

**Performance Audit
City Should Seek to Recover
Improper Payments Made
to the Port Authority**

April 2013

**City Auditor's Office
City of Kansas City, Missouri**

CITY OF FOUNTAINS
HEART OF THE NATION



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MISSOURI

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April 17, 2013

Honorable Mayor and Members of the City Council:

We conducted this audit to evaluate the propriety of city reimbursements paid to the Port Authority for Richards-Gebaur pre-development project expenses. We undertook the audit due to concerns raised about contracting issues related to the project.

The city overpaid the Port Authority for Richards-Gebaur project expenses. The city's procedures for processing Richards-Gebaur project reimbursements relied on the Port Authority to request only proper payments. We identified more than \$135,000 in improper payments requested by the Port Authority and paid by the city. These payments included duplicate payments; payments made to vendors at rates higher than the contract prices; incorrectly allocated closing costs; and expenses not covered under the city's contract with the Port Authority.

We make recommendations to recover improper payments from the Port Authority and to improve controls over the city's payment processes.

We provided draft audit reports to the directors of the city planning and development and finance departments on November 9, 2012. Their responses are appended. We would like to thank staff in the Aviation, City Planning and Development, Finance, and Law departments, and the staff of the Port Authority of Kansas City, Missouri, and the Economic Development Corporation of Kansas City, Missouri, for their assistance with this audit. The auditor for this project was Nancy Hunt.

A handwritten signature in black ink that reads "Gary L. White". The signature is written in a cursive, flowing style.

Gary L. White
City Auditor

City Should Seek to Recover Improper Payments Made to the Port Authority

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Introduction

Objectives

We conducted this audit of city reimbursements paid to the Port Authority of Kansas City, Missouri (Port Authority), for the Richards-Gebaur redevelopment project under the authority of Article II, Section 216 of the Charter of Kansas City, which establishes the Office of the City Auditor and outlines the city auditor's primary duties. This performance audit grew out of City Council Resolution 101060 which directed the city auditor to look at contracting issues related to the Port Authority's Richards-Gebaur project.

A performance audit provides assurance or conclusions based on an evaluation of sufficient, appropriate evidence against stated criteria. Performance audits provide objective analysis so that management and those charged with governance and oversight can use the information to improve program performance and operations, reduce costs, facilitate decision making, and contribute to public accountability.¹

This report is designed to answer the following question:

- Were city reimbursements to the Port Authority for Richards - Gebaur predevelopment services proper payments?

Scope and Methodology

Our review focuses on whether proper payments were made by the Aviation and City Planning and Development departments to the Port Authority. Our audit methods included:

- Reviewing contracts and contract documentation to determine how much the city committed to pay.

¹ Comptroller General of the United States, *Government Auditing Standards* (Washington, DC: U.S. Government Printing Office, 2007), p. 17.

- Comparing Port Authority payment requests, supporting documentation, and payments to determine how much the city paid, whether the payments were adequately supported, and whether the payments should have been made.
- Reviewing Port Authority payment requests and supporting documentation to determine whether duplicate payments were made.
- Comparing Port Authority vendor contracts with invoices to determine whether payments were made for the correct amounts.
- Interviewing Port Authority, Economic Development Commission, and city employees from the Aviation, City Planning and Development, Finance, and Law departments about the contracts and payments.

We conducted this performance audit in accordance with generally accepted government auditing standards. 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. No information was omitted from this report because it was deemed privileged or confidential.

Background

Richards-Gebaur Contract and Payment History

The city and Port Authority² entered into two cooperative agreements for Richards-Gebaur predevelopment services. The May 2006 agreement authorized \$50,000 “for legal, environmental testing and planning services.” The April 2007 agreement for \$640,000 was also for “legal, environmental testing and planning services.” Under these agreements, the City Planning and Development Department paid \$50,000 in one payment to fulfill the first cooperative agreement and a total of \$639,501 in four payments made from April 2007 thru March 2008 under the second cooperative agreement.

² The Port Authority of Kansas City, Missouri, is a political subdivision of the State of Missouri, established under Chapter 68 RSMo. It is charged with the economic planning and development of the Missouri River and other areas in the Kansas City, Missouri, corporate limits.

