

**CITY OF DETROIT**

**OFFICE OF INSPECTOR GENERAL**

**REQUEST TO CLOSE INVESTIGATION MEMORANDUM**

**DATE:**

09/21/2020

TO: Ellen Ha  
Inspector General

Approved 

FROM: Jacqueline Hendricks-Moore  
File Manager

CASE NAME: Preferential Treatment for a Contractor

OIG # 20-0005-INV

COMPLAINANT INFORMATION: The City of Detroit Board of Ethics

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**I. Introduction**

On February 20, 2020, the City of Detroit Board of Ethics (BOE) forwarded a complaint to the Office of Inspector General (OIG) that they received. The complaint alleged that Jozef Contractor Inc. (Jozef), a city contractor for the Bridging Neighborhood Program (BNP) – Home Swap Program (HSP), was receiving preferential treatment over other city contractors that were awarded contracts for property renovations.

Based on our review of the complaint, we opened an investigation into the allegation. The OIG's investigation found no evidence of fraud, waste, abuse or corruption involving Jozef receiving contracts from BNP.

**II. Investigation Synopsis**

The OIG reviewed several documents, policies and procedures from the City of Detroit Office of Contracting and Procurement (OCP) and the BNP. The OIG interviewed several employees of OCP and BNP. In addition, the OIG interviewed several BNP pre-qualified contractors.

## A. Interviewed<sup>1</sup>

### BNP Employees

- Heather Zygmuntowicz, Director of BNP
- Robert Bilderbeck, Construction Superintendent
- Evan Markarian, Housing Consultant
- Antoine Hayes, Housing Development Specialist
- Lawrence Young, Housing Development Specialist
- Lincoln Moore, Project Manager
- Miguel Barajas, Housing Consultant/Program Manager

### BNP Pre-Qualified Contractor

- Jozef
- Clark
- D&D
- Lake Starr

### OCP Employees

- Kelly Trammel, OCP Specialist
- LaTonia Limmatt, OCP Specialist

## B. BNP

The BNP was established in March 2018 to provide assistance to residents affected by the construction of the Gordie Howe International Bridge (Bridge). The construction of the Bridge is a project to build a cable-stayed bridge and border across the Detroit River, connecting the United States and Canada. The project was scheduled to begin on October 21, 2019.<sup>2</sup> The Delray neighborhoods and Southwest Detroit area were the neighborhoods affected by this project. Prior to the onset of this project, the residents in these neighborhoods organized and presented their concerns to the City of Detroit regarding the impact of the project on their quality of life. These residents raised concerns about being displaced from their homes, the impact of traffic noise and air quality in their neighborhoods. The City of Detroit received a \$45 million benefit award from Canada and the State of Michigan. A portion of these funds were set aside to address the concerns and issues of the residents affected by the Bridge project.

The BNP oversees two programs; 1) the HSP and 2) I-75 Environmental Mitigation Program. The HSP offers displaced homeowners the opportunity to move into a newly renovated house in a City of Detroit neighborhood. The I-75 Environmental Mitigation Program offers affected homeowners the opportunity to address the impact of noise and air quality due to the increase of traffic resulting from the construction of the Bridge. Through this program eligible

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<sup>1</sup> The OIG interviewed these employees with OCP and BNP regarding this complaint and to gather detail information about their role and responsibilities with BNP. Also, the OIG conducted a joint conference call with both OCP and BNP on more than one occasion to get clarity regarding each department's role and responsibilities. Furthermore, the OIG interviewed these BNP contractors to obtain information about their participation in the program.

<sup>2</sup> <https://www.gordiehoweinternationalbridge.com/en/michigan-interchange>

homeowners could receive updated windows, HVAC systems, air filters and insulation. Only those residents and homeowners residing in the affected areas that's comprised of Delray neighborhoods or within 150 feet of the I-75 Service Drive expansion, are eligible to participate in these programs.<sup>3</sup>

Based on the allegation contained in the complaint, the OIG's investigation focused on contractors involved in the HSP.

#### C. CRD & Associates, LLC (CRD)

CRD & Associates, LLC (CRD), were hired through the Housing and Revitalization Department (HRD) and the BNP to be the project manager for the HSP. The Director for the BNP Heather Zygmuntowicz explained that CRD was hired to oversee the construction part of the HSP. CRD's role and responsibilities included assisting with the pre-qualification process for contractors, establishing policies and procedures about constructions, assisting in the bidding process and establishing a contractor assessment evaluation. The BNP leadership had problems with CRD, such as poor communication with BNP management and the contractors. The BNP leadership received several complaints from several contractors, including one environmental contractor that quit because of CRD's mismanagement. CRD created a major problem when they stopped conducting hazard survey for the houses, which is required prior to performing the renovation. CRD made this decision without notifying BNP leadership. As a result, the HSP had to stop renovations on several projects. For these reasons, Ms. Zygmuntowicz stated BNP terminated its contract with CRD. Initially, CRD's contract term was for 2 to 3 years, however, on August 5, 2019, CRD's contract was terminated.<sup>4</sup>

