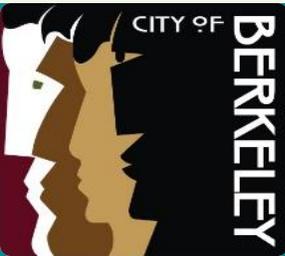


# City Contracts: Outdated Process Led to Non-Competitive Contracts

Berkeley City Council Meeting  
March 10, 2026



BERKELEY CITY AUDITOR



# City Contracts: Outdated Process Led to Non-Competitive Contracts

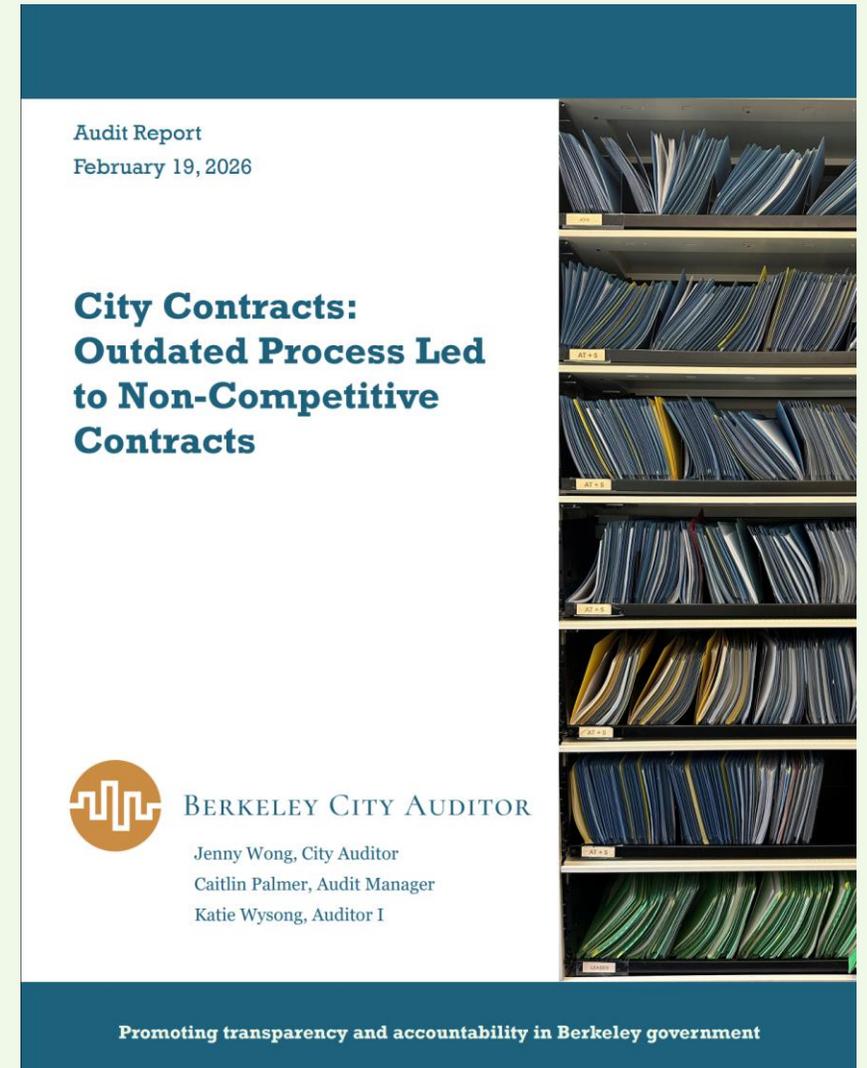
## Overview

- Why we did this audit
- Objectives
- Findings
- Recommendations
- Finance response



## Why we did this audit:

- Competition among vendors helps ensure that the City is getting the **best value** and **best fit** for the goods and services it purchases.
- Competition can also help curb fraud and increase fairness.
- Contract corruption cases in neighboring jurisdictions emphasize the importance of having open, competitive contracting processes.



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# Objectives, Scope, and Methodology:

## Objectives:

1. How does Berkeley use non-competitive contracts?
2. Why does Berkeley use non-competitive contracts when competition is possible?

