

X. APPENDIX

Chief Information Officer Richard Varn's 2007 deposition pages 12, 38, 39, 40 and 41

Lawsuit Exhibits # 2, 3 and 4

CIO Richard Varn's 2009 courtroom testimony pages 23, 25, 26, 27, 41, 43, 44, 45, and 46

IT Director Hugh Miller's 2009 courtroom testimony page 81

Diagram representing the legal and intended use of the telephone "variable" billing account per AD 6.12

Diagram representing the illegal manipulation of the telephone "variable" billing account

City of San Antonio Administrative Directive # 6.12 effective January 4, 1982- excerpts

ITSD price list FY 2005-6 detailing the \$35 City Centrex (variable) monthly base charge

April 2005 overview of telecommunications costs – local phone charges of \$180,000 per month

Avaya invoice- April 2005- cost of fiber optic materials and bogus time reports billed to variable account

City of San Antonio Administrative Directive # 1.6 effective January 4, 1982 –excerpts

City of San Antonio Administrative Directive # 2.1 effective January 4, 1982

City of San Antonio Administrative Directive # 2.2 effective January 4, 1982

Local Government Code- Finances- Municipal Budget

Local Government Code- General Provisions- Competitive Bidding

OMB Circular A-87 excerpts

City email of November 2005 – “billed for an untold amount of goods and services” “received no benefit”

ITSD Planning Conference-page 5 – 01/20/06 – CIO Mickey Armstrong - “Variable Credibility”

COSA 01122-MI report page 7- Telecom variable “FY06 projected total of \$ 5.2 million”

COSA 01123- MI report page 8 – “long term conflicts with Jose Medina over ITSD billing practices”

COSA 01124-MI report page 9- “no strict accountability” “didn't have much confidence in their numbers”

COSA 01126 –MI report page 11- partial list of non-telephone related costs charged to the variable

COSA 01128 – MI report page 13- “twenty-five years” “millions of dollars” “significant billing problems”

Compilation of statements concerning the illegal manipulation of the “variable” – MI intake statements 2005

FOIA response to COSA 09-0486 – “no records” exist concerning Varn's review of the “variable”

BCSO case # 2009-081395 and SAPD case # 9-0471467 closed with no action – inquiries ignored

Letter of 12-30-2009 to law enforcement and City officials detailing the fraud, violations of law, etc.

Sworn complaint affidavit of June 23, 2009 presented to SAPD, BCSO, DPS, FBI, elected officials, etc.

Criminal trespass warning issued July 1, 2009 by City Attorney Bernard and Police Chief McAnus

Letter of November 17, 2009 from President Obama “Thank you for sending me materials to review”

Employee of the Month – Telecommunications Manager John E Foddrill Sr. February 2005

NO. 2006-CI-06702

ORIGINAL

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JOHN E. FODDRILL, SR.,)	IN THE DISTRICT COURT
PLAINTIFF,)	
)	
VS.)	BEXAR COUNTY, TEXAS
)	
CITY OF SAN ANTONIO,)	
DEFENDANT.)	45TH JUDICIAL DISTRICT

ORAL DEPOSITION OF

RICHARD VARN

AUGUST 15, 2007

ORAL DEPOSITION of RICHARD VARN, produced as a witness at the instance of the Plaintiff, and duly sworn, was taken in the above-styled and numbered cause on the 15th day of August, 2007, from 3:05 p.m. to 4:03 p.m., before Sharon L. McDonald, CSR, RPR, in and for the State of Texas, reported by machine shorthand, at the offices of the City Attorney, 111 Soledad, 10th Floor, San Antonio, Texas, pursuant to the Texas Rules of Civil Procedure and the provisions stated on the record or attached hereto.

1 process to both save money and to appropriately
2 incentivize people to use technology because we believe
3 they will not do without FTE's, but they might choose not
4 to use services they could actually benefit from if they
5 had to pay extra for them. So we wanted to give
6 everybody an equal chance to get good technology
7 services, and then if there's certain things that are
8 extras, they can pay extra for that.

9 Q During the 2005 time period that you were
10 employed by the City, if a department was allocated money
11 under the budget and they ran out of money, what was the
12 process for obtaining more money during the budget year?

13 A Gosh, I'm not really sure how that worked. I
14 remember hearing things about budget allocation, but I
15 don't really know how a department requested something to
16 be changed about their allocation for money in their
17 budget. I'm aware that some departments can run deficits
18 here and that sometimes they don't know they're running a
19 deficit. And then when they find that out, they have to
20 do something to react to that, but other than that
21 secondhand story about how that works, it's not my thing
22 to do.

23 I'm learning more about it now, but back
24 then I was not really in charge of that.

25 Q In 2005, did you have an occasion to interact

1 A I don't have any direct knowledge. I only have
2 secondhand knowledge. I can tell you what I've been
3 told.

4 Q What have you been told?

5 A I have been told that -- a couple of things.
6 One was that upon a time period where he had taken a
7 leave or was gone, either on vacation or leave, his work
8 group was able to eliminate a large backlog of work which
9 you would normally expect the opposite to happen. When
10 your team leader is gone, you might expect things to get
11 worse, but they got better when he was gone, and that was
12 an indicator to some of the people that certain work that
13 was assigned to him was not getting done and the general
14 complaint that I understand was placed against him was
15 that he was not doing the work that was assigned to him
16 to do.

17 Q Have you ever heard of an account in that
18 telecommunications department that was called the
19 variable account?

20 A Variable.

21 Q Variable.

22 A No. Were there any other names for it?

23 Q No. That's the only one we've had it called so
24 for.

25 A I don't know what that is.

1 Q It's, apparently from the testimony, an account
2 that was set up due to fluctuating, like, long distance
3 bills in the City and fluctuating costs for telephones so
4 that a certain amount is paid for each unit into this
5 fund and then the bills are covered. Almost your per
6 capita situation that you were talking about.

7 A Other than I have general knowledge that we
8 currently do have variable bills, if there's an account
9 that goes to cover that, I'm not -- I don't know that
10 there's a separate account. I don't have knowledge of
11 that. It would make sense that we have to even out the
12 service because some of these things we charge one rate
13 for even though there's variability in what it costs, so
14 you have some ways in having to level those out.

15 There are other things that are
16 specifically charged to people that are, in fact, a
17 variable cost, so it might relate to that. Variable
18 costs are things that go up and down, and you're asked to
19 pay your portion more specifically of that exact cost,
20 but if there's an account for that, I just don't know.

21 Q Back to what you've been told about why
22 Mr. Foddrill was terminated, who told you these things?

23 A Yolanda Maldonado.

24 Q And who is that?

25 A She is the assistant director over software.

1 Kevin Phillips, who is the assistant director over
2 hardware, and Hugh Miller, who was the director of the
3 ITSD.

4 Q Do you know who was responsible for terminating
5 Mr. Foddrill?

6 A No, I don't.

7 MS. GAUL: Can I have you mark this one as
8 Deposition Exhibit 4?

9 (Exhibit 4 marked.)

10 Q (BY MS. GAUL) I'm less concerned with what
11 Mr. Foddrill wrote and more concerned with whether you
12 remember receiving an e-mail after you left from
13 Mr. Foddrill.

14 A Yeah, I remember receiving this e-mail.

15 Q Do you remember responding that you would give
16 him a call?

17 A Yeah. I mean, this looks familiar when I see
18 it.

19 Q And do you remember ever calling him?

20 A I don't remember if I did or not.

21 Q So do you remember any reason why you would not
22 have called after sending that e-mail?

23 A Other than -- well, I guess I don't know. Did
24 he give me a number, a day and evening number? That
25 might have been one reason. I don't remember if I got

1 the number to call him. The other one would have been
2 that I would have handed this responsibility off since I
3 was no longer there. I would have, you know, indicated
4 to Mr. Armstrong that this was an issue that he'd have to
5 deal with. Because I met with him -- because we knew he
6 was being hired in June. I believe he was extended an
7 offer in June of 2005 to become the city's chief
8 information officer.

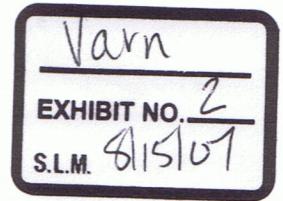
9 And then I met with him in Des Moines at my
10 home, and briefed him on department leaders that I had
11 worked with, such as Tom Wendorf, with what their issues
12 were. Inside IT and who I'd work with there. Who I felt
13 he could have trust in and who was doing a good job and
14 who wasn't.

15 My recommendations that I made on
16 reorganization, so I had an extended discussion with him,
17 so one of the reasons if I didn't talk to him might have
18 been because I handed it off to him to say, You know
19 what? I'm no longer there and there's nothing I can
20 really do about this. So if anything, I would have
21 handed it off to him. That's the only reason I can think
22 of.

23 Also, some of -- I've read letters from
24 people at a state level, or folks who allocate -- allege
25 a lot of things about government for a long time, you

John Foddrill

From: Richard Varn
Sent: Wednesday, June 22, 2005 9:05 PM
To: John Foddrill
Subject: Re: Status of RFP for Telecommunications Consultant



Not to worry and glad to talk with you. Please set it up with Alan.

-----Original Message-----

From: John Foddrill <JFoddrill@sanantonio.gov>
To: Richard Varn <Richard.Varn@sanantonio.gov>
Sent: Wed Jun 22 20:57:55 2005
Subject: RE: Status of RFP for Telecommunications Consultant

Mr. Varn,

I apologize. I work directly for Mr. Medina. As he makes all the telecommunications decisions, he indicated that he would submit the final draft for approval.

I spoke to you one evening and you told me that I would never get in trouble with the City by telling the truth and doing the right thing. We spoke about my contracts and proposals being held up on someone's desk for weeks and months. I avoided giving you a name at the time. I hope I don't appear disloyal by simply telling the truth now. I don't want to get in any trouble.

If I could be so forward I would ask if I can speak with you for just five minutes. You have made quite an impression in the few months you have been in San Antonio and I would really appreciate your advice and guidance. I realize that you are a very busy man and would not take up your time foolishly.

Thank you.

John Foddrill
Telecommunications Manager

From: Richard Varn
Sent: Wed 6/22/2005 6:51 PM
To: Robert Valdez; Jose Medina; John Foddrill; Mike Mitchell; Hugh Miller
Cc: Norbert Dziuk
Subject: Re: Status of RFP for Telecommunications Consultant

God took less time to make a lot more.

Get this done now. If this cannot be completed by close of business tomorrow, I want the person holding it up to call me and tell me why it will not be done.

I am, unlike God, out of patience.

Richard

-----Original Message-----

From: Robert Valdez <rvaldez@sanantonio.gov>
To: Jose Medina <jmedina@sanantonio.gov>; John Foddrill <JFoddrill@sanantonio.gov>; Mike Mitchell <mmitchell@sanantonio.gov>

CC: Richard Varn <Richard.Varn@sanantonio.gov>; Norbert Dziuk <ndziuk@sanantonio.gov>
Sent: Wed Jun 22 18:46:08 2005

Subject: Status of RFP for Telecommunications Consultant

We met last week and I updated the document during the meeting then sent the RfP to you for final review and requested returns.

Not received. Richard and Norbert need an update.

Please forward your comments ASAP. There were a lot of changes and need you to let me know if I conveyed these changes correctly and if anything was missing.

Thanks
Robert

-----Original Message-----

From: Norbert Dziuk

Sent: Tuesday, June 21, 2005 8:36 AM

To: Robert Valdez

Subject: Status of RFP for Telecommunications Consultant

Robert,

What is the latest status of the RFP for the Telecommunications Consultant? What the anticipated release date? Appreciate any information you can provide.

Norbert

John Foddrill

Subject: Meet w/ John Foddrill (Telecommunications Manager)
Location: Mr. Varn's Office - 9th Floor Riverview Towers

Start: Fri 6/24/2005 1:30 PM ✓
End: Fri 6/24/2005 2:00 PM
Show Time As: Tentative

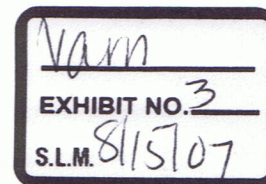
Recurrence: (none)

Meeting Status: Accepted

Required Attendees: Richard Varn; John Foddrill

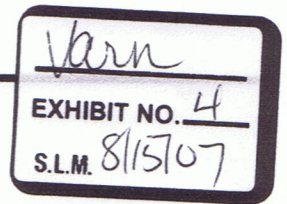
*Need to confirm with Mr. Varn

207-6910



John Foddrill

From: Richard Varn
Sent: Monday, July 11, 2005 12:00 PM ✓
To: John Foddrill
Subject: Re: Meeting follow-up - John Foddrill



Send me a number where I can call you during the day and an evening number. I will find a time this week when we can talk.