#### D. BNP Pre-Qualified Contractors: Request for Qualifications Quote (RFQQ)

The BNP leadership worked jointly with OCP to issue several "Request for Qualifications Quote" (RFQQ) to get contractors pre-qualified for the program.<sup>5</sup> OCP handled the posting of the RFQQ's and collecting all documents submitted from the contractors, through the City of Detroit's BidSync system.<sup>6</sup> OCP reviewed the documents from each contractor to ensure all required information was received in accordance with the specification of the RFQQ. After the review, OCP then forwarded these documents to the BNP leadership for their review and approval. The BNP leadership made the decision which contractors would be pre-qualified to participate in the program. Pre-qualified contractors were then placed on BNP's "Pre-Qualified Residential Construction Contractor List". Thereafter, only pre-qualified contractors had the opportunity to submit proposals for the residential rehabilitation construction on single family houses selected for renovation by the BNP. However, just because a contractor was pre-qualified to participate in the bid process for the BNP program did not guarantee that the contractor would automatically be

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<sup>3</sup> <https://detroitmi.gov/government/mayors-office/bridging-neighborhoods-program/programs/home-swap-program>

<sup>4</sup> On March 2, 2018, OCP approved PSC #6001207 for CRD, as the project manager for the BNP. On August 5, 2019, OCP and BNP issued a letter terminating CRD's services.

<sup>5</sup> RFQQ 18PC1752 - Residential Construction Contractor Request for Qualifications, Bid Start Date: March 6, 2018

<sup>6</sup> In May 2015, the City of Detroit began using BidSync for the bid solicitation process. Any contractor doing business with the City had to submit all required documentation through the BidSync system.

awarded a contract. Between March 2018 and March 2020, BNP issued several RFQQs to continue to increase the number of pre-qualified contractors in the program.

Table 1 lists all pre-qualified contractors for BNP between March 2018 and March 2020. The table also shows the date each contractor was notified that they are pre-qualified for the program.<sup>7</sup>

Table 1: Pre-Qualified Residential Construction Contractor List

<b>Pre-Qualified Contractor</b>	<b>Date Approved</b>
D&D*	5/16/18
Mando Construction	5/16/18
3LK	8/19/18
Allied Property Services	10/27/18
3R Home Improvements	10/27/18
DMC	10/27/18
Emergency Restorations	10/27/18
Gayanga	10/27/18
Jozef Contractor	10/27/18
Nail-Rite Construction	10/27/18
Clark	1/17/19
Tidwell	1/17/19
Land Ho	5/15/19
Lake Starr	6/6/19
JC Beal	7/29/19
ARM	8/12/19
DEDG	8/19/19
Nora Contracting	9/13/19
Ace Restorations	2/2/20
Detroit Ground Crew	2/17/20
<i>*D&amp;D was disqualified by BNP in September, 2018<sup>8</sup></i>	

Based on our investigation, the OIG finds that:

- 1) BNP used an established criteria to pre-qualify contractors for the program;
- 2) The RFQQ proposals were posted to establish a group of pre-qualified contractors for the program;
- 3) BNP issued several RFQQ proposals, between March 2018 and March 2020, to increase the number of pre-qualified contractors in the program;
- 4) BNP leadership made the decision which contractors were pre-qualified for the program;

<sup>7</sup> Award letters were issued by OCP to notify the contractors that they were pre-qualified for the BNP.

<sup>8</sup> Email: dated September 19, 2018 between BNP and OCP, disqualifying D&D from the BNP.

- 5) Only BNP pre-qualified contractors were eligible to submit proposals for the renovation of houses in the program. Being a pre-qualified contractor did not guarantee that the contractor would receive a contract; and
- 6) Between March 2018 and March 2020, BNP pre-qualified 20 contractors. On September 19, 2018, BNP disqualified D&D as a contractor leaving the program with 19 pre-qualified contractors as of March 2020.

E. BNP Renovation Proposals: Request for Quotes (RFQ) and Request for Proposal (RFP)

Between March 2018 and March 2020, the BNP issued two types of proposals: 1) Request for Quotes (RFQ)<sup>9</sup> and 2) Request for Proposals (RFP)<sup>10</sup>. OCP and BNP evaluated and determined which pre-qualified contractors would be awarded the contract based on whether the proposal was RFP or RFQ. RFQ proposals were reviewed and evaluated by OCP and RFP proposals were reviewed and evaluated by a BNP Evaluation Team.

The BNP's Evaluation Team consisted of BNP Director Ms. Zygmuntowicz, Deputy Director Rico Razo, Construction Superintendent Robert Bilderbeck and Housing Development Specialist Antoine Hayes. BNP Evaluation Team made the determination which pre-qualified contractor's bid response would be awarded a contract. Ms. Zygmuntowicz explained that BNP's evaluation guidelines and criteria were revised sometime between March 2018 and March 2020. These revisions effected how pre-qualified contractors were awarded a contract.

According to OCP Specialist Kelly Trammell, OCP's evaluation and recommendation on RFQ proposal is based on the lowest responsible bidder. The evaluation criteria used to make this determination is based on OCP's Standard Operating Procurement (SOP) criteria.<sup>11</sup> OCP provides a "Referral/Recommendation" form regarding their recommendation to BNP leadership.<sup>12</sup> Ms. Trammell explained that typically BNP's leadership accepted OCP's recommendation.

BNP Evaluation Team's evaluation and determination on RFP proposal is based on the highest ranking contractor, which is based on BNP's contractor evaluation criteria. In May 2019, the BNP leadership revised their contractor evaluation guidelines and criteria. According to Ms. Zygmuntowicz, the revisions were made to address the issues the program had encountered in the beginning with some of the contractors. Ms. Zygmuntowicz explained that some contractor's workmanship on the renovated houses were not up to BNP's standards and some contractors did not stay on schedule with their renovations.

