AUDIT OF THE CITY’S LEASE AND CONTRACT REVENUE PROCESS

Audit No. 16-02
February 23, 2017

City of West Palm Beach
Internal Auditor’s Office

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Executive Summary
AUDIT OF THE CITY’S LEASE AND CONTRACT REVENUE PROCESS, AUD16-02
February 23, 2017

OVERVIEW
• The City leases out properties to various entities, including many non-profit organizations.
• Revenues are also received from other types of contracts, such as licenses and permits.
• The Finance Department monitors the collection of lease and contract revenue.
• Revenues for leases in the General Fund totaled $251,421 and $247,693 for FY15 and FY16 respectively.
• Revenues for leases in the Waterfront District Fund totaled $362,510 and $408,518 for FY15 and FY16 respectively.

SUMMARY FINDINGS
1. Listing of Leases and Contract Revenue: The Finance Department does not have an updated listing of all lease and revenue contracts for which a receivable can be identified.
2. Updated Operating Procedures: The Finance Department does not have updated procedures for management of receivables. Instead, the current process is self-directed.
3. Accounts Receivable Aging: The Aging Report utilized is not sufficient to determine the collection status of all lease and revenue contract agreements.
4. Expired Leases: There are leases that are expired and have not been renewed. The oldest one expired in 1996.
5. Centralized Oversight: There is no oversight over the day to day management of the City’s lease and revenue contracts.
6. Asset Stewardship: There is no program for asset stewardship or preventive maintenance of leased property to ensure tenants are in compliance with their leases.
7. Review of Insurance Requirements: No Department has been assigned the responsibility of obtaining updated insurance information for lessees. We found that for all of the entities reviewed, there was no insurance information on file.
8. Timely Payment of Rent: In FY16, three substantive leaseholders were periodically late with rent and 12 nominal leaseholders did not have any payments recorded in the City’s Oracle system. Further, License holders who pay through Parks’ Rec-Trac system are not being monitored to ensure that they are on time with payments.
9. Utilities Accounts for Lessees: Lessees are generally required to pay for their share of utilities. Of the four leases reviewed for utility payments, three were not billed for utilities provided by the City and the fourth was not billed for their share of electricity.
10. Late Payment Fees: The City’s newer agreements provide for the assessment of late fees; however, Finance advised that late fees are not being assessed.

SUMMARY RECOMMENDATIONS
1. The Finance Department should work with the City Attorney and other Departments to update the list of all City leases and contracts to accurately reflect all revenue agreements.
2. The Finance Department’s procedures should include recording of receivables and a process to follow when entering a payment in Oracle.
3. An Accounts Receivable Aging Report should be generated across all funds on a periodic basis to ensure timely payments.
4. The City Administration should take steps to ensure that expired leases are re-negotiated.
5. The City Administration should work with Finance and related departments to establish a centralized management process for leases and revenue contracts.
6. The City Administration should work with the Real Estate Management Committee to develop a checklist for leased properties to ensure proper stewardship and maintenance.
7. The Finance Department, City Attorney, and Risk Management should work to identify all agreements which require insurance to be in place and ensure that they are updated as required.
8. The Finance Department should review all leases and licenses to determine if it is appropriate to issue invoices to entities not current with required payments and to evaluate if they should be billed through Oracle.
9. Finance should perform a review to determine if required utility fees are being collected and if other contractual requirements are being billed.
10. Finance should review the terms of the leases to identify agreements which provide for late fees, and assess them accordingly.

FOR FURTHER INFORMATION ON THIS REPORT, CONTACT THE INTERNAL AUDITOR’S OFFICE AT: (561) 822-1380 OR WWW.WPB.ORG/DEPARTMENTS/INTERNAL-AUDITOR
February 23, 2017

Audit Committee
City of West Palm Beach
401 Clematis Street
West Palm Beach, Florida

RE: Audit of the City’s Lease and Contract Revenue Process, Audit 16-02

Dear Audit Committee Members:

Attached is the City of West Palm Beach Internal Auditor’s Office report on the City’s Lease and Contract Revenue Process. Although the Finance Department and other lease stakeholders have worked to improve their services, additional opportunities for improvement are presented in this report.

We thank the management and staff of the Finance Department, and all the related City Departments for their cooperation and assistance during this audit.