-----Original Message-----

From: John Foddrill <JFoddrill@sanantonio.gov>
To: Richard Varn <Richard.Varn@sanantonio.gov>
Sent: Sun Jul 10 21:59:16 2005
Subject: Meeting follow-up - John Foddrill

Mr. Varn,

I wanted to take a minute to thank you for everything you have attempted to do in providing me with assistance and guidance. I realize that you did your best in the short time that you were here. I regret not being able to speak with you but realize that your time is valuable.

Mr. Moeller and I discussed the reorg several times before he retired. He asked me as Telecommunications Manager to consolidate my team with the data FEA group in an effort to provide one point of contact for our users. He asked that I consolidate and train the City's technicians in an effort to provide in-house support for installation and repair issues. I assured him that I would use my years of combined voice and I/T experience to accomplish the task as quickly as possible. He approved my plans to upgrade the City switches and directed Mr. Medina to provide me with the funding required. He told me that I could retain and use any money I saved going forward for communication projects. You and I spoke of these issues in a meeting and my projects were added to the fix-it list once I learned of its existence.

When the new organization chart was revealed I was puzzled to see nothing of our discussion outlined. Technicians work for another group but I have been directed to train them. Data FEA works for another group but I have been directed to train them also. The Cellular/pager employees were moved to another group but I still provide the same support as before. I have been directed to write procedures explaining how voice services are supported in an effort to bring others up to speed. When I questioned the sudden about-face I was told that Mr. Moeller is gone and to forget about anything we discussed.

I waited two weeks in the hope that some good would come of our short meeting. Last week I was suddenly told to cancel the switch upgrade scheduled for August as I would get no funding for Avaya equipment. I have been directed to reuse materials and install used key equipment to support our users. I spent the past year working toward this upgrade that would have provided relief across the entire city. I addressed many years worth of neglect in an effort to provide some focus for the communications group. Suddenly and unexpectedly a year's worth of hard work was tossed away. When I attempted to defend my plans to provide state-of-the-art communications service to our users I was told to "shut up and do as I am told". I was told that you were gone and that I had better get used to it.

This spring I was honored as "Employee of the Month" after only six months of service with the City. Mr. Moeller himself told Mr. Miller that I should be nominated for higher awards because of my performance. I was asked to participate in some major changes anticipated with the reorganization. I looked forward to a long career with the City.

I agreed with Mr. Moeller when he discussed the problems of working with Cisco such as those experienced by Houston, Dallas and San Jose California. This shouldn't jeopardize my career. I spoke to both Mr. Moeller and yourself about Mr. Medina's behavior. This shouldn't jeopardize my career. I've audited communications invoices and uncovered hundreds of thousands of dollars in potential savings or recoverable overpayments. This shouldn't jeopardize my career. I've cooperated with auditors and recommended cost saving

solutions that should have been implemented years ago. This shouldn't jeopardize my career. Nothing I've done should put my career in jeopardy yet I believe this is exactly what has happened.

I really want to continue working for the City but I'm tired of the threats, lies and lack of support. I don't want to appear unappreciative of your assistance but I'm really tired of all the nonsense. I'm fifty-four years old and have spent thirty-five years working in the communications and I/T support fields. I held numerous titles in the telecommunications arena (craft and management) before transforming myself into an I/T Manager obtaining several certifications along the way from a simple A+ to MCSE. A year ago I accepted the position of Telecommunications Manager but feel as if I am simply a clerk.

If it wouldn't appear too forward I'd like to ask you for some advice. You've worked your way up to several positions of immense responsibility. You must have encountered obstacles along the way that may have been similar to my current predicament. What did you do to overcome and keep on moving? What would you do if you were in my position?

Thank you again for all your support. I'm sorry to see you go.

John Foddrill

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2006-CI-06702

JOHN FODDRILL * IN THE JUDICIAL DISTRICT
V. * 57TH DISTRICT COURT
CITY OF SAN ANTONIO * BEXAR COUNTY, TEXAS

EXCERPTS FROM THE REPORTER'S RECORD
TESTIMONY OF
RICHARD VARN AND HUGH MILLER
HONORABLE ANTONIA ARTEAGA
FEBRUARY 10, 2009
57TH DISTRICT COURT

COPY

On the 10th day of February, 2009, the
above-entitled cause came on to be heard before the
Honorable Antonia Arteaga in the 57th District Court of
Bexar County, Texas, whereupon the following proceedings
were taken by machine shorthand.

1 have, and they have assigned a dollar value to that, and
2 even after they did those big block allocations, there
3 were still things that would come up that wouldn't
4 neatly fit into one of those things that still needed to
5 be done for the city. So you would have to have some
6 way of, you know, charging things out that would pop up.
7 A department would suddenly have, you know -- they'd
8 lose a bunch of laptops or they would have a software
9 mandate that would come down from the federal
10 government, say you got to fix this right now. They had
11 to have some way of balancing their budget and serving
12 their needs. They had something called -- some kind of
13 a variable in the telephone system. They were using
14 the -- the allegation was that was being illegally used,
15 which I'm very sensitive to. If anybody's illegally
16 using money or inappropriately using money, we're going
17 to stop now and we're going to figure out a way to fix
18 it. So I went in and looked at that. What I found was
19 it was an accounting mess. It was an absolute
20 accounting mess. We had to fix the accounting mess.

21 THE COURT: Mr. Varn, I want to hear
22 about it in just a second. I need to excuse the jury
23 into the jury room for two minutes, if you could,
24 please. Would you have the jurors go into the jury room
25 for two minutes.

1 and need for their department. So we charge now so much
2 per department if it's a full-time equivalent position
3 for technology. We have a standard amount for
4 everything except long distance usage and cell phone
5 minutes. So that has saved us a tremendous amount of
6 hassle in trying to build departments. Before it was a
7 nightmare. So that was the fix that we needed. We
8 needed to be direct and honest with the departments
9 about how we were billing them and exactly what the
10 money was being used for.

11 So the other side of that we changed was
12 we open up our whole process to let the customers help
13 determine what we spend our money on, so we've really
14 done a lot of those reforms to change that, so I did
15 address as best I could over the two times I've worked
16 here to fix that problem, to save us both money and do a
17 better job accounting for our funds.

18 *Q. (BY MS. KLEIN)* Let me ask you a question
19 about that. Based on your experience in the
20 industry, was there anything improper about using
21 this variable for getting recoupment on charges?

22 *A.* Well, I want to be very specific, and there's
23 nothing illegal about it. It does not violate any city
24 policies, rules, or ordinance. It doesn't violate Texas
25 law. It's a mess from an accounting standpoint. It

1 makes it very difficult to know what you're spending
2 money on and how -- and that needed to be fixed. But it
3 wasn't -- it wasn't that it was something that I had to
4 go call law enforcement. There was a couple of things I
5 did call law enforcement on over the time I've been
6 working for the city of San Antonio, and there's one
7 case an arrest was made, so we've -- you know, it wasn't
8 to that level. And the other -- in this case it was
9 more, wow, that's a mess. You guys got to figure out a
10 better way of billing. And we addressed it when I came
11 back.

12 Q. Did you have any further contact with John
13 Foddrill?

14 A. John sent me e-mails after I left, a couple
15 times. I passed along John's concerns to my successor
16 Michael Armstrong, told him he was concerned about a lot
17 of things that I had done some looking into, the things
18 that John was concerned about, that I had not found any
19 illegal acts, that I didn't -- but from my standpoint I
20 don't really trust what people tell me. I kind of trust
21 what people do. I said, you know, I think you should
22 continue to look into these issues, you know, are we
23 spending our contract money right, you know, are we
24 handing out contracts to the right people for the right
25 reasons, you know. And Michael, by the way, came from a

1 Washington position as well, ironically. He actually
2 was recruited out of the city -- I lived in Washington
3 from Des Moines, Washington, so was very used to
4 Washington ethics, which is not -- you know, a scandal
5 there would basically make the paper here, you know. So
6 he understood all that. He followed up, I think, to
7 some degree on what those concerns were.

8 I just basically handed him off -- handed
9 John off to him. I did tell him I thought John was a
10 little quick to judge when things were wrong, rather
11 than getting as many of the facts as he needed. I did
12 tell him that. I said he's made a lot of allegations.
13 Ones I've looked into haven't borne out what he was
14 claiming to be wrong, had a kernel of truth in it, but
15 the conclusion was wrong. It was -- the process was
16 broken. But to allege what was happening and the
17 allegations he was making, I couldn't find the evidence
18 for it.

19 Q. Now, a moment ago you also said at the start
20 of this whole discussion about the phone call that you
21 made to Hugh Miller, you made the comment that was one
22 of those lessons you learned about doing things in
23 anger. Could you explain that statement?

24 A. Well, you know, I've done that a number of
25 times in my career when you call someone and you're mad,

1 and audits and some new investments, I'd say in, you
2 know -- Hugh -- and then Hugh and I working together
3 have gotten it stabilized over the last two years.

4 Q. Now, you did -- in talking to Mr. Foddrill,
5 you learned about this variable account; is that
6 correct?

7 A. That's correct.

8 Q. Were you aware there were four variable
9 accounts at ITSD?

10 A. No. I didn't really have that level of
11 understanding the details. I just knew they had some
12 things they used to adjust charges. That's what I knew
13 about.

14 Q. You didn't know there was a telecom variable,
15 a pager variable, a cellular variable, and a wireless
16 variable.

17 A. I understood the telecom variable 'cause
18 that's the one that seemed to be the largest one that
19 was used to adjust the budgets. What I thought was just
20 really telecommunications in general. I didn't know
21 they had it broken into four sub accounts.

22 Q. Now, you said that you looked into the issues
23 that Mr. Foddrill brought to you; is that correct?

24 A. I did the best to my ability, ma'am, yes.

25 Q. And I believe you testified also that there

1 A. Total federal dollars. I'm sorry, I don't
2 know it off the top of my head. I would say it's
3 probably less than ten percent federal monies.

4 Q. In accounting to those federal monies, you
5 have to account for your expenses; isn't that correct?

6 A. Right. The process that you have to do is to
7 show them that whatever method you're using is a
8 reasonable -- shows a reasonable reflection of the
9 actual usage, the actual charges or drafts that entity
10 put on the system. As long as you have a fair way of
11 doing it, it's done uniformly, you charge everybody the
12 say same way, then it's okay to do that method.

13 Q. The way they were charging these different
14 departments was per phone. They were assessing their
15 phones, right?

16 A. Yeah, it may or may not. I don't know if it
17 would have passed a federal -- what happens when -- if
18 you don't pass a federal audit you have to pay some of
19 the money back with interest if you've overcharged.

20 Q. Okay. So did you look into that to make sure
21 this variable was not violating those federal --

22 A. Yeah, I did, and I didn't think it was -- you
23 know, it did get done the same way for everybody, so it
24 was a commonly confusing way of doing it, you know. It
25 was hard to track it to the exact amount, but since

1 everyone had equal access to come in and make a plea to
2 the department director to say, I have a problem this
3 year, or I have an issue with this financing, or the
4 department director would say this ended up being more
5 expensive than we thought. We have to figure out how to
6 cover the costs. Allocating it by any common way
7 probably would fall -- would get accepted by federal
8 auditors. They're really looking for somebody who's
9 dumping bunches of costs onto Medicaid and other
10 contracts to try to solve their budget problems. That's
11 not what the city was doing. The city was trying to
12 allocate costs that it really did have.

13 Q. So you know if ITSD wanted to put a trophy
14 case in that was found to go to the variable, you didn't
15 think that would be a problem with the federal grant
16 money?

17 A. You know, that's one of those golden fleece
18 kind of examples. It got my attention. You're doing
19 what with the money? When it comes down to it, the way
20 that the feds look at that is if it's a cost that you
21 incur, even if it's for an employee picnic, if it's
22 something that's appropriate, legal for the city to
23 spend money on, they don't look at that level of detail.
24 State of Washington, when I was there, had randomly
25 allocated extra money to the IT charge until a budget

1 year in a crisis and just dumped the cost onto IT with
2 no relationship to cost. When I found that out when I
3 went to the state of Washington, I immediately reported
4 it. The legislature said, this violates federal rules,
5 and we are going to have to pay this money back. You
6 guys need to start making a plan to pay it back. This
7 wasn't that problem. If it's legal to spend the
8 money -- even if it's a dumb thing to spend money on, if
9 it's legal to spend the money on, it's not to my
10 knowledge violating the federal audit rules.

