

OFFICE OF THE INDEPENDENT ADVOCATE
MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST
REPORT OF INVESTIGATION

K #: 07-057 Mary Conway/ HDR Inc.

Date Opened: April 27, 2007

Date Closed: Feb. 8, 2008

Name of investigators: Karl Ross, Sylvia Batista
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Allegations:

It was alleged that private consultants working for the city of Miami may have violated the ethics ordinance by improperly participating in the crafting of an RFP for an \$18 million contract for Professional Program Management Services for the Capital Improvements and Transportation Program. Evidence delivered to the Miami-Dade County State Attorney's Office and subsequently referred to the Miami-Dade ethics commission suggested the city's former capital improvements director, Mary Conway, facilitated this conflictive arrangement, possibly exploiting her official position in the process. Sources have further alleged that Conway may have acted to benefit friends at HDR Inc., the city's prime consultant for capital improvement projects.

The investigation seeks to determine whether consultants violated Miami-Dade County Code Section 2-11.1(j) *Conflicting employment prohibited*, stating in applicable part that: "No person ... shall accept other employment which would impair his or her independence of judgment in the performance of his or her public duties." It also seeks to determine whether Conway violated Section 2-11.1(g) *Exploitation of official position prohibited*, stating that: "No person ... shall use or attempt to use his official position to secure special privileges or exemptions for himself or others ..."

It was further investigated, in consultation with the Miami-Dade state attorney's office, whether the parties violated Florida Statute 838.22 *Bid tampering*, Section (1), which states in applicable part: "It is unlawful for a public servant, with corrupt intent to

influence or attempt to influence the competitive bidding process undertaken by any state, county, municipal, or special district agency, or any other public entity, for the procurement of commodities or services ... “

Investigation:

The investigation commenced with a review of official documents obtained by the Miami-Dade state attorney's office, in particular an e-mail dated Nov. 18, 2004, in which Conway dispatches orders to representatives of the city's three private consulting firms overseeing the implementation of bond-funded capital improvements. “Here's what I really need,” the e-mail begins. “City must go out with RFQ/P ASAP for program management services per our past commitment to commissioners. I need the three of you to put your heads together ASAP to assist City in assembling scope for this contract ...” The e-mail, issued on a Thursday, goes on to state the matter will be discussed in more detail at a meeting the following Monday. “Start your internal discussions now in prep for Monday and give consideration to use of minority/small business firms, firms in Miami, or whatever else you think might be appropriate.”

Lastly, the e-mail states that Dianne Johnson, governmental affairs and planning administrator for the city's Department of Capital Improvements, “is swamped with work right now and will need your assistance upon her direction.” The representatives of the three firms receiving the e-mail from Conway were Will Suero of HDR, Cary Sanchez-Rea of URS Corp., and Evelio Chavez of Consul-Tech.

Additional documents provided by the state attorney's office revealed the following:

- That the city issued RFP No. 04-05-019 for Professional Program Management Services on Feb. 15, 2005.
- That members of a city evaluation committee met on April, 19, 2005, to review and rank the three proposals received in response to the RFP.

- That HDR was the top-ranked firm, followed by PBS&J and CSA Southeast Inc.
- That the evaluation committee raised objections to the proposals of PBS&J and CSA Southeast, but regarded HDR's submittal as "complete and thorough in all aspects" and that HDR, among other things, "demonstrated a complete and thorough understanding of the requirements ..."
- That the Miami City Commission on Sept. 8, 2005, voted to approve a three-year contract with HDR and its team of subconsultants in an amount not to exceed \$18.3 million, with an option for three more years.

The evidence cited above raised questions as to whether HDR's presumed role in crafting the city's RFP provided an unfair advantage in the firm's ability to respond to the solicitation in a "complete and thorough" fashion – an advantage that competitors PBS&J and CSA Southeast did not similarly enjoy. It should be noted that HDR and its team of subconsultants – which included URS and Consul-Tech – were the de facto incumbents, as each had been hired through a "piggyback" process that was devoid of any competitive element. The city employed this process, officials said, in order to expedite an estimated \$900 million capital works program, with funding from a 2001 voter-approved city of Miami bond issue, the county's half penny transit tax and the county's General Obligation Bond, among other revenue sources.