Respectfully submitted,

/s/ Roger Strout
City Internal Auditor

cc: Jeri Muoio, Mayor
    Jeff Green, City Administrator
    Dorritt Miller, Deputy City Administrator
    Mark Parks, Chief Financial Officer
    Kimberly Rothenburg, City Attorney
    Armando Fana, Director of Housing and Community Development
    Leah Rockwell, Director, Department of Parks and Recreation
    Jose-Luis Rodriguez, Director of Human Resources
    Dathan Griffiths, Treasury Manager
    Kathleen Stakermann, Risk Manager
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Background

The City of West Palm Beach leases out properties to various entities, including many non-profits, for use of City-owned buildings and facilities. In addition, the City receives revenues from Payment in Lieu of Tax (PILOT) agreements, Land Use Permits, Concession Agreements and similar types of agreements.

Revenue from the lease agreements is monitored by the Finance Department, however, various other departments have operating responsibility for monitoring the lessees to ensure that they are in compliance with the terms of their leases. Lease revenue is captured through four separate and distinct budgetary accounts, one for the General Fund, two for the Community Redevelopment Fund (which will be discussed in our follow-up audit on City-owned Real Estate) and one for the Waterfront District Fund. Revenues for leases from the General Fund totaled $251,421 and $247,693 for FY2015 and FY2016 respectively while the Waterfront Fund totaled $362,510 and $408,518 for FY2015 and FY2016 respectively. Other types of revenue, such as land use permits, flow through other funds, primarily Parks, and are not necessarily segregated for budgetary purposes other than the PILOT agreements.

One of the premier pieces of Flagler Drive’s Waterfront is a City-owned property on a 99 year lease; the original agreement is from 1968, and has been amended over the years to reflect a changing business environment. The parcel is divided into the Palm Harbor Marina and the Waterview Towers condominium complex. The Marina is one of the few local marinas that can accommodate deep water yachts. The condominium complex is a luxury building where current listings sell in excess of $1.0 million. Revenue from the Marina flows to the Waterfront District Fund and the payments from Waterview Towers flow through the General Fund. Both properties also pay real estate taxes.

Another important piece of the City’s real estate portfolio is the historic Seaboard Rail Station which was acquired for the express purpose of restoration as a symbol of an important part of south Florida’s history. The station was fully renovated in 1994 and won a historic preservation award. Today, its primary tenants are The National Railroad Passenger Corporation (Amtrak) and the Greyhound Bus terminal, and it is in need of repair.

Various non-profit groups also lease properties, some within City parkland, that serve the citizens’ needs and are leased for nominal amounts of rent.
Organization Chart

Source: Finance Department

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Statement of Scope

The audit period was fiscal year 2016, although we did request revenue data for FY 2015 for comparative purposes. The audit included examining controls, conducting extensive interviews with lease and real-estate stakeholders throughout the City, site visits to leased sites and an analysis of revenue received to determine that all leaseholders were paying their fair share of rent due.

This audit review did not encompass leases and mortgages administered by the Community Development Agency and Housing and Community Development. These agreements will be reviewed as part of our City-wide real estate review in the spring of 2017.

Statement of Methodology

We utilized several audit methodologies to achieve the objectives. These evidence gathering techniques included:

- Reviewing Lease Agreements and Amendments;
- Reviewing the City’s Code of Ordinances;
- Conducting Extensive Interviews with Lease and Real Estate Stakeholders;
- Performing Site visits to ascertain the condition of selected property;
- Reviewing insurance information on file;
- Examining the internal control system over lease and contract revenue and identifying any material weaknesses; and
- Other audit procedures determined necessary.

Statement of Auditing Standards

We conducted this audit in accordance with Generally Accepted Government Auditing Standards (GAGAS). 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.

Statement of Objectives

The objectives of this audit were to determine:

- If there is a centralized database maintained of all revenue contracts.
- Which Department(s) have the monitoring responsibility for all City Leases, PILOT Agreements, Concession Agreements, Land use Permits and similar types of agreements.
- If the City is receiving all revenues due in accordance with these agreements.

