



Office of the City Controller
OFFICE OF BUSINESS OPPORTUNITY
Contract Compliance
Performance Audit



Chris Brown
City Controller

Report # 2023-03

Courtney Smith
City Auditor



**OFFICE OF THE CITY CONTROLLER
CITY OF HOUSTON
TEXAS**

CHRIS B. BROWN

October 18, 2022

The Honorable Sylvester Turner, Mayor
City of Houston, Texas

**SUBJECT: REPORT #2023-03 OFFICE OF BUSINESS OPPORTUNITY
CONTRACT COMPLIANCE PERFORMANCE AUDIT**

Mayor Turner:

We have completed a performance audit of the City of Houston Contract Compliance process as administered by the Office of Business Opportunity's Contract Compliance Division. The Contract Compliance Division is mandated by the City Code of Ordinances: Chapter 15, Articles II and V and the Code of Federal Regulations Title 49, Part 23 and Part 26. The primary responsibilities of the Contract Compliance Division include:

- Monitoring utilization and payments to MWSBEs and DBEs on goal-oriented construction, professional services, and goods & services contracts;
- Monitoring prevailing wage and fair labor standards laws through auditing payrolls and other contractor documents, on-site visits, and interviews with construction workers;
- Administering and enforcing the Contractor Employee Classification Ordinance;
- Monitoring construction contracts to ensure full compliance with Equal Employment Opportunity (EEO) laws; and
- Investigating affidavits from workers alleging wage under payments.

The primary audit objectives were to:

- Review the current processes in place;
- Determine compliance with applicable guidelines and regulations;
- Evaluate the efficiency and effectiveness of current processes;
- Identify barriers/obstacles to operational efficiency and effectiveness; and
- Identify potential process improvements.

During the course of the audit, the OBO Contract Compliance Division demonstrated several strengths and best practices as listed below:

- Maintaining a robust website that allows contractors to efficiently access current versions of compliance resources, contract compliance forms, and current & historical wage scales.
- Proactively seeking involvement in pre-construction and project kick-off meetings for goal-oriented contracts to provide detailed guidance to contractors regarding compliance guidelines.
- Subsequent to fieldwork, comprehensive policies and procedures were updated, approved



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by the Mayor and City Attorney, and published on the OBO website, ensuring all staff and contractors have current and consistent guidance.

Based on the procedures performed during the audit, the following opportunities for improvement and other noted exceptions were identified:

- The Contract Compliance Division's ability to effectively execute all mandated compliance activities is hampered by being significantly understaffed and experiencing high staff turnover. However, the Standard Operating Procedures have recently been updated to provide guidance to all compliance staff in executing the requirements of their positions, and there are ongoing efforts to develop training guidelines and materials.
- Current system configurations do not support efficient, automated transfer of awarded project data into the City's diversity management and compliance software (Business to Government (B2Gnow)). The planned SAP and B2G integration will increase the accuracy and timeliness of contract data and reduce the OBO time and effort currently expended on manual data extraction and entry.

Our audit procedures included an evaluation of the operational design and operational effectiveness of selected internal controls embedded within the business activities that are the responsibility of Contract Compliance. Internal controls for initiating, authorizing, recording, processing, and adhering to compliance requirements were included in this evaluation.

We would like to express our appreciation to the management and staff of OBO for their time and effort during this audit.

Respectfully submitted,

Chris B. Brown
City Controller

xc: Marsha Murray, Director, Office of Business Opportunity
City Council Members
Marvalette Hunter, Chief of Staff, Mayor's Office
Lalla Morris, Assistant Director, Office of Business Opportunity
Shannan Nobles, Chief Deputy City Controller, Office of the City Controller
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City of Houston

OBO Contract Compliance Performance Audit

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EXECUTIVE SUMMARY

I. INTRODUCTION

The Audit Division of the Office of the City Controller engaged Horn Solutions, Inc. to conduct an independent performance audit of the City of Houston Office of Business Opportunity (OBO) Contract Compliance Division.

II. BACKGROUND

The Office of Business Opportunity's mission is to promote the growth and success of local small businesses, with a special emphasis on historically underutilized businesses and disenfranchised individuals, by ensuring their meaningful participation in the government procurement process. The Contract Compliance Division plays a key role in ensuring meaningful participation of contractors on projects through monitoring most City of Houston (City) contracts to ensure compliance with laws and regulations mandated by city, state, and federal guidelines and ordinances. For the period included in the audit, an internal OBO presentation reports that the Contract Compliance Division was responsible for monitoring 1,300 City contracts valued at approximately \$8.7B, focusing on:

- Monitoring utilization and payments to minority, women-owned, and small business enterprises (MWSBEs) and Disadvantaged Business Enterprises (DBEs) on goal-oriented and regulated construction, professional services, and goods & services contracts. The City of Houston applies MWBE goals to city-funded contracts for construction work over \$1 million, goods & services contracts valued over \$100,000, and all professional services contracts, regardless of dollar value;
- Monitoring prevailing wage and fair labor standards laws; and
- Monitoring construction contracts to ensure full compliance with equal employment opportunity (EEO) laws.