Table 2 shows a brief summary and comparison between the original 2018 RFP Guidelines and Criteria and the May 2019 revisions.

Table 2: RFP Guidelines and Criteria for 2018 and 2019 May Revisions

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<sup>9</sup> Reference: RFP\_5766 Haverhill [Bid #18LS2573]

<sup>10</sup>Reference: RFP\_6711 Ashton [Bid #18LS1972] and 2408 Rieden [18LS2106] Section 11: Evaluation Procedure

<sup>11</sup>Reference: OCP's SOP Chapter 3: Making a Purchase, Section 3.6: Receiving, Evaluating and Selecting Bid Responses. Also, RFP\_5766 Haverhill [Bid #18LS2573] Section 10: Evaluation Criteria & 11: Evaluation Procedure.

<sup>12</sup> Reference: RFQ# 18LS2573 Referral/Recommendation Form

	<b>2018 Original RFP Guidelines and Criteria<sup>13</sup></b>	<b>2019 May Revision RFP Guidelines and Criteria<sup>14</sup></b>
Minimum Qualifications	Must be a pre-qualified contractor	Must be a pre-qualified contractor
		Must have single and aggregate bond capacity
		Construction schedule is 4 months or less
		Contractor must have completed at least one house in the program to date, to be awarded additional projects. {I.E., First time contractors with BNP will not be awarded more than one contract award at a time.}
Evaluation Criteria:	The total cost of the project will be evaluated based on price and direct experience	The Evaluation Committee will utilize the information on file, unless updated documentation is submitted with the contractor's response

<sup>13</sup> Reference: RFP\_6711 Ashton [Bid #18LS1972] Section 2: Minimum Qualifications & Section 10: Evaluation Criteria

<sup>14</sup>RFP\_6395 Warwick & 16205 Mark Twain [Bid #19KT2948] Section: Minimum Requirements and Section: Evaluation Criteria, posted in May 2019.

	<b>2018 Original RFP Guidelines and Criteria<sup>15</sup></b>	<b>2019 May Revision RFP Guidelines and Criteria<sup>16</sup></b>
Evaluation Criteria:	<p>Phase 1: Criteria Non-Economic Development</p> <ul style="list-style-type: none"> <li>▪ Quality and Technical Approach (15 points)</li> <li>▪ Price Proposal (50 points)</li> <li>▪ Maximum points not to exceed 65 points</li> </ul> <p>Phase 2: Criteria Prime Contractor Economic Development</p> <ul style="list-style-type: none"> <li>▪ Detroit Headquartered business (15 points)</li> <li>▪ Detroit based business (5 points)</li> <li>▪ Maximum points not to exceed 15 points</li> </ul> <p>Phase 3: Criteria Economic Development &amp; Contract Performance of Prime and Subcontractor(s)</p> <ul style="list-style-type: none"> <li>▪ Detroit Headquartered business (20 points)</li> <li>▪ Detroit based business (10 points)</li> <li>▪ Maximum points not to exceed 20 points</li> </ul>	<p>Capacity: Capacity is determined based on percent of capacity available at the time of the RFP close (# of open BNP projects divided by # of total projects allowed based on bonding capacity), and contractor’s current BNP rating. Highest points will be awarded to the lowest capacity percentage. 40 points</p> <p>Contractors with a current BNP rating greater than or equal to 3.5 receive the following total capacity allowed (denominator for capacity percentage) based on aggregate bonding (AB) capacity per below:</p> <ul style="list-style-type: none"> <li>▪ \$100,000-\$250,000 AB level is limited to 1 BNP project at a time</li> <li>▪ \$250,000 -\$750,000 AB level is limited to 3 BNP projects simultaneously</li> <li>▪ \$750,000 - \$1,000,000 AB level is limited to 7 BNP projects simultaneously</li> <li>▪ \$1,000,001 +AB level is allowed up to 10 BNP projects simultaneously</li> </ul> <p>Cost: Highest points awarded to the lowest submitted response that is within target. (40 points )</p> <p>Detroit Base: Contractors with their office based in Detroit. (20 points)</p>

According to Ms. Zygmuntowicz and Ms. Trammell, OCP was notified by BNP’s leadership regarding their decision on which pre-qualified contractor was awarded the contract. OCP then generated an award letter for the contractor to notify them that their bid response was accepted. The award letter was then forwarded to the contractor advising them of the next steps.

<sup>15</sup> Reference: RFP\_6711 Ashton [Bid #18LS1972] Section 2: Minimum Qualifications & Section 10: Evaluation Criteria

<sup>16</sup>RFP\_6395 Warwick & 16205 Mark Twain [Bid #19KT2948] Section: Minimum Requirements and Section: Evaluation Criteria, posted in May 2019.

## F. BNP's Contractor Evaluation Assessment

BNP conducted contractor evaluation assessments for every contractor after each renovation project (house) was completed.<sup>17</sup> BNP rating was essential to the contractor being awarded another contract. In fact, BNP rating component was added to the evaluation criteria in 2019. Moreover, BNP rating was used when determining which pre-qualified contractor would be awarded a contract.

