

BILL PURCELL
MAYOR



METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY

DEPARTMENT OF FINANCE
OFFICE OF FINANCIAL ACCOUNTABILITY
222 3RD AVENUE NORTH, SUITE 315
NASHVILLE, TN 37201

April 8, 2004

Mr. David Manning
Metropolitan Government of Nashville and Davidson County
Old Ben West Library
225 Polk Avenue, Suite 250
Nashville, Tennessee 37203

Dear Mr. David Manning:

In response to your request William Walker and Kevin Brown from our office investigated the allegations made by "OnePerson" an anonymous party regarding inappropriate relationships existing between key personnel at the Nashville Zoo and Solomon Builders. Outlined below is a listing of the specific allegations made by the anonymous party, the responses from the Nashville Zoo and conclusions reached by the Office of Financial Accountability.

Allegation #1

Solomon Builders is awarded a majority of Zoo related projects based on the close friendship that exists between Ty Osman, one of the owners of Solomon Builders and Rick Schwartz, President of the Nashville Zoo. Contracts are awarded to Solomon Builders without Solomon Builders going through a bidding process.

Nashville Zoo Response:

Rick Schwartz, President of the Nashville Zoo, advised the Zoo does not have a formal competitive process. Mr. Schwartz advised Solomon Builders serves as a general contractor for most of their projects. In this role, Solomon Builders manages each project by hiring and coordinating the activities of various sub-contractors. Solomon Builders initially began working for the Zoo in 1997. According to Mr. Schwartz, Solomon Builders was selected based on its positive reputation and referrals made by contractors hired by the Zoo at the time. Mr. Swartz emphasized that the construction projects developed at the Zoo are unique and require contractors with very specific skills and experience to conduct the work. Mr. Schwartz also stated it has been challenging for the Zoo to find contractors with this type of experience in the Nashville area. According to Mr. Schwartz, Solomon Builders has acquired this experience primarily through significant investment on the part of both the Zoo and Solomon Builders to train Solomon Builders on these type projects. Mr. Schwartz advised the Zoo has been very pleased with the work Solomon Builders and has established a strong working relationship with them. Mr. Schwartz added that many Zoos in other cities have similar relationships with general contractors. Mr. Schwartz advised that for projects where Solomon Builders does not serve as a general contractor, the Zoo does, in some instances, implement an informal bidding process. However, the bidding process is not open to the public and only selected vendors are solicited to submit a bid. Mr. Schwartz stated he was unaware of any family relationships between key members of the Nashville Zoo and Solomon Builders.

Office of Financial Accountability Conclusions

The Office of Financial Accountability noted the following during its investigation:

1. The Nashville Zoo does not have a competitive process for awarding contracts. The Office of Financial Accountability confirmed instances where contracts were awarded to vendors without a competitive process. These contractors included Solomon Builders, Hastings Architecture, Reed Construction, Metro Readymix and McCollow and Associates. The Office of Financial Accountability also confirmed that the Zoo did, at times, select vendors using an informal bidding process. However, this informal bidding process occurred infrequently, was not open to the public, and only selected vendors were solicited to submit a bid.

It must be noted also that the agreement between the Nashville Zoo and Metropolitan Nashville and Davidson County Government does not specifically obligate the Nashville Zoo to have a competitive process for awarding contracts.

2. The Office of Financial Accountability noted that the Nashville Zoo has utilized Solomon Builders as a general contractor for most of its projects. In some instances, however, the Nashville Zoo awarded contracts directly to other contractors to complete a project without using Solomon Builders as a general contractor.
3. The Office of Financial Accountability found that the nature of the projects completed at the Zoo appears to require contractors with specific skill sets and experience. While it is clear Solomon Builders has acquired this experience over the past few years, they, like other contractors in the Nashville area, did not have the necessary experience at the time they were awarded Zoo business. The Office of Financial Accountability concludes that Solomon Builders appears to have been awarded various projects based on referrals from other contractors, and its willingness to acquire the necessary skill sets to complete Zoo related projects. The Office of Financial Accountability was not able to substantiate the assertion that Solomon Builders has been awarded contracts based solely on a personal friendship that exist between the President of the Nashville Zoo and one of the owners of Solomon Builders.
4. The Office of Financial Accountability obtained and reviewed a listing of all disbursements made to Solomon Builders since January 2001. The Office of Financial Accountability selected a sample of disbursements from this listing for further review. The Office of Financial Accountability noted from this sample that the Zoo is not maintaining adequate supporting documentation for these disbursements.

The Office of Financial Accountability recommends the following:

1. The Nashville Zoo should develop and implement a competitive process in the selection of contractors for Zoo related projects. The process should involve a system that methodically identifies the specific requirements the Zoo needs in a contractor to complete a project. The process should also document and explain the reasons why a particular contractor was awarded a project. There should also be sufficient notice given to the public to ensure various contractors are able to participate. A competitive process will help ensure vendors are selected in an equitable and efficient manner
2. The Office of Financial Accountability recommends the Nashville Zoo select a general contractor using a competitive process. Once the general contractor is selected, the general contractor should be responsible for coordinating the work for all capital projects of the Zoo. The Zoo should also make certain that the general contractor is utilizing a similar competitive process when selecting sub-contractors for work on Zoo related projects.

