

**OFFICE OF THE CITY CONTROLLER**



**PARKS AND RECREATION DEPARTMENT  
CONTRACT COMPLIANCE REVIEW  
DEAMA SERVICES - CONTRACT NO. C50335  
FOR THE PERIOD OF MAY 11, 1999  
THROUGH DECEMBER 31, 2000**

**Sylvia R. Garcia, City Controller**

**Judy Gray Johnson, Chief Deputy City Controller**

**Steve Schoonover, City Auditor**



Office of the City Controller  
City of Houston  
Texas

SYLVIA R. GARCIA

June 27, 2001

The Honorable Lee P. Brown, Mayor  
City of Houston, Texas

SUBJECT: Parks and Recreation Department  
Contract Compliance Review - Deama Services (Report No. 01-02)

Dear Mayor Brown:

The City Controller's Office Audit Division has completed a contract compliance review of the Parks and Recreation Department's contract number C50335 between the City and Deama Services for cleaning and janitorial services at the Miller Outdoor Theater.

The review was designed to evaluate and test compliance with the contract and internal controls related to services provided by Deama Services. The report, attached for your review, noted that Deama Services did not comply with certain contract terms. Areas of non-compliance included: not adjusting billings to reflect a decrease in hours provided; not maintaining and providing adequate books and records; not acquiring the required insurance; and not demonstrating a good faith effort to attempt to obtain their MWBE goal. Additionally, the Department did not adequately monitor the personnel requirements specified in the contract to provide reasonable assurance that the contractor billed the City correctly and complied with contract terms.

Draft copies of the matters contained in the report were provided to Department officials. The views of the responsible Department officials as to actions taken or being taken are appended to the report as Exhibit I.

We appreciate the cooperation extended to our auditors by Department personnel during the course of the review.

Respectfully submitted,

  
Sylvia R. Garcia  
City Controller

xc: City Council Members  
Albert Haines, Chief Administrative Officer  
Gerard Tollett, Chief of Staff, Mayor's Office  
Oliver Spellman, Jr., Director, Parks and Recreation Department  
Philip Scheps, Director, Finance and Administration Department

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## EXECUTIVE SUMMARY

- Deama Services (Deama) did not provide adequate records for the review of its Cleaning and Janitorial contract. Approximately 70% of the records requested were not available for our review. This represents approximately \$40,000 in charges, which were not tested.
- Department management did not monitor the contract to provide reasonable assurance that the contractor billed correctly for services provided. No attempt was made to document the number of Deama employees performing daily cleaning services at Miller Outdoor Theater. Management's failure to monitor the hours and number of employees provided resulted in an undeterminable amount of overpayments to Deama.
- The Finance and Administration (F&A) Strategic Purchasing Division's records reflect that the contractor's insurance did not comply with the terms of the contract. Specifically, the Division indicated that Deama was non-compliant with the policy's Automobile Liability and Cancellation Clause. Additionally, the Workers Compensation Insurance was not included in the Certificate of Insurance.
- The Affirmative Action and Contract Compliance (Affirmative Action) Division's records reflect that Deama did not comply with the contract's Minority and Women Business Enterprises (MWBE) requirements (20%). The Division opined that Deama did not appear to have demonstrated a good faith effort in attempting to obtain their MWBE goal.

## **SCOPE AND PURPOSE**

We have completed a contract compliance review of the City's contract (C050335) with Deama for the period of May 11, 1999 through December 31, 2000. Our purpose was to evaluate compliance with contract terms and assist Department management with the assessment of the adequacy of internal controls over billings and payments related to the contract.

The scope of our work did not constitute an evaluation of the overall internal control structure of the Department. Our examination was designed to evaluate and test compliance with the contract and internal controls related to the cleaning and janitorial service. This was a financial related review executed in accordance with Generally Accepted Government Auditing Standards (GAGAS).

Department management is responsible for establishing and maintaining a system of internal controls to adequately monitor contract compliance as an integral part of the Department's overall internal control structure. The objectives of an internal control system are to provide management with reasonable, but not absolute, assurance that the contractor complied with the terms of the contract.