11 Q. Did you ask the feds about whether they
12 thought it was okay to buy trophy cases and remodel the
13 ITSD --

14 A. I have actually visited with a number of
15 federal officials in Washington asking them about --

16 Q. You did ask them about --

17 A. I didn't ask them about that, no. I didn't
18 ask 'em about trophy cases.

19 Q. And you didn't go into a level of detail
20 investigating that variable at that time; is that
21 correct?

22 A. I didn't ask 'em -- ask the federal officials
23 if they thought it was a good idea to buy a trophy case,
24 no.

25 Q. Did you stop the process of the variable when

1 you found out about it in 05?

2 A. No. There was no alternative. I did ask them
3 to start developing an alternative billing process, and
4 I left it on my list, you know. It was like handing off
5 the bible over to Michael Armstrong saying, here's a big
6 list of things. I'm sorry. You have to fix your
7 billing system.

8 Q. Were you also -- you testified you like Cisco
9 and it's a big company and you can rely on it. Were you
10 aware of how Cisco was being courted at the time by
11 Mr. Miller and his ITSD group?

12 A. I don't -- could you explain what you mean by
13 courted?

14 Q. Were you aware of the weekly meetings that
15 they held with Cisco representatives for a while?

16 A. I was aware that Hugh had told me that he had
17 been talking to Cisco, yes.

18 Q. Were you aware of the municipal integrity
19 investigation where Mr. Miller had stopped ordering from
20 the vender and was starting to order from Cisco?

21 A. I was made aware of that later. I don't think
22 the timing -- the municipal integrity investigation -- I
23 believe it happened between when I was here the first
24 time and when I came back the second time. Is that
25 correct?

1 a specific grant that you can use in libraries, health,
2 et cetera, that you can use to pay for internet
3 services, and it would have been able to pay for their
4 services, and he complained that Jose overlooked that
5 and didn't utilize it. And whenever I investigated that
6 one, it -- basically we wouldn't have been able to get
7 funding for it because the library had chosen previously
8 and even to today that they didn't want their internet
9 access filtered, and you have to have your internet
10 access filtered to be able to get that money, and so
11 based on those, I wanted to make sure that whatever it
12 was that he was upset at -- 'cause I didn't know what it
13 was at the time. I needed to vet it out and make sure
14 it was valid and there was a reason.

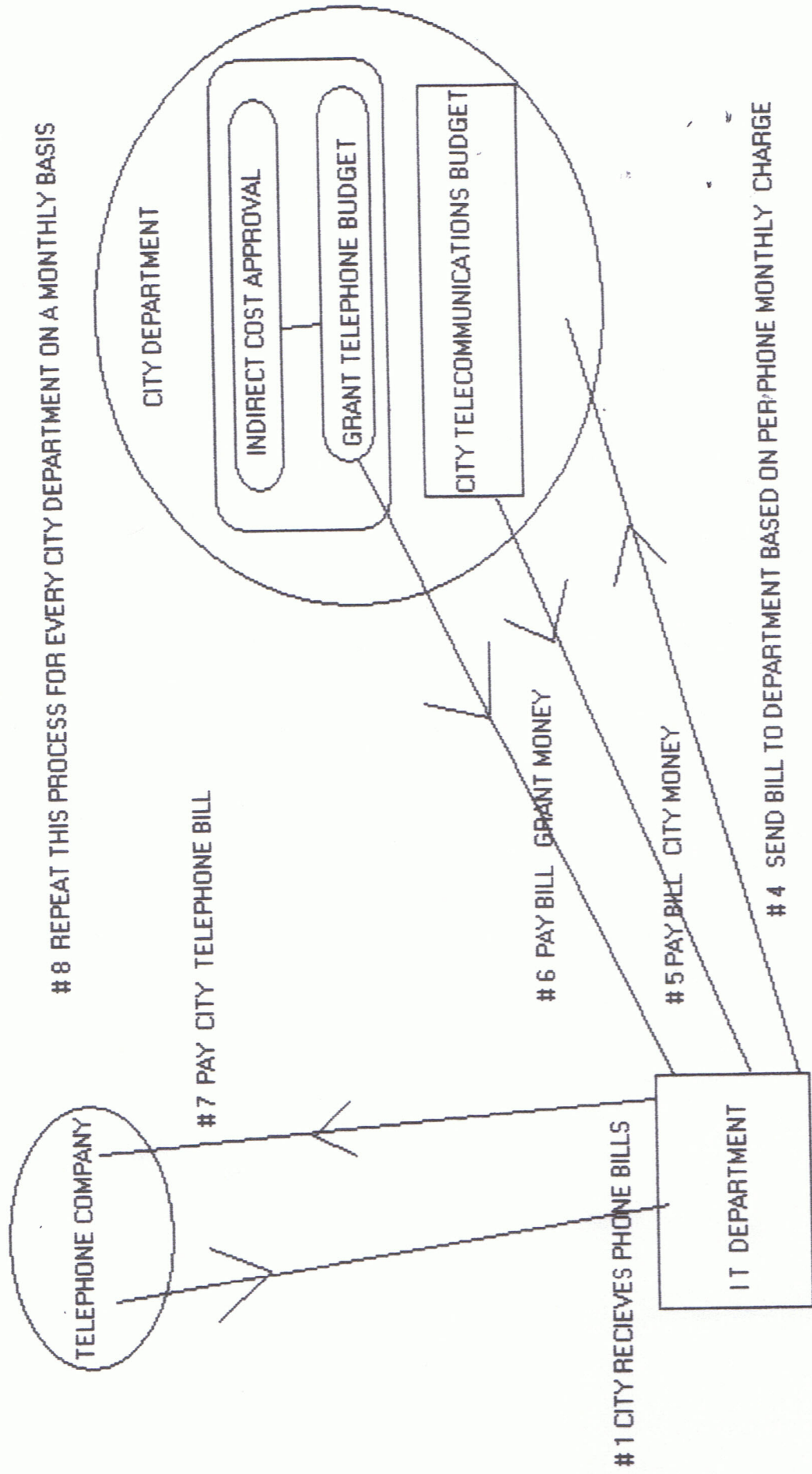
15 Q. So did you have a discussion with Richard Varn
16 about that phone message?

17 A. I don't remember, you know, sitting down with
18 him on a thorough discussion about it at all.

19 Q. Do you remember any discussion with him about
20 why you hadn't fired Jose?

21 A. No. I mean, he was on there, for a short
22 period of time after that, and he -- you know, we didn't
23 talk about it.

24 Q. At any time do you recall -- at any time
25 during that time period do you recall Richard Varn



8 REPEAT THIS PROCESS FOR EVERY CITY DEPARTMENT ON A MONTHLY BASIS

7 PAY CITY TELEPHONE BILL

6 PAY BILL GRANT MONEY

5 PAY BILL CITY MONEY

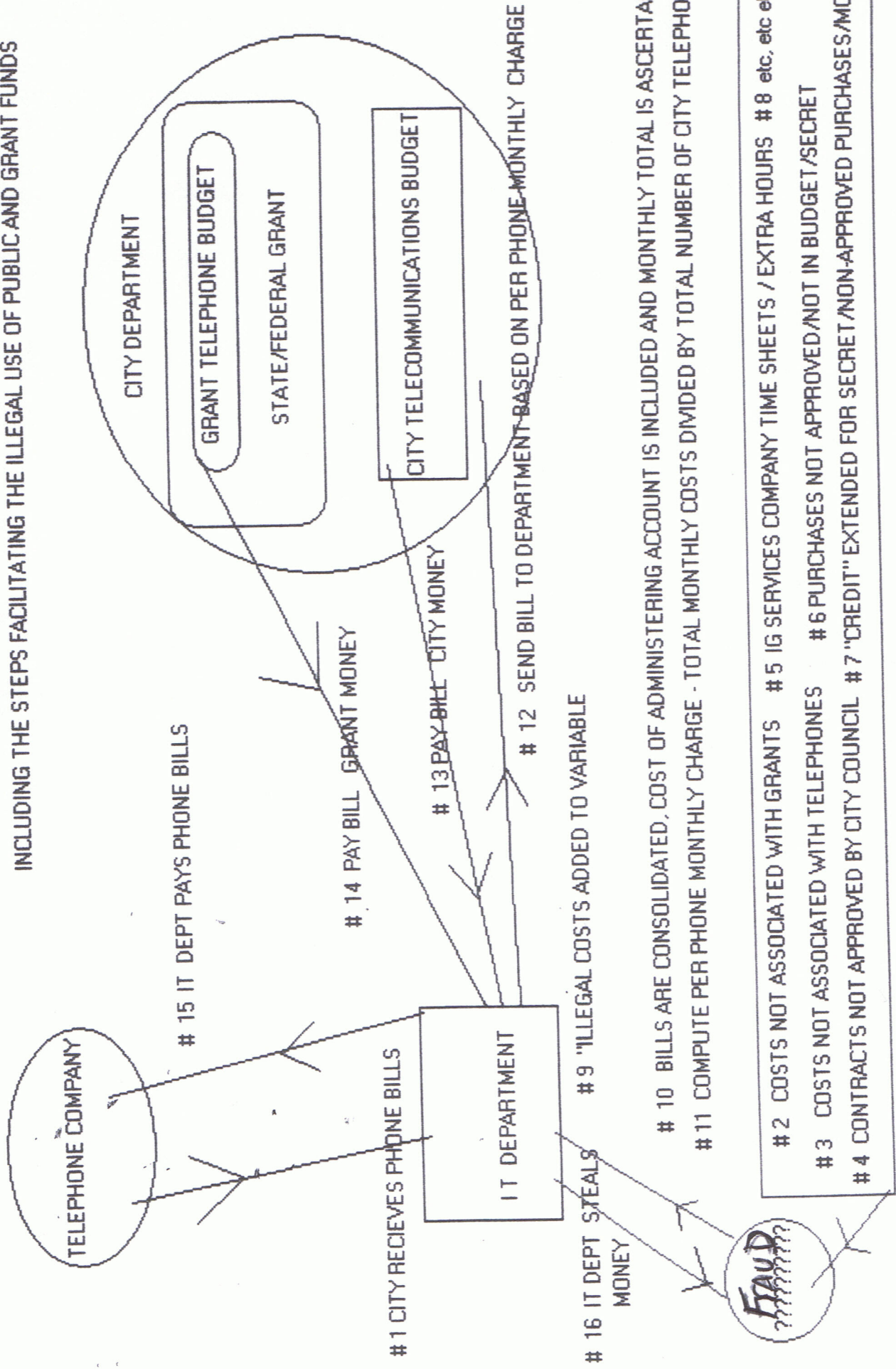
4 SEND BILL TO DEPARTMENT BASED ON PER-PHONE MONTHLY CHARGE

2 BILLS ARE CONSOLIDATED, COST OF ADMINISTERING ACCOUNT IS INCLUDED AND MONTHLY TOTAL IS ASCERTAINED

3 COMPUTE PER PHONE MONTHLY CHARGE - TOTAL MONTHLY COSTS DIVIDED BY TOTAL NUMBER OF CITY TELEPHONES

THIS DIAGRAM DEPICTS THE PROPER/APPROVED PROCEDURE FOR PAYING MONTHLY TELEPHONE BILLS IN COMPLIANCE WITH CITY/STATE/FEDERAL REGULATIONS INCLUDING CITY AD 6.12

17 REPEAT THIS PROCESS FOR EVERY CITY DEPARTMENT ON A MONTHLY BASIS INCLUDING THE STEPS FACILITATING THE ILLEGAL USE OF PUBLIC AND GRANT FUNDS



9 'ILLEGAL COSTS ADDED TO VARIABLE

10 BILLS ARE CONSOLIDATED, COST OF ADMINISTERING ACCOUNT IS INCLUDED AND MONTHLY TOTAL IS ASCERTAINED

11 COMPUTE PER PHONE MONTHLY CHARGE - TOTAL MONTHLY COSTS DIVIDED BY TOTAL NUMBER OF CITY TELEPHONES

2 COSTS NOT ASSOCIATED WITH GRANTS # 5 IG SERVICES COMPANY TIME SHEETS / EXTRA HOURS # 8 etc, etc etc

3 COSTS NOT ASSOCIATED WITH TELEPHONES # 6 PURCHASES NOT APPROVED / NOT IN BUDGET / SECRET

4 CONTRACTS NOT APPROVED BY CITY COUNCIL # 7 'CREDIT' EXTENDED FOR SECRET / NON-APPROVED PURCHASES / MONEY

THIS DIAGRAM DEPICTS THE SECRET ILLEGAL PROCEDURE DEVISED TO STEAL, MISUSE, MISAPPROPRIATE, ETC. PUBLIC AND GRANT FUNDS VIA THE MANIPULATION OF THE TELEPHONE VARIABLE ACCOUNT CREATED IN 1982 TO FACILITATE THE PAYMENT OF MONTHLY PHONE BILLS

EFFECTIVE DATE: January 4, 1982

REVISION DATES: _____

SUBJECT: Use of Telephone: Monthly Billing1. Purpose

This Administrative Directive outlines the process for the monthly billing to the departments for charges which the City incurs for telecommunication services.

