



# City of Chattanooga

INTERNAL AUDIT

City Hall

Chattanooga, Tennessee 37402

Stan Sewell  
Director

Ron Littlefield  
Mayor

September 21, 2007

Honorable Ron Littlefield  
Mayor, City of Chattanooga  
City Hall  
Chattanooga, TN 37402

**RE: ISS Plant Contracted Services, Audit 07-05**

**Dear Mayor Littlefield:**

**Attached is the Internal Audit report on contracted services at the ISS Plant.**

**We thank the management and staff of the ISS Plant, Purchasing, and Finance for their cooperation and assistance during this audit.**

**Very truly yours,**

A handwritten signature in black ink, appearing to read "Stanley L. Sewell", written over a horizontal line.

**Stanley L. Sewell, CPA, CGFM  
Director of Internal Audit**

**cc: Dan Johnson, Chief of Staff  
Jerry Stewart, Waste Resources Director  
Artie Prichard, Acting Purchasing Director  
Daisy Madison, City Finance Officer**

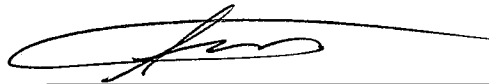
**ISS PLANT  
CONTRACTED SERVICES  
AUDIT 07-05  
July 25, 2007**

**ISS PLANT  
CONTRACTED SERVICES  
AUDIT 07-05**



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**Auditor**



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**Director**

**ISS PLANT  
CONTRACTED SERVICES  
AUDIT 07-05**

**INTRODUCTION**

The Interceptor Sewer System is comprised of four divisions: Liquid Handling, Solid Handling, Pump Stations, and Plant Maintenance. The Moccasin Bend Waste Water Treatment Plant is a major regional treatment facility that processes both liquids and solids in the wastewater twenty-four (24) hours per day and three hundred sixty-five (365) days per year. It is designed to treat one hundred forty (140) Million Gallons per Day with a peak hydraulic capacity of two hundred twenty (220) Million Gallons per Day. The ISS Plant purchases contracted services for items like construction services, lawn maintenances services, engineering services, electrical services, etc.

**STATEMENT OF OBJECTIVES**

The objective of this audit is to determine if:

1. ISS Plant contracted services were procured in compliance with the City Code.

**STATEMENT OF SCOPE**

IA specifically reviewed contracted service payments located in Organization Numbers E05300 through E05310 (Fund 5100). Fund 5100 covers the "Interceptor Sewer System." Listed below is a detail of Organization Numbers E05300 through E05310:

E05300	ISS Operations - Revenue
E05301	Administration
E05302	Laboratory
E05303	Engineering
E05304	Plant Maintenance
E05305	Sewer Maintenance
E05306	Moccasin Bend – Liquid Handling
E05307	ISS – Inflow/Infiltration
E05308	Safety & Training
E05309	Pretreatment/Monitoring
E05310	Moccasin Bend – Solid Handling

The audit period was FY06 (July 01, 2005 through June 30, 2006).

## **STATEMENT OF METHODOLOGY**

IA reviewed information from BANNER, Buyspeed, Purchasing Files, Warrant Vouchers, and Invoices to examine payments that were made related to ISS Plant contracted services and whether they were procured in compliance with City Code sections requiring competitive bidding and council approval. IA met with key personnel regarding the procurement of contracted services for the ISS Plant. IA also reviewed council minutes.

## **STATEMENT OF AUDITING STANDARDS**

We conducted our audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to afford a reasonable basis for our judgments and conclusions regarding the organization, program, activity, or function under audit. An audit also includes assessments of applicable internal controls and compliance with requirements of laws and regulations when necessary to satisfy the audit objectives. We believe that our audit provides a reasonable basis for our conclusions. In addition, we abide by the standards of professional practice established by the Institute of Internal Auditors.

