

Office of Inspector General

City of New Orleans

**The Department of Sanitation Contract Oversight
Performance Audit
OIG-A&R-20090006**

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March 17, 2010

**The Department of Sanitation Contract Oversight Performance Audit
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EXECUTIVE SUMMARY

The City of New Orleans (the City) Department of Sanitation (the Department) entered into new contracts for curbside trash collection in late 2006 after Hurricane Katrina (Katrina) left an estimated 30 million tons of storm related debris within the City.

These contracts were awarded in an open bid process¹ to Metro Disposal, Inc. (Metro); Richard's Disposal, Inc. (Richard's); and SDT Waste and Debris Services, L.L.C. (SDT) (the Sanitation Contractors). The contracts commenced January 2007 and were awarded for a seven-year period, with three annual renewals possible.

The OIG conducted a performance audit (audit) of the Department of Sanitation from January 1, 2007 through December 31, 2008. The objective of this audit was to determine if the City exercised proper oversight of the existing Sanitation Contractors' curbside trash collection services and other Contractors'² contract compliance to provide assistance with oversight.

The results of the OIG's audit consisted of 8 findings as outlined below:

Finding #1 The City Paid Sanitation Contractors Based Upon Projected Invitation For Bid Serviced Locations.

Finding #2 The City Could Not Demonstrate Documentation of SDT's Performance And Payment Bond Calculation for 2007.

Finding #3 The City Did Not Maintain Current Certificates of Insurance.

Finding #4 The City Was Not Named as an Additional Insured.

Finding #5 PFM's Invoices Did Not Provide Sufficient Detail of Costs.

Finding #6 PFM's Database Contained Uninhabitable and Ineligible Serviced Locations.

Finding #7 MWH's Invoice Descriptions Were Too Vague to Permit Appropriate Review.

Finding #8 MWH Miscalculated Its Invoices.

The Department of Sanitation's monitoring of contract compliance is a critical component of the Department's functionality. The recommendations in this audit report, if adopted, should improve oversight by the Department of Sanitation and compliance by the Sanitation and other Contractors.

In conclusion the audit revealed that the Department of Sanitation did not exercise proper oversight, as described in this report, over the Sanitation Contracts with Metro, Richard's and SDT nor with other Contractors, MWH Americas, Inc. (MWH) and Public Financial Management, Inc. (PFM).

¹ An invitation for bid (IFB) is an invitation to contractors or suppliers to submit a bid on a specific project. The lowest bidder is awarded the contract in an IFB.

² The other Contractors are MWH Americas, Inc. (MWH) and Public Financial Management, Inc. (PFM).

It is not the OIG's practice to include comments and letters from third parties in the final audit report. The subject of this audit was the City of New Orleans Department of Sanitation and all comments provided by the City have been included. Copies of letters from PFM, GCR and MWH have been eliminated from the report. In the future the City should incorporate any comments provided by third parties into its own comments versus providing separate letters as attachments from third parties.

I. INTRODUCTION

Prior to Katrina the City of New Orleans (the City) contracted with Waste Management of Louisiana, LLC (WMI) to provide city-wide³ curbside trash collection. WMI provided curbside garbage collection services to approximately 167,738⁴ locations in the City at a cost of approximately \$8.83⁵ per serviced location or an average of \$13,605,688⁶ annually pre-Katrina. The contract with WMI included twice weekly collection of residential and small business⁷ serviced locations. WMI used manual labor to lift the trash receptacles and subcontracts with both Richard's and Metro were a component of the WMI contract.

The City initiated an invitation for bid (IFB) in 2006 where the roll cart concept⁸ was introduced as a solution to prevent spillage, rodent infestation and damage to the trash receptacles. The IFB required curbside trash collections twice weekly using 96 gallon carts.

The IFB contained a projected serviced location count developed by MWH based on households serviced by the prior contractor, WMI, and population predictions reported by the media.⁹ The five geographic areas previously serviced by WMI were condensed to form three geographic areas and separate bids were solicited for each area. The estimated serviced locations for each area is shown in Table 1.

On October 5, 2006 contracts were awarded to Richard's for Area 1 and to Metro for Area 2, to provide twice weekly semi-automated and automated¹⁰ curbside trash collection beginning in January 2007. An additional contract was also awarded to SDT (Area 3 in Table 1 and "SDT area" in Exhibit I) to provide services for the French Quarter and the Central Business District.

On November 13, 2006 contracts were signed with Richard's¹¹ and Metro¹². The City signed a contract with SDT¹³ on December 18, 2006.

³ WMI contract encompassed the entire City and was subdivided into five areas – New Orleans East, Central, Western, Eastern and Algiers. See Table 1.

⁴ Quantities provided by MWH per Table 1.

⁵ Per Contract Renewal and Extension Agreement between WMI and the City dated 2004.

⁶ Average per City's vendor registers revealed WMI payments in the amount of \$16.9 million in 2004, \$13.6 million in 2005 and \$10.3 million in 2006. These three years were averaged to compute the amount shown.

⁷ A small business is a commercial establishment that generates no more than 90 gallons of solid waste each regular collection per the Sanitation Contracts.

⁸ Roll cart is the term used to describe the trash receptacles required in 2007.

⁹ Per assertions made by the Director of Sanitation.

¹⁰ "...Automated trucks are means that use a special refuse truck and hydraulic arm requiring one (1) truck driver/arm operator to grasp a standard collection cart from the curb. Semi-automated is similar to automated, except that a laborer is required to retrieve the standardized cart from the curb, secure it in the dumping arm on the refuse truck, and, after the dumping, return the cart to the curb." (Per IFB)

¹¹ Richard's collection area includes Algiers, Algiers Point, Fountainebleau, Carrollton, Broadmoor, Bayou St. John, Tremé, Central City, Garden District, Irish Channel and the Lower Garden District. See Exhibit 1.

¹² Metro's collection area includes Lakeview, City Park, Gentilly, St. Roch, Marigny, Florida, St. Claude, Bywater, Eastern New Orleans, Lower Ninth Ward and Holy Cross. See Exhibit 1.

¹³ SDT's collection area includes the French Quarter and the Downtown Development District. See Exhibit 1.

Table 1. MWH’s Projected IFB Serviced Location Calculation:

WMI Areas	WMI Households	Allocation Percentages in New Curbside Trash Collection Areas ¹⁴			Projected Number of Households for IFB		
		Area 1	Area 2	Area 3	Area 1	Area 2	Area 3
New Orleans East Collection	39,144		100%			39,144	
Central Collection/Commercial Vieux Carre	32,359	80%		20%	25,887		6,472
Western Collection	43,991	75%	25%		32,993	10,998	
Eastern 1 Collection	36,898		100%			36,898	
Algiers Collection	15,346	100%			15,346		
Totals	167,738				74,226	87,040	6,472
Assumed % of Households Returning					80%	50%	100%
Assumed Households in 2007					59,381	43,520	6,472
IFB Serviced Locations	106,500				60,000	40,000	6,500

The three contracts were awarded for a seven-year period commencing January 2007 with a possibility of three annual renewals.¹⁵ Total amounts per Sanitation Contractor are shown below in Table 2.

Table 2. Total Amounts Under the New Sanitation Contracts:

Year	Richard’s	Metro	SDT	Total
2007	\$15,840,000	\$8,712,000	\$2,103,000*	\$26,655,000
2008	16,623,400	10,240,019	2,103,000*	28,966,419
Total	\$32,463,400	\$18,952,019	\$4,206,000	\$55,621,419

*Reflects curbside trash collection services only. SDT provides other services to the City as outlined in Exhibit IV.

Sanitation serviced locations subsequent to Katrina were estimated at 106,500¹⁶. The average monthly cost of curbside trash collection subsequent to Katrina was approximately \$22 per serviced location for Richards, \$ 18.15 per serviced location for Metro, and a range of \$18.75 to \$34 for SDT. (See Exhibits II, III, IV.) The changes between these costs and WMI represent an increase of 106% to 149%¹⁷ over pre-Katrina unit costs.

¹⁴ See Exhibit I for map outlining these areas.

¹⁵ Although the initial seven-year term ends on December 31, 2013; the City exercised its option to extend the Agreement for an additional three (3) years in January of 2010. In this same agreement the Sanitation Contractors agreed to a 10% reduction in fees for 2010.

¹⁶ Per estimated IFB quantities developed by MWH. See Table 1.

¹⁷ Percentages were obtained by dividing the Richards (\$22), Metro (\$ 18.15) and the lower SDT (18.75) rates and dividing them by the difference between the these rates and the WMI rate of \$8.83. (i.e. \$ 18.15 - \$8.83= an increase of \$9.32. \$ 9.32/8.83 increase = 1.06 or 106 %) This calculation was performed for each Sanitation Contractor to determine a range for the increases. SDT’s lowest rate was used for purposes of these percentages.

Prior to Katrina WMI used manual labor to lift the trash receptacles. The new contracts required the Sanitation Contractors to register citizens for a roll cart, purchase and distribute carts, maintain a database of serviced locations, and use trucks with automated and or semi-automated arms to lift the roll carts. Citizens were required to register and use roll carts purchased and provided by the Sanitation Contractors.

City's Comment: *“The earlier and later contract performance requirements differed significantly.”*

OIG's Response: *Most of the features mentioned in the City's comments are described in the paragraph above.*

The distribution of the roll carts for curbside trash collection began in January 2007. Due to the failure of citizens to register for roll carts, the City passed M.C.S. # 22601, April 25, 2007 (Ordinance # 22601) mandating that the citizens of New Orleans register for the roll cart system. Ordinance # 22601, passed four months after the contracts were awarded, limited the sizes of “bulky waste”¹⁸ that could be picked up by the Sanitation Contractors.¹⁹

The City produced its own independent listing from the roll cart registrations²⁰; however, the roll cart registration listings could not be relied on due to some carts being delivered to ineligible and uninhabitable locations.²¹

Curbside trash collection for each serviced location was to be billed on the customer's Sewerage and Water Board (S&WB) statement. The S&WB bills and collects sanitation fees of \$12 per month per serviced location for the City. Fees collected from the S&WB are not sufficient to pay for trash collection and are not related to the cost of collection. The S&WB's sanitation fee database, according to Greg Rigamar and Associates, Inc. (GCR), had not been updated since Katrina and the database for some areas of the City had not been updated since Hurricane Betsy in 1965.