## Audit Scope:

- Contracts executed FY 2024
- Samples of active contracts

## Methodology:

- Assessed over 300 contracts for competition type and meeting exception criteria.
- Documentation review
- Stakeholder interviews



# Competitive vs Non-Competitive Contracts

Berkeley executed **94** contracts in FY 2024 without documented competition...

94 non-competitive contracts



124 competitive contracts

...for a total value of **\$43 million**.

\$43 million in non-competitive contracts



\$102 million in competitive contracts



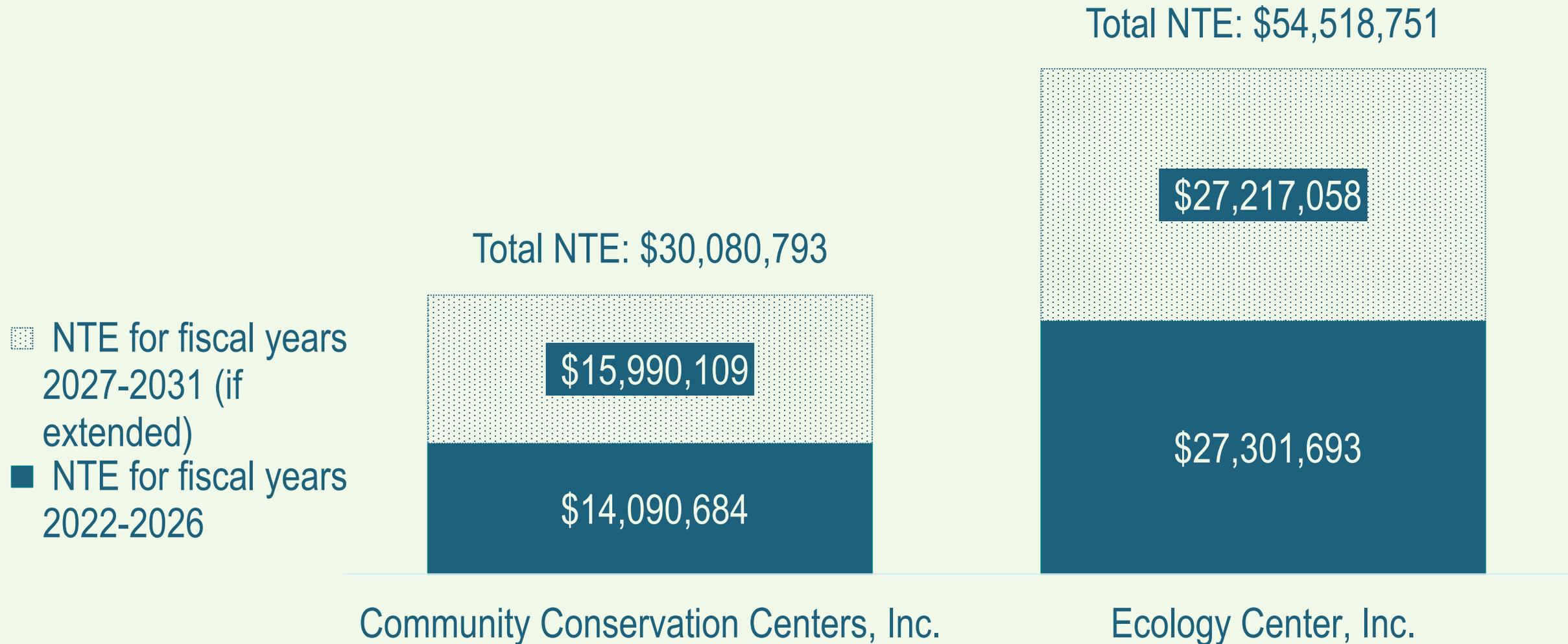
## What we found:

**Finding 1: Berkeley spent millions of dollars on noncompetitive contracts when competition was likely possible.**

Finding 2: Paper contracts, unclear guidance, and short staffing led to delays and overuse of noncompetitive contracts.



# The City authorized nearly \$85 million in recycling contracts over 10 years without competition.



# City management approved some waivers that did not meet the Purchasing Manual criteria.

The Purchasing Manual only allows sole or single source contracts when:



Only one viable source is found for the needed product or service.



Competition is found to be inadequate.



There is an emergency and it is impractical for the City to seek competitive bids.

