



COUNTY OF LOS ANGELES
Internal Services Department
 1100 North Eastern Avenue
 Los Angeles, California 90063



Dave Lambertson
 Interim Director

To enrich lives through effective and caring service.

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October 28, 2004

Agenda Date: November 9, 2004

The Honorable Board of Supervisors
 County of Los Angeles
 383 Kenneth Hahn Hall of Administration
 500 West Temple Street
 Los Angeles, CA 90012

Dear Supervisors:

**REQUEST TO TERMINATE CUSTODIAL CONTRACTS WITH ADVANCED
 BUILDING MAINTENANCE AND RELATED ACTIONS
 TO IMPLEMENT AUDIT RECOMMENDATIONS
 (ALL DISTRICTS - 3 VOTES)**

**JOINT RECOMMENDATION WITH PROBATION DEPARTMENT, AND
 DEPARTMENT OF PUBLIC WORKS THAT YOUR BOARD:**

Instruct the Interim Director of the Internal Services Department, Chief Probation Officer and Interim Director of the Department of Public Works, to issue the "Notice of Termination for Convenience" as set forth in their respective contracts to terminate the four contracts with Advanced Building Maintenance as identified on Attachment 1.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The purpose of the recommended action is to comply with the Auditor-Controller's recommendation to terminate all County contracts with Advanced Building Maintenance (Advanced) as set forth in a report issued to your Board dated August 26, 2004 (Attachment 2). At the time of the Auditor-Controller's review, Advanced had the following custodial contracts:

Department	Number of Contracts	Contract Expiration Dates	Annual Amount
Public Library	4	10/03/04	\$2,660,426
ISD	1	5/03/05	\$266,820
DPW	2	4/19/04 7/30/05	\$50,000 \$18,300
Probation	2	2/28/05	\$185,399 \$88,330
Total			\$3,269,275

The Auditor-Controller conducted a review of Advanced's compliance with the County's Living Wage Ordinance (LWO), and investigated allegations of labor violations against Advanced by current and former employees. The Auditor-Controller's review indicated that Advanced is not always complying with certain state labor codes, some County contract requirements and noted violations of the County's LWO. For example, the Auditor noted that Advanced did not always pay its employees for overtime and travel time at the Living Wage rate. The Auditor also noted that Advanced did not maintain all required employee time records and did not appear to perform all of the services required by the Public Library's contracts. Based on the results of that review, the Auditor-Controller recommended that the four departments, who had contracts with Advanced, work with County Counsel to develop a plan to terminate the ongoing contracts, identify replacement contractors and initiate debarment proceedings.

After the Auditor-Controller's report was issued ISD formed a workgroup with DPW, Probation, Public Library, Auditor-Controller and County Counsel to implement the Auditor's recommendations. The following actions have been taken:

- All of the Public Library's contracts with Advanced expired on October 3, 2004. Based on County Counsel's recommendation, the Public Library did not exercise available contract extensions. Instead, the Library allowed the contracts with Advanced to expire and transferred the 47 library facilities under the contracts to an existing Public Library custodial contract with MBM Professional Janitorial Services. This contract allows for the addition of new facilities. The service start date was October 4, 2004 and; therefore, there was no disruption in service.
- ISD's contract with Advanced expires on May 3, 2005. ISD has additional custodial contractors and the flexibility in individual contracts to add new facilities. ISD will transfer the applicable buildings to existing contractors should the Board approve the termination of ISD's contract with Advanced.
- DPW's remaining contract with Advanced expires on July 30, 2005. DPW is evaluating whether to move the three facilities currently being serviced by Advanced to an existing DPW contract or ask ISD to transfer them to existing ISD contracts should the Board approve the termination of DPW's contract with Advanced.
- The Probation Department's contract with Advanced expires on February 28, 2005. The department does not have the ability to add facilities to its other custodial contracts. Probation Department has, therefore, requested ISD to add the seven Probation facilities currently serviced by Advanced to existing ISD contracts should the Board approve the termination of the Probation Department's contract with Advanced.