## **AUDIT CONCLUSIONS**

Based upon the testwork performed and the audit findings noted below, we conclude that:

1. ISS Plant contracted services were not always procured in compliance with the City Code.

## **MISSING SUPPORTING DOCUMENTATION**

On October 29, 2002, the City Council adopted the records retention manual approved by MTAS (Municipal Technical Advisory Service) as the official records retention schedule of the City of Chattanooga (Resolution No. 23576). MTAS "Records Management for Municipal Governments" states that all pertinent bidding documentation must be retained for seven (7) years after the contract expires. It further states that contracts between the City and other contractors must be retained for seven (7) years after the contract is terminated. The legal authority/rationale for both of these items is Tennessee Code Annotated 28-3-109. IA found that some of the competitive bidding documentation that was supposed to be retained by the Purchasing Department was missing and could not be located. Bidding files were missing and could not be located for three (3) of fourteen (14) blanket orders that were tested. Specific guidance about services to be performed was not included in the bid file as support for two (2) of fourteen (14) blanket orders that were tested. Documentation to show that the item was advertised in a City newspaper at least 10 days prior to the public bid opening was not included in the bid file as support for one (1) of fourteen (14) blanket orders that were tested.

**RECOMMENDATION 1**

IA recommends that the Purchasing Department retain all necessary supporting documentation relating to competitive bidding and contracts in order to be in compliance with Resolution No 23576.

**AUDITEE RESPONSE (PURCHASING)**

We do keep our records for Seven (7) years on all contracts. We moved to new offices in May, and some of our files were misplaced but they are not missing. We are working on getting all our files to our new and making they are in order and in the right files.

**CITY COUNCIL APPROVAL NOT OBTAINED**

Section 2-551 of the City Code states, "Whenever any requisition or voucher or contract calls for the expenditure of more than ten thousand dollars (\$10,000.00), the issuance of a purchase order or the payment of a voucher, or the award of a contract shall be subject to the approval of the city council, and shall not be binding on or create any liability against the city until approved by the city council." Section 2-552 of the City Code states, "...purchases under ten thousand dollars (\$10,000.00) shall also be subject to advertisement and bids in the case of purchases of like items which individually cost less than ten thousand dollars (\$10,000.00), but which are customarily purchased in lots of two (2) or more, if the total purchase price of such items would exceed ten thousand dollars (\$10,000.00) during any fiscal year..." Twenty-eight (28) vendors received total payments that exceeded \$10,000 during FY06 for ISS Plant contracted services. Eleven (11) of these vendors received no City Council approval.

**RECOMMENDATION 2**

IA recommends that the Public Works department follow the policies and procedures outlined in the City Code in regard to purchases that exceed \$10,000 during the same fiscal year that require council approval.

**AUDITEE RESPONSE (WRD/ISS)**

Per the City Code section 2-551, "Whenever any requisition or voucher or contract calls for the expenditure of more than ten thousand dollars (\$10,000).....

Of the eleven (11) specified none of these vendors were ever paid more than \$10,000 on any requisition or voucher at one time. These were all individual jobs for service, repair, or service agreements not considered to be a lot of two or more. The guidelines that WRD/ISS had been following were the guidelines that had been laid out by the Purchasing Agent which considered each service an individual service, not a cumulative one. To which, no council approval was needed if each service provided was under \$10,000. Until the WRD/ISS received the directive on March 21, 2006 from Accounting, the WRD/ISS had never been told anything different or seen anything that has

contradicted the way the WRD/ISS was previously instructed to handle services or repairs.

**AUDITEE RESPONSE (PURCHASING)**

I agree with your recommendation that the department should follow the policies and procedures outlined in the City Code. Gene Settles is working on a policy and procedure manual that should be finished in the near future and this will be in the hands of every department and should cover this problem in more detail it will help Purchasing hold the department responsible for bids and contacts done outside of Purchasing. This should correct the problems.

**AUDITOR COMMENT (WRD/ISS RESPONSE)**

IA requested a copy of the instruction/policy/directive from WRD/ISS that provided the guidance for the way they were “previously instructed to handle services or repairs.” Per the Director of the WRD, this documentation could not be provided to IA because it was “verbal.” The fact that a directive from accounting was not received until March 21, 2006 is not a valid excuse to not be in compliance with policies/procedures that are outlined in the City Code. These eleven (11) vendors were providing the same services on multiple occasions to the City throughout FY06. Contracts for these services purchased from these eleven vendors should have been competitively bid and approved by the City Council in order for their procurement to have been in compliance with the City Code.

As mentioned previously, section 2-552 of the City Code states, “...purchases under ten thousand dollars (\$10,000.00) shall also be subject to advertisement and bids in the case of purchases of like items which individually cost less than ten thousand dollars (\$10,000.00), but which are customarily purchased in lots of two (2) or more, if the total purchase price of such items would exceed ten thousand dollars (\$10,000.00) during any fiscal year...”

