

OFFICE OF THE CITY CONTROLLER



**PUBLIC WORKS & ENGINEERING DEPARTMENT
AND
PARKS AND RECREATION DEPARTMENT
ROADWAY LANDSCAPING AND BEAUTIFICATION
PROGRAM COMPLIANCE AUDIT**

Annise D. Parker, City Controller

Steve Schoonover, City Auditor



OFFICE OF THE CITY CONTROLLER
CITY OF HOUSTON
TEXAS

ANNISE D. PARKER

October 28, 2008

The Honorable Bill White, Mayor
City of Houston, Texas

SUBJECT: Public Works & Engineering/Parks and Recreation Departments
Roadway Landscaping and Beautification Program Compliance Audit
(Report No. 2009-16)

Dear Mayor White:

The City Controller's Office Audit Division has completed a compliance audit of the City of Houston Resolution 90-3 (the Resolution), "A Resolution Adopting a Policy of Landscaping In Connection With City of Houston Roadway And Facility Construction". The audit's objective was to determine to what extent the Roadway Landscaping and Beautification Program (the Program) is operating in accordance with the Resolution and any other written directives between the Public Works & Engineering and Parks and Recreation Departments (Departments). Also, the audit team determined if payments to project contractors were appropriate, adequately supported, computed accurately, properly approved, recorded, and reported properly.

The report, attached for your review, concludes that the Departments are in compliance with the Resolution, except for the findings and recommendations presented in the body of the report. However, there appeared to be a lack of consensus between the Departments as to the interpretation and implementation of the Resolution.

Draft copies of the matters contained in the report were provided to both Departments' management. The Views of Responsible Officials as to actions being taken are appended to the report as EXHIBIT II.

We commend management for their timely efforts to take action to remedy the deficiencies identified by the audit team. We also appreciate the cooperation extended to our auditors by Departmental personnel during the course of the audit.

Respectfully submitted,

Annise D. Parker
City Controller

xc: City Council Members

Anthony Hall, Chief Administrative Officer

Michael Moore, Chief of Staff, Mayor's Office

Michael Marcotte, Director, Public Works & Engineering Department

Joe Turner, Director, Parks and Recreation Department

Michelle Mitchell, Director, Finance Department

Alfred Moran, Jr., Director, Administration and Regulatory Affairs Department

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SCOPE AND PURPOSE

The Office of the City Controller's Audit Division has completed a compliance audit of the City of Houston Resolution 90-3 (the Resolution), "A Resolution Adopting a Policy of Landscaping In Connection With City of Houston Roadway And Facility Construction" (see EXHIBIT I). The audit's objective was to determine to what extent the Roadway Landscaping and Beautification Program (the Program) is operating in accordance with the Resolution, a Letter of Agreement (LOA) between the Public Works and Engineering Department (PW&E) and the Parks and Recreation Department (PARD), and any other written directives pertaining to the Program. In addition, we determined if payments to project contractors were appropriate, adequately supported, computed accurately, properly approved, recorded, and reported properly. The audit scope period was from January 1, 2005 through June 30, 2006.


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 Resolution. Our procedures were performed through July 8, 2008 and have not been updated since that date. Our observations are the only matters that came to our attention based on the procedures performed.

Departmental management is responsible for establishing and maintaining a system of internal controls to adequately comply with the Resolution. The objectives of an internal control system are to provide management with reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or theft, and that transactions are executed in accordance with management's authorization and are recorded properly.


Because of inherent limitations in any system of internal control, errors or irregularities may occur and not be detected timely. 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 results of our audit, the PARD and PW&E Departments are in compliance with the Resolution, except for the findings and recommendations presented in the body of the report. However, there appeared to be a lack of consensus between the Departments as to the interpretation and implementation of the Resolution.



Carolyn Y. Armstead
Auditor-in-charge



Arnie Adams, CFE, CIA
Audit Manager



Steve Schoonover, CFE
City Auditor

BACKGROUND

The Houston City Council approved the Resolution on January 17, 1990.

On April 22, 2003, the PARD Director prepared an Interoffice Correspondence to the PW&E Director, detailing the existing and proposed One Percent Set Aside for Road Construction procedures to be used by both Departments to satisfy the requirements of the Resolution. This precipitated the July 10, 2003 LOA, signed by both Department Directors, which included a proposal to compile a list of projects which had been bid prior to July 1, 2003. The appropriation for those projects was known as the one-time “true-up” Request for Council Action (RCA), CUIC NO. 20JEV13, which totaled \$760,316.