Two additional contracts covered in this report relate to professional services to assist the Department of Sanitation in developing an independent baseline assessment of serviced locations, and engineering and management assistance/advisory services.

In July of 2008, the City determined that the IFB projected serviced location listing used by Sanitation Contractors to bill the City needed updating due to increases in population trends indicated by the media.

¹⁸ Bulky waste was defined, but not limited as to size in the original IFB.

¹⁹ M.C.S. # 22601 (April 25, 2007) Sec. 137-43 (e).

²⁰ A listing produced from the City's cart registration process where citizens self report the need to receive a cart.

²¹ Based on auditor analysis comparing properties listed on the United States Army Corps of Engineers (U.S.A.C.E), Louisiana Land Trust (LLT), and City demolition lists of properties that were uninhabitable and ineligible for habitation with the Sanitation Contractors' monthly listings.

The City turned to one of its existing management consultants, PFM, to prepare an independent baseline assessment. The PFM assessment was needed to substantiate and update the original projected IFB quantities being used by the Sanitation Contractors to bill the City.

The assessment report was issued on December 22, 2008, revising the household count for each of the three areas. The Sanitation Contractors began to bill the City based on the PFM assessment quantities in the first quarter of 2009.²²

Engineering and management assistance/advisory services were obtained from MWH.

²² Richards and Metro began using these rates in January of 2009. SDT began using PFM's assessment in March of 2009.

II. OBJECTIVES, SCOPE, AND METHODOLOGY

The Department of Sanitation and the City had various contractual agreements for curbside trash collection and other support services during 2007 and 2008. The contracted services consisted of curbside trash collection, engineering, management advisory services and development of an independent baseline assessment of serviced locations. This audit evaluated the five major contracts used by the Department of Sanitation; Richard's, Metro, SDT, PFM and MWH.

The objective of this audit was to determine if the City exercised proper oversight over the major Sanitation Contractors and other Contractors used to assist the Sanitation Department.

The audit's initial scope included the Department of Sanitation's oversight and the Sanitation Contractors' compliance with their contracts. Due to the magnitude of its oversight issues, the auditors narrowed the scope of the audit to the Department of Sanitation's oversight of its major Sanitation Contracts²³ and of the other Contractors²⁴ used to provide assistance.

This audit was conducted in accordance with the Principles and Standards for Offices of Inspector General (the Green Book) and *Generally Accepted Governmental Auditing Standards* (GAGAS or the "Yellow Book") for the period January 1, 2007 through December 31, 2008.

To accomplish the audit's objectives, the auditors:

- Reviewed curbside trash collection contracts with Richard's, Metro and SDT;
- Reviewed other contracts with PFM and MWH;
- Reviewed ordinances related to curbside trash collection;
- Attended and/or reviewed Department of Sanitation Committee and City Council meeting minutes and/or Budget Hearings;
- Reviewed information provided by the Department of Sanitation pursuant to the auditor's request for documents;
- Reviewed news articles relating to the Department of Sanitation;²⁵
- Reviewed contracts and requests for expression of interest related to the production of the PFM report and its subcontractors;
- Reviewed monthly reports, Excel spreadsheets, and invoices submitted by the Sanitation Contractors and other Contractors to the Department of Sanitation;
- Conducted interviews with City personnel;
- Conducted interviews with the Sanitation Contractors;
- Observed Sanitation Contractors' in their performance of curbside trash collections; and
- Reviewed invoices submitted to the City and payments made by the City to the Sanitation and other Contractors.

²³ Includes Richards, Metro and SDT.

²⁴ PFM and MWH.

²⁵ The City's official journal, The Times-Picayune, was reviewed.

City's Comment: *The City objected to the citation of the Times-Picayune as a reference.*

OIG's Response: *The Times-Picayune is the official journal of the City of New Orleans (City Code, Section 2-6.)*

A finding indicates a material or significant²⁶ weakness in controls or compliance that was not detected or corrected by the Sanitation Department in the normal course of performing its duties. Findings in a performance audit can be *any one or a combination* of the following:²⁷

- Significant deficiencies in internal control,
- Fraud and illegal acts,
- Violations of contract and grant agreements and/or
- Abuse.

City's Comment: *"The City objects to these references..."*

OIG's Response: *The definition is promulgated by the Comptroller General of the United States in Generally Accepted Governmental Auditing Standards.*

The audit includes findings, recommendations and conclusions relating to significant oversight issues discovered during the audit.

²⁶ Significance is a "judgment call" by the auditor and is usually based upon the frequency and magnitude of the deficiency.

²⁷ General Accounting Office. (July 2007 Revision). *Government Auditing Standards* (p. 165) United States Government Accountability Office by the Comptroller General of the United States.

II. SANITATION CONTRACTORS

A. PROJECTED SERVICED LOCATIONS (HOUSE COUNT)

Background: An accurate serviced location listing is essential for accurately calculating Sanitation Contractors' compensation. Two years after the City signed contracts with Richard's, Metro and SDT, a reliable monthly serviced location listing was still unavailable.

The Sanitation Contractors were required to submit monthly serviced location listings with each monthly billing to substantiate the quantity of serviced locations billed to the City. The City allowed the Sanitation Contractors to use projected IFB serviced locations for billing purposes and not their own required monthly serviced location listings. The Department of Sanitation asserted that it received monthly serviced locations as required by the contracts from Richards, Metro and SDT; however, the audit revealed that these listings contained numerous duplicate and ineligible locations. The monthly serviced location listings provided by the Sanitation Contractors were not used in calculating the Sanitation Contractors' monthly payments. However, the Sanitation Contracts required payments to be based on actual number of serviced locations, not the projected numbers used in the IFB. (See Table 3 for serviced location quantities and annual contractual amounts paid to the Sanitation Contractors.)

Finding # 1 The City Paid Sanitation Contractors Based Upon Projected IFB Serviced Locations.

Condition: The Sanitation Contractors did not develop or deliver a likely serviced location listing as required at inception of their contracts, and they were therefore paid on the basis of the projected serviced locations in the original IFB. The number of estimated locations was increased in January 2008 to account for an increase in the population served as reported by the media. The serviced location listings remained unsubstantiated until the PFM assessment was produced in December of 2008.

Criteria: The Sanitation contracts state, "The Contractor will develop and maintain a list of all likely households and small business locations serviced." In addition it requires that, "Not later than December 15, 2006, the Contractor will deliver the list of likely serviced locations according to conditions prevailing between Notice of Award and December 15, 2006."²⁸ The Contracts define compensation by taking the number of serviced locations identified in the approved serviced location list provided by the Sanitation Contractors and multiplying it by the bid "Collection Cost per Unit per Month."²⁹

Cause: The contractors failed to provide their serviced location listing by December 15, 2006 as required by the Sanitation Contracts.

²⁸ Per IFB.

²⁹ The cost per location for Richard's was \$22; Metro is \$18.15 and SDT varies from \$18.75 to \$34 based on location and whether the property is commercial or residential.

Effect: Sanitation Contractors were compensated on projected IFB quantities which possibly led to erroneous payment to them from 2007 through January of 2009. ³⁰

Recommendation: The City should require compliance with existing contracts as written and require the Sanitation Contractors to provide accurate serviced location lists each month. The Department of Sanitation should also maintain its own independent listing and use this listing to verify the accuracy of the listings and billings submitted monthly by the Sanitation Contractors.

Table 3. Serviced Locations Per Sanitation Contractors’ Monthly Invoices

Month(s)	Richard’s Serviced Location Quantities	Richard’s Invoices Paid	Metro’s Serviced Location Quantities	Metro’s Invoices Paid	SDT Serviced Location Quantities	SDT Invoices Paid
Jan 07-Dec 07	60,000	\$1,320,000	40,000	\$726,000	6,500	\$ 375,000-\$418,000
Jan 08	63,000	\$1,386,000	50,310	\$913,000	6,500	\$501,000
Feb 08 – May 08	63,000	\$1,386,000	45,155	\$819,000	6,500	\$500,000
June 08 – Dec 08	63,000	\$1,386,000	45,336	\$822,000	6,500	\$500,000-\$505,000

Note: SDT had different payment amounts due to the different services paid in addition to the serviced locations. See Exhibit IV for SDT’s payment summary.

City’s Comment: *The City said that Katrina-related problems resulted in “the projected numbers of serviced locations in the 2006 Invitation for Bid (IFB) and the contract served as the baseline for payment to the sanitation contractors...”*

OIG’s Response: *The City’s comment merely repeats the finding.*

B. INSURANCE AND BONDS

1. Payment and Performance Bonds

Background: The Sanitation Contracts required the Sanitation Contractors to maintain performance and payment bonds in the amount of 50% of the Total Estimated Annual Agreement Amount for each type of bond. The contracts defined the 2007 amount for Richard’s and Metro but not SDT. In 2007 (for SDT) and each successive contract year for all three Sanitation Contractors, a Total Estimated Annual Agreement Amount was to be calculated by the Department of Sanitation.

A performance bond guarantees satisfactory performance by a contractor.

³⁰ Sanitation Contractors’ invoices provided by the City show that Richard’s and Metro began using PFM’s baseline assessment quantities in January of 2009. SDT began using the PFM Baseline Assessment quantities in March of 2009.

A payment bond guarantees that a contractor will pay fees owed to workers, subcontractors, suppliers and other vendors that have supplied services under the bonded contractor.