All four departments will collectively initiate debarment proceedings based upon the Auditor-Controller's report as set forth in Chapter 2.202 of the County Code. The hearings are anticipated to be scheduled in the next two months.

Implementation of Strategic Plan Goals

This action supports the County's Strategic Plan goals for Service Excellence, Organizational Effectiveness, and Fiscal Responsibility.

FISCAL IMPACT/FINANCING

The Public Library transferred 47 facilities to MBM through an amendment to its current contract at a cost of \$8,615 per month more than the Department was paying to Advanced for those services. It is anticipated that the other three departments will incur some additional costs by moving their facilities into other existing custodial contracts due to general increases in costs since the original contracts were awarded to Advanced more than four years ago.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Upon your Board's approval of the subject recommendation, ISD, Probation, and DPW will give the notices for termination for convenience pursuant to the contracts and transfer the impacted facilities to existing custodial contracts. ISD's contract requires a ten-day prior notice of termination and both DPW and Probation contracts have a 30-day prior notice requirement. ISD has the contractual authority to add facilities to their existing custodial contracts. The three departments have taken preliminary contingency planning action to ensure that the facility transfers can be effectuated within the respective notice periods so there is no lapse in services at any of the facilities. Transferring the Advanced facilities to other custodial contracts is a short-term solution since all departments are in the process of, or will start, the rebidding process of rebidding their current custodial contracts, which includes the facilities serviced by Advanced. Each department will seek Board approval of the subsequent custodial contracts in 2005.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

There will be no negative impact on the Advanced custodial employees as a result of this action. The expired Public Library contracts were subject to the Displaced Janitor Opportunity Act, California Labor Code Sections 1060-1065 that requires the successor contractor, MBM, to make job offers to the former Advanced employees and retain them for a minimum of 60 days. The other department's custodial contractors must comply

with County Code 2.201.070 regarding employee retention rights for a minimum of 90 days when Living Wage contracts are terminated. As a result, Advanced is required to provide the successor contractors with the name, date of hire, and job classification of each employee who performed services on the Advanced contracts. MBM has honored the successor contractor requirement for the expired Library contracts and the other successor contractors will be required to make job offers to those employees and retain them during the 90 day period after services commence at the transferred facilities.

There will be no negative impact on custodial services to County facilities as a result of this action. The four departments have taken appropriate actions to ensure continuation of custodial services with no gaps in service.

Respectfully submitted,



Dave Lambertson
Interim Director
Internal Services Department



Donald L. Wolfe
Interim Director
Department of Public Works



Margaret Donnellan Todd
Public Librarian



Richard Shumsky
Chief Probation Officer

DL:kh
Attachments

c: Auditor-Controller
Chief Administrative Officer
County Counsel

**ADVANCED BUILDING MAINTENANCE CONTRACTS
CONTRACTS RECOMMENDED
FOR TERMINATION FOR CONVENIENCE**

Department	Contract Number	Current Contract Term
Internal Services	I100891	5/03/04– 5/03/05
Public Works	01349	08/01/04-07/30/05
Probation	Prob0076FY99/00	03/01/04-02/28/05
Probation	Prob0077FY99/00	03/01/04-02/28/05



**COUNTY OF LOS ANGELES
DEPARTMENT OF AUDITOR-CONTROLLER**

KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET, ROOM 525
LOS ANGELES, CALIFORNIA 90012-2766
PHONE: (213) 974-8301 FAX: (213) 626-5427

J. TYLER McCAULEY
AUDITOR-CONTROLLER

August 26, 2004

TO: Supervisor Don Knabe, Chairman
Supervisor Gloria Molina
Supervisor Yvonne B. Burke
Supervisor Zev Yaroslavsky
Supervisor Michael D. Antonovich

FROM: J. Tyler McCauley 
Auditor-Controller

SUBJECT: ADVANCED BUILDING MAINTENANCE CONTRACT REVIEW

At the request of Supervisor Molina's Office, we have reviewed Advanced Building Maintenance's (Advanced) compliance with its County contracts and the County's Living Wage Ordinance, and investigated allegations of labor violations against Advanced made by current and former employees. Our review included interviewing Advanced employees and management, and discussions with County departments who contract with Advanced. We also examined Advanced's payroll and other related records.