During the audit period, the Contract Compliance Division's ability to perform some compliance activities was restricted by COVID pandemic safety measures, which prohibited conducting site visits and in-person meetings. The specific compliance activities impacted included:

- (1) Wage and labor interviews to evaluate prevailing wage compliance;
- (2) Performing the on-site reviews typically included in a commercially useful function (CUF) audit (designed to verify subcontractors should be counted for MWSBE goal credit); and
- (3) Performing visual inspection of worksites to verify compliance with components of equal employment opportunity laws and the Davis-Bacon Act (e.g., display of required EEOC posters and wage scales).

In addition to the scope limitations resulting from pandemic-related restrictions, the Contract Compliance Division's ability to effectively fulfill compliance activities was impacted by a lack of sufficient personnel and a high rate of staff turnover. As a result of the division being significantly understaffed:

- (1) Complex and higher-risk compliance tasks were not always assigned to more experienced personnel;
- (2) There were limited resources available for training new personnel; and
- (3) There were limited resources available for performing review and management oversight.

Based on [an] internal OBO analysis analyses reviewed by the audit team, which calculates personnel requirements based on time-per-task and the historical trends of contract volume, a fully-staffed Contract Compliance Division would include between thirty-two (32) and thirty-seven (37) Compliance Officer full-time-equivalents (FTEs), not including the Division Manager, Supervisors, or administrative staff.

- During the audit period, the Division Manager, Compliance Supervisor, and Administrative Assistant positions were all vacant and there were only seven Compliance Officer FTEs, the majority of whom had less than two years tenure.
- As of the draft report date, the Division Manager, Administrative Specialist (a position added pursuant to a restructuring in Houston Public Works), and the Administrative Assistant positions were all vacant and there were only five Compliance Officer FTEs, including three individuals with less than two years tenure, and two Compliance Supervisors (one added pursuant to a restructuring in Houston Public Works).

III. SCOPE AND OBJECTIVES

OBJECTIVES

As part of the Office of the City Controller's Fiscal Year (FY) 2021 Audit Plan, the Audit Division initiated a performance audit of the Office of Business Opportunity (OBO) Contract Compliance Division. The primary objectives were as follows:

- Review the current processes in place;
- Determine compliance with applicable guidelines and regulations;
- Evaluate the efficiency and effectiveness of current processes;
- Identify barriers or obstacles to operational efficiency and effectiveness; and
- Identify potential process improvements.

SCOPE

The project scope included the period from January 1, 2020, through December 31, 2020. The engagement was conducted in three overlapping phases:

- Due Diligence and Planning
- Fieldwork
- Reporting

TEAM MEMBERS

- Courtney Smith – City Auditor, Office of the Houston City Controller
- John Sorrells – Managing Director, Horn Solutions, Inc.
- Gillian Boyer – Senior Manager, Horn Solutions, Inc.
- Dawn Haidar – Manager, Horn Solutions, Inc.
- Brittany Stampley – Staff, Horn Solutions, Inc.

IV. PROCEDURES PERFORMED

In order to obtain sufficient evidence to achieve engagement objectives and support our conclusions, Horn Solutions Inc. performed the following procedures:

Due Diligence and Planning (Phase 1):

Gathered information from appropriate sources for use in the development of a detailed Fieldwork Plan to ensure the accomplishment of the engagement objectives. Activities included, but were not limited to, the following:

- Identified and reviewed the laws and regulations mandated by city, state, and federal guidelines and ordinances relevant to the OBO Contract Compliance Division's areas of responsibility.
- Conducted an opening meeting with City of Houston Audit Division and OBO representatives.
- Conducted opening meetings with the Senior Compliance Officers.
- Interviewed Compliance Officers to gain an understanding of current processes, supporting systems, and existing obstacles to operational efficiency and effectiveness.
- Identified general inherent risks embedded within the contract compliance processes to support areas of focus while completing the Fieldwork plan.
- Submitted an initial data request.