Generally, the contractor's assessment evaluation is performed during the final walk through of the completely renovated house. According to BNP employees, they fill out a contractor evaluation assessment form and then transmit the information by email or on a smart sheet to BNP leadership and CRD. The assessment form contains questions, a comment section and a score section for the evaluator to write their comments and enter a score. BNP did not provide any formal training to its staff on how to evaluate and score the contractor's performance.

The following are some factors BNP employees considered when evaluating and scoring the contractor. It should be noted that not all of BNP employees considered the same factors when evaluating and scoring a contractor.

- Overall look and quality of the contractor's workmanship;
- Extra work performed by the contractor that was not in the scope of work to be completed;
- Comments made by the homeowner about the contractor's workmanship; and
- Punch list issues (Completions and timeliness)

The OIG reviewed two contractors' evaluation spreadsheets. Both spreadsheets contained evaluation questions, comments and scores recorded by the evaluator. One spreadsheet contained the evaluations by both CRD and BNP, and the other spreadsheet contained the evaluations by BNP only. The OIG found some inconsistencies in how the contractors were scored, even when evaluators' comments were referencing the same problem.<sup>18</sup> In addition, not all scores noted were followed by a comment to support the score given to the contractor by the evaluator. These issues probably occurred, because BNP did not provide any formal training to its evaluators.

## G. BNP Contracts Awarded to Pre-Qualified Contractors

As of March 31, 2020, BNP approved 49 houses to be renovated in the Home Swap Program.<sup>19</sup> At this time, 32 houses have been completely renovated and 17 houses are currently still under renovation. Only 7 pre-qualified contractors were awarded the renovation contract. Out

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<sup>17</sup> The OIG interviewed the following BNP employees that performed contractor's evaluations between March 2018 and March 2020: Mr. Bilderbeck, Mr. Markarian, Mr. Hayes, Mr. Young, Mr. Moore and Mr. Barajas. The OIG did not interview Raquelle Seda, because she was on maternity leave. Also, the OIG did not interview Magaly Urista because she no longer worked for the BNP. Ms. Urista's last day with the BNP was November 11, 2019.

<sup>18</sup> Reference: Smart Sheet - PMO Comment and Score by Home exported April 13, 2020, pages 7-12 [Comments and scores] for properties; 11612 Rossiter, 8396 Lane, 5766 Haverhill, 3959 Courville and 7060 Navy. Reference: Smart Sheet - BNP Contractor Grading exported April 13, 2020, pages 1&2 [Comments and Scores: Construction Schedule & Punch List], for properties; 2550 Stair and 7743 Senator.

<sup>19</sup> BNP Construction Status Report dated March 31, 2020.

of the 7 pre-qualified contractors, Jozef received 60% of all BNP’s renovation contracts. Specifically, Jozef received renovation contracts for 29 houses. The remaining 20 houses, with the exception of 2 houses that have not been awarded to a contractor, were awarded to the other 6 pre-qualified contractors.

Table 3 shows the breakdown of the number of houses awarded to each of the 7 pre-qualified contractors.

Table 3: Pre-Qualified Contractors and awarded houses between 2018 and March 2020

<b>Pre-Qualified Contractors</b>	<b># Houses</b>	<b># Contracts</b>	<b>% Contracts Awards</b>
Allied Property Services	7	6**	17%
Clark	1	1	2%
D&D	2	2	6%
Gayanga	1	1	2%
Jozef Contractor	29	22**	60%
Lake Starr	6	4*	11%
Nora Contracting	1	1	2%
No contractor assigned	2	0	0%
Totals	49	37	100%

\*\* Denotes some contracts included a bundle of 2 houses

The OIG used the following factors to determine how Jozef received 60% of all BNP’s contracts:

- The total number of contracts awarded by BNP to pre-qualified contractor;
- The total number of bids submitted by each pre-qualified contractor; and
- The guidelines and criteria used by OCP and BNP Evaluation Team to make the determination of which contractor’s bids were accepted and awarded the contract.

The total number of contracts awarded by BNP to pre-qualified contractor

Between March 2018 and March 2020, BNP awarded 37 renovation contracts to pre-qualified contractors. Jozef was awarded 60% of all BNP’s contracts. The other pre-qualified contractors received less than 18% of the total contracts awarded by BNP. The breakdown of BNP’s contracts are as follows:

- 1) Jozef was awarded 22 contracts which included 7 contracts that were bundles containing 2 houses [bundle (2 houses)];
- 2) Allied was awarded 6 contracts which included 1 bundle [2 houses]<sup>20</sup>;
- 3) Lake Starr was awarded 4 contracts which included 2 bundles [2houses];
- 4) D&D was awarded 2 contracts; and
- 5) Clark, Gavanga and Nora Contracting were awarded 1 contract each.

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<sup>20</sup> Allied lost one of its houses to Jozef, because Allied was falling behind on its renovation timeline to completion. This information is reflected in Jozef’s and Allied’s housing total.

Between March 2018 and March 2020, only 7 pre-qualified contractors out of 20 pre-qualified contractors were awarded contracts by BNP. There were 11 pre-qualified contractors that submitted their respective bids on some of the 37 contracts, but not all were necessarily awarded a contract.