The Aviation Department made a separate payment to the Port Authority of \$331,995. The April 2007 Cooperative and Purchase Agreement between the city and Port Authority acknowledges Aviation's payment to the Port Authority "in connection with acquiring the Property and selling the Surface Development Property to the Developer including the RFQ for development of the Property, appraisals and legal expenses for obtaining governmental approval of the transaction (the 'Costs of Sale')."

MI 2-21 Sets City Payment Review Procedures

The city's Manual of Instruction (MI) 2-21, *Accounts Payable Payment Documents Review*, sets out procedures that departments should follow in reviewing requests for payment from contractors. The MI requires that payments be made in compliance with the agreed upon contract terms and that payments for service be supported by a valid contract, receiving report stating that the service was performed, and an invoice.

Proper Payment Defined

The city and Port Authority have a responsibility to protect public assets. Good stewardship requires that only proper payments are made. A proper payment is one that should be made and is:

- made for the correct amount.
- made for an eligible service.
- made for a service received.
- not a duplicate payment.
- adequately supported by documentation.³

³ Based on Grant Thornton materials from an Association of Government Accountant's audio conference, *The New Stewardship Imperative*, February 8, 2012.

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Findings and Recommendations

Summary

The city's procedures for processing Richards-Gebaur reimbursement requests from the Port Authority relied on the Port Authority's controls to adequately safeguard the public's interest in requesting only proper payments. We identified instances, however, in which the Port Authority requested and received double reimbursements for some expenses, reimbursements for invoices billed at higher than the rates set out in the Port Authority's vendor contracts, and reimbursements for expenses unrelated to Richards-Gebaur.

Good stewardship of public funds requires that staff follow established city procedures when processing payments. Documentation supporting expenditures should be sufficient to identify the expenses being paid. City Planning and Development Department staff made payments with inadequate documentation.

We recommend seeking recovery of \$135,052 in improper payments from the Port Authority and strengthening the city's payment processing procedures.

Improper Payments Made

The Port Authority requested and the city made improper payments for Richards-Gebaur pre-development expenses. The Port Authority was sometimes reimbursed twice for the same expense. Some invoices were billed and reimbursed at rates above the Port Authority's vendor contract rates. For some payments, neither the Port Authority nor the City Planning and Development Department knew which expenses were being requested for reimbursement or which specific costs were paid because documentation was inadequate. The city reimbursed some expenses without the Port Authority's supporting vendor invoices.

Multiple Parties Reimbursed the Same Expenses

The Port Authority asked for and received reimbursements for the same pre-development expenses more than once. The Port Authority sought reimbursement of Richards-Gebaur project expenses from the Aviation and City Planning and Development departments and from developers.

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The April 2007 Cooperative Agreement authorizes the city to make payments to the Port Authority for unreimbursed expenses.

A comparison of Port Authority-prepared listings of charges by vendor invoice, with charges divided among those who were supposed to pay, and payment documentation maintained by City Planning and Development and Aviation, reveals that both departments paid the Port Authority for some of the same expenses. The comparison also showed that the city reimbursed expenses for which the Port Authority had assigned payment responsibility to developers. In addition, we noted an instance in which a vendor charged the Port Authority for the same expense on two consecutive invoices that were reimbursed by the city. Based on the available documentation, the city paid the Port Authority at least \$90,446 for previously reimbursed expenses.

To recover improper payments requested by and made to the Port Authority, the director of the city planning and development department should seek repayment of duplicate reimbursements.

Invoice and Contract Pricing Do Not Match

Some of the rates listed in the invoices the Port submitted to the city did not match the rates listed in the Port Authority's service contracts. The city's payment process does not require that copies of contracts supporting the Port Authority's vendor payments be submitted to the city with reimbursement requests. The city's process relied on the Port Authority to monitor its contracts with vendors and to provide accurate contract pricing information to the city when seeking reimbursements.