2. Responsibility

- a. The Purchasing and General Services Department through the Communication Services Division is responsible for verifying all telecommunication charges billed to the City by the telephone company. This verification will include a review of all equipment charges, a full month's use of service and other charges or credits for partial month's service.

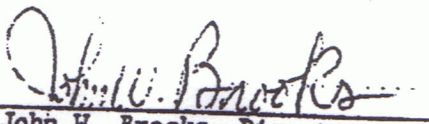
3. Definitions

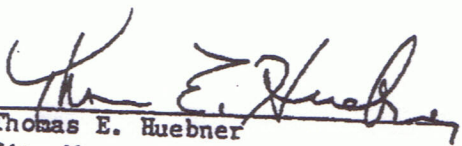
- a. Telecommunications charges - the charges are categorized as follows:

- 1.) Base Charge - telephone instrument, feature, and directory listing costs (if applicable).
- 2.) Variable Base Charge - pro rata share of the Centrex common service and equipment costs, municipal tax, plus administrative overhead costs.
- 3.) Long Distance Charges - all interstate and intrastate long distance calling charges.
- 4.) Directory Assistance and Other Charges or Credits - all costs for local directory listing information and cost or credits associated with installation, change or removal of service.

4. Procedures

- a. Each department shall review the computer printout provided by the Purchasing Department of the monthly charges, sign the certification form, and return the signed copy to the Purchasing Department within four working days. Any discrepancy with any charge should be fully explained in a typewritten memo attached to the certification statement. The Communication Services Division will take action to resolve the differences with the telephone company.
- b. The Purchasing Department will submit a request for payment with final reports to the Finance Department for processing.
- c. The Finance Department will record the telecommunications charge to the appropriate department account and issue a payment voucher to the telephone company.

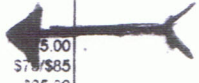

John W. Brooks, Director
Purchasing & General Services


Thomas E. Huebner
City Manager

INFORMATION TECHNOLOGY EQUIPMENT AND SERVICES PRICE LIST
For FY 2005-2006



ITSD System/Equipment/Service	Purchase Price	Monthly Charge	Installation Charge
RADIO EQUIPMENT CONTINUED			
Remote Speaker Microphone	\$137.75		
Belt Clip 3 INCH	\$11.25		
Vehicle Charger	\$487.50		
Spare High Capacity Battery	\$93.75		
Ultra light Headset	\$135.00		
Behind the head headset	\$280.00		
Extra high capacity NIMH Battery	\$108.75		
Antenna 800MHZ WHIP	\$15.00		
30 WATT Amplifier (DA30)	\$231.16		
100 WATT Amplifier (C100)	\$455.90		
8" Ceiling Speaker w/Volume Control	\$27.86		
8" Ceiling Speaker w/out Volume Control	\$24.80		
Wall Mounted Volume Control	\$17.18		
Technical Hourly Labor Rate	\$30.00		
<i>Please Contact Radio Services at 207-7511 or 207-7022 for additional information</i>			
TELEPHONES			
EQUIPMENT			
AVAYA 8410D 10 BUTTON DIGITAL SET WITH DISPLAY	\$692.00		\$75/\$86
AVAYA 8434 34 BUTTON DIGITAL SET WITH DISPLAY WO.PWR	\$980.00		\$75/\$86
AVAYA 6424D 24 BTN DIG SET W/DISPLAY	\$785.00		\$75/\$85
AVAYA 6408D 8 BTN SET W/DISPLAY	\$458.00		\$75/\$85
AVAYA 6416D 16 BTN SET W/DISPLAY	\$463.00		\$75/\$85
Single Line Telephone, Desk model	\$61.00		\$75/\$85
AVAYA 6402D 2 BUTTON DIGITAL SET WITH DISPLAY	\$164.64		
AVAYA 6408D 8 BUTTON DIGITAL SET WITH DISPLAY	\$341.26		
AVAYA 6416D 16 BUTTON DIGITAL SET WITH DISPLAY	\$443.62		
AVAYA 6424D 24 BUTTON DIGITAL SET WITH DISPLAY	\$608.19		
AVAYA 2410 10 BUTTON DIGI SET W/ LED BUTTONS	\$358.53		
AVAYA 2420 20 BUTTON DIGI SET W/ LED BUTTONS	\$499.50		
AVAYA 4610 10 BUTTON IP PHONE	\$315.24		
AVAYA 4620 10 BUTTON IP PHONE	\$395.16		
AVAYA POWER SUPPLY FOR IP PHONES	\$38.85		
AVAYA ANALOG SOUNDSTATION	\$553.89		
AVAYA ANALOG SOUNDSTATION - ENHANCED	\$886.89		
AVAYA ANALOG SOUNDSTATION - PREMIER	\$1,108.89		
AVAYA ANALOG SOUNDSTATION - PREMIER/EX	\$1,441.89		
AVAYA 550D DIGITAL SOUNDSTATION	\$1,330.89		
AVAYA 550D DIGITAL SOUNDSTATION - PREMIER	\$1,663.89		
AVAYA 4690 IP SPEAKERPHONE	\$1,441.89		
AVAYA 4690 IP SPEAKERPHONE / W EX MICROPHONES	\$1,663.89		
AVAYA IP License (for IP phones and Softphones)	TBD		
Headset - Supra NC Ext Headband	\$119.90		\$25.00
Headset - Mirage NC Ext over Ear	\$149.71		\$25.00
Headset - Modular Base Unit	\$130.90		\$25.00
Headset Adapter Cord	\$29.04		\$25.00
SERVICE			
City CENTREX (VARIABLE) Base Charge	\$35.00		
Disconnect Equipment			\$5.00
Instrument Change (STYLE OR MODEL)			\$75/\$85
Mounting or Receiver Cord Change			\$25.00
Replace Equipment (THEFT OR VANDALISM)			\$25.00
Program/Software Changes per SET.NUMBER/VM			\$25.00
Service Order (To other vendor)			\$25.00
Southwestern Bell Lines Base Charge	\$33.00		\$75.00
Southwestern Bell Trunks Base Charge	\$45.00		\$75.00
Southwestern Bell ISDN/DSL Service	\$50.00		\$350.00
Southwestern Bell Call Notes Voice Mail Service	\$15.00		\$25.00
Training (e.g IP Agent, CMS Supervisor, etc.)			\$30.00
Voice Mail Box (AUDIX) Service	\$4.00		\$25.00
Voice Automated Attendant Base Service	\$40.00		\$25.00
Voice Automated Attendant Mailbox EA	\$4.00		\$25.00
Voice Information Service Line	\$29.00		\$25.00
Voice System Software Design (PER 1/2 HR)			\$25.00
<i>Telephone equipment install charges are \$75 for downtown locations and \$85 for remote locations</i>			




Telephone "variable" is an indirect charge levied against all city telephones. This charge for overhead/common telephone costs is applied every month. This is a "sliding" charge and can increase from the base of \$35 per month. An increase at times to twice the base is not unreasonable. This charge has been in effect for up to 25 years and applies to all city telephones including grant funded phones.

COSA TELECOMMUNICATIONS OVERVIEW April 2005

36 PBX large system sites
170 Key Equipment small system sites

Avaya G3, 8700, Prologics, Partner, Merlin, Spirit

8179 total Telephone lines 
Centrex 6078
Private 2101


1778 cell phones

2683 pagers

1279 modems

MONTHLY SERVICES Approximations

Avaya
Maintenance and Purchases \$100,000

SBC
Local \$180,000 
LD \$4,000
Internet \$30,000

MCI
LD \$14,000

ATT
WI/FI \$56,000

TW Road Runner
Internet \$2,000

Cingular
Cellular \$60,000

Arch
Pagers \$17,000

Account Number: 0101139017
 Summary Invoice Number: 2720972797
 Summary Invoice Date: 04-12-05

PURCHASE AGREEMENTS

Order No.:	0004295530	Sold To:	0003015499
Invoice No.:	2163845506		CITY OF SAN ANTONIO
Purchase Order:	WO 410141		515 S FRIO ST
Date:	03-21-05		SAN ANTONIO TX 782075009

Var.

Item No.	Material Code	Quantity	Product/Equipment/Service Description	Purchase Price/License Fee
000010	169133	1	3RD PARTY PRODUCT ZERO WARRANTY - HARDWARE - - CSD	\$ 1,254.62
				Subtotal This Invoice 1,254.62
				Federal Excise Tax 0.00
				State/Local Tax 0.00
TOTAL THIS INVOICE				\$ 1,254.62

Fiber order verbal from Mike Cannon

Order No.:	0004307539	Sold To:	0003015499
Invoice No.:	2163915081		CITY OF SAN ANTONIO
Purchase Order:	WO#410153		515 S FRIO ST
Date:	03-23-05		SAN ANTONIO TX 782075009

IG Franz Var.

Item No.	Material Code	Quantity	Product/Equipment/Service Description	Purchase Price/License Fee
000010	169599	1	3RD PARTY PRODUCT ZERO WARRANTY - VENDOR PERF- ORMED SERVICES - CSD	\$ 3,225.00
				Subtotal This Invoice 3,225.00
				Federal Excise Tax 0.00
				State/Local Tax 0.00
TOTAL THIS INVOICE				\$ 3,225.00

Order No.:	0004307540	Sold To:	0003015499
Invoice No.:	2163915083		CITY OF SAN ANTONIO
Purchase Order:	WO#410152		515 S FRIO ST
Date:	03-23-05		SAN ANTONIO TX 782075009

B. Hyman Var.

Item No.	Material Code	Quantity	Product/Equipment/Service Description	Purchase Price/License Fee
000010	169599	1	3RD PARTY PRODUCT ZERO WARRANTY - VENDOR PERF- ORMED SERVICES - CSD	\$ 2,898.00
				Subtotal This Invoice 2,898.00
				Federal Excise Tax 0.00
				State/Local Tax 0.00
TOTAL THIS INVOICE				\$ 2,898.00

3/13/05 - 3/26/05 = 40 hrs → Same time as Martin F. no need for a higher rate.

\$54 x 40 hrs = 2,160

+ 135 cent

+ 27 cent markup

2,322 Total does not match

A \$576.00 difference, overcharged.

Continued

EFFECTIVE DATE: January 4, 1982

REVISION DATES: March 1, 2001 October 23, 2001

SUBJECT: BASIC PROCEDURES REGULATING PURCHASES OF MATERIALS, OR SERVICES

I. **Purpose**

The purpose of this Administrative Directive is to provide City of San Antonio employees with rules and guidelines regarding City procurement practices.

II. **Policy**

Employees of the City of San Antonio shall conduct all procurement activity in compliance with federal, state, and local law as well as the rules and guidelines set forth by the Purchasing and General Services Department.

Further, all City procurement will be conducted in a manner that safeguards taxpayer funds, promotes business effectiveness and efficiency, and advances opportunity for disadvantaged businesses to participate in City contracting processes.

III. **Responsibilities**

- A. **Director of Purchasing and General Services** (and persons designated by Director) - With the exception of construction projects costing in excess of \$50,000, will be responsible for the procurement of goods and non-Professional Services requiring expenditures in excess of \$3,000, and for the formal competitive bidding procedures set forth in Texas Local Government Code §252.021 et seq., for all goods and non-Professional Services that require expenditures in excess of \$25,000.

The Director of Purchasing and General Services, or his/her designee, may execute contracts for the purchase of goods and non-Professional Services, so long as funds for such contracts are provided for in the budget and comply with applicable law, without subsequent City Council approval.

Further, the Director of Purchasing and General Services will be responsible for the disposition of all City salvage including but not limited to scrap materials, used vehicles, machinery, or other equipment, and any other obsolete or used item necessitating discard, removal, sale, or any other disposition.

- B. **Director of Public Works** (and persons designated by Director) – Responsible for all Public Works Contracts requiring expenditures in excess of \$50,000, and for the procurement of Professional Service contracts related to Architectural and Engineering services.
- C. **Other Department Directors** (and persons designated by Directors) – The Director of each Department, or his/her designee, may execute contracts as follows:

1. the purchase of goods and non-professional services not related to Architecture or Engineering in the amount of \$3000 or less; and
2. the purchase of professional services in amounts of \$25,000 or less provided that funds for said contracts are provided for in the budget and comply with applicable law, without subsequent City Council approval.

