



Best Practice: Integrity Monitor Program

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CITY: NEW YORK CITY

POLICY AREAS: PUBLIC INTEGRITY

BEST PRACTICE

The New York City Department of Investigation's (DOI's) **Integrity Monitor Program** permits a City agency to enter into or continue a contract with a vendor that might otherwise be precluded from doing business with the City due to an integrity issue. Pursuant to the program, DOI may advise the City that a contract can be awarded or extended if the vendor agrees to be monitored for the duration of the contract by an independent monitor firm selected by and reporting directly to DOI. The monitor is given full access to vendor records and personnel, makes site visits, and takes other actions necessary to monitor the vendor's compliance with contract provisions and laws, all steps that DOI itself would be permitted to do. DOI extends its limited resources by having the monitor, paid for by the vendor, act as DOI's eyes and ears in connection with a particular contract where the vendor has experienced an integrity issue. For example, the monitor will analyze billings to ensure that the City is not overcharged, that prevailing wages are paid, and otherwise deter illegal conduct. At times, when the integrity issue identified relates to unethical conduct, DOI will require a vendor to take a Code of Ethics relating to its City contracts and interactions with City personnel. Other corrective measures may be required if the integrity issues demonstrated other systemic weaknesses at the company. In such cases, the monitor ensures implementation and compliance. On several occasions, the City has decided even in the absence of an identified integrity problem, to proactively monitor a large project to ensure that there is no fraud or organized crime influence adding to the expense. For example, the City proactively hired and paid for a group of monitors to oversee the clean-up of Ground Zero after the September 11th attacks.

ISSUE

The City spends billions of dollars each year contracting with thousands of vendors to provide goods, services and construction. Pursuant to the City's procurement rules, the City may only pay taxpayer funds to vendors with integrity. DOI plays a role in assessing vendor integrity, and developed the Integrity Monitor Program because some vendors with an identified integrity problem need one-on-one oversight to ensure that past unethical or unlawful practices do not continue. The monitor may provide the necessary assurance that the company will be a "responsible vendor," a requirement under the City procurement rules, for the duration of the contract. By contrast, without the vendor agreeing to join the Integrity Monitor Program, DOI could view the vendor's integrity issue as presenting too great a concern that the vendor is not responsible for the City contract. The monitor reports directly to DOI, which provides the monitor with the same independence DOI has in City government. Status reports and issues are relayed in real-time to DOI, enabling DOI to take any necessary action. Violation of or failure to cooperate with the terms of the monitor agreement by the vendor could result in termination of the contract. Successful completion of a contract by a vendor under a monitor can benefit the company as it applies for subsequent contracts.

GOALS AND OBJECTIVES

The Integrity Monitor Program allows the City to procure needed goods and services from vendors who require individual oversight because of past integrity problems, and provides DOI with the ability to scrutinize the vendors' work closely for the duration of the City contract.

IMPLEMENTATION

DOI's Integrity Monitor Program was created in 1996 to provide an added measure of prevention and oversight in City contracts where the facts indicate the vendor has had integrity problems in the past. While some problems with the vendor



Best Practice: Integrity Monitor Program

may be insurmountable for purposes of continuing to do City business, other issues may be addressed by the presence of a monitor. Since the program began there have been almost 50 instances in which an integrity monitor has been assigned under circumstances where the vendor has experienced an integrity issue but has demonstrated that, with close supervision, it can be relied upon as a responsible contractor. The private integrity monitors are paid for by the vendors, but they report directly to DOI on the vendors' activities throughout the life of the contract. DOI directly guides and oversees the monitors' work.

DOI maintains a list of firms that have applied to serve as monitors. These firms typically have relevant investigative, legal and/or auditing expertise and are identified through DOI's outreach efforts, which include notices in the electronic and print media, professional association newsletters, lectures to relevant professional associations, and a public link on DOI's website featuring information about the Integrity Monitoring Program (<http://www.nyc.gov/html/doi/html/initiatives/integrity.shtml>).

DOI solicits proposals from entities on its monitor list when a monitor must be assigned to a vendor for a particular contract. (A sample monitor agreement is available upon request). When a monitor is needed, between three and five firms from the list with appropriate expertise are asked to forward their proposals for the engagement to DOI. A selection committee reviews the proposals and interviews the applicants.

