

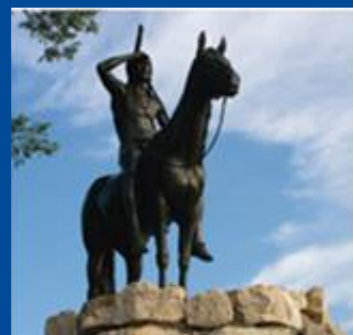


Office of the City Auditor

Performance Audit

August 2023

Central City Economic Development Sales Tax Projects Making Progress, Clarifying Roles and Responsibilities Can Improve Oversight of Funds



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August 14, 2023

Honorable Mayor and Members of the City Council:

This audit of the Central City Economic Development Sales Tax focuses on the progress of a sample of ten awarded projects. We reviewed reported expenses for two of these projects to determine whether public funds were spent in accordance with the contracts. This audit was initiated in part on input from the Housing and Community Development Department director.

Most projects we reviewed are making progress. Two projects have fully completed construction. Five projects have signed contracts with the city and are in the construction phase. Three projects have not yet entered into a funding agreement contract with the city to receive funds. Contractors reported barriers to timely completion of projects were from increases in costs, requirements of other funding sources, or insufficient total project funding.

The Housing and Community Development Department has not yet developed policies and procedures for withdrawing project awards from projects that are inactive or unresponsive. A recent ordinance passed by the City Council imposes a deadline on the substantial completion of incentivized projects and impacts CCED awardees who received over \$300,000. Seven of the 38 CCED projects awarded to date are below this \$300,000 threshold. Staff should communicate these deadlines for new and existing projects and develop procedures for consistently applying these requirements across all CCED awards so that CCED funds can contribute to community improvements as intended.

Many CCED projects are not submitting project updates to the Housing and Community Development Department as required. As of the May 2023 CCED Board meeting, awardees, or contractors for 9 projects out of 24 active projects did not respond to a request to provide a status update. Three of which had not responded since a November 2022 letter from the City Manager that stated funding could be revoked if they did not provide an update. While the Housing and Community Development Department has taken some steps to address this issue, additional steps should be established for projects that do not regularly communicate with the city. Without regular reporting and contact from awardees, the city cannot effectively monitor the use of CCED funds.

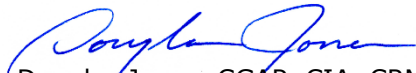
The CCED board is acting as an administrator of CCED funds after the City Council approves project awards; this is not the board's role. For example, the board has requested city staff modify standard city contract language related to reporting requirements. State statute and city code establish the CCED Board as a recommending body to the City Council. State statute

identifies the City Council as the final authority over CCED funds. City staff are required to follow city contracting procedures in their role as the administrator of city tax dollars.

City staff and contractors for two projects we reviewed did not follow contract requirements. One contractor accessed funds from a disbursement agent without the city's knowledge. Part of those funds may have been improperly transferred by the contractor to the contractor's unrelated business. A second project received about \$40,000 in reimbursements from the city without adequate documentation. Additionally, the city issued the final reimbursement without requiring a deed restriction to maintain the rehabbed property as affordable veteran housing for a period of ten years and restricting. The property has since been sold by the contractor without required written approval or city knowledge, jeopardizing the project's affordability and veteran housing.

We make recommendations to develop guidance for city staff in implementing deadlines for incentivized projects, clarifying project monitoring roles, pursuing city funds that may have been improperly transferred, and enforcing city contract requirements to meet the desired outcome for the use of public tax money.

The draft report was sent to the director of housing and community development on June 12, 2023, for review and comment. Her response is appended. We would like to thank the Housing and Community Development Department staff for their assistance and cooperation during this audit. The audit team for this project was Joan Pu (retired), Kara Jorgensen, Vivien Zhi, and Jonathan Lecuyer.


Douglas Jones, CGAP, CIA, CRMA
City Auditor

Central City Economic Development Sales Tax Projects Making Progress, Clarifying Roles and Responsibilities Can Improve Oversight of Funds

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Introduction

Audit Objectives

Are Central City Economic Development Sales Tax projects making progress towards completion?

Were Central City Economic Development Sales Tax funds spent according to contracts (funding agreements) for the projects in our sample?