The ISS Plant was purchasing these contracted services (like items) that individually cost less than \$10,000.00, but they were being purchased in lots of two or more and the total purchase price of these contracted services (items) did exceed \$10,000.00 during FY06 for all eleven (11) vendors.

WRD/ISS failed to obtain Council Approval for these purchased services for these eleven (11) vendors because they also failed to execute a written contract and also failed to competitively bid these purchased services that exceeded \$10,000.00 during FY06.

We reaffirm our finding and recommendation.

### **COMPETITIVE BIDDING NOT IN PLACE**

Section 2-552 of the City Code states, "...purchases under ten thousand dollars (\$10,000.00) shall also be subject to advertisement and bids in the case of purchases of like items which individually cost less than ten thousand dollars (\$10,000.00), but which are customarily purchased in lots of two (2) or more, if the total purchase price of such items would exceed ten thousand dollars (\$10,000.00) during any fiscal year." Twenty-eight (28) vendors received total payments that exceeded \$10,000 during FY06 for ISS Plant contracted services. Eleven (11) of these vendors did not have proper competitive bidding in place.

### **RECOMMENDATION 3**

IA recommends that the Public Works department follow the policies and procedures outlined in the City Code in regard to competitive bidding for purchases that exceed \$10,000 during the same fiscal year.

### **AUDITEE RESPONSE (WRD/ISS)**

Per the City Code section 2-552, "..... purchases of like items which individually cost less than ten thousand dollars (\$10,000), but which are customarily purchased in lot of two (2) or more, if the total purchase price would exceed ten thousand dollars (\$10,000) during a fiscal year."

After receiving the directive from Accounting on March 21, 2006, the WRD/ISS evaluated all services which had been used to see if it would be possible to get labor rates for these types of services to comply with this code. The WRD/ISS was able to bid out and award seven (7) contracts for various services before FY 06/07. Of the four (4) that were left, the WRD/ISS offers the following explanations:

1. Service (McGinnis Brothers) – The WRD/ISS is currently awaiting a City Wide plumbing contract that Purchasing been planning to generate. The need for plumbing services is usually on an expedient basis dealing with issues relating to damage to homeowners' service lines. The WRD/ISS will proceed with generating the specifications and bidding a plumbing services contract for its use r instead of waiting on a City Wide contract.
2. Service (Perkin Elmer) – This is for two (20 separate service agreements during the year for two (2) different pieces of equipment whose service agreement dates are not the same. This is the only vendor that can be used to work on this specialty equipment for the Laboratory. Neither of these payments individually exceed \$10,000 and could not be consider two or more lots.
3. Service (Professional Concrete) – This is a minority owned business that has been used for raising manholes by the Engineering Division. The WRD had to get manholes raised quickly on Tennessee Avenue to St. Elmo to 47<sup>th</sup> Street. This



requirement was due to a previously unknown change in TDOT policy requiring utilities to adjust their own structures in the TDOT right-of-way before and after a road has been repaved. TDOT did not give the City sufficient notice that paving was going to be occurring in these areas for the WRD/ISS or Engineering to have time for quotes or bidding. Contracts for these services have since been developed by Engineering to avoid these issues.

4. Service (Eco-Tech) – This was for repairs made to several different valve actuators for the same manufacturer around the plant and at various pump stations. The WRD investigate if the vendor can supply a labor charge and generate a contract for this type of repair service. It would be a sole source.

Of the eleven (11) vendors used, all of the services were different and independent of each other and there was not an individual “voucher or requisition” that was over the \$10,000. This was the normal practices as relayed from the Purchasing Agent at the time.

#### **AUDITEE RESPONSE (PURCHASING)**

We are working with the departments on getting more contracts in place by competitive that are repetitive purchased during the year.

#### **AUDITOR COMMENT (WRD/ISS RESPONSE)**

IA requested a copy of the directive to support the statement, “This was the normal practices as relayed from the Purchasing Agent at the time.” Per the Director of the WRD, this documentation could not be provided to IA because it was “verbal.” The fact that a directive from accounting was not received until March 21, 2006 is not a valid excuse to not be in compliance with policies/procedures that are outlined in the City Code. As mentioned in the previous Auditor Comment, each of these eleven (11) vendors were providing the same services on multiple occasions to the City throughout FY06. The City Code considers the same service that is provided over and over throughout the course of a fiscal year to be a lot of two or more. Competitive bidding should have been in place for the services that were purchased from these eleven (11) vendors during FY06.