In addition, we evaluated the internal controls in place over these processes.
Audit Conclusions and Summary of Findings

Based upon our interviews, site visits, analysis of the various listings of lease agreements, and revenues received, we noted the following opportunities for improvement listed below:

1. The City should implement and maintain a centralized database of all revenue contracts.
2. Finance should prepare and maintain updated Standard Operating Procedures for management of receivables, including lease and revenue contracts.
3. The Accounts Receivable Aging functionality should be able to provide an accurate, up-to-date measurement of the status of all receivables.
4. Expired leases should be renegotiated; the oldest one expired in 1996.
5. The City should implement centralized oversight over the lease and revenue contracts.
6. There should be a documented process for the stewardship of assets.
7. The City should implement a process to ensure all lessees are carrying the insurance required under their contracts.
8. The Finance Department should review all leases to confirm that all revenue has been received in accordance with the contracts.
9. City lessees should be billed for utilities, as required, in accordance with their contracts.
10. The Finance Department should be assessing late fees to lessees who are late with their rent if this provision is part of the contract.

Noteworthy Accomplishments

We found knowledgeable and dedicated employees that were receptive to our recommendations for improvement and who provided input for our recommendations. The Finance Department personnel, as well as other City Departments we contacted, provided data and information in a prompt and courteous manner when requested.

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Opportunities for Improvement

1) Listing of Leases and Contract Revenue

The Finance Department should review all agreements on its Master List to determine if there are agreements that should be removed, and update it to include revenue contracts from all sources.

Condition

There is no centralized database maintained in Finance of all revenue contracts. This database should include not only leases, Payments in Lieu of Taxes (PILOT’s) and other Interlocal agreements, but all contracts for which a receivable can be identified, including License agreements. There is an excel spreadsheet, maintained by the Treasury Manager, with the assistance of the Accounts Receivable Accountant, that includes many lease agreements, however, it contains some outdated information, particularly concerning Community Redevelopment Agency (CRA) properties and Housing and Community Development (HCD) mortgages. We were informed that this spreadsheet was originally developed by a Management Analyst in the Finance Department who left the City during the economic downturn. It does not include License Agreements, such as SunFest, the Boat Show or long-term Facility Use Agreements such as Visit Palm Beach and the agreements for the operation of the Tennis facilities, among others.

Other stakeholders, including the City Attorney, Engineering and Parks have listings that relate to their area of responsibility. We reviewed the Mayor’s signature log for FY16 in an effort to capture additional agreements that were not on any stakeholder’s listing, but cannot confirm with certainty that we have identified all revenue contracts.

Criteria

All Revenue contracts should be maintained in a master listing under the auspices of Accounts Receivable. This listing should periodically be updated with input from the City Attorney, Parks, Parking, and any other Department responsible for managing revenue.

Cause

Over the past few years, there has been significant turnover in the senior management of the Finance Department, as well as staffing vacancies, caused by staff reductions. At the commencement of this audit, we were advised that the Treasury Manager has been working to create a comprehensive listing of revenue contracts. However, even within Finance, no one individual is responsible for oversight of all revenue contracts, as there is a separation of responsibilities between the Special Revenue Group, which handles HCD and CRA, and the Treasury Manager.

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Listing of Leases and Contract Revenue (continued)

Effect
The lack of a centralized database, accessible to all stakeholders raises the risk that certain revenue contracts may not be properly monitored, and could place the City at the risk of a potential loss from revenue not realized.

Recommendation 1
The Treasury Manager and the Accounts Receivable Accountant should work with the City Attorney, Risk Management and other affected departments to update the spreadsheet to reflect the current contracts on file. Any old contracts, for which the current status may not be known, should be referred to the City Attorney for review and possible removal from the Master Listing. After the Master Listing is brought current, it should be maintained on a database in a read only format for access by all real estate and revenue stakeholders.

Management Response
Management concurs in principle but adds the following:

Whereas, it is feasible to develop a master schedule for leases and other non-mortgage revenue contracts in the short term, the inclusion of mortgages will automatically result in protracted delays in implementation. It is more pragmatic for HCD to take responsibility for compiling and updating a separate master schedule for mortgages. However, Treasury would be responsible for the management of the accounts receivable portfolio related to these mortgages.

In addition, the Oracle software should be used exclusively in generating invoices for all City revenue contracts. This will result in the centralization of accounting for such contracts which will enhance management and accountability.

