



THE CITY OF SAN DIEGO

DATE: April 18, 2016

TO: Herman Parker, Park and Recreation Department Director

FROM: Eduardo Luna, CIA, CGFM, City Auditor
Office of the City Auditor

SUBJECT: Hotline Investigation of Landscape Contracts

The Office of the City Auditor received a confidential Fraud Hotline complaint regarding the Park and Recreation Department's lack of oversight of Maintenance Assessment District (MAD) landscape maintenance contracts. Specifically, the complainant noted that there is no mechanism in place to review the performance of the landscape contractor and that wasteful spending may be occurring as a result.

Based on our investigation, we found a lack of oversight of the contractor's performance relative to the contract terms, and the allegation of wasteful spending was substantiated. Our analysis identified both questioned costs and contract administration deficiencies. We defined questioned costs as expenditures that appeared on invoices that were in clear violation of the terms of the contract, or were overcharges due to incorrect calculations. Contract administration deficiencies are discussed below.

We identified a total of \$16,129.98 in questioned costs¹ that the Park and Recreation Department paid in relation to four landscape maintenance contracts for various MADs in Fiscal Year 2015. The questioned costs were related to unauthorized material handling fees, disposal fees that were required to be paid by the contractor, material purchases that were not consistent with the terms of the contract, and invoice overcharges. The apparent cause of these questioned costs was that the City's contract administrators did not effectively enforce the provisions of the contract, and did not review invoices for accuracy and compliance prior to approving them for payment.

¹ The identified questioned costs represent eight percent of the dollar value of our sample of invoices. Questioned costs were found related to 21 of the 29 invoices reviewed.

For example, we identified a provision in one of the landscape maintenance contracts that stated that the City would purchase dog waste bags and the landscape maintenance contractor would fill the dispensers. However, we found that the contractor submitted invoices and was paid \$7,381.38 for dog waste bag purchases. The contractor added markups on the costs of material handling that were not authorized under the terms of the contract, and included overcharges on two of the four invoices submitted. These unauthorized markups and overcharges amounted to \$799.97, which is more than 10 percent of the dog waste bag purchase amount. (These charges are included in the questioned costs total mentioned previously).

In addition to questioned costs, we found contract administration deficiencies such as missing documentation from the Department's invoice payment file and potential violations of contract terms where some ambiguity existed in the interpretation of the contract. Specifically, the contract language was ambiguous in areas such as equipment rental fees, document preparation charges, and pest control services. Our sample and findings were limited because the vendors' invoices did not include detailed information regarding the work performed for routine maintenance services as required by the contracts. Without details included in the vendor invoices for routine maintenance, we could not audit the services provided and paid for against the contract provisions. Routine maintenance invoices accounted for 83 percent of the total expenditures for the four contracts reviewed.

Our [April 2015 Performance Audit of Citywide Contract Oversight](#) noted that there is currently no training provided to contract administrators to ensure compliance with contractual terms, including receipt of conforming goods and services. The report also recommended that contract administrators create a Quality Assurance Surveillance Plan for each contract. A follow-up audit of selected contracts is currently under way. The objective of the new audit is to review selected City contracts to evaluate areas of potential risk and loss to the City. We discussed the risks identified in this investigation with the Performance Audit team on an ongoing basis.

We made the following eight recommendations related to questioned costs and contract administration deficiencies in a detailed confidential report that was provided to the Park and Recreation Department.

Summary of Recommendations and Management's Responses:

We recommend that the Park and Recreation Department:

1. Review the identified questioned costs, seek repayment from the identified contractor(s), and refund the MAD funds, as indicated. This review should include current invoices and prior-year invoices related to the identified contractor(s), as permitted by the statute of limitations.

Management agrees with the recommendation to review and will consult with the City Attorney's Office regarding the ability and feasibility of repayment.

Anticipated Completion Date: December 1, 2016

2. Review the routine maintenance invoice descriptions to determine if the level of detail provided on the invoices is consistent with the contracts, and develop an action plan to address the discrepancies identified in the confidential report and in future invoices.

Management agrees with this recommendation as this memo correctly pointed out that the contract requires a more detailed invoice for routine maintenance, particularly with regard to the areas maintained by the MAD on behalf of the General Fund. This will be added to the ongoing practice of on-site visits by the Contract Administrator which provides an added level of surety that the invoiced work is being completed.

Anticipated Completion Date: July 1, 2016

3. Review the contract administration deficiencies identified related to the landscape maintenance invoice (identified in the confidential report) and develop an action plan to address the identified issues.

Management agrees with this recommendation and has begun implementation. An action plan will be developed to ensure that all sub-contractors are listed (originally or as formal additions) in the contract.

