

To: Supervisors Yee, Breed, Peskin and Erica Major

From: Jerry Dratler, Member 2014/2015 Civil Grand Jury

Subject: January 14, 2016 GAO Committee follow up on Civil Grand Jury report- "S.F.'s City Construction Program: It Needs Work", recommendations six, eight and nine.

Date: January 12, 2016

### Finding and recommendation number six

**Finding 6-** The variety of construction projects in the City creates a mismatch between the design and engineering skills required for current projects and the skills of the staff, resulting in duplicate labor costs when outside firms are retained and excess capacity when there is a decline in construction activity.

**Recommendation 6-** The BOS should request BLA or CSA to benchmark the City's design and engineering workforce organizational structure against comparable cities and issue a report within a reasonable timeframe.

The city employs, architects, engineers, project managers and system and clerical employees to manage construction projects along with outside contractors.

- Approximately 71% of the citywide, 1,324 construction employees, are in two of the six City departments with construction authority. The two departments are DPW (40%) and the PUC (31%).

The level of City construction expenditures rises during good economic times and declines when the economy is weak.

- Also, there is great variety in the type of construction projects the City undertakes over time. San Francisco recently completed two major hospital construction programs so it is not likely that the City will continue to need as many employees with hospital construction skills in the future.
- When staffing resources are allocated across six City departments with construction authority it is inevitable that there will be a mismatch between the dedicated resources in one department vs. the department's resource requirements based on their current list of projects.
  - Departments will have an abundance or scarcity of the specific skills that are needed in the short-term.
  - This scarcity or abundance can be reduced if all of the design and engineering human resources are in a single City department.
- Also, each of the six city departments utilizes different operating procedures and information systems for managing construction projects. These operational and system differences

would be eliminated if the City were to centralize construction management. The elimination of these departmental differences would enable the City to produce citywide consolidated construction reports.

- Other cities structure their construction departments differently; they may centralize the staff or use more contract employees.
  - The Civil Grand Jury lacked the time and expertise to benchmark San Francisco's construction staffing structure against other cities and recommends that the BOS request the BLA or the CSA to benchmark the City's design and engineering workforce organizational structure against comparable cities and issue a report within a reasonable timeframe.

### The City's response to finding six and recommendation six and the response of the Civil Grand Jury:

- City response to finding 6- Disagree with finding, partially. The City relies on Public Works to maintain a broad professional skillset across multiple engineering, architectural, and professional disciplines in order to perform a wide range of architectural, engineering, and construction services for many City agencies, including the Library, SFPD, and SFFD. Accordingly, Public Works staff maintain an extensive range of in-house design and engineering skills. The use of consultants gives the department flexibility to meet the needs of client departments and meet peak demands without the need to increase its staff and overall project costs.
  - CGJ response- It is unclear what part of the finding the City disagrees with. In the City's response to recommendation 6 the City acknowledges the benefit of a benchmarking analysis but only addresses the staffing in DPW, one of the six City Departments with Construction authority and 40% of the citywide 1,324 city employees working on construction projects.
- City response to recommendation 6- The recommendation requires further analysis. A benchmarking analysis could provide important and helpful insight into best practices for how to improve the organizational structure of the City's design and engineering workforce, and merits further consideration. As the Office of the Controller's City Services Auditor prepares its work plan, a benchmarking report will be considered, but must be weighed against other requests for that office's resources. The departments participating in this response defer to the Board of Supervisors with respect to involvement of the Board's Legislative Analyst, and the Office of the Controller will consult with the Board regarding which, if any, office performs the analysis.
  - CGJ response- The City agrees that a benchmarking analysis could provide important and helpful insights into best practices. What additional analysis is required and when is the further analysis scheduled to be completed?

The CGJ recommends the GAO Committee prepare a written request for the CSA to prepare the benchmarking analysis and send a copy of the request to the Citizens General Bond Obligation Oversight Committee which has oversight over the operation of the CSA and input into the annual work plan of the CSA. The CSA routinely under spends its annual budget by \$3 million so funding should not be an obstacle to receiving the

requested benchmarking analysis. CGOBOC has a mandate to ensure transparency and efficiency in the expenditure of general obligation bond expenditures.

### Finding and recommendation number eight

**Finding 8-** The City does not have an independent management group reviewing citywide construction performance reports and monitoring adherence to change orders and construction contract close out policies and procedures.

**Recommendation 8-** Within a reasonable timeframe, the BOS should either request the CSA or BLA, or retain an outside firm, to benchmark the independent construction management structure of other cities and develop recommendations applicable to San Francisco.

- City Commissions are not independent of the departments they oversee; they approved the initial capital expenditure request.
  - DPW does not have a commission reviewing its 535 construction projects with a budgeted cost of \$5.7 billion dollars.
- I served two years on the Citizen's General Obligation Bond Oversight Committee (CGOBOC) and we meet six times a year and each meeting lasted about 2.5 hours. We spent about 15 hours a year in meetings where we reviewed presentations on hospital projects, fire stations, police stations, the new Public Safety Building and road projects, Recreation and Park Projects, Port Projects and Library projects. We sat through a lot of presentations and tried to ask probing questions but we did not exercise meaningful oversight over the City's construction expenditures funded with general obligation bond proceeds. Meaningful oversight over the City's vast portfolio of construction projects is a full time job and CGOBOC only reviews general obligation bond funded projects.
  - There is a need to set up an independent commission of trained full time employees who review all construction projects. Los Angeles has this type of program.

The BOS plays no role in the approval, ongoing reporting or oversight of any construction project. The jury was told that the BOS was not given a role in approving construction contracts to prevent politicizing the process. However, the failure of the BOS to exercise regular oversight over citywide construction spending should be examined. The CGJ cannot find any reason why the BOS should not exercise oversight authority after a contract has been awarded. A Budget Legislative Analyst (BLA) audit noted the inconsistency in the BOS's role regarding professional service contracts and construction contracts.