As mentioned previously, section 2-552 of the City Code states, “...purchases under ten thousand dollars (\$10,000.00) shall also be subject to advertisement and bids in the case of purchases of like items which individually cost less than ten thousand dollars (\$10,000.00), but which are customarily purchased in lots of two (2) or more, if the total purchase price of such items would exceed ten thousand dollars (\$10,000.00) during any fiscal year...”

The ISS Plant was purchasing these contracted services (like items) that individually cost less than \$10,000.00, but they were being purchased in lots of two or more and the total purchase price of these contracted services (items) did exceed \$10,000.00 during FY06 for all eleven (11) vendors.

The following is a detailed list of the total amount paid and description of services provided to these eleven vendors during FY06 for ISS plant contracted services:

1) McGinnis Brothers Construction -Installed Sewer Equipment	\$33,397.05	(12 Payments)
2) Alpha Valves & Instruments -Repaired Equipment	\$35,670.06	(11 Payments)
3) Engineering & Sheetmetal -Fabricated Parts/Materials	\$10,855.35	(4 Payments)
4) Professional Concrete -Manhole Adjustments	\$22,074.84	(3 Payments)
5) Perry's Painting -Painting Services	\$18,568.30	(6 Payments)
6) East Tech Company -Fabricated Parts/Materials	\$44,376.00	(13 Payments)
7) Chatt Armature Works -Repaired Pumps/Motors/Valves	\$24,191.60	(11 Payments)
8) R&R Environmental -Cleaning Services	\$19,125.00	(7 Payments)
9) Amtec Surveying -Inspection/Survey Services	\$16,889.60	(2 Payments)
10) Eco-Tech, Inc. -Repaired Equipment	\$25,653.00	(4 Payments)
11) PerkinElmerLAS Inc. -Service Agreements	\$23,856.00	(3 Payments)

The following relates to the 4 vendors that the WRD/ISS specifically mentioned above:

**McGinnis Brothers**

This service is "customarily purchased" in lots of 2 or more during the year in amounts that exceed \$10,000.00. McGinnis Brothers was paid \$36,737.30 during FY05 and \$33,397.05 during FY06 for services performed (related to the ISS Plant). Competitive bidding should occur annually for these services since the WRD/ISS has a reasonable expectation that over \$10,000.00 of these services will need to be procured each fiscal

year. If a contract for these contracted services were in place, it would eliminate the need to procure any of these services in "expedient" or emergency situations.

**PerkinElmerLAS**

The following is a detail of payments made to PerkinElmerLAS for WRD/ISS services during FY06:

Amount	Payment Date	Item Purchased
\$ 8,784.00	7/13/05	Service Agreement
\$ 5,604.00	7/21/05	Service Agreement
\$ 9,468.00	6/21/06	Service Agreement
\$23,856.00	<i>TOTAL</i>	

The WRD/ISS clearly stated that these purchases were for two separate service agreements during the year for two different pieces of equipment whose service agreement dates are not the same. This indicates that the WRD/ISS purchased these like items which individually cost less than \$10,000.00 (see payments above) in lots of two or more and the total purchase price of these items exceeded \$10,000.00 (see payment total above) during FY06.

**Professional Concrete**

The following is a detail of payments made to Professional Concrete for WRD/ISS services during FY06:

Amount	Payment Date	Item Purchased
\$ 9,233.00	7/22/05	Manhole Adjustment Frame & Covers
\$ 8,138.00	8/3/05	Manhole Adjustment Frame & Covers
\$ 4,703.84	12/5/05	Lowering of Manhole & Adjusting Frame Covers
\$22,074.84	<i>TOTAL</i>	

As indicated above, payments for these manhole adjustments were made in July 2005, August, 2005, and December 2005. The \$10,000.00 threshold for FY06 was met on 8/3/05 when the payment of \$8,138.00 was made to Professional Concrete. If this was an emergency purchase as implied by the WRD's previous statement that "The WRD had to get manholes raised quickly..." then it should have been reported to the City Council as an emergency purchase per Section 2-543 of the City Code.