PARD prepared written procedures with their “One Percent Set-Aside Program” document dated August 4, 2004. PARD also drafted “Procedures for Allocating, Appropriating, and Expending Funds Related to the One Percent Set-Aside as Outlined in the City of Houston Resolution No. 90-3” in April 2004. On an annual basis, PW&E has compiled a list of eligible projects to determine the amount of funds to be appropriated. A RCA for the maximum 1% of construction cost from eligible projects was appropriated by PW&E.

We examined RCAs CUIC NO. 20JAK559 for \$181,486.36 passed January 4, 2006 and CUIC NO. 20MLL44 for \$209,043.82 passed June 13, 2007. As part of our review of the three RCAs, we examined Contracts No. C56540, Hutchinson Exterior Design and C56850, Texas Landscape Company.

PW&E provided PARD with copies of the RCAs and the list of projects included in the appropriation. PARD then inspected the projects, designed the landscaping, and determined the number of trees to be planted. Once the design and number of trees were determined, bids were solicited, and a contractor awarded the contract for landscaping the eligible projects.

After the conclusion of Fieldwork, the Audit Team was made aware of an Interoffice Correspondence from the former PARD Director to the Legal Department requesting an interpretation of the Resolution, dated June 1, 1992 entitled “1% Landscape Funding”. A response was sent from the Legal Department, dated December 16, 1992, “Subject: Landscape Funding from Bond Funds”. Copies of the correspondence were forwarded to both PARD and PW&E for their review.

AUDIT FINDINGS AND RECOMMENDATIONS

GENERAL

I. INADEQUATE CONTROLS AND LACK OF JOINT PROCEDURES

FINDING

The procedures currently performed by PW&E and PARD relating to execution of the RCAs and the controls related to the accounting for the appropriated funds were not adequate as they did not identify and/or prevent the following from occurring within each Department:

PW&E

- Our review of the appropriations for eligible projects revealed a double appropriation for the project identified as San Felipe: Yorktown to Chimney Rock for approximately \$29,149, occurred in RCAs CUIIC No. 20JAK559 and CUIIC No. 20MLL44. This resulted in the overspending of \$29,149 by PARD.

PARD

- The Audit Team identified some 1% projects that had insufficient funding to allow for adequate landscaping or had excess funding, which was not needed. The amount of necessary funding to complete the landscaped project was, however, within the same appropriation.

RECOMMENDATION

We recommend that both Departments coordinate with each other, arrive at a common understanding of the Resolution, and determine procedures to comply with the Resolution. The procedures at a minimum should include the following:

- Identification and verification of eligible projects for the source of funding
- Timing of RCA submittal to City Council for approval
- Identification and prioritization of sites for funding landscaping contracts
- Accounting practices, reconciliations, and resolution of appropriation for projects with insufficient funding as well as excess funding for landscaping
- Fixed controls and control owners
- Audit provisions, timing, and frequency

PARKS AND RECREATION DEPARTMENT

II. LANDSCAPING INELIGIBLE PROJECTS

BACKGROUND

PARD received a copy of the approved RCA, CUIC NO. 20JEV13, which lists the total 1% appropriation and the individual amounts for the projects eligible for landscaping. PARD sent out bids and then subsequently awarded contracts for landscaping for those projects.

FINDING

We examined two contracts for landscaping during the scope period and identified park sites and other locations landscaped with 1% funding which were not construction projects appropriated by PW&E. Contracts No. C56540 for \$646,094 with Hutchinson Exterior Design and C56850 for \$113,515 with Texas Landscape Company were approved to landscape 36 projects, 13 of which were not 1% construction projects.

RECOMMENDATION

We recommend that in the future, PARD follows any fund expenditure restrictions detailed in the applicable RCA and/or the joint procedures to be written by the Departments.

III. MAINTENANCE NOT PROVIDED AFTER CONTRACT EXPIRATION

BACKGROUND

A provision in each contract for landscaping states “The twenty-four (24) month maintenance period shall commence after the initial inspection and approval date of the tree planting”. Each contractor awarded the bid for landscaping by PARD is required to provide maintenance after the initial planting.

