

Final Audit

Follow-Up

As of September 30, 2010



Sam M. McCall, Ph.D., CPA, CGFM, CIA, CGAP
City Auditor

Audit of City Lease Administration

(Report #0917, Issued July 22, 2009)

Report #1107

February 3, 2011

Summary

Twenty-one of the 24 action plan steps established to address issues identified in audit report #0917 have been completed or resolved as of September 30, 2010. Significant efforts have and are being taken to complete the remaining three action plan steps. Accordingly, those three action plan steps have been turned over to management for final resolution and completion.

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 in accordance with the recommendations to address the identified issues. As of the end of this follow-up engagement, 21 of those 24 action plan steps have been completed and resolved. Significant efforts have been taken and are in progress to complete and resolve the remaining three steps.

In our prior follow-up report, we reported 16 of the 24 action steps developed in accordance with our recommendation to address identified issues were completed or resolved (i.e., as of March 31, 2010). During this follow-up engagement, we found five of eight remaining steps were completed or resolved. We also found that significant efforts have been taken

and are in progress to complete and resolve the three remaining action plan steps.

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

- Revision of Real Estate Policy 136 has been finalized, approved, and implemented. The revised policy, which became effective September 1, 2010, has been posted on the City's website for City departments' access. The revised policy identifies lease types subject to the policy and provides for delegation of authority under certain circumstances. (*Property Management Division*)
- Billing processes have generally been revised to allow for receipt of required lease payments by the due dates established in the applicable lease agreement. (*Property Management Division*)
- Property Management Division (PMD) has informed City departments via email that revised Real Estate Policy 136 is posted on the City's website for their access. PMD will continue to provide further clarification on the revised policy to applicable City departments as necessary or as needed. (*Property Management Division*)
- Applicable City departments are now aware of the requirements to notify PMD of prospective leases and to obtain proper assistance from PMD in the negotiation and execution of leases and/or lease amendments. (*Electric Utility and Economic and Community Development*) (This represents two steps.)

Significant actions initiated and in progress include:

- Establishing a centralized inventory of all City lease records and documents. *(Property Management Division)*
- Establishing internal procedures for notifying PMD of each negotiated lease in accordance with revised Real Estate Policy 136. *(Aviation)*
- Revising the billing process so payments are received promptly and in accordance with applicable lease agreements. *(Electric Utility)*

Because of the significant actions initiated and being taken, the last three action plan steps have been turned over to management for final resolution and completion.

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

Scope, Objectives, and Methodology

The original audit, previous follow-ups, and this 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 audits 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 #1107

This is the third and final follow-up on action plan steps identified in audit report #0917. The purpose of this final audit follow up is to report on the progress and status of efforts to complete action plan steps due for completion as of September 30, 2010. In our previous two follow-ups (reports #1011 and #1019), we reported on the progress and/or status of efforts to implement action plan steps due as of September 30, 2009, and March 31, 2010, respectively. 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 initial 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 initial audit showed the City leased 17 properties from external entities. Those 17 leases pertained to seven City departments and offices, including the Property Management Division. As reported, 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, 16 of those steps had been completed and resolved as of March 31, 2010. Five of the

remaining eight action plan steps were completed during the period covered by this follow up (i.e., April 1, 2010, through September 30, 2010). Significant efforts were being made to complete/resolve the remaining three action plan steps. Accordingly, responsibility for final completion of those three action plan steps has been turned over to management.

