



CITY OF ATLANTA
OFFICE OF THE INSPECTOR GENERAL
SHANNON K. MANIGAULT
INSPECTOR GENERAL

185 TED TURNER DRIVE SW, SUITE 6200
ATLANTA, GA 30303

INSPECTORGENERAL@ATLANTAGA.GOV
404.546.2270

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Lisa Y. Gordon
Chief Operating Officer
55 Trinity Avenue SW
Atlanta, GA 30303

Jaideep Majumdar
Chief Procurement Officer
55 Trinity Avenue SW, Suite 1900
Atlanta, GA 30303

Dear COO Gordon and CPO Majumdar:

The Compliance Division of the City of Atlanta Office of the Inspector General (OIG) conducted a review into a reference letter submitted by a City of Atlanta (COA or the City) employee to another municipality on behalf of a contract vendor. While the review revealed no misconduct, OIG recommends COA implement policies and procedures to mitigate risks to the City and discourage potential misconduct.

Background

In connection with an investigation, OIG discovered that in January 2021, a former COA Department of Public Works (DPW) manager wrote a reference letter on behalf of a current COA contract vendor to be submitted to the City of Miami (Miami). The DPW manager drafted the letter after receiving a request directly from the vendor. The vendor was one of several businesses competing to provide Miami emergency debris and disaster recovery services. The vendor requested the reference so that the vendor might include it in its application to Miami. The reference letter was written on COA letterhead and included a statement that the vendor had operated “in compliance with the City’s contract obligations.” The DPW manager submitted a draft version of the reference letter to the vendor in Microsoft Word format, before a finalized, electronically signed, pdf version was submitted for the vendor’s use.

OIG interviewed the DPW manager regarding the letter. The DPW manager informed OIG that s/he was unaware of any policy regarding the submission of vendor reference letters. The DPW manager told OIG that this was not the first instance in which s/he had written reference letters for vendors. OIG spoke with current DPW leadership who informed OIG that, although DPW currently uses a tool to assist with vendor evaluations, it was unknown if any policy

regarding vendor references existed in 2021. OIG researched COA Municipal Code and policies and found no rules or procedures regarding submitting vendor reference letters. OIG reached out to the COA Department of Procurement (DOP) to identify any applicable policies. A deputy chief procurement officer informed OIG that DOP had not established any citywide policy regarding vendor references and that such matters are managed by individual departments.

Because no policies or rules were violated by the DPW manager's Miami reference letter, OIG ceased its review of the employee's actions.

Analysis

While OIG found no misconduct in connection with the Miami reference letter, OIG identified a gap in COA policies and procedures regarding the handling of vendor reference letters. A reference letter from COA, the government of a major U.S. city, can have considerable weight in a prospective consumers' evaluation process. As third parties rely on vendor reference letters, it is important that there are internal controls on the manner and substance of these communications, and that COA has vetted any affirmations in support of a vendor. The implementation of a governing policy with uniform procedures for vendor reference letters would mitigate COA exposure to several risks, including accountability, accuracy, control, precision, and voluntariness. The DPW Miami reference letter and the circumstances surrounding its submission highlight each of these risks.

Accountability

COA is accountable for any communications made on its behalf. Accordingly, to avoid situations in which COA employees force COA to assume responsibility for unintended statements, any vendor reference should be vetted by COA prior to dissemination. In this instance, the DPW manager completed a reference letter on behalf of a vendor without notifying DPW management or COA. The fact that the DPW manager wrote the letter on official COA letterhead may give the appearance to an evaluator that COA had endorsed the vendor. Based on OIG's review, the DPW manager did not have the authority to make communications for the whole of COA. Should it have been later determined that the vendor was substandard, COA might suffer reputational harm as a referring agent. By establishing policies requiring that vendor references are pre-approved by an authorized official or, in the alternative, submitted by a party vested with the authority to represent COA, COA would diminish the risk of bearing responsibility for unintended or unknown statements.