On Feb. 20, 2007, investigators conducted a preliminary interview with Cary Sanchez-Rea, formerly of URS Corp., who was one of the three private consultants enlisted by Conway to help prepare the city's RFP. During the interview, Ms. Rea, now employed by Consul-Tech, stated that neither URS nor Consul-Tech participated in the crafting of the RFP to any significant degree. She said she believed Conway had a close, even conflicted relationship with Will Suero and possibly Neal Poteet of HDR, and the three of them along with the city's Dianne Johnson drew up the RFP specs. Rea further stated she believed the RFP was tailor made for HDR, and that she felt the process was inherently conflicted and potentially criminal.

During subsequent interviews in June 2007, Ms. Rea stated that one of the ways in which Conway and HDR executives allegedly attempted to fix the RFP was by including a requirement that the winning firm utilize a database program called TRACs. Rea said that TRACs was proprietary software developed by an HDR subconsultant, Tim Malagon, and that the program was used by HDR in Jacksonville on a contract to oversee capital projects in that city. She described TRACs as the “information mainframe” for the city’s capital improvements program and as “Mary’s vehicle for moving money around.” She further alleged Conway hand selected members of the city’s evaluation committee, consisting of “people she knew ... people who wouldn’t have any problem getting it done the way she wanted it to get done.”

On June 7, 2007, COE investigators met with City Manager Pete Hernandez, and provided him with a list of public records sought in connection with Ms. Conway and the city RFP. Mr. Hernandez expressed a desire to cooperate.

On June 18, 2007, investigators interviewed Evelio Chavez, president of Consul-Tech Transportation Inc. and another of the three private consultants named in Conway’s original e-mail on Nov. 18, 2004. Mr. Chavez advised his firm was initially retained on a piggyback basis, and that at that time it was represented by lobbyist Steve Marin. He said his firm later joined the consortium led by HDR that bid on the RFP in question and was subsequently awarded the \$18 million contract. He complained HDR has not honored a verbal agreement to give 25 percent of all subsequent work to Consul-Tech, receiving only about 5 percent of work thus far. Regarding the preparation of the RFP, Chavez said Consul-Tech’s involvement was limited to providing information about the scope of its activities to Neal Poteet, the lead consultant at HDR at the time of the RFP and whom he described as Conway’s “right hand man.”

Chavez said Consul-Tech had no further involvement in the RFP process until HDR convened a meeting of subconsultants, the purpose of which was to respond to the RFP that HDR and city officials helped put together. He said Consul-Tech decided to join

forces with HDR because HDR is a larger firm and he did not believe Consul-Tech could match HDR's resources. He said he felt that HDR and other city consultants possessed an inherent advantage, regardless of whether the RFP process was tainted. "Having set up the program from scratch certainly gave us an advantage, as far as there being a learning curve. And the learning curve is important because it saves you time." He said that saving time was crucial because of impending deadlines for spending the first allotment of bond proceeds, some \$155 million.

Chavez said that in his opinion, competitors PBS&J and CSA Southeast were at a disadvantage because they did not have similar prior knowledge of the city's capital improvements program.

On July 10, 2007, Conway made her first public remarks in response to a report published in the Daily Business Review critical of the RFP process and that highlighted HDR's potentially conflicting roles. The report featured the same set of documents originally provided to COE investigators by the state attorney's office in January 2007. The report further raised questions about Conway's employment status with the city.

In her defense, Conway stated the following:

- That she wrote the e-mail to HDR and other consultants during "a very intense, crisis management situation," explaining that her department's authority to pay these consultants was about to expire.
- That her wording of the e-mail was largely an unintended result of this crisis mindset.
- That when she met with consultants the following Monday morning, all three firms indicated they wanted to participate in the RFP and that, as a result, they realized it would be inappropriate for them to provide assistance.
- That it was determined they would limit their involvement in crafting the RFP to seeking model RFPs from other agencies or municipalities, to be forwarded to Dianne Johnson of the city's capital improvements office.

- That Dianne Johnson received model RFPs from the consultants, but opted to use an RFP she obtained independently from the city of Miami Beach.

During her presentation, Commissioner Mark Sarnoff asked Conway if, “In any way, shape or form, did HDR create, author or amend the RFP submitted by the CIP?”

Conway answered: “Absolutely not.”

Conway further stated that Dianne Johnson, who served as the city’s procurement officer, would agree with her.

It should be noted Johnson did not respond to repeated efforts by COE investigators to contact her at the onset of the investigation, including a letter sent by U.S. certified mail to her home in Davie on May 3, 2007.