IV. Policy Guidelines

- A. **Departmental Procurement Authority** - Each Department Director may assume the authority and accompanying responsibility for the procurement of:
1. Professional Services, with the exception of Professional Services related to architecture and engineering,
 2. Any good, or non-Professional Service, requiring an expenditure of no more than \$3,000, with the exception of the following:
 - a. Insurance or High Technology procurements,
 - b. Goods and services provided to the City through an existing City of San Antonio Annual Contract,
 - c. Public Works Contracts, as defined within this Administrative Directive.
- B. **Petty Cash Purchases** - Petty Cash purchases may be accomplished by a Department Head, or designated employee, without utilizing a contractual instrument (such as purchase order) or obtaining competitive bids. Department Heads will ensure any purchase made from a petty cash account be conducted in accordance with applicable City policy.
- C. **Purchasing Card** - Individual Purchasing Card transactions will be determined by the authority level of the employee using the card, the commodity type, and the particular vendor from whom the good is being purchased. A Purchasing Card shall be used only by the employee whose name appears on the card, and only for City of San Antonio business purposes.
- Utilization of a City of San Antonio Purchasing Card will be in accordance with applicable City of San Antonio Administrative Directives, as well as policy, rules, and guidelines set forth and issued by the City of San Antonio Purchasing and General Services Department.
- D. **Procurements in Excess of \$25,000** - Any procurement requiring an expenditure greater than \$25,000 must be approved by the City Council.

- E. **Purchasing Guidelines** – The Purchasing and General Services Department's "Procurement Guidelines and Procedures Regulating Purchases of Materials, Supplies and Services" shall serve as the prevailing source of rules and information regarding City procurement processes and practices.

V. **Definitions**

- A. **Formal Competitive Bidding** – The process of acquiring a good or service, through an analysis and evaluation of bids or proposals received as a result of a publicly advertised bid or proposal solicitation, when the good or service requires an expenditure in excess of \$25,000, in accordance with the Texas Local Government Code, Chapters 252 and 271.
- B. **Insurance and High Technology Procurement** – The purchase of insurance or equipment, goods, or services of a highly technical nature, including data processing equipment and software and firmware used in conjunction with data processing equipment; telecommunications equipment, radio and microwave systems; electronic distributed control systems, including building energy management systems; and technical services related to those items. Awards may be based on best evaluated proposal in accordance with Chapter 252 and 271 of the Texas Local Government Code.
- C. **Petty Cash Purchase** - A purchase, that costs less than \$100 and is made from a petty cash account.
- D. **Professional Services** – Chapter 2254 of the Texas Local Government Code sets forth the procedures for the procurement of certain professional services and directs awards for professional services be made on the basis of demonstrated competence and qualifications, and not competitive bids. Services within the scope of the practice, as defined by Chapter 2254 of: accounting; architecture; landscape architecture; land surveying; medicine; optometry; professional engineering; real estate appraising; or professional nursing, or services provided in connection with the professional employment or practice of a person who is licensed or registered as: a certified public accountant; an architect; a landscape architect; a land surveyor; a physician, including a surgeon; an optometrist; a professional engineer; a state certified or state licensed real estate appraiser; or a registered nurse. Contracts for the procurement of Professional Services may not be awarded on the basis of competitive bids submitted for the contract or for the services. Instead, the contract must be awarded on the basis of demonstrated competence and qualifications to perform the services. Architects, land surveyors, and engineers must be selected on the basis of demonstrated competence and qualifications before negotiations commence on additional contract terms.

This definition also includes; services performed by an outside individual or entity or private business, and include such expenses that are exempt from the competitive bidding requirements of the Texas Local Government Code. Excluded from these

categories of Professional Services are janitorial, locksmith, and contractual labor services.

The Texas Local Government Code Chapter 2254 sets forth the procedures and guidelines for the acquisition of Professional Services and directs awards for Professional Services be made on the basis of demonstrated competence, not competitive bids.

- E. **Public Works Contracts** – Contracts, developed and executed by the Purchasing and General Services Department and the Public Works Department, for the construction, repair, or renovation of a structure, road, highway, or other improvement or addition to real property on the basis of competitive bids, and if the contract requires the expenditure of more than \$25,000.
- F. **Purchasing Card** - A “bank card” used by authorized City employees to acquire specific goods and services. The rules and guidelines that govern the use of a Purchasing Card are administered and communicated by the City of San Antonio Purchasing and General Services Department.

VI. Disciplinary Actions

Any employee in violation of this Administrative Directive will be subject to disciplinary action as mandated in the “Municipal Civil Service Rules of the City of San Antonio” (November 15, 1977).

VII. Applicable Federal, State, and Local Laws and Regulations

A. State Law

1. Local Government Code, Chapter 252, Purchasing and Contracting Authority of Municipalities.
2. Local Government Code, Chapter 271, Purchasing and Contracting Authority of Municipalities, Counties, and Certain Other Local Governments.
3. Local Government Code, Chapter 2254, Professional and Consulting Services.

B. Local Ordinances

1. Ordinance No. 77758, April 8, 1993 (Revising the small and minority business advocacy program requirements.)
2. Ordinance No. 82743, August 31, 1995 (Authorizing the City Manager, Assistant City Manager or his designee to approve change orders to contracts.)

EFFECTIVE DATE: January 4, 1982

REVISION DATES: _____

SUBJECT: BUDGET ADJUSTMENTS

1. Purpose

- To establish standard procedures and guidelines to cover the initiation, evaluation, and processing of requests for adjustment to budget appropriations.

2. Responsibilities

- a. Department Heads should anticipate the need for budget adjustments and INITIATE THE ADJUSTMENT PROCEDURES PRIOR TO TAKING ANY ACTION THAT MIGHT CAUSE BUDGET OVERRUNS.
- b. Department Heads are responsible for the review and approval of all budget adjustment requests originating within their department.
- c. The Budget and Research Department will evaluate all budget adjustment requests. No budget adjustment will be recorded without Budget and Research approval.
- d. The city's Controller is responsible for all accounting and other financial record keeping procedures necessary to implement and record approved budget adjustments.

3. Definitions

- a. There are two types of budget adjustment:
 - 1.) "Allotment Change" - a transfer of budgeted funds from one object code to another object code within the same section.
 - 2.) "Transfer within Department" - a transfer of budgeted funds from one section or division to another section or division within the same department.
- b.) Those changes to budget appropriations requiring City Council approval fall outside the scope of this Directive. Examples include: inter-departmental transfers, supplemental appropriations, and reprogramming of grant funds.
- c.) Capital outlay includes the cost of land, buildings, permanent improvements, machinery, large tools, and rolling and stationary equipment, and costs incidental to the acquisition or placing in use of same are chargeable to this category of expenditure.

EFFECTIVE DATE: January 4, 1982

REVISION DATES: _____

SUBJECT: BUDGET ADJUSTMENTS - PAGE 2

4. Required Budget Adjustments

Departments are required to submit budget adjustment requests under each of the following circumstances:

- a. If an increase in a capital outlay line item is required for the purchase of unbudgeted equipment.
- b. If an increase in a travel expense line item is required for the payment of unbudgeted travel expenses.
- c. To provide funds sufficient to cover the cost of any expenditure submitted to the City Council for approval.
- d. To correct an anticipated character level budget overrun of 10% or more.

5. Other Budget Adjustments

There may be circumstances other than those outlined above where a budget adjustment may be necessary. Departments are expected to work closely with their assigned Budget Analyst in determining the need for such adjustments.

6. Prohibitions

Certain budget line items are highly sensitive to fluctuating prices or, for other reasons, need to be safeguarded. Therefore, under normal circumstances, no funds may be transferred out of the following line items:

- 1.) Any Personal Service Account
- 2.) Automatic Data Processing
- 3.) Gas and Electricity
- 4.) Motor Fuel and Lubricants
- 5.) Rent of City Rolling Equipment

7. Procedure

- a. Budget adjustment requests will be submitted on Form 35-19 "Request for Budget Adjustment".

EFFECTIVE DATE: January 4, 1982

REVISION DATES: _____

SUBJECT: BUDGET ADJUSTMENTS - PAGE 3


- b. The FB-19 is to be executed in quadruplicate. Special attention must be given to the completion of the justification section of the request form. In order to properly justify the budget adjustment, the explanation should, as a minimum, include the following:
- 1.) A detailed statement explaining the need for the adjustment.
 - 2.) A statement of how the funds proposed for transfer became available.
 - 3.) For grant-funded activities, attach a letter indicating grantor approval.
- c. The responsible Department Head will review and approve the adjustment request. The green copy of the FB-19 should be retained by the department, and the remaining three signed copies forwarded to the Budget and Research Department.
- d. The Budget and Research Department will review and evaluate all requests for budget adjustment. The Budget and Research Department has the authority to reject incomplete, unjustified, or unnecessary budget adjustments. The review will include:
- 1.) An examination of the form for completeness of information and the adequacy of the justification submitted.
 - 2.) The need and/or desirability of the action necessitating the budget adjustment.
 - 3.) The financial and budgetary feasibility of the request.
- e. Disapproved requests will be returned to the initiating departments. Approved requests will be assigned a reference number and all three copies forwarded to the Finance Department's Division of Accounts.
- f. The Finance Department will re-review the request to insure the availability of funds within the indicated budget line items. If the unexpended balance in the indicated line item to be transferred is insufficient to cover the amount of the adjustment, the FB-19 will be returned to the Budget and Research Department with an explanation. Requests approved as to funds will be forwarded to the City Manager's Office for final approval.


EFFECTIVE DATE: January 4, 1982

REVISION DATES: _____

SUBJECT: BUDGET ADJUSTMENTS - PAGE 4

- g. The City Manager has final approval authority over all budget adjustment requests. Approved requests will be returned to the Division of Accounts.
- h. The city's Controller will record the approved adjustment and make the necessary budget changes. The following distribution of the approved FB-19 will be made:
 - 1.) Pink - Originating Department
 - 2.) Yellow - Budget and Research Department
 - 3.) White - Division of Accounts


S. Marcus Jahns, Director
Budget and Research Department


Thomas E. Huebner
City Manager

EFFECTIVE DATE: January 4, 1982

REVISION DATES: _____

SUBJECT: REQUEST FOR CAPITAL OUTLAY1. Purpose

- To establish procedures for the initiation of capital outlay requests.
- To facilitate analysis of such requests for inclusion in the Annual Budget.
- To establish procedures for requesting capital outlay not included in the Adopted Budget.

2. Responsibilities

- a. In requesting the appropriation of funds for capital outlay items, City departments shall consider carefully all costs associated with such outlay, as well as the benefits to be derived, and shall submit full information in order to make possible a proper evaluation of such requests.
- b. The Budget and Research Department shall be responsible for the thorough investigation and evaluation of all requests for capital outlay. Evaluation will take place during the preparation of the Annual Budget. In addition, a re-evaluation will be made at the time the Purchase Requisition is submitted. The evaluation shall take into account the need for the item, work procedures involved, and the availability of funds. Generally, capital outlay items should reduce operating costs and/or improve City services, and all requests shall be evaluated according to these standards.
- c. The Budget and Research Department may administratively approve requests for capital outlay items in the amount of \$2,999 or less, provided funds are available in the proper activity account or can be made available through a budget adjustment. Expenditures in the amount of \$3,000 or more must first be approved by Budget and Research and then submitted to the City Council for consideration in the form of an ordinance.

3. Requests for Inclusion of Capital Outlay in the Annual Budget

- a. Each year, on the date specified by the Budget and Research Department, the departments shall submit two copies of Form FB-5, "Request for Capital Outlay", for all items requested for inclusion in the Annual Budget.

