

# **City of Detroit**

## **Office of Inspector General**

**OIG Case No. 23-0009-INV**

**July 26, 2023**



**Ellen Ha, Esq., CIG**

**Inspector General**

**CITY OF DETROIT**  
**OFFICE OF INSPECTOR GENERAL**

**JULY 26, 2023**

**I. Summary**

**a. Allegations**

On April 6, 2023, the City of Detroit Office of Inspector General (OIG) received a complaint from the owner of a Detroit-based demolition contractor. The complainant alleged the following:<sup>1</sup>

1. Office of Contracting and Procurement (OCP) Supervisory Contracting & Procurement Specialist Manager James Glavin abused his authority by improperly approving demolition contractors for participation in the City of Detroit’s Proposition N (Prop) Demolition Program despite knowing the contractors did not have employees. The complainant asserted that this was a violation of the City’s Wrecking Ordinance which prohibits the use of independent contractors to perform demolitions.
2. OCP did not correct the fraudulent actions of Mr. Glavin who allowed select contractors to use independent contractors to increase their crew capacity. As a result, Mr. Glavin abused his authority by steering bids to select contractors.

**b. Findings and Recommendations**

Based on the information below, the OIG makes the following findings and recommendations:

- Mr. Glavin abused his authority by neglecting to notify all contractors that OCP would accept alternatives to verify crew capacity such as employment agreements for planned hires.
  - The OIG is aware that Mr. Glavin has already been disciplined for his actions but recommends that OCP consider if the discipline was appropriate based on all available information.

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<sup>1</sup> The complainant also alleged that some demolition companies hired day laborers who were paid in cash or “under the table.” This alleges potential criminal actions and is outside the OIG’s jurisdiction. Therefore, the OIG recommended to the complainant that he contact Michigan Department of Treasury to report the suspected tax fraud.

- Mr. Glavin did not abuse his authority by allowing contractors to submit alternatives to the certified payroll requirement to verify crew capacity. Though his actions were improper, there is no evidence that Mr. Glavin knew that allowing independent contractors to count towards crew capacity was a violation of the Wrecking Ordinance, as he received the approval from the then Chief Procurement Officer (CPO) to accept alternatives to certified payroll. Additionally, there is no evidence that the former CPO was aware that allowing alternatives to certified payroll, specifically the use of independent contractors, was a violation of the Wrecking Ordinance.
  - The OIG recommends that all changes to the requirements listed in RFQs, RFPs, and procurement contracts be reviewed by the relevant department(s) and/or the Law Department to determine if the changes may have an impact on the performance of the contract and/ or may be contrary to the law.
  
- The OIG did not find that Mr. Glavin abused his authority by purposefully steering bids to select contractors. Though Mr. Glavin's actions resulted in unqualified contractors being awarded Prop N contracts, he mistakenly believed that such actions were allowed.
  
- The OIG did not find that OCP failed to correct Mr. Glavin's improper actions at the time the matter was brought to OCP's CPO Sandra Stahl. Ms. Stahl required OCP to conduct audits once she became aware of the issue and, as this report details, Ms. Stahl has implemented several changes related to the Prop N demolition procurement process. Additionally, Ms. Stahl cancelled J Keith's preliminary awards in October 2022 though she did not receive confirmation that J Keith was demolishing properties in violation of the Wrecking Ordinance until November 2022.
  - Now that OCP is aware of the provision in the Wrecking Ordinance prohibiting the use of independent contractors in demolition, the OIG recommends that OCP review all existing demolition contracts to ensure that no contractor is operating in violation of this provision. If any such contractors are found, the OIG recommends that OCP take appropriate action.
  
- OCP indicated that they do not have the capacity for continuous monitoring of employment information and requested recommendations from the OIG about how to verify employment. Therefore, the OIG recommends that OCP consider the following to verify employment:
  - At the time of invoicing, require contractors to submit the names of the employees who worked on crews that completed the demolition work as well as sign an affidavit attesting that the work was completed by the identified employees. In addition, OCP should perform a random audit of the contractor's certified payroll to verify the employee's status.
    - On July 10, 2023, the OIG sent the draft report to Mr. Glavin and OCP pursuant to Section 7.5-311 of the City of Detroit Charter and OIG Administrative Hearing Rules. After reviewing the draft report, and in

- response to the above recommendation, OCP stated that an “OCP Project Manager will work with Demo and CRIO to perform random audits.<sup>2</sup>”
- OCP should consider working with CRIO when they are verifying that a contractor is hiring the required number of Detroit residents when CRIO does work site checks.
    - After reviewing the OIG’s draft report, OCP stated that the “Civil Rights and Inclusion and Opportunity Department is now sharing employment information with OCP. OCP is using information from both Demo and CRIO to track the employees in the Smartsheet.<sup>3</sup>”

## **II. Background Information**

### **a. Proposal N for Neighborhoods**

On November 3, 2020, Detroit residents approved Proposal N for Neighborhoods (Prop N). It allowed the City of Detroit to sell \$250 million in Neighborhood Improvement Bonds to address over 14,000 vacant houses in Detroit through rehabilitation or demolition.<sup>4</sup> This blight removal program is run by the Detroit Demolition Department (3D). OCP assists 3D with the Prop N procurement process, which includes prequalifying contractors and awarding contracts. 3D is responsible for confirming proper performance of the demolition contracts, including ensuring that demolition and asbestos abatement removal are done in accordance with the Scope of Services.