FINDING

PARD does not have any procedures in place to maintain landscaping for projects after the contractor’s contract has expired. Without continued scheduled maintenance, the projects become unsightly, such as the esplanade landscaping project on North Wayside – Ley Road to Tidwell. Some trees planted died, and some appeared to be unhealthy from lack of care, and as a result the spirit of the Resolution is diminished.

RECOMMENDATION

We recommend that PARD, in their annual budget, include upkeep of projects from 1% funding. Also, explore other options in collaboration with PW&E.

IV. INSURANCE COVERAGE

BACKGROUND

Contractors are to maintain insurance coverage for the term of the contract as indicated for the two contracts reviewed for the scope period. Each contractor's term was for 2 years. A provision in each contract states, "Contractor shall maintain in effect certain insurance coverage and shall furnish certificates of insurance"...

FINDING

It was noted that Insurance Certificates for contractors Hutchinson Exterior Design and Texas Landscaping Company policies had expired prior to the expiration term of the contracts. Renewal certificates were requested, but not provided.

The contract for Hutchinson Exterior Design was completed on December 14, 2006. The insurance coverage for automobile, Worker's Comp, and general liability expired July 26, 2005, September 24, 2005, and December 6, 2005 respectively. The contract for Texas Landscaping Company was completed on April 19, 2007. The insurance coverage for automobile, Worker's Comp, and general liability expired August 17, 2005, January 1, 2006, and April 4, 2006 respectively.

RECOMMENDATION

We recommend that PARD establish controls and procedures to ensure contractors maintain current required insurance and that the Department is provided with properly executed Insurance Certificates throughout the contract term.

EXHIBIT I

City of Houston Resolution No. 90-3

A RESOLUTION ADOPTING A POLICY OF LANDSCAPING IN CONNECTION WITH CITY OF HOUSTON ROADWAY AND FACILITY CONSTRUCTION.

* * * * *

WHEREAS, it is the intention of the City of Houston that construction of City streets and thoroughfares as well as City Facilities include trees and landscaping; and

WHEREAS, trees are an integral part of the City street and thoroughfare system; and

WHEREAS, it is the intention of the City of Houston to include trees and other appropriate landscaping in the design and construction of City streets, thoroughfares and other City facilities; NOW, THEREFORE

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HOUSTON:

Section 1. That the policy of the City of Houston shall be to expend a maximum of one percent of construction costs of roadway and Facility improvements for landscaping and beautification. Facilities as used herein shall mean structural improvements constructed by the City of Houston. Special effort shall be made in the areas of roadway beautification and water/wastewater treatment plant buffer zones. Further, it is the intention of City Council to request that the Directors of Public Works and Engineering and Parks and Recreation jointly develop procedures to accomplish and coordinate the implementation of this policy for trees, landscaping and beautification of City streets, thoroughfares and Facilities.

**City of Houston
Resolution 90-3**

EXHIBIT I

STT7/4

Section 2. This Resolution shall be passed finally on the date of its introduction and shall take effect immediately upon its passage and approval by the Mayor; however, in the event that the Mayor fails to sign this Resolution within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

PASSED AND ADOPTED this 17th day of January, 19 90.

APPROVED this ___ day of _____, 19 ____.

Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Resolution is JAN 23 1990.

Carroll Russell
City Secretary

**City of Houston
Resolution 90-3**

(Requested by Councilmember Christin Hartung)

EXHIBIT II



CITY OF HOUSTON

Department of Public Works &
Engineering

Interoffice

Correspondence

To: Annise Parker
Controller

From: Director

Date: October 6, 2008

CC:

Subject: ROADWAY LANDSCAPING AND
BEAUTIFICATION AUDIT

We have completed our response to the Roadway Landscaping and Beautification Audit for the period January 1, 2005 through June 30, 2006. We appreciate the following recommendation made by your auditors:

INADEQUATE CONTROLS AND LACK OF JOINT PROCEDURES

Recommendation:

We recommend that both Departments coordinate with each other, arrive at a common understanding of the Resolution, and determine procedures to comply with the Resolution.