Advanced has a total of ten contracts totaling \$3.1 million with the Public Library, Probation, Internal Services Department and the Department of Public Works for custodial services. \$2.5 million of Advanced's contracts are with the Public Library. Advanced has approximately 50 full-time employees to service County facilities.

Review Summary

Our review indicates that Advanced is not complying with certain State Labor Codes, some County contract requirements and the County Living Wage Ordinance (LWO). For example, we noted instances where Advanced did not pay its employees overtime or pay its employees the LWO rate for all hours worked. In addition, Advanced does not maintain employee time records as required by the State Industrial Welfare Commission and does not appear to perform all of the services required by the County contracts. It should be noted that Advanced declined to provide us records of their non-County related payroll, and therefore, we could not review one allegation.

Based on the results of our review, we recommend the four Departments who contract with Advanced work with County Counsel to develop a plan to terminate the contracts, identify replacement contractors and initiate debarment proceedings. It should be noted that \$2.5 million (80%) of the County's contracts with Advanced are with the Public Library and those contracts expire in early October 2004. As a result, replacement of the Advanced contracts should be targeted to take place no later than the October 2004 expiration date.

Details of our review are discussed below.

Allegations and Findings

Allegation 1

Advanced employees alleged that the company did not pay overtime to employees who worked more than eight hours a day.

Findings:

The State Labor Code requires employees who work in excess of eight hours a day to be paid time and a half. Employees who work more than 12 hours in one day are to be paid double time. For County contracts, contractors should pay overtime pay based on the County's Living Wage of \$8.32 per hour for employees who receive health benefits or \$9.46 per hour for employees who do not receive health benefits.

We attempted to determine if Advanced was paying its employees properly for overtime. As discussed later in this report, Advanced does not have adequate time records for most of its employees. As a result, we were only able to review the overtime records for Advanced's specialty crew employees who perform floor waxing and other non-routine work. We reviewed a two-week payroll period for ten specialty crew employees and noted that Advanced paid the employees the straight-time Living Wage rate for approximately 42 hours of overtime, including two hours that should have been paid at the Living Wage double-time rate.

Conclusion:

Advanced did not always pay their employees the overtime rate for overtime worked.

Allegation 2

Advanced employees alleged that some employees were paid for overtime hours at a lower rate and were paid those hours with a separate check payable under a different name.

Findings:

Advanced declined to allow us access to the records needed to evaluate this allegation. Specifically, Advanced declined to allow us access to payroll information for their employees who work on non-County assignments. Since the separate checks could have been payable to a County or a non-County Advanced employee, we could not evaluate this allegation.

Conclusion:

Advanced declined to allow us access to the records necessary to evaluate this allegation.

Allegation 3

Advanced did not pay employees for time spent traveling between job sites.

Allegation 4

Advanced did not pay its employees the Living Wage rate for travel time.

Findings:

The State Division of Labor Standards Enforcement requires employees be paid for travel time. The County Office of Affirmative Action Compliance (OAAC) indicated that contractors should pay their employees the Living Wage rate for time spent traveling between County facilities.

We reviewed the time records for the same ten specialty crew employees discussed in Allegation 1 and noted that the ten employees were not paid the Living Wage rate for a total of 21 hours of travel time, ten hours of straight time and eleven hours of overtime. Advanced management indicated that when they pay travel time, they pay it at the non-Living Wage rate. Advanced should pay employees who work on County contracts the appropriate Living Wage rate for travel time.