## **Eco-Tech**

The following is a detail of payments made to Eco-Tech for WRD/ISS services during FY06:

Amount	Payment Date	Item Purchased
\$ 8,820.00	10/31/05	Repair 2 Actuators at MBWWTP
\$ 7,912.00	11/14/05	Repair 2 Actuators at MBWWTP
\$ 8,654.00	12/13/05	Repair 2 Actuators at MBWWTP
\$ 267.00	12/30/05	Wet Weather Clarifier EIM Worm Gear Repair
<b>\$25,653.00</b>	<b>TOTAL</b>	

As indicated above, payments for these actuator/clarifier repair services were made on four different dates during FY06. This indicates that the WRD/ISS purchased these like items which individually cost less than \$10,000.00 (see payments above) in lots of two or more and the total purchase price of these items exceeded \$10,000.00 (see payment total above) during FY06.

If a contract is able to be generated for these repair services, it must be competitively bid at least once – even if it is expected to be a sole source purchase. Section 2-552 of the City Code requires any requisition or voucher or contract over \$10,000 to be publicly advertised for competitive bids.

We reaffirm our finding and recommendation.

## **VENDORS WITHOUT CONTRACTS**

Section 2-548(a) of the City Code states, "...Contracts for construction, services and all other contracts shall be signed for and on behalf of the city by the purchasing agent or the head of a department, agency or division of the city where the contract originates, or as otherwise provided by ordinance or resolution." Section 2-559 of the City Code states, "No warrant shall be approved for the payment of any contract of the city unless provisions of this article shall have been complied with and unless the original of the contract is on file with the city finance officer and the minutes of the city council show that the contract has been ratified or approved by the board where necessary." Twenty-eight (28) vendors received total payments that exceeded \$10,000 during FY06 for ISS Plant contracted services. These twenty-eight vendors appear to have provided services where written contracts would be expected. Written contracts were not present for eleven (11) of these vendors.

## **RECOMMENDATION 4**

IA recommends that the Public Works Department take the steps to ensure that a written contract is in place with all vendors that receive over \$10,000 during the same fiscal year.

**AUDITEE RESPONSE (WRD/ISS)**

As soon as the WRD/ISS was notified by Accounting on March 21, 2006 that the Division needed competitive bidding for repairs and services, the WRD/ISS began getting as many of these contracts in place as soon as possible following the normal Purchasing procedures. The WRD/ISS has been working with Purchasing and other Departments to try to get any other contracts that may need to be used City Wide out for bid and on contracts.

Again, from the WRD/ISS understanding of the policy, the WRD/ISS did not know that it was in any violation for these vendors. No individual payment on a voucher or requisition was over \$10,000.

**AUDITEE RESPONSE (PURCHASING)**

We are working with the departments on getting more contracts in place by competitive that are repetitive purchased during the year.

**AUDITOR COMMENT (WRD/ISS RESPONSE)**

The fact that a directive from accounting was not received until March 21, 2006 is not a valid excuse to not be in compliance with policies/procedures that are outlined in the City Code. As mentioned in the previous Auditor Comments, each of these eleven (11) vendors were providing the same services on multiple occasions to the City throughout FY06. The City Code considers the same service that is provided over and over throughout the course of a fiscal year to be a lot of two or more. Written contracts should have been in place for the services that were purchased from these eleven (11) vendors during FY06.

As mentioned previously, section 2-552 of the City Code states, "...purchases under ten thousand dollars (\$10,000.00) shall also be subject to advertisement and bids in the case of purchases of like items which individually cost less than ten thousand dollars (\$10,000.00), but which are customarily purchased in lots of two (2) or more, if the total purchase price of such items would exceed ten thousand dollars (\$10,000.00) during any fiscal year...."

The ISS Plant was purchasing these contracted services (like items) that individually cost less than \$10,000.00, but they were being purchased in lots of two or more and the total purchase price of these contracted services (items) did exceed \$10,000.00 during FY06 for all eleven (11) vendors.

Since these (11) eleven purchases required competitive bidding (per Section 2-552 of the City Code) and council approval (per Section 2-551 of the City Code), they also required written contracts (per Section 2-548(a) and Section 2-559 of the City Code).

We reaffirm our finding and recommendation.

## **VENDORS PAID OVER \$10,000 PRIOR TO COUNCIL APPROVAL**

IA found that three (3) vendors received over \$10,000 in payments from the City during FY06 prior to the City awarding blanket contracts to those vendors later during FY06.