Anticipated Completion Date: July 1, 2016

4. Source, purchase, and deliver dog waste bags as required under the terms of the identified contract.

Management agrees and has begun implementing this recommendation.

Anticipated Completion Date: May 15, 2016

5. Review the identified equipment rental expenditures and develop an action plan to address the discrepancies between the invoices (identified in the confidential report) and the existing contract language. The equipment rental rates could be clarified in future contracts and/or be included in the existing contracts as an addendum.

Management agrees with this recommendation and has begun implementation. A review will be conducted and an action plan will be developed. The current practice has been that Contract Administrators approve payments (in this case \$2,699.47) for equipment used for Extra Labor projects. Equipment rental rates (both in terms of contractor-owned equipment and situations in which rental payments should be expected) will be clarified in future contracts.

Anticipated Completion Date: July 1, 2016

6. Review the invoice (identified in the confidential report), and supporting information, to determine the basis for the document preparation charges and develop an action plan to address the review and approval process.

Management agrees and has begun implementation. This task resulted in a rebate to the MAD of \$7,680. The \$630 invoice will be reviewed and lessons learned will be incorporated into on-going training regarding the review and approval process for invoices.

Anticipated Completion Date: May 31, 2016

7. Review the procedures in place to ensure that the Department's invoice payment files are accurate and complete, and develop an action plan to address the identified process weaknesses.

Management agrees with this recommendation, has begun implementation and will ensure that records continue to be maintained consistent with the Municipal Code and Records Retention Policy. All relevant documents which are not scanned into SAP should be maintained in an invoice file. A review will occur and an action plan will be developed.

Anticipated Completion Date: May 31, 2016

8. Review the identified pest control invoices as contract administration deficiencies and develop an action plan to address the (identified issues in the confidential report) related to contract compliance, liability, and procurement policies.

Management agrees with this recommendation and will develop an action plan within three months to ensure 1) similar to Recommendation 1 that mark-ups should not be paid unless authorized by the contract and that 2) similar to Recommendation 3 that all sub-contractors are listed (originally or as formal additions) in the contract. Management also agrees with this recommendation in terms of updating our Extra Labor authorization process. An action plan will be developed (which may include amending the contracts to more specifically address mark-ups and Extra Labor authorization process) within three months.

Anticipated Completion Date: July 31, 2016

This investigation was conducted under the authority of California Government Code §53087.6 which states:

(e) (2) Any investigative audit conducted pursuant to this subdivision shall be kept confidential, except to issue any report of an investigation that has been substantiated, or to release any findings resulting from a completed investigation that are deemed necessary to serve the interests of the public. In any event, the identity of the individual or individuals reporting the improper government activity, and the subject employee or employees shall be kept confidential.

(3) Notwithstanding paragraph (2), the auditor or controller may provide a copy of a substantiated audit report that includes the identities of the subject employee or employees and other pertinent information concerning the investigation to the appropriate appointing authority for disciplinary purposes. The substantiated audit report, any subsequent investigatory materials or information, and the disposition of any resulting disciplinary proceedings are subject to the confidentiality provisions of applicable local, state, and federal statutes, rules, and regulations.

We appreciate all of the assistance we received from the Park and Recreation Department during our investigation. Thank you for taking action on this issue.

Attached is management's response memo.

Respectfully submitted,

A handwritten signature in black ink that reads "Eduardo Luna". The signature is written in a cursive, flowing style.

Eduardo Luna
City Auditor



THE CITY OF SAN DIEGO
M E M O R A N D U M

DATE: April 14, 2016

TO: Eduardo Luna, CIA, CGFM, City Auditor, Office of the City Auditor

FROM: Herman D. Parker, Park and Recreation Department Director

SUBJECT: Response to Hotline Investigation of Landscape Contracts

In response to your March 15, 2016 memo, Park and Recreation Department management ("Management") thanks the Auditor for the thorough and thoughtful review. Though there may be a difference of opinion in interpreting contract provisions, this outside analysis has helped highlight several areas where Management can improve accountability and further reduce processing and accounting errors.

Prior to responding to the individual recommendations, it is important to provide background and context.

The investigation identified both "waste" and "questioned costs" and further defines "questioned costs" as "expenditures that appeared on invoices that were in clear violation of the terms of the contract, or were overcharges due to incorrect calculations". Some of the contract term violations and questioned costs cited are due to a difference in interpretations of the contract terms. This difference of opinion is not likely to be resolved, but accountability and process will be improved. Management has a practice of on-site visits to ensure the services are being performed. This boots on the ground approach is conducted regularly by the Contract Administrators to ensure the invoiced services are being performed. Though there may be a difference of interpretation in contract terms or the level of detail necessary to ensure invoiced work is being conducted, Management will address the identified areas to improve accountability and further reduce contract management errors.

