within the last 12 months to determine the frequency of use, as compared to formal internal competitive solicitations. Unfortunately, the Purchasing Division was unable to provide this information as contract source selection methods are not currently tracked by the Purchasing Division. Note: This tracking feature should be available once the Commission implements the new Contract Management Module in the ERP Version 10 upgrade.

Subsequently, the OIG asked the Commission's Purchasing Division Chief to provide an overview of the internal control structure governing the use of bridge contracts to help ensure that this source selection method is not abused and supports the prudent use of public resources.

Per the Purchasing Division Chief, most importantly, the original contract must have been competitively bid and utilization of a bridge contract must be consistent with the policies and principles of public procurement.

To ensure that the Commission is getting the best value, the Purchasing Division examines and weighs the following items to determine if the use of a bridge contract is the preferred method of procurement over other contracting alternatives:

- copy of the original contract and all contract amendments;
- original solicitation document and all addendums;
- specifications to ensure that there is an equivalency between the product and/or services being sought;
- bid summary;
- selection justification; and
- cost and price analysis documenting the reasonableness of the price.

The Purchasing Division also takes other factors into consideration before approving the use of a bridge contract, such as:

- the departments motive for requesting a bridge contract;
- current market conditions;
- opportunities to engage minority, female, disabled (MFD) and/or small disadvantaged business; and
- required time-line for the procurement.

Finally, the Purchasing Division is implementing a form that the departments will have to submit when they are requesting bridge contract. This form will require information to ensure that a market analysis was done by the department and that the pricing is fair and reasonable. The form will be approved by a Department Head or their designee.

Findings and Recommendations

The OIG would like to provide the following recommendations to help mitigate inappropriate use of bridge contracts:

- 1) Track Sourcing Methods. Purchasing Division management should provide specific end-user requirements to the ERP version 10 upgrade team to allow for tracking of contract source selection methods. If this feature cannot be implemented, the Purchasing Division should define an alternative method for tracking. In addition, Purchasing Division personnel should implement internal procedures that require the periodic (e.g. every 6 months) review of sourcing methods to identify any questionable trends or outliers.
- 2) Finalize and promulgate the bridge contract form that is currently in development.
- 3) The Purchasing Manual provides limited guidance on the use of bridge contracts. The Purchasing Division should develop written procedures, for use by Commission departments, to help ensure all internal controls identified above, for the use of bridge contracts, are understood, implemented, and documented.

The OIG has discussed these recommendations with management. Management concurs with the recommendations.

OIG Conclusion - General Procedures for Awarding a Bridge Contract

Bridge contracts are a reasonable purchasing vehicle when used appropriately. They are utilized by many governmental agencies. Although the OIG did not identify any significant issues with the use of bridge contracts, the Commission's internal controls governing their use should be strengthened (see recommendations above).

II. M. Arthur Gensler Jr. & Associates, Inc. (Gensler)

Initial Executive Office Building Assessment (2014)

Most Central Administrative Services (CAS) Departments are currently located within the Executive Office Building (EOB), located at 6611 Kenilworth Ave., Riverdale, MD. Due to building deficiencies, the Commission entered into a task order contract with Environmental Management Group Corporation (EMG) in 2014. EMG specializes in real estate life cycle planning and management. Gensler is an engineering/architectural firm, and was a subcontractor on the project.

The original task order included four parts:

- 1) Assessment of Current Property Condition
- 2) Energy Assessment
- 3) Space Use Analysis
 - Phase 1 – Review of existing space use, required needs, and evaluation of potential options for redesign of available space.
 - Phase 2 - Future staffing, program, and operation needs.
 - Phase 3 - Identification of space design needs and associated costs for design and construction for EOB.
- 4) Consideration of Relocation Options

Parts 1 and 2 have been completed by EMG. Parts 3 and 4 were not fully carried out by EMG or Gensler. In November 2016, EMG issued an update to the feasibility study that was initiated in 2014. Gensler was subsequently utilized to complete a work performance index survey. Total paid to EMG and Gensler for work completed was \$5,500 and \$4,000 respectively.