- Construction contracts are not subject to BOS oversight, whereas professional services contracts over \$10 million do require BOS approval and the BOS must approve non-construction change orders greater than \$500,000.

Several BLA recommendations address the oversight issue, the most important recommendation, and the one with which the CGJ is in total agreement is:

The Board of Supervisors should request that all City departments maintain contract information in a uniform manner, recording original contract amounts, each change order and change in contract value, and final contract amounts, to be summarized and regularly reported to the Board of Supervisors.

The lack of BOS oversight of all City construction contracts and the lack of independent oversight of DPW department construction projects needs to be remedied.

### **The City's response to finding eight and recommendation eight and the response of the Civil Grand Jury:**

- City response to finding 8- None
  - CGJ response- It would be helpful to understand why the Mayor and Controller did not agree or disagree with finding 8.
- City response to recommendation 8- The recommendation requires further analysis. This recommendation overlaps with recent and existing work of a workgroup of Chapter 6 departments. Legislation modernizing Chapter 6 went into effect August 1, 2015 after more than a year of collaboration. The next round of changes, including a shared database to track contractor performance, is being discussed now with a goal of implementation by summer 2016. However, a benchmarking analysis could provide important and helpful insight into best practices for how to improve the City's independent construction management structure, and will be considered. As the Office of the Controller's City Services Auditor prepares its work plan going forward, a benchmarking report will be considered, but must be weighed against other requests for that office's resources. The departments participating in this response defer to the Board of Supervisors with respect to involvement of the Board's Legislative Analyst, and the Office of the Controller will consult with the Board regarding which, if any, office performs the analysis.
  - CGJ response- The CGJ recommendation is for oversight that is independent of the influence of the six City departments with construction authority and City commissions.

The Mayor and the Controller agree that a benchmarking analysis could provide important and helpful insights into best practices. What additional analysis is required and when is the further analysis scheduled to be completed?

The CGJ recommends the GAO Committee prepare a written request for the CSA to prepare the benchmarking analysis and send a copy of the request to the Citizens General Obligation Bond Oversight Committee which has oversight over the operation of the CSA and input into the annual work plan of the CSA. The CSA routinely under spends its annual budget by \$3 million so funding should not be an obstacle to receiving the requested benchmarking analysis. CGOBOC also has mandates to ensure general obligation bond funded expenditures are proper and to promote transparency and efficiency in City government spending.

## Finding and recommendation number nine

**Finding 9-** San Francisco City departments do not issue final reports on construction projects that are readily available to its citizens.

**Recommendation 9-**The BOS should require each City department to issue final project construction reports within nine months of project completion for all construction projects and for the reports to be posted on each department's website.

Access to information on individual construction projects is not currently possible, because there are no final reports issued for each completed construction project which report original budgeted project cost and actual project cost as well as key performance indicators like the actual number, type and cost of project change orders. Other cities produce reports and/or maintain websites that provide detailed information on construction projects.

The current situation where there are no citywide construction reports that compare actual project spending to original budget for completed projects violates both common sense and basic good management practice. Allowing the current situation to continue when the majority of the \$25 billion ten-year Capital Plan spending is for construction is unacceptable. The people of San Francisco deserve the tools to monitor construction spending that is funded by bonds the voters were asked to approve.

### **The City's response to finding nine and recommendation nine and the response of the Civil Grand Jury:**

- City response to finding 9- **Disagree with finding, partially.** The Jury is correct that City departments do not issue final reports on all construction projects when complete. City departments do, however, report on projects especially those funded via the General Obligation bond program, which includes mandatory reporting procedures before, during, and after construction. In addition, Chapter 6 departments must prepare closeout and acceptance documents that must be executed per Administrative Code Section 6.22(k). All reports prepared under these regulations are posted online and publicly available.
  - CGJ response- The City agrees that City departments do not issue final reports on all construction projects when the projects are completed. Street, Library and Recreation and Park construction projects funded with general obligation bonds do not report on individual library, park or street projects and the available reports are not easily accessible to San Francisco citizens. There are many city construction projects funded with non-general obligation bond funds. Why should the source of a construction project's funding determine if a final report is available to the citizens of San Francisco?

- City response to recommendation 9- This recommendation will not be implemented because it is not warranted. This recommendation is directed specifically to the Board of Supervisors. However, the responding departments welcome further discussion regarding final construction reports should the Board of Supervisors choose to pursue this recommendation. It should be noted, however, that pertinent budget and schedule information is provided in various forms to staff and budget oversight bodies. As per Administrative Code Section 6.22(k), Chapter Six departments must prepare and execute closeout and acceptance documents. Upon presentation to oversight bodies (including the Citizens' General Obligation Bond Oversight Committee, the Recreation and Park Commission, Port Commission, Airport Commission, Public Utilities Commission, and the Municipal Transportation Agency Board of Directors) this information is posted online and made available to the public.
  - CGJ response- The City agrees with the finding that it does not produce and issue a final report on all construction projects. Making "budget and schedule" information to staff and budget oversight bodies is not the same as providing the information to San Francisco taxpayers. This finding and recommendation addresses the role of government to serve its citizens and the need for open and transparent government. Why are the Mayor and Controller against producing a final report of the actual spending for all construction projects and making the report available to San Francisco citizens?
  - The City's response addresses budget and schedule information but not actual expenditures. The City has a history of failing to deliver construction projects on budget and the CGJ believes that making this problem more visible through the issuance of final project reports that include actual project spending will force the City to improve the process.