

Audit

Follow-Up

As of March 31, 2010



Audit of City Lease Administration

(Report #0917, Issued July 22, 2009)

Report #1019

June 16, 2010

Summary

Sixteen of the 24 action plan steps due for completion as of March 31, 2010, have been completed or resolved. Of the eight remaining actions plan steps: (1) efforts have been initiated and are in progress to resolve four steps; (2) actions for three steps have been temporarily deferred until finalization and approval of proposed revisions to City Real Estate Policy 136; and (3) actions have not been initiated for one step.

In audit report #0917, issued July 22, 2009, we determined that City leases were generally properly executed, approved, and administered. We also noted several issues in regard to leases of City property to external entities. Accordingly, recommendations were made to enhance the execution, administration, and management of those leases. Recommendations were also made in regard to billing and collecting lease revenues, maintenance of lease records, and internal operating procedures. Twenty-four action plan steps were developed to address the identified issues. All 24 steps were due for completion as of March 31, 2010.

As of the end of this follow-up engagement, 16 of those 24 action plan steps had been completed and resolved. Efforts are in progress to complete or resolve four of the eight remaining steps. Completion of three more of those steps has been temporarily deferred until finalization and approval of proposed revisions to City Real Estate Policy 136. And lastly, no actions had been taken to date to resolve the final remaining step.

In our prior follow-up report, we reported nine of 24 action plan steps developed to address our recommendations were completed or resolved (i.e., as of September 30, 2009). During this follow-up engagement, we found seven of 15 remaining steps were completed or resolved.

Steps completed or resolved during this follow-up period include:

- Property Management staff is now making use of developed checklists in negotiation, execution, and administration of City leases. (*Property Management Division*)
- The Property Management Division (PMD) has established a standard and centralized system for the storage/retention of lease agreements and related records pertaining to those leases negotiated, managed, and administered by PMD. (*Property Management Division*)
- Several City departments/offices now have procedures in place for notifying and obtaining proper assistance from PMD in the negotiation and execution of leases and/or lease amendments. (*Parks and Recreation Division and Underground Utilities*) (This represents two steps.)
- One department revised its billing process to allow for receipt of required lease payments by the due dates established in the applicable lease agreement. (*Parks, Recreation, and Neighborhood Affairs Department*)
- Appropriate efforts are being made to collect overdue amounts owed by a lessee that was found during the initial audit to be significantly delinquent in payment of amounts due. (*Utility Business and*

Customer Services

- Appropriate efforts were made and procedures were put in place to ensure annual escalation provisions for applicable leases were exercised when applicable. *(Utility Business and Customer Services)*

Actions that were initiated to address identified issues but which are not yet finalized include:

- Revising the City Real Estate Policy 136 to (1) identify the lease types subject to the policy and (2) provide for delegation of approval authorities under specific circumstances. *(Property Management Division)*
- Training City departments and offices on policies, procedures, and processes developed as a result of the initial audit (e.g., Real Estate Policy 136 when revised). *(Property Management Division)*
- Revising billing processes to allow for receipt of required lease payments by the due dates established in the applicable lease agreement. *(Property Management Division)*
- Establishing a complete centralized inventory of all City lease records and documents. *(Property Management Division)*

Action steps due for completion but deferred until finalization and approval of proposed revisions to City Real Estate Policy 136 include:

- Notifying the Property Management Division of each potential new or renewed lease in accordance with the revised provisions of City Real Estate Policy 136. *(Aviation; Parks, Recreation, and Neighborhood Affairs; and Utility Business and Customer Services)* (This represents three steps.)

Actions not initiated at the end of this follow-up engagement included:

- Revising billing processes to allow for receipt of required lease payments by the

due dates established in the applicable lease agreement. *(Utility Business and Customer Services)*

We appreciate the assistance and cooperation of applicable City staff during this follow-up process.