Johnson did, however, provide a written statement to Ms. Conway dated July 9, 2007, which she distributed to city commissioners. In the statement, Johnson asserts the following:

- That Conway “solicited from the [consultants] already working on the program information about the scope of services they were already providing to the city, and further solicited examples of other RFPs they may be aware of that described this type of work ...”
- That she relied primarily on the RFP template she got from Miami Beach as far as “the language and structure” of the city’s RFP was concerned, adding: “I don’t believe I used, to any degree, the information HDR provided me.”
- That she was not aware of any “improprieties” by HDR or any other party relating to the RFP.
- That nobody from HDR “solicited me to include anything in the RFP and they did not request nor did I give them access to the RFP before it was properly issued.”

On or about July 10, 2007, the city returned documents pursuant to the June 7, 2007 public records request. Upon review, it was determined the response was largely

unresponsive – especially as it related to requests for e-mails or other communication relating to the preparation of the RFP. This was noted in an e-mail to the manager’s office on that date. Additional documents were requested.

It was later discovered that the city’s initial response to the COE request was fielded by Conway herself. The copies of e-mails provided at that time were limited to those exchanged within the first week to 10 days following Conway’s initial e-mail on Nov. 18, 2004. These consisted of e-mails that supported Conway’s claim she limited her request for assistance from the private consultants to seeking model RFPs that could be used by Dianne Johnson as templates. Among those were one used by HDR in Jacksonville on that city’s “Better Jacksonville Plan,” provided by Will Suero of HDR, along with other model RFPs from FDOT District 6, Miami Beach and elsewhere. She also included in the city’s response a copy of a letter she wrote to the state of Florida ethics advocate in 2002 regarding her prior state ethics case. (No such information was requested by COE regarding this unrelated matter.)

On July 12, 2007, the city manager’s office returned a three-ring binder that contained extensive documentation along with e-mails between Conway, Johnson and others that were responsive to COE’s initial records request.

COE investigators reviewed these e-mails, and learned the following:

- That information regarding HDR, URS and Consul-Tech’s activities or “scope of service” was taken into consideration while crafting the RFP. This was apparent from a Nov. 26, 2004, e-mail from Will Suero of HDR to Dianne Johnson.
- That this information was requested during the Monday morning meeting that Conway held to discuss the upcoming RFP, according to a Nov. 24, 2004, e-mail from Consul-Tech’s Chavez stating: “ ... attached you will find a file containing the various general consulting services that we are currently providing to the city.”

- That while Johnson was the city official who prepared the RFP, she regularly consulted Conway as was evident in two Dec. 22, 2004, e-mails to Conway – including one at 5:50 p.m. in which Johnson states that another city staffer, Cecilia Wilson, “will make the modifications you require.”
- That days prior to the issuance of the RFP, Conway sent an e-mail to Johnson on Feb. 11, 2005, including an attached file with “my relatively minor edits.”
- That there were numerous references in the e-mails to the TRACs program, and that HDR was asked to respond to a question that arose during the Cone-of-Silence period concerning TRACs.
- That Neal Poteet of HDR did respond to an e-mail from Dianne Johnson on March 9, 2007, regarding TRACs and that Poteet consulted HDR’s subconsultant, Tim Malagon, to provide a description of the TRACs program in response to the question by a prospective competitor.
- That Conway did have influence over the members of the city’s evaluation committee, and suggested that a former co-worker of hers from FDOT’s District 6 office, Teresa Alvarez, be included in an April 5, 2005 e-mail.
- That in an April 8, 2005, e-mail from Dianne Johnson regarding the appointees to the committee, Johnson stated, “They came from Mary initially.”

The significance of the above e-mails requires further analysis and investigation, but do generally suggest that city officials crafted the RFP to reflect activities already being carried out by the private consultants. There was no evidence, though, that consultants had a more substantial role in shaping the RFP. It is also evident from the e-mails that Conway did have a hand in crafting the RFP specs, and edited the final document just days before it was issued. It is clear from the e-mails furthermore that a reference to the TRACs system was written into the city’s RFP. The e-mails show that city officials could not answer a question about TRACs themselves during the Cone-of-Silence period, and had to enlist the assistance of HDR’s consulting team. Lastly, the e-mails indicate that

Conway was instrumental in selecting the members of the evaluation committee – namely herself, Assistant City Manager Alicia Cuervo-Schreiber and Teresa Alvarez of the FDOT District 6 office. Conway chaired the three-member panel.

