

**Post-Audit Review 12-05:
Real Estate Leases**

August 2013

City Auditor

Stan Sewell, CPA, CGFM, CFE

Internal Auditor

Barry Teague CPA, CFE





OFFICE OF INTERNAL AUDIT

Stan Sewell, City Auditor

August 22, 2013

To: Mayor Andy Berke
City Council Members

Subject: Post-Audit Review of Real Estate Leases (Report #12-05)

Dear Mayor Berke and City Council Members:

Attached is a summary report on the status of audit recommendations in our 2012 Real Estate Leases audit released December 28, 2012. The purpose of this report is to confirm whether, and to what degree, management has implemented the recommendations made in the original audit.

The original audit concluded:

1. Recently prepared leases contain minimum standard language to provide for the City's best interest and proper approvals were obtained. Older leases lacked consistency with regard to some minimum protective language, such as late payment provisions or audit clauses. Further, all leases are not filed in Finance as the City Code requires;
2. All lessees do not comply with financial or special terms of leases;
3. Timely follow-up is not always performed on missed or late lease payments;
4. Processing of lease/rental payments are not always in compliance with the City's *Cash Collection Policy*.

The audit had 4 recommendations to improve efficiency and effectiveness of the leasing process as well as address internal control deficiencies observed in collections processes. At the time of this Post-Audit Review, two recommendations were implemented and two were not implemented. Recommendations not implemented are herein reported to the Audit Committee for follow-up, as appropriate.

This Post-Audit Review consisted principally of inquiries of City personnel and examinations of various supporting documentation. It was substantially less in scope than an audit in accordance with generally accepted government auditing standards. The evidence obtained provided a reasonable basis for our conclusions; however, had an audit been performed, other matters might have come to our attention that would have been reported to you and our conclusions may have been modified.

Sincerely,

Stan Sewell, CPA, CGFM, CFE
City Auditor

Attachment

cc: Travis McDonough, Chief of Staff
Andrew Kean, Chief Operating Officer
Audit Committee Members
Daisy Madison, Chief Financial Officer
Cary Bohannon, Director - General Services
Wade Hinton, City Attorney

RECOMMENDATIONS FULLY IMPLEMENTED (2)

Recommendation	Actions Taken
3 We recommended the Finance Department send an annual reminder to all departments that the original of all signed contracts and leases must be filed with the City Finance Office.	A reminder was e-mailed to all departments this month.
4 We recommended Finance/Treasury reinforce with employees who review incoming collection reports the need for all checks to have date stamps. We further recommend Finance/Treasury notify City department heads of staff that fail to follow policy.	Additional emphasis has been placed on ensuring all checks are date-stamped prior to arrival in the Treasury Department. Per Treasury personnel, all departments now have, and use, date-stamps. No deviations have been noted.

RECOMMENDATIONS NOT IMPLEMENTED (2)

Recommendation	Actions Taken
1 We recommended all responsibility for development and management of property leases within the City be moved to General Services by Executive Order or Ordinance. This department is currently charged with management of City property.	No ordinance or resolution has been passed by the City Council since our audit was published. No Executive Order has been issued since our audit was published. The new administration recently became aware of this recommendation and plans to centralize lease management in the General Services Division.
2 We recommended written policies be created and put in place clearly defining responsibilities in the leasing process. The policies and procedures should address, but not be limited to the following: <ul data-bbox="300 1472 773 1745" style="list-style-type: none">• Lease negotiation (with input from the affected department) with prospective lessees;• Interface with the City Attorney's Office on lease development and terminology;• Acquisition of approval for leases from Regional Planning Agency and City Council;	No written policies are in place to define roles and responsibilities related to development or ongoing management of leases. The new administration recently became aware of this recommendation and anticipates detail policies will be developed in conjunction with centralized management as noted above. The City Attorney has not provided a documented representation of the responsibility accepted and/or assurance provided when a legal review is performed. The new City Attorney is actively working to have a web page developed for the office. He is planning to include a disclaimer related to legal reviews on the Office's web page.

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Recommendation

- 2
- Ensuring the lease and Council Resolution have matching terms;
 - Cash receipts/collection reports;
 - Collection procedures (including monitoring and aging) for late payment/non-payment;
 - Work in conjunction with the City Attorney's Office when a breach of contract occurs;
 - Collecting data necessary to measure compliance with non-cash terms;
 - Request on a regular basis all lessees provide documentation to verify the accuracy of payments when the lease is not a set fee, and perform calculations to authenticate proper payments have been made;
 - Verification of required insurance coverage.

We also recommended the City Attorney provide a clear set of criteria for General Services to use when developing leases, as well as a clear representation of responsibility and assurances being provided by the City Attorney when legal reviews are conducted. Further, we recommended General Services and City Attorney offices work together to develop timelines and standard procedures to follow when lessees are out of compliance with contract payment terms.

Actions Taken

Although a clear set of criteria has not been developed, the City Attorney has created a standard property lease to be used as a basis for each property lease, requiring adjustment for specifics of each lease.

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