



**Auditor of State
Betty Montgomery**

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**CITY OF YOUNGSTOWN
MAHONING COUNTY**

SCHEDULE OF ELECTED OFFICIALS AND OTHER RELEVANT PERSONNEL
As of December 31, 2002

Council Members

Term

John R. Swierz, President	01/2000 – 12/2003
Artis Gillam, Sr., First Ward	01/2000 – 12/2003
Rufus G. Hudson, Second Ward	01/2000 – 12/2003
Richard W. Atkinson, Third Ward	01/2000 – 12/2003
Ronald Sefcik, Fourth Ward	01/2000 – 12/2003
Michael R. Rapovy, Fifth Ward	01/2000 – 12/2003
James E. Fortune, Sr., Sixth Ward	01/2000 – 12/2003
John A. Nittoli, Seventh Ward	01/2000 – 12/2003

Mayor

George M. McKelvey	01/2002 – 12/2005
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Relevant Personnel

David Bozanich, Director of Finance

John A. McNally, Director of Law

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Auditor of State Betty Montgomery

INDEPENDENT ACCOUNTANTS' REPORT

George M. McKelvey, Mayor
City of Youngstown
City Hall
26 South Phelps Street
Youngstown, Ohio 44503

Based upon the request of David Bozanich, Director of Finance, we have conducted a special audit for the City of Youngstown ("City") by performing the procedures described in the attached Supplement to the Special Audit Report for the period January 1, 1997, through December 31, 2002 ("the Period"). These procedures were performed solely to determine whether billings for purchases from Damon Industries ("Damon") were in excess of pricing schedules outlined in the applicable contracts, and whether operational improvements can be made to decrease control weaknesses that exist in the City's procurement process.

This engagement was conducted in accordance with consulting standards established by the American Institute of Certified Public Accountants. The procedures and associated findings are detailed in the attached Supplement to the Special Audit Report. A summary of our procedures and significant results is as follows:

1. We reviewed all purchases made by the City from Damon during the Period to determine whether the billings for such purchases were in accordance with the pricing schedules outlined in the applicable contracts.

Significant Results: During the Period, the City entered into three contracts with Damon for the purchase of janitorial and maintenance supplies at pre-established rates. The City made \$629,484 in total purchases from Damon during the Period, and of this amount, \$143,583 was for the purchase of items covered by contracts. From these purchases, we identified a total of \$39,050 as charges in excess of the established contract prices.

In February and March of 2003, Damon made repayment for overcharges to the City totaling \$25,042. The remaining balance of the \$39,050 in total overcharges during the Period that had not been reimbursed to the City was \$14,008.

We proposed a Finding for Recovery in the amount of \$14,008, against Damon for overcharges paid by the City. On January 8, 2004, Damon repaid the City \$14,008. Due to a pattern of overcharges by Damon throughout the Period, we will refer this report to the City Prosecutor and the Mahoning County Prosecutor for their consideration.

We also issued 4 Management Comments. The City should consider these matters to reduce the risk of fraud and theft, and to ensure that transactions are completely and accurately recorded.

2. On February 11, 2004, we held an exit conference with the following individuals:

George M. McKelvey, Mayor
David Bozanich, Director of Finance
John A. McNally, Director of Law

The attendees were informed that they had until February 18, 2004, to respond to this Special Audit Report. A response was received and changes were made to this report as we deemed necessary.

This report is intended solely for the information and use of the City of Youngstown and is not intended to be and should not be used by anyone other than these specified parties. However, reports by the Auditor of State are a matter of public record and use by other components of state government or local government officials is not limited.

A handwritten signature in black ink that reads "Betty Montgomery". The signature is written in a cursive, flowing style.

Betty Montgomery
Auditor of State

January 30, 2004

Supplement to the Special Audit Report

Background

In 2002, the City was approached by a competing vendor that had lost in its bid to obtain the City's contract for purchasing janitorial and maintenance supplies. The vendor raised questions as to how the successful bidder, Damon Industries, could provide their products at what appeared to be below cost. The vendor requested copies of Damon's invoices from the City and went to various City departments raising questions about possible overcharges.

This inquiry prompted a preliminary review by the City of all purchases made from Damon between September 1, 1999 and December 31, 2002. The City's review indicated that overcharges by Damon totaled \$25,532 during this period. In February 2003, the City sent correspondence to Damon demanding reimbursement of the overcharges and seeking payment for an audit to be conducted by an independent accounting firm of purchases back to 1988. The City reasoned that an independent audit covering a 15-year period (the applicable statute of limitations) was necessary because the City believed that due to the negligent actions of Damon's employees, the overcharges likely extended back prior to September 1999.

Damon made repayments to the City totaling \$25,042 in February and March of 2003, but declined to pay for an audit. Additionally, Damon did not pay for \$490 remaining from the City's analysis because Damon claimed that the City incorrectly included items that had been returned by the Youngstown Parks and Recreation Commission in October 2000. Damon provided a credit memorandum as evidence of the return and reduced the amount owed to the City.

