



LACCD OFFICE OF THE  
**INSPECTOR GENERAL**  
INTEGRITY \* TRUST \* COMMUNICATION

***CONFIDENTIAL REPORT***

# **Investigation Report**

## *GST Master Procurement Agreements*

### *No. 40091 & 40098*



LACCD OFFICE OF THE  
**INSPECTOR GENERAL**

INTEGRITY • TRUST • COMMUNICATION

August 8, 2011

Chancellor Dr. Daniel J. LaVista  
Los Angeles Community College District  
770 Wilshire Blvd.  
Los Angeles, CA 90017

Chancellor LaVista,

This is the Office of Inspector General's Investigation Report on allegations of overpricing of items purchased from GST (Global Star Technology) Master Procurement Agreements.

The Office of Inspector General's investigation found that the software at the center of the investigation was significantly overpriced. Additionally, our office found ambiguities in BuildLACCD's procurement practices and irregularities in contract language.

I appreciate the courtesies and cooperation extended to us during this investigation.

Sincerely,

Christine Marez  
Inspector General  
Los Angeles Community College District

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## **EXECUTIVE SUMMARY**

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The Office of Inspector General (OIG) reviewed a whistleblower allegation regarding GST Master Agreement 40091 for Audio Visual Equipment and Master Agreement 40098 for Information Technology Equipment alleging that LACCD was paying more for equipment and software on Master Agreements than could be procured through a separate informal bid process.

Our investigation disclosed that:

- Software was purchased at 79% more than LACCD could procure the item if purchased directly from the manufacturer and not through GST, representing a \$13,000 markup.
- GST contracts 40091 and 40098 are Master Agreements but appear to have been treated as Catalog Agreements. Over 90 items were purchased that were not listed in the contracts.
- Four of the five contracts reviewed include inconsistencies and mistakes in the contract language regarding sales taxes.

The OIG recommends the performance of a review or audit of the Master Agreements related to the District's Bond Program, specifically to:

- Review Master and Catalog Agreement Processes.
- Review District Contracts for compliance to agreement type, i.e., Master Agreement, Catalog Agreement, Piggyback Contracts, Formal Contract, Informal Contracts, etc.
- Review the proper processing and financial cost to the District for non-compliance to Master Agreements.
- Review the process for changing contract "boiler plate" General Conditions.
- Review the effectiveness of Procurement as a centralized point of all purchases based on the size and experience of staff.

## **ALLEGATION**

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On December 8, 2010 an allegation was logged through the OIG's Whistleblower Hotline. The whistleblower (WB) reported that procurements purchased from GST (Global Star Technology) were priced significantly higher than the price at which they could be purchased directly from the manufacturer.

## **BACKGROUND**

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The whistleblower (WB) reported that software was priced significantly higher by GST than the manufacturer. The WB stated that LACCD was not getting appropriate value through the Master Agreements. The WB first reported this to LACCD and BuildLACCD in June 2010.

The WB complained that GST's pricing was "outrageous and unacceptable" and that LACCD was "being gouged" because of Master Agreements. The WB stated that they were led to believe that only existing Master Agreements could be used and only after the software was purchased, were they informed of an alternate bidding process (i.e., informal contracts). Additionally, the WB was told by BuildLACCD staff that GST's purchase price was higher than the manufacturer's price because it included shipping and taxes to GST's warehouse which the WB also later learned was untrue.

## **INVESTIGATION APPROACH**

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The purpose of this investigation was to determine whether the allegation regarding pricing was warranted and to determine if LACCD is indeed paying higher prices through Master Agreements. The OIG's scope for this report included examining:

- GST's open Master Agreements with a detailed review of GST's Master Agreement (MA) 40098 for Information Technology Equipment and GST's MA 40091 for Audio Visual Equipment. All contract documents related to the bidding and selection process for both of these Master Agreements were reviewed along with selected purchase orders and invoices.
- Price comparisons between GST and other vendors; and
- LACCD's General Conditions for Master Agreements.

In addition, the following BuildLACCD staff was interviewed:

- Werner Wolf, BuildLACCD, BuildLACCD Contracts Manager
- Paul Spear, BuildLACCD, Procurement Lead
- Denise Porter, BuildLACCD, Relocation Project Manager, Valley College

## FINDINGS

Software was purchased during the spring of 2010 at 79% more than LACCD could procure the item if purchased directly from the manufacturer. The total markup for the order was almost \$13,000 over the manufacturer's price and more than \$900 per unit (see Table 1).