Target Implementation Date: September 30, 2017
2) Updated Operating Procedures

The Finance Department should update its Standard Operating Procedures for management of revenue contracts.

Condition

In August 2016, we requested a Revenue Policies and Procedures Manual as part of our initial documentation request to the Finance Department. In subsequent interviews the Department acknowledged that they have not updated the Standard Operating Procedures for management of receivables, including lease and revenue contracts. The practices that are currently followed are self-directed by the Accounts Receivable Accountant. There are no documented processes for intake of revenue contracts, identification of key contract elements, file maintenance, recording of a receivable, payment confirmation, collection of delinquent accounts, or coordination with relevant City Departments, such as City Attorney, Risk, and Utilities billing.

Criteria

Section 2-198 of the City’s Code of Ordinances defines the responsibility of the Cash Management Division. Subsection (c) states: “The cash management coordinator shall receive all moneys due the city from any source and shall also be responsible for the establishment of systems and policies for the control of the receipt and deposit of cash for the city and for the verification of such policies and for the collection of moneys due the city.” Standard Operating procedures are an important element of internal control as they enable management to provide consistency, reduce errors and provide guidelines for employees of the Department.

Cause

The Department of Finance experienced budgetary and staffing challenges during the economic downturn. A new Treasury Manager was hired in May 2016 who is evaluating staff and current practices in order to develop Standard Operating Procedures.

Effect

The lack of Operating Procedures may result in uncollected revenue, failure to promptly follow up on delinquent accounts and inconsistencies in the Cashier’s area in booking revenues to the correct general ledger account.

Recommendation 2

The Treasury Manager should work with the Accounts Receivable Accountant to develop Standard Operating Procedures. These procedures should include recording of receivables, taking into account the limitations of the receivables module in the City’s Oracle system, as well as a process for the Cashier’s Office to follow when entering a payment in Oracle to ensure that lease and contract revenue is booked in a manner that is easy to trace.
Updated Operating Procedures (continued)

Management Response
Management concurs.

Target Implementation Date: September 30, 2017

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3) Accounts Receivable Aging

The Accounts Receivable Aging functionality should be adequate to properly monitor receivables.

Condition

The Accounts Receivable (A/R) Aging Report provided to us at the commencement of the audit was not sufficient to determine the collection status of all lease and revenue contract agreements. Not all funds through which lease revenues flow were included on the report. For example, the report was only run for funds 001 (General) and 105 (CRA). Yet, there are leases, such as the Marina lease, with revenue flowing through Fund 133 (Waterfront District) as well as other funds, which contain revenue from licenses or concessions. This report provided an incomplete status of the true state of lease and revenue receivables.

The Treasury Manager informed us that not every lease is in the Accounts Receivable module in Oracle. The module is not sufficiently configured to properly track receivables, and the Treasury Manager indicated that a software upgrade would improve Finance’s ability to monitor revenue contracts.

The Aging Report also included several old receivables that should have had a determination made as to their collectability in a prior period.

Criteria

Prudent business practices indicate that an accounts receivable should be maintained for all customers so that the status of their accounts can be verified and a collection process undertaken if required. An A/R Aging should be run, on at least a quarterly basis, to determine the payment/delinquency status of lessees/payees. The report should be run across all funds and reviewed by the Treasury Manager for delinquencies.

Cause

There is no pre-defined schedule to run a comprehensive A/R Aging, which would enable management to promptly identify delinquent accounts and take appropriate action.

Effect

As a result of not maintaining an A/R Aging Report across all funds, and reviewing the payment status of all lease and revenue contracts, there is a significant risk that revenue due the City may not be recognized and collection efforts pursued. We noted several lessees/payors who were not always current with their payments when we scheduled out the Applied Receipts Register.

Recommendation 3

Finance should take steps to ensure that a periodic A/R Aging Report is run across all funds to determine the payment status of all leases and contracts classified as revenue producing to ensure all lessees and payors are making timely payments in accordance with the terms of their contracts.
Management Response

Since March 21, 2016, Finance has commenced the generation of “dunning letters” for all receivables in the Oracle software, on the 15th and the 30th of each month. This means that only lessees which are billed through Oracle would have received written communication of any outstanding balance and be put on notice that the account will be sent to collection if not paid within the timeframe stipulated in the dunning letter.