Fieldwork (Phase 2):

During fieldwork, evidence that met the stated audit objectives was gathered, analyzed, and evaluated. Fieldwork activities included, but were not limited to, the following:

- Prepared process flow diagrams to document the operational design of in-scope business processes.
- Prepared a Risk and Controls Matrix to detail inherent risks embedded within the processes and corresponding internal controls.
- Developed the Testing Program for assessing the operational effectiveness of internal controls.
- Selected testing samples in accordance with Audit Division guidelines.
- Prepared documentation of preliminary audit observations and proposed recommendations.

Reporting (Phase 3):

During the reporting phase, support for conclusions was documented and communicated to stakeholders. Activities included, but were not limited to the following:

- Provided process flow diagrams to Process Owners for use as reference and training tools.
- Prepared a formal internal audit report.
- Provided audit workpaper documentation to support conclusions reached.

V. AUDIT METHODOLOGY

We conducted this performance audit under the direction of the City Controller's Audit Division, in accordance with Generally Accepted Government Auditing Standards and in conformance with the International Standards for the Professional Practice of Internal Auditing. Those standards require that we plan and perform the audit to obtain sufficient and appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The scope of our work did not constitute an evaluation of the overall internal control structure of OBO or the City of Houston. Management is responsible for establishing and maintaining a system of internal controls to ensure that City assets are safeguarded, financial activity is accurately reported and reliable, and management and employees are compliant with laws, regulations, and policies and procedures. The objectives are to provide management with reasonable, but not absolute, assurance that the controls are in place and effective.

VI. CONCLUSIONS & SIGNIFICANT ISSUES

We believe that we have obtained sufficient and appropriate evidence to adequately support the conclusions provided below as required by professional auditing standards. Each conclusion is aligned with the related Audit Objectives for consistency and reference. For detailed findings, recommendations, management responses, comments and assessment of responses, see the "Detailed Findings, Recommendations, Management Responses, and Assessment of Responses" section of this report.

**CONCLUSION 1 (Audit Objective #1: Review the current processes in place;
Audit Objective #2: Determine compliance with applicable guidelines and regulations)**

During the period included in audit fieldwork, the Contract Compliance policies and procedures were not comprehensive, contained inconsistent and outdated guidance, and did not tie compliance activities to the related laws and regulations. The lack of consistently documented standards for business processes and internal controls limited the ability to evaluate the design of the Contract Compliance processes and internal controls against applicable laws/regulations. However, subsequent to audit fieldwork, the issue was remediated, and OBO Policies and Procedures were updated to both consistently reflect the current state of OBO's business processes and to document alignment with the relevant federal/state/local regulation(s) and provide insight as to how the policy/procedure components support compliance. The updated Policies and Procedures were approved by the Mayor and the City Attorney and were published to OBO's website to ensure accessibility by all staff and contractors.

CONCLUSION 2 (Audit Objective #3 Evaluate the efficiency and effectiveness of current processes; Audit Objective #5 Identify potential process improvements)

During the period included in audit fieldwork, key internal controls and compliance activities were not consistently implemented or evidenced. While the ability of Contract Compliance to effectively perform some compliance activities was limited by external factors such as COVID pandemic safety measures (which prevented site visits), internal factors such as a lack of sufficient personnel, and a high rate of staff turnover were also significant. The limited number of Compliance Officers and Compliance Supervisors, combined with a lack of Standard Operating Procedures (SOPs) and a robust training program, contributed to inconsistent performance and/or evidentiary documentation of compliance activities. However, subsequent to audit fieldwork, the SOPs were updated to provide sufficient guidance to all compliance staff in executing the requirements of their positions, including defining the requirements related to documenting procedure components and/or internal control activities were performed and the monitoring activities to ensure controls operate as designed.

CONCLUSION 3 (Audit Objective #4 Identify barriers/obstacles to operational efficiency and effectiveness)

Current limitations in uploading SAP contract data into, and reporting contractors' compliance history out of the diversity management and compliance software (Business to Government (B2Gnow)) require Compliance Officers to spend time and effort on manual data entry and compilation. The planned SAP and B2Gnow integration will increase the efficiency, accuracy, and timeliness of populating contract data in B2Gnow. In addition, the ongoing enhancements to reporting capabilities using PowerBI to create dynamic reports will enable more efficient reporting of year-over-year closeout ratings, which can then be communicated to the Strategic Procurement Division.

VII. ACKNOWLEDGEMENT & SIGNATURES

Horn Solutions would like to thank the City of Houston City Auditor and the Office of Business Opportunity Contract Compliance Division for their cooperation, time, and efforts throughout the course of the audit.



John Sorrells,
Managing Director

DETAILED FINDINGS, RECOMMENDATIONS, MANAGEMENT RESPONSES, AND ASSESSMENT OF RESPONSES

FINDING #1 – Contract Compliance Policies and Procedures are Outdated and Not Consistently Implemented

CRITERIA

Policy and procedure documents should define standards for business process operations in accordance with applicable laws, regulations, and management expectations and should support efficient internal processes and sufficient management oversight. To be effective, policies and procedures must be current, readily available, understandable, and changes must be communicated timely.