3. The Nashville Zoo should retain adequate documentation to support disbursements made to vendors and contractors. Specifically, the Office of Financial Accountability recommends that the Zoo retain copies of all invoices and documentation that supports the amounts being charged in the invoices (i.e. AIA sheets, time sheets and invoices of sub-contractors, independent third party review ect ect). The Office of Financial Accountability also recommends the Zoo utilize an independent architect to review invoices and the related AIA sheets (AIA sheets are used to show the detail of what areas of a contract have been worked during a specific time period and what percentage of the contract has been completed up to a specific date) to verify the percentage of completion on a particular project is accurate and the amount being charged the Zoo is reasonable.

Allegation #2

Solomon Builders is allowed to use one of the metal buildings donated to the Zoo by a local business. Also, Solomon Builder employees have inappropriate access to secure areas of the Zoo.

The Nashville Zoo Response

According to Mr. Schwartz, the metal building was donated to the Zoo, but was unassembled when received. Solomon Builders and the Zoo entered into an agreement whereby Solomon Builders would assemble the building in exchange for being able to use the building for six years. According to Mr. Schwartz, the cost of assembly was approximately \$70,000. At the end of the six years, the building and any improvements will be transferred back to the zoo.

The Zoo utilizes an access code system to monitor vendor admittance. Each vendor has it's own specific code that is changed periodically. Areas that are restricted to specific Zoo personnel are secured with a lock and key. The Zoo also employees a security guard to patrol and monitor the Zoo during non-operational hours. Furthermore, animals are held in a holding facility during off hours. Mr. Schwartz advised that only Zoo personnel have access to the animal holding facilities. Mr. Schwartz advised due to the nature of their work, Solomon Builder employees do have access to various projects in the park, However, the controls listed above are in place to help ensure inappropriate access does not take place.

Office of Financial Accountability Conclusions

The Office of Financial Accountability obtained and reviewed the lease agreement pertaining to the metal building and concluded that such an agreement appeared to be a duly executed contract and was reasonable and appropriate. The Office of Financial Accountability also concluded that the Access Code System developed and put in place by the Zoo appear to provide reasonable assurance that inappropriate access to Zoo facilities are prevented.

Allegation #3

Solomon's is providing key personnel at the zoo with inappropriate gifts such as vacation trips.

The Nashville Zoo Response

Mr. Schwartz advised that gifts received from Solomon Builders were merely token gifts with values under \$35.00. Mr. Schwartz also advised these gifts were given out infrequently. Mr. Schwartz admitted to taking a fishing trip to Belize in 1998, which was paid for by Solomon Builders. Mr. Schwartz stated business items were discussed during the trip. Specifically, many aspects related to planning and design was discussed while in Belize.

Office of Accountability Conclusions

The Office of Financial Accountability was unable to substantiate whether inappropriate gifts had been received from Solomon Builders. The Office of Financial Accountability talked to members of the Zoo staff who stated they were unaware of such gifts. The Office of Accountability could not substantiate whether the trip to Belize was for business purposes or leisure.

We recommend that given the public nature of the Zoo's mission, the Zoo ensure that there is no appearance of conflict to interest. Specifically, the Zoo Officials should refrain from taking such trips in the future.

Allegation #4

Solomon Builders inappropriately avoids paying sales tax on materials by having the Nashville Zoo take advantage of its non-profit status and purchase the materials directly from the appropriate vendors.

The Nashville Zoo Response

Mr. Schwartz stated the Zoo had consulted legal council regarding this issue. The Zoo was advised that this is an appropriate use of the Zoo's non-profit status to help reduce the overall expenses related to the operations of the Nashville Zoo.

The Office of Financial Accountability's Conclusions

The Office of Financial Accountability concurs with the Zoo's response. The Zoo purchasing the materials to avoid paying sales tax appears to be reasonable and appropriate. Utilizing the organizations non-profit status to help reduce the overall cost of operations of the Zoo is a normal and acceptable business practice.

Overall conclusions

Although the current agreement between Metro Nashville and Davidson County Government and the Nashville Zoo does not obligate the Nashville Zoo to utilize a competitive process when awarding contracts, we recommend the Nashville Zoo develop and implement a competitive process to ensure that contracts are awarded fairly and equitably. While Solomon Builders did not obtain their contracts through a competitive process, the Office of Financial Accountability concludes that Solomon Builders appears to have been selected based on their willingness to accommodate the special needs of the Nashville Zoo and the strong working relationship that has developed between the two organizations over the past few years. The Nashville Zoo should also retain more detailed documentation to support payments made to Solomon Builders. The Office of Financial Accountability was either unable to substantiate the remaining allegations or concurs with the Zoo's position regarding the allegations. It should be noted that the nature of the allegations and lack of specific details hindered Office of Financial Accountability's ability to substantiate all of the claims made by the anonymous party.

We appreciate the anonymous party bringing these concerns to our attention. We also appreciate the cooperation and assistance provided to us by the Nashville Zoo during the investigation. If you have any questions, please call me at (615) 880-1035.

Sincerely,

Fred Adom, CPA

Director

cc: Kevin Brown, Office of Financial Accountability
Bill Walker, Office of Financial Accountability