EFFECTIVE DATE: January 4, 1982

REVISION DATES: _____

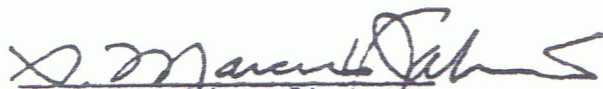
SUBJECT: REQUEST FOR CAPITAL OUTLAY - PAGE 2


- 1.) Form FB-5 should be completed in accordance with instructions in the Budget Manual.
 - 2.) Special attention should be given the Justification Section on the FB-5.
 - b. All capital outlay requests shall be reviewed by the Budget and Research Department in light of their contribution to operational efficiency, improved services or reduced cost, and the financial ability to purchase such equipment. Those items approved by the City Manager will be included in the Budget submitted to the City Council for consideration and approval.
 - c. Upon adoption of the Budget by the City Council, the Budget and Research Department will return to the departments a copy of each FB-5 approved for inclusion in the final budget document.
4. Purchase of Items Included in Annual Budget
- Items included in the Annual Budget should be considered only as items tentatively approved for capital outlay expenditure. The following procedures shall be followed in purchasing such items:
- a. The Purchasing Director will annually prepare and distribute a calendar for the submission of Purchase Requisitions for various types of equipment. In order to obtain the maximum benefits of volume purchasing, departments should observe the calendar deadlines established for this purpose.
 - b. A completed Purchase Requisition shall be submitted to the Budget and Research Department. The Purchase Requisition must be accompanied by the approved copy of Form FB-5 returned to the departments at the time the Budget was adopted. The Budget and Research Department, upon receipt of the required documents, will re-review the request, in light of existing operating and financial conditions. If the purchase is approved by the Budget and Research Department, the Purchase Requisition, along with the approved Form FB-5, shall be transmitted to the Purchasing Department for further processing.
 - c. In the event the capital outlay request is disallowed by the Budget and Research Department, written notice and justification of the denial will be provided to the requesting department.

EFFECTIVE DATE: January 4, 1982
REVISION DATES: _____
SUBJECT: REQUEST FOR CAPITAL OUTLAY - PAGE 3

5. Purchase of Items Not Included in Annual Budget

- a. Requisitions of items not tentatively approved through inclusion in the Adopted Budget is strongly discouraged. It is recognized, however, that some non-budgeted capital outlay may become necessary to meet departmental responsibilities. Such requests may be submitted to the Budget and Research Department. The request must be accompanied by the following:
- 1.) Two completed copies of Form FB-5. Special attention should be given to the Justification Section.
 - 2.) A completed Budget Adjustment Form, if necessary, to allocate funds to the proper index code.
 - 3.) A copy of the approved FB-5 for an item included in the Annual Budget and for which the proposed item is to be substituted, if this means of financing is recommended by the department.
 - 4.) A memorandum explaining any other means of financing which may be proposed.
- b. Upon approval, the requisition will be forwarded to the Purchasing Department for further processing, in accordance with the established purchasing procedures.
- c. In the event the request for unbudgeted capital outlay is disapproved by the Budget and Research Department, the Purchase Requisition will be returned to the originating department with an explanation of the disapproval.


S. Marcus Jahns, Director
Budget & Research Department


Thomas E. Huebner
City Manager

LOCAL GOVERNMENT CODE

TITLE 4. FINANCES

SUBTITLE A. MUNICIPAL FINANCES

CHAPTER 102. MUNICIPAL BUDGET

Sec. 102.001. BUDGET OFFICER. (a) The mayor of a municipality serves as the budget officer for the governing body of the municipality except as provided by Subsection (b).

(b) If the municipality has the city manager form of government, the city manager serves as the budget officer.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 102.002. ANNUAL BUDGET REQUIRED. The budget officer shall prepare each year a municipal budget to cover the proposed expenditures of the municipal government for the succeeding year.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 102.004. INFORMATION FURNISHED BY MUNICIPAL OFFICERS AND BOARDS. In preparing the budget, the budget officer may require any municipal officer or board to furnish information necessary for the budget officer to properly prepare the budget.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 102.006. PUBLIC HEARING ON PROPOSED BUDGET. (a) The governing body of a municipality shall hold a public hearing on the proposed budget. Any person may attend and may participate in the hearing.

Sec. 102.009. LEVY OF TAXES AND EXPENDITURE OF FUNDS UNDER BUDGET; EMERGENCY EXPENDITURE. (a) The governing body of the municipality may levy taxes only in accordance with the budget.

(b) After final approval of the budget, the governing body may spend municipal funds only in strict compliance with the budget, except in an emergency.

(c) The governing body may authorize an emergency expenditure as an amendment to the original budget only in a case of grave public necessity to meet an unusual and unforeseen condition that could not have been included in the original budget through the use of reasonably diligent thought and attention. If the governing body amends the original budget to meet an emergency, the governing body shall file a copy of its order or resolution amending the budget with the municipal clerk, and the clerk shall attach the copy to the original budget.

(d) After the adoption of the budget or a budget amendment, the budget officer shall provide for the filing of a true copy of the approved budget or amendment in the office of the county clerk of the county in which the municipality is located.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

LOCAL GOVERNMENT CODE

TITLE 8. ACQUISITION, SALE, OR LEASE OF PROPERTY

SUBTITLE A. MUNICIPAL ACQUISITION, SALE, OR LEASE OF PROPERTY

CHAPTER 252. PURCHASING AND CONTRACTING AUTHORITY OF
MUNICIPALITIES

SUBCHAPTER A. GENERAL PROVISIONS

SUBCHAPTER B. COMPETITIVE BIDDING OR COMPETITIVE PROPOSALS
REQUIRED

Sec. 252.021. COMPETITIVE REQUIREMENTS FOR
PURCHASES. (a) Before a municipality may enter into a contract
that requires an expenditure of more than \$50,000 from one or
more municipal funds, the municipality must:

- (1) comply with the procedure prescribed by this
subchapter and Subchapter C for competitive sealed bidding or
competitive sealed proposals;
- (2) use the reverse auction procedure, as defined by
Section 2155.062(d), Government Code, for purchasing; or
- (3) comply with a method described by Subchapter H or
J, Chapter 271.

Sec. 252.0215. COMPETITIVE BIDDING IN RELATION TO
HISTORICALLY UNDERUTILIZED BUSINESS. A municipality, in making
an expenditure of more than \$3,000 but less than \$50,000, shall
contact at least two historically underutilized businesses on a
rotating basis, based on information provided by the comptroller
pursuant to Chapter 2161, Government Code. If the list fails to
identify a historically underutilized business in the county in
which the municipality is situated, the municipality is exempt
from this section.

Added by Acts 1993, 73rd Leg., ch. 749, Sec. 3, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.18, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 115, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 434, Sec. 2, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 937, Sec. 1.100, eff. September 1, 2007.

S.B. No. 1765

AN ACT

relating to the authority of a municipality to enter into contracts without competitive bidding; making conforming changes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (a), Section 252.021, Local Government Code, is amended to read as follows:

(a) Before a municipality may enter into a contract that requires an expenditure of more than \$50,000 [~~\$25,000~~] from one or more municipal funds, the municipality must:

- (1) comply with the procedure prescribed by this subchapter and Subchapter C for competitive sealed bidding or competitive sealed proposals;
- (2) use the reverse auction procedure, as defined by Section 2155.062(d), Government Code, for purchasing; or
- (3) comply with a method described by Subchapter H, Chapter 271.

SECTION 2. Section 252.0215, Local Government Code, is amended to read as follows:

Sec. 252.0215. COMPETITIVE BIDDING IN RELATION TO HISTORICALLY UNDERUTILIZED BUSINESS. A municipality, in making an expenditure of more than \$3,000 but less than \$50,000 [~~\$25,000~~], shall contact at least two historically underutilized businesses on a rotating basis, based on information provided by the Texas Building and Procurement [~~General Services~~] Commission pursuant to Chapter 2161, Government Code. If the list fails to identify a historically underutilized business in the county in which the municipality is situated, the municipality is exempt from this section.

OMB CIRCULAR NO. A-87

COST PRINCIPLES FOR STATE, LOCAL AND INDIAN TRIBAL GOVERNMENTS

C. Basic Guidelines

1. Factors affecting allowability of costs. To be allowable under Federal awards, costs must meet the following general criteria:

a. Be necessary and reasonable for proper and efficient performance and administration of Federal awards.

e. Be consistent with policies, regulations, and procedures that apply uniformly to both Federal awards and other activities of the governmental unit.

j. Be adequately documented.

d. Where an accumulation of indirect costs will ultimately result in charges to a Federal award, a cost allocation plan will be required as described in Attachments C, D, and E.

2. Reasonable costs. A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. a. Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the governmental unit or the performance of the Federal award.

b. The restraints or requirements imposed by such factors as: sound business practices; arms length bargaining; Federal, State and other laws and regulations; and, terms and conditions of the Federal award.

c. Market prices for comparable goods or services.

d. Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the governmental unit, its employees, the public at large, and the Federal Government.

Virginia Quinn

From: Michael Armstrong
Sent: Tuesday, November 29, 2005 10:53 AM
To: Virginia Quinn
Subject: RE: Outcome of ITSD investigation

Virginia –

Thank you very much for the efforts of you and your staff in this matter.

As a relative newcomer, the existence of variable accounts came as a surprise to me. We will be working with staff and Management and budget to make sure ITSD is operated in a sound businesslike manner. This information will be useful to me as I consider what should be the appropriate methodology for funding IT activities in the City. I agree that our entire billing system is in disarray, and has been for some time. We are working to bring that under control, but I'm not sure that internal billing as it exists in ITSD provides much value for the City.

Thank you again.

Michael Armstrong

From: Virginia Quinn
Sent: Tuesday, November 29, 2005 10:29 AM
To: Peter Zanoni; Hugh Miller; Michael Armstrong
Subject: Outcome of ITSD investigation

Gentlemen:

As I previously communicated to Hugh Miller, we have concluded the investigation based on the allegations raised by Mr. John Foddrill. The case file is closed with the notation "lack of evidence/ unfounded." I wanted to close the loop with you, however, and communicate our findings on one particular area of concern.

As I discussed with you, we conducted a number of interviews with current and former employees concerning the telephone "variable" charge that was established approximately 25 years ago that has been a part of the ITSD budget process ever since. In the process, we uncovered information about the genesis of this charge, and discovered that it was initially well-meaning in nature as a "means to an end." It was apparently started years ago because departments used to be billed separately for their telephone services. The telephone company began complaining to City management because some department's telephone bills were delinquent or contested, and the management of City telephones was a nightmare. It was ultimately determined that ITSD would become the central point for telephone communications in the City; in return, as a way for ITSD to pay for telephone costs incurred across the City, ITSD instituted the "variable" because they didn't know how much the telephone costs would be in any given month.

However, over time, the "variable" underwent a transformation into the budget line item we know today. (There are actually four "variable" accounts, but the one most often relied upon (and the largest) is the telephone variable.) We established that the telephone "variable" has been used to pay for items completely unrelated to City telephones. Those things included: The ITSD trophy case, training for ITSD personnel, remodeling at ITSD, numerous department-specific purchases, and data equipment for the City network. If, during the course of the year, any single department incurred a large unbudgeted cost item, it was likely that the "variable" would be tapped so that the cost of this item could be spread across City departments. Because City departments were essentially powerless to protest the charge, the practice has continued. The largely unsupervised and unregulated billing of departments across the City under the guise of the telephone "variable" for the last 25 years has resulted in departments having been billed for an untold amount of goods and services from which their department received no benefit or for costs that rightfully *should* have been borne by ITSD.

No laws or written rules were violated in the administration of the telephone "variable" because there never were any; however, it appears clear that the business practices associated with the telephone "variable" were unsound and almost certainly contributed to a laissez-faire fiscal environment at ITSD. Predictably, Contract Services' recent audit of ITSD


showed significant billing problems.

From a budgetary standpoint, best practices suggest that we revisit this methodology for "variable" charging in favor of more acceptable (and clearer) practices. However, if management elects to keep the ITSD internal service funds and their associated variable charges, we recommend that written guidance be adopted to enforce a level of accountability that appears to be missing at this point in time.

*Virginia M. Quinn, Manager
Office of Municipal Integrity
800 Dolorosa, Suite 115
San Antonio, TX 78207
(210) 207-7809*

COSA 01139

Issues

- Outages
- Variable Credibility 
- Processes and Controls
- Budget
- Billing and Acquisition
- Inward Focus

- The “Alligators”

01/20/06 - 5 

ITSD Planning Conference



I believe that a couple of Cingular Wireless (cell phone provider for COSA) invoices have been charged to the variable. In the past it wasn't unusual for Jose Medina to forward us 5-10 invoices a month for Integretel products/services. I'm not sure what Integretel provides, but I'm pretty sure it's not voice communication products.

Last summer I was instructed by Jose Medina to bill a large invoice to the variable for goods/services that I was later told was related to the City network. I was instructed to spread the purchase out over the last four months of the fiscal year, in increments of \$70,000.00 to \$77,000.00. I know the total was over \$300,000.00.

She identified Jose Medina as the person who decides what gets billed to the telephone variable.

Interview of Victor Perez

On September 14, 2005, I interviewed ITSD Assistant Information Services Manager Victor Perez. Mr. Perez is in charge of the radio shop at ITSD and told me that Mr. Foddrill came to him months ago saying that Mr. Medina had threatened him. Mr. Perez said that he listened to Mr. Foddrill, but that he didn't see Jose as the kind of person given to issuing threats. Mr. Perez said that Mr. Foddrill frequently comes to his office and vents. He told me that if Mr. Foddrill spent as much time working as he did complaining he'd get more done. He said that Mr. Foddrill keeps going over and over the same stories.