FINDING

Internal controls become less effective when the employees responsible for operations do not follow established standards and policies. During the period included in the audit scope, there was not clear and concise Contract Compliance policy guidance. There were three policies in effect - one from 1994, one from 1995, and one from 2015. Because none of the documents superseded another, and each addressed separate but related aspects of Contract Compliance, employees had to review all three policies in conjunction to determine the complete scope of applicable guidance. In addition, the policies contained outdated information. As a result, there was a disconnect between practical application of the policies and actual business practices.

RECOMMENDATION

Policy and procedure documents should be updated to:

- Reflect current-state desired business processes; and
- Include reference to the relevant federal/state/local regulation(s) to provide insight as to the source of policy/procedure components and the potential consequences of non-compliance.

The complete collection of current policy and procedure documents should be:

- Approved by City of Houston leadership; and
- Maintained in a central location accessible by all Contract Compliance personnel.

Timely notification of policy/procedure updates should be communicated to all personnel responsible for compliance activities.

Management Response	Person Responsible	Estimated Completion Date
<p>The Office of Business Opportunity’s (OBO) Policies and Procedures were updated on September 9, 2021, after receiving approval from the Mayor and the City Attorney. This publication occurred after this audit commenced. The September 2021 Policies and Procedures superseded the 1994, 1995, and 2015 department Policies and Procedures and reflected the then-current state of OBO’s business processes.</p> <p>The OBO Policies and Procedures were subsequently updated and published on February 2, 2022, after receiving approval from the Mayor and the City Attorney, and included the promulgation of Impartial Hearing Procedures, pursuant to the OBO Grievance Policy. Similarly, this current publication reflects the current state of OBO’s business processes and include references to the relevant federal/state/local regulation(s) to provide insight as to the source of policy/procedure components and the potential consequences of non-compliance. The Policies and Procedures are housed on the homepage of OBO’s website to ensure accessibility by all staff and contractors. A hard copy of the Policies and Procedures are also available upon request. OBO’s managers provide all new hires with a copy of the Policies and Procedures and updates to the Policies and Procedures are disseminated to existing staff from the Executive Team via email.</p>	<p>OBO Director and Assistant Director</p>	<p>February 2, 2022</p>

ASSESSMENT OF RESPONSE

Sufficient

FINDING #2 – Inefficiencies in Identification of Awarded Projects and B2G Data Population

CRITERIA

Per the City of Houston Code of Ordinances, Article V. - Minority, Women and Small Business Enterprises, Sec. 15-84 (b)(6), the Office of Business Opportunity is responsible for “compiling a report of the progress of City departments, by department, in attaining the City-wide goals set by City Council. This report shall be based upon MWSBE contractor and subcontractor information, to be specified by the Office of Business Opportunity. Upon completion, the report is to be submitted quarterly to City Council members, the Mayor, and all affected City department directors for their information.”

FINDING

Timely notification of all projects awarded by City Council is critical to ensuring that Contract Compliance can accurately fulfill quarterly reporting requirements and initiate compliance activities in a timely manner (including attending pre-construction and pre-kickoff meetings to review compliance requirements with contractors). However, Contract Compliance does not have an efficient method of ensuring that the complete population of all projects awarded by City Council is identified and entered into the City’s diversity management and compliance software (Business to Government (B2Gnow)) in a timely manner.

Novus is the system used by the City to track the approval status of projects submitted to City Council. There is not currently a Novus report or data extract available to provide Contract Compliance with the population of projects awarded by City Council. As a result, Contract Compliance must:

- Identify the population of projects subject to monitoring through the Contract Compliance Division Administrative Assistant (or another OBO Administrative Assistant if that position is vacant) reviewing minutes from City Council meetings to identify contracts;
- Extract key data elements from the available scanned documentation on the Controller’s SharePoint site and/or captured in SAP;
- Coordinate with the contracting departments to gather missing information; and
- Manually input details of awarded projects subject to monitoring into the B2Gnow system to initiate the process of assigning the project to a Compliance Officer.

RECOMMENDATION

To facilitate identification of awarded projects subject to contract compliance monitoring and facilitate efficient and accurate data capture, all contract data should be set up in B2Gnow via automated upload from SAP.