Software	Per Unit	14 units
GST	\$2,067	\$28,938
Manufacturer	\$1,145	\$16,030
Markup	\$922	\$12,908

**Table 1**

A review of random price comparisons shows varying degrees of markup by GST. Only two showed that GST was slightly lower. Most were an average of 0 to 20% higher and GST's prices for Adobe and Kurzweil software were significantly higher as shown in Table 2. This sampling is not adequate to determine whether LACCD Master Agreements are more costly.

*Price Comparisons - Randomly Selected*

	Price	Difference	Quantity	P.O.
<b>Kurzweil 3000</b>				
GST	\$2,067		14	40098-V004
Cambium Learning	\$1,155	79%	1	
<b>Adobe Acrobat v.9.0 Professional</b>				
<i>Replaced by v. X</i>				
GST	\$381		2	40098-V004
Amazon.com (Big Guys)	\$288	32%	1	
<b>Physical Examination and Health Assessment DVD Series, Version 2 - Set of 1</b>				
GST	\$8,512		1	40091-V001
RAmEx Ars Medica	\$7,216	18%	1	
<b>Kurzweil 1000</b>				
GST	\$1,135		14	40098-V004
Cambium Learning	\$1,005	13%	1	
<b>Jaws Pro</b>				
GST	\$1,236		12	40098-V004
Freedom Scientific	\$1,095	13%	1	

	Price	Difference	Quantity	P.O.
<b>Emprint SpotDot</b>				
GST	\$7,772		1	40098-V004
Enable Mart	\$6,995	11%	1	
<b>Bundled RF Plain Tags 8.2 MHz &amp; Target Panels</b>				
GST	\$319		1	40091-V001
Vernon Library Supplies	\$296	8%	1	
<b>Adobe Photoshop CS4</b>				
GST	\$726		1	40098-V004
pcrush.com	\$683	6%	1	
<b>Canon PowerShot SX20 IS</b>				
GST	\$408			40091-V010
Amazon (ElectroBrands)	\$399	2%	1	
<b>Duxbury Braille Translator DBT 10.7</b>				
GST	\$595		2	40098-V004
Optimal Vision & Mobility	\$605	-2%	1	
<b>Dragon Naturally Speaking 10 Professional</b>				
Replaced by v. 11				
GST	\$220		14	40098-V004
Ebay	\$232	-5%	1	
<b>Canon PowerShot SX20 IS</b>				
GST	\$408			40091-V010
Amazon (ElectroBrands)	\$399	2%	1	

**Table 2**

In an interview with Werner Wolf, BuildLACCD Contracts Manager, he stated that BuildLACCD desires to use existing Master Agreements because it is an easier and shorter procurement process. He has received complaints regarding Master Agreements being more costly but believes there is a misunderstanding of the value of Master Agreements. The pricing in Master Agreements includes shipping, delivery, and setup, etc. For some items, the pricing also includes warranties. Mr. Wolf believes that District employees are well informed of the choices available for purchasing goods.

It is the finding of this report that the WB Source was not informed by Valley College Relocation Project Manager (RPM) Denise Porter of alternate bidding choices prior to the purchase. Both Paul Spear, Procurement Lead and Denise Porter confirm that Master Agreements are preferred to formal or informal contracts due to work load constraints and the six week lead time required to obtain Board approval.

### **Other Findings**

Language in the contract relating to sales tax based on General Conditions was changed without approval of General Counsel or Procurement.

During our investigation, we found discrepancies relating to sales taxes in the Master Agreements. In four of the five GST contracts reviewed, Section 4.1.2 of the Master Agreement, “All Inclusive Price” *excludes* sales taxes. Paul Spear confirmed that “All-Inclusive Price” *includes* sales taxes and that contracts that state sales taxes are *excluded* are mistakes. Only GST MA 40091 correctly *includes* sales taxes in Section 4.1.2. GST MA 40098, 40017, 40030, and 40068 contracts state that the “All Inclusive Price” *excludes* sales taxes.

Additional discrepancies were found when comparing Section 4.1.2 in the Master Agreement included in the Bidding Package to the same section in the final Master Agreement signed by the District and GST. As stated above, Section 4.1.2 in MA 40091 correctly *includes* sales taxes, however, the same section in the Master Agreement included in the Bidding Package *excludes* sales taxes. Regardless of whether Section 4.1.2 states that sales taxes are included or excluded, every invoice reviewed for all of the above-mentioned GST contracts *includes* sales taxes, consistent with the General Conditions and bidding instructions.