The total number of bids submitted by each pre-qualified contractor

In 2018, BNP awarded 19 contracts for the renovation of BNP houses. Jozef was awarded 75% of all BNP’s contracts. Specifically, out of 19 contracts, Jozef received 14 contracts, Allied received 3 contracts and D&D received 2 contracts. While the other pre-qualified contractors, Mando and 3R Home, submitted bids on some of the 19 proposals, they did not receive any contract. However, this was not the case with pre-qualified contractor Tidwell. Tidwell submitted 5 bids and was initially offered 3 contracts. One of Tidwells’ offers included a bundle contract. Nevertheless, Tidwell lost 3 contracts because they did not timely provide their performance bond information to OCP, which is required by OCP.<sup>21</sup> Consequently, Tidwell’s offers were rescinded and the contracts were awarded to the 2<sup>nd</sup> lowest responsible bidders, Jozef and D&D (See Table 4).

When comparing the number of bid submissions by each pre-qualified contractor, to the number of bid submissions accepted by BNP, 83% of Jozef’s bid submissions were accepted. Specifically, Jozef submitted 18 bids and 15 bids were accepted. Whereas, only 18% of Allied’s bid submissions were accepted. Allied submitted 17 bids and only 3 bids were accepted. D&D submitted 3 bids and 2 bids were accepted. D&D was awarded 67% of their bids.<sup>22</sup> The other pre-qualified contractors (Mando and 3R Home) submitted bids, but none of their bids were accepted. As stated in the above paragraph, Tidwell submitted 5 bids and was offered 3 contracts. However, Tidwell’s offers were also rescinded, because Tidwell did not provide OCP with the required performance bond information in a timely matter (See Table 4).

Table 4: 2018 BNP Renovation Contracts Awarded

<b>2018 BNP Renovation Contracts Awarded</b>				
<b>Pre-Qualified Contractors</b>	<b>#Bids</b>	<b>#Contracts</b>	<b>% Contracts</b>	<b>% Bids Accepted</b>
Jozef Contractor	18	15	75%	83%
Allied Property Services	17	3	15%	18%
D&D	3	2	10%	67%
3 R Home	1	0	0	0
Mando	5	0	0	0
Tidwell	5*	0	0	0
Total Contracts		20		
*Tidwell initially was offered 3 contracts, but lost the offer by not providing OCP with their performance bond information. The 3 contracts were awarded between Jozef and D&D, 2 <sup>nd</sup> lowest responsible bidders.				

<sup>21</sup> Email: Dated February 18, 2019 from OCP to Tidwell advising them that their award was rescinded due to not receiving updated information about their bonding performance.

<sup>22</sup> D&D submitted less bids than Allied.

In 2019, BNP awarded 13 contracts for the renovation of BNP houses. Again, Jozef was awarded the highest number of contracts, as 53% of all of BNP’s contracts were awarded to Jozef. Specifically, out of 13 contracts, Jozef received 7 contracts. Allied received 3 contracts, and Lake Starr, Clark and Nora each received 1 contract each (See, Table 5).

When comparing the number of bid submissions by each pre-qualified contractor to the number of bid submissions accepted by BNP, 70% of Jozef’s bids were accepted. Specifically, Jozef submitted 10 bids and 7 were accepted. In addition, Jozef was the only bidder on 3 of the 7 bids accepted. Allied submitted 10 bids and 3 bids were accepted. Likewise, Allied was the only bidder on 2 of the accepted bids. Lake Starr submitted 3 bids and 1 was accepted. Clark submitted 2 bids and 1 was accepted. Nora submitted 1 bid and it was accepted. The pre-qualified contractor ARM submitted 1 bid and it was not accepted.

Table 5: 2019 BNP Renovation Contracts Awarded

<b>2019 BNP Renovation Contracts Awarded</b>				
<b>Pre-Qualified Contractors</b>	<b>#Bids</b>	<b># Contracts</b>	<b>% Contracts</b>	<b>% Bid Accepted</b>
Jozef Contractor	10	7*	53%	70%
Allied Property Services	10	3**	23%	30%
Lake Starr	3	1	8%	33%
Clark	2	1	8%	50%
Nora Contracting	1	1	8%	100%
ARM	1	0	0	0
Total Contracts		13		
*Jozef was the only bidder on 3 of these contracts				
**Allied was the only bidder on 2 of these contracts				

As of March 2020, BNP awarded 4 contracts for the renovation of BNP houses. While Jozef submitted 4 bids, no contract was awarded to Jozef at that time. Pre-qualified contractors Lake Starr was awarded 3 contracts and Gayanga was awarded 1 contract. The other pre-qualified contractors Jozef, Allied, ACE, DGC and Tidwell submitted bids, but they were not awarded a contract. Specifically, Lake Starr submitted 4 bids and 3 were accepted. One of the bids included a 2 house bundle. Gayanga submitted 3 bids and 1 was accepted. Jozef submitted 4 bids and none was accepted. ACE submitted 3 bids and none was accepted. Allied, DGC and Tidwell submitted 1 bid each and none was accepted (Table 6).

Table 6: As of March 2020 BNP Renovation Contracts Awarded

<b>2020 BNP Renovation Contracts Awarded, as of March 2020</b>		
<b>Pre-Qualified Contractors</b>	<b>#Bids</b>	<b># Contracts</b>
Lake Starr	4	3*
Gayanga	3	1
ACE	3	0
Allied Property Services	1	0
DGC	1	0
Jozef Contractor	4	0
Tidwell	1	0
Total Contracts		4

The guidelines and criteria used by OCP and BNP Evaluation Team to make the determination of which contractor’s bids were accepted and awarded the contract.