Management Response	Person Responsible	Estimated Completion Date
<p>The Office of Business Opportunity (OBO) maintains the B2GNow (B2G) contract compliance monitoring system utilized by the City for 25+ years. Novus, the system used by the City to house the weekly City Council Agendas and track minutes from each Council session, including approval of new purchase orders and contracts, is maintained by the Mayor’s Agenda Office.</p> <p>For the past 5+ years, OBO’s Staff Analyst and Executive team has explored the options available to create a crosswalk between B2G and Novus and/or a process to create a crosswalk between B2G and SAP, the City’s ERP system. The goal of this endeavor has been to limit the need for manual input of Council-approved contracts; thereby, increasing data integrity and reducing the Contract Compliance Division’s weekly responsibilities. B2G currently has the functionality to pull data from various ERP systems on a weekly basis. If configured, the OBO compliance team would receive regular notifications when new contracts are created in SAP that are not reflected in B2G and B2G would prompt the compliance team to fill in any missing data (rather than inputting all data from scratch).</p> <p>As of summer 2021, we reached consensus with OBO’s Director, the Chief Procurement Officer, and the Houston Information Technology Services Department (HITS) to finalize and implement the crosswalk between SAP and B2G, given that Novus does not have a mechanism to extract individual pieces of data. However, this implementation was put on hold pending the City’s launch of SAP Ariba – a newer version of the ERP system. Unfortunately, the SAP Ariba project was shelved due to challenges during the testing phase.</p> <p>OBO will need to gain consensus from HITS’ ERP team and the CPO in order to move forward with the SAP/B2G integration. Revisiting the SAP/B2G integration with HITS will be an integral</p>	<p>Project Lead:</p> <ul style="list-style-type: none"> • OBO Staff Analyst <p>Required Approval to move forward:</p> <ul style="list-style-type: none"> • OBO Director • HITS Director or ERP team manager • Chief Procurement Officer 	<p>January 2024</p>

step to ensure data integrity and reduce the Contract Compliance Division's weekly responsibilities.

ASSESSMENT OF RESPONSE

Sufficient

FINDING #3 – OBO Contract Compliance Does Not Always Have an Effective Means of Enforcing Contractor Compliance

CRITERIA

Per the City of Houston Code of Ordinances, Article V. – “Minority, Women and Small Business Enterprises,” Sec. 15-86: The OBO director is authorized to suspend any contractor who has failed to make good faith efforts to meet any goal established under this article from engaging in any contract with the city for a period up to, but not to exceed, five years. The OBO director is also authorized to suspend any MWSBE who has failed to make good faith efforts to meet all requirements necessary for participation as a MWSBE from engaging in any contract affected by this article for a period up to, but not to exceed, five years.

FINDING

OBO Contract Compliance does not always receive the required forms from contractors and subcontractors in a timely manner. Because there are no penalties for late submission of documents, prime contractors and subcontractors routinely failed to provide required forms until the closeout process and some required documents are never received. Without the required documentation, Contract Compliance has limited ability to monitor compliance with local, state, and federal regulations that either require the existence of the forms (e.g., EEO Forms), or require compliance monitoring of activity based on data contained within the forms (e.g., confirming certified payroll reports were signed by an authorized person and only authorized deductions were included in the payroll calculations).

Examples of documents that are not commonly provided include: EEO forms, support for independent contractor classification, Payroll Deduction Authorization Form, Authorized Payroll Signers Form (for primes and subcontractors), Current Apprentice Certificates, and the prime contractors’ contracts with subcontractors.

In 2021, 14 contracts received an Unsatisfactory Labor Rating at the time of contract closeout, indicating each contract was missing one or more labor compliance documents. While there may have been additional contracts that received a Satisfactory Labor Rating despite not submitting all required documents on the MWBE compliance side, the data is neither available to identify those, nor is there a way to extract data from B2Gnow regarding the number of active contracts with missing documentation.

RECOMMENDATION

Project Managers and participating City departments should be reminded of the criticality of the City receiving all required documents in a timely manner, and the potential consequences of non-compliance to both the City and contractors. In addition to the Formal Audit Reports (which include details of all missing documents) that are routinely distributed electronically to Project Managers to facilitate ongoing follow up with prime contractors and subcontractors, the vendor MWSBE and labor compliance ratings assigned at project closeout should be distributed to

departments and the Strategic Procurement Division.