Werner Wolf referred the OIG to Paul Spear regarding any questions on specific contracts and contract procedures. As Procurement Lead, Mr. Spear said that he did not approve the changes to the contract language related to sales tax and that someone may have used an old contract. The OIG has learned that only the Legal Department can alter contract language. BuildLACCD has not conferred with General Counsel on these contracts and have not requested other changes to contracts or forms. Mr. Spear said that all invoices are checked prior to payment to ensure that the invoiced price, plus the sales tax, does not exceed the approved contract prices.

The use of term “Master Agreements” is ambiguous.

### **Master Agreement**

A Master Agreement is based on a list of items provided by the Builder User Group (BUG). The list may include categories or “series” of items from which additional items from the series can be purchased at a discount. The term “series” and its use are not defined anywhere in the bidding documents, vendor contracts, internal procedures, or the General Conditions. Werner Wolf and Denise Porter clearly defined a “series” in a Master Agreement as those items closely matching the specific line and brand of items in the Master Agreement. Example: same item, different color, or width, new model, etc. Paul Spear provided a much broader definition. Example: as long as one specific software was listed on an IT Master Agreement, any type or brand of software could then be purchased using that contract.



The broader interpretation of a “series” is one reason the specialized item (the focus of this investigation) managed to be purchased on a Master Agreement at a price nearly double than it could have been purchased through an informal contract.

### **Catalog Agreement**

A Catalog Agreement usually includes 10-50 benchmark items and a percentage discount for everything else in the vendor's catalog. Vendors have “online” catalogs. BuildLACCD does not have the ability to upload the catalog to capture pricing at the time of contract bid.

Master Agreements are the contracts of choice.

Due to limited staff and a six-week lead-time for items to be purchased through new contracts, it is clear that existing Master Agreements are Procurement’s choice of contract. Informal contracts, which allow for items under \$78,900 to be purchased with three (3) bids are processed the same as formal contracts, requiring Board Approval.

## **CONCLUSION AND RECOMMENDATIONS**

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Our investigation disclosed that:

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The OIG recommends the performance of an OIG review or audit of the overall use of Master Agreements related to the District’s Bond Program, specifically to:

- Review Master and Catalog Agreement Processes.
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- Review the effectiveness of Procurement as a centralized point of all purchases based on the size and experience of staff.

## **REPORT DISTRIBUTION**

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Chancellor Daniel J. LaVista  
Board of Trustees  
Tom Hall, Director of Facilities Planning & Development  
Camille Goulet, General Counsel  
Lloyd Silberstein, BuildLACCD Program Manager

## **EXHIBITS**

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**Exhibit A** – List of Documents Reviewed

## EXHIBIT A

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The following documents were reviewed relative to this investigation.

### **GST Master Agreement 40091**

- Bid Package
- Addendums #1 and #2 to the Bid Package
- Procurement Award
- Procurement Bid Results 11/09, 3/09
- Board of Trustees Report
- Master Agreement
- Master Agreement Amendment #1

#### 40091 Purchase Orders

40091-E001	40091-P002
40091-V001	40091-V003
40091-V007	40091-V008
40091-V004	40091-S003
40091-P001	40091-V006

#### 40091 Proposed Board Actions

40091-V010	40091-V011
40091-V009	40091-V008
40091-V006	40091-P001

#### 40091 Invoices

JAI102007 40091-V004	JAI101981 40091-V001
JAI101977A 40091-P002	JAI101977 40091-P002
JAI101911 40091-P001	JAI101863 40091-V003

### **GST Master Agreement 40098**

- Bid Package
- Addendums #1, #2, #3 to the Bid Package
- Procurement Bid Results
- Board of Trustees Report
- Master Agreement
- Master Agreement Amendment #1

#### 40098 Purchase Orders

40098-P007  
40098-P008  
40098-V003

40098 Proposed Board Actions

40098-V003  
40098-P008  
40098-P007

40098 Invoices

JAI102577 40098-P007	JAI102070 40098-P006
JAI101983 40098-P001	JAI101982 40098-P005
JAI101935 40098-V001	

**Other GST Master Agreements**

40017  
40001  
40030

**Tapias Brothers Master Agreement 40114 (Catalog Agreement)**

- Bid Package
- Procurement Award
- Board of Trustees Report
- Master Agreement

**Public Contract Code**

Section 12100-12113

**Board Rules on Contracting**

Sections: 7100.10  
7100:10:b  
7102:10  
7102:11