### **b. RFQQ 18834**

Demolition contractors are required to be prequalified to bid on Prop N demolition contracts. On October 5, 2020, OCP issued Request for Qualifications (RFQQ) 18834. It stated that the “City of Detroit Demolition Department through the Office of Contracting and Procurement seeks to prequalify a pool of licensed General Contractors for Demolition and Asbestos Removal Services to be performed as part of the City's Proposal N for Neighborhoods Program thru the City of Detroit.<sup>5</sup>” It also stated that in “each quarterly release of properties, 30% of the properties will be set aside for City of Detroit Certified Small or Micro Business concerns with an overall goal of 50% of the properties going to Detroit Certified Companies with 51% of work completed by Detroiters according to Executive Order 2016-1.<sup>6</sup>” The RFQQ closed on October 23, 2020.<sup>7</sup>

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<sup>2</sup> Email from Deputy Chief Procurement Officer Toni Stewart-Limmitt to OIG Attorney Jennifer Bentley, copied to Inspector General Ellen Ha, Deputy Inspector General Kamau Marable, and Chief Procurement Officer Sandra Stahl, regarding OIG Draft Report for Case No. 23-0009-INV.

<sup>3</sup> *Id.*

<sup>4</sup> Proposal N, <https://detroitmi.gov/node/44566>, accessed on June 7, 2023.

<sup>5</sup> City of Detroit Office of Contracting and Procurement Request for Qualifications (RFQQ) 18834 Proposal N for Neighborhoods Program – Demolition, Overview, pg. 3.

<sup>6</sup> *Id.*

<sup>7</sup> RFQQ 18334, pg. 2.

The minimum qualifications to become prequalified included, but were not limited to, adequate crew capacity.<sup>8</sup> RFQQ 18834 Exhibit B detailed the crew capacity requirements and requisite submissions. It stated that a crew “is comprised of a minimum of two persons, one of which is an operator and one laborer plus one floater per three teams.”<sup>9</sup> It also stated that the “respondent must attach an electronic copy of their most recent certified payroll (form WH-347) to the Capacity Sheet. The certified payroll must include all the names listed on the Capacity Sheet.”<sup>10</sup>

Lastly, RFQQ 18834 allows for amendments to the stated minimum requirements to become a prequalified demolition contractor. Specifically, the RFQQ states that “any pre-qualifications application determined to be non-responsive to the specifications or other requirements, including instructions governing submission and format, will be disqualified unless the City determines, in its sole discretion, that non-compliance is not substantial or that an alternative proposed by the firm is acceptable.”<sup>11</sup> The RFQQ also states that the

City may make changes to the requirements of this Request for Qualifications (RFQQ) application as deemed necessary. Such changes will be in writing, issued through the Office of Contracting and Procurement and will be sent to each firm who is on record as having received a copy of the Request for Qualifications (RFQQ) from the Office of Contracting and Procurement.<sup>12</sup>

### **c. Wrecking Ordinance**

Wrecking operations within the City of Detroit are also governed by the Michigan Building Code Chapter 33, Section 3303 and the City of Detroit Code of Ordinances Chapter 8, Article II Building Code (Wrecking Ordinance).<sup>13</sup> It states, in relevant part, at Section 8-2-20, Additions to Section 3303 of 2015 Michigan Building Code, Demolition at 3303.8.4 Wrecking requirements.

(a) The wrecking operation that is performed in accordance with a permit issued under Section 3303.8.1 of this code shall be performed, or executed:

- (1) By the employees of the licensed wrecking contractor, while acting under his or her supervision and direction, and shall not be done by an independent contractor or subcontractor.

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<sup>8</sup> RFQQ 18334, Minimum Qualification, pg. 5.

<sup>9</sup> RFQQ 18334, Exhibit B – Capacity Sheet with Instructions, Section II, Instructions on the Contractor Capacity Sheet, (c) Identification of Crew Members.

<sup>10</sup> *Id.* at Section III, Certified Payroll.

<sup>11</sup> RFQQ 18834, Selection Criteria, pg. 8.

<sup>12</sup> RFQQ 18834, Submission Requirements and Instructions, pg. 9.

<sup>13</sup> City of Detroit Buildings, Safety, Engineering and Environmental Department (BSEED) City of Detroit Wrecking License Application. Wrecking License Requirements Information Details, pg. 3.

Additionally, Prop N contractors state that

To ensure proper performance of the Services and a quality Work Product... the Contractor warrants that all personnel assigned to the performance of the Services (herein called the "Employees") or other consultants or subcontractors engaged by the Contractor to perform the Services or any additional services (as may be agreed to by the parties hereto) are fully qualified and authorized to perform the services under Federal, State, and local laws, rules, and regulations.<sup>14</sup>

Therefore, by signing their contracts with the City of Detroit, contractors are agreeing to abide by all applicable laws, including the Wrecking Ordinance.