Management Response	Person Responsible	Estimated Completion Date
<p>The Office of Business Opportunity’s Contract Compliance Division participates in meetings with contracting departments and/or assigned buyers during the procurement phase (pre-bid and pre-proposal meetings) and with project managers after a contract is awarded to the successful Prime (pre-construction and kickoff meetings) to communicate MWSDBE and Labor Standards (prevailing wage and EEO) compliance requirements. After a pre-construction or kickoff meeting, OBO also follows up with the Prime via email to ensure that they have a written copy of all requirements and to provide them an initial opportunity to ask questions and to troubleshoot compliance monitoring system issues. We will continue to educate all stakeholders (Primes, subcontractors, project managers, etc.) on the importance of ensuring that all required documentation is submitted to OBO in a timely manner. All communications will also continue to include a statement regarding the penalties for non-compliance.</p> <p><u>Construction Contracts:</u></p> <p>City construction contracts require MWSBE compliance monitoring and labor compliance monitoring (prevailing wage monitoring and EEO compliance).</p> <p>At the end of the construction contract closeout process, OBO sends a copy of the final MWSBE and Labor Compliance ratings to the contracting department as well as the Prime contractor. OBO is currently working to improve year-over-year reporting for closeout ratings in order to more efficiently track individual Prime contractors’ compliance history utilizing Power BI within the B2GNow compliance monitoring system to create dynamic reports that reflect a user-friendly summary each contractor’s compliance history in real time. This report will be sent to the Chief Procurement Officer (Strategic Procurement Division) quarterly.</p>	<ul style="list-style-type: none"> • Compliance Division Manager (pending backfill) • Compliance supervisors • Contract Compliance Officers 	<p>Ongoing</p>

Texas Water Development Board State Revolving Fund (SRF) Construction Contracts:

In 2020, OBO worked with Houston Public Works to create and implement an escalation procedure to address MWSBE and Labor non-compliance on SRF contracts. This process involves escalation within OBO (to the Division Manager) and then escalation to the HPW-OBO office and project manager. The final point of escalation before issuing a notice that payment will be withheld from the Prime contractor is a meeting with the compliance officer, project manager, Prime, and affected subcontractors (if applicable) in an effort to bring the contractor(s) into compliance.

Professional Services and Goods & Services Contracts

City Professional Services and Goods & Services contracts (or “non-construction contracts”) require MWBE and EEO monitoring only. OBO piloted a procedure to systematically close out non-construction contracts in fall 2021, in the absence of receiving closeout notifications from contracting departments. When a non-construction contract is closed, the department is notified of the final rating via interoffice memorandum. The memorandum is also included in the contract’s B2GNow file.

With the implementation of the Power BI reporting in B2G, as described above, MWBE ratings for Prime contractors on City non-construction contracts will also be reflected in the dynamic reports. The compliance history will be communicated to the Strategic Procurement Division when quarterly reports are disseminated.

Staff Augmentation to enhance compliance efforts:

OBO has proactively sought and obtained assistance with enhancing overall compliance efforts by engaging two (2) firms to perform day-to-day compliance monitoring activities for a nine (9) month engagement. The work that these two firms perform will complement the work performed by existing compliance staff. OBO hopes to pursue a longer term staff augmentation engagement to complement internal department work.

ASSESSMENT OF RESPONSE

Sufficient

FINDING #4 – Lack of Standard Operating Procedure (SOPs) and Formal Training

CRITERIA

While policies are a statement of the guiding principles for achieving the goals of an organization, Standard Operating Procedures (SOPs) reflect the way in which policies should be implemented through a chronological sequence of activities designed to achieve policy objectives in a uniform and consistent manner. In addition, a structured training and development program ensures that employees have consistent knowledge of policies and procedures, and supports more efficient use of time and resources. Training is a particularly critical component of policy and procedure compliance when significant staff turnover exists. An effective training program includes four key elements:

1. Performing continuous analysis to determine required skills and training needs aligned to current policies, procedures, job descriptions, and employee responsibilities;
2. Defining observable and measurable training objectives;
3. Delivering training via varied modalities with alignment between training simulations and practical application to job responsibilities as well as sufficient opportunity for practice; and
4. Evaluation to measure learning and continuously assess employee competency levels to identify necessary interventions.

FINDING

Key internal controls and compliance activities are not consistently implemented due to lack of Standard Operating Procedures (SOPs), lack of training, insufficient time, and/or lack of monitoring procedures to ensure compliance. Examples include:

- The “Contract Compliance Training Manual (Fall 2016)” indicates that monthly reports should be run from B2Gnow for every project to evaluate MWSBE goal attainment, and the “Formal Audit Process (Rev. July 2019)” SOP specifies that, “TxDOT and SRF projects MUST have formal audits every 60 days and every other project file should be audited at a minimum of 20%, 50% and 75% complete”; however, these processes were not consistently being performed;
- Some SOPs are outdated and do not reflect desired business practices. For example, the “Contract Compliance Training Manual (Fall 2016)” defines hard-copy document retention requirements even though Contract Compliance has upgraded to electronic document retention in practice;
- Existing SOPs neither define how Compliance Officers should document performance of internal control requirements of the policies and procedures, nor do they address the management oversight and review procedures to verify compliance;
- Although a Business to Government system (B2Gnow) Staff User Manual exists, Compliance Officers are either unfamiliar with key functions described therein, such as running reports to obtain data, or do not have system access to run them.
- No detailed user guidance on efficient and effective use of the Labor Compliance Program Tracker system (LCPtracker) could be located;
- Newly hired Compliance Officers may have not been provided sufficient formal training, yet may still be assigned critical tasks in the contract monitoring process (e.g., deviations and