On April 1, 2003, David Bozanich, the City's Director of Finance, requested the special audit on behalf of the City. The above information was presented to the Auditor of State's Special Audit Task Force and on May 14, 2003, the Auditor of State initiated a special audit of this matter. A 6-year audit period beginning on January 1, 1997 was chosen for this engagement, because the City no longer maintained documentation of transactions occurring prior to this date due to its record retention policies.

Supplement to the Special Audit Report

Issue No. 1 – Review of Transactions

We reviewed all purchases made by the City from Damon during the Period to determine whether the billings for such purchases were in accordance to the pricing schedules outlined in the applicable contracts.

PROCEDURES

1. We obtained and reviewed all relevant contracts between the City and Damon to identify each party's responsibilities and the applicable product pricing schedules contained therein.
2. We obtained and reviewed all billing invoices submitted to the City by Damon for payment. We compared the prices charged by Damon on the invoices to the prices outlined in the applicable contracts and noted all discrepancies.
3. We obtained and reviewed documentation of all payments made by the City to determine the total amount of overpayment and the total reimbursement by Damon. We determined the total amount of over billings still due the City.

RESULTS

1. During the Period, the City entered into three contracts with Damon for the purchase of janitorial and maintenance supplies at pre-established rates. The contracts were for two-year periods with an option for a one-year extension and covered the following:

Contract Period 1

September 1996 – August 1998

September 1998 – August 1999 (Extension)¹

Contract Period 2

September 1999 – August 2001

September 2001 – August 2002 (Extension)

Contract Period 3

September 2002 – August 2004

For each contract, Damon was required to furnish a performance bond in the amount of 50% of the contract's estimated annual value (a bond in the amount of \$45,000 was provided for the most recent contract.) Although a bond was required, the contracts did not contain provisions detailing the circumstances under which the bond would be forfeited for lack of performance.

2. The City made \$629,484 in total purchases from Damon during the Period. Of this amount, \$143,583 was for the purchase of items covered by contracts. Chart 1 below provides a breakdown of the purchases made during each of the contract periods.

Chart 1: Breakdown of Total Purchases

Contract Period	1	2	3	Total	
	<u>1/97 - 8/99</u>	<u>9/99 - 8/02</u>	<u>9/02 - 12/02</u>		
Contract Purchases	\$59,699	\$80,282	\$3,602	\$143,583	23%
Off-Contract Purchases	<u>\$189,483</u>	<u>\$276,282</u>	<u>\$20,136</u>	<u>\$485,901</u>	77%
Total Purchases	<u><u>\$249,182</u></u>	<u><u>\$356,564</u></u>	<u><u>\$23,738</u></u>	<u><u>\$629,484</u></u>	100%

1 - The City could not locate or provide the Notice of Intent to Renew the Contract for the extension period September 1998 to August 1999 that was signed by the Vendor. The City provided minutes from the November 5, 1998 Board of Control Meeting as evidence that the extension was approved.

Supplement to the Special Audit Report

The City conducted an initial analysis of the purchases made from Damon during Contract Periods 2 and 3, and determined that overcharges for these two periods totaled \$24,860 and \$672, respectively. We reviewed the City's calculations and determined their total should be reduced by \$46 for Contract Period 2. There were no adjustments determined for Contract Period 3. For Contract Period 1, our analysis indicated that the City was overcharged a total of \$13,564.

As noted above, the City purchased a total of \$143,583 in items covered by the contracts in effect during the Period. Of that amount, \$39,050 was identified as charges in excess of the established contract prices. Chart 2 provides a breakdown of the overcharges by Contract Period.

Chart 2: Breakdown of Overcharges

Contract Period	1	2	3	Total
	<u>1/97 - 8/99</u>	<u>9/99 - 8/02</u>	<u>9/02 - 12/02</u>	
City's Initial Analysis	-	\$24,860	\$672	\$25,532
AOS Adjustments	-	(\$46)	-	(\$46)
AOS Findings	<u>\$13,564</u>	<u>-</u>	<u>-</u>	<u>\$13,564</u>
Total Overcharges	<u><u>\$13,564</u></u>	<u><u>\$24,814</u></u>	<u><u>\$672</u></u>	<u><u>\$39,050</u></u>

3. On February 18, 2003, City Law Director John McNally sent correspondence to Damon demanding reimbursement of \$25,532 for the overcharges identified by the City from September 1, 1999 through December 31, 2002. Damon made repayments to the City totaling \$25,042 in February and March of 2003. This left an unpaid balance of \$490.

To account for the balance, Damon sent the City a copy of a credit memorandum issued to the City's Parks and Recreation Department on October 4, 2000. The copy shows a credit amount of \$490 for items that had been ordered on September 25, 2000. During our interview of Damon's Vice President Robert Brumbaugh, he claimed that the City's analysis of the overcharges incorrectly included these items that had been returned. As such, he felt that the amount Damon owed to the City should be reduced by the credit.