Per Ms. Anju Bennett, Corporate Policy & Management Operations Division Chief, [REDACTED]

[REDACTED] EMG and the Commission came to a mutual understanding that it was not effective to continue with the project. Subsequently, the Commission terminated their contract with EMG and used internal resources, primarily located within the Department of Human Resources and Management (DHRM)¹, to complete additional analysis on the costs associated with purchasing or leasing space necessary to house CAS departments and/or required investments into the EOB.

¹ DHRM personnel do not have formal training in space use and/or space costing methods.

Issuance of Subsequent Task Order Fee Proposal to Gensler (October 5, 2017)

At the January 2017 Executive Committee meeting², Executive Director Patricia Barney stated that a committee, EOB Feasibility Work Group³ (work group), will be established to discuss what is important in location, building, etc. from M-NCPPC's viewpoint. The results of the committee's work were to be presented to the Commission throughout the project to obtain input and approval of decisions.

Also, at the January 2017 Executive Committee meeting, attendees discussed options for carrying out the original contract with EMG (2014). Ms. Barney and Ms. Bennett recommended the use of an outside firm skilled in space analysis, cost analysis, and commercial space options, as a supplement to DHRM's preliminary assessment. Attendees identified various consulting firms ([REDACTED]) that have completed similar governmental projects. Chair Anderson, Director Riley and Director Wright shared support for Gensler, due to Gensler's knowledge of the Commission and work on the Wheaton relocation project (Montgomery County Government).

The work group held their first meeting on March 15, 2017. Some of the discussion items included next steps of feasibility study, and utilization of architectural/engineering groups.

The work group provided an updated report to the Commissioners at the April 19, 2017 full Commission Meeting. A key take away from the Commission meeting was that the work group should obtain the Planning Boards' buy-in regarding the costs, square footage needs, and projections over the next 10 years.

The work group met the morning of June 21, 2017 (prior to the full Commission meeting). The work group discussed using salary lapse from the FY17 budget to fund consultant work, should the Commission give approval to move forward with more detailed relocation analysis.

At the June 21, 2017 Commission meeting, the work group requested approval to use salary lapse in the amount of \$140,000 for EOB critical repairs and the feasibility study. The request was approved.

At the July 19, 2017 Commission meeting, Ms. Barney and Ms. Bennett, provided a brief update on the feasibility project and the outcome of the analysis directed by the work group. Commissioner Geraldo recommended that additional costs for the EOB should be suspended, as the current analysis demonstrates that it would not be cost effective to stay. Commissioner Doerner agreed. Also at the July 19, 2017 Commission meeting, Commissioner Doerner recommended obtaining an outside consultant to provide

² Attendees: Chair Casey Anderson, Vice-Chair Elizabeth Hewlett, Executive Director, Patti Barney, Secretary-Treasurer, Joe Zimmerman, Mazen Chilet, Renee Kenney, Brian Coburn, Deidra Walker, Anju Bennett, Debra Borden, Ronnie Gathers, Boni King, Mike Riley, Gwen Wright.

³ Work Group Members: Executive Director Barney; Corporate Policy & Management Operations Division Chief, Bennett; Management Operations Manager, Dorsey; Commissioner Dreyfuss; and Chair Hewlett replaced by Commissioner Doerner.

feedback on the internal feasibility study to ensure all areas of concern were fulfilled. A motion for the work group to focus efforts on lease or purchase options to reduce overall costs and address workspace challenges at EOB, and to engage a consultant specializing in commercial office space similar to that conducted for the Wheaton and Prince George’s County Largo office moves was approved.