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

**Table 1
Action Plan Steps from Report #0917
Due as of September 30, 2010, and Current Status**

Action Plan Steps Due as of September 30, 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. 	<p>√ <u>Completed</u> – In our prior follow up, we reported that the Property Management Division (PMD) had drafted and submitted the proposed revised draft of Real Estate Policy 136 to City management for their review and approval. During our current follow up, we found that the policy has been finalized, approved, and implemented. The revised policy became effective September 1, 2010. With regard to lease of property, the revised policy provides appropriate clarification as to different lease types and the policy provisions that pertain to those lease types. For instance, the revised policy provides that dark fiber, pole attachment, community center, and certain aviation leases may be initiated and negotiated directly by the applicable departments. The only required involvement by PMD for those lease types is a review and recommendation to the department prior to the lease execution. For all other types of leases, the PMD must directly negotiate, or assist in negotiating, the leases prior to execution. The policy was also revised to provide for delegation of authority to department heads for leases with annual expenditures/revenues that do not exceed \$25,000. The revised policy has been codified and posted on the City website for access by City departments.</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> in a prior period.</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>Completed (Resolved)</u> – In our prior follow-up reports, we reported the billing process for the most significant lease (General Dynamics) and some of the other applicable leases had been appropriately revised to provide for receipt of the required payments by the due dates established in the controlling lease agreements. For the three remaining leases (FIBI Inc., Core Institute, and Al Lawson leases), we reported the billing process still had not been revised to allow for receipt by the due dates established in those controlling agreements. During this current follow up, we found the billing process for two of those three remaining leases (Core Institute and Al Lawson) did provide for timely receipt of the lease payments. For the remaining lease (FIBI Inc.), we found the billing process was not revised to provide for receipt of the applicable payments as prescribed by the controlling lease agreement (i.e., annually in advance). However, we found the PMD decided as a courtesy to that lessee to bill them monthly instead of requiring an annual payment in advance. Because of the significant actions taken to date, this issue is considered resolved.</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> in a prior period.</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 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>► <u>Actions in Progress</u> – As reported in our previous follow-up report, PMD established a standard and centralized filing system for leases it negotiates, manages, and administers. In regard to leases negotiated, managed, and administered by other City departments (e.g., Aviation and Electric Utility), we also reported that PMD proposed revisions to Real Estate Policy 136 to require those departments to (1) notify the PMD of the leases and (2) record (scan) the applicable lease records into the City’s Electronic Document Management System (EDMS). If those actions were completed, we reported the PMD could, in essence, maintain a record (inventory) of all City leases through a combination of (1) centralized files for leases negotiated, managed, and administered by PMD; (2) lease notifications provided by individual</p>

	<p>departments for leases not negotiated and managed by PMD; and (3) related records imaged and stored in the City’s EDMS.</p> <p>During this current follow-up engagement, we found the proposed revisions (described above) to Real Estate Policy 136 were adopted (effective September 1, 2010). We also found that PMD has accumulated records for a significant number of leases administered by other City departments. Information for those leases has been entered into a master file spreadsheet maintained by PMD. In addition, records for those leases are being imaged (scanned) into EDMS. PMD staff indicated that efforts are ongoing to collect and scan records for leases administered by other City departments. Because of the significant actions taken and in process, this action plan step is turned over to management to ensure final resolution and completion.</p>
<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>Completed (Resolved)</u> – We noted in our previous follow-up reports that internal procedures and processes, a checklist, standard forms, and other relevant documents were made available to the various City departments and offices through the City’s network. We also noted through various verbal and e-mail communications, PMD has provided assistance and counseling on lease administration processes to other City departments. We also noted that additional training would be required when revisions to Real Estate Policy 136 are finalized and approved by City management.</p> <p>During this follow up, we confirmed that revisions to Real Estate Policy 136 have been finalized and approved by management. The revised policy became effective September 1, 2010. PMD has informed City departments via email that the revised policy is posted on the City’s website for their access. PMD indicated it will continue to provide further clarification on the revised policy as necessary or as needed.</p>

	<p>Because of these continuing actions, this action plan step is considered completed.</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. 	<ul style="list-style-type: none"> ▶ <u>Actions In Progress</u> – In the prior follow up report, we indicated that completion of this step was pending management’s finalization and approval of proposed revisions to Real Estate Policy 136. As noted above in the status description for the first action plan step within this table, the Real Estate Policy 136 has been finalized, approved, and implemented. The revised Real Estate Policy provides that PMD shall review all proposed leases of City-owned properties. Those leases authorized to be initiated and/or negotiated by a specific department (e.g., aviation leases, community center leases, dark fiber leases, and joint use leases) are required by the revised policy to be forwarded to the Real Estate Administrator (PMD) for review prior to execution. The Aviation Department indicated it has not negotiated/executed any new leases or renewed any existing leases since the Real Estate Policy became effective in September 2010. Meanwhile, to comply with the revised real estate policy, Aviation Department management indicated it is in the process of drafting an internal procedure that will address the provision for notifying the PMD of each negotiated lease prior to its execution. Because of the significant actions taken, responsibility to ensure finalization of this action plan step is turned over to management.
<p>PARKS, RECREATION, AND NEIGHBORHOOD AFFAIRS</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. 	<ul style="list-style-type: none"> √ <u>Completed (Resolved)</u> in a prior period.