Between March 2018 and March 2020, BNP awarded 37 contracts. Out of 37 contracts, 8 contracts were awarded through the RFQ process and 29 contracts were awarded through the RFP process. The RFQ proposals were reviewed by OCP and the lowest responsible bidder was recommended to BNP. The RFQ proposals were then further reviewed by BNP’s Evaluation Team and the higher ranking contractor was selected based on BNP’s evaluation criteria.

Both OCP and BNP Evaluation Team used an established set of guidelines and criteria to evaluate the bid submissions by each pre-qualified contractor. However, in May 2019, BNP leadership made revisions to their proposals regarding pre-qualified contractors’ “Minimum Qualifications” and “Evaluation Criteria” sections. These revisions changed the guidelines and criteria that were used to evaluate the bid submissions by each pre-qualified contractor (See, Table 2 of this report).

OCP recommended Jozef as the lowest responsible bidder on 6 of 8 RFQ proposals.<sup>23</sup> Likewise, Tidwell was recommended as the lowest responsible bidder on 2 of 8 RFQ proposals. However, Tidwell lost both offers to Jozef, the 2<sup>nd</sup> lowest responsible bidder, when Tidwell did not provide OCP with the required performance bond information (See, Table 7).<sup>24</sup>

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<sup>23</sup> Reference: Bid Referrals [Sarena Bundle, Brace, Courville, Littlefield-Military Bundle, Stahelin-Senator Bundle] and Bid Tab [Navy]. Porter and Haverhill were initially awarded to Tidwell, but Tidwell did not provide the required performance bond information to OCP. Therefore, the 2<sup>nd</sup> lowest responsible bidder was awarded the contract, which was Jozef.

<sup>24</sup> Email: Dated February 18, 2019, from OCP to Tidwell regarding their award reconsideration due to not receiving updated information regarding their bonding performance.

Out of 29 RFP proposals, BNP’s Evaluation Team awarded the contracts to the following pre-qualified contractors (See Table 7):

- 1) Jozef was awarded 14 contracts;
- 2) Allied was awarded 6 contracts;
- 3) Lake Star was awarded 4 contracts;
- 4) D&D was awarded 2 contracts;
- 5) Gayanga was awarded 1 contract;
- 6) Clark was awarded 1 contract; and
- 7) Nora Contracting was awarded 1 contract.

Table 7: BNP Total Renovation Contracts

<b>BNP Total Renovation Contracts</b>			
<b>Pre-Qualified Contractors</b>	<b># RFQ</b>	<b># RFP</b>	<b>Total BNP# Contracts</b>
Jozef Contractor	8	14	22
Allied Property Services	0	6	6
Lake Starr	0	4	4
D&D	0	2	2
Gayanga	0	1	1
Clark	0	1	1
Nora Contracting	0	1	1
3R Home	0	0	0
ACE	0	0	0
ARM	0	0	0
DGC	0	0	0
Mando	0	0	0
Tidwell	0	0	0
Total Contracts			37

### III. Conclusion

Based on the OIG's review of the above-referenced documents, policies and procedures from OCP and BNP, interview statements from OCP and BNP employees and interviews statements from BNP contractors, the OIG did not find any evidence of fraud, abuse or corruption pertaining to Jozef being awarded BNP’s contracts. However, OIG’s investigation revealed the following.

OCP and BNP Evaluation Team selected Jozef’s bids the majority of the time over other contractors’ bids. Joseph was awarded about 60% of all BNP’s contracts in 2018 and also in 2019. Both OCP and BNP Evaluation Team used a set evaluation criteria to determine which contractor would be awarded the contract.<sup>25</sup> OCP used the criteria in its SOP to determine which contractor to recommend to BNP. However, in 2019, BNP made revisions to its contractor evaluation criteria

<sup>25</sup> See Section G for the breakdown in contractor selection by OCP and the BNP Evaluation Team.

and this changed how BNP Evaluation Team determined which contractor would be awarded the contract.

Based on our investigation, we conclude the 2019 revisions to BNP's contractor evaluation criteria resulted in an unfair advantage for Jozef for the reasons stated below:

- First time contractors with the BNP were only allowed to be awarded one contract at a time.
- Contractors without BNP rating were only allowed to be awarded one contract at a time.
- Contractors with BNP rating less than 3.5 over the last and up to 5 evaluations were limited to one contract award at a time, regardless of their aggregated bonding capacity.
- Contractors with BNP rating of at least 3.5 were permitted the following total capacity allowance (denominator for capacity percentage) based on their aggregate bonding (ag) capacity per below:
  - \$100,000-\$250,000 ag level is limited to 1 contract at a time
  - \$250,000 -\$750,000 ag level is limited to 3 contracts at a time
  - \$750,000 - \$1,000,000 ag level is limited to 7 contracts
  - \$1,000,001 + ag level is allowed up to 10 contracts

Specifically, we conclude the above 2019 revisions prevented first time contractors from being eligible to bid on other BNP contracts, while contractors that had been awarded a contract were eligible to bid on other BNP contracts. Consequently, this created an unfair advantage for contractors that had previously received a BNP contract over those contractors that had not received a BNP contract. Majority of BNP's contracts were for single house renovation. Many contractors expressed their concern that the one contract at a time stipulations limited their financial opportunity, and as such, they were denied the opportunity to submit bids on other BNP contracts until they completed the renovation on the single house.