We asked Port Authority staff to provide copies of vendor contracts that supported the city's reimbursements. The Port Authority was able to provide some, but not all of these contracts. In some cases, the rates in the invoices were higher than the contract rates. Based on the contracts with its vendors that the Port Authority was able to provide, vendors overcharged the Port Authority and in turn the city overpaid the Port Authority by about \$41,710.⁴

To recover improper payments requested by and made to the Port Authority, the director of the city planning and development department

⁴ Aviation Department records permit the calculation of a definite overpayment of \$8,210. Because City Planning and Development did not clearly identify which specific expenses or invoices it was reimbursing, we allocated the Port Authority's overpayment based on the proportion of the total payment assigned to developers and paid by City Planning. Most of the over-payments involve legal fees. The engagement letters for one firm listed rates by staff names. When computing overpayments for legal fees, we used the highest owner and attorney rates contained in the engagement letters for our calculations to ensure a conservative estimate of the overpayment.

should seek repayment of reimbursements made in excess of contract pricing.

Some Reimbursements Made Without Required Documentation

City staff did not always follow the city's requirements before paying reimbursement requests to the Port Authority. The city's payment procedures set forth in MI 2-21 require that invoices be obtained as part of the payment process. City Planning and Development Department staff accepted Port Authority-prepared summaries, listing vendor invoice information, as support for payments. Most of the summaries reimbursed by the City Planning and Development Department staff did not contain notations or documentation that vendor invoices had been compared to the summaries. The summaries did not always correctly identify the actual vendor or accurately reflect invoice dates and amounts.

In addition, the Port Authority summaries did not consistently classify the types of services provided by vendors. For example, one \$10,000 vendor invoice was classified as an appraisal expense when submitted to the Aviation Department for reimbursement and as a legal/environmental expense when submitted to the City Planning and Development Department. This same vendor invoice identifies the charge as an advance payment for professional services. A Port Authority resolution authorizes the contract with the vendor for public affairs consulting services.

While the Aviation Department's records include copies of invoices supporting all payments, City Planning and Development Department's records do not. In an email exchange related to a \$283,787 City Planning and Development Department reimbursement to the Port Authority, staff questioned whether the payment should be made based on the Port Authority-prepared summaries because the summaries did not look like an invoice or contain information normally contained on invoices. Management authorized the payment based on the Port Authority's summaries without copies of the vendor invoices for which the Port Authority was seeking reimbursement.

The city's payment procedures set forth in MI 2-21 require that invoices be obtained to provide at least a minimal level of safeguarding of city assets. The director of the city planning and development department should ensure that department staff follow the city's established payment procedures.

Documentation Does Not Identify Reimbursed Expenses

Available records do not always identify the specific expenses for which the Port Authority is seeking reimbursement from the city. In one payment request, the Port Authority supplied the City Planning and Development Department with summary sheets and invoices for almost \$350,000 in legal services, but requested reimbursement of about \$7,400. In the same payment request, the Port Authority requested reimbursement of environmental expense of more than \$275,000, excluding about \$9,100 of the listed invoices from their payment request. Neither the Port Authority nor City Planning and Development Department indicated which expenses were being requested or actually reimbursed.

In contrast, the Port Authority's summary sheet provided to the Aviation Department indicated the dollars of reimbursement they were seeking from the Aviation Department and developers by invoice. In authorizing payment, Aviation Department staff reviewed and marked the items on invoices they were reimbursing when less than the total. Aviation also prepared their own summary by invoice of the amount the Port Authority had requested and the amount the Aviation Department was reimbursing.

According to the city's Finance Department staff, agencies seeking reimbursement should provide invoices and indicate specifically the invoices or items they are asking the city to reimburse. MI 2-21 requires invoices but does not address reimbursement situations in which invoices would be submitted but for which reimbursement was not being sought or for which only partial reimbursement was requested. Had specific invoices and expenses been identified, we would have been able to determine whether any additional duplicate payments were made.

To clarify which documents support city payments, the director of finance should amend MI 2-21 to instruct staff to identify which invoice items are being paid.

City Reimbursed Expenses Not Related to Richards-Gebaur

Expenses of almost \$324 not related to Richards-Gebaur were included in one law firm's invoice and reimbursed by the city. Only Richards-Gebaur-related expenses were to be paid under the cooperative agreement. The Port Authority had marked through one invoice entry and circled and marked a second entry as "general" expenses, but did not remove those expenses from the reimbursement request.⁵ The Port

⁵ The "general" expenses included discussing a fundraiser and reviewing the board meeting agenda.