ECONOMIC AND COMMUNITY DEVELOPMENT	
<i>(NOTE: Due to recent reorganizations the Parks, Recreation, and Neighborhood Affairs Department is now also responsible for these action plan steps)</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>Completed (Resolved)</u> – No new leases have been negotiated and executed since revised Real Estate Policy 136 became effective September 1, 2010. Notwithstanding, the department indicated it will follow that revised policy, specifically in regard to (1) notifying PMD of each prospective lease prior to execution of the lease and (2) obtaining assistance from PMD prior to and during the preparation of lease agreements. Because of these actions and indications, this step is considered resolved.
<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. 	<ul style="list-style-type: none"> √ <u>Completed</u> in a prior period.
ELECTRIC UTILITY (As assisted by Utility Business and Customer Services)	
<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>Completed (Resolved)</u> - The revised Real Estate Policy 136 provides that PMD shall review all proposed leases of City-owned properties. Even those leases authorized by the revised policy to be initiated and/or negotiated by a specific department (e.g., aviation leases, community center leases, dark fiber leases, and joint use leases) are required by the revised policy to be forwarded to the Real Estate Administrator (PMD) for review prior to (the applicable department) making a final recommendation to the approval authority (i.e., department head or designee). In accordance with that policy, Electric Utility/Utility Business and Customer Services staff have appropriately involved the PMD in (1) establishing a new dark fiber lease and (2) amending the billing terms and renewals of two existing leases. Based on those significant actions, this issue is considered completed/resolved.
<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 	<ul style="list-style-type: none"> √ <u>Completed</u> in a prior period.

<p>continued delinquencies beyond a reasonable time will not be allowed to continue use of City property.</p>	
<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</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>Actions In Progress</u> – As of the time of our follow-up review, annual payments for the applicable leases (Electronet Consulting and Comcast Joint Use Leases) had been paid in full. No additional payments were due. Meanwhile, the billing terms for each of those lease agreements has been re-drafted to provide for timely and reasonable billing and receipt of payment by the established due dates. The draft revised lease agreements for the two applicable leases are presently awaiting approval by management and the applicable vendors (lessees). Staff indicated that once the revised lease agreements have been approved, the next annual billing for those two leases will be in accordance with applicable revised billing terms. Because of the actions initiated and being taken, responsibility to ensure final resolution/completion of this action plan step is turned over to management.</p>
<p>UNDERGROUND UTILITIES</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>Completed (Resolved)</u> in a prior period.</p>

Table legend:

- Issue to be addressed from the original audit
- √ Issue addressed and completed or resolved
- ▶ Significant action initiated and in progress; turned over to management to ensure final resolution.

Conclusion

This is the third and final follow up on action plan steps identified in audit report #0917. As noted above in Table 1, 21 of the 24 action plan steps developed to address the issues identified in that initial audit report have been completed or resolved. Significant actions have been initiated and are in progress to complete the three remaining action plan steps. Accordingly, we are turning these three remaining action plan steps over to management for their final resolution and completion. Those three action plan steps include:

- Establishing a centralized inventory of all City lease records and documents. (*Property Management Division*)
- Establishing internal procedures for notifying PMD of each negotiated lease in accordance with revised Real Estate Policy 136. (*Aviation*)
- Revising the billing process so payments are received promptly and in accordance with applicable lease agreements. (*Electric Utility*)

We appreciate the cooperation and assistance the applicable City departments and offices provided in this audit follow-up and commend them for their significant efforts to address the established action plan steps.

Appointed Official's Response

City Manager:

We are pleased with the process improvements staff has undertaken in response to the audit of lease administration. The revisions to the Real Estate Policy, billing process, and centralization of lease management will definitely improve accountability. I thank the City Auditor's staff for their thorough review and professionalism throughout the audit process.

Copies of this Final 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).

Audit Follow-Up conducted by:
Reuben C. Iyamu, Senior Auditor
T. Bert Fletcher, CPA, Sr. Audit Manager
Sam M. McCall, Ph.D., CPA, CGFM, CIA, CGAP, City Auditor