With that background, the following are the responses to the specific recommendations in this audit:

Recommendation 1: Review the identified questioned costs, seek repayment from the contractor, and refund the MAD funds, as indicated. This review should include current invoices and prior-year invoices related to the identified contractor(s), as permitted by the statute of limitations.

Management agrees with the recommendation to review and will consult with the City Attorney's Office regarding the ability and feasibility of repayment

Anticipated Completion Date: December 1, 2016

Recommendation 2: Review the routine maintenance invoice descriptions to determine if the level of detail provided on the invoices is consistent with the contracts, and develop an action plan to address the discrepancies identified in the confidential report and in future invoices.

Management agrees with this recommendation as this memo correctly pointed out that the contract requires a more detailed invoice for routine maintenance, particularly with regard to the areas maintained by the MAD on behalf of the General Fund. This will be added to the ongoing practice of on-site visits by the Contract Administrator which provides an added level of surety that the invoiced work is being completed.

Anticipated Completion Date: July 1, 2016

Recommendation 3: Review the contract administration deficiencies identified related to the landscape maintenance invoice (identified in the confidential report) and develop an action plan to address the identified issues.

Management agrees with this recommendation and has begun implementation. An action plan will be developed to ensure that all sub-contractors are listed (originally or as formal additions) in the contract.

Anticipated Completion Date: July 1, 2016

Recommendation 4: Source, purchase, and deliver dog waste bags as required under the terms of the identified contract.

Management agrees and has begun implementing this recommendation.

Anticipated Completion Date: May 15, 2016

Recommendation 5: Review the identified equipment rental expenditures and develop an action plan to address the discrepancies between the invoices (identified in the confidential report) and the existing contract language. The equipment rental rates could be clarified in future contracts and/or be included in the existing contracts as an addendum.

Management agrees with this recommendation and has begun implementation. A review will be conducted and an action plan will be developed. The current practice has been that Contract Administrators approve payments (in this case \$2,699.47) for equipment used for Extra Labor projects. Equipment rental rates (both in terms of contractor-owned equipment and situations in which rental payments should be expected) will be clarified in future contracts.

Anticipated Completion Date: July 1, 2016

Recommendation 6: Review the invoice (identified in the confidential report), and supporting information, to determine the basis for the document preparation charges and develop an action plan to address the review and approval process.

Management agrees and has begun implementation. This task resulted in a rebate to the MAD of \$7,680. The \$630 invoice will be reviewed and lessons learned will be incorporated into on-going training regarding the review and approval process for invoices.

Anticipated Completion Date: May 31, 2016

Recommendation 7: Review the procedures in place to ensure that the Department's invoice payment files are accurate and complete, and develop an action plan to address the identified process weaknesses.

Management agrees with this recommendation, has begun implementation and will ensure that records continue to be maintained consistent with the Municipal Code and Records Retention Policy. All relevant documents which are not scanned into SAP should be maintained in an invoice file. A review will occur and an action plan will be developed.

Anticipated Completion Date: May 31, 2016

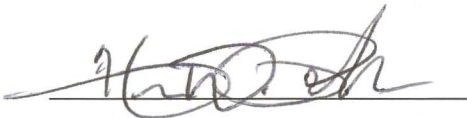
Recommendation 8: Review the identified pest control invoices as contract administration deficiencies and develop an action plan to address the related to contract compliance, liability, and procurement policies.

Management agrees with this recommendation and will develop an action plan within three months to ensure 1) similar to Recommendation 1 that mark-ups should not be paid unless authorized by the contract and that 2) similar to Recommendation 3 that all sub-contractors are listed (originally or as formal additions) in the contract. Management also agrees with this recommendation in terms of updating our Extra Labor authorization process. An action plan will be developed (which may include amending the contracts to more specifically address mark-ups and Extra Labor authorization process) within three months.

Anticipated Completion Date: July 31, 2016

In closing, MAD staff work diligently to provide the highest level of service and accountability to the community. Staff has operated MADs for many years and have developed strong relationships with the communities served. Management and the staff, working in these MAD areas, are exceptionally proud of their reputation within these communities and work to deliver excellent service in collaboration with community members. Management will continue to take steps to improve accountability while ensuring that necessary services are delivered efficiently in all MAD areas.

We thank you for the extensive review and input regarding these contracts, the opportunities to meet and discuss these issues with you, and look forward to further improving the efficiency, accuracy and service to the communities we serve.



Herman D. Parker, Park and Recreation Department Director