Finding # 2 The City Could Not Demonstrate Correct Documentation of SDT's Performance And Payment Bond Calculation for 2007.

Condition: Although the auditors subsequently determined that SDT was properly bonded in 2007, the Department of Sanitation could not provide documentation of the calculation for SDT's 2007 performance and payment bond.

Criteria: Supporting documentation is required to support bond calculations and to determine that the calculation was properly computed.

Cause: The Department of Sanitation did not maintain a copy of the bond calculation that was used to support SDT's performance and payment bond for 2007. The correspondence the auditors received from the Director of Sanitation excluded special event mechanical street sweeping which was used in the final calculation of the SDT bond.

Effect: Documentation of SDT's 2007 payment and performance bond calculations were not maintained by the Director of Sanitation.

Recommendation: The Department of Sanitation should maintain documentation of the bond calculations for each year as evidence that the contractor has met the bond requirement in its contract.

City's Comment: *The City stated that, "the City previously supplied documentation for the bond amount calculation."*

OIG's Response: *The original documentation provided by the Sanitation Director was for an incorrect amount. After the OIG identified the missing amounts the City agreed to the calculation.*

2. Workman's Compensation, Automobile and General Liability

Background: Each Sanitation Contractor is required to maintain workman's compensation insurance, automobile liability insurance and general liability insurance. The Sanitation Contracts further required that the City be identified as an additional named insured.

Compliance with insurance requirements limits the City's exposure to potential liability.³¹

³¹ Each of the Sanitation Contracts contain an indemnification clause which states that the City shall be held "harmless against any and all claims, demands, suits, judgments of sums of money to any party accruing against the City for loss of life or injury or damage to person or property growing out of, resulting from, or by reason of any act or omission or the operation of the Contractor, its agents, servants or performed by the Contractor hereunder and shall also hold harmless from any and all claims and/or liens for labor, services, or materials furnished to the Contractor in connection with the performance of its obligation under the Agreement, " ." Note: If circumstances triggering the

Workman's compensation is a type of insurance coverage that provides employees injured on the job with medical treatment and prescribed wage replacement. All employers are mandated by law to provide their employees with workman's compensation coverage.

Automobile liability insurance provides coverage in the event an insured is legally liable for bodily injury or property damage by an automobile.

General Liability insurance covers claims for bodily injury or other physical injury or property damage.

The City required each Sanitation Contractor to provide an original certificate of insurance coverage for the following types of insurances:³²

“Workers’ Compensation Insurance with statutory limits of liability and minimum Employer’s Liability Limits of \$1,000,000.”

“Automobile Liability with minimum \$1,000,000 combined single limit per occurrence for bodily injury and property damage.”

“Comprehensive General Liability insurance with a minimum \$5,000,000 combined single limit per occurrence bodily injury and property damage.”³³

The Sanitation Contracts further stated: “An endorsement stating that coverage shall not be suspended, voided or canceled by either party, or reduced in coverage or in limits, except after sixty (60) days prior written notice by certified mail has been given to the Director, Department of Sanitation, City of New Orleans, 1300 Perdido Street, Suite 1w03, New Orleans, Louisiana 70112 with a copy to the City Attorney, City Hall-5E01, 1300 Perdido Street, New Orleans, Louisiana 70112.”³⁴

The auditor’s request for original certificates revealed missing certificates; however, the Director of Sanitation produced corrected or current certificates after identification of the missing certificates by the auditors.

The auditors attempted to confirm insurance coverage directly with the insurance agents or carriers. SDT’s insurance agent provided the requested confirmations. One of Metro and Richard’s agents did not completely confirm the information requested by the auditors and failed to provide *all* policy numbers, descriptions of the policies, and premium amounts.

Incomplete information provided by one of Richard’s and Metro’s agents³⁵ triggered the need to perform alternative audit procedures to confirm compliance.

indemnity clause were to arise, the City might still have to file suit to enforce the provision, incurring additional legal costs. Furthermore, if the contractor were insolvent or bankrupt at the time that the indemnity clause was invoked, the provision would probably be of no value to the City. Thus, even with an indemnity clause, it is preferable to have an adequate bond in place for the duration of the contract.

³² Per Sanitation Contracts with the City under Exhibit A – Contracted Services – Insurance and Bonds.

³³ Obtained from the IFB No. 3001-00115 page 19 Section 1. A. (1).

³⁴ Obtained from the Invitation to IFB No. 3001-00115 page 19 Section 1. A. (d).

³⁵ Metro and Richard’s had the same insurance agent for most of the period in question.

The auditors' alternative procedures entailed a review of the Sanitation Contractors' cancelled checks and finance agreements.

SDT cooperated fully with the requests and the auditors were able to confirm payments made by SDT on the policies required by the City.

Metro provided cancelled checks and declaration pages on some of their policies; however, its attorney withheld the remaining documents.³⁶

Richard's did not respond to e-mails or phone calls. Instead its attorney³⁷ responded 30 days after the auditor's request in the following manner for both Richard's and Metro: "we do not believe that cancelled checks or bank statements are required to verify insurance coverage."³⁸

This sequence of events prevented the auditors from determining whether the insurance policies on the declaration pages were kept in force by Metro or Richard's during the premium periods covered by this audit.

Finding #3 The City Did Not Maintain Current Certificates of Insurance

Condition: The Department of Sanitation did not maintain current certificates of insurance for the following insurances and Sanitation Contractors:

Workman's Compensation insurance:

Metro's certificate was not present for December 9, 2007 through December 9, 2008.

Richard's certificate was not available for July 21, 2008 through July 21, 2009.

General Liability - SDT

SDT's certificate was not available for October 14, 2007 through June 18, 2008.

SDT's certificate for excess liability was not available for January 1, 2007 through May 15, 2007.

The auditors were able to view cancelled checks, bank statements and declaration pages to substantiate coverage on the missing SDT certificates.

Criteria: Effective contract oversight requires that the Department of Sanitation review insurance certificates provided by the Sanitation Contractors for accuracy and existence of coverage.

Cause: The Department of Sanitation did not adequately monitor insurance contract compliance by failing to timely review and update insurance certificates on file.

³⁶ Metro and Richard's used the same attorney during this process.

³⁷ Metro and Richard's used the same attorney during this process.

³⁸ Per e-mail from Richard's and Metro's attorney dated December 11, 2009.

Effect: The City could have been exposed to additional potential risks and financial losses.

Recommendation: The Department of Sanitation should implement policies to review and document the Sanitation Contractors' insurance coverage. Original certificates of insurance should be accompanied by other corroborating evidence of coverage, and maintained for the duration of the Sanitation Contracts. A tickler file maintained by the Sanitation Department would be useful in monitoring expiration dates of existing Sanitation Contractors' policies.³⁹

City's Comment: *The City said that the required certificates were on file and provided to the auditor.*

OIG's Response: *The certificates provided by the City were inaccurate in that some policies were not listed on the certificates provided and others contained incorrect producer addresses. SDT's compliance was confirmed with alternative audit procedures. (i.e., a review of cancelled checks, bank statements, and declaration pages proved the coverage was in effect) The other contractors refused to provide these documents to the OIG, and the City took no action to compel their cooperation. It should also be noted that the City did not address the Sanitation Contractors' lack of cooperation with the OIG auditors in its comments.*

Finding # 4 The City Was Not Named as an Additional Insured.

Condition: The Department of Sanitation was not aware that the City was not named as an additional insured on the initial SDT general liability certificate of insurance.

Criteria: The invitation for bids stated in section 1.A.(d)(i) that the "City, its officers, agents and employees shall be added as an "additional insured" under the Comprehensive General Liability and Automobile policies."⁴⁰

Cause: The Department of Sanitation did not confirm SDT's compliance with the insurance requirement that the City be named as an additional insured.

Effect: In the event of an insurance claim, the City was at risk of potential liability and may have been unable to recoup its losses.⁴¹

Recommendation: The City should develop internal procedures to improve its monitoring of insurance compliance on the Sanitation Contracts.

³⁹ A tickler file can be date- labeled with reminders to allow for follow-up with the Contractors by the Sanitation Department prior to policy expiration dates.

⁴⁰ Obtained from the IFB No. 3001-00115 page 19 Section 1. A. (d).(i).

⁴¹ Each of the Sanitation Contracts contain an indemnification clause which states that the City shall be held "harmless against any and all claims, demands, suits, judgments of sums of money to any party accruing against the City for loss of life or injury or damage to person or property growing out of, resulting from, or by reason of any act or omission or the operation of the Contractor, its agents, servants or performed by the Contractor hereunder and shall also hold harmless from any and all claims and/or liens for labor, services, or materials furnished to the Contractor in connection with the performance of its obligation under the Agreement," Note: The City would still have to sue and incur additional legal costs to be successful in the event that a Contractor's bond was not in force.

City's Comment: *The City stated that "SDT has revised its insurance certificate to use the wording cited above." The City provided legal arguments to the effect that the "contract and bond effectively protect the City from contract risk."*

OIG's Response: *The City's response that the performance and payment bonds, along with the indemnity clause, protect the City from "contract risk" ignores the City's potential exposure to tort liability. The contractor's liability policy, with inclusion of the City as an additional insured, serves to shield the City from such exposure.*

IV. RELIANCE ON OTHER CONTRACTORS

A. PUBLIC FINANCIAL MANAGEMENT (PFM) BASELINE ASSESSMENT

Background: In July of 2008 the City engaged PFM in a \$250,000 contract⁴² to conduct a baseline assessment of the number of curbside serviced locations serviced by the Sanitation Contractors, and develop a methodology that could be used to update this data in the future.

PFM was to perform residential verification with respect to curbside serviced locations as follows:

- Preliminary meetings and coordination;
- Baseline data construction and analysis;
- Field survey planning;
- Initial field survey;
- Post-survey database update and issue identification;
- Field verifications (second round);
- Final database update and development of update strategy; and
- Final report.