Scope, Objectives, and Methodology

The original audit and this subsequent follow-up were conducted in accordance with the International Standards for the Professional Practice of Internal Auditing and Generally Accepted Government Auditing Standards. Those standards require 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 the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Report #0917

The scope of report #0917 included a review of City lease activities during the period January 1, 2006, through April 30, 2008. In some instances, negotiation and execution of leases prior to that period were reviewed. The audit was conducted to evaluate the process for executing, approving, and administering City leases of real properties. The primary focus was to review the administration of leases of City-owned properties to other entities, including the collection of revenues for those leases. We also reviewed activities relating to the administration of leases of property by the City from external entities

The audit disclosed that, generally, City leases were properly executed, approved, and administered. We also noted several issues in regard to leases of City property to external entities that, if not corrected, could limit the proper and efficient administration of those leases.

Report #1019

The purpose of this second audit follow-up is to report on the progress and status of efforts to complete action plan steps identified in audit

report #0917 that were due for completion as of March 31, 2010. In our first follow-up (report #1011), we reported on the progress and/or status of efforts to implement recommended action plan steps due for completion as of September 30, 2009. To obtain information we conducted interviews with key department staff, made observations, and reviewed relevant documentation.

Background

The City’s Property Management Division generally coordinates initiation, negotiation, and execution of leases. Administration of executed leases is often the responsibility of affected City departments and offices. Based on information made available to us during the audit, there were approximately 110 leases of City-owned properties. Those 110 leases generated annual revenues that approximate \$6,600,000. Eight City departments and offices, including the Property Management Division, administered those 110 leases. Similarly, information obtained during the audit showed the City leased 17 properties from external entities. Those 17 leases pertain to seven City departments and offices, including the Property Management Division. The annualized value of the lease payments incurred by the City for those 17 leases was \$351,570.

Previous Conditions and Current Status

In the initial audit report #0917, we identified the need for improvements within six City departments and offices. (Note: As a part of recent reorganizations, two of the six departments were merged into a single department.) Twenty-four action plan steps were developed to address the applicable issues. As shown below in Table 1, nine of those steps were completed and resolved as of September 30, 2009. Seven of the remaining 15 actions plan steps were completed during the period covered by this follow up (i.e., October 1, 2009, through March 31, 2010). Actions were initiated to complete four of the eight remaining steps due for completion. Actions on three more of those eight steps were deferred until finalization and approval of proposed revisions to City Real Estate Policy 136. And lastly, no actions had been initiated for the final remaining step.

Table 1 identifies the action plan steps due for completion and describes the current status of those actions.

**Table 1
Action Plan Steps from Report #0917
Due as of March 31, 2010, and Current Status**

Action Plan Steps Due as of March 31, 2010	Current Status
Ensure that leases are properly executed and administered	
PROPERTY MANAGEMENT DIVISION	
<ul style="list-style-type: none"> • With direction from City management, the Property Management Division will revise Real Estate Policy 136 to (1) identify the lease types subject to the policy and (2) provide for delegation of approval authorities under specific circumstances. 	<ul style="list-style-type: none"> ▶ <u>In Progress</u> – The Property Management Division (PMD) drafted and provided a revised Real Estate Policy 136 to City management for their review and approval. The draft policy provides appropriate clarification as to different lease types and the policy provisions that pertain to those lease types. Unlike current policy provisions, the draft policy also provides for delegation authority to department