Our audit of the Central City Economic Development (CCED) Sales Tax fund focuses on assessing the stages of selected projects; reviewing the contracting process; and how city staff oversee the contracts. To answer our objective, we selected a sample of ten projects to review; assessed project documents and city staff procedures; compared project expenses to the contracts for two projects; surveyed project awardees and contractors; reviewed state statutes and city code; and interviewed city staff and relevant stake holders.

We conducted this audit in accordance with Government Auditing Standards.

See Appendix A for more information about the audit objective, scope, methodology, and compliance with standards.

Background



Central City Economic Development Sales Tax

Kansas City, Missouri, voters approved the Central City Economic Development (CCED) Sales Tax on April 4, 2017. The purpose of this 10-year, 1/8 cent sales tax is to fund economic development projects in the Central City which is defined as the area bounded by 9th Street on the north, Gregory Boulevard on the south, The Paseo on the west, and Indiana Avenue on the east.

State statute¹ and city code² govern the use of CCED funds. Pursuant to state requirements, the city created a five-person board to make recommendations on the use of the sales tax funds. The mayor appoints three board members with the other two appointed by Jackson County and the Kansas City, Missouri School District.

¹ [RSMO § 67.1305.](#)

² [Kansas City Code of Ordinances Sec. 68-449.](#)

The city’s process for expending these funds begins when the CCED board initiates a Request for Proposals (RFP). Applicants submit project proposals, the CCED board evaluates and recommends projects to the City Council for funding. The City Council evaluates recommended projects and may, at its discretion, pass ordinances to authorize projects. A typical ordinance authorizes the Housing and Community Development Department director to negotiate and execute a contract with an awardee. (See Exhibit 1.) The department then disburses these funds in accordance with the contract.

Exhibit 1: CCED Project Funding Process



Source: City Auditor’s Office analysis.

As of May 2023, the City Council authorized 38 projects totaling a little more than \$53 million. (See Exhibit 2.)

Exhibit 2: CCED Projects and Funding Approved by City Council as of May 2023

Round	RFP Year	CCED ³ Amount	Projects
1	2018	\$7 million	7
2	2019	\$11.3 million	8
3	2020	\$15.2 million	7
4	2022	\$7.7 million	6
5	2023	\$12 million	10
Total		\$53.2 million	38

Source: Housing and Community Development Department, Council Record May 11, 2023.

The city contracted with two consultants⁴ for various services throughout the course of the CCED sales tax. These services included preparing monthly board reports, Request for Proposal development, and project oversight.

³ Projects may receive funding from multiple sources in addition to CCED funds.

⁴ Dean and Dunn LLC, March 2019- March 2021; Harrison-Lee Development Consulting March 2019-Current.














Findings and Recommendations

Projects Making Progress, Process for Stalled Projects Needed

Reviewed Projects Making Progress, Some Barriers and Delays Exist

We reviewed a judgmental sample of 10 Central City Economic Development (CCED) projects. Most are making progress. (See Exhibit 3.) We determined the project stage based on the contract status. (See Appendix B for details on the projects selected.)

Exhibit 3: Progress Towards Completion of CCED Projects Reviewed

Project Stages After Council Approval	Project Name	Council Approved	Original Expected Completion Date	Stage
Round 1				
Contract Negotiation 	Neighborhoods United	01/24/2019	9/30/2021	 7/29/2022
Contract Signed, Construction Phase 	Prospect Biz Incubator (KC Comm Builder)	1/17/2019	12/31/2019	 2/13/2020
Project Complete Final Payment Date 	National Association of Construction Coop	1/24/2019	8/31/2025	
Round 2				
	Urban America - KC EVE, LLC	9/19/2019	-	
	Prospect Summit Duplexes	12/10/2020	-	
Round 3				
	38th Street Studio	12/17/2020	-	
	The Overlook District	12/10/2020	2025 ⁵	
	Jazz Hill Apartment	12/1/2021 ⁶	2/28/2023	
	Santa Fe Homes	12/17/2020	12/1/2022	
	Conrad Wright Media Building	12/17/2021	4/01/2023	

Source: CCED Project Contracts, Housing and Community Development Department Documents, City Auditor's Office Review.

Once projects are approved by the City Council, the Housing and Community Development Department typically negotiates funding terms and conditions for the use of sales tax dollars in a contract

⁵ TIF Agreement project delivery timeline.