PFM hired Greg Rigamer and Associates (GCR) and Gershman, Brickner & Bratton, Inc. (GBB) as subcontractors to assist them with this assessment.

The database constructed by GCR used data from utility records from June of 2008 and cart registrations from November of 2008⁴³. GCR evaluated utility data from June of 2008; but no other months were evaluated. The resultant PFM assessment report did not consider changes in utility accounts between July and December 2008.

The PFM report compared two different months (June 2008 utility data and November 2008 cart registrations) to develop a list of serviced locations. GCR's methodology included serviced locations which had utility usage > 100 KWh⁴⁴ per month or an active utility account⁴⁵ *and* a cart registration in its final serviced location quantities provided to PFM.⁴⁶

GBB's database development required a physical field survey using a Global Positioning System (GPS) device. GCR had worked with GPS pinpointing address level data in the past and experienced numerous difficulties using this technology within the City. Despite these known difficulties, GBB was contracted to perform a physical field survey using this device.

PFM's contract also indicated that two field surveys would be performed by GBB. The field surveys involved the use of a GPS device and trained contract laborers.

⁴² PFM's exiting contract with the City was amended to include this assessment.

⁴³ November 2008 cart registrations were obtained from the Director of Sanitation.

⁴⁴ This utility usage was reviewed by the City prior to its usage by GCR.

⁴⁵ Any usage would qualify as active.

⁴⁶ A serviced location was determined by GCR to be a location with both an active utility account and a cart registration with the City.

The laborers observed and physically counted each “refuse set-out”. The results of the first field survey are provided in Table 4.

The City agreed to PFM’s cancellation of the second round of field surveys because of the uncertainty of the results.⁴⁷ The audit revealed that the counts from GBB were significantly lower than GCR. PFM’s rationale for not using the GBB count was that residents were not putting out the 96-gallon cart twice weekly.

A second round of field surveys was supposed to be conducted based on the result of the database update. The second round was supposed to target those addresses identified as candidates for verification to resolve any discrepancy between GBB and GCR databases. Upon completion of the second field survey, the database was supposed to be updated.”

The second round of counts would have allowed GBB to determine normal cart “set-out” rates. The differences noted below in Table 4 between the GBB and GCR counts were attributed to “set-out” frequency.

GBB was contracted by PFM and its serviced locations listing was not used in the final PFM Baseline Assessment. GBB’s contract was for \$ 129,112⁴⁸ and actual compensation to GBB by PFM was \$ 101,016.⁴⁹ GBB’s compensation was funded by the City’s \$250,000 contract with PFM.

PFM completed and delivered the baseline assessment to the City in December of 2008. The City adopted PFM’s assessment as the official serviced location totals for Sanitation Contractor compensation purposes.

The Sanitation Contractors began billing the City in the first quarter of 2009 based on this assessment. PFM was not contracted by the City to resolve the issues of over/under billing prior to the first quarter of 2009.

Although GCR stated that it could easily provide the City with retroactive serviced location information from its comprehensive address-level database⁵⁰, retroactive information was never contracted; and therefore, never applied to the Sanitation Contractors’ billings. Retroactive serviced location information would have allowed the City to adjust previous billings based upon the same methodology used in the PFM assessment.

⁴⁷ Obtained from the PFM contract amendment with the City of New Orleans dated July 9, 2008.

⁴⁸ Obtained from PFM’s contract with GBB.

⁴⁹ Per review of PFM’s payments to GBB.

⁵⁰ Obtained in an interview with Greg Rigamer of GCR on October 19, 2009.

Table 4. PFM Final Serviced locations By Sub-Contractor

Sanitation Contractor	GBB Serviced Location Quantities	GCR Serviced Location Quantities
Metro	17,670	48,630
Richard's	26,366	63,731
SDT	<u>4,235</u>	<u>2,880</u>
Total	48,271	115,241

Finding # 5. PFM’s Invoices Did Not Provide Sufficient Itemization of Costs.

Condition: The auditors were able to determine that the amount paid to GBB after the cancellation of the second round of field surveys by the City was in excess of the amounts that were contracted. This determination was made by viewing payments made by PFM to GBB. This overpayment by PFM to GBB would lead us to believe that the City also overpaid PFM; however, the auditors were unable to determine how much was paid to PFM for the assessment because PFM’s invoices did not itemize or distinguish between charges for Sanitation Department and other City Departments.

Criteria: The PFM baseline assessment was an amendment for \$ 250,000 to the existing contract. The \$ 250,000 contract amendment included costs for two rounds of field surveys.

Cause: The invoices from PFM summarized descriptions of deliverables billed; but did not itemize costs associated with each description or City Department.

Effect: The auditors and the City were unable to determine if PFM was overpaid for the baseline assessment.

Recommendation: The City should develop procedures to monitor its contractors’ billings to ensure that billings represent deliverables and services received. The City should also require an itemization of costs on all billings.

City’s Comment: *“In the case of a fixed fee contract, a contractor’s level of effort, whether above or below what might arbitrarily be considered appropriate, is not relevant”.*

OIG’s Response: *PFM’s invoices did not distinguish between charges for the Sanitation Department and other City departments. Therefore, the charges could not be isolated for oversight or to determine the exact amount paid to PFM for the Baseline Assessment.*

Finding # 6 PFM’s Estimated Service Locations Database Contained Uninhabitable and Ineligible Serviced Locations.

Condition: In the first quarter of 2009⁵¹ the City and the Sanitation Contractors began to rely on the December 2008 PFM baseline assessment serviced location quantities for billing purposes. Auditors found uninhabitable properties and duplications in the PFM database. Auditors also discovered addresses that were not eligible to receive curbside trash collections. Further, many of the ineligible addresses were carried forward each month. (See Tables 5 and 6.)

Table 5. PFM Uninhabitable Properties

Month(s)	Demolished by USACE ⁵²	Do Not Demolish	Imminent Danger of Collapse	Imminent Health Threat	Completed Demolitions	LLT ⁵³ Road Home Properties
PFM Richards	0	20	0	4	4	0
PFM Metro	1	30	0	12	24	0
PFM SDT	0	0	0	0	0	0

Table 6. PFM Ineligible⁵⁴ Properties

Sanitation Contractors	# of Ineligible Addresses	# of Ineligible Addresses Carried Forward from Previous Month(s)
PFM Richards	8	66
PFM Metro	43	15
PFM SDT	32	9

Criteria: The Contract between PFM and the City required that field survey verifications be delivered to the City. The Sanitation Contracts defined a residential unit (serviced location) as “a single up to four-plex dwelling within the limits of the City occupied by a person or group of persons.” Residential locations with five or more units were required to pay for curbside trash collections independently. Uninhabitable and ineligible properties were obviously not supposed to be included as a serviced location.

Cause: PFM failed to identify certain properties on the U.S.A.C.E., LLT, and City provided demolition lists in their baseline assessment.

Effect: The City paid invoices for serviced locations on uninhabitable and ineligible properties listed in the baseline assessment in 2008.

⁵¹ Richards and Metro began using the baseline assessment quantifies in January of 2009. SDT began using PFM’s assessment in March of 2009 .

⁵² Compared to U.S.A.C.E. demolition lists.

⁵³ Compared to LLT demolition lists.

⁵⁴ PFM’s monthly serviced locations contained properties that would be ineligible because they appeared on the U.S.A.C.E, LLT, or City provided demolition listings.

Recommendation: The City should perform its own analysis on the assessments provided by third party contractors and assure accuracy of the listings.

City's Comment: *The City observed that the number of errors was small relative to the total numbers of serviced locations.*

OIG's Response: *The City's statement is correct; however, there were addresses that appeared on demolition lists maintained by the City and the Corps of Engineers, and that were perpetuated on monthly billings for several months.*

B. MWH AMERICAS

Background: Engineering and staff advisory services were obtained from MWH throughout the audit period. MWH had been a contractor for the Sanitation Department since 1997 with no evidence of subsequent competition.

MWH used the provisional rates recommended by the Defense Contract Audit Agency (DCAA) in its contracts with the Sanitation Department.

These rates allow for additional costs to be charged for fringe, overhead, and an additional general and administrative overhead percentage. The City further agreed to an additional 15% profit computed on labor and direct costs for services provided to the Department of Sanitation in 2007 and 2008.

Note: The DCAA issues provisional rates and subsequently audits the contractor's actual costs against these rates. A settlement between the DCAA and the contractor is then assessed by the DCAA. Unlike DCAA, the City does not review actual costs incurred by MWH to determine the accuracy of these provisional rates.

Finding # 7. MWH's Invoice Descriptions Were Too Vague to Permit Appropriate Review.

Condition: A review of MWH's invoices to the City's Department of Sanitation disclosed that "professional services rendered to the Department of Sanitation post Katrina" was the only explanation of the services provided by MWH to the Department of Sanitation.

Criteria: Invoices should describe the specific service billed so that the Sanitation Director can properly review the services and billings for accuracy prior to approval for payment.

Cause: MWH failed to provide sufficient detail of the services provided when billing the City and the City failed to require itemized descriptions on the invoices to facilitate a thorough review of services provided by MWH.

Effect: The Sanitation Department could not possibly know if the billings were accurate based upon the vague descriptions provided, which exposed the City to the risk of overpayments to MWH.

Recommendation: MWH should be required to detail the specific services provided to the Department of Sanitation prior to its approval of the invoice for payment. The City should also request the results of the DCAA audits of provisional rates when available to determine the accuracy of the provisional rates used in MWH's contracts.

City's Comment: *The City received a "summary of all hours by employees and an itemization of all other direct costs."*

OIG's Response: *The City's statement is correct, but the services received were described only as "Professional services rendered to the Department of Sanitation post Katrina."*

Finding #8. MWH Miscalculated Its Invoices

Condition: MWH's invoices to the City for 2007 and 2008 included a miscalculated profit of 15% on its indirect charges. MWH also used the higher provisional rates approved in 2007 (122%) on billings for 2008.⁵⁵ (See Tables 7, 8 for actual invoice provisional rate calculations and Table 9 for questioned cost calculations.)