	<p>heads for leases with annual expenditures/revenues that do not exceed \$25,000. City management is currently reviewing the draft policy. We will report on the status of the proposed revisions in our subsequent follow-up engagement.</p>
<ul style="list-style-type: none"> • Management will emphasize to City departments and offices the requirement (prescribed by Real Estate Policy 136, as revised) for the Property Management Division to be timely notified of prospective leases. 	<p>√ <u>Completed</u> in a prior period.</p>
<ul style="list-style-type: none"> • The Property Management Division will negotiate, or assist in negotiating, all prospective leases for which it is made aware in accordance with Real Estate Policy 136, as revised. 	<p>√ <u>Completed</u> in a prior period.</p>
<ul style="list-style-type: none"> • No leases will be negotiated and executed by any one employee, regardless of circumstances or lease terms and provisions. 	<p>√ <u>Completed</u> in a prior period.</p>
<ul style="list-style-type: none"> • A checklist will be developed and used to assist in the administration of leases. That checklist will address and serve to ensure, at a minimum: <ul style="list-style-type: none"> - Review and approval by the appropriate authorities as established by Real Estate Policy 136. - Review and approval by the City Attorney’s Office and Risk Management for adequacy of insurance coverage and other provisions needed to protect the City’s exposure to risks. - Updated certifications of insurance coverage are obtained and on file. - Valid exemptions from payment of state sales taxes are obtained and on file for applicable lessees. 	<p>√ <u>Completed</u> in a prior period.</p>
<ul style="list-style-type: none"> • City staff will use the checklist developed pursuant to the prior action plan step for all City leases, regardless of whether the lease is negotiated or administered by other City departments and offices. 	<p>√ <u>Completed</u> - Property Management staff now uses the developed checklist in administering City leases.</p>
<ul style="list-style-type: none"> • Lease amendments will be timely executed to reflect negotiated revisions, regardless of the related revenue or expenditure amounts involved. 	<p>√ <u>Completed</u> in a prior period.</p>
<ul style="list-style-type: none"> • State sales taxes will be assessed and collected from all lessees not exempt from such taxes. 	<p>√ <u>Completed</u> in a prior period.</p>

<ul style="list-style-type: none"> • A system/method will be established to track leases nearing termination and notifying applicable staff of the need to renew or negotiate a new lease, or plan for termination. 	<p>√ <u>Completed</u> in a prior period.</p>
<ul style="list-style-type: none"> • The billing process for leases will be revised to provide for receipt of required payments by the due dates established in the controlling lease agreements. 	<p>► <u>In Progress</u> – In the prior follow-up report we acknowledged that the billing process for the most significant of the leases (i.e., General Dynamics) was appropriately revised to provide for receipt of the required payments by the due dates established in the controlling lease agreement. During our current follow-up we found that invoices for two of the five other applicable leases were also being prepared and submitted in a manner to provide for receipt of payments by the due dates established in the respective lease agreements. However, for the remaining three leases, City records and discussions with staff show the billing process has not been revised to provide for receipt of payments by the required due dates established in those lease agreements. We again recommend PMD coordinate with Accounting Services to ensure those three leases are billed in a manner to allow for timely payment.</p>
<ul style="list-style-type: none"> • A standard and centralized system for retention of applicable lease records and documents (i.e., for leases managed and administered by PMD) will be established. 	<p>√ <u>Completed</u> – As confirmed and reported during our prior follow-up audit, PMD has established a standard and centralized filing system for its leases. As reported, leases managed and administered by PMD are stored in a cabinet in a cubicle within the PMD office. Those leases are filed alphabetically. In addition to the centralized storage location within PMD, the proposed policy provisions (i.e., to Real Estate Policy 136), submitted to the City management for review and approval, provides for all leases to be imaged in the City’s Electronic Document Management System (EDMS). PMD management indicated efforts are currently in progress to store applicable lease records in EDMS. These actions have and will ensure proper retention of lease records and documents managed and administered by PMD.</p>
<ul style="list-style-type: none"> • The Property Management Division will maintain a centralized inventory for all leases of City-owned property, regardless of what City department or office administers the leases. The 	<p>► <u>In Progress</u> – As noted in the status description for the previous action plan step, PMD has established a standard and centralized filing system for leases it negotiates, manages, and</p>