In some cases where the issue with the vendor does not rise to the level of needing a monitor, DOI may require the vendor to take other steps such as entering into a Certification, which is a representation regarding the business practices and responsibility of the company and its subcontractors. DOI may also require the company to adopt a Code of Ethics as it relates to its City contract and contacts. These requirements further assist DOI in monitoring compliance with the law and protecting taxpayer money.

Since the program's inception, integrity monitors have been used throughout the City on a wide variety of projects and vendors, including school bus companies that provide services to the Department of Education; a security company contracted by the Department of Probation; and street lighting maintenance contractors. In these cases, the vendors had been linked to various corruption investigations. Integrity monitors have also been employed proactively to oversee an entire project rather than look at the work of an individual company. This is presently the case with the monitor on the City's multibillion-dollar Croton water filtration plant construction in the Bronx. The Croton monitor reports to DOI, but has been retained by the Department of Environmental Protection (DEP), the City agency constructing the water filtration plant, to ensure that legal, regulatory and contractual requirements, such as proper billing, are being followed on this massive and complex project. This monitor engagement was modeled after the successful monitorship of the cleanup of Ground Zero.

In the wake of Hurricanes Katrina, a Congressional Committee studied the way DOI's Integrity Monitor Program was used to prevent fraud and criminal activity at the clean-up of Ground Zero. The Committee heard testimony, including from the Commissioner, about the program as a model to expeditiously assist the federal government in methodically avoiding fraud and waste when vendors are called upon to provide services under emergency circumstances.

COST

The vendor pays for the cost of the monitor. On rare occasions, the City has incurred the cost when it has decided to proactively put a monitor on a large-scale project, as was the case with the water filtration plant construction and the emergency cleanup at Ground Zero.



Best Practice: Integrity Monitor Program

RESULTS AND EVALUATION

The program's success is reflected in the numerous monitorships that have addressed integrity problems while work on projects has proceeded. Below are several examples of monitorships and their impact:

World Trade Center Cleanup

DOI's on-site integrity monitors at Ground Zero conducted physical surveillance and audited the various contractors' bills to foster a culture of legal compliance and ensure accountability for the public money spent on the cleanup. The monitors recommended tens of millions of dollars in costs savings and their impact was so resounding that law enforcement investigators conducting court-ordered electronic eavesdropping heard an individual lament the lack of criminal opportunity due to the monitors' work and presence at Ground Zero.

Street Light Maintenance

When questionable activities of certain employees and principals of some of the City's street light maintenance contractors were exposed in the corruption investigation and indictment of a former union leader and state assemblyman, monitors were appointed to oversee the relevant vendors. The ability to appoint these monitors during the investigation and prosecution was critical to ensuring that the vital work of maintaining the City's street lights could proceed without interruption or jeopardizing public safety, and with integrity. Monitors are especially helpful in situations where a municipality discovers a vendor providing specialized and crucial work has integrity problems, so that the services provided by the vendor can continue uninterrupted.

Information Technology Project

After a DOI investigation substantiated two contractors on the City's massive emergency communications project contract improperly provided expensive meals and entertainment to City employees and engaged in improper practices related to bidding for work, a monitor was appointed for one of the vendors and the other vendor entered into a certification requiring its adherence to lawful and ethical practices and to provide heightened internal oversight. The City had to rebid certain contracts as a result of the vendors' substantiated misconduct and so they repaid the City \$770,000 and \$124,300, respectively, to cover the cost of rebidding the work and the associated delay. In addition, the vendors implemented ethics training and made regular reports back to DOI on their compliance with their respective agreements.

TIMELINE

N/A

LEGISLATION

N/A

LESSONS LEARNED

DOI's experience confirmed that maintaining a current, ready list of highly qualified private-sector monitors was essential to being able to select the best-equipped monitor via a transparent process for each engagement. In addition, having DOI select and oversee the monitor is critical to maintaining independent oversight of a vendor and ensuring that if integrity problems arise DOI can effectively and quickly respond. City contracts have proceeded smoothly and successfully under these arrangements.



Best Practice: Integrity Monitor Program

TRANSFERABILITY

Other integrity agencies can adopt a program like DOI's Integrity Monitor Program.

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