Accuracy

COA should seek to ensure that any statement made to a third party regarding a vendor is accurate and that any party relying on statements from COA can trust that COA has done its due diligence in performing its evaluation. In this instance, the DPW manager informed Miami that the vendor was in "compliance" with the COA contract. Even a mild affirmation such as "compliant" should still be verified by COA. In conversations with OIG, the DPW manager told OIG that s/he used the vendor's past experiences with DPW to determine that the vendor had been compliant with its city contract. However, s/he conducted no review to ensure that the vendor had

not provided services for other COA departments. Some vendors have contracts with (or provide services for) more than one COA department. It is possible that DPW's experience with the vendor represented a fraction of the vendor's relationship with COA and other departments had a different evaluation of the vendor, rendering the assertion that the vendor was compliant inaccurate. COA should implement a comprehensive review process to consider and compose vendor references to ensure that any representations are accurate and reflect the vendor's entire performance history with the City.

Control

COA should establish uniform procedures for vendors to secure reference letters. With the Miami reference letter, the vendor made a direct request to DPW for a reference. Had the DPW manager declined to write a reference, nothing prohibited the vendor from asking another DPW employee to write the letter instead. The vendor could have "shopped" multiple COA employees for the most favorable reference. OIG also notes that the DPW manager emailed the reference directly to the vendor (as opposed to the referral recipient) in a modifiable document format; an unscrupulous vendor could have altered the document for a more favorable recommendation or for repeated use. Without uniform procedures, COA control over the vendor reference process is limited. A uniform procedure or policy, which ensures requests are funneled to the appropriate authority for recordkeeping and security purposes, would mitigate many of these potential risks and would allow COA to exercise greater control over the quality and quantity of reference letters submitted.

Precision

Without a standardized policy that provides defined terms that may be used in the vendor referral process, COA runs the risk of submitting references that are, if not inaccurate, imprecise and ambiguous. As noted above in the Miami reference letter, the DPW manager described the vendor as compliant. The term compliant is variable and open to many interpretations. In this instance, the DPW manager told OIG that s/he used service quality as the primary measurement of compliance. However, an evaluator could as easily focus on other factors (e.g., cost overruns or timeliness) and could, accordingly, reach a different compliance determination. COA guidance could better ensure that the terms used to describe the vendor communicate a shared and known meaning across the City. COA should implement a vendor referral process to ensure that the language used in reference letters is precise and that the meaning of terms such as "compliant," "satisfactory," or "unsatisfactory" are not subject to a lone drafter's internal evaluation process.

Voluntariness

Finally, a vendor reference should remain an exercise of COA discretion, and any references submitted by COA should be made freely and in good faith. As a vendor reference can be a valuable commodity, there is a potential risk of misconduct between the soliciting and submitting parties. A COA employee may condition a reference letter on obtaining some personal benefit from the vendor, or the vendor may offer the COA employee a thing of value to influence the COA employee's decision.

Even in situations in which there is no corrupt intent, without safeguards in place, the risk of improper or otherwise involuntary references is heightened. In this instance, the vendor made a direct request for a reference to a DPW manager. COA departments and contract vendors often work closely together, and it is foreseeable that the vendor would solicit a reference from the COA departments with which it works. However, due to the relationship between COA departments and contracted vendors, there is a heightened risk of improper influence. A COA employee or department may feel pressured to submit a reference for a vendor in order to avoid harming business relations. Also, friendships might exist between COA employees and vendors. The adoption of a citywide vendor referral policy in which reference letters are submitted or reviewed by a neutral party can mitigate these concerns.

Conclusion and Recommendations

To discourage potential misconduct, reduce COA risk exposure, and mitigate the release of inaccurate and unverified statements from COA, OIG recommends the City:

- Implement a citywide policy for vendor references that establishes:
 - a comprehensive review process to identify vendor activity across City departments;
 - a structure to direct vendor reference requests to the appropriate parties for completion;
 - policies to safeguard the authenticity and legitimacy of City vendor reference letters; and
 - uniform evaluation criteria, with standardized descriptive terminology, for the production of all vendor reference letters.

If you would like further information, or if you have concerns regarding OIGs findings, please do not hesitate to contact me. Please notify this office of the City's response to the above recommendation within 30 days.

Sincerely,

Shannon K. Manigault
Inspector General

cc: Dana Greer, Deputy Chief Procurement Officer Department of Procurement