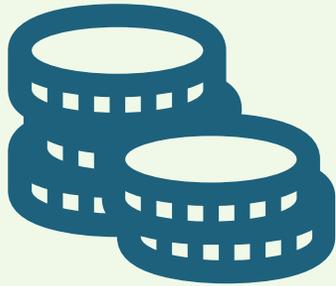


## Examples that likely did NOT meet the Purchasing Manual criteria

<b>Purchase</b>	<b>Department Rationale</b>	<b>Why Likely Ineligible</b>
<b>Classification &amp; Compensation Studies</b>	Cited a “dire situation” and the fact that “an informal or formal RFP process would be further detrimental” to addressing the situation.	There may have been an urgent need for these services, but there was no documented evidence that it was an emergency.
<b>Drug &amp; Alcohol Testing Services</b>	The previous contract expired over two years earlier.	Since the contract had already been expired for two years, the long timeframe indicates it was not an emergency.



# City Council authorized additional non-competitive contracts for community-based organizations.



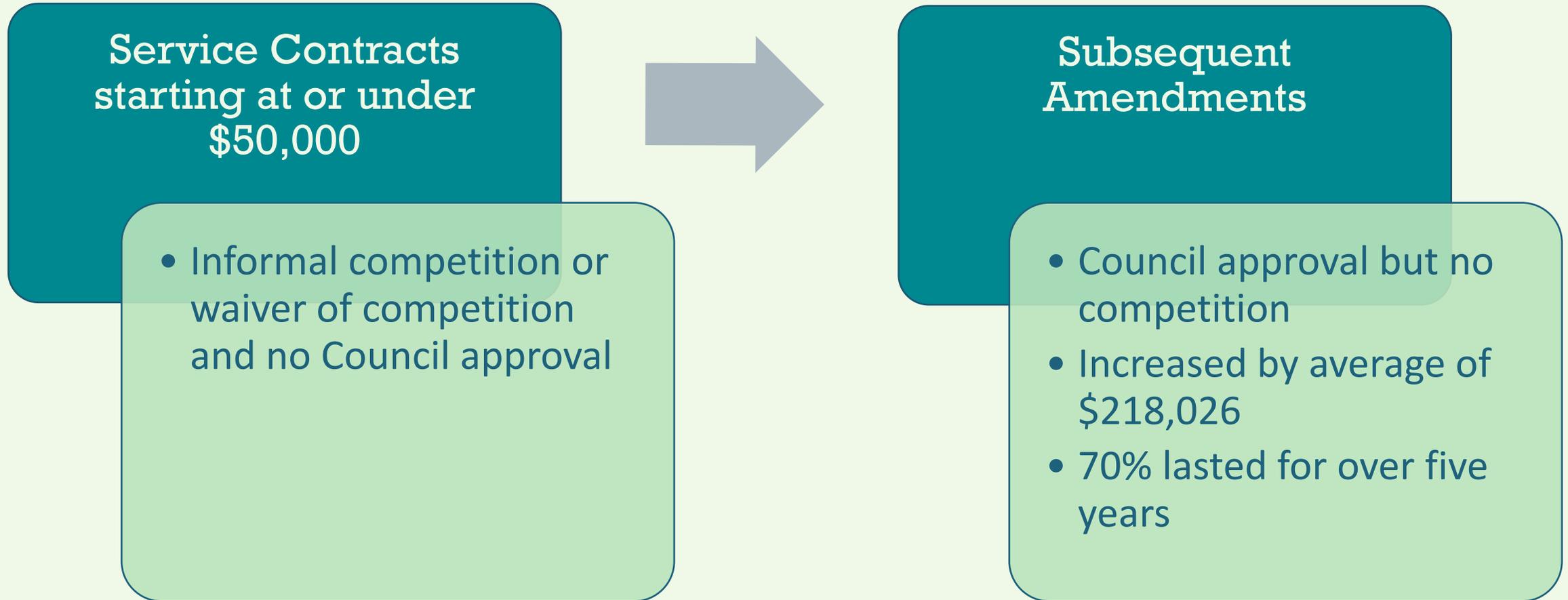
- In FY2024, we found three instances where City Council awarded new contracts totaling **\$417,400** to community-based organizations through budget referrals without any competition.



- Berkeley's process to ensure that contract decisions met ethical standards was **limited**.
  - But we found **no evidence of misconduct** in Berkeley during our audit



Contracts starting below the formal competition threshold were amended by an average of \$218,026 per contract without additional competition.