Table 7. MWH 2007 Invoice Calculations

Total Labor

A	B Labor Mark Up	C =(AxB)	D	E = (A+C+D)	F	G	H Other Costs Mark Up	I = (F+G+H)
Direct Labor (Hours x Rate)	Indirect Cost %	Total Labor Fee	Temp Labor	Grand Total Labor	Sub- Contract Labor	Associated Project Cost	Other Indirect Charges	Total Other Costs
\$129,258	122.27%	\$158,043	\$1,343	\$288,644	\$ 148,266	\$28,318	\$71,545	\$248,129

Total before Profit & Invoice

Profit

Invoice

J =(E+I)	K Labor Mark Up	L =(JxK)	M =(J+L)	N Profit Mark Up	O =(MxN)	P =(M+O)
Total Labor and Other Costs	G&A Rate	G&A Mark Up	Total Before Profit	Profit % (Per Contract)	Profit Mark Up ⁵⁶	Total Invoices for 2007
\$536,773	17.44%	\$93,613	\$630,386	15%	\$94,558	\$724,944

⁵⁵ 2008's contract indicated a provisional indirect cost rate of 110%.

⁵⁶ Profit should only have been computed on column J – Total Labor and Other Costs per MWH Contract.

Labor Mark Up⁵⁷: Total Labor Fee was calculated by multiplying the direct labor cost by 122.27% (Column **C**). Direct labor was determined by using the hours worked multiplied by a billable rate per hour as determined by MWH. (Column **A**)

Other Costs Mark Up⁵⁸: Total Other Costs were calculated by adding subcontract labor and other indirect charges such as postage, mileage and copies. In addition Total Other Costs adds an Associated Project Cost which is made up of the direct labor hours multiplied by a fixed rate of \$9.49. (Column **G**)

G&A Mark Up⁵⁹: MWH added 17.44% G&A to the Total Labor and Other Direct Cost. G&A is a percentage of these totals (Column **K**). Typically G&A includes labor for corporate officers, clerical personnel, accountants, etc. It also includes other costs such as office supplies.

Profit Mark Up: The contract permitted MWH to charge a 15% profit on Labor and Other Direct Costs (Column **O**). *Note: The DCAA does not allow this additional 15% profit on its contracts.*

Table 8. MWH 2008 Invoice Calculations

Total Labor

A	B Labor Mark Up	C =(AxB)	D	E = (A+C+D)	F	G	H Other Costs Mark Up	I = (F+G+H)
Direct Labor (Hours x Rate)	Indirect Cost % ⁶⁰	Total Labor Fee	Temp Labor	Grand Total Labor	Sub-Contract Labor	Associated Project Cost	Other Indirect Charges	Total Other Costs
\$114,203	122.27%	\$139,634	\$1,931	\$255,769	\$ 66,051	\$24,388	\$24,009	\$114,448

Total before Profit & Invoice

Profit

Invoice

J =(E+I)	K Labor Mark Up	L =(JxK)	M =(J+L)	N Profit Mark Up	O =(MxN)	P =(M+O)
Total Labor and Other Costs	G&A Rate	G&A Mark Up	Total Before Profit	Profit % (Per Contract)	Profit Mark Up ⁶¹	Total Invoices for 2008
\$370,217	17.44%	64,566	\$434,783	15%	\$65,217	\$500,000

⁵⁷ Per DCAA provisional rates.

⁵⁸ Per DCAA provisional rates.

⁵⁹ Per DCAA provisional rates.

⁶⁰ This rate should have been 110% in 2008 per MWH's contract with the City.

⁶¹ Profit should only have been computed on column J – Total Labor and Other Costs per MWH Contract.

Table 9: Summary of MWH’s Profit Miscalculations and Indirect Cost Overbilling

	Column In Table 7 or 8	2007 Table 7	2008 Table 8	Total
Actual Total Before Profit	M	\$630,386	\$434,783	
Profit %	N	X 15%	X 15%	
Profit Computed by MWH(1)		94,558	65,217	159,775
Correctly Computed Total Before Profit	J	\$536,773	\$370,217	
Profit %	N	X 15%	X 15%	
Correctly Computed Profit (2)		80,516	55,533	136,049
Profit Overbilling (1-2)		\$14,042	\$ 9,684	\$23,726
2008 Indirect Cost Overbilling⁶²			17,544	17,544
Total Questioned Costs		\$14,042	\$ 27,228	\$ 41,270

Criteria: The contract between MWH and the City allows for “15% profit on labor and other direct cost.”⁶³ The contract also specified a 110% direct labor percentage in 2008 versus the 122% used by MWH in 2008.

Cause: The Director of Sanitation failed to fully review MWH’s invoices prior to submission for payment. MWH overbilled the City and miscalculated the profit and direct labor percentages.

Effect: The City overpaid MWH in 2007 and 2008.

Amounts Questioned: **\$ 41,270**

Recommendation: The Director of Sanitation should thoroughly review the accuracy of invoices with contract provisions prior to approving invoices for payment. The DCAA audits of these rates should also be obtained to determine the accuracy of these provisional rates.

The Office of Inspector General is in the process of reviewing all Sanitation invoices submitted by MWH from 1997-2006 and 2009 to determine if other miscalculations were billed by MWH.

⁶² Indirect Cost rate (2008 column **B** in Table 8) was computed at 122% versus 110% per contract. At 110% total billings would have been \$ 482,456 versus \$ 500,000 (2008 column **P** in Table 8) for a difference of \$ 17,544 = questioned costs.

⁶³ Direct costs should be identified specifically with the project. Any cost that is incurred for a common purpose such as administrative support salaries for MWH or computer software is considered an Indirect Cost which is usually a component of the indirect cost percentage. (Column **B**)

City's Comment: *The finding warrants further review, and if the City determines that MWH violated contract provisions, it will seek legal recourse.*

OIG's Response: *The OIG agrees with the City's intent to seek reimbursement for overpayment due to inaccurate billings by MWH.*

V. CONCLUSIONS

In conclusion the audit revealed that the Department of Sanitation did not exercise proper oversight, as described in this report, over the Sanitation Contracts with Metro, Richard's and SDT nor other Contractors, MWH and PFM.

Projected Serviced Locations (House Counts)

The auditors determined that the Sanitation Contractors did not develop an initial list of likely serviced locations as required by their contracts. The City used a projected serviced location listing as developed by MWH and this projection was the basis for the Sanitation Contractors' billing to the City from 2007 through the first quarter of 2009.⁶⁴ The unsubstantiated serviced locations contributed to potential erroneous payments to the Sanitation Contractors in 2007 and 2008.

The Sanitation Contractors also continued to provide inaccurate serviced location listings and failed to update the monthly listings that were provided to the City.

An accurate agreed upon serviced location list had not been produced two years after the contracts became effective. An independent serviced location listing verified and properly approved by the City is essential to proper contract management of its Sanitation Contracts. The PFM baseline assessment was produced in December of 2008 to provide an independent serviced location listing for the City.

Insurance and Bonds

The Sanitation Contracts require the Sanitation Contractors to maintain performance and payment bonds, workman's compensation, automobile and general liability insurance with the City named as an additional insured.

The audit disclosed non-current certificates of insurance which exposed the City to potential liability in the event of an insurable event by one of the Sanitation Contractors. The City was also not named as an additional insured on SDT's general liability policy until identified by the OIG. SDT's 2007 bond calculation documentation could also not be located for the auditors to review.

It was the Sanitation Department's responsibility to monitor insurance and other contractual compliance; however, monitoring did not appear to occur on a regular basis by the Department of Sanitation.

⁶⁴ Richard's and Metro began using the baseline assessment rates in January of 2009. SDT began using the baseline assessment rates in March of 2009.

Reliance on Other Contractors

The Department of Sanitation also depended on other Contractors to accomplish its goals of keeping the City clean.

Contract oversight should involve a full review of billings and services provided by those contracted. The Department of Sanitation's failure to properly review invoices and vague invoice descriptions and costs contributed to errors in payments to PFM and MWH.

PFM's invoices contained descriptions with no corresponding itemization of the costs associated with those descriptions.

Miscalculations on the invoices submitted by MWH Americas of \$ 14,042 in 2007 and \$ 27,228 in 2008 resulted in questionable costs of \$ 41,270. The City also paid MWH a profit percentage of 15% on labor and other direct costs, which was not usual practice at DCAA.

The Office of Inspector General is in the process of reviewing all Sanitation invoices submitted by MWH from 1997-2006 and 2009 to determine if other miscalculations were billed by MWH.