### **III. Analysis and Finding**

#### **a. Actions taken by Mr. Glavin**

##### **i. Demolition Contractors Use of Independent Contractors**

As stated above, on October 5, 2020, RFQQ 18834 was released by OCP Supervisory Specialist Manager James Glavin. The RFQQ required, in part, that contractors had to submit a copy of their most recent certified payroll to assist in determining crew capacity. Crew capacity is an essential part of the prequalification process because it is used to determine the number of properties a contractor may be awarded at any given time as a part of the bid and contracting process. Specifically, contractors may be awarded 120 properties per one crew. An engaged crew, i.e. a crew working on an existing contract, would only be eligible for new work if they had demolished at least 75% of their current contracted properties.<sup>15</sup>

On October 23, 2020, the RFQQ closed. Mr. Glavin stated that, during the qualification review process, it became apparent that several certified Detroit based small and micro demolition companies were unable to meet the certified payroll requirements to establish their crew capacity.<sup>16</sup> In fact, upon review of responses to RFQQ 18834, it appears that roughly half of the respondents did not include certified payroll.<sup>17</sup> Many of the smaller demolition companies did not have many employees on a regular weekly payroll but instead hired employees as needed based on the amount of work contracted.<sup>18</sup>

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<sup>14</sup> Demolition Services Contract Between City of Detroit, Michigan and Inner City Contracting, LLC, Contract No. 6003304, Proposal N – Demolition Release A Group A4-SA, Article 4. Personnel and Administration, Section 4.01, pg. 5.

<sup>15</sup> City of Detroit Office of Contracting and Procurement Request for Proposal 182838, Proposal N for Neighborhoods Program- Demolition Release P1-SA, October 7, 2022.

<sup>16</sup> OIG Interview of James Glavin, May 11, 2023.

<sup>17</sup> City of Detroit Corrective Action Form, James Glavin, March 9, 2023.

<sup>18</sup> OIG Interview of James Glavin, May 11, 2023.

This was problematic because OCP's objective was "to adhere to the standards established by City Council in its 2020 Resolution.<sup>19</sup>" The resolution required that 30 % of the Prop N contracts be awarded to Detroit based Certified Small or Micro Business with the overall goal of 50% of the properties being awarded to Detroit based Certified Companies. It was also required that companies employ 51% Detroit residents as its workers. Fulfilling "that objective was seen [by OCP] as essential to obtaining City Council approval of the Contracts."<sup>20</sup>

Therefore, in an effort to achieve the objectives expressed by City Council, Mr. Glavin, "under the approval and direction of the former [Chief Procurement Officer (CPO)] , accepted alternatives to verify crew capacity such as employment agreements for planned hires."<sup>21</sup> Mr. Glavin stated that he felt it was in the best interest of the City to waive the certified payroll requirement so small and micro demolition contractors were eligible to bid on the Prop N demolition contracts.<sup>22</sup> It was also noted that "OCP focused on verifying Detroit residency of the submitted crew rosters during RFQQ 18834, with the knowledge that CRIO<sup>23</sup> would collect certified payroll in the enforcement of EO 2021-2."<sup>24</sup>

OCP and Mr. Glavin relied upon language in RFQQ 18834 for the authority to change the certified payroll requirement. It states, in part, that the

City may make changes to the requirements of this Request for Qualifications (RFQQ) application as deemed necessary. Such changes will be in writing, issued through the Office of Contracting and Procurement and will be sent to each firm who is on record as having received a copy of the Request for Qualifications (RFQQ) from the Office of Contracting and Procurement.<sup>25</sup>

However, OCP failed to inform all contractors, in writing, that "they could use employment agreements [including independent contractors (also referred to as 1099 contractors)] rather than a Certified Payroll to verify the availability of their labor force" despite the requirement in the RFQQ to do so.<sup>26</sup> The waiver of the certified payroll requirement "was communicated on a case-by-case basis to individual contractors who voiced the opinion" they could not hire employees until they were awarded contracts.<sup>27</sup> Mr. Glavin should have notified bidders through the Oracle Supplier Portal (Oracle) which is a cloud based platform used by

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<sup>19</sup> City of Detroit Corrective Action Form, James Glavin, March 9, 2023.

<sup>20</sup> *Id.*

<sup>21</sup> Memorandum from CPO Sandra Stahl to 3D Director LaJuan Counts regarding Summary of Prop N audits, April 12, 2023. See also Glavin Write-up which states that, on February 28, 2023, Mr. Jackson confirmed on a phone call with OCP that he approved the use of alternatives to certified payroll.

<sup>22</sup> OIG Interview of James Glavin, May 11, 2023.

<sup>23</sup> City of Detroit Civil Rights, Inclusion, and Opportunity Department.

<sup>24</sup> Memorandum from CPO Sandra Stahl to 3D Director LaJuan Counts regarding Summary of Prop N audits, April 12, 2023.

<sup>25</sup> RFQQ 18834, Submission Requirements and Instructions, pg. 9.

<sup>26</sup> Demolition Notes written by James Glavin, March 17, 2023.

<sup>27</sup> *Id.*

OCP, in part, to release bids and receive responses. It also allows bidders to post questions and receive written responses which may be viewed by all potential bidders.