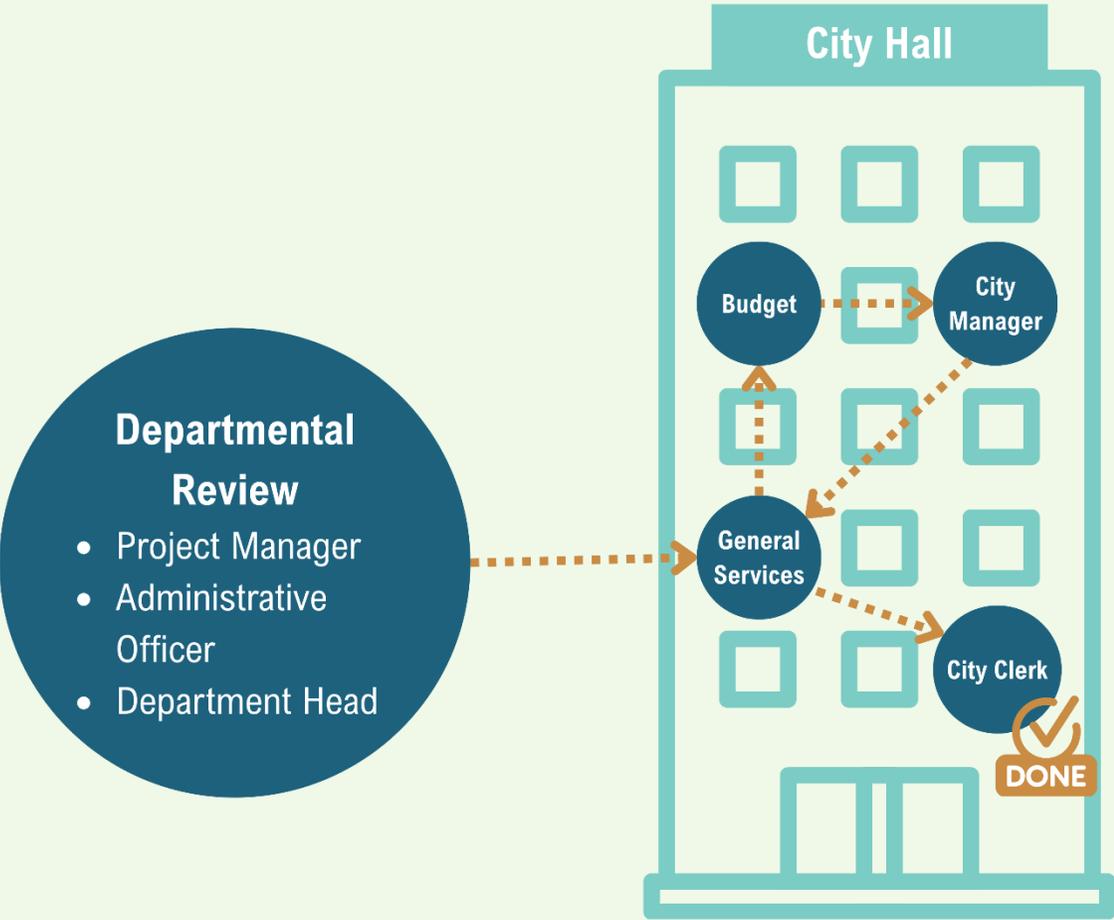
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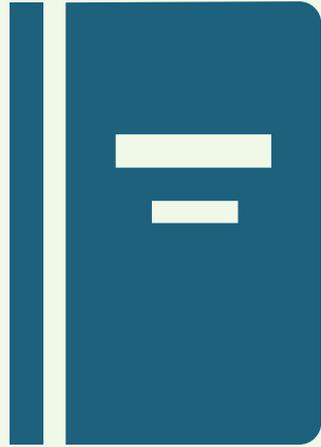
**Finding 2: Paper contracts, unclear guidance, and short staffing led to delays and overuse of noncompetitive contracts.**