Further, we are in the process of recruiting a Collection Specialist who will make contact with debtors and recommend a specific course of action for delinquent receivables.

Dunning reports are not being generated for mortgages, lien receivables and agreements that are not billed through Oracle. However, we will endeavor to ensure all receivables are recorded in Oracle.

Target Implementation Date: September 30, 2017

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4) Expired Leases

Expired leases should be reviewed and renegotiated.

Condition

We reviewed the Master List of Leases provided by the Finance Department as of October 20, 2016, and noted there are a number of leases that have expired and not been renewed. The longest standing expired leases are with Amtrak and Greyhound, which expired in 1996 and 2007 respectively. Both are tenants at the train station. Since that time, Greyhound has been paying the City $2,675 per month, with no escalator clauses. Amtrak is to pay $1 year, plus certain expenses as additional charges.

Other expired leases include:

- Chamber of Commerce of the Palm Beaches – 25 year lease expired in 2013;
- Senator Bill Nelson – expired in 2012
- The TED Center – expired in 2015

None of the stakeholders we interviewed could provide an explanation for why these leases have not been renegotiated or the premises re-possessed by the City. We interviewed the Manager at Greyhound who informed us that they have periodically contacted the City to initiate lease negotiations, but have been told for a number of years that a property management firm was being hired. During the course of this audit, a team from the City met with Greyhound to discuss new lease terms. The TED Center lease is also in the process of being renegotiated.

Criteria

Prudent business practices suggest that leases should be updated as they come due and renegotiated to reflect the needs of both the lessor and lessee as well as the current business environment.

Cause

As noted elsewhere in this Report, the lack of oversight over the lease management process has resulted in situations that have not been addressed in a timely manner.

Effect

As a result of having expired leases, combined with the fact that insurance information is not updated annually, the City is at increased the risk of both financial loss and potential litigation.

Recommendation 4

The Administration should take steps to ensure that these leases are re-negotiated as soon as possible. If a tenant has vacated the premises, the premises should be secured and steps taken to find another tenant, if appropriate. If nominal leases are being
...Expired Leases (continued)

renegotiated, the annual rent should reflect the cost/benefit necessary to record a receivable so that payments can be traced.

Management Response (Finance Department)
We concur.

Management Response (Administration)
We concur and will take steps to ensure these leases are addressed and renegotiated if appropriate.

Target Implementation Date: September 30, 2017.

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5) Centralized Oversight

There should be one individual or department with the overall responsibility for managing the lease and revenue contracts, including non-financial aspects.

Condition

One of the key objectives of our audit review was to determine what monitoring processes were in place over the lease and contract revenue contracts. We found that although the Treasury Manager in the Finance Department is tasked with this responsibility from a fiscal perspective, and has made significant progress, there is no one individual or department that has overall responsibility for managing the day to day issues that arise with the City’s leased properties and contract revenues. There are several opportunities, addressed in this report that are essential to effective management: a program of asset stewardship, ensuring that required insurance is current, updating utility accounts, reviewing required fiscal and operating reports and monitoring any unique clauses in the contracts for compliance.

During the course of our review, we met with numerous real estate stakeholders, who all expressed their concern about the lack of a centralized function to manage the leases, as well as maintain the City’s overall real estate portfolio. We were advised that there is an informal Real Estate Management Committee, with the Director of HCD as the Chair, who have been working on developing some checklists and other procedures to manage real estate. However, we were advised that the HCD Director is not planning to assume management of the leases. In FY2016 and in prior years, real estate management has had budgetary and personnel constraints. For FY2017, there is a Real Estate Management Fund (Fund 139), which has some monies budgeted that could be dedicated for repairs.

Criteria

The City’s Code of Ordinances Section 2-197 (5) places general contract administration under the Finance Department. However, an effective monitoring process for leases includes interactions with multiple City departments, including, but not limited to City Attorney, Risk Management, Engineering, Parks and Utilities and may not be practicable to be the sole responsibility of Finance.

Cause

There is no one individual or department that has the responsibility for ensuring that all aspects of lease management are coordinated. When staff was reduced due to the economic downturn, individuals in Finance who did perform some lease related tasks left the City’s employment. In addition, many of the leases are very old and have not been updated with amendments to reflect the current business environment.