In addition, the 2019 revision created an advantage for contractors that received a BNP rating and an even greater advantage if their BNP rating was 3.5 or greater. Consequently, this stipulation created an unfair disadvantage for contractors with no BNP rating [first time contractors] and an even greater disadvantage if their BNP rating was below 3.5. Furthermore, BNP rating was problematic, because there were inconsistencies in how contractors were rated by BNP for the same issues and problems. These inconsistencies in rating contractors probably occurred, because BNP did not provide any formal training to its evaluators on how to evaluate and rate the contractor's performance.

#### **IV. Recommendation**

Based on the above findings, the OIG recommends that BNP consider revising its contractor evaluation criteria to eliminate the 2019 revisions which resulted in an unfair advantage for certain contractor(s) in a bidding process that should be competitive. While these revisions did not violate any city policy, it resulted in a process that lacks fairness in what is supposed to be an open and competitive process. Thus, from a third party perspective, it appeared that one contractor

was given preferential treatment over other pre-qualified contractors. Therefore, we find the 2019 revisions does not exhibit best practice or good governance.

As such, the OIG recommends that BNP work with OCP to ensure any BNP revisions to its bidding process provide fair and competitive opportunity for all pre-qualified contractors. More importantly, BNP should coordinate with OCP when revising its bidding process, to ensure that it is in compliance with OCP's standards, policies and procedures.

On August 19, 2020, in accordance with the 2012 Charter of the City of Detroit, the OIG forwarded a draft copy of its investigation findings to BNP and OCP.<sup>26</sup> On September 3, 2020, the OIG received a joint, written response from BNP and OCP. Our review of the response concluded that both agreed with the OIG's findings about inconsistencies in how contractors were scored on BNP's Contractor Evaluation Report. BNP stated that they had already identified some inconsistencies and in March of 2020 they began to revise this process. However, both disagreed with the OIG's findings and recommendations about BNP's contract revisions.<sup>27</sup> Both provided no new evidence or additional information to refute the OIG's findings pertaining to contract revision, our findings and recommendation remain.

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<sup>26</sup> Section 7-5-311, states, "No report or recommendation that criticizes an official act shall be announced until every agency or person affected is allowed a reasonable opportunity to be heard at the hearing with the aid of counsel."

<sup>27</sup> The jointed written response stated, "We disagree, however, with the specific conclusion that it is "unfair" for BNP to impose a one-contract-at-a-time limit on (1) first-time contractors with BNP, (2) contractors without a demonstrated record of safe and cost-effective workmanship, and (3) contractors with low BNP ratings."

Dear Ms. Ha,

We are writing jointly in response to your draft reports in OIG Case No. 20-0005-INV (“Report”). This response is being submitted in lieu of an administrative hearing.

Though the Report found “no evidence of fraud, waste, abuse or corruption,” Report at 1, it does recommend two changes to the way in which Bridging Neighborhoods Program (BNP) awards contracts for home renovations. *First*, the Report notes inconsistencies in the way contractors were scored. *See* Report at 8. *Second*, the Report suggests that BNP should jettison its current standards that limit first-time contractors (or contractors that have not demonstrated an ability to satisfactorily complete renovations) to one contract at a time.

We agree with the first recommendation, and will move quickly to rectify inconsistencies in how contractors are evaluated. As to the second recommendation, however, BNP respectfully submits that its restrictions are aligned with sound business judgment. BNP’s restrictions on first-time contractors, moreover, are necessary to both ensure the safety of Detroiters and to safeguard public funds.<sup>1</sup>

**I. Inconsistent Contractor Evaluations**

The Report highlights “inconsistencies in how contractors were scored” on the BNP Contractor Evaluation, Report at 8, specifically noting that “[t]hese issues probably occurred[ ] because BNP did not provide any formal training to its evaluators.” *Id.*

BNP agrees with and accepts the criticism of its Contractor Evaluation. Indeed, BNP has already identified inconsistencies regarding the Contractor Evaluation Process, and on March 2 began the process of revising that process. Per your recommendation, BNP will coordinate with any necessary parties in the review of the updated BNP Contractor Evaluation Process to ensure fairness and consistency going forward.

**II. Inconsistent Contractor Evaluations**

We disagree, however, with the specific conclusion that it is “unfair” for BNP to impose a one-contract-at-a-time limit on (1) first-time contractors with BNP, (2) contractors without a demonstrated record of safe and cost-effective workmanship, and (3) contractors with low BNP ratings. *See* Report at 13-14.

As background (and as noted in the report) BNP is charged with implementing portions of the 2017 deal negotiated between the State of Michigan, the Government of Canada, and the City of Detroit. During those negotiations, the City worked closely with the neighborhood Community Advisory Group (CAG) to facilitate robust community benefits for residents of Delray and Southwest Detroit—one of the most polluted residential neighborhoods in the entire country.

One key request from CAG and neighborhood stakeholders was for community members who feel trapped in their homes—as a result of the endemic air-pollution in the neighborhood—to have an opportunity to move elsewhere. As a result, approximately \$32 million of the money obtained in the City-State-Canada deal was set aside to: (1) facilitate a “home swap” program, whereby residents in the Delray/Southwest Detroit area could swap their current home for a refurbished home elsewhere in

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<sup>1</sup> In addition to our substantive response, we have flagged for your consideration several non-substantive errors in the draft Report. These errors are included as an Appendix to this letter.

Detroit; and (2) provide environmental retrofitting for residents who opted to stay in their current home. BNP is responsible for facilitating both those programs.