Because of inherent limitations in any system of internal accounting control, errors or irregularities may occur and not be detected. Also, projection of any evaluation of the system to future periods is subject to the risk that procedures may become inadequate because of changes in conditions, or that the degree of compliance with procedures may deteriorate.

## CONCLUSION

Based on the result of our review, we conclude that Deama did not comply with the contract terms. Areas of non-compliance included: not adjusting billings to reflect a decrease in hours provided; not maintaining and providing adequate books and records; not acquiring the required insurance; and not demonstrating a good faith effort to attempt to obtain their MWBE goal. Additionally, the Department did not adequately monitor the personnel requirements specified in the contract to provide reasonable assurance that the contractor billed the City correctly and complied with the contract terms.

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Rudy Garcia  
Audit Manager

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Joe Okigbo  
Auditor-in-Charge

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Steve Schoonover  
City Auditor

## INTRODUCTION

On May 15, 1997, the City of Houston awarded Deama a two year contract for the cleaning and janitorial services at the Miller Outdoor Theater. The authorized spending amount for the contract (#C037739) over the two years was \$208,305. On May 11 1999, Deama was awarded a second contract (#C050335) for Miller Outdoor Theater for one year with four one-year renewal options. The authorized spending amount for this contract for the five-year period is \$830,493.

Under the contract terms, Deama is required to provide a minimum of six employees from 7:00 a.m. to 4:00 p.m., for 363 days a year, to perform the daily cleaning services. Additionally, the contract requires Deama to provide six staff members for 85 days a year to clean between 6:00 p.m. to 12:00 a.m. during evening performances.

The contract further requires the contractor to "submit to the City monthly invoices by the tenth day of the month following that month during which the services were performed for which payment is requested".

## REVIEW FINDINGS AND RECOMMENDATIONS

### I. RECORD KEEPING

#### BACKGROUND

The Contract states that "the contractor shall keep its books and records available for the purpose of audits and inspections for at least three years after the Agreement terminates". The contract requires that a minimum of six Deama employees provide cleaning services eight hours during the day (48 hours daily) and six Deama employees six hours a day (36 hours daily) during evening performances at the rate of \$298 and \$233 respectively. Additionally, the contract allows an adjustment of \$7 an hour per employee in the event of increases or decreases in hours for both daily and evening cleaning services.

#### FINDING

Deama did not provide 70% of the records requested for our review period. This represents approximately \$40,000 in charges, which were not tested. This constituted a scope limitation which prevented the review team from determining contractor compliance with the contract's billing requirements. Deama's management only provided copies of records previously submitted to other government agencies during an investigation into allegations of Labor Law violations. According to Deama's President, the company's computer hard disk crashed on January 27, 2001 and all the data stored therein were lost.

**RECOMMENDATION**

We recommend that the Department coordinate with the Finance and Administration Strategic Purchasing Division and take appropriate action against Deama for non-compliance. Action to terminate the contract should be coordinated with the City's Legal Department.

**II. CONTRACT PERFORMANCE**

**FINDING**

Department management did not monitor the contract to provide reasonable assurance that the Department was billed correctly for services provided. No attempt was made to document the number of Deama employees performing daily cleaning services at Miller Outdoor Theater. The contractor was paid the full daily fee irrespective of the number of staff provided, even though the stage supervisor repeatedly informed management of Deama's lack of compliance. Management's failure to monitor the hours and number of employees provided resulted in an undeterminable amount of overpayments to Deama.

**RECOMMENDATION**

We recommend that the Department require Deama employees to sign in and out on a daily time log. The Department should use the log to verify Deama's invoices. Payments to Deama should be based on the number of hours supported by the time log and adjusted according to the contract terms at a rate of \$7 an hour per employee for increases or decreases in daily hours.