Response:

We agree with the finding. PWE personnel have held planning meetings to devise improved internal controls and procedures for compliance with Ordinance 90-3. PWE and Parks and Recreation Department are currently working on a joint procedure to improve compliance and define the responsibilities of each department.

A handwritten signature in black ink, appearing to read "Michael Marcotte" with a date "10/7/08" written below it.

Michael Marcotte, P.E., DEE

cc: Wynette Chan, Chief of Staff
Reid Mrsny, Senior Assistant Director
Godwin Okoro, Deputy Assistant Director

**Views of Responsible
Officials**

EXHIBIT II



CITY OF HOUSTON

Parks and Recreation
Department

Interoffice

Correspondence

To: Annise Parker, City Controller

From: Joe Turner, Director

2008 OCT 14 PM 2:30
CONTROLLER'S

Date: October 13, 2008

Subject: **DEPARTMENT RESPONSE TO
ROADWAY LANDSCAPING AND
BEAUTIFICATION PROGRAM
COMPLIANCE AUDIT**

The Parks and Recreation Department agrees with the findings in the Roadway Landscaping and Beautification Program Compliance Audit and offers the following responses:

- I. Inadequate controls and Lack of Joint Procedures
The department staff has been meeting with PWE's staff to draft procedures to comply with Resolution 90-3 (see draft attached). The procedures will incorporate the recommendations mentioned in this audit.
We have also decided to consult with the City Legal Attorney's to give us their interpretation of this Resolution.
- II. Landscaping Ineligible Projects
In the draft procedures being developed by both departments, there will be detailed allowance for remaining funds after the earmarked projects have been completed.
- III. Maintenance not provided after contract expiration
The department does have procedures in place, we know that trees, in Houston, require 2 years of maintenance (primarily water) to become established. After the 2 years, the department assumes all responsibilities of maintenance which may include; additional water, mulch, fertilization and tree trimming. If by chance the tree dies, the department removes it.
- IV. Insurance Coverage
The department will set standards in place to ensure that the insurance coverage for the contractors is maintained. Also, when a renewal certificate is requested then a follow up memo will go to the contractor with a due date to submit.

The departments collectively are determined to adhere to this resolution set in place; and also to agree on procedures which will allow management the flexibility to utilized funds to beautify each completed project.


Joe Turner, Director
Parks and Recreation Department

Cy: Cheryl D. Johnson, Steve Schoonover, Carolyn Armstead, Abel Gonzales, Victor Cordova

*Views of Responsible
Officials*

EXHIBIT II

DRAFT

Procedures for Allocating, Appropriating, and Expending Funds Related to the One-Percent Set-Aside As Outlined in the City of Houston Resolution No. 90-3

The procedures that follow supersede the memo dated July 10, 2003 which is signed by the Directors of the Public Works and Engineering and Houston Parks and Recreation Departments.

City of Houston Resolution 90-3 states "...That the policy of the City of Houston shall be to expend a maximum of one percent of construction costs of roadway and facility improvements for landscaping and beautification." Further, the resolution states that the Public Works and Engineering and Parks and Recreation Departments shall jointly develop procedures to accomplish and coordinate the implementation of this policy. The following accomplishes the resolution's directive.

Procedures:

1. Public Works and Engineering Department (PWE) compiles a listing of road projects that have been completed in the previous 12-month period and computes the applicable one-percent set-aside amount.
2. PWE prepares a Request for Council Action (RCA) to appropriate the one-percent set-aside amount in Fund 4506, Business Area 3600.
3. After City Council has approved the funds appropriation, the Houston Parks and Recreation Department (HPARD), solicits bids to complete the work. After bids have been received and the contract awarded, HPARD:
 - a. Manages the landscaping/beautification contract;
 - b. Approves and processes invoice payments; and
 - c. Works with PWE to close out the project in the financial system when the work has been completed
4. Funds that have been allocated for landscaping/beautification on a specific thoroughfare shall be used for the thoroughfare only. However, in the event that the cost of landscaping/beautification on a roadway is accomplished for less than the amount appropriated, the remaining funds will be kept in Fund 4506, Business Area 3600 for use at the discretion of HPARD for landscaping/beautification in the city.

*Views of Responsible
Officials*

Read and Approved:

Joe Turner
Director
HPARD

Date: _____

Read and Approved:

Mike Marcotte
Director
PWE

Date: _____