Due to conflict of interest concerns, the Commission determined that the use of a Broker to identify alternative locations was unacceptable. The use of a Broker may have resulted in lower project costs, but possible conflicts may have ensued in higher long-term costs, as there is a risk that a Broker may only present buildings/options under their management/listing, at the exclusion of other viable alternatives

Prior to issuing the Task Order Fee Proposal, the Commission obtained rates charged by Gensler for the Wheaton Project. The Wheaton Project rates are presented in a range. As the Wheaton Contract was executed in 2014, for comparison purposes, top of range should be considered, as the Commission is using option year four rates for the pending Gensler Contract.

	GSA Contract Option Year 4	Gensler Phase 1 Proposal	Gensler Rates Wheaton Project (2014)
Principal	\$215.24	\$215.24	\$225.00 - \$350.00
Project Manager	\$154.53	\$154.53	\$145.00 - \$250.00
Project Architect	\$126.94	\$126.94	\$95.00 - \$175.00
Intermediate Designer/ Interior Designer	\$104.00	\$104.00	\$95.00 - \$175.00

Based on the initial work completed by the work group and guidance by Department Heads, the Commission issued a Task Order Fee Proposal Request (Proposal) to Gensler (October 5, 2017). The Commission asked Gensler to submit their Proposal utilizing the General Service Administration (GSA) Contract #GS-11P-12-YA-0073GEN. [\(Please see Exhibit A\)](#)

The Proposal included two phases, 1) an assessment phase, and 2) purchase or lease relocation.

The assessment phase (Phase I) included the following tasks:

1. Review the preliminary findings and reports prepared by M-NCPPC staff to validate and confirm (or refine) the 10-year operating costs of the current configuration for CAS operations.
2. Prepare a space needs assessment for all CAS units and departments to produce a program of requirements (POR) for relocated and consolidated CAS.

3. Research properties for purchase or lease that could meet the space needs identified in the POR and that will be used as benchmarks to perform the cost-benefit analysis.
4. Provide a cost-benefit analysis of estimated 10-year costs of lease versus buy alternatives based on the identified properties.
5. Prepare an estimate of the revenue that could be generated by selling the EOB.
6. Prepare a final report summarizing the above tasks and comparing costs and benefits of alternatives, including location evaluations for the sites, estimated range of magnitude costs and estimated timelines.

The purchase or lease relocation phase (Phase II) included the following tasks:

- Develop and provide architectural and interior design services for new leased space or a new purchased building approved by the Commission.
- Prepare and deliver a draft report to Commission leadership.

Note: The Proposal stated, “Commission Phase II: Workspace Design Services may involve a separate competitive Solicitation for Services.”

Gensler Proposal (October 18, 2017)

Gensler’s proposal (Phase I) contained a detailed scope of work, addressing each of the tasks identified above, a project schedule, and a fee schedule. Gensler estimated total project costs of **\$152,050.84**. (Please see Exhibit B) Gensler agreed to the hourly rates quoted in the GSA Contract, option year four.

Pending Bridge Contract

The Commission has drafted Contract No. 380287 with M. Arthur Gensler Jr. & Associates. This is a bridge contract, with General Services Administration (GSA), Contract No. GS-11P-12-YA-D-0073GEN for Comprehensive Workplace Solutions and Services, based upon the Contractor’s response to a competitive solicitation.

Due to feedback received from Commission stakeholders, DHRM personnel have taken or will be taking the following additional steps to ensure the Proposal submitted by Gensler is cost effective and a reasonable use of public funds:

- Obtain feedback and guidance from Ms. Gwen Wright, Director, Montgomery County Planning Department, to determine if any of the tasks could be completed by her team and to request assistance in validating the costs for remaining at the EOB vs. the estimated costs for lease or purchase.
- Obtain feedback and guidance from Ms. Judie Lai, Project Manager for the Wheaton relocation project, Montgomery County Planning Department on Gensler’s performance, including Gensler’s quality standards.
- Conduct a follow-up meeting with Gensler to ensure a full understanding of all project requirements, with possible reductions (i.e. renegotiation) in hours for

researching available properties, final report issuance, presentation(s), and project administration.