<p>applicable checklist (i.e., developed pursuant to the fifth action plan step within this table) will be used for each inventoried lease to help ensure proper processes and procedures are followed.</p>	<p>administers. In regard to leases negotiated, managed, and administered by other City departments, PMD has proposed, as part of its revisions to Real Estate Policy 136, those departments (1) notify PMD of the leases and (2) record (scan) the lease records into the EDMS. As noted in the status description for the first action plan step within this table, City management has not completed their review of the proposed revisions to Real Estate Policy 136.</p> <p>If the proposed policy revisions are approved and implemented, the PMD could, in essence, maintain a record (inventory) of all City leases via a combination of (1) centralized files for leases negotiated, managed, and administered by PMD, (2) lease notifications provided by individual departments for leases not negotiated and managed by PMD, and (3) related records imaged and stored in EDMS. PMD management stated it is their intent to maintain a centralized inventory of all City leases in accordance with the intent of this action step. They also stated PMD staff is currently in the process of accumulating applicable records (e.g., lease agreements negotiated and managed by other City departments) to complete that inventory.</p> <p>(NOTE: City management’s decision on certain proposed revisions to Real Estate Policy 136 will impact PMD’s responsibility as to tracking certain leases negotiated and managed by other City departments. This includes, for example, certain leases of space on City utility assets [pole attachments and cable fibers] by the Electric Utility and leases for airport terminal space.)</p> <p>We will continue to follow up on this action plan step in our subsequent audit follow-up engagement.</p>
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<ul style="list-style-type: none"> • Written internal procedures and guidelines will be developed to assist Property Management staff in negotiation, execution, and administration of City leases. 	<p>√ <u>Completed</u> in a prior period.</p>
<ul style="list-style-type: none"> • Training on policies, procedures, and processes developed or revised as a result of the audit will be provided to the various City departments and offices that lease City property to external entities. 	<p>▶ <u>In Progress</u> – As we confirmed and reported during our prior follow-up engagement, internal procedures and processes, a checklist, standard forms, and other relevant documents were made available to other City departments and offices through the City’s network. In this follow-up review, we found that applicable City departments have accessed those procedures (i.e., “Real Property Lease Procedures”), the checklist, and standard forms (e.g., lease summary form and services request form) from the City network. In addition we found that, through various verbal and e-mail communications, PMD has provided assistance and counseling on lease administration processes to other City departments.</p> <p>Additional training will be required when revisions to Real Estate Policy 136, as proposed by PMD (see the status description for the first action plan step within this table), are finalized and approved by City management. We will follow up on the status of that additional training, as applicable, in our subsequent follow-up engagement.</p>
<p>AVIATION</p>	
<ul style="list-style-type: none"> • The Property Management Division will be notified of each prospective lease in accordance with Real Estate Policy 136, as revised. Assistance from the Property Management Division will be obtained in negotiation and execution of each lease, as prescribed by that policy. 	<p>♣ <u>Deferred</u> – Completion of this step is pending finalization and approval of proposed policy revisions by City management. As noted in the status description for the first action plan step within this table, the proposed revisions include clarifications and language addressing the different lease types (including aviation leases as one specific type) and the policy provisions that will (and will not) apply to those lease types. Until those policy provisions are finalized and approved, a determination will not be made as to the degree of necessary involvement by PMD in aviation leases. We will follow up on the status of this action plan step in our subsequent follow-up engagement.</p>

PARKS, RECREATION, AND NEIGHBORHOOD AFFAIRS

<ul style="list-style-type: none"> The Property Management Division will be notified of each prospective lease in accordance with Real Estate Policy 136, as revised. Assistance from the Property Management Division will be obtained in negotiation and execution of each lease, as prescribed by that policy. 	<p>√ <u>Completed (Resolved)</u> – Although the proposed revisions to Real Estate Policy 136 have not been approved and finalized, it is anticipated any resulting changes will <u>not</u> impact leases applicable to the Parks and Recreation Division (i.e., to which the applicable audit issue for this action plan step applied). Accordingly, PMD should continue to be notified and expected to provide assistance in negotiation, execution, and management of Parks and Recreation Division leases.</p> <p>In response to our current audit inquiry, Department staff responded no leases have been negotiated or executed since the initial audit for that division. Department staff also indicated they had received appropriate materials from PMD and were now aware of the requirements to notify and involve PMD in future leases. Accordingly, we considered this action plan step resolved.</p>
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ECONOMIC AND COMMUNITY DEVELOPMENT

(NOTE: Due to recent reorganizations, the Parks, Recreation, and Neighborhood Affairs Department is now also responsible for these action plan steps.)