### **RECOMMENDATION 5**

IA recommends that the Public Works Department abide by the policies/procedures outlined in the City Code in regards to competitive bidding and council approval when payments for like items to the same vendor will exceed \$10,000 during the same fiscal year (See above - Recommendation 2 and Recommendation 3).

### **AUDITEE RESPONSE (WRD/ISS)**

See response above – These are three (3) vendors that the WRD/ISS secured contracts for:

1. Jake Marshall – Council Approval was awarded on 2/14/06
2. Water Environmental Consultants – Council Approval was awarded on 5/23/06 (This was the only bidder so it had to be rebid. This was the cause for the delay). This service is unique.
3. Analytical Services – This vendor was being used because WRD/ISS began testing required by TDEC and EPA to support its biosolids land application program. The WRD/ISS was only aware of two (2) labs that do the testing -- one in California and one in New England. The WRD/ISS went with the one in New England because it was closer and came highly recommended. These are time sensitive biological tests. The samples have to be sent overnight. When the March 21, 2006 directive came out, the WRD/ISS asked for clarification on this type of service to see if had to be competitively bid. When it was determined that it should be, then the WRD/ISS sent specifications to Purchasing for bid. Council Approval was on 6/20/06.

Again, from the WRD/ISS understanding of the policy for services, the WRD/ISS did not know that it was in any violation of purchasing procedures for these vendors. No individual payment on a voucher or requisition was over \$10,000.

### **AUDITOR COMMENT**

The fact that a directive from accounting was not received until March 21, 2006 is not a valid excuse to not be in compliance with policies/procedures that are outlined in the City Code. The WRD/ISS did not utilize competitive bidding or obtain council approval for these three vendors in FY06 until after contracted service payments made to these vendors exceeded \$10,000.00.

The following tables list payments made to Jake Marshall LLC, Water Environmental Consultants, and Analytical Services for ISS Plant Contracted Services during FY06 prior to council approval was obtained:

**Jake Marshall, LLC (approved by council on 2/14/06)**

Payment Amount	Payment Date
\$ 1,462.00	09/02/05
\$ 5,795.00	12/30/05
\$ 5,795.00	01/23/06
\$ 300.00	02/06/06
<b>\$13,352.00</b>	<b>TOTAL</b>

**Water Environmental Consultants (approved by council on 5/23/06)**

Payment Amount	Payment Date
\$ 2,890.00	08/04/05
\$ 2,040.00	08/17/05
\$ 3,740.00	09/09/05
\$ 3,740.00	09/30/05
\$ 2,980.00	10/04/05
\$ 2,890.00	10/06/05
\$ 2,380.00	10/24/05
\$ 2,380.00	11/14/05
\$ 3,400.00	12/05/05
\$ 3,187.50	12/13/05
\$ 2,762.50	12/30/05
\$ 1,402.50	02/10/06
\$ 2,000.00	02/28/06
\$ 2,400.00	03/15/06
\$ 2,400.00	04/07/06
\$ 925.00	04/26/06
\$ 625.00	05/09/06
<b>\$42,142.50</b>	<b>TOTAL</b>

**Analytical Services (approved by council on 6/20/06)**

Payment Amount	Payment Date
\$ 850.00	08/04/05
\$ 1,700.00	08/17/05
\$ 1,700.00	09/26/05
\$ 1,700.00	10/24/05
\$ 850.00	11/14/05
\$ 3,815.00	12/30/05
\$ 1,700.00	02/02/06
\$ 1,700.00	02/28/06
\$ 4,030.00	04/03/06
\$ 895.00	04/26/06
\$ 895.00	05/16/06
\$ 1,790.00	05/19/06
<b>\$21,625.00</b>	<b>TOTAL</b>

Jake Marshall LLC received \$13,352.00 for ISS Plant contracted services in FY06 prior to their blanket contract being approved by the City Council on 2/14/06 (see payment detail listed in table above). Water Environmental Consultants received \$42,142.50 for ISS Plant contracted services in FY06 prior to their blanket contract being approved by the City Council on 5/23/06 (see payment detail listed in table above). Analytical Services received \$21,625.00 for ISS Plant contracted services in FY06 prior to their blanket contract being approved by the City Council on 6/20/06 (see payment detail listed in table above). We reaffirm our finding and recommendation.