The amount set aside for the home swap/environmental retrofit program was calibrated to ensure that the maximum number of impacted residents could avail themselves of the program. It is therefore incumbent on BNP to ensure that funds are spent wisely. Unlike many City programs—which are funded via taxes, bonds, or other recurring sources of funding—BNP is funded via a one-time agreement with a foreign sovereign and the State of Michigan. Put starkly: when the BNP money runs out, it is gone for good. And when the money runs out, it is unclear how (or whether) residents will be able to avail themselves of the home-swap opportunity. That could have the result of trapping residents in a neighborhood where their health and safety is compromised.

Equally important to BNP is ensuring high-quality work on the homes that are being renovated. BNP contractors work in residential neighborhoods. The purpose of BNP is to retrofit homes that will be used by families. It is thus imperative that BNP contractors complete their work not just cost-effectively, but in accordance with robust safety and quality standards.

Given all of these considerations, BNP made the decision to require contractors to demonstrate that they could satisfactorily perform *before* awarding them multiple properties. And BNP’s fear that unproven contractors might fail to perform is hardly based on speculation. Lamentably, the City of Detroit has had recent experience with unproven contractors asserting that they can handle multiple contracts—only to have those contractors fail to abide by the terms of the contract.

In 2014, for example, the Detroit Building Authority awarded 253 federally funded demolition contracts to MCM. MCM had not previously performed demolition work in Detroit. And that inexperience showed. As noted in a previous OIG report, “MCM failed to satisfactorily perform under its contract obligation. As a result, MCM had its contract terminated.”<sup>2</sup> And because the Detroit Building Authority was forced to terminate MCM’s contract, it was also forced to re-bid the demolition-related work—leading to cost overruns of close to \$1 million.

More recently, in 2019, the Detroit Land Bank Authority discovered that McDonagh—an out-of-state company that had not previously done work in Detroit—had improperly failed to fully remove basement materials from demolition sites, as their contract required. That discovery ultimately led to the termination of McDonagh’s \$17 million in demolition contracts.

Detroit’s history is thus rife with missteps by unproven contractors. And against that backdrop, BNP made the decision to require contractors to demonstrate that they could perform satisfactory work *before* awarding them multiple contracts. That decision helps ensure that safe, high-quality work will be completed in Detroit neighborhoods. It also ensures that the City will not be forced to re-bid multiple contracts if—as was the case with MCM—a contractor is unable to perform.

At bottom, then, BNP’s decision *prevents* potential waste of City resources. And it ensures that as many residents as possible will be able to take advantage of the limited resources available for the home-swap program.

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<sup>2</sup> City of Detroit Office of Inspector General, *Demolition Procurement Process*, OIG Case No. 2015-CC-0179, at 19 n. 64.

We thus respectfully request that you reconsider the portion of the Report indicating BNP “created an unfair advantage” by allowing only proven contractors to be awarded multiple contracts. Report at 14. The safeguards BNP has put into place are hardly “unfair.” Under BNP’s protocols, all contractors who have demonstrated the ability to work safely and cost-effectively are treated the same. Allowing cut-rate contractors to undercut proven contractors would be unfair to those contractors who have repeatedly performed high-quality work. And, in the final analysis, it would be unfair to the residents of Detroit who expect construction work in neighborhoods to be done safely and cost-effectively.

Sincerely,

Boysie Jackson

Heather Zygmuntowicz

## Appendix

### *Non-Substantive Errors for Correction in draft Report*

1. Page 2, part B. BNP was created in June 2017, not March 2018.
2. Page 3, part C. CRD termination letter was provided by Kelly Trammel via email on 4/21/20. For litigation purposes, any reference to CRD's termination must agree to that of the termination letter provided, which indicates termination was for convenience.
3. Page 4, table 1 (footnote 8). Email is between OCP and BNP, with OCP making determination of disqualification.
4. Page 5, part D6. Same as #3 above.
5. Page 5, part E. BNP staff attending Evaluation Committees changed regularly. For instance, the Evaluation Committee included CRD the entire time they were contracted with the program; Heather Zygmuntowicz stopped attending in early 2019; Kayla Shelton began attending all Evaluation Committees from August 2019 forward; Antoine Hayes was never a consistent member of Evaluation Committee, though he did attend occasionally while the PMO was contracted.
6. Page 8, footnote 17. The footnote states Lincoln Hoey Moore was interviewed for performing contractor evaluations. Lincoln runs the I-75 Environmental Mitigation Program and never completed a contractor evaluation for the Home Swap Program.
7. Page 10, part G (2nd paragraph on page/footnote 21). The draft Report states, "Consequently, Tidwell's offers were rescinded and the contracts were awarded to the 2nd lowest responsible bidders, Jozef and D&D." D&D was disqualified in September 2018 per page 4/footnote 1. They were not offered a contract in February 2019 after Tidwell's offer was rescinded, Jozef was the 2nd lowest responsible bidder for the contracts originally offered to Tidwell.
8. Page 10, part G (3rd paragraph on page). 3R submitted a bid that was accepted and resulted in a contract award, however it was eventually rescinded as 3R could not provide performance bonds within time allotted.
9. Page 11, part G (2nd paragraph on page). ARM submitted a bid that was accepted and resulted in a contract award, however it was eventually rescinded as ARM could not provide performance bonds within time allotted.