<ul style="list-style-type: none"> The Property Management Division will be notified of each prospective lease in accordance with Real Estate Policy 136, as revised. Assistance from the Property Management Division will be obtained in negotiation and execution of each lease, as prescribed by that policy. 	<p>♣ <u>Deferred</u> – Completion of this step is pending finalization and approval of proposed policy revisions by City management. As noted in the status description for the first action plan step within this table, the proposed revisions include clarifications and language addressing the different lease types (including community center leases as one specific type) and the policy provisions that will (and will not) apply to those lease types. Until those policy provisions are finalized and approved, a determination will not be made as to the degree of necessary involvement by PMD in community center leases. We will follow up on the status of this action plan step in our subsequent follow-up engagement.</p>
<ul style="list-style-type: none"> The billing process for leases will be revised to provide for receipt of required payments by the due dates established in the controlling lease agreements. 	<p>√ <u>Completed</u> – The billing process has been appropriately revised to provide for receipt of the required payments by the due dates prescribed by applicable lease agreement stipulations.</p>

<i>ELECTRIC UTILITY (As assisted by Utility Business and Customer Services)</i>	
<ul style="list-style-type: none"> • The Property Management Division will be notified of each prospective lease in accordance with Real Estate Policy 136, as revised. Assistance from the Property Management Division will be obtained in negotiation and execution of each lease, as prescribed by that policy. 	<ul style="list-style-type: none"> ♣ <u>Deferred</u> – Completion of this step is pending finalization and approval of proposed policy revisions by City management. As noted in the status description for the first action plan step within this table, the proposed revisions include clarifications and language addressing the different lease types (including dark fiber and joint use/pole attachment leases for the Electric Utility as one specific type) and the policy provisions that will (and will not) apply to those lease types. Until those policy provisions are finalized and approved, a determination will not be made as to the degree of necessary involvement by PMD in Electric Utility leases. We will follow up on the status of this action plan step in our subsequent follow-up engagement.
<ul style="list-style-type: none"> • Staff will closely monitor the lessee that has been significantly delinquent in payment of amounts due for use of City–owned fiber optic cables. 	<ul style="list-style-type: none"> √ <u>Completed</u> in a prior period.
<ul style="list-style-type: none"> • Timely efforts will be made to obtain amounts due from lessees that are significantly delinquent in payments of amounts due. Lessees with continued delinquencies beyond a reasonable time will not be allowed to continue use of City property. 	<ul style="list-style-type: none"> √ <u>Completed (Resolved)</u> – As similarly reported in our previous follow-up report, staff continues to make efforts to collect both past due and current amounts due from the lessee who was significantly delinquent in amounts owed the City because of financial difficulties. During this follow-up review period, we found the lessee consistently made the required \$3,000 renegotiated monthly lease payment. That renegotiated monthly amount of \$3,000 includes \$194 as payment for past due amounts and \$2,806 as payment for the current month. As of March 31, 2010, the lessee owed the City approximately \$88,600 (primarily past due amounts). UBCS staff indicated they continue to monitor the financial circumstances of the lessee and, when circumstances are appropriate, will make efforts to increase the required monthly payment amount to facilitate quicker collection of past due amounts. Because of the UBCS continuing efforts, this step is considered resolved for our follow up purposes. Management, nonetheless, needs to continue efforts to ensure complete recovery of past due amounts.

