

**Performance Audit 19-04:
Bike Chattanooga Contract**

December 2019

City Auditor

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OFFICE OF INTERNAL AUDIT

Stan Sewell, City Auditor

December 18, 2019

To: Mayor Andy Berke
City Council Members

Subject: Bike Chattanooga Contract Audit (Report #19-04)

Dear Mayor Berke and City Council Members:

The attached report contains the results of our audit of the Department of Transportation (CDOT) Bike Chattanooga contract. Our audit found that CDOT was monitoring operations and usage of the bike program. However, we found the need to ensure contract terms related to promotions and staffing are enforced. In addition, we found the Purchasing Department failed to follow the required steps when procuring Bike Chattanooga management services and when purchasing equipment. In order to address the noted areas for improvement, we recommended actions to ensure contract terms are enforced, contract language be updated and proper purchasing procedures are followed.

We thank the management and staff of the CDOT, Shift Transit and Purchasing for their cooperation and assistance during this audit.

Sincerely,

Stan Sewell, CPA, CGFM, CFE
City Auditor

Attachment

cc: Audit Committee Members
Stacy Richardson, Chief of Staff
Maura Sullivan, Chief Operating Officer
Daisy Madison, Chief Financial Officer
Blythe Bailey, CDOT Administrator
Vickie Haley, Purchasing Director
Ben Taylor, Director of Transportation Operations
Jim Arnette, Tennessee Local Government Audit

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AUDIT PURPOSE

This audit was conducted in accordance with the Office of Internal Audit's 2019 Audit Agenda. The objectives of this audit were to determine if:

- CDOT is properly overseeing the Bike Chattanooga contract; and,
- The procurement process for the Bike Chattanooga contract was properly followed.

BACKGROUND

The City's bicycle transit program, Bike Chattanooga, has been in operation since July 2012. As of July 12, 2019, Bike Chattanooga program consists of 41 stations and 350 bikes. The bikes are available to rent for ages 16 and older. The program offers 24 hour, three day or annual subscriptions (pass). The pass allows unlimited 60 minute rides. Before the 60 minutes expires, the rider can dock the bike and unlock another to continue to ride without incurring overage charges until the end of the designated pass.

CDOT is charged with oversight of the program. In November 2017, the City contracted with Shift Transit (Shift) to manage the operations of the program.

Shift, the operations arm of PBSC Urban Solutions, is a full-service bike program operation providing comprehensive service and oversight of the system deployment, marketing and daily operations. They provide the software, hardware and certain equipment for the program. They serve thirteen bike share systems worldwide.

Shift's Chattanooga office employs two full time staff, the general manager and operations manager. In addition, two part time employees handle the rebalancing of bikes, perform field repairs and monthly maintenance inspections.

Financial Information

Exhibit 1: Bike Program Revenue by contract year

	Nov 2017 - Oct 2018	Nov 2018 - Oct 2019
Gross User Revenue	244,443	279,893
Sponsorship Revenue	10,000	0
Advertising Revenue	0	17,731
Other Revenue	38,776	31,915
Total Gross Revenues	\$ 293,219	\$ 329,539

Source: Shift Monthly Revenue Report Oct. 2019

Exhibit 2: Bike Program Ridership by contract year¹

	Casual	Member	Total
Nov 2017 to Oct 2018	39,941	13,783	53,724
Nov 2018 to Oct 2019	48,976	20,941	69,917

Source: Shift Transit August 2019 Quarterly Report

FINDINGS AND RECOMMENDATIONS

Bike Chattanooga contract terms should be enforced and contract language updated.

Shift’s primary purpose is to operate, maintain, and manage a bike-sharing service to benefit the public at large. As stated in their proposal and contract, Shift shall provide these services at no cost to the City. Shift contracted to provide the materials, supplies, tools, equipment, labor and other services necessary for the operation of Bike Chattanooga.

Shift, along with CDOT, researched and acquired grant funds that have been used to promote the bike program, increase ridership and revenues. The grantors awarded funds to the City for various specific purposes supporting Bike Chattanooga. Ultimately, these funds were utilized to fund payments from the City to Shift for memberships, free rides, staffing and equipment purchases.²

¹ A ride counts for each time a bike is removed from a docking station.

² City tax revenues or capital dollars were not used in the purchases described.

Some of the contract obligations were not met.