Mr. Glavin acknowledged that, in hindsight, he should have notified all bidders in writing of the changing requirements. He explained that he and his team were working seven (7) days a week to get demolition contractors prequalified and to get Request for Proposals (RFPs) ready so the demolitions contracting process for Prop N could begin. He stated that his failure to inform bidders of the RFQQ modification “was an oversight.”<sup>28</sup> Mr. Glavin noted that, at the time, it was his understanding that if a bid was closed, he could not submit a message in Oracle to all potential bidders. After speaking with Chief Procurement Officer Sandra Stahl, Mr. Glavin now has a better understanding of the Oracle process. Mr. Glavin admitted that he should have sent an email to all the demolition contractors that responded to the RFQQ.<sup>29</sup>

Mr. Glavin also acknowledged that he did not discuss the waiver of certified payroll with 3D Director LaJuan Counts. However, he believes that 3D was aware of certified payroll waiver because of past discussions and meetings he had with 3D Deputy Director Tim Palazzolo.<sup>30</sup> Ms. Counts confirmed that she was unaware of the changes made related to crew capacity. More specifically, she stated that 3D was not informed that J Keith’s recommendation of zero crews was overruled by OCP. Ms. Counts noted that she pushed back on OCP’s prior attempts to award contracts to J Keith because she was not aware that they were qualified as having capacity.<sup>31</sup>

## ii. Violation of the Wrecking Ordinance

It is clear the waiver of the certified payroll requirement and the allowance of employment contracts that led to the use of 1099 contractors, is a violation of the Wrecking Ordinance. The Wrecking Ordinance states that demolitions shall only be performed by employees of the demolition contractor and not by independent contractors or subcontractors.<sup>32</sup> Mr. Glavin explained that he did not know about the ordinance or its requirements. Mr. Glavin noted that he has never received any training related to the laws and ordinances relevant to City contracts.<sup>33</sup> Others at OCP, including Ms. Stahl, were also unaware that demolition companies were prohibited from using independent contractors. Ms. Stahl first became aware of this provision in November 2022 when the City of Detroit Law Department informed her of the of the “prohibition against the use of independent contractors in the code.”<sup>34</sup>

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<sup>28</sup> OIG Interview of James Glavin, May 11, 2023.

<sup>29</sup> *Id.*

<sup>30</sup> OIG Interview of James Glavin, May 11, 2023.

<sup>31</sup> Email from 3D Director LaJuan Counts to OCP Deputy Director Latonia Limmitt regarding 3D Position, February 25, 2023.

<sup>32</sup> Michigan Building Code Chapter 33, Section 3303 and the City of Detroit Code of Ordinances Chapter 8, Article II Building Code, Section 8-2-20, Additions to Section 3303 of 2015 Michigan Building Code, Demolition at 3303.8.4 Wrecking requirements.

<sup>33</sup> OIG Interview of James Glavin, May 11, 2023.

<sup>34</sup> Email from Chief Procurement Officer Sandra Stahl to OIG Attorney Jennifer Bentley regarding OIG Case No. 23-0009-INV, June 16, 2023.



### iii. Violation of OCP's Standard Operating Procedure

Additionally, the failure to inform all contractors of the waiver of certified payroll was a violation of OCP's *Standard Operating Procedure Manual* (SOP) in terms of transparency and ethics as well as in process. The SOP identifies "four primary standards that must be upheld" by OCP and its employees. They are:

- **Responsibility** – Taking ownership for decisions that are made or failed to be made, and the consequences that result.
- **Respect** – Showing a high regard for oneself, the department, and resources entrusted to it and supporting an environment where diverse perspectives and views are encouraged and valued.
- **Fairness** – The requesting department has a duty to make fair decisions and act impartially and objectively in order to make ethical and cost effective purchases.
- **Honesty** – Acting in a truthful manner both in conduct and communications.<sup>35</sup>

Mr. Glavin did take responsibility for waiving the certified payroll requirement and failing to inform all contractors.<sup>36</sup> However, though Mr. Glavin stated his actions were not intentional, failure to inform all contractors of the modification made to the RFQQ calls into question the fairness and honesty of the demolition pre-qualification process.

Further, the SOP clearly states that when "there are changes to the solicitation, the information must be communicated in the form of an addendum. The OCP staff must ensure that all amendments are created and managed in Oracle and are shared publicly for all potential bidders to see."<sup>37</sup> In this instance, Mr. Glavin violated the process outlined by the SOP which also calls into question the transparency and honesty of the pre-qualification process.

### iv. Analysis of Mr. Glavin's Actions

Mr. Glavin's actions were not without consequences. The waiver of certified payroll, which he failed to communicate to all bidders, resulted in unqualified contractors being awarded Prop N contracts in violation of the Wrecking Ordinance. Mr. Glavin stated that contractors informed him that employees move around to different companies based on who has available work which makes it difficult to verify demolition crews. Therefore, he accepted employment agreements to verify crew capacity.<sup>38</sup> However, this method of verification does not account for

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<sup>35</sup> City of Detroit Office of Contracting and Procurement Stand Operating Procedure Manual, Chapter 1: General Procurement Information, SOP Section 1.2: Transparency and Ethics, Section Summary, pg. 10

<sup>36</sup> OIG Interview of James Glavin, May 11, 2023.

<sup>37</sup> City of Detroit Office of Contracting and Procurement Stand Operating Procedure Manual, Chapter 3: Making a Purchase, SOP Section 3.5: Creating, Advertising, and Managing Solicitations, I. Managing the Solicitation. Bid Modifications, pg. 26.