# Berkeley used paper contracts that need to be hand-delivered between departments.



## The Purchasing Manual was missing key guidance and training for staff was limited.



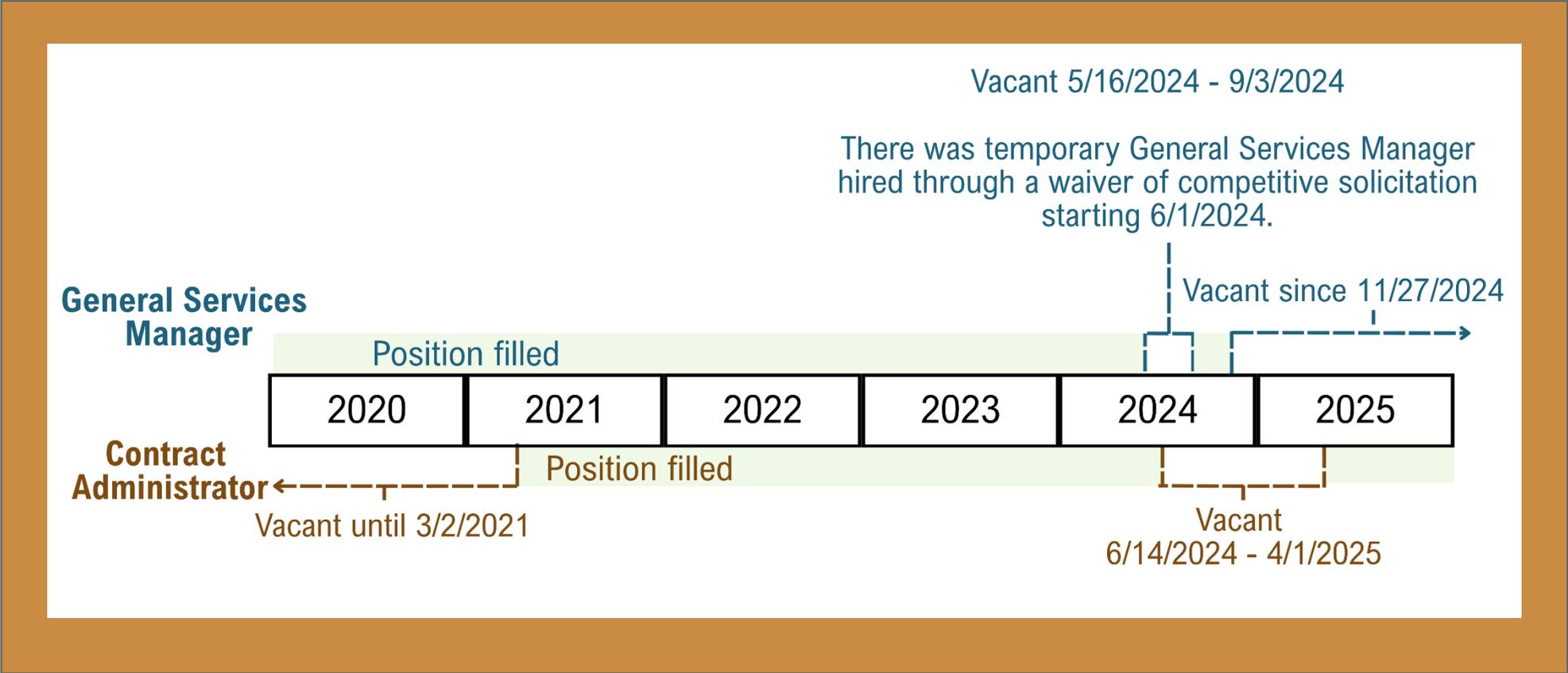
Berkeley's Purchasing Manual was missing sixteen of the minimum necessary parts of a procurement policy manual as defined industry best practices (NIGP).



Prior to May 2025, contract training was inconsistent.



# Short staffing and turnover made it more difficult to improve the contract process.



# Recommendations:

We recommend that the City:

- Add explicit competition requirements to the Berkeley Municipal Code for service contracts.
- Update the Purchasing Manual and contract forms for consistency and clarity, as well as expand training for staff.
- Adopt a comprehensive and integrated electronic contract management system, including tracking competition.
- Pursue open competition on the City's recycling contracts.



## Management Response

City management **agreed or partially agreed** to our findings, conclusions, and recommendations, and provided an action plan to address our recommendations.



*We would like to thank the Finance Department for their cooperation with this audit.*

*We would also like to thank City management, Public Works, the City Attorney's Office, and other City staff for their contributions to this audit.*