Authority should not have requested or been paid for General Port Authority expenses.

To recover improper payment made to the Port Authority, the director of city planning and development should seek to recover from the Port Authority payments of general Port Authority expenses not covered by the cooperative agreements.

Escrow, Closing Costs, and Fees Over Paid by City

The city paid more than its share of the escrow and closing expenses in its sale of the Richards-Gebaur property to the Port Authority. The April 2007 Cooperative and Purchase Agreement between the city and the Port Authority provides that the Port Authority will pay one-half of the title company's charges for acting as escrow and closing agent. The Final Settlement Statement from June 27, 2007 shows that the entire \$1,200 charge was paid by the city instead of the \$600 required by the agreement.

Upon reviewing the Final Settlement Statement, we also asked the Port Authority to identify the bills that supported about \$106,000 in attorney fees that were paid from the city's sale proceeds. The law firm identified four bills that supported the charges. The Port Authority included some of the charges from one of the four bills in a subsequent reimbursement request paid by the city. As a result, the city paid twice for at least \$1,972 in legal fees related to the sale of the property by the city to the Port Authority.

To recover improper payment made by the city, the director of the city planning and development department should seek to recover the \$600 in closing costs and \$1,972 in legal fees from the Port Authority.

Recommendations

1. The director of the city planning and development department should seek to recover from the Port Authority duplicate reimbursements; payments made in excess of the Port Authority contract pricing; general expenses not covered under the agreements; and incorrectly allocated closing costs.
2. The director of the city planning and development department should ensure that department staff follow the city's established payment procedures.

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3. The director of finance should amend MI 2-21 to instruct staff to identify which invoice items are being paid.

Appendix A

Director of City Planning and Development's Response

City Should Seek to Recover Improper Payments Made to the Port Authority



City Planning and Development Department

APR 3 2013
CITY AUDITOR'S OFFICE

RECEIVED
APR 3 2013
CITY AUDITOR'S OFFICE

A handwritten signature in blue ink, appearing to be 'RL', located to the right of the 'RECEIVED' stamp.

Date: April 2, 2013
To: Gary L. White, City Auditor
From: Robert Langenkamp, AICP, Assistant City Manager/Director, City Planning and Development Department
Subject: Response to Auditor's Recommendations on City Reimbursements to the Port Authority for Richards-Gebaur

Gary, we appreciate the quality and detail of the work performed by your office in preparing this report and in crafting its recommendations. We are in agreement with the recommendations addressed to City Planning:

Recommendation No. 1

The Director of the City Planning and Development Department should seek to recover from the Port Authority duplicate reimbursements, payments made in excess of the Port Authority contract pricing, general expenses not covered under the agreements, and incorrectly allocated closing costs.

Agree. City Planning has contacted the Port Authority to request payment.

Recommendation No. 2

The Director of City Planning and Development should ensure that department staff follows the city's established payment procedures.

Agree. Since the time that these payments were made in 2006 and 2007, City Planning staff has followed and continues to follow the Manual of Instruction for processing contract payments.

cc: Troy Schulte, City Manager

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Appendix B

Director of Finance's Response

City Should Seek to Recover Improper Payments Made to the Port Authority



Finance Department Director's Office



DATE: December 4, 2012
TO: Gary White, City Auditor
FROM: Randall J. Landes, Director of Finance 
RE: Response to City Auditor's Recommendation on City Reimbursements to the Port Authority for Richards-Gebaur

The Finance Department appreciates the quality and detail of the work performed by your office in preparing this report and in crafting its recommendations. We are in agreement with the recommendation addressed to the Finance Department.

Recommendation #3

The director of finance should amend MI 2-21 to instruct staff to identify which invoice items are being paid.

Agree. The Finance Department will amend MI 2-21 to include procedures to identify which invoice items are being paid and which invoice items are not included in the payment process.

cc: Troy Schulte, City Manager
Eric Clevenger, City Controller
Rusty Williams, Operations Manager