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Centralized Oversight (continued)

Effect
As a result of the lack of a centralized monitoring process, as well as the age and disparate types of lease agreements that the City has, there is the risk of deterioration of City assets, lost revenue, and potential liability risks.

Recommendation 5
The Administration should work with Finance and related departments to establish a process for review and management of lease transactions and compliance with the stipulated terms and conditions of the contracts.

Management Response (Finance)
Management concurs.

Management Response (Administration)
Management agrees and will identify a Real Estate Coordinator to assume all lease and revenue contract coordination responsibilities.

Target Implementation Date: September 30, 2017

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6) Asset Stewardship

The City should have a documented process for the stewardship of its assets.

Condition

There is no procedure in place for periodic inspections of leased property to provide assurance that tenants are utilizing the space in accordance with their leases and maintaining the property as required. Certifications are not obtained to determine that premises have had routine inspections, such as structural, air conditioning and pest control to maintain the City’s property in good condition. In addition, there is no program of preventive maintenance by the City to help avoid unexpected and potentially costly repairs.

We visited several properties to ascertain the condition of the leased premises and found some to be in a state of disrepair. In particular, the Seaboard Historic Rail Station, winner of a Preservation Award in 1994, is in need of significant repair. A visit in December 2016 noted peeling paint, cracks, visible mold, some interior water damage on the ceiling and reports of insects and pests. In addition, the platform was badly stained. A second property, the Palm Beach Maritime Museum, had visibly deteriorated stairs leading up to the main entrance; a second staircase is closed off as the steps are in poor condition with the stair post and rail rotted and able to be shaken. The conditions at the Maritime Museum property were also noted in a Risk Management Safety Audit completed in December 2016. These conditions pose a hazard for visitors to the Museum and a liability risk to the City.

Criteria

The City’s various lease agreements specify responsibilities for both the tenant and the City regarding maintenance of public property. Specifically, Section 3.01 of the City’s agreement with a lessee at the train station states that premises leased in “as is” condition; lessor (City) “shall have no duty, obligation or liability whatsoever to repair, refurbish or maintain the leased premises building or improvements… to repair only the roof in a water tight condition and structural walls, if reasonably necessary. Lessee expressly agrees to be responsible for all maintenance of the Leased Premises other than that specifically required of Lessor….”

In addition, City’s lease agreements generally provide for the right to inspect the leased Premises at any time to determine whether the lessee is complying with the terms of the lease agreement. If for some reason, that clause is not contained in the lease or if lessee refuses admittance, the City could request Code Enforcement to inspect the property.

Cause

There is no individual or department assigned to specifically monitor compliance with the terms and conditions of the leases or to resolve any issues that may arise between the City and the lessees.
…Asset Stewardship (Continued)

Effect
The lack of a process for regular inspections and preventive maintenance of the City’s real estate portfolio increases the risk that the City may incur a liability for injury at a poorly maintained property. The City may also incur expenses for emergency repairs that would not be necessary if a program of preventive maintenance had been followed.

Recommendation 6
The Administration should work with the Real Estate Management Committee to develop a checklist for managing the leases. This would include not only a schedule for periodic inspections, but a program of preventive maintenance of City assets.

Management Response
Management concurs and will work with the Real Estate Management Committee to centralize a lease management program.

Target Implementation Date: September 30, 2017

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7) Review of Insurance Requirement

Risk Management should monitor leaseholders for insurance compliance.

Condition

We selected a combination of ten leases and licenses to review for current insurance certificates. We obtained one from FileNet and asked Risk to provide the remaining nine. The Risk Manager advised us that Risk has never been tasked with the function of procuring updated proof of insurance for City leases; therefore, the requested certificates would not be on file. Their historical task has been to assist the City Attorney’s office in determining insurance requirements, writing insurance language and reviewing incoming certificates to ensure that contractual requirements are met. For all City contracts, the Project Manager or their designee has the responsibility to maintain current insurance certificates and as noted in this report, the lease function does not have a project manager. However, Risk stated that they would be able to fill this need until a determination is made regarding management of the leases and work to ensure that the lessees are in compliance with their insurance requirements.