Based upon our review of the contract, Shift has not complied with all contract terms. The contract states Shift will achieve revenues sufficient to sustain and expand Bike Chattanooga.³ The contract/proposal states their efforts will include marketing promotions such as a Free Ride Wednesday program, unicorn bike program, Divvy for everyone, discounted student memberships, provide materials for non-English speaking patrons, accept cash payments and staff busy stations. All of these commitments were to be accomplished at no cost to the City. However, Shift has failed to meet some of these commitments. Shift has benefitted from grant/donation funds the City has received and used for some of these programs.

Recommendation 1:

We recommend CDOT ensure contract terms are followed and monitored.

***Auditee Response (CDOT):** We concur with the audit finding and recommendation. CDOT commends Shift for thoroughly complying with all aspects of the contract related to maintenance, system updates, customer service, and regular public outreach at no cost to the City. CDOT receives outstanding foundation support to improve access to bike share, and feel this grant funded programming to be beyond the intent of the contract. We will work with the City Attorney to add contract language that clarifies program funding and expectations.*

The Bike Chattanooga contract needs updating.

Per contract terms, Shift shall retain the first \$500,000 per year of gross receipts. All gross receipts generated over \$500,000 shall be divided 50 percent to Shift and 50 percent to system expansion. All equipment purchased with the system expansion funds shall become property of the City. These are the only details in the contract addressing the expansion of the program. The contract lacks details on how funds will be spent on expansion⁴ and authority over expansion planning. In effect, the City has limited ability to control expansion of the bike program with regards to cost or priority areas.

The contract also lacks language on designating ownership of new equipment purchased outside of an expansion when excess gross receipts are used. It states bike system equipment originally brought

³ Per contract terms, expansion does not begin until revenues exceed \$500,000.

⁴ There is no detail of the cost of equipment, procurement process to be used, etc.

into the operation is owned by the City. However, since the inception of the contract, new bike equipment has been purchased.⁵ The ownership of this equipment is not mentioned in the contract.

Recommendation 2:

We recommend CDOT work with the City Attorney to add contract language to clarify the details of expanding the system once a revenue threshold is reached. In addition, contract language should expressly state all equipment of the bike system is owned by the City.

Auditee Response (CDOT): We concur with the audit finding and recommendation.

Purchasing should follow required laws and procedures for procurements.

A request for proposal (RFP) process was used by Purchasing to procure management services for the City's bike program. The management contract requires the contractor to purchase additional equipment when a \$500,000 revenue threshold is reached. Even though the revenue threshold has not been met, the City purchased additional bike equipment for Bike Chattanooga. However, the acquisition for the bike equipment failed to follow the proper procurement process.

RFP requirements not followed.

State Code 12-3-1207 states a municipality may use a competitive sealed proposal when the governing body determines the use of competitive sealed bidding is neither practicable, nor advantageous.

The competitive sealed proposal can be used when qualifications, experience or competence is more important than price in making the purchase and:

1. There is more than one solution to a purchasing issue and the competitive sealed proposals will assist in choosing the best solution or;
2. There is no readily identifiable solution to a purchasing issue and the competitive sealed proposals will assist in identifying one or more solutions.

State Law and City Code outline procedures for using an RFP, as well as the City's *Procurement Instruction Manual*. All require a determination to be made prior to using the RFP process and the

⁵ The contract does not anticipate purchases of equipment other than via revenue generated in excess of \$500,000.

Purchasing Director shall place a statement in the file containing the basis for the award among other requirements.

When reviewing the Chattanooga Bike Program Purchasing file it was discovered:

1. Council approval was not obtained prior to initiating the RFP process;
2. It lacked information to determine the need to use the RFP process; and,
3. The file lacked a statement from the Purchasing Director on the basis of the award.

Recommendation 3:

We recommend Purchasing follow T.C.A. 12-3-1207 as it pertains to acquiring Council approval prior to initiating an RFP procurement. In addition, the Purchasing Director should ensure all steps are followed when using the RFP process.

Auditee Response (Purchasing): *We concur with the audit finding and recommendation. Purchasing is in the process of having the City Code amended so it will be in line with the State law.*

Bike equipment purchases were not procured properly.

The City obtained grant funds to purchase additional bike equipment for Bike Chattanooga. In FY19, the City purchased bike equipment directly from PBSC totaling \$21,946 and Shift for \$157,622. However, the bike equipment was not procured according to policy. State law, City Code and the City's *Procurement Instruction Manual* require specific procedures should be followed for procurements over \$25,000. These include:

- Council approval must be obtained when an expenditure exceeds \$25,000; and,
- Procurements must either be competitively bid or meet a qualified exception to the competitive bid process.