VI. EXHIBITS

EXHIBIT I. SERVICE LOCATIONS MAP BY GEOGRAPHIC AREA

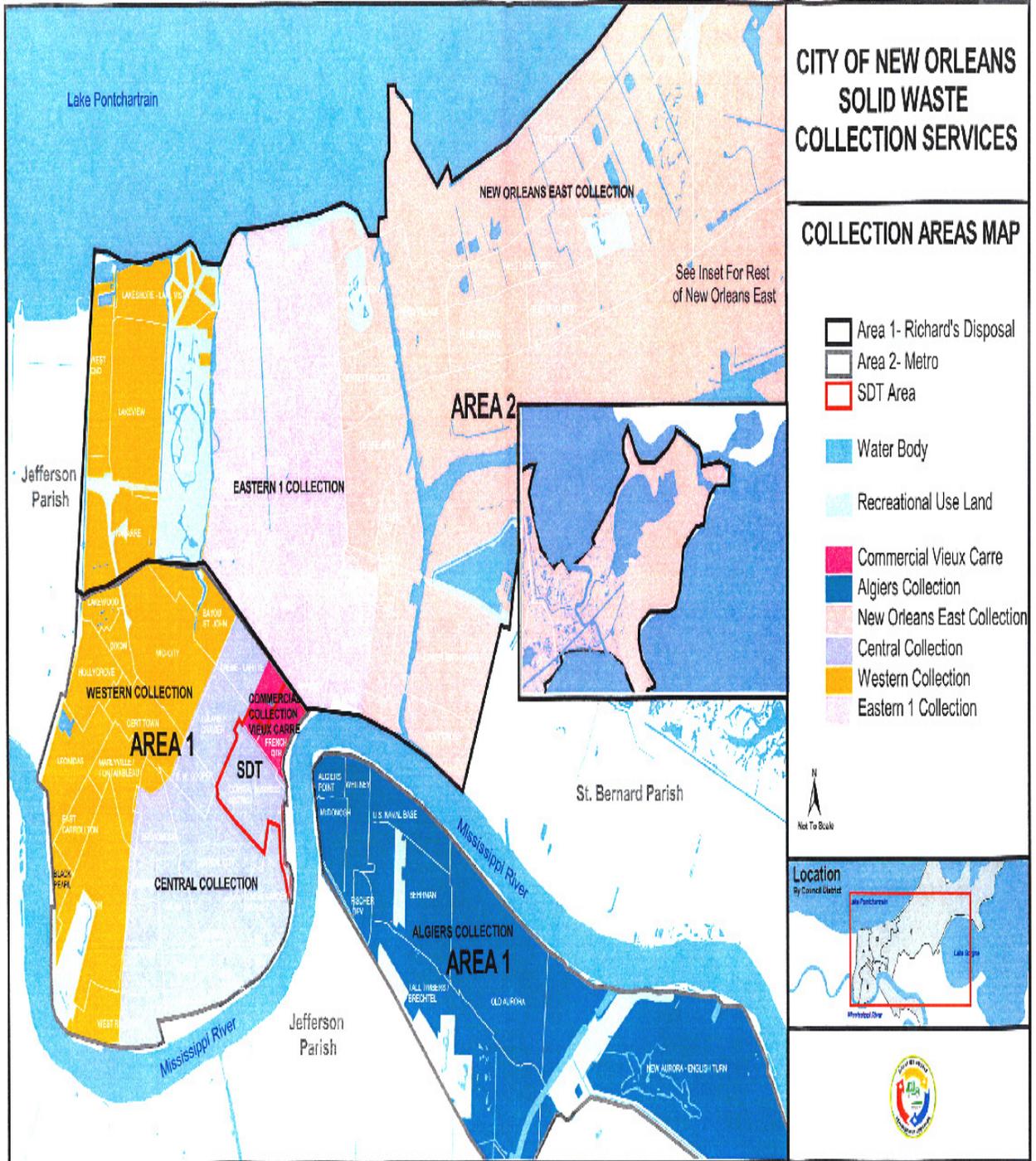


EXHIBIT II. SANITATION CONTRACTORS' PAYMENTS – RICHARD'S:⁶⁵

Check #	Date Paid	Invoice Date	Quantity	Unit Price	Amount Paid
7527	8-Feb-07	31-Jan-07	60,000	22	\$ 1,320,000.00
8142	6-Mar-07	28-Feb-07	60,000	22	1,320,000.00
8940	5-Apr-07	31-Mar-07	60,000	22	1,320,000.00
9928	3-May-07	30-Apr-07	60,000	22	1,320,000.00
10833	5-Jun-07	31-May-07	60,000	22	1,320,000.00
11997	9-Jul-07	30-Jun-07	60,000	22	1,320,000.00
1132	7-Aug-07	31-Jul-07	60,000	22	1,320,000.00
2389	11-Sep-07	31-Aug-07	60,000	22	1,320,000.00
3284	4-Oct-07	30-Sep-07	60,000	22	1,320,000.00
4659	13-Nov-07	31-Oct-07	60,000	22	1,320,000.00
5650	18-Dec-07	30-Nov-07	60,000	22	1,320,000.00
5985	24-Dec-07	31-Dec-07	60,000	22	1,320,000.00
2007 Total					\$15,840,000.00

Check #	Date Paid	Invoice Date	Quantity	Unit Price	Amount Paid
7734	14-Feb-08	31-Jan-08	63,000	22	\$ 1,386,000.00
8485	4-Mar-08	29-Feb-08	63,000	22	1,386,000.00
9526	7-Apr-08	31-Mar-08	63,000	22	1,386,000.00
10790	6-May-08	30-Apr-08	63,000	22	1,386,000.00
12111	5-Jun-08	31-May-08	63,000	22	1,386,000.00
13557	15-Jul-08	30-Jun-08	63,000	22	1,386,000.00
14690	7-Aug-08	31-Jul-08	63,000	22	1,386,000.00
16160	28-Aug-08	31-Aug-08	63,000	22	1,377,400.00
17867	2-Oct-08	30-Sep-08	63,000	22	1,386,000.00
20232	6-Nov-08	31-Oct-08	63,000	22	1,386,000.00
22163	9-Dec-08	30-Nov-08	63,000	22	1,386,000.00
24516	27-Jan-09	31-Dec-08	27,390	22	602,600.00 ⁶⁶
24711	3-Feb-09	31-Dec-08	35,610	22	783,400.00 ⁶⁷
2008 Total					\$16,623,400.00

In 2007 and 2008 the City paid Richard's Disposal \$15,840,000 and \$ 16,623,000, respectively, for curbside trash collections.

⁶⁵ 2008 increases to serviced location quantities are attributed to changes in population trends in 2007.

⁶⁶ December 2008 billing was paid on two separate checks - #24516 and # 24711 for a total of \$ 1,386,000 (602,600 + 783,400).

⁶⁷ December 2008 billing was paid on two separate checks - #24516 and # 24711 for a total of \$ 1,386,000 (602,600 + 783,400).

EXHIBIT III. SANITATION CONTRACTORS' PAYMENTS – METRO:⁶⁸

Check #	Date Paid	Invoice Date	Quantity	Unit Price	Amount Paid
7500	8-Feb-07	1-Feb-07	40,000	18.15	\$ 726,000.00
8128	6-Mar-07	28-Feb-07	40,000	18.15	726,000.00
8925	5-Apr-07	31-Mar-07	40,000	18.15	726,000.00
10024	8-May-07	30-Apr-07	40,000	18.15	726,000.00
11169	14-Jun-07	31-May-07	40,000	18.15	726,000.00
12071	10-Jul-07	30-Jun-07	40,000	18.15	726,000.00
1103	7-Aug-07	31-Jul-07	40,000	18.15	726,000.00
2357	11-Sep-07	31-Aug-07	40,000	18.15	726,000.00
3272	4-Oct-07	30-Sep-07	40,000	18.15	726,000.00
4543	13-Nov-07	31-Oct-07	40,000	18.15	726,000.00
5752	19-Dec-07	31-Nov-07	40,000	18.15	726,000.00
6759	22-Jan-08	31-Dec-07	40,000	18.15	726,000.00
2007 Total					\$ 8,712,000.00

Check #	Date Paid	Invoice Date	Quantity	Unit Price	Amount Paid
7475	12-Feb-08	31-Dec-07	50,310	18.15	\$ 913,126.80
8655	11-Mar-08	29-Feb-08	45,155	18.15	819,563.25
9522	7-Apr-08	31-Mar-08	45,155	18.15	819,563.25
10545	1-May-08	30-Apr-08	45,155	18.15	819,563.25
12098	5-Jun-08	31-May-08	45,155	18.15	819,563.25
13384	8-Jul-08	30-Jun-08	45,336	18.15	822,848.40
14482	5-Aug-08	31-Jul-08	45,336	18.15	822,848.40
16147	28-Aug-08	31-Aug-08	45,336	18.15	822,848.40
17846	2-Oct-08	30-Sep-08	45,336	18.15	822,848.40
20203	6-Nov-08	31-Oct-08	45,336	18.15	822,848.40
22144	9-Dec-08	30-Nov-08	45,336	18.15	822,848.40
24504	27-Jan-09	31-Dec-08	15,906	18.15	288,699.93 ⁶⁹
24692	3-Feb-09	31-Dec-08	29,430	18.15	534,148.47 ⁷⁰
2008 Total					\$10,240,018.53

In 2007 and 2008 the City paid Metro Disposal \$8,712,000 and \$10,240,018, respectively, for curbside trash collection services.

⁶⁸ 2008 increases to serviced location quantities are attributed to changes in population trends in 2007 .

⁶⁹ December 2008 billing was paid on two separate checks - #24504 and # 24692 for a total of \$ 822,848.40 (288,699.93 +534,148.47).

⁷⁰ December 2008 billing was paid on two separate checks - #24504 and # 24692 for a total of \$ 822,848.40 (288,699.93 +534,148.47).