We will work with OAAC, ISD, and County Counsel to ensure that the LWO specifically requires County contractors to pay the Living Wage rate for travel time.

Conclusion:

Advanced did not pay its employees the Living Wage rate for travel time.

Allegation 5

Advanced does not perform all required work at County facilities.

Findings:

We tested Advanced's compliance with the requirements in the Public Library (Library) contracts. The Library contracts require specialty tasks such as floor waxing, carpet shampooing and window cleaning to be completed periodically throughout the year. Advanced provides the Library with a yearly Major Cleaning Schedule indicating the specialty tasks to be completed during the year.

Advanced schedules and tracks completed specialty tasks on documents called wax tickets. Wax tickets indicate the County facility, the task(s), the employee(s) doing the work and the time spent. When a task is completed, Advanced is supposed to send the Library a completion form to certify the completion of the task(s). Library staff are supposed to sign and date the form acknowledging that the work was completed and the date the work was completed on the Major Cleaning Schedule.

We reviewed 51 specialty tasks that were supposed to be completed between October 2003 and March 2004 at nine County Libraries. For 23 of the 51 tasks (45%) reviewed, there were no wax tickets or signed completion forms indicating the tasks were completed. In addition, our review of the Library's 2003 Major Cleaning Schedule indicated that 199 of the 615 tasks (32%) required to be completed in 2003, were not completed. Advanced management indicated that had they known they were expected to comply with all of the requirements in the Library's contract, they would have bid a higher amount.

Based on the results of our review, we will work with the Library to ensure they are properly monitoring their housekeeping contracts.

Conclusion:

Advanced does not appear to be performing all of the work required by the Library contracts.

Allegation 6

Advanced did not provide employees with the required training and protective equipment for working with toxic chemicals.

Findings:

We interviewed Advanced management and four Advanced employees to determine if the employees are given the training and protective equipment necessary to safely complete their jobs. Both management and the employees indicated that Advanced

provides all the necessary training and protective equipment including gloves, masks, and back braces.

Conclusion:

It appears that Advanced is providing its employees with the training and protective equipment necessary to safely complete their jobs.

Allegation 7

Advanced did not give employees required meal and rest periods.

Findings:

We interviewed Advanced management and four Advanced employees to determine if employees are given their required meal and rest periods. All four employees indicated that they receive lunch breaks, but do not receive their rest breaks. Advanced management indicated that all of their full-time employees receive a one-hour lunch break after four hours of work and two ten-minute rest breaks typically taken two hours after they start work and two hours after they return from lunch.

We also interviewed the employees' supervisor who confirmed that the employees receive a one-hour lunch break and two ten-minute rest breaks. In addition, the supervisor indicated that the employees are aware that they are allowed to take their rest breaks.

Conclusion:

It appears that Advanced appropriately provides their employees with meal and rest periods.

Allegation 8

Advanced does not maintain the required employee time records.

Findings:

The State Industrial Welfare Commission Order No 5-2001 requires the housekeeping industry to maintain accurate employee time records that include when employees begin and end each work period. We reviewed Advanced's employee time records and noted that only the specialty crew employees have the required time records. The janitors, who comprise approximately 80% of Advanced's County contract employees, are paid based on 40 hours per week and not on actual hours worked. The time records for the janitors do not indicate the actual times the employees begin and end each work shift. As a result, Advanced cannot ensure that employees are paid for all hours worked.

County departments need to ensure that Advanced maintains the required employee time records for all of their County contract employees. We will work with ISD, OAAC and the other departments that contract with Advanced to ensure they include this requirement in their contract monitoring.

Conclusion:

Advanced does not maintain required time records for all of their employees

Allegation 9

Advanced does not provide its employees with vacation time, when it was earned and pre-approved.

Findings:

We reviewed the personnel files and payroll history for the four Advanced employees that worked on County contracts and who made this allegation. Our review noted that, for all four employees, the vacation was either taken or was not earned.