Other evidence examined by COE includes a March 9, 2005, addendum to the RFP in which the city responds to written questions about the solicitation from potential respondents. Question No. 6 specifically addresses the TRACs system as referenced in Section 2.2.2 of the RFP titled, Administrative Program Management. The question was raised in a Feb. 25, 2005, e-mail from Carlos del Pino, VP of Florida Operations for Caribbean Project Management. Mr. Del Pino was located by a COE investigator, and advised on Sept. 7, 2007, that he no longer works for CPM, a Puerto Rico-based firm that was considering responding to the city's RFP but decided against it. Del Pino said he was seeking clarification about the TRACs program. He said his company's lack of familiarity with TRACs was not a factor in its decision not to submit a response.

Regarding TRACs, COE also interviewed Mr. Albert Hernandez, now an assistant director at Miami-Dade Transit Agency. At the time of the city's RFP, Hernandez was listed as the program manager for PBS&J, the second-ranked proposer. He said the RFP language regarding TRACs did not raise red flags for PBS&J because company officials assumed that should they be awarded the contract, PBS&J employees would be provided an opportunity to learn the TRACs system or to substitute a comparable program. He said he would feel differently if it turned out that only HDR were allowed to use TRACs because of any proprietary rights HDR might hold.

That aside, Hernandez did state he believed that HDR's status as the de facto incumbent provided a "major advantage" in responding to the city's RFP, saying this would help them in crafting their submittal so that it contained all the "buzz words" that city officials and selection committee members might want to see.

COE investigators also examined the submittals of the three consulting teams that responded to the city's RFP. It is noteworthy that of the three submittals, only HDR's

made reference to the TRACs system. In fact, HDR's response was laced with numerous references to TRACs and even contained a section devoted solely to TRACs featuring sample reports. The first reference to TRACs was on Page 2 of HDR's response letter dated March 18, 2005, and addressed to City Clerk Priscilla Thompson.

In that same letter, HDR refers to its group of consultants as "Team Miami," and points out that team members were "independently selected by the leadership of the City of Miami's Department of Capital Improvements and Transportation (DCIT) to help ... in the delivery of a 5-7 year, \$700 Million plus Capital Improvement Program (CIP) and are continuing to provide services in that role." The RFP response contains numerous other references to HDR's status as the incumbent firm. The introductory letter notes that many of HDR's consultants are already known to city officials on a "first name" basis as a result of the 14 months of previous experience.

Another of the competitive advantages stated in HDR's proposal on Page 25 is "zero start-up time," noting that HDR consultants already share offices – "we are already co-located" – with Miami's regular staff and have "gone through the learning curve of the inner workings of the City and the nuances of its Capital Program.

Ms. Sanchez-Rea of Consul-Tech, formerly URS, stated in an Aug. 2, 2007, follow-up interview that during the HDR led meeting called in response to the city's RFP, HDR team leaders emphasized their familiarity with TRACs as a "key component" in their response to the city's RFP. She advised that, in her opinion, failure to continue with TRACs would have created a "complete void" in the city's information management system for the implementation of its capital improvements program. She expressed her belief that the city would have been required to retain HDR in some, albeit limited, capacity to operate the TRACs system if a competitor were to win the contract. She further stated she felt TRACs was plagued with errors and unreliable.

On Sept. 17, 2007, COE interviewed Tim Malagon by telephone from his office in Port St. Lucie. Mr. Malagon is the owner and principal consultant for Project Information

Services, which developed TRACs and holds all proprietary rights. Malagon said he has teamed up with HDR in several cities including Jacksonville where the company oversees the Better Jacksonville Plan, which he says is similar to the city of Miami's program. He said the TRACs program has become "hugely integral" to Miami's capital improvements program (CIP), and the city has invested heavily in building up the program's database. He said it would cost the city \$3 million to \$5 million and take about three years to implement a comparable program to TRACs.

Mr. Malagon said he participated in the city's RFP as a member of HDR's team of subconsultants. He said he believes he had a "sole source" agreement with HDR, though he said he would have to check his files to confirm this. As a result of this agreement, he said HDR could have prevented him from working with a rival competitor if that firm were to win the RFP in question. He said he believes it would have been unlikely HDR that would have refused to release him under those circumstances to work another consultant. To do so would have been "sour grapes" and "not good business." He said he was not contacted by either PBS&J or CSA Southeast with regard to the TRACs system during the RFP process. Lastly, Malagon stated that HDR asked him to train city program managers and staff at Consul-Tech and URS in the use of TRACs. He acknowledged city employees were oftentimes unresponsive and did not update the system as required. He said HDR staff would usually do this. He disputed the assertion by Carey Rea of Consul-Tech (formerly URS) that HDR tried to prevent city employees and staff with other consulting firms from using the TRACs system.