**III. CERTIFICATE OF INSURANCE**

**BACKGROUND**

The contract requires that Deama "obtain and maintain in effect during the term of this Agreement, insurance coverage.... The City shall be named as an additional insured on such policies except Professional Liability and Worker's Compensation and shall be primary to any other insurance. The Comprehensive General Liability including Contractual Liability and Automobile Liability insurance shall be in at least the following amounts:

1. Commercial General liability Insurance including Contractual Liability: \$500,000 per occurrence; \$1,000,000 aggregate
2. Worker's Compensation including Broad Form All States Endorsement Amount shall be statutory amount (currently \$100,000 coverage for each of the three components)



3. Automobile Liability of \$1,000,000 Combined Single Limit per occurrence for autos furnished or used in the course of performance of this Contract”.

While the F&A Strategic Purchasing Division was primarily responsible for obtaining insurance certificates from Deama, it is a good business practice and a valid internal control for the Department to annually obtain and review copies of the insurance certificates.

#### **FINDING**

We found no evidence to indicate that the Department is monitoring Deama’s performance with insurance requirements stated in the contract. Additionally, F&A Strategic Purchasing Division’s records reflect that Deama’s insurance did not comply with the terms of the contract. Specifically, the Division indicated that Deama was non-compliant with the policy’s Automobile Liability and Cancellation Clause. Additionally, the Worker’s Compensation insurance was not included in the Certificate of Insurance.

Without properly monitoring the contract for insurance requirements, the City may be exposed to indeterminable damages.

#### **RECOMMENDATION**

We recommend that the Department coordinate with F&A and seek to remedy Deama’s lack of insurance compliance with the contract. Additionally, the Department should obtain copies of valid insurance certificates from F&A and monitor Deama’s compliance with the contract’s insurance requirements annually.

#### **IV. MINORITY/WOMEN BUSINESS ENTERPRISES (MWBE)**

##### **BACKGROUND**

City Ordinance 95-336 Section 15-86 authorizes the Director of Affirmative Action to suspend any contractor who has failed to make good faith efforts to meet any (MWBE) goals established under this article from engaging in any contract with the City for a period up to, but not to exceed, five years.

The contract requires that Deama “make good faith efforts to award subcontracts or supply agreements in at least twenty percent (20%) of the value of this contract to MWBE certified by City’s Affirmative Action and Contract Compliance Division”. Periodically, Deama is required to submit an MWBE Utilization Report to Affirmative Action Division to prove the efforts made to meet its goal.

**FINDING**

The Affirmative Action's records reflect that Deama did not comply with the contract's MWBE requirements (20%). In a Verification Form dated January 17, 2001, the Division opined that Deama did not appear to have demonstrated a good faith effort in attempting to obtain their MWBE goal.

**RECOMMENDATION**

We recommend Affirmative Action management work closely with the Legal Department to ensure compliance with Ordinance 95-336 Section 15-86 against Deama and other non-complying contractors.

# EXHIBIT I



CITY OF HOUSTON

Parks and Recreation  
Department

*Interoffice*

Correspondence

To: Sylvia Garcia  
Controller

From: Director

Date: May 25, 2001

Subject: Department Response to the Deama  
Services Audit

Following is the department's response to the three findings contained in the Controller's Office's audit of the Deama Services contract C50335.

**Finding #11:**

Deama did not provide 70% of the records requested for our review period. This represents approximately \$40,000 in charges, which were not tested. This constituted a scope limitation that prevented the review team from determining contractor compliance with the contract's billing requirements. Deanna's management only provided copies of records previously submitted to other government agencies during an investigation into allegations of Labor Law violations. According to Deama's President, the company's computer hard disk crashed on January 27, 2001 and all the data stored therein were lost.

**Recommendation:**

We recommend that the Department coordinate with the Finance and Administration Strategic Purchasing Division and take appropriate action against Deama for non-compliance. Action to terminate the contract should be coordinated with the City's Legal Department.

**Department's Response:**

We agree in part to the finding. The department had already taken actions to rebid the janitorial contract for Miller Outdoor Theater before the initiation of the audit because the contract was scheduled to expire on May 10, 2001. The following actions have been taken to date:

- In December 2000, the department revised the scope of services for cleaning and janitorial services at Miller Outdoor Theatre and SPID advertised for a new contract. Bids were received in April 2001 but were rejected.
- The City Purchasing Agent combined the cleaning and janitorial services at Miller Outdoor Theatre with the cleaning and janitorial services for special events for the Convention & Entertainment Facilities Department into one contract. The new contract for cleaning and janitorial services should be awarded in July 2001.
- To allow time to obtain a new contract, SPID extended the expiration date for the Cleaning and Janitorial Services Contract C50335 with Deama Services for ninety days rather than exercise an option to renew the contract for twelve months. The current expiration date is August 10, 2001.