- Enhance the pending Contract to require additional touch-points from Gensler to ensure billable hours can be linked to project performance.

Findings and Recommendations

The OIG would like to provide the following recommendation to help ensure the use of a bridge contract with Gensler for the EOB relocation project is cost effective and a reasonable use of public funds:

- 1) The four additional steps identified by Commission management (above) will help ensure the hours, tasks, and total costs included in the Proposal are reasonable. Management should ensure all of the steps are completed and the results of each are fully documented.

The OIG has discussed this recommendation with management. Management concurs with the recommendation.

OIG Conclusion - M. Arthur Gensler Jr. & Associates, Inc. (Gensler)

In summary, the OIG reasonably concludes, for the scope of work requested, the use of a bridge contract with Gensler, bridging the GSA contract, is a cost-effective procurement vehicle. It appears all requirements for a bridge contract (page 2) have been met. The original GSA Contract was competitively bid, the services requested from Gensler are equivalent to the services identified in the GSA Contract, and the Commission is completing a cost and price analysis documenting the reasonableness of the price.

In addition, the OIG reasonably concludes, based on the scope of work requirements of the Proposal, the administrative costs associated with the issuance of a formal, competitive solicitation would exceed the overall cost of the pending Bridge Contract.

We wish to express our appreciation to the Purchasing Division and Corporate Policy & Management Operations management and staff for the cooperation and courtesies extended during the course of our review.

cc: Executive Committee
Elizabeth Hewlett
Casey Anderson
Patricia Barney

Audit Committee
Dorothy Bailey
Norman Dreyfuss
Karen Tobat
Ben Williams

M-NCPPC
Adrian Gardner
Donna Calcote-Heatly
William Dickerson
Gwen Wright

Work Group
William Doerner

EXHIBIT A – GSA CONTRACT

GSA Solicitation/Contract

Scope of Work⁴: This Contract provides collaborative, turn-key, multidisciplinary approaches to accomplish the many tasks necessary to provide work environments that unite real property plans with GSA and customer agency strategic business goals.

Anticipated Services and Outputs (i.e. tasks):

- Building Analysis and Requirements Studies
 - Space Analysis Report
 - Building Analysis Report
 - Facility As-Built Drawings
- Special Data Validation
- Strategic Project Planning including Feasibility and Program Development Studies
 - The Feasibility Study defines a project's goals, scopes the customers' needs, assesses alternatives to satisfy both, and creates the "business case" for the project.
- Integrated Workplace Planning and Workplace Research
- Program of Requirements (POR) Development
- Design Management
- Specialized Services
 - Re-positioning and other Real Estate Studies
- Space Planning Services
- Interior Design Tasks
- Project Budget & Cost Estimating
- Construction Management
- Signage and Graphics
- Relocation Services/Post Move Services

Evaluation Factors: All other evaluation factors other than cost or price, when combined, are significantly more important than cost or price. However, as the technical rates become closer, price becomes more important. Cost or price will not be assigned a numerical weight, point score or adjectival rating. The Government will use cost or price analysis to evaluate the price proposal, not only to determine whether it is reasonable and realistic, but also to determine the Offeror's understanding of the work and ability to perform the contract.⁵

⁴ GSA – Section C – Description/Specifications/Work Statement

⁵ GSA – Section M – Evaluation Factors for Award of Base Contract

EXHIBIT B – Estimated Project Costs
Phase 1 - Gensler

Tasks	Hours	Cost
1 – Validate EOB operating costs (reports prepared by EOB personnel)	72	\$ 10,552.64
2 – Space Needs Assessment and Program of requirements (POR)	408	56,515.36
3 – Research Available Properties	68	10,309.76
4 – Cost-Benefit Analysis of Lease vs. Buy	122	19,129.16
5 – Estimate Sale of EOB	40	5,828.24
6 – Final Report	148	20,862.16
Presentations	112	16,954.56
Project Administration	<u>76</u>	<u>11,898.96</u>
TOTAL	1,046	\$152,050.84