EXHIBIT IV. SANITATION CONTRACTORS' PAYMENTS – SDT

Check #	Date Paid	Curbside ⁷¹ Pick Up	Litter Can	Mech Sweeping ⁷²	Manual Sweeping	Pressure Washing	Special Events	2007 Total
7541	8-Feb-07	175,250	57,575	27,036	75,909	36,519	2,898	375,187
8200	8-Mar-07	175,250	57,575	72,869	75,909	36,519	180,635	598,757
8946	5-Apr-07	175,250	57,575	72,869	75,909	36,519		418,122
9932	3-May-07	175,250	57,575	72,869	75,909	36,519		418,122
10984	7-Jun-07	175,250	57,575	72,869	75,909	36,519		418,122
12017	9-Jul-07	175,250	57,575	72,869	75,909	36,519		418,122
1148	7-Aug-07	175,250	57,575	72,869	75,909	36,519		418,122
2406	11-Sep-07	175,250	57,575	72,869	75,909	36,519	14,490	432,612
3288	4-Oct-07	175,250	57,575	72,869	75,909	36,519		418,122
4662	13-Nov-07	175,250	57,575	72,869	75,909	36,519		418,122
5735	18-Dec-07	175,250	57,575	72,869	75,909	36,519	5,796	423,918
6825	22-Jan-08	175,250	57,575	72,869	75,909	36,519		418,122
2007 Total		2,103,000	690,900	828,595	910,908	438,228	203,819	\$5,175,450

Check #	Date Paid	Curbside Pick Up	Litter Can	Mech Sweeping	Manual Sweeping	Pressure Washing	Special Events	2008 Total
7550	12-Feb-08	175,250	57,575	72,870	75,909	36,518	83,041	501,163
8629	6-Mar-08	175,250	57,575	72,870	75,909	36,518		418,122
9528	7-Apr-08	175,250	57,575	155,419	75,909	36,518		500,671
10799	6-May-08	175,250	57,575	155,419	75,909	36,518		500,671
12118	5-Jun-08	175,250	57,575	155,419	75,909	36,518		500,671
13405	8-Jul-08	175,250	57,575	155,419	75,909	36,518		500,671
14692	7-Aug-08	175,250	57,575	155,419	75,909	36,518		500,671
16165	28-Aug-08	175,250	57,575	155,419	75,909	36,518		500,671
17871	2-Oct-08	175,250	57,575	155,419	75,909	36,518		500,671
20242	6-Nov-08	175,250	57,575	155,419	75,909	36,518		500,671
22166	9-Dec-08	175,250	57,575	155,419	75,909	36,518		500,671
24618	30-Jan-09	175,250	57,575	155,419	75,909	36,518	5,090	505,761
2008 Total		2,103,000	690,900	1,699,930	910,908	438,216	88,131	\$5,931,085

SDT's contract paid for services in addition to curbside trash collections, thus the invoices for SDT included fees for mechanical sweeping, manual sweeping, pressure washing and special events such as Mardi Gras, Bayou Classic, and New Year's. Each of these services has an additional charge. The City paid SDT \$5,175,448 and \$ 5,931,085 for sanitation services in 2007 and 2008, respectively.

⁷¹ Curbside trash collection is comprised of French Quarter Commercial (2000 units at \$34 a unit), French Quarter Residential (3000 units at \$18.75 a unit) and Downtown Development District (1500 units at \$34 a unit). There is a total of 6,500 serviced locations included in this column.

⁷² Mechanical Sweeping includes mechanical side walk and street sweeping as well as street flushing.



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February 8, 2010

Brenda G. Hatfield Ph.D., Chief Administrative Officer
New Orleans City Hall
Suite 9E06
1300 Perdido St.
New Orleans, LA 70112

Veronica White, Director of Sanitation
New Orleans City Hall
Suite 1W03
1300 Perdido St. New Orleans, LA 70112

Dear Dr. Hatfield,

Please find enclosed a final draft of the City of New Orleans Department of Sanitation Contract Oversight Performance Audit Report (OIG-A&R-20090006) issued by the Office of Inspector General. This audit report evaluated the Department of Sanitation's oversight of the Sanitation and other Contractors' compliance with their contracts. The following Contracts were included in this audit: Metro Disposal, Inc.; Richard's Disposal, Inc.; SDT Waste & Debris Services, LLC; Public Financial Management, Inc.; and MWH Americas, Inc.

The Office of the Inspector General's findings and recommendations are intended to improve oversight by the Department of Sanitation and compliance by all of the Sanitation and other Contractors. Management's response to the report is due within 30 working days from the receipt of the initial draft received on February 1, 2010 in order to be included in the Office of the Inspector General's final report. Please provide your written response to our office no later than 5:00 p.m. on Friday, March 12, 2010. All responses to findings must include actions taken or planned, dates for completion of planned actions, and reasons for any disagreement with the findings and recommendations presented. The final report is due to be released on March 15, 2010.

The Office of the Inspector General conducted an exit conference on February 3, 2010 at 9:30 a.m. to discuss the findings and recommendations with appropriate management officials before releasing the final draft report today. Management's preliminary comments and additional evidence were considered in finalizing this draft.

Should you have any questions, please contact Eileen Andrus, Deputy Inspector General of Audit and Review, at 504-681-3205.

Sincerely,

A handwritten signature in blue ink, appearing to read "E.R. Quatrevaux", with a small flourish at the end.

E.R. Quatrevaux
Inspector General

CITY OF NEW ORLEANS

C. RAY NAGIN
MAYOR

BRENDA G. HATFIELD, Ph.D.
CHIEF ADMINISTRATIVE OFFICER

February 25, 2010

Edouard R. Quatrevaux
Inspector General
City of New Orleans
535 St. Charles Avenue
New Orleans, LA 70130

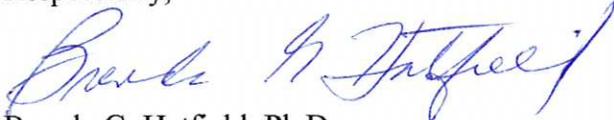
Dear Inspector General Quatrevaux:

Pursuant to the Department of Sanitation Contract Oversight Performance Audit (OIG – A&R – 20090006), the City administration respectfully submits the attached response.

We appreciated the opportunity of meeting with your audit team under the leadership of Eileen S. Andrus to discuss the draft audit report for clarification of findings and possible revisions. We are also pleased that there was no evidence of fraud or abuse by the City or its contractors. Finally, your findings and recommendations have been noted for follow-up and continuous oversight by the Sanitation Department as indicated in responses to various audit findings.

Please contact Ms. Veronica White, Director of Sanitation [vwhite@cityofno.com], (504) 658-3820; or contact my office directly [bghatfield@cityofno.com], (504) 658-8910 if necessary.

Respectfully,



Brenda G. Hatfield, Ph.D.

Chief Administrative Officer

ec: Ray Nagin, Mayor
Penya Moses-Fields, City Attorney
Veronica White, Director of Sanitation
Eileen S. Andrus, Deputy IG of Audit and Review
Raymond Hartley, MWH
Dean Kaplan, The PFM Group
Chris Pencikowski, The PFM Group
Greg Rigamer, GCR & Associates



RESPONSE TO THE OFFICE OF THE INSPECTOR GENERAL

CITY OF NEW ORLEANS

REGARDING

THE DEPARTMENT OF SANITATION CONTRACT OVERSIGHT PERFORMANCE AUDIT

OIG – A & R – 20090006

SUBMITTED BY:

VERONICA WHITE

DIRECTOR OF SANITATION

BRENDA G. HATFIELD, PH.D.

CHIEF ADMINISTRATIVE OFFICER

C. RAY NAGIN, MAYOR

FEBRUARY 25, 2010

INTRODUCTION

Section 4-801 of the New Orleans Home Rule Charter provides for the functions of the Department of Sanitation. Specifically, the Department of Sanitation, headed by a director of Sanitation, shall:

1. Provide for the collection and disposal of garbage and other refuse, either directly or by contract.
2. Provide for the management and operation of disposal facilities, either directly or by contract.
3. Clean the streets.
4. Enforce municipal, state, and federal law and regulations for the keeping of streets, vacant lots and other places free from weeds and deleterious matter.
5. Enforce ordinances and state and federal laws and regulations involving solid waste.
6. Develop and implement integrated waste management plans.
7. Perform such other duties as required by this Charter or assigned in writing by the Mayor.

With this in mind, it is the mission of the Department of Sanitation to provide a clean and healthy environment free of litter and illegal dumping, by providing high level customer services for residents, businesses and visitors in the City of New Orleans. Prior to 2005, the Department of Sanitation received over 2,500 complaints a day for poor service, skipped service locations, and rodents and animals feeding off remnants of garbage falling off collection trucks into the streets. The entire City acquired a reputation for dirty garbage and trash strewn neighborhoods while the French Quarter had the additional unique distinction of being “slimy” and “smelly” of waste and garbage. The City administration, the New Orleans City Council and residents were dissatisfied and collectively recognized the need for a clean, fresh and attractive environment for residents and visitors. Therefore, while still in the midst of a disaster clean-up and removal, the City began working on bid specifications that would reverse the image of negative sanitation practices that plagued this City for many years.

Working in cooperation with the New Orleans City Council, bid specifications were prepared to include integrated, high performing services with state-of-the-art equipment as well as include cleaning techniques to foster cleaner neighborhoods and “Disney- like services” in the city’s main tourist area, the French Quarter. In addition, the new specifications required 50% DBE

participation compared to 25% in the former Waste Management of Louisiana (WML) contract. Since awarding the three (3) recent sanitation contracts in 2006, the City has been nationally and internationally recognized for its improved cleanliness. Customer complaints have been decreased so drastically that they are practically non-existent.

On February 8, 2010, the City received “The Department of Sanitation Contract Oversight Performance Audit OIG-A&R-20090006” prepared by the Office of Inspector General for the City of New Orleans. After review of this final report, the City’s response to the audit findings are below. Please note the following general comments to audit premises and statements:

1. The OIG report, Table 2, page 4, references “Total Contractual Amounts.” The solid waste contracts did not fix contract “amounts.” The contracts provided for contracted regular and optional services and related unit prices. They provided for invoice calculations according to confirmed service location counts and performed services.
2. The OIG report, page 4, reports that the 2006 solid waste contracts increased costs “106% to 149%” above costs for the earlier WML solid waste contract. This statement is misleading. The earlier and later contract performance requirements differed significantly, and a simple cost comparison does not produce a meaningful statistic. Contract differences include:
 - a. The 2006 contracts required contractors to purchase and supply collection carts to approximately 100,000 residential locations. The WML contract did not.
 - b. The 2006 contracts required the contractors to supply garbage trucks specially equipped for automated collections. The WML contract did not.
 - c. The 2006 contracts required contractors to complete Christmas Trees and other “Special Collections” at no additional cost. The WML contract did not.
 - d. The 2006 contracts required contractors to maintain a dedicated capability including supervisors, vehicles, workers, dead animal removal, scheduled event clean-up, and special needs collections. The WML contract did not.