These procedures were not followed for the additional bike equipment purchases. CDOT submitted a sole source form for these purchases. However, the *Procurement Instruction Manual* requires specific steps to be followed when allowing a sole source procurement. These steps were not completed for these purchases. Further, since the inception of the bike system, the City has purchased bike equipment from three

different vendors: Motivate (previous bike system manager), Shift and PBSC. This does not appear to support a sole source claim.

Recommendation 4:

We recommend Purchasing follow City Code and *Procurement Instructional Manual* when making purchases.

Auditee Response (Purchasing): *We concur with the audit finding and recommendation.*

CDOT should ensure they comply with the City's financial policies.

The City's Finance Office is responsible for administering policies regarding the financial processes and assets of the City. Two of those policies deal with payment procedures and fixed asset management. *Finance Policies and Procedures Payments* state the department must acknowledge the services and goods have been received in full before the payment is processed. The individual who verifies the goods were received must sign payment support documentation, such as an invoice, so the payment can be processed.

Payment procedures should be followed.

CDOT authorized payments to Shift prior to receiving invoiced services. Over the last year, CDOT paid for staffing on a monthly basis from grant funds. During this time, they had issues processing the invoice payments. As the grant funds neared the end, CDOT authorized a final payment of the remaining funds for staffing. However, the work had not been performed prior to payment authorization. CDOT received documentation to show Shift staff worked events, although it was after the invoice was paid.

CDOT also authorized payments to Shift for bike memberships and to provide a free ride program. However, CDOT authorized the payments prior to all of the memberships or free rides being distributed. CDOT monitors the number of memberships and free rides that have been distributed. There is still a remaining balance of memberships to be given away.

Recommendation 5:

We recommend CDOT follow *Finance Policies and Procedures Payments* when authorizing invoices for payments. They should ensure the services are complete and products received prior to authorizing the payment.

Auditee Response (CDOT): *We concur with the audit finding and recommendation.*

Bike Chattanooga equipment should be included in City's inventory.

City of Chattanooga Policies and Procedures Guide for Capital Assets require a physical inventory of capital assets be performed. *City of Chattanooga Policies and Procedures Guide for Sensitive Minor Equipment* require a quarterly inventory to be taken. Both policies require tagging all items for identification. Current Finance practice is to perform both capital asset, and sensitive minor inventories, twice a year.

Since the inception of the bike program, bike equipment has not been included in the City's inventory of capital assets or sensitive minor equipment. The equipment is not captured in the City's financial records as an asset. To be classified as a fixed asset, the equipment's value must exceed \$5,000 otherwise it is considered sensitive minor equipment. For items over \$5,000 to be identified as a fixed asset, a specific account number must be used so the accounting system will code it properly. Some of the bike equipment purchases were over the threshold of \$5,000 for a fixed asset but they were not properly coded. Further, the invoices submitted lacked detail to identify the individual costs and descriptions of items purchased.

Shift maintains an inventory of the bike equipment in the Comet system. CDOT has access to Comet and monitors the inventory. CDOT has contacted Finance to begin the process of adding the equipment to the City's inventory.

Recommendation 6:

We recommend CDOT ensure they receive detailed invoices to identify items purchased. They should ensure the purchases are coded properly to classify fixed assets.

Auditee Response (CDOT): *We concur with the audit finding and recommendation.*

Recommendation 7:

We recommend CDOT perform an inventory of all the bike equipment and add it to the City's inventory (fixed assets or sensitive minor equipment as applicable). The equipment should be tagged as required by the Finance policies. Once the equipment is in the City's inventory, CDOT should perform an inventory of the bike equipment as required by Finance.

***Auditee Response (CDOT):** We concur with the audit finding and recommendation. As mentioned, CDOT has provided a complete list of the City's equipment to Finance and is awaiting instructions for tagging the City's bike share system.*

APPENDIX A: SCOPE, METHODOLOGY AND STANDARDS

Based on the work performed during the preliminary survey and the assessment of risk, the audit covers CDOT's Bike Chattanooga contract from November 1, 2017 to September 30, 2019. When appropriate, the scope was expanded to meet the audit objectives. Source documentation was obtained from Shift Transit, Purchasing, Finance, and Transportation departments. Original records as well as copies were used as evidence and verified through physical examination.

To achieve the audit's objectives the Bike Chattanooga contract was reviewed to verify terms were being monitored and followed. Revenue generated from the bike program was analyzed. The procurement of the contract and purchases were examined to verify that proper procedures were followed.

We conducted this performance audit from May 24, 2019 to November 20, 2019 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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