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Mixed Messages

An Inspector General's report about the propriety of city contracts sparks a controversy over how and when the office should act and advise

BY DAVID WINKLER-SCHMIT

When it comes to city contracts, City Attorney Penya Moses-Fields says her office, the department of finance and the chief administrative officer's roles are all clearly spelled out. There is a difference of opinion, however, as to when the oversight of the Office of Inspector General should come in, she says.

"We've been operating two-and-a-half, almost three years on really trying to figure out what the OIG's role was to be and how involved the office is supposed to be," Moses-Fields says, "and trying to distinguish between day-to-day issues and operational functions."

Voters revised the City Charter in 1995 to allow for the OIG, but it took the New Orleans City Council until 2006 to actually create the office. When it comes to reviewing professional services contracts, which can involve millions of city dollars, the role of the OIG is critical.

But when should the OIG weigh in? This question was raised recently over a proposed personal services contract between the city and developer Stewart Juneau, and the potential rebuilding of the F.X. Jeff Municipal Auditorium.

Moses-Fields says the report raised public concern, and that the OIG should have let other government departments do their jobs, providing a system of checks and balances, and then review the contract. Inspector General Ed Quatrevaux says his office has unlimited authority to ask questions and write reports, but no power to implement its recommendations. He also said the "after the fact" report Moses-Fields favored would have come too late. Council President Arnie Fielkow agrees with Quatrevaux and says reviewing contracts after they're signed would make the OIG irrelevant.

As for when the OIG *should* issue a report, Fielkow says it's none of his business.

Initially, the city accepted Juneau's proposal for a massive \$80 million redevelopment of the auditorium, which would renovate the building into an entertainment, arts and performance center complete with stages, a museum, a culinary school, offices and studios. Because it was a construction contract, the proposal required council approval.

When it became apparent the council wouldn't give its OK, the agreement was changed to a professional services contract, making Juneau and his firm, Le Triomphe Property Group, consultants rather than actual developers. Professional services contracts that originate from the mayor's office do not require council consent.

In late December, the OIG, which has 22 people on staff and a budget of \$3.4 million, sent letters to the mayor and the New Orleans City Council urging Mayor Ray Nagin not to sign the new proposal, which would give the consultants 5 percent of the completed project's total cost, or \$4 million. The report listed what the OIG saw as a number of problems with the proposed contracts, including that it was ineligible for FEMA reimbursement and that no other vendors competed for it. The OIG also made the letters publicly available through its Web site, www.nolaig.org.

Quatrevaux related his concerns with the auditorium contract during a City Council meeting in January. Moses-Fields also appeared before council members and called the OIG report "premature" because her office hadn't even received the contract, which was described as a "working document" and not a finished product.

Moses-Fields later told *Gambit* that according to the ordinance creating the OIG, the inspector general should review and issue reports after, and not before, contracts have been executed. Quatrevaux says his office not only should review and comment on proposed contracts, but should be involved in the contracting process earlier when the city is considering advertising a request for proposals (RFPs).

"I think we can provide a valuable service," Quatrevaux says. "And I would much rather provide comments on a draft RFP."

Under the code of the City of New Orleans, the OIG has broad investigative powers. It has access to all city offices — mayor, city council, departments, agencies, boards, commissions, public benefit corporations and entities or individuals involved in a financial or official capacity with the city — records, information and any data including contracts, emails, computer hard drives, instant messages and recommendations. It also can ask questions of city office personnel and subpoena them to testify if necessary.

What the OIG can't do, however, is enforce its reports (the city "can take them, or leave them," Quatrevaux says), but he adds, "Our ultimate leverage is with other city officials and with the public."

The war over professional services contracts used to be between the council and mayor. With numerous concerns arising from the city's professional services contracts with crime cameras and the 311 phone information system, the council passed an ordinance in early 2009 that required meetings of professional contract selection panels be open to the public. At the time, evaluation panels were made up of two city staffers and a private citizen, but after the council ordinance, which Nagin said was an unconstitutional violation of the separation of powers, the mayor suspended the panels by executive order.

In an interview with *The Times-Picayune* in Feb. 2009, Nagin spokesman James Ross explained that with more than 800 contracts and other legal agreements completed in 2008, it would be impossible to hold public meetings on each contract and "keep up with the pace of the recovery."

The suspension not only closed out the public from the contract negotiations, but it also affected the OIG. The inspector



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general is mandated by ordinance to prevent and detect fraud, waste, abuse and illegal acts. The ordinance specifies the city notify the OIG within 24 hours of any selection committee meetings, which Quatrevaux says are currently suspended.

"But the spirit of the legislation was to involve the OIG early on in the procurement process, the contracting process," Quatrevaux says. "So we would have the opportunity from the perspective of fraud prevention and improving effectiveness of operations — and to comment and provide recommendations."

Moses-Fields disputes Quatrevaux's interpretation and says it contradicts the council's ordinance. As for the idea that the OIG should weigh in on the city's requests for proposals, Moses-Fields is adamantly opposed.

"I mean no," says Moses-Fields. "The ordinance the council adopted does not even engage the OIG until there's a review panel or selection panel put in place."

Fielkow, an attorney, won't comment on whether or not the OIG was "premature" in issuing a report on the Municipal Auditorium. He adds that it would be helpful for the OIG to ensure that RFPs — from both the legislative and executive branches — are technically sound and the process fair. Fielkow says it's beyond the council's purview as to when the inspector general should make public his comments and recommendations on proposed contracts.

"That's up to the IG," Fielkow says. "These are terms of ours (the council's), the IG law requires that the inspector general be 'operationally independent from the legislative and executive branches' of government. It's not for me as a legislator to opine on when or how often the IG should be issuing a report."

The scope of the OIG's role has been a topic in this year's mayoral election. Each of the six leading candidates say the OIG should be involved in the contracting process, but like Quatrevaux and Moses-Fields, there are disagreements about how this should be accomplished.

John Georges says it's acceptable for the OIG to issue a report before contracts are executed, but he intends to follow the city ordinance. Mitch Landrieu feels the OIG should review the design process for RFPs and that professional service contracts fall under the final authority of the mayor. James Perry thinks the OIG should evaluate all agreements before and after execution, and would like the city charter amended to ensure contracts are awarded fairly and properly. Judge Nadine Ramsey says she fully supports the OIG and would place an internal inspector general in her administration.

Troy Henry says the contracting process needs reform, but in an interview with *Gambit*, he also pointed out that in just over three years, the city has gone through three different IGs and that the office's "mission is not properly aligned." Rob Couhig says the OIG should be involved in the contracting process "from conception to completion."

Without revealing his criteria for selective monitoring, Quatrevaux says his office is keeping track of RFPs released by the city. He adds that the January council meeting should have focused on problems with the proposed contract for the auditorium, not when his office should issue reports. Regardless of the council discussion, it won't change how the OIG fulfills its responsibilities.

"It won't affect us in any way," Quatrevaux says. "We'll continue as we have been, and when we see the need to, (we'll) publicize our concerns."



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