The cost of these and other additional requirements in the 2006 contracts factored in the bid cost-per-serviced location. A comparison of the costs for the 2006 contracts with the WML contract shows the greater cost for broadly expanded service.

3. On page 7, the OIG report references several sources, including contracts, informed persons, relevant documents, and one media source. In general, media reports are not considered to be objective sources of data upon which to base audit findings. If attempting to capture public opinion, the City requests that the OIG at least compile a diverse and well balanced source list of primary and secondary data.

4. On page 8, the OIG report states that “Findings in a performance audit can be one or a combination of the following: Significant deficiencies in internal control, Fraud or illegal acts, Violations of contract and grant agreements and/or, Abuse.” The City objects to these references, because although the OIG’s audit report finds control failures, the report does not report fraud, illegal acts, breach of contract, or abuse. The easily-misunderstood statement has no place in the audit report, even as an explanation.

Finally, the City commends the OIG for distributing the report to the City for review and comment prior to publication or public dissemination. The footnoted explanations and attributions in the report were very helpful. We especially appreciated the extensive time that the OIG staff took to meet with the City’s administrative staff with willingness to listen and be flexible in making appropriate revisions to the draft report. Most significantly, we are pleased to affirm that the OIG found no evidence of fraud or abuse in the City’s oversight of its sanitation contracts.

CITY OF NEW ORLEANS RESPONSE TO FINDINGS

The Department of Sanitation Contract Oversight Performance Audit OIG-A&R-20090006, Issued February 8, 2010

Finding #1 The City Paid Sanitation Contractors Based Upon Projected IFB Serviced Locations.

City of New Orleans Response:

Due to the time involved in routing contracts for signature through the City, the contracts with the three (3) sanitation contractors were signed either right before or soon after the December 15, 2006 deadline. Thus, the Contractors could not comply with the specific deadline in their contracts, but they did provide their lists of service locations soon after their contracts were signed and fully executed.

Before the City issued payment to the contractors based on their lists, the City had to verify and approve the list of eligible serviced locations. For obvious reasons, this presented itself as a complex and difficult task given that the City was still engaged in stabilization and immediate recovery from a well-documented mandatory evacuation, the first in this country's history, as a result of this nation's worst disaster in recent history. Post-Hurricane Katrina presented the following challenges in data collection: accurate data sources were not available as local data collection organizations were still trying to find the most accurate and reliable methods to measure population and other data points after Hurricane Katrina; the population was in a constant flux of citizens either returning permanently or commuting to make repairs; and due to a budget reliant upon federal loans or emergency reimbursements to recover from losing 100% of its tax base, the City could not afford a house-to-house count at the initial onset. As time progressed and conditions became more stable, the City contracted with PFM in July 2008 to provide a baseline assessment of the serviced locations. Work began in August 2008 and PFM's final report was submitted to the City in December of the same year. The City now has a much improved and accurate database that is regularly updated as conditions continue to change post-Katrina. As a result of the above conditions, the projected numbers of serviced locations in the 2006 Invitation for Bid (IFB) and the contract served as the baseline for payment to the sanitation contractors until the City could verify and approve the lists.

Finding #2 The City Could Not Demonstrate Correct Documentation of SDT's Performance and Payment Bonds Calculation for 2007.

City of New Orleans Response:

The SDT solid-waste contract is a **requirements** contract, by which the contractor serves according to particular work assignments. For the initial 2007 contract year, based upon need and available funding, the Sanitation Department projected assignments valued at \$4,631,236.24, calculated as follows:

Description of Services	Estimated Cost
Curbside Collection	\$2,103,000.00
Litter Can Collection and Patrol	\$690,900.00
Scheduled Event Clean Up	\$163,773.40
Mechanical Sidewalk Sweeping	\$324,431.40
Manual Labor Street/Sidewalk Sweeping	\$910,906.20
Pressure Washing Streets & Sidewalk	\$438,225.24
Total Estimated Annual Cost	\$4,631,236.24

According to solicitation requirements, the City called for SDT to supply performance and payment bonds for 50% of the projected assignments (\$2,315,618.12). As the OIG reported, SDT complied. The City Purchasing Bureau validated surety qualifications. The City previously supplied documentation for the bond amount calculation. The City asserts that this “finding” by the OIG is incorrect.

On page 11, the OIG report states, “The City Attorney was responsible for the initial calculations of the 2007 SDT bond with input from the Director of Sanitation.” The unattributed statement is also incorrect. The City Attorney serves in a legal capacity only and has no responsibility for bond amount calculations or other operational matters. Despite the report’s recommendation, the City Attorney is not responsible to, “... communicate changes to bond calculations to the Director of Sanitation.”

Finding #3 The City Did Not Maintain Current Certificates of Insurance

City of New Orleans Response:

The City is required to keep **copies** of insurance certificates from its sanitation contractors. These certificates were on file with the Department of Sanitation and were submitted to the OIG

auditor during the site visit. All three contractors provided insurance certificates verifying worker's compensation, automobile liability, and general liability annually to the Department of Sanitation. The certificates were on file as the City required and were presented to the auditor; therefore, the City also asserts that this "finding" by the OIG is incorrect.

Finding #4 The City Was Not Named As An Additional Insured.

City of New Orleans Response:

The Department of Sanitation reviewed all insurance certificates provided by the contractors for compliance with specified amounts of coverage. Both Metro Disposal, Inc. and Richard's Disposal, Inc. provided the insurance requirements that the City be named as an additional insured. It is accurate that SDT did not use the wording, "The City, its officers, agents and employees shall be added as an additional insured" under the comprehensive general liability and automobile policies for 2007. However, SDT has revised its insurance certificate to use the wording cited above. All three (3) sanitation contractors remain in compliance with the requirements that the City be named as an additional insured.

The OIG report references contract insurance requirements and notes the City's failure to maintain current insurance certifications or specific coverage as an "additional insured" (pp. 11, 14). It states that the failures exposed the City to potential liability. Although the report acknowledges the City's contract indemnity protection, it subjects the protection to contractor insolvency or bankruptcy, and it finds the City inadequately protected from contract risk. This risk protection analysis is incomplete. Three contract provisions (the insurance requirement, the indemnity provision, and the performance and payment bonds requirement) shield the City from contract risk. Even without effective insurance or a contractor's ability to indemnify the City, the separate performance bond guarantees the contractor's indemnity obligation and protects the City from liability. The audit determined that "SDT was properly bonded in 2007." Thus, the contract and bond effectively protect the City from contract risk.

Finding #5 PFM Failed to Deliver the Second Round of Field Verifications,

City of New Orleans Response

The City's contract with PFM was based on a fixed fee negotiated between the City and PFM. As such, the Chief Administrative Office and Department of Sanitation ensured compliance by

reviewing the product delivered, not the level of effort. In the case of a fixed fee contract, a contractor's level of effort, whether above or below what might arbitrarily be considered to be appropriate, is not relevant. PFM delivered an estimate of eligible service locations and a subsequent report that met the City's needs and the requirements of the contract. The second round of field verification was canceled by the City since that approach had been shown to yield inaccurate data and was costly to administer; therefore the City negotiated a reduction in the amount of PFM's contract. It is clear that PFM was not overpaid, and in fact, the City received a superior product and saved \$18,221.

Also see PFM responses, Attachment A & B; and GCR & Associates response, Attachment C.

Finding #6 PFM's Estimated Service Locations Database Contained Uninhabitable and Ineligible Serviced Locations

City of New Orleans Response

The City worked with PFM and its subcontractors to develop a method of estimating solid waste serviced locations that is highly accurate, flexible, replicable, and cost effective. The resulting database is highly accurate, but is not a static, perfect model. It is neither reasonable nor possible to maintain a database which achieves 100% accuracy on an ongoing basis given the normal fluctuation in residency in neighborhoods. Further, the 178 uninhabitable and ineligible serviced locations identified by the OIG equals 0.1% of the 175,000 total addresses in the PFM database of serviced locations, which is an insignificant variance. In fact, this insignificant variance verifies that the methodology used and resulting database are highly accurate. In addition to this highly accurate methodology and database, the Director of Sanitation performs regular field visits to scrub the list and verify the accuracy of serviced locations. Serviced locations are promptly removed if they have been verified to be ineligible.

This insignificant variance in serviced locations would not result in any considerable cost to the City, and the City questions the validity of this finding by the OIG.

Also see PFM response, Attachment A; and GCR & Associates response, Attachment C.

Finding # 7 MWH's Invoice Descriptions Were Too Vague to Permit Appropriate Review.

City of New Orleans Response:

MWH's invoices to the City included a summary of all hours by employees and itemization of all other direct costs. As backup documentation to the invoice summary, MWH furnished weekly timesheets of each employee and copies of any receipts of all other direct costs. The Director of the Department of Sanitation met regularly and communicated daily with MWH employees, and was sufficiently aware of all work and employees performing work for the Department. All services provided by MWH were under the direct supervision of the Director of Sanitation and performed as a staff extension to the Department of Sanitation. The City contends that the backup documentation to MWH's invoices was sufficient documentation for review and approval of MWH's invoices.

Also see MWH response, Attachment D.

Finding #8 MWH Miscalculated Its Invoices

City of New Orleans Response:

Factually, all invoices are reviewed by the Director of Sanitation for work performance, as mentioned in the response to Finding #7 above. This finding merits further technical review and research to determine whether or not MWH properly calculated their profit and direct labor percentages. If the City determines that MWH violated any contract provisions, we will pursue legal recourse. Since the City received this finding, we have been withholding payment of the questioned costs until we have determined whether or not contract provisions have been violated.

Also see MWH response, Attachment D.