Interview of Michael W. Canion

On September 16, 2005, I interviewed ITSD Equipment and Facilities Manager Michael W. Canion. He told me that the relationship between Mr. Foddrill and Mr. Medina is strained. He said that Mr. Foddrill told him a few months ago that Mr. Medina had threatened him.

Interview of Robert Hammond

On September 16, 2005, I conducted a telephone interview with Office of Management & budget Analyst Robert Hammond. Mr. Hammond was the analyst assigned to assist ITSD in the preparation of their FY 06 budget. He said he worked closely with ITSD all summer, but even after all the contact and repeated inquiries he still did not have a clear understanding of how the variable(s) worked. He confirmed that ITSD is principally funded via an Internal Service Fund which is the vehicle for charging back to departments for IT services. As part of their Internal Service Fund there are actually 4 variables:

- Telecom (the largest at a FY06 projected total of 5.2 million)
- Pagers (less than a million in FY06)
- Cellular (less than a million in FY06)
- Wireless (less than a million)

He no idea how the variable(s) started, if there were policies & procedures governing them, and who had ultimate authority to set them.

Interview of Carlos Villalobos

On September 19, 2005, I interviewed ITSD Senior Management Analyst Carlos Villalobos. Mr. Villalobos' primary duties involve processing data invoices for payment, but he also supports Ms. Anguiano and Ms. Moore on telephone billing issues. The only relevant information shared by Mr. Villalobos was his description of Mr. Foddrill and Mr. Medina's relationship as, "very strained." He also told me that Mr. Foddrill told him a couple of months ago that Mr. Medina had threatened him.

Telephone Interview of Joyce Garcia

On September 19, 2005, I conducted a telephone interview of former ITSD employee Joyce Garcia. Ms. Garcia retired from City service on February 26, 2002, after over twenty years of service, much of which was spent working in ITSD telephone billing. She told me she had long-term conflicts with Jose Medina over ITSD billing practices, and repeatedly questioned her immediate supervisor Jerry Galindo about those practices. She said that Mr. Galindo would tell her to process the invoices and bill them to the telephone variable as Mr. Medina directed. ✓

Ms. Garcia told me she believed the variable started within the Finance department, and advised me to speak with City employee Tom Schmidt.

Interview of Jerry Galindo

On September 21, 2005, I met with former ITSD Telecommunications Manager Jerry Galindo at his place of business, River City Christian School. Mr. Galindo left the City in the summer of 2003. He held the position currently occupied by Mr. Foddrill. He told me that he had a good relationship with Mr. Medina. He said that Mr. Medina was extremely customer oriented, and sometimes made work commitments that challenged his team to accomplish. ✓

Mr. Galindo admitted there was a gray area where things might have been charged to the telephone variable that should have been charged to individual departments. He said there was a time when the telephone variable got very high and the City departments were complaining. He was personally involved in cutting the variable in half at that time. He stated that they made the cuts by charging individual departments for services previously charged the variable.

Interview of Thomas Schmidt

On September 21, 2005, I interviewed ITSD Senior ERM Project Specialist Thomas Schmidt. Mr. Schmidt has worked for the City for thirty years and identified himself as one of the people directly involved in the creation of the telephone variable. The following quote is from his sworn statement:

Yes, I was personally involved in designing the database that started the telephone charge-back that included the Variable approximately twenty-five years ago. At that time Southwestern Bell (SWB, now SBC) was billing individual departments for phones. This created problems because some departments weren't paying their bills in a timely manner. I

was general ledger supervisor working City Finance department at that time. The decision was made within the Finance department to have the City IT department receive and reconcile all the departmental phone bills. They would pay the phone company directly and then generate a billing summary for the individual departments, who would be charged-back for their specific phone costs. As part of that process a Variable charge was added to each phone line as a way to pay the overhead operational costs that could not be assigned to each phone. That overhead included personnel costs, and the cost of equipment (lines, switches, etc.) that were used by all departments and hence couldn't be fairly charged to a single department.

Mr. Schmidt told me that the decision to handle phone billing by an internal service fund (including the variable) was arrived at within the Finance department. He also said that there were never any policies/procedures or any written documentation of any kind that pertained to the administration of the variable. ✓

Interview of Michael Garcia

On September 22, 2005, I interviewed ITSD Fiscal Planning Manager Michael Garcia. Mr. Garcia told me he had no contact with Cisco representatives, and denied hearing rumors about Cisco.

He told me that he was "uncomfortable" with aspects of the variable(s), but was more concerned about the enormity of the telephone billing task, and the lack of personnel resources to cope with it. ✓

Interview of Peter Zanoni

On September 26, 2005, Virginia Quinn and I interviewed Management & Budget Director Peter Zanoni in his office. He expressed concern about the variable(s), especially the ADP variable, which use to fund reports out of Famous and now seems to be underwriting SAP.

Mr. Zanoni told us that of all the departments his office works with ITSD was the most difficult. This was a sentiment that he repeated several times. He acknowledged that there is no strict accountability of the ITSD internal service fund. He also said that during the recent budget process ITSD kept changing their revenue projections; to such an extent that he didn't have much confidence in their numbers. ✓

Mr. Zanoni told us that a few years ago the City contracted with a consultant company called Maximus to analyze ITSD's telecom billing practices, etc. Maximus made a number of useful recommendations to tighten up the unregulated billing practices. It appears that none of them were followed.

COSA 01124

Interview of Jose Medina

On September 27, 2005, I interviewed ITSD Information Services Manager Jose Medina. Mr. Medina believed he has a good business relationship with John Foddrill. He recalled Mr. Foddrill

Yes, Mr. Miller directed this. I know for a fact that requested network purchases from Nortel have been put on hold; presumably because we are heading in a different strategic direction.

On the issue of the telephone variable Mr. Medina told me that the telephone variable is the means to charge out common fees that are not chargeable to individual departments. Switches, T1 lines, voice-mail, com-links and a data link to SBC are all charged to the telephone variable. He identified himself as the person who decides what gets charged to the telephone variable. When asked if he had ever charged things to the telephone variable that didn't have anything to do with telephones he said yes and provided the following examples:

- ITSD construction and remodeling.
- The department trophy case.
- Budgeted training for ITSD personnel.
- Network data hardware. He admitted that in 2004 he charged approximately \$300,000.00 in data hardware for ERM to the telephone variable, although he was pretty sure ERM paid a portion of that (approximately \$57,000.00).
- The 311 Call Center upgrade to CTI (Computer Telephony Interface) was charged to the telephone variable because they did not have the money in their budget to pay for that.
- The cost of relocating a Department of Community Initiatives switch box was also charged to the telephone variable.

He admitted to calling Deborah Almendarez at SAPD and asking her for funds to cover the purchase of Caswin equipment/ software, but said that Caswin directly benefited SAPD in helping them account for their 911 calls. He said SAPD authorized ITSD to expense it to their account, although he couldn't recall if they ever made the actual upgrade. He denied ever trading favors with departments by expensing departmental purchases against the telephone variable in return for favors later.

Consultation with Contract Services Manager Deborah Segovia

On September 28, 2005, I called Contracting Services and spoke with Contract Manager Deborah Segovia. Deborah confirmed to me that the ITSD contract with Avaya and Nortel were executed under the State's Department of Information Resources (DIR) contract, which means that an RFP did not need to be issued in order to execute a contract with them. The same is true for Cisco. Although Cisco is not listed on the State DIR there is a company listed (Avnet) who is a Cisco reseller. ITSD would not be required to issue an RFP for VOiP or any other service they wanted to contract for under the DIR. In effect, the State has already done the RFP. All that ITSD would be required to do is coordinate with Purchasing and present an ordinance and contract to Council for review and approval.

COSA 01126

Interview with Hugh Miller


On October 6, 2005, OMI Manager Virginia Quinn and I interviewed ITSD Acting Director Hugh Miller. Mr. Miller was well versed in the recent history between John Foddrill and Jose Medina.

categorically denied the allegation, and none of the other people interviewed in this case testified that they were so advised by Mr. Medina.

The allegation that ITSD Acting Director Hugh Miller showed favoritism toward Cisco Systems is not founded. The evidence shows that after Mr. Miller assumed control of ITSD Cisco was given considerable access to ITSD leadership and functional experts, to include weekly on-site meetings and scouting City locations for a Cisco test roll-out. Mr. Miller denied any pending move to Cisco, stating that such a move would cost millions of dollars that are not included in the FY 06 ITSD budget. He didn't rule out such a move in the future, but admitted that the process would be financially daunting. Mr. Miller said his direction to his managers to curtail buying equipment on the existing telecom contracts was not for the purpose of moving to Cisco, but rather because of uncertainty about funding at the end of the fiscal year. It should be noted that under the State law governmental entities can contract directly with approved vendors without issuing an RFP. Cisco is not an approved company, but a company called Avnet is approved as a Cisco re-seller. There is no evidence that any rules or laws were broken in the meetings with Cisco; however, the appearance of favoritism did appear to exist in the minds of many key ITSD employees. Mr. Miller may need to reevaluate internal departmental communication protocols to ensure his team is better informed about their strategic plans.

Area of Concern:

Pursuant to this investigation I uncovered information about how ITSD pays for shared telephone costs across the City, and how that money was sometimes used by ITSD to pay for things completely unrelated to City phones. The telephone variable charge was established twenty-five years ago to pay for telephone equipment and services that were shared by departments and hence couldn't be fairly billed to any single department. The intent was clear; department specific telephone costs were to be born by the department. In the absence of policy or oversight the telephone variable became a means for ITSD to balance its own books internally. Over the years goods and services were billed to the telephone variable (and hence paid for by City departments) that had nothing to do with shared phone costs. Those things included: The ITSD trophy case, training for ITSD personnel, remodeling at ITSD, numerous department specific purchases, and data equipment for the City network. The unsupervised and unregulated billing of departments under the guise of the telephone variable for the last twenty-five years has likely resulted in them being billed for millions of dollars of goods and services that should have been budgeted and paid for by ITSD. No laws or written rules were violated in the administration of the telephone variable because there never were any; however, it is clear that the business practices associated with the telephone variable are not sound and have contributed to a laissez-faire fiscal environment at ITSD. Contract Services recent audit of ITSD showed significant billing problems. The motivation to assure careful internal contract billing processes is compromised by the ability to tap a bottomless pit of money via the variable(s) and at the end of the day pass the costs along to City departments.



Management should give careful thought to continuing the business practices tied to the variable(s). One solution would be to scuttle the whole concept of departmental charge-backs and put all of ITSD's operating costs into the General Fund. This would require ITSD to budget

COSA 01128

<p>“Billing problems” See Doc 9, 19, 20</p>	\$ unknown
<p>“more than 50 times” <u>“Used to do this a lot”</u> See Doc 1</p>	\$ unknown
<p>“hundreds of thousands of dollars” See Doc 2</p>	\$ unknown
<p>“billed construction and remodeling at ITSD” See Doc 13</p>	\$ unknown
<p>“trophy case”, “IT training”, “data hardware”, “individual department telecom purchases” See Doc 13</p>	\$ unknown
<p>“311 CTF”, “DCI switch relocate” See Doc 14</p>	\$ unknown
<p>“CasWin equipment/software” See Doc 14</p>	\$ unknown
<p>SAPD funding “what happened” “\$30,000” See Doc 16</p>	\$ unknown
<p>“Joyce Garcia (Administrative Assistant II, who used to report directly to Jose) told me that she quit her job because Jose asked her to do something illegal as it pertained to billing.” See Doc 16</p>	\$ unknown
<p>Variable has been pretty stable; in the \$25 range, but I know in the past <u>It could get pretty high.</u> See Doc 3</p>	\$ unknown
<p>“there are other circuits---charged to the variable” See Doc 4</p>	\$ unknown
<p>Integritel Invoices for cabling 09-05 account, <u>“began “four or five years ago”</u> See Doc 18</p>	\$ unknown
<p>Integritel Invoices - “wasn’t unusual for Jose Medina To forward us <u>5-10 invoices a month</u> for Integritel/products/services – I’m pretty sure it’s not voice communications products” See Doc 6</p>	\$ unknown
<p>“couple of Cingular Wireless (cell phone provider for COSA) invoices have been charged to the variable” See Doc 6</p>	\$ unknown
<p>Padded invoices “rental fee”, “\$183 month/consultant” See exhibit 2a</p>	\$ unknown

3. I am requesting a copy of any invoice, record, billing document, request for assistance, email, phone log, etc. pertaining to any extra personnel used at the time of the event for the purpose of providing extra security.