COE investigator Ross read the section of the city's RFP (Section 2.2.2) that is believed to be a reference to TRACs, and Malagon confirmed that the language in this section was, in fact, a direct reference to TRACs.

On Sept. 17, 2007, COE interviewed Ms. Perla Medina-Kinne, who worked with Conway at FDOT District 6 and who was the whistleblower in a state ethics case against Conway. She now lives in Ohio, and blames Conway for her subsequent

departure from FDOT and the state of Florida. During the interview, Ms. Medina-Kinne alleged that Conway, while supervising outside consulting firms at FDOT, signed “supplemental agreements” (change orders) worth hundreds of thousands of dollars that wrongfully benefited private consultants – including HDR and Corradino Group, the latter of which employs her husband, Scott Conway. She said she also believed that Conway improperly used her influence to drum up business for her husband’s home inspection service. She said that Will Suero of HDR was among those who hired Scott Conway to perform an inspection in connection with a personal real estate transaction. She also said that, at one point, Conway was considering leaving the agency to work for HDR, adding that anonymous flyers to this effect were posted throughout the agency, including the men’s bathroom. She said additional details regarding Conway’s alleged dealings with HDR could be found in the case file of a lawsuit she filed against FDOT in Broward County civil court. She agreed to cooperate further, if required.

On Sept. 24, 2007, COE examined an 80-page transcript of a deposition taken in Ms. Medina-Kinne’s lawsuit against FDOT. In the deposition, a former co-worker of Conway’s at FDOT, Cassie Piche, stated she found the anonymous flyers concerning Conway’s alleged ties with HDR. Ms. Piche, who described herself as a friend of Conway’s at that time, stated the flyers purported to advertise a party at Conway’s residence to celebrate her pending employment with HDR. Piche stated she discussed the rumors with Conway, and Conway admitted to her that she was considering leaving the agency for HDR. On Page 41 of that transcript, Piche is asked: “And Mary Conway was, in fact, having discussions with HDR about going to work there?” To which Piche answered: “Yes, she was.”

On Oct. 18, 2007, investigators interviewed former city of Miami procurement official Dianne Johnson at the state attorney’s office. Johnson, who appeared pursuant to a subpoena, advised that she was the “primary author” of the RFP that led to the city’s contract with HDR. Johnson, now retired, stated that she worked in the capital

improvements section from 2001 to 2005. She said she got along well with Conway's predecessor as CIP director, Jorge Cano. She said she and Cano disagreed about the need to bring private consultants on board to assist with the bond-funded projects. She said that Cano clashed with Assistant City Manager Alicia Cuervo-Schreiber, who hired Conway and that because of his inability to work with Cuervo-Schreiber, Cano took a demotion and eventually left the city. Conway subsequently replaced him.

Johnson said that, in her view, Conway displayed the initiative and know-how to get the city's then foundering capital works program off the ground. Johnson said that she attended the Monday morning meeting following Conway's Nov. 17, 2004, e-mail requesting assistance from private consultants in preparing the RFP. Johnson said she did recall discussion of a potential conflict among the private firms, including HDR, should they help write the RFP language. She said that as a result, it was agreed their role would be limited to providing model RFPs from other agencies. She said that she did not recall spending a lot of time on the potential conflict, but said such a conflict was acknowledged at that meeting.

Johnson said she subsequently elected to use the RFP from the city of Miami Beach as a model because it contained both horizontal and vertical components in its scope of work section. She said this was important because Miami's own capital program improvement contained both horizontal and vertical components. She said the model RFPs from FDOT that were supplied by HDR did not fit this mold because they mainly focused on roads, which are horizontal projects. Johnson was then shown a copy of the Miami Beach model RFP and was asked to compare it to the final document she said she prepared on behalf of Miami's capital program. She said the city of Miami has its own boiler plate language, but after examining the scope of work section for the Miami Beach document said it did not coincide with her recollection and did not closely resemble the document she prepared. "I don't see the scope I expected," she said. She

said she believed she must have worked from a second RFP provided by the city of Miami Beach, but could not recall how she obtained said document.

