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BERKELEY PUBLIC LIBRARY

The Grand Jury received a complaint related to an outside vendor contract with the Berkeley Public Library. The vendor, Checkpoint Systems, Inc. (Checkpoint) was to provide products and services including software, hardware and training in the use of an automated checkout system. While the library is generally satisfied with the installation of the new Checkpoint system, its procurement and management of the Checkpoint contract raises concerns about the library's lack of policies and procedures. For this reason, the Grand Jury reports on the library's experience with the Checkpoint contract.

The Grand Jury reviewed volumes of documents, and interviewed the Chairperson of the Board of Library Trustees (BOLT) and key library and City of Berkeley personnel. A five-member volunteer board governs the Berkeley Public Library. Pursuant to the Berkeley City Charter, the library is fully independent from the City of Berkeley in its decision-making powers. Section 30 of the City Charter reads:

Five Library Trustees shall be appointed and may be removed by a vote of five members [of the City Council]. The Board of Library Trustees shall have power to manage the library and to appoint, discipline and dismiss all officers and employees of the library.

The Berkeley Municipal Code provides that BOLT has the power to purchase necessary books, journals, publications and other supplies and personal property. The City Manager, who oversees all other boards and commissions, has no oversight authority over the operations of the library. Further, the library is not subject to the policies and procedures promulgated by the City of Berkeley, including controls on the manner in which expenditures over \$25,000 can be made.

Library operations are funded primarily by a voter-approved parcel tax. Each year, the City Council determines the rate of the parcel tax and the library receives additional funds from various grants, the Library Foundation, and private donors.

CONTRACT HISTORY

In January 2004, the library issued a Request for Proposal (RFP) for an automated checkout system using radio frequency identification devices (RFID). It received five responses. On April 14, 2004, BOLT voted to authorize the Berkeley Public Library to enter into a contract with Checkpoint in the amount of \$643,000. The library chose Checkpoint in part because it had installed more library automated systems than any other company. Of the \$643,000, \$500,000 was financed through a bond, and \$143,000 came from existing fiscal year 2004 library budget monies. BOLT approved the vendor and financing terms unanimously. The library then entered into a contract with Checkpoint on June 24, 2004, which required payment of the entire \$643,000 within 30 days. This was the largest vendor contract in the library's history.

The contract provided that "Checkpoint Systems, Inc. [would] deliver, install and make operational the intelligent library system (RFID technology) at the Berkeley Public Library." The term of the contract was to begin on July 1, 2004 and end on December 31, 2005. The contract also provided that it could be extended by written notice and that it had a one-year warranty on all parts and labor. According to the terms of the contract, Checkpoint was to have delivered, installed, and made operational this system and to have completed training by December 31, 2005.

During the term of the contract, the library did not hire or assign a person to oversee and manage the implementation of this contract nor did it request assistance from the City of Berkeley that has resources to manage and oversee a contract of this size and nature. Additionally, the library's financial manager was

assigned to work at the City of Berkeley's housing authority and therefore was unavailable to manage the contract. As a consequence, documentation and management of the project was woefully inadequate.

As of the writing of this report, the library was using the automated checkout system which was generally working. The new executive director is working with members of her staff and with Checkpoint to improve the system.

The Grand Jury restates that it is concerned about the library's lack of policies and procedures for procurement and management of large contracts. It bears repeating that the City of Berkeley has sufficient resources, policies, procedures and expertise in place to manage a contract of this magnitude. The library is not obligated nor has it historically asked for assistance from the City of Berkeley because it seems to value the independence granted to it by the Berkeley City Charter.

In this case, the library may have been lucky that significant contract disputes with Checkpoint did not develop. Use of proven policies and procedures exist to prevent contract compliance issues. Had the library managed this contract properly, it would have obtained assistance on (i) negotiating the terms of the contract, including the timing of payments, (ii) day-to-day management (particularly in a technology context), (iii) scheduling of delivery of services, equipment and training, (iv) contract compliance, and (v) adequate documentation, to name a few.

The Board of Library Trustees must realize that adopting proven procedures available through the City of Berkeley in the use of public funds gives the public the assurance that those funds are being managed properly. Its current laissez-faire approach to managing such large contracts is not in the public's best interest.

RECOMMENDATIONS

RECOMMENDATION 07-04:

The Board of Library Trustees (BOLT) adopt the City of Berkeley's current policies and procedures for entering into and managing procurement contracts.

RESPONSES REQUIRED

BOLT (Board of Library Trustees)

Recommendation 07-04