In response to this request, please find enclosed a copy of the invoice for security costs.

09-0486

In ORR 09-0486, you stated:

Your letter of April 10, 2009 states that there are no records responsive to my request. I want to be certain that I understand your response.

You are stating that there are no reference materials, emails, letters, notes, phone logs, colanders, invoices, spreadsheets, publications, records, meeting notes, etc. relating to their investigation into the legality of the "telephone variable".

May I ask for anything that they looked at when they determined that the "telephone variable" was legal? May I ask for anything they used to make the determination that the "telephone variable" was legal?

I am requesting anything that Varn or Anguiano looked at, examined, reviewed, studied, etc. when they determined that the "telephone variable" was legal as they related in public.

As stated in ORR 09-0364, staff members advised that there are no records responsive to your request. In response to your current request, ORR 09-0486, staff has still located no records responsive to your request. ✓

ORR 09-0487

In ORR 09-0487, you requested:

I am requesting documents pertaining to the "telephone variable".

Every month over the past decades ITSD would place numerous invoices, bills, etc. into a pool and then divide the total cost across all city telephones in the form of a surcharge commonly called the "variable". This was a monthly charge of a minimum of \$25 and an unknown maximum that was collected from every city department depending on the number of phones each department "owned". This charge was applied to all city phones including grant funded phones.

I am requesting documents for the time period of August 2004 to August 2005. I am requesting copies of the following documents for each of the months listed:

1. Copy of the face sheet or spreadsheet detailing the month's total invoices, bills, etc.

82

Bexar County Sheriff's Office
West Patrol



Rey Jr Ramirez
Badge # 272
Patrolman



Case # 2009-081395

Central Office
200 N. Comal
San Antonio, TX 78207
Dispatch(210) 335-6000

San Antonio Police Department

9.0471467

M. Ramos
#1097

214 W. Nueva
San Antonio, Texas

207-7484
78207

John E. Foddrill, Sr.

9650 Limestone Pond San Antonio, TX 78254
210-824-3502 foddrill@swbell.net

12-30-2009

William McManus, Police Chief SAPD
City of San Antonio
P. O. Box 839966
San Antonio, Tx 78283

Office of the City Clerk
Attn: info for City Council, Mayor, CM, McAnus
City of San Antonio
P. O. Box 839966
San Antonio, Tx 78283

Sheriff Ortiz
Bexar County Sheriffs Office
200 North Comal
San Antonio, Tx 78207

District Attorney Susan Reed
Cadena-Reeves Justice Center
300 Dolorosa Fifth Floor
San Antonio, Tx 78205-3030

BCSD Case # 2009-081395/ Rey Jr. Ramirez badge # 272 closed no action per Detective Layman 12/28/2009
SAPD Case # 9 0471467 / M Ramos # 1097 (notes on report - "misfiled" "no further police action was needed")

Since July 1, 2009 I have sent numerous requests every few weeks for an update to the above listed case #s yet you **continue** to ignore me. Two separate police reports reporting violations of law were closed with no action, no one contacting me, no one examining the evidence/proof of have of crimes, etc. You are using the power of your offices to cover up criminal activity within our city/county governments. Your deliberate indifference is criminal.

I filed police reports outlining numerous violations of law by city employees/attorneys. To date no one has followed up on my reports and they were closed without anyone contacting me. City employees for the last 27 years "misappropriated" tens of millions of dollars, committed grant fraud/contract fraud, falsified official records/audits and in February 2009 committed perjury, subornation of perjury and obstruction to hide their crimes. The theft of telecommunications budget funding hindered my ability to perform my duties and crippled the repair of city telecom and E911 systems. Lives were put at risk. CIO Varn's 2007 deposition, AD 6.12, OMB circular A-87 and other documents prove Varn and others lied under oath and you still look away. Your deliberate indifference and use of the "color or the law" to hide the crimes only compounds the lawlessness. You are protecting criminals within our government.

I continue to request a written explanation concerning the **Criminal trespass warning letter** hand delivered to my home on July 1, 2009. On Dec. 17, 2009 I sent a certified letter asking that the ban be lifted so that I might attend City Council Meetings but as of yet you ignore this letter also. Why won't you respond to my letters? What did I do wrong? How long am I barred from participating in my Constitutionally guaranteed right to address my elected officials in person and in a public forum?

You continue to violate my Civil/Constitutional rights. You ignore my requests for information/updates and for action on my reports of criminal activity that has harmed me and has harmed other citizens. This illegal and unconstitutional behavior must end. Our citizens will be forced to pay the price for your arrogance which is totally unjust.

John E. Foddrill Sr. Former Telecommunications manager COSA

COMPLAINT AFFIDAVIT

STATE OF Texas

COUNTY OF Bexar

Before me, the undersigned authority in and for the State of Texas, on this day personally appeared John E. Foddrill Sr., who, after being by me duly sworn, deposed and said:

My name is John E. Foddrill Sr.. I am of sound mind, 18 years of age or older, and competent to give this affidavit.

I am reporting violations of law including but not limited to perjury, subornation of perjury, obstruction, presentation of a fraud upon the court, grant fraud, fraud, falsification of government documents/audits, misappropriation of funds, deprivation of honest services, mail fraud, wire fraud, conspiracy and other crimes. The criminal activity violated Municipal, State and Federal Law/Rules/Ordinances. The criminal activity affected Municipal, State and Federal funds.

Most of the people I am reporting are City of San Antonio employees. The persons I am reporting are:

Texas Ranger Captain Hank Whitman 6502 S. New Braunfels San Antonio, TX 78223 (210) 531-4340

Chief Information Officer Richard Varn 515 S. Frio, San Antonio, TX 78207 (210) 207 8301

IT Director Hugh Miller 515 S. Frio, San Antonio, TX 78207 (210) 207 8301

IT Manager Deborah Segovia 515 S. Frio, San Antonio, TX 78207 (210) 207 8301

IT Manager Diana Gonzalez 515 S. Frio, San Antonio, TX 78207 (210) 207 8301

Human Resources Representative Kelly Gray 515 S. Frio, San Antonio, TX 78207 (210) 207 8301

ITSD employee Barbara Moore 515 S. Frio, San Antonio, TX 78207 (210) 207 8301

ITSD employee Aida Anguiano 515 S. Frio, San Antonio, TX 78207 (210) 207 8301

HR employee Steve Harrison 111 Plaza de Armas San Antonio, Texas 78205 (210) 207-8705

Virginia Quinn former Municipal Integrity Manager 1302 Midnight Drive San Antonio, TX 78258
(210) 481 1581

City Attorney Deborah Klein
(210) 207-8940

City Hall, Third Floor 100 South Flores San Antonio, TX 78205

City Attorney/ outside counsel attorney Mark Kosanovich
Antonio, TX 78205 (210) 207-8940

City Hall, Third Floor 100 South Flores San

City Attorney John Danner
(210) 207-8940

City Hall, Third Floor 100 South Flores San Antonio, TX 78205

I wish to report that the persons listed above except for John Danner committed perjury and subornation of perjury during the trial of Foddrill v. City of San Antonio No. 2006 CI 06702 during the month of February 2009 in the City of San Antonio, Texas. These persons conspired to present false evidence and testimony to the court. Many of these persons made false statements to the court in an effort to keep criminal activity secret. Many of the persons committed additional violations of law or conspired with others to keep these violations of law a secret.


I wish to report that City Attorney John Danner violated open records statutes, provided false statements and conspired to keep secret violations of law including State/Federal grant fraud, falsification of government records especially time reports, illegal purchases, fraudulent invoices submitted for payment, workplace violence, fraudulent audits, fraudulent investigative reports and other crimes.

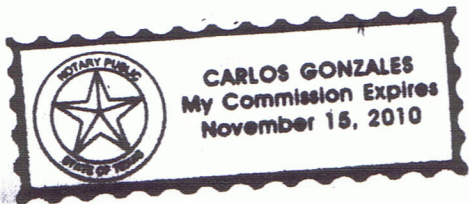
Along with this affidavit I am submitting documents (package 1-3) outlining some of the criminal acts committed by Klein, Varn, Miller and others. Additional documents, recordings, statements, etc. outlining the many violations of law have been delivered to Bexar County District Judge Antonia Arteaga, City Council members, Mayor Castro, Chief McManus and many others. I wish to deliver additional documents, recordings, sworn statements, etc. I am available at any time to be interviewed or to take a polygraph test as I am being truthful and have nothing to hide. I only ask that witnesses are present for any meetings and that a recording be made of any such meetings as statements made during past meetings with law enforcement have been falsely denied under oath.

Signed -----



SUBSCRIBED AND SWORN TO BEFORE ME on the 23rd day of JUNE 2009 to certify which witness my hand and official seal.

 Signature
Carlos GONZALES printed name



Notary Public in and for the State of Texas

My commission expires:
11-15-10 Date

City of San Antonio Police Department

William P. McManus

Chief of Police



An Organization of Value-Oriented People

Reflective of our Diversity

Dedicated to Serving the Community

With Integrity, Honor, and Fairness

That All May Know Justice, Equality

And Freedom Under the Law

July 1, 2009

John E. Foddrill
9650 Limestone Pond
San Antonio, Texas 78254

RE: Criminal Trespass Warning

Dear Mr. Foddrill:

We are writing on behalf of the City of San Antonio. You are hereby placed on notice that, effective immediately, you are not to enter or remain on certain City-owned or City-leased properties and buildings. This notice is made pursuant to Section 30.05 (Criminal Trespass) of the Texas Penal Code.

You are prohibited from entering or remaining in San Antonio City Hall. San Antonio City Hall is located at 100 Military Plaza in San Antonio, Texas.

You are prohibited from entering or remaining in the Municipal Plaza Building. The Municipal Plaza Building is located at 114 W. Commerce in San Antonio, Texas.

You are prohibited from entering or remaining in that portion of the Public Safety Building occupied by the Information Technology Services Department. The Public Safety Building is located at 515 S. Frio in San Antonio, Texas.

You are prohibited from entering or remaining in that portion of the Riverview Towers Building that is occupied by offices of the City of San Antonio. The Riverview Towers Building is located at 111 Soledad in San Antonio, Texas.

These prohibitions shall remain in effect until you are notified, in writing, by someone with authority to act on behalf of the City of San Antonio that these prohibitions have been lifted.

Sincerely,

William P. McManus
Chief of Police

Michael D. Bernard
City Attorney

copy

THE WHITE HOUSE
WASHINGTON

November 17, 2009

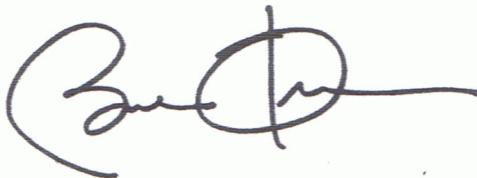
Dear Friend:

Thank you for sending me materials to review. I appreciate hearing from you.

I am encouraged by the outpouring of messages and suggestions from Americans across the country. Some comments are supportive, others are critical, but all reflect the desire of Americans to participate in a dialogue about our common concerns and challenges. To learn more about my Administration's agenda, please visit: www.WhiteHouse.gov.

Thank you again for contacting me and for your continued participation.

Sincerely,

A handwritten signature in black ink, appearing to be Barack Obama's signature, consisting of a large 'B' followed by a stylized 'O' and a horizontal line extending to the right.

City of San Antonio

Information Technology Services Department

February 2005



John E. Foddrill Sr.
Telecommunications Manager

John Foddrill is the February Employee of the Month. John's positive attitude and his work ethic led to his receiving this honor after only 6 months with ITSD. He "enjoys fixing things" and "likes to work", traits that are quickly obvious after just a few minutes of conversation. His enthusiasm seems to be contagious as he listens to his team members and works with them to solve problems.

One of John's current projects is a five year plan for the City's telecommunication services. "We have lots of opportunities to consolidate services at larger sites and then reuse the equipment in smaller-use facilities. Sharing conduit and even sharing the network with voice-over-ip will provide more infrastructure savings in years to come. Our first step is a complete audit of what services we supply and where."

John comes in early and stays late, but still has time to cook with his wife on the weekends, much to the delight of those who were able to sample the Valentine goodies he shared.

Thanks John for applying your considerable skills on our behalf.



The Employee of the Month is selected by the ITSD Management Team, based on recommendations from staff, on the fourth Thursday of each month. An Employee of the Month nominee should be a person who combines a good work ethic with departmental service. This person should be one who demonstrates a customer first attitude and goes "above and beyond" in all that they do for the organization. An employee cannot be selected for Employee of the Month more than one time per year.