<sup>38</sup> OIG Interview of James Glavin, May 11, 2023.

the fact that these 1099 contractors may be doing work for other demolition companies and may not be available to the contractor who initially used them to verify crew capacity.

This method appears to have inflated various contractors' crew capacities which is evident by some of the issues experienced by 3D. Various contractors were represented as having more crews available to do demolitions than they actually had. This resulted in some contractors being disciplined for missing deadlines and/or failing to follow proper procedures.<sup>39</sup> As such, 3D had issues meeting its targeted number of demolitions and made it appear that 3D did not understand the true capabilities of the contractors. In some instances, contract awards had to be rebid, creating a financial impact and delaying demolitions.<sup>40</sup>

Mr. Glavin's actions also impacted qualified demolition contractors, though Mr. Glavin does not believe that the companies that were not notified of the waiver were harmed or put at a disadvantage. He explained that all prequalified contractors were able to get contracts. Mr. Glavin noted that the goal was to encourage small and micro business participation and meet the goals of the Prop N Demolition Program. Therefore, he believes that the decision to accept employment contracts was in the best interest of the City because, without the certified payroll waiver, smaller companies would not have been prequalified and given an opportunity.<sup>41</sup>

Nevertheless, the OIG finds that properly qualified contractors may have been harmed by OCP's decisions and lack of communication. For example, contractors who were prequalified based on the requirements listed in the RFQQ and Wrecking Ordinance had to compete for contract awards against contractors that were unable to meet all the requirements. However, the OIG is unable to determine how many contracts and their dollar values went to the unqualified contractors. OCP informed the OIG that

A complete list of contractors for whom alternatives were accepted is not available due to the document challenges... but roughly half of the 20 initial 2020 RFQQ submissions did not include certified payroll. Vendors may have subsequently submitted certified payroll during follow-up after initial submission. Checklists from the time simply note that crew capacity was verified. Please note that the RFQQ submissions were 50-100 pages long, and certified payroll was a sub-requirement of one of 25+ reviewed items for each vendor.<sup>42</sup>

Additionally, contractors continued to be harmed when Mr. Glavin and OCP released subsequent Prop N RFQQs but neglected to update the certified payroll requirement to reflect the additional alternatives that were being collected to verify crew capacity. Though updates were

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<sup>39</sup> Contractor Violations – 2021 to Present, April 17, 2023.

<sup>40</sup> Email from 3D Director LaJuan Counts to OCP Deputy Director Latonia Limmitt regarding 3D Position, February 25, 2023.

<sup>41</sup> OIG Interview of James Glavin, May 11, 2023.

<sup>42</sup> Email from Chief Procurement Officer Sandra Stahl to OIG Attorney Jennifer Bentley regarding OIG Case No. 23-0009-INV, June 16, 2023.

recently made to the RFQQ, some contractors were not notified of the modifications for over two (2) years. It is important that departments and contractors can rely upon OCP to follow the requirements listed in the RFQQ, contracts, and their own SOP. Otherwise, the honesty, integrity, and transparency of the procurement process is called into question which can harm the City of Detroit's reputation and make contractors reluctant to do business with the City.

#### **v. Findings**

Based on the above information, the OIG finds that Mr. Glavin abused his authority by neglecting to notify all contractors that OCP would accept alternatives to verify crew capacity such as employment agreements for planned hires. While Mr. Glavin may not have been aware of the Wrecking Ordinance, he should have known that he was required to do so per the OCP SOP, but he failed in this obligation. His actions called into question the integrity and transparency of the procurement process and may have caused harm to qualified contractors. The OIG is aware that Mr. Glavin has already been disciplined for his actions but recommends that OCP consider if the discipline was appropriate based on all available information.

The OIG does not find that Mr. Glavin abused his authority by allowing contractors to submit alternatives to the certified payroll requirement to verify crew capacity. Mr. Glavin did so only after receiving approval from the former CPO. We also did not find any evidence that Mr. Glavin had anything to personally gain by the actions he took. However, the OIG finds that this decision was ultimately improper as it was a violation of the Wrecking Ordinance. The OIG recommends that all changes to the requirements listed in RFQQs, RFPs, and procurement contracts be reviewed by the relevant department(s) and/ or the Law Department to determine if the changes may have an impact on the performance of the contract and/ or may be contrary to the law.

Additionally, the OIG finds that Mr. Glavin's actions resulted in unqualified contractors being awarded Prop N contracts. However, the OIG does not find that Mr. Glavin abused his authority and purposefully steered bids to select contractors. Without question, Mr. Glavin's actions were improper and led to certain contractors being eligible to bid on contracts who otherwise would not have been qualified, but Mr. Glavin mistakenly believed that such actions were allowed.