- closeouts) when necessary to meet deadlines; and
- As a result of limited training, processes and controls are inconsistent because employees have either developed their own best practices or are following the guidance of whichever employee provided informal or peer-to-peer training.

RECOMMENDATION

SOPs should be developed/updated to provide sufficient guidance in executing the requirements of Contract Compliance policies, including defining the requirements related to documenting procedure components and/or internal control activities have been performed; and the monitoring procedures to ensure those activities are completed accurately and timely.

OBO Contract Compliance should develop minimum training guidelines and materials for at least the high priority contract compliance processes (based on regulatory risk, magnitude of complex or manual calculations, potential for inefficiencies, etc.). All new hires, as well as existing employees, should be provided training to support them in performing their assigned job responsibilities efficiently and effectively and to ensure all employees have a consistent understanding of the current policies and procedures.

Management Response	<i>Person Responsible</i>	<i>Estimated Completion Date</i>
<p>Standard Operating Procedures (SOPs) for the Office of Business Opportunity’s (OBO) Contract Compliance Division have been largely updated to provide sufficient guidance to all compliance staff in executing the requirements of their positions, including defining the requirements related to evidencing that procedure components and/or internal control activities have been performed and monitoring procedures to ensure those activities are completed accurately and timely.</p> <p>As of August 2022, OBO’s Executive team has updated the majority of the SOPs and standard forms related to Labor Compliance (Prevailing Wage monitoring and EEO monitoring). Additionally, two of the SOPs related to MWSBE monitoring were updated.</p> <p>OBO will prioritize further updating SOPs and working to develop a “train-the-trainer” process with minimum training guidelines and materials for high priority contract compliance processes. All new hires and existing employees will be provided training to support them in performing their assigned job responsibilities efficiently</p>	<ul style="list-style-type: none"> • Compliance Division Manager (pending backfill) • Compliance Supervisors • OBO’s Executive Team 	<p>July 2023</p>

and effectively, and stay abreast of industry best practices, to ensure all employees have a consistent understanding of the current policies and procedures.

ASSESSMENT OF RESPONSE

Sufficient

FINDING #5 – Lack of Change History within the LCPtracker System

CRITERIA

The Davis-Bacon Act and other related laws and regulations apply to contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair of public buildings or public works. Contractors and subcontractors subject to provisions of the Davis-Bacon Act and other related regulations must pay their laborers and mechanics employed under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area.

FINDING

The Labor Compliance Program Tracker (LCPtracker) system is used by the City of Houston for certified payroll, Davis-Bacon compliance, and workforce reporting. Contract Compliance personnel do not have access to change history logs or reports to monitor for significant unusual activity or to determine the user responsible for system activity. As a result, Contract Compliance may not be able to determine the history of a project, which is critical during periods of high staff turnover, and supervisors may not be able to evaluate actions taken by staff members. An example of the impact of this issue is Project 46000014924, where multiple years of a subcontractor's submitted "No Work Performed" statements were deleted without OBO management review and approval. The statements were deleted when it was discovered that the subcontractor had actually performed work on the project and submitted a request for final payment. Corrective action was taken by Contract Compliance to request the prime contractor and subcontractor resubmit accurate certified payroll information and corrected Statements of Compliance. However, once the original statements were deleted, LCPtracker showed that there were no payroll records for the subcontractor, indicating that the history and evidence of the issue could no longer be retrieved from the system.