*Views of Responsible  
Officials*

# EXHIBIT I

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## **Finding #2:**

Department management did not monitor the contract to provide reasonable assurance that the Department was billed correctly for services provided. No attempt was made to document the number of Deama employees performing daily cleaning services at Miller Outdoor Theater. The contractor was paid the full daily fee irrespective of the number of staff provided, even though the stage supervisor repeatedly informed management of Deama's lack of compliance. Management's failure to monitor the hours and number of employees provided resulted in an undeterminable amount of overpayments to Deama.

## **Recommendation:**

We recommend that the Department require Deama employees to sign in and out on a daily time log. The Department should use the log to verify Deama's invoices. Payments to Deama should be based on the number of hours supported by the time log and adjusted according to the contract terms at a rate of \$7 an hour per employee for increases or decreases in daily hours.

## **Department's Response:**

We agree in part to the finding, however, until January 2001 the department was working under the understanding that Deama Services had contracted to provide a service, without regard to how many staff were required to provide that service. As soon as the department received a copy of a legal opinion (dated November 6, 2000) that was provided to the Controller's Office, measures were instituted to address the issue.

For example, on January 5, 2001, the department began to require Deama employees to sign-in when they arrived at work and sign out when they left. The information contained on these sign-in/sign-out sheets is now used to verify Deama's monthly invoice. Deama's February and April 2001 invoices were reduced to reflect time not worked by assigned staff.

## **Finding #3:**

We found no evidence to indicate that the Department is monitoring Deama's performance with insurance requirements stated in the contract. Additionally, F&A Strategic Purchasing Division's records reflect that Deama's insurance did not comply with the terms of the contract. Specifically, the Division indicated that Deama was non-compliant with the policy's Automobile Liability and Cancellation Clause. Additionally, the Worker's Compensation insurance was not included in the Certificate of Insurance.

Without properly monitoring the contract for insurance requirements, the City may be exposed to indeterminable damages.

## **Recommendation**

We recommend that the Department coordinate with F&A and seek to remedy Deama's lack of insurance compliance with the contract. Additionally, the Department should obtain copies of valid insurance certificates from F&A and monitor Deama's compliance with the contract's insurance requirements annually.

*Views of Responsible  
Officials*

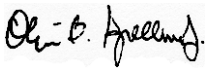
## EXHIBIT 1

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**Department's Response:**

We disagree with this finding. It is the responsibility of F&A's Strategic Purchasing Division (SPD) to ensure that insurance certificates on current contract are on file, meet the requirements of the contract, and are distributed to user departments.

To ensure that department files are kept current, the Parks and Recreation Department's Contract Administrator will review all contract files once annually to determine that a current insurance certificate is on file. If an insurance certificate is not on file, the department will notify SPD in writing of this deficiency.



Oliver B. Spellman, Jr.  
Director  
Parks and Recreation Department

CY: Maggie Mottesheard  
Susan Christian  
Janice Poorman  
Diane Deaton

File: C:/MM/ForDirector/DeamaAuditResponse.doc

*Views of Responsible  
Officials*

*EXHIBIT I*



CITY OF HOUSTON  
Office of the Mayor

**Interoffice**

Correspondence  
Affirmative Action and  
Contract Compliance  
Division

To: Sylvia R. Garcia, City Controller

From: John J. de Leon, Director

A handwritten signature in black ink, appearing to read "John J. de Leon".

Date: May 16, 2001

Subject: Deama Services Contract Compliance  
Review Management Response

I have reviewed the Findings and Recommendations on the Deama Services Contract Compliance Review. I concur with your findings regarding the MWBE Participation.

Thank you for allowing me the opportunity to review the final draft. I would appreciate your forwarding a final copy of this report.

05/01: 158

*Views of Responsible  
officials*