**SOLE SOURCE PURCHASES MADE WITHOUT COMPETITIVE BIDDING**

Section 2-552 of the City Code requires any requisition or voucher or contract over \$10,000 to be publicly advertised for competitive bids. Section 2-552 states, "secondhand equipment or specialized equipment or equipment purchased from any federal, state or municipal agency, where it is not practicable to take bids, may be purchased without taking bids..." Section 2-552 goes on to say that these purchases must still be approved by the City Council if they exceed \$10,000. Purchasing allowed sole source purchases (that exceeded \$10,000) from Cues, Inc., and OPS Systems to be made without public advertisement/competitive bidding. IA noted that these purchases were not subject to the public advertisement/competitive bidding exemption. This is a violation of Section 2-552 of the City Code.

**RECOMMENDATION 6**

IA recommends that Purchasing adhere to the City Code for all purchases (including sole source purchases) that are made in the future. IA also recommends that the Purchasing Department develop adequate written policies/procedures that are in agreement with all aspects of the City Code.



### **AUDITEE RESPONSE (PURCHASING)**

Purchasing always advertised and get competitive bid for any Sole Source Purchase if it is over \$10,000. We also get Council Approval. The only time we do not is if it is on the State Contract and then we still get Council Approval. We have never ok for any department to purchase something on a Sole Source without advertising and bidding.

### **AUDITEE RESPONSE (WRD/ISS)**

Although, this is a response requested for Purchasing. The WRD/ISS would like to add its comments. The WRD/ISS disagrees with the statement "..... these purchases were not subject to the public advertisement/competitive bidding exemption.

Tennessee Code 6-56-304 Advertisements and bids; exemptions (2) states "..... because of the existence of a single source of supply or because of a proprietary product..."

1. OPS is a proprietary product. – There is no other software that would link these three packages together (Laboratory, Operations and Pretreatment). Bidding this would have caused the WRD to change all three (3) programs which was not cost effective. The WRD staff reviewed this purchase through the normal purchasing before entering into the contract
2. Cues is a sole source supplier. – They are the manufacturer and distributor of this equipment. All equipment currently owned is Cues equipment which makes all parts interchangeable and these parts are already in stock. Also, Item No. 4 of the PO goes to W630 which is a Cues vehicle that WRD/ISS already owned and was being upgraded. No other vendor can supply this.

This is in accordance to the definitions of "Sole Source and Single Source" Purchasing Procedures as addressed by Mr. Gene Settles in a Jan 6, 2004 memo.

### **AUDITOR COMMENT (WRD/ISS RESPONSE)**

The finding and recommendation clearly address a problem with the Purchasing Department's written policies and procedures. Specifically, the fact that they are not consistent with the City Code. Thus, the finding was directed solely to the Purchasing Department. Although the WRD/ISS response does not appear to address this issue, we have included it in this report and will make the following comment. TCA 6-56-304 is irrelevant in this instance because the City Code requires Sole Source/Single Source Purchases to be competitively bid at least once unless they meet one of the few exemption criteria (detailed in the above finding). Internal Policies and procedures should be followed unless they violate a City, State or Federal law, the City Code should be followed unless it violates a State or Federal Law, etc. We reaffirm our finding and recommendation.

## **LACK OF SUPPORTING DOCUMENTATION FOR BID OPENINGS**

Section 2-553 of the City Code requires bids to be opened publicly on a specified date/time. Based on our review of purchasing files and discussions with purchasing department staff, IA learned that there is no written policy/procedure that requires a bid opening sign in sheet to be retained. IA noted that some of the files that were reviewed did include bid opening sign in sheets that were dated as well as signed by each person in attendance. Without evidence to support that all bids were opened publicly on the specified date/time, it is impossible to ensure that purchasing is in compliance with Section 2-553 of the City Code.

### **RECOMMENDATION 7**

IA recommends that the Purchasing Department develop written policies/procedures requiring sign off on all bid opening sheets and retain this documentation as evidence for each bid opening.

### **AUDITEEE RESPONSE (PURCHASING)**

We have a set time for bid to be open. It is 2:00 PM Tuesday thru Thursday. They are opened in the Purchasing Conference Room. We invite the departments to attend. We do have sign in sheets. Bids are advertised with the date and time of bid open. We will make sure that all information is in the bid folder before it is filed. Gene is working on Policies and procedures manual as stated above to solve some of the problems. In the past departments have been given the authority to purchasing on their own without purchasing knowledge.