#### **b. Actions Taken by OCP When Notified of Issues**

##### **i. Bid Protests**

OCP first became aware of the issues involving the waiver of certified payroll and the lack of notification to all contractors in October 2022 after Gayanga, a prequalified demolition company, filed a bid protest.<sup>43</sup> Specifically, on September 26, 2022, Gayanga owner Brian McKinney submitted a formal bid protest of *J Keith Award M1/SA \$2,932,717.66 and J Keith Award M4 \$2,624,021.04*. Mr. McKinney filed the protest because he did "not believe J Keith

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<sup>43</sup> *Id.*

has been or is currently able to meet” the required qualifications of crew capacity, adequate equipment, and adequate bonding.<sup>44</sup> Mr. McKinney noted that the Wrecking Ordinance does not “allow for subcontracting the demolition work or utilizing 1099 wage paid independent contractors without those individuals possessing a valid City of Detroit Wrecking License.<sup>45</sup>”

This “protest of the Group M1 and M4 awards shortly after recent changes in leadership at OCP, prompted a review of how crew capacity was determined during original prequalification. That review led to the rescission of preliminary awards of Prop N Groups M1 and M4.<sup>46</sup>” Therefore, on October 13, 2022, Ms. Stahl responded to the bid protest stating:

Office of Contracting and Procurement has done its due diligence on your protest of the Prop N M1 and M4 awards to J Keith. At the time of preapproval when the Prop N was first launched, companies were pre-qualified with 1099 contractors and rented equipment.

Moving forward, the requirements for pre-approval will be updated in a forthcoming revised RFQQ.

Previously awarded contracts will remain in place; however, the awards for M1 and M4 will be rescinded from J Keith and be awarded to the next lowest responsible bidder with capacity.<sup>47</sup>

At the time of the rescission of the preliminary awards, Ms. Stahl was unable to identify the provision in the Wrecking Ordinance that prohibited the use of independent contractors in demolition. In November 2022, the Law Department identified and made OCP aware of the prohibition in Section 8-2-20 of the City Code.<sup>48</sup> Ms. Stahl explained that she permitted J Keith to keep their existing contracts because “J Keith’s Group J contract had already been approved by City Council and executed under the prior CPO.<sup>49</sup>” She also noted that she “rescinded J Keith’s *preliminary* Group M awards, prior to submission for City Council approval.<sup>50</sup>” Ms. Stahl rescinded J Keith’s preliminary contract award “due to a lack of overall capacity and capacity concerns expressed by [3D].<sup>51</sup>” She also later clarified that her “reference to

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<sup>44</sup> Letter from Gayanga CEO Brian McKinney to Chief Procurement Officer Sandra Yu Stahl regarding J Keith Award M1/SA \$2,932,717.66 and J Keith Award M4 \$2,624,021.04 dated September 26, 2022.

<sup>45</sup> Email from Gayanga owner Brian McKinney to Chief Procurement Officer Sandra Stahl (and others), regarding Formal Proposal N Bid Protest, September 26, 2022.

<sup>46</sup> Memorandum from CPO Sandra Yu Stahl to Council President Mary Sheffield through Council Member Fred Durhal, III, Chair, Budget, Finance & Audit Standing Committee regarding Request for Information Regarding Claims Demolition Contractors Being Allowed to be 1099 Workers in Violation of a City Ordinance, November 16, 2022.

<sup>47</sup> Letter from Deputy CFO/ Chief Procurement Officer Sandra Yu Stahl regarding Prop N M1 and M4 Award Protest, October 13, 2022.

<sup>48</sup> Email from Chief Procurement Officer Sandra Stahl to OIG Attorney Jennifer Bentley regarding OIG Case No. 23-0009-INV, June 16, 2023.

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> Email from Chief Procurement Officer Sandra Stahl to OIG Attorney Jennifer Bentley regarding OIG Draft Report for Case No. 23-0009-INV, July 11, 2023.

independent contractors in that bid response was misleading and incorrectly assumed that all employment agreements/ alternatives accepted meant 1099s. That was not the case.<sup>52</sup>”

The OIG does not find that Ms. Stahl’s actions at that time were an abuse of authority. Ms. Stahl cancelled J Keith’s preliminary awards in October 2022. She did not receive confirmation that J Keith was demolishing properties in violation of the Wrecking Ordinance until November 2022. However, now that Ms. Stahl is aware of the provision in the Wrecking Ordinance prohibiting the use of independent contractors in demolition, the OIG recommends that OCP review all existing demolition contracts to ensure that no contractor is operating in violation of this provision. If any such contractors are found, the OIG recommends that OCP take appropriate action.

## **ii. Actions Taken by OCP After the Bid Protest**

### **a. Audits**

After receiving the bid protest, OCP conducted two (2) audits related to the prequalification of Prop N demolition contractors. The first review, which began on or around October 5, 2022, started with a request for employment verification from prequalified Prop N contractors.<sup>53</sup> It then expanded to a “general review of Prop N crew capacity determination in RFQQ 18834.<sup>54</sup>” The first review found that “all companies that were prequalified met the standards established by RFQQ 18834 subject to the allowance granted for alternatives to certified payroll.<sup>55</sup>”

On approximately March 22, 2023, OCP then conducted a second review to determine if prequalified contractors complied with applicable ordinances, including Section 8-2-20 of the Wrecking Ordinance which prohibits the use of independent contractors in demolition. The second review found that all contractors “with active contracts... returned signed attestations of compliance” except for two (2) contractors.<sup>56</sup> RDC and Moss Company each identified one employee who was a 1099 independent contractor.<sup>57</sup> Any demolition contractor that was not in compliance with the requirements was given an opportunity to cure.<sup>58</sup>

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<sup>52</sup> *Id.*

<sup>53</sup> Email from OCP Auditor IV- Business Team Lead Renee Hollis to Gayanga owner Brian McKinney, regarding Demo RFQQ Original Determination Review- Request for Information, October 5, 2022 and Memorandum from CPO Sandra Stahl to 3D Director LaJuan Counts regarding Summary of Prop N audits, April 12, 2023.