During the course of our discussions with Risk, it was noted that a preliminary effort had commenced to obtain updated insurance information from the City’s lessees, however, one of the first lessees contacted has promised, but as of January 2017, failed to provide the requested documentation, even though several verbal requests were made. Further, in reviewing the insurance sections of the older leases, the Risk Manager expressed concern that some of the language in the older leases was no longer in accordance with current industry standards. For example, some insurance terms are ambiguous and others are missing insurance provisions that are typically required due to newly-discovered exposures such as sexual misconduct insurance for agencies that work with children.

As noted elsewhere in this report, the City has several expired leases and as a result there is a risk, that without a valid in-force lease, if an insurable event should occur, the insurance company could attempt to refuse payment on the grounds that there is no legal liability due to the absence of a lease.

Criteria

All lease agreements have various insurance requirements as a key term and condition of the lease, generally requiring the City to be named as an additional insured, loss payee as well as provide for indemnification provisions. These agreements should be on file and tracked by Risk. Risk Management’s role should be to ensure lessees possess current insurance in the type and amount defined in their contracts.

Cause

For all City contracts, the City’s process is that a contract’s project manager or designee is responsible for obtaining updated certificates of insurance and a key finding of this audit review is that there is no one individual or department providing oversight over the leases.
…Review of Insurance Requirement (continued)

Effect
The City could be at substantial risk for exposure to litigation or loss of tangible property if an insurable event occurs on a leased property that does not have contractually defined insurance in place.

Recommendation 7
The Finance Department should work with both the City Attorney and Risk Management to identify all leases and related agreements which require insurance coverage to be in place. Older leases should be reviewed to ensure they have the appropriate insurance requirements, as well as current and understandable insurance terms. Risk should work with the City Attorney to effectuate the updates and/or amendment of insurance if appropriate. A letter should be sent to all lessees advising them of their contractual requirement to have insurance and to provide updated certificates annually.

Management Response
Management concurs, Finance has already developed a proposed template for revenue contracts and leases which will require the collaboration among all three departments.

Target Implementation Date: March 31, 2017

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8) Timely Payment of Rent

The Finance Department should review all leases to confirm that all revenue has been received in accordance with the contracts.

Condition
As part of our initial document request, we requested a list of all leases, and related agreements, including revenue information. In October 2016 we received the Master Lease Listing, but it did not contain the requested revenue information. Our audit objective in requesting this information was to determine if the City is receiving all revenues due in accordance with its agreements. In December, we obtained the Applied Receipts register for FY2016 for the General Fund for the lease and revenue contracts. Our objective for this audit step was to determine if all of the lessees were current on their rental payments. We reviewed the Master Lease listing and FileNet to understand the terms of the lessees payment due dates, with particular attention to lessees with annual payments only. Many of the City’s lessees are not-for-profit organizations whose lease terms provide for nominal annual payments. We tested 25 leaseholders, both with nominal and substantive rents due, and found three substantive lessees that were periodically late with rent and 12 nominal leaseholders that did not have any FY2016 annual payments recorded in the Applied Receipts Register; three other nominal lessees had pre-paid at the inception of their leases; a fourth also pre-paid, but the lease expired in 2013. We inquired with Finance regarding the status of these payments and were informed that not all nominal payments are posted to the lease account when received by the Cashier. We conclude that this is due to the fact that they are not invoiced. Therefore, we cannot conclude with certainty that all lease payments were received.

We were also provided with the General Ledger Detail Report for all leases that are billed on the Oracle system for both the General fund and the Waterfront Fund. We noted two of the nominal accounts that were received in 2016 were billed through Oracle, and the remaining were not.

There are several license holders who pay their license fees through Parks and Recreation’s Rec-Trac system. These license holders are also not invoiced and their payment is recorded as cash. Therefore, these licensees are not being monitored to ensure that they are on time with their payments.

Criteria
The terms and conditions of the City’s lease and license agreements define when payment is due.

Cause
Not all lease and license agreements are invoiced through Oracle. In addition, not all payments received are booked to the lease account.

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Effect
As a result of this condition, the City may not be aware of lessees who are not paying their rent, however nominal, as required and may also not be compliant with other terms and conditions of their leases.