<ul style="list-style-type: none"> Escalation provisions will be exercised and applied. In the event such provisions are not exercised/applied, justification and explanation will be documented. 	<p>√ <u>Completed (Resolved)</u> – UBCS determined the escalation provisions were not applicable for 2010 due to the negative growth reflected in the Consumer Price Index (CPI). Accordingly, the required lease payments were not escalated. As UBCS staff is now making annual determinations as to the applicability of rate escalation provisions, this step is considered resolved.</p>
<ul style="list-style-type: none"> The billing process for leases will be revised to provide for receipt of required payments by the due dates established in the controlling lease agreements. 	<p>■ <u>Action Not Initiated</u> - We found that the billing process for the two applicable leases had not been revised to enable receipt of lease payment by the payment due dates established in the controlling lease agreements. Specifically, both lease agreements provided for advance annual lease payments no later than January 10th of each calendar year. However, for 2010 UBCS did not bill either lease until February 12, 2010. The two annual lease payments were therefore received after the due date prescribed by the respective agreements. The amounts of the two annual payments were \$312,186 and \$6,012. We again recommend UBCS revise its processes to ensure amounts due on its leases are billed in a manner to provide for timely receipt.</p>

UNDERGROUND UTILITIES

<ul style="list-style-type: none"> The Property Management Division will be notified of each prospective lease in accordance with Real Estate Policy 136, as revised. Assistance from the Property Management Division will be obtained in negotiation and execution of each lease, as prescribed by that policy. 	<p>√ <u>Completed (Resolved)</u> – Although the proposed revisions to Real Estate Policy 136 have not been approved and finalized, it is anticipated any resulting changes will <u>not</u> impact leases applicable to Underground Utilities (i.e., to which the applicable audit issue for this action plan step applied). Accordingly, PMD should continue to be notified and expected to provide assistance in negotiation, execution, and management of Underground Utilities’ leases.</p> <p>In response to our current audit inquiry, Underground Utilities staff responded no leases have been negotiated or executed since the initial audit. However, a significant lease amendment was negotiated and executed for an existing lease (tower attachments). PMD staff was involved in those negotiations and the execution of the amendment. Additionally, Underground Utilities staff indicated they had</p>
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	received appropriate materials from PMD and were now aware of the requirements to notify and involve PMD in future leases. Accordingly, we considered this action plan step resolved.
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Table Legend:

- Issue to be addressed from the original audit

- √ Issue addressed and completed or resolved
- ▶ Action initiated and in progress but not completed
- ♣ Action on issue temporarily deferred
- Action not yet initiated

Conclusion

As noted above, 16 of the 24 action plan steps developed to address the issues identified in audit report #0917 were completed or resolved. As also described, actions were initiated to resolve four of the other eight steps, while actions for three more of those steps were deferred until management finalizes and approves revisions to City Real Estate Policy 136. As also described above, no action had been taken in regard to the final remaining step.

Significant actions in progress and/or remaining to be completed include:

- Finalizing revisions to City Real Estate Policy 136 to identify lease types covered by that policy and to provide delegation of approval authorities under specified circumstances; and training applicable City staff on those revisions upon finalization/approval.
- Establishing a complete centralized inventory of all City leases records and documents.
- Revising billing processes for remaining leases to allow receipt of lease payments by the due dates established in the applicable lease agreements.

Appointed Official's Response

City Manager:

The City Manager's office has reviewed the findings of the second follow up to the Lease Administration audit. We note that 16 (sixteen) of the 24 (twenty-four) action steps have been completed, 4 (four) more are in process and 3 (three) have been deferred until suggested revisions to the Real Estate Policy are approved. Staff will work diligently to address the remaining items. Again, we thank the City Auditor and his staff for their professional assistance in reviewing and making appropriate suggestions to improve our processes.

We appreciate the cooperation and assistance the applicable City departments and offices provided in this audit follow-up and recognize their significant efforts to address planned action steps to date.

Copies of this Audit Follow-Up or audit report #0917 may be obtained from the City Auditor's web site (<http://talgov.com/auditing/index.cfm>), via request by telephone (850 / 891-8397), by FAX (850 / 891-0912), by mail or in person (City Auditor, 300 S. Adams Street, Mail Box A-22, Tallahassee, FL 32301-1731), or by e-mail (auditors@talgov.com).

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