<sup>54</sup> Memorandum from CPO Sandra Stahl to 3D Director LaJuan Counts regarding Summary of Prop N audits, April 12, 2023.

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

## **b. Updated Prequalification RFQQ**

On November 30, 2022, OCP issued RFQQ #1 “to openly and responsibly establish a list of pre-qualified vendors to bid on abatement and/or demolition services.”<sup>59</sup> This RFQQ “supersedes and replaces” prior RFQQs. RFQQ #1 “tightens certain requirements while modifying others to better reflect the transient nature of labor” in demolition.<sup>60</sup> Specifically, it requires

evidence of employment for at least one demolition crew engaged by the company to prequalify for demolition contracts with the City. These contracts will continue to be referred to CRIO to assure enforcement with applicable ordinances and laws regarding employment. It is also understood that licensing bodies will continue to exercise that authority they may have over companies subject to licensure as demolition contractors in order to properly regulate the industry.<sup>61</sup>

Additionally, the new RFQQ requires all contractors to resubmit all necessary information based on the requirements set forth in RFQQ #1.

Further, on February 17, 2023, OCP issued an addendum to the RFQQ. It stated, in part, that “only permanent (non-1099) employees of your organization count toward your crew capacity: organizations without permanent employees will be disqualified from this RFQQ.”<sup>62</sup> Any demolition contractor that was not in compliance with the requirements was given an opportunity to cure. Failure to comply would result in the termination of the companies’ contracts.<sup>63</sup>

## **c. Discipline of Mr. Glavin**

Additionally, OCP conducted an internal investigation which led to Mr. Glavin being disciplined for his actions. It was determined that “Mr. Galvin’s decision-making in the pre-qualification, evaluation of crew capacity and issuance of contract awards for Proposal N for Neighborhoods – Demolition - RFQQ #18834 reflects *Conduct which brings the City into Disrepute*.”<sup>64</sup> Specifically, the OCP investigation found, in part, the following:

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<sup>59</sup> The Office of Contracting & Procurement, on behalf of the Detroit Demolition Department Request for Qualifications (RFQQ) #1 Detroit Demolition Program, General Information, published on November 30, 2022.

<sup>60</sup> Memorandum from Chief Procurement Officer Sandra Stahl to Council President Mary Sheffield regarding Request for Information Regarding Claims Demolition Contractors Being Allowed to be 1099 Workers in Violation of a City Ordinance, November 16, 2022.

<sup>61</sup> Memorandum from CPO Sandra Stahl to 3D Director LaJuan Counts regarding Summary of Prop N audits, April 12, 2023.

<sup>62</sup> Addendum One- Demolition RFQQ SQM 2.17.2023, 1.a.15, issued on February 17, 2023.

<sup>63</sup> Memorandum from Chief Procurement Officer Sandra Stahl to Council President Mary Sheffield regarding Request for Information Regarding Claims Demolition Contractors Being Allowed to be 1099 Workers in Violation of a City Ordinance, November 16, 2022.

<sup>64</sup> City of Detroit Corrective Action Form, James Glavin, March 9, 2023.

OCP's practice is to communicate all changes to a negotiation in writing to all respondents. Mr. Glavin communicated the waiver of Certified Payroll to only certain vendors.

All bidders were notified in RFQQ 18834, and through a response via Oracle on October 19, 2020 to all bidders, that they could update their crew capacities. However, neither before nor after that date has communication been sent to bidders on any Proposal N Demolition release that specifically waived the Certified Payroll requirements of the October 2020 RFQQ 18834.

Individual bidders were informed they could use employment agreements rather than a Certified Payroll to verify the availability of their labor force, but this clarification was omitted in the communication in 2020 to all bidders.

The impact of Mr. Glavin's decisions in Prop N Demolition pre-qualification is that serious doubt has been cast on the integrity and transparency of the Proposal N procurement process. The Detroit Demolition Department could not trust that procurement was transparent, and multiple demolition vendors have protested the pre-qualification process specifically.

In conclusion, Mr. Glavin's decision to selectively accept alternatives to the RFQQ requirement for Certified Payroll instead of amending the RFQQ requirement for all respondents negatively impacted the reputation of the City's procurement process and demolition program.<sup>65</sup>

Based on OCP's internal review, Mr. Glavin was suspended for 30 days without pay. However, Ms. Stahl reduced his suspension to 21 days. Mr. Glavin explained that Ms. Stahl called him after reviewing information he provided to her in a memorandum. She explained that he had "shown enough" and that she was going to bring him back early.<sup>66</sup> Additionally, Mr. Glavin was removed from working on procurement for 3D and has been reassigned to assist the Department of Innovation and Technology (DoIT).<sup>67</sup>

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<sup>65</sup> City of Detroit Corrective Action Form, James Glavin, March 9, 2023.

<sup>66</sup> OIG Interview of James Glavin, May 11, 2023.