We reviewed the documents for this transaction which indicated that the products were not available to ship on the original order date, but were placed on back order and shipped on October 4, 2000. The charges for the products were billed on October 4 and the City paid the full amount of the invoice on October 18. A credit balance, as suggested by Damon, would indicate that the City returned the product after payment. However, the credit memorandum predated the City's payment indicating, as the credit memorandum shows, that the items were not returned but placed on back order and subsequently shipped. As such, we did not apply the "credit" to reduce the amount owed to the City by Damon.

As noted above, we determined that the City was charged a total of \$39,050 in excess of the established contract prices. Damon had made repayment totaling \$25,042, leaving a total amount due to the City of \$14,008. On December 16, 2003, we proposed a Finding for Recovery against Damon, and in favor of the City, in the amount of \$14,008. Damon repaid the City on January 8, 2004, in the amount of \$14,008.

During the course of the audit, the Special Audit team in conjunction with the Special Investigations Unit interviewed Damon's sales representative responsible for the City's account. The sales representative stated that he was responsible for assigning all prices charged to the City. He stated that the overcharges were an unintentional oversight on his part due to new products being added to the City's contract. He stated that he forgot that the new items were under contract and continued to charge "off-bid" prices for the items.

Supplement to the Special Audit Report

FINDING FOR RECOVERY REPAID UNDER AUDIT

During the Period, the City of Youngstown entered into three contracts with Damon Industries for the purchase of janitorial and maintenance supplies at pre-established rates. Our Special Audit of these purchases has found that Damon overcharged the City a total of \$39,050. In February and March of 2003, Damon made repayments to the City totaling \$25,042. The remaining balance of the overcharges that had not been reimbursed to the City was \$14,008.

On December 16, 2003, we proposed a Finding for Recovery against Damon Industries, and in favor of the City of Youngstown, in the amount of \$14,008. On January 8, 2004, Damon remitted \$14,008 to the City. Accordingly, we considered this a Finding for Recovery Repaid under Audit.

MANAGEMENT COMMENTS

Contracts are created to document an agreement between two or more parties. It is management's responsibility to select the best contractor through competitive bidding or other appropriate methods, and to monitor and oversee adherence to contract requirements to reasonably ensure each party is complying with the agreement.

We recommend the City develop, document, and implement policies and procedures related to contracts for purchasing supplies that encompass requirements related to bidding, evaluating, awarding, and monitoring of the contract including the following:

Monitor Invoice Prices

The City did not effectively review invoices received from vendors to ensure that prices were in accordance with applicable contracts. Overcharges accounted for \$39,050 (27%) of the \$143,583 in contract purchases made during the Period.

The City should take steps to prevent overcharges from being approved for payment. Department Heads, clerical staff and all other employees involved in the purchasing and approval process should be provided copies of the contract pricing schedules. Invoices should not be approved for payment until prices have been verified. As noted below, a standard order form containing the contract prices would aid in this process.

Order Forms

During the Period, the City did not use a standard order form that contained only the bid items listed on the contract. As a result, multiple items were ordered which were not included in the contract established with Damon. A standard order form containing only bid items with corresponding prices would discourage departments from ordering non-bid items and make it easier to verify accurate charging by the vendor.

During the course of our Special Audit, the City's Engineering Department developed and implemented a standard order form, but it is not used by all departments. We recommend the City ensure the new standard order form contains only the bid items. Additionally, the order form should contain the vendor's item number, the bid item number, the contract price and package quantity. We further recommend the City ensure all departments utilize the standard order form.

Evaluate Past Purchases to Revise Bid Specifications

As noted in Result 2, \$485,901 (77%) of the \$629,484 in total purchases made during the Period was for items not covered by the contracts. Many of these "off-bid" items are higher quality substitutes for the contract items. In an interview of Damon's representatives, they stated that they listed the lowest quality/lowest price items on their bid response because the City's bid specifications did not include quality requirements. The City's Departments then ordered higher quality items at much higher and often fluctuating prices. The City did not evaluate these past purchasing habits to make revisions to the bid specifications.

The applicable Department representatives, with the assistance of the Purchasing Agent, should evaluate the past usage of products to be included on the bid list. The specifications for these products should be revised as appropriate for changes in departmental needs due to quality and/or usage of specific items. The City should review past purchases to identify items that should be added or deleted from the list.

Supplement to the Special Audit Report

Document Problems with Vendors

During the course of our field work, we conducted interviews of City employees involved in the purchasing process. The City's Director of Finance, Purchasing Agent and Chief Utility Man, each stated that there had been overcharges by Damon Industries in the past; however, the City did not document those problems or any subsequent resolution.

The City should document problems with vendors, such as overcharging or failure to fulfill the requirements under the terms of the contracts. The documentation and any subsequent resolution should be maintained on file by the Purchasing Agent. The Purchasing Agent and applicable Department representatives should evaluate the performance of the vendor at the time of subsequent contract bids.

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Betty Montgomery**

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CITY OF YOUNGSTOWN

MAHONING COUNTY

CLERK'S CERTIFICATION

This is a true and correct copy of the report which is required to be filed in the Office of the Auditor of State pursuant to Section 117.26, Revised Code, and which is filed in Columbus, Ohio.

Susan Babbitt

CLERK OF THE BUREAU

**CERTIFIED
MARCH 8, 2004**