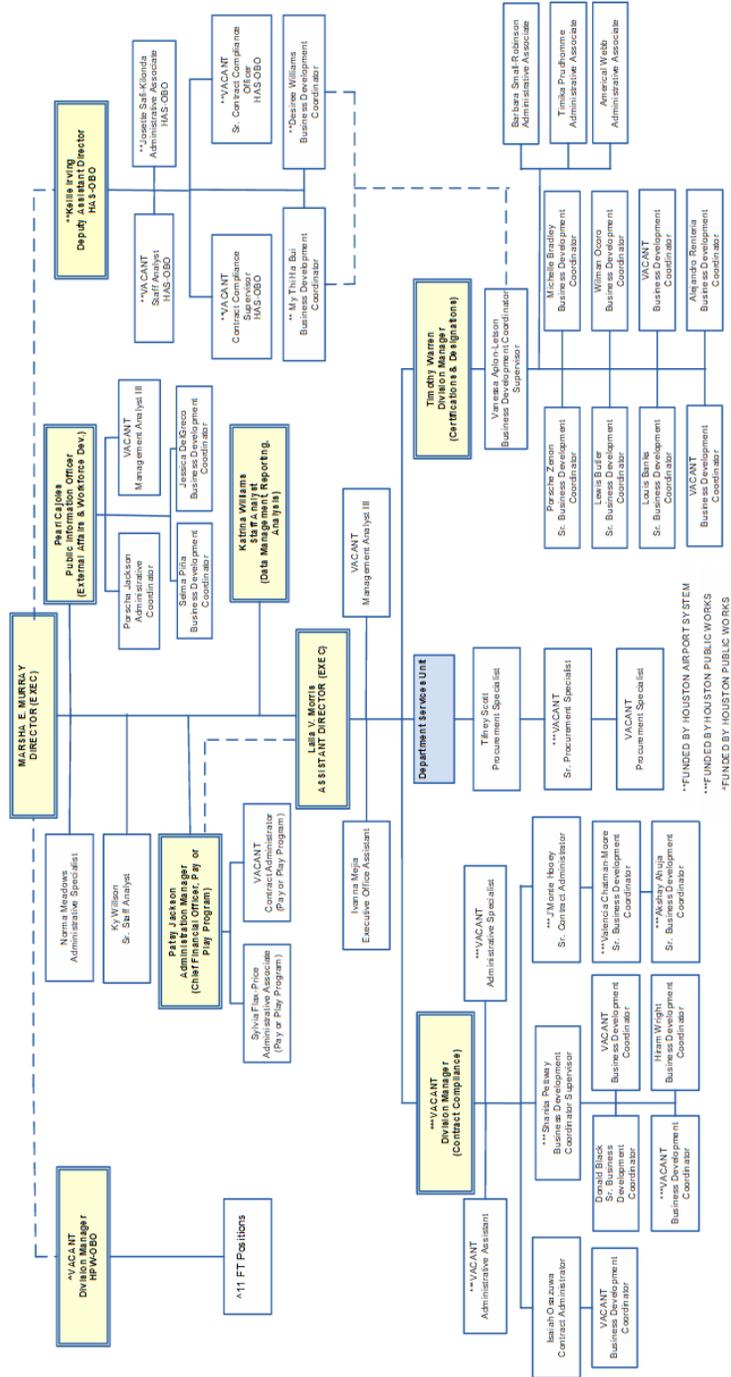
RECOMMENDATION

Evaluate LCPtracker role-based security definitions to determine whether significant and unusual actions such as deletion of multiple years of records could require approval routing. In addition, evaluate the change history retention capabilities to determine whether changes to system configuration and/or available reporting functionality could identify and provide details of changes that meet defined significance or type parameters.

Management Response	Person Responsible	Estimated Completion Date
<p>OBO brought this issue directly to the attention of LCPTracker’s senior staff in fall 2021 and spring 2022. LCPTracker’s team has confirmed that this functionality does not exist within the system and they have no plans to implement an audit feature that would allow users to access change history logs or reports to monitor for significant unusual activity or to determine the user responsible for system activity.</p> <p>OBO will explore other prevailing wage / certified payroll monitoring systems that have audit and other desired features referenced above built in as a replacement for LCPTracker.</p>	<ul style="list-style-type: none"> • OBO’s Executive and Technical Team • HITS • SPD / CPO 	<p>July 2023</p>

ASSESSMENT OF RESPONSE

Sufficient

EXHIBITS
B. Contract Compliance Organization Charts
Office of Business Opportunity Department Organizational Structure


As of 06/05/22

Acknowledgement Statement

Date: August 22, 2022

Chris B. Brown
City Controller
Office of the City Controller

Subject: Performance Audit - Office of Business Opportunity (OBO) Contract Compliance

I acknowledge that the management responses contained in the above referenced report are those of OBO. I also understand that this document will become a part of the final audit report that will be posted on the Controller's website.

Sincerely,

DocuSigned by:
Marsha E. Murray
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Marsha Murray, Director
Office of Business Opportunity

Audit Team

Horn Solutions Inc.

City Auditor

Courtney Smith, CPA, CIA, CFE

Audit Plan reports available at:

<http://www.houstontx.gov/controller/audit/auditplan.html>

Audit reports are available at:

<http://www.houstontx.gov/controller/audit/auditreports.html>