<sup>67</sup> *Id.*

#### **d. OCP Challenges/ New Approaches**

Lastly, OCP identified four (4) “initial challenges” that the department experienced related to Prop N Demolition Procurement as well as “new approaches” to correct the issues identified. The challenges and corrections identified and implemented by OCP are as follows:

1. Suppliers were asked to submit responses via email due to the manager’s challenges with Oracle functionality. Some of the files not stored in Oracle were lost during the migration from the City’s shared drive to the online SharePoint file system.
  - Corrective Actions
    - The OCP manager for demolition was moved off of this commodity area and replaced by a new manager and team.
    - The new OCP demolition team uses only Oracle to conduct Prop N Demolition RFQs.
    - A Smartsheet solution has been implemented to track all RFQQ submissions and collaborate with DDD on vetting those submissions.
  
2. It was very difficult to figure out the latest updates regarding the RFQQ, specific submissions, etc. because so many submissions and vendor follow-up communications took place via individual emails.
  - Corrective Actions
    - Every vendor submission now occurs via Oracle.
    - All submissions, including follow-up documentation provided via email, are recorded in shared Smartsheet spaces, so the OCP demolition team and DDD<sup>68</sup> team members access the same page and see exactly the same documents and information.
    - Smartsheets are organized consistently and by team responsibility, so there are no questions about what DDD needs to review and whether they have seen it.
  
3. The previous OCP demolition team waived the certified payroll requirement from the original bid opportunity for Prop N Demolition.
  - Corrective Actions

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<sup>68</sup> DDD refers to the Detroit Demolition Department.



- The new Prop N Demolition RFQQ requires documentation for only one crew at the time of submission.
  - The new Prop N Demolition RFQQ requires that the people in the documented crew be current employees, not future ones.
4. Employment verification is an ongoing challenge.
- Corrective Actions
    - Businesses maintain many different types of employment documents. Law has already suggested several alternatives to W4s, and OCP can improve its approach by getting a better sense of the regular employment reports that could be requested from vendors. OCP is still trying to identify the most appropriate type(s) of documentation to require with submissions so that employment information can be properly verified.<sup>69</sup>
    - OCP is requesting contractors to submit quarterly UIA (Unemployment Insurance Agency) reports along with the Staff Roster. The information is tracked in a Smartsheet by [an OCP] Project Manager. Contractors must submit employee information with each RFQ or RFP. The Project Manager will enter the names into the Smartsheet to verify if the employees are on the UIA report and the Staff Roster. If a new employee is added additional documentation to show proof of employment is required.<sup>70</sup>
    - As of March 21, 2023, OCP “has partnered with the Construction and Demolition Department to share view only access to the Demo Observation Smartsheet. The Demo Observation Smartsheet is used to track all workers on site on a daily basis. OCP has asked the Demo team to add a column for each worker to attest if they are a 1099 contract employee or W-2 employee to the sheet.”<sup>71</sup>

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<sup>69</sup> Proposal N Demolition Procurement: Initial Challenges and New Approaches.

<sup>70</sup> Email from Deputy Chief Procurement Officer Toni Stewart-Limitt to OIG Attorney Jennifer Bentley, copied to Inspector General Ellen Ha, Deputy Inspector General Kamau Marable, and Chief Procurement Officer Sandra Stahl, regarding OIG Draft Report for Case No. 23-0009-INV.

<sup>71</sup> *Id.*

OCP also stated that they are aware that the Wrecking Ordinance prohibits the use of independent contractors and is “seeking a better way to track employment.”<sup>72</sup> However, “OCP does not have the capacity for continuous monitoring of employment information” and “welcomes any recommendations from the OIG about how to verify employment.”<sup>73</sup> Therefore, the OIG recommends that OCP consider the following to verify employment:

- At the time of invoicing, require contractors to submit the names of the employees who worked on crews that completed the demolition work as well as sign an affidavit attesting that the work was completed by the identified employees. In addition, OCP should perform a random audit of the contractor’s certified payroll verify the employee’s status.
- OCP should consider working with CRIO when they are verifying that a contractor is hiring the required number of Detroit residents when CRIO does work site checks.

#### **IV. Conclusion**

Mr. Glavin’s action called into question the integrity and transparency of the demolition procurement process. His decisions impacted 3D who had to take corrective actions against unqualified contractors which resulted in demolition delays and additional costs. Mr. Glavin’s decisions also impacted qualified contractors who were not notified of the modifications to the prequalification requirements. This impacted contractors’ trust in the procurement process and caused them to have to bid against contractors who could not meet basic requirements.

OCP took several actions once the potential issues involving the demolition procurement process was brought to Ms. Stahl’s attention. OCP conducted audits to gain an understanding of how contractors’ crew capacities were determined. The department also identified several issues with the procurement process and took proactive steps to correct the problems.

#### **V. Evidence Reviewed**

During this investigation, the OIG reviewed various documents from the complainant, 3D, and OCP. Documents reviewed included, but were not limited to, OCP policies and procedures, relevant ordinances, RFQQs, demolition contracts, bid protests, corrective actions, a disciplinary write-up, contractor meeting agendas, and audit summaries. The documents relied upon in the writing of this report can be found in the footnotes. Additionally, the OIG interviewed the complainant as well as Mr. Glavin. OCP also provided requested information via email.

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<sup>72</sup> *Id.*

<sup>73</sup> *Id.*