Recommendation 8
The Finance Department should review all leases and licenses to determine if it is appropriate to issue back invoices to any entity that is not current with its rent. There should be a consistent practice of reviewing all lessees and licensees to determine if they should be billed through Oracle.

Management Response
Management agrees; the implementation of the master schedule mentioned in recommendation 7 above will facilitate this process.

Target Implementation Date: September 30, 2017
9) Utilities Accounts for Lessees

City lessees should be billed for utilities as required in accordance with their contracts.

**Condition**

There should be active water utility accounts for all City properties. The City’s leases generally state that the lessees are responsible for all utilities, including water.

There are two lessees and a concessionaire at the City’s Historic Train Station. We reviewed the status of the water utility accounts billed to that location and, with the assistance of the Utilities Department, determined that there are two account holders at the premises: the City and the South Florida Regional Transportation Authority. Both accounts were current in FY2016. Neither of the lessees or the concessionaire have accounts. The City’s account, with four separate and distinct lines (irrigation, domestic, fire line and detector check) is charged back to Parks Maintenance. Parks confirmed that they do not issue any bills to tenants. We found no evidence that Finance is issuing any bills to tenants for utility usage.

A similar situation exists with a Parks licensee that is responsible for reimbursing a set amount on a monthly basis for electrical costs. We inquired with Parks and were advised that the licensee is not being billed. Parks took immediate action and collected an initial payment of $1,500 on February 1, 2017, with the remaining balance of $3,900 due to be remitted in monthly installments until paid in full by May 2017.

**Criteria**

Sect. 5.2 (c) of the long-expired Amtrak lease provides that “lessee shall pay the cost of water…”

Sect. 3.02 (e) of Greyhound’s 1997 lease with the City states: Lessee shall pay the cost of the repairs, maintenance and use of all utilities serving the leased premises, including but not limited to water, sewer and electric.”

Section 15 (a) of the Concessionaire’s 2015 agreement states: “concessionaire shall be solely responsible for the payment of all utilities…”

The licensee, under Section 6 of their August 2014 agreement, is required to: pay to the City, monthly, reimbursement to the City of Provider’s share of the electric cost for the Facility. The amounts were pre-determined and made part of the contract.

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…Utilities Accounts for Lessees (continued)

Cause
The cause for this oversight is directly related to the current condition where there is no one individual or department responsible for oversight of the City’s leases or for ensuring that all lessees are billed in accordance with the terms and conditions of their agreements.

Effect
The result of the City’s oversight by not ensuring that water accounts are provided for some city lessees results in a loss of revenue. Given that many of these leases are long term, the financial impact could be significant.

Recommendation 9
We recommend that Finance perform an analysis of the City’s lessees and licensees to determine if required utility accounts are active and that revenues are being collected. In addition, any other contractual requirements such as additional concession fees and reimbursement for electric costs should be reviewed, and billed retroactively.

Management Response
Finance concurs. We have prepared a template which will drive this entire process. The immediate objective is to have the template updated with all contracts issued since the commencement of fiscal year 2017, and have it current no later than March 31, 2017. The template for contracts prior to the current fiscal year will be updated simultaneously beginning with the master schedule currently being used by Finance. The goal will be to merge the two schedules no later than 9/30/2017 and include a VLOOKUP table to facilitate easy access and analysis of the information.

The IT department will be asked to create a file on the Universal drive to enable all relevant departments to access and update the template.

Target Implementation Date: September 30, 2017

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10) Late Payment Fees

Late Payment fees should be assessed if this provision is a part of the contract.

Condition
We were advised by Finance that late payment fees are not being assessed against delinquent lessees. Although many of the City’s leases are old and do not contain language that permits late assessments, the newer lease and license agreements are being written containing this provision to protect the City’s interests.

Criteria
Prudent business practices indicate that a provision for late payment fees will encourage timely rent and discourage late payments.

Cause
Finance does not have a process in place to ensure late payment fees are assessed if required by the terms of the contract.

Effect
The City is at risk of lost revenue and untimely identification of delinquent lessees.

Recommendation 10
Finance should review the terms of the leases to identify those agreements which provide for late payment fees. Going forward, late fees should be assessed to encourage prompt payment.

Management Response
We concur.

Target Implementation Date: September 30, 2017

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