Nonetheless, Johnson stated that she was the “primary author” of the RFP in question. She said Conway’s input was minimal, and that neither Conway nor anyone at HDR asked her to include the reference to the TRACs program in Section 2.2.2. She said that she included TRACs in the RFP specs because it was the program the city was using at that time. She noted that in the subsequent bullet point in that section, she made reference to transferring the date from TRACs at some point to a new software program (Enterprise Resource Planning) to be implemented by the city. She said she included TRACs because it was the city’s existing program for managing its capital projects, and did not consider that any proprietary rights held by HDR’s subconsultant, Tim Malagon of Project Information Services, could prevent a competing firm from successfully responding to the RFP in question. Johnson re-affirmed that the RFP was her creation, and neither HDR nor any other private consultant had input.

She allowed that the inclusion of the TRACs program in the RFP might look “somewhat suspect,” given the arrangement between HDR and Malagon. She said she referred a question about TRACs during the cone of silence period to Neal Poteet at HDR because she felt the nature of the question was “highly technical.”

Johnson said she could not recall what revisions, if any, Conway made to the RFP, but did acknowledge that Conway apparently made some “relatively minor edits,” as indicated by a Feb. 11, 2005, e-mail to her from Conway. “I’d love to be able to tell you what she (Conway) did do, but I can’t recall,” she said.

Johnson said she has not had any communication with Conway since retiring from the city later that year. She said she was contacted by Will Suero of HDR following the publication of an article in the Daily Business Review that called into question the legitimacy of the RFP process. She said that an outside attorney for HDR prepared a written statement that Suero asked her to sign. She said she made revisions to the

statement, sign it and returned it to Suero. She said she never dealt directly with Conway, and assumed it was HDR, not Conway, that presented the statement to city officials. She could not recall the name of HDR's attorney.

On Oct. 24, 2007, COE interviewed former city capital improvements director Jorge Cano at his home. Mr. Cano advised that he was copied on the Nov. 18 e-mail and may have attended the Nov. 22 meeting to discuss the RFP. He said he could not recall any of the particulars of that meeting. With respect to the RFP, Cano stated: "I was not part of that exercise of putting their heads together, just like I was not part of the loop when those people (HDR and other private consultants) were hired." He said he had no knowledge as to whether HDR was involved, directly or indirectly, in drafting the RFP. He said he was familiar with the TRACs database, and opined that once it was tailored to fit the operational needs of the city's capital improvements program it became "a very good tool." He said that in addition to Conway and HDR staff, other city employees did become proficient at using TRACs, including Pilar Saenz and her assistant. He said he did not believe the TRACs issue would have prevented the city from switching consultants if another firm besides HDR had prevailed in the RFP.

On Oct. 25, 2007, COE reviewed the draft RFP sent to Dianne Johnson by Conway on Feb. 11, 2005, containing Conway's "relatively minor edits." The section of the RFP relating to the TRACs program was unchanged, and there did not appear to be any other revisions by Conway that raised fairness issues.

On Oct. 26, 2007, COE interviewed Assistant City Manager Roger Henandez, who is presently overseeing the city's capital improvements program. He said he believed the city had been spending too much on "soft costs," including consulting fees. He said he was also uncomfortable with the high number of no-bid contracts awarded during Conway's tenure. But he said he was otherwise unaware of any improprieties by Conway or private consultants. He said he intended to reduce the amount of work being assigned to HDR and other to bring it in line with industry standards.

CONCLUSION: As a result of the above findings that fail to provide evidence of misconduct on the part of Ms. Conway, it is recommended the case be closed at this time. While Conway's decision to use a city vendor under her supervision to perform professional services at her home raises questions about her judgment, there is no indication she paid less than fair market value for those services. It is also evident that the wording of Conway's Nov. 18, 2004, e-mail strongly implied HDR should play an improper role in developing the city's RFP, subsequent investigation corroborates Conway's claim that HDR employees did not play a significant role in that process. While the insertion of language calling for the continuation of the TRACs system also seemed to provide HDR a potential advantage, the selection committee's evaluation made no reference to TRACs and the issue never arose during deliberations. No concerns about TRACs were raised, moreover, by either of the finalists for the city's professional services RFP. Whereas it does not appear, based on the findings, that HDR directly influenced the crafting of the RFP specifications, a number of city officials and other professionals opined that HDR had an unfair advantage based on its position as the de facto incumbent in the process. The fact that HDR was originally selected without a formal, competitive process seems to be the underlying factor in creating the perception that HDR enjoyed an advantage in the subsequent renewal of its contract. City officials may want to review their policies accordingly in order to ensure open and vigorous competition in the awarding of future city consulting deals.