Conclusion:

It appears that Advanced appropriately provided vacation time in accordance with their policy.

Allegation 10

Advanced required its employees to work four ten-hour days a week without the employees voting for the alternative schedule.

Findings:

The State Division of Labor Standards Enforcement substantiated this allegation. As a result, Advanced was required to pay \$11,650 in gross wages to former and current employees. According to Advanced management, they were unaware that they were required to have the employees vote on the new schedule. We confirmed that the employees were changed back to a regular work schedule.

Conclusion

Based on the results of our review, we recommend the four Departments who contract with Advanced work with County Counsel to develop a plan to terminate the contracts, identify replacement contractors and initiate debarment proceedings.

Attached is Advanced's response. Overall, Advanced disagrees with the conclusions in our report. For example, Advanced's response to Allegation 1 indicates that the reason they did not always pay their employees properly for overtime was due to a computer

software problem. As Advanced's response indicates, we reviewed their payroll system. However, our review indicated that the failure to properly pay employees for all overtime was due to how Advanced's payroll staff were entering information into the system and not due to a software problem. Specifically, we noted that Advanced's payroll system allows users to enter the number of hours and the correct pay type (e.g., straight time, overtime, Living Wage straight time and Living Wage overtime, etc.) for the hours. As a result, it appears that the failure to pay employees overtime was due to Advanced's use of the system and not the system itself. This is supported by the fact that during our review of the overtime allegation, we noted some instances where employees were appropriately paid the Living Wage overtime rate.

If you have any questions regarding this report, please contact me or your staff may contact DeWitt Roberts at (626) 293-1101.

JTM:DR:JS:AA

Attachment

c: David E. Janssen, Chief Administrative Officer
Michael Sullivan, Advanced Building Maintenance
Dave Lambertson, Internal Services Department
Richard Shumsky, Probation
Margaret Donnellan Todd, Public Library
Donald L. Wolfe, Public Works
Violet Varona-Lukens, Executive Officer
Public Information Office
Audit Committee

Advanced Building Maintenance Company

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August 11, 2004

County of Los Angeles
Department of Auditor-Controller
500 West Temple Street, Room 525
Los Angeles, California 90012-2766

Attention: J. Tyler McCauley

Regarding: Letter Drafted

Advanced Building Maintenance Company hereby disputes and disagrees with the County Auditor-Controller's conclusion regarding Advanced compliance with the Living Wage Ordinance. Listed below are our replies to their conclusions.

Allegation 1

Advanced employees alleged that the company did not pay overtime to employees who worked more than eight hours a day.

Conclusion:

Advanced did not always pay their employees properly for overtime.

Advanced Reply:

Advanced computer payroll system has always paid overtime when the employees work more than 8 hrs per day and double time after 12 hours. Your conclusion states that Advanced did not pay properly. It was a computer software glitch that we were not aware. You requested to come back to our office so we could show you how our payroll system works.

On June 28, 2004, the two Auditors (Mike & Sandra) came back to our office and we demonstrated how the payroll system worked. When employees are working at both a County Building and a Non County Building, they are paid at two different hourly rates. If the employee worked over time, the payroll system would automatically default the overtime rate based on Advanced's employee hourly rate.

Your conclusion also stated that employees were appropriately paid the LWO overtime rate. If our employees worked overtime and only worked at County Buildings the system would pay the overtime at the LWO since there were no other rates to be calculated.

This is why we informed the Auditors that we would try to start assigning specific crews' to work at County facilities only. However, if they do for some reason work at both a County and Non County Building, we will manually calculate their pay in order to override what the system would default to pay at overtime status if at a County Building.

Allegation 2:

Advanced employees alleged that some employees were paid for overtime hours at a lower rate and were paid those hours with a separate check payable under a different name.

Conclusion:

We were not allowed access to the records necessary to evaluate this allegation.

Advanced Reply:

Access was denied, as it does not apply to Living Wage Compliance. Advanced disputes this allegation and if the County has any specific information substantiating such as allegation, Advanced will immediately investigate and report to the County.

Allegation 3:

Advanced did not pay employees for time spent traveling between job sites.

Allegation 4:

Advanced did not pay its employees the Living Wage rate for travel time.

Conclusion:

Advanced did not pay its employees for travel time.

Advanced Reply:

Advanced refutes this conclusion. Advanced has always paid the specialty crews for traveling time at their regular hourly rate. The LWO does not state that we are required to pay 9.46 for any traveling time when working from job site to job site. The LWO clearly states that we are required to pay the 9.46 while performing work at County Buildings only.

Allegation 5:

Advanced does not perform all required work at County facilities

Conclusion:

Advanced does not appear to be performing all of the work required by the Library contracts.

Advanced Reply:

Advanced acknowledges that all periodic task may have not been completed at Public Libraries on a timely manner, however Advanced contends that it has been consistently providing satisfactory janitorial services for the past 2 1/2 years. The County has always had the option to terminate the contract for failure to perform. At no time has Advanced been notified of unsatisfactory service or in non-compliance of contract.

Advanced hereby contends that satisfactory service have been provided to the Departments of Public Works, ISD, and Probation for many years.

The monthly reviews required by the County of Los Angeles with the janitorial contractor regarding the above-mentioned departments support our contention.

Allegation 6:

Advanced did not provide employeecs with the required training and protective equipment for working with toxic chemicals.

Conclusion:

It appears that Advanced is providing its employees with the protective equipment necessary to safely complete their job.

Advanced Reply:

Allegation was unfounded!

Allegation 7:

Advanced did not give employees required meal and rest periods.

Conclusion:

It appears that Advanced appropriately provides their employees with meal and rest periods.

Advanced Reply:

Allegation was unfounded!

Allegation 8:

Advanced does not maintain the required employees time records.

Conclusion:

Advanced does not maintain required time records for all of their employees.

Advanced Reply:

Advanced has been operating the time records this way for the past 20 years and have never had any problems or issues that we were not paying our employees for their time. In order to maintain detailed time cards for each employee we have purchased one of the Winteam's modules called TeleTeam, which will keep track of the hours that the employees are working at each job site. This is done by having the employees call from the building they are cleaning and the system will record their times.

Advanced has permanent time cards for each employees that the system calculates and pays according to what is in the Permanent Timecard. We also were requested by the ISD & Probation Dept to have the employees sign and date the timekeeping hours that they were paid along with their supervisor's signature. We also had Library & Public Works employees do the same and have maintained the reports according to their request.

Allegation 9:

Advanced does not provide its employees with vacation time, when it was earned and pre-approved.

Conclusion:

It appears that Advanced appropriately provided time in accordance with their policy.

Advanced Reply:

Allegation was unfounded!

Allegation 10:

Advanced required its employees to work four ten-hour days a week without the employees voting for the alternative schedule.

Advanced Reply:

This allegation has no bearing to the LWO. Upon notification from the Dept of Labor that we are required to get a vote to change the schedule, we went back to a regular work schedule.

In closing, I would like to mention that of the 10 allegation only 2 were found to be an issue. Advanced did not willfully or intentionally try to conspire any of your findings and will take immediate steps to maintain adequate timekeeping records.

For the past 4 years, we have had on site semi-annually audits from the ISD Dept and to this day have passed and were in compliance to the Living Wage Ordinance.

It is our understanding that the Auditors first recommended to consider debarment of Advanced and now have changed their conclusion to terminate all contracts. Based upon the evidence and findings we believe that terminating and debarment of Advanced is unjustified. We respectfully request a hearing to present our case to the board as soon as possible.

Sincerely,


Michael J. Sullivan
Advanced Building Maintenance Company


Lucy Dominguez
Administrator
Advanced Building Maintenance Company