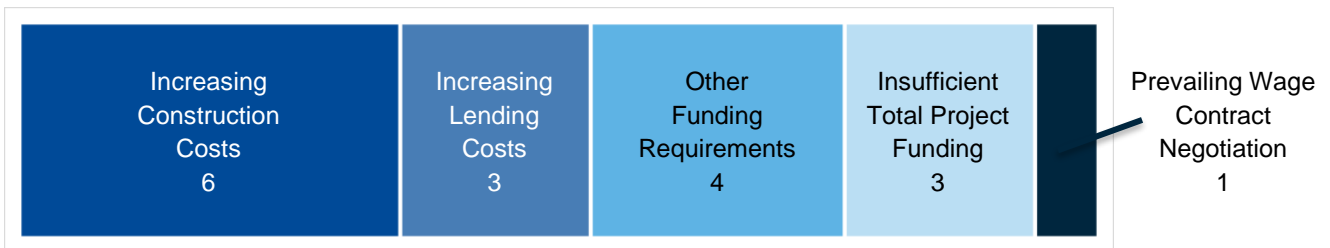
⁶ Original Ordinance approved 12/10/2020, subsequent dates are additional funding.

with the CCED awardee.⁷ These contracts are individually negotiated with specific terms and conditions tailored for each type of proposed project. The contract outlines the project purpose, timelines, and obligations of all parties. The contracts also may include provisions to ensure the projects continue to support CCED housing affordability goals after completion. City staff monitor and disburse CCED funds in accordance with the contract.

Of the 10 projects we reviewed, 7 had executed contracts to use CCED funds. Two of the seven projects with contracts were completely constructed with completed project paperwork. Three projects currently in the construction stage did not meet their original project completion timeline. And the awardee has not yet entered into a contract with the city for the use of CCED funds for three projects.

In fall of 2022, most awardees and contractors in our sample stated they encountered some kind of delay to their original project timeline.⁸ Of note, the Covid pandemic occurred during this timeframe. Most awardees and contractors identified increased costs as a barrier to making progress towards project completion. Half of awardees and contractors in our sample identified having to meet requirements from other funding sources as another source of delay.⁹ (See Exhibit 4.)

Exhibit 4: Barriers Impacting Project Progress Reported by Awardees – Fall 2022



Source: City Auditor's Office Survey of Awardees.

When asked, four out of eight awardees also stated the contracting process was lengthy. The city requires developers to submit documents during the contracting process. To help expedite the contracting process, the city now provides a list of required

⁷ After the CCED board recommends a project and the City Council approves the project, we refer to the CCED project recipient as the 'awardee'. After the CCED project recipient enters in a contract with the city, we refer to them as the contractor.

⁸ We distributed a survey questionnaire to eight of the projects in our sample to determine the stage of their project, barriers faced, and other feedback. Awardees and contractors could note multiple reasons for barriers. Neighborhoods United and Conrad Wright Media Building projects were not yet part of our sample during our survey phase; we review their status in detail later in this report.

⁹ For example, Tax Increment Financing, Low Income Housing Tax Credits, Planned Industrial Expansion Authority, etc.

documentation. The city develops proposed contracts with awardees based on a contract template that includes standard city requirements which protect tax funds and program interests. The city and awardee then negotiate and adjust the contract until all parties agree and sign the contract. This process may contribute to some of the delay awardees and contractors described.

While half of the surveyed awardees reported city contracting requirements as a source of delay, the projects without a contract report other barriers as their main obstacle.

Inactive Projects Tie Up Limited Resources

For almost three years after the City Council approved funds, the Housing and Community Development Department has been unable to execute a contract with three project awardees in our sample. (See Exhibit 5.) City ordinance authorizes either the city manager or the Housing and Community Development Department director to negotiate and/or execute a contract for these three projects. The Housing and Community Development Department cannot disburse CCED funds to project awardees without a contract because city departments, boards, and agencies must follow established policies and procedures when reviewing, executing, authorizing, and processing city contracts.¹⁰

Project funding contracts help the city ensure contractors use public funds appropriately and provide the city recourse if a contractor does not remain in compliance. When awarded projects do not progress, they tie up CCED funds that could be awarded to projects that can more timely meet community needs.

Exhibit 5: Reviewed Projects with Council Approved Funds but No Contract

Project Name	Authorized date	Amount
Urban America - KC EVE, LLC	9/19/2019	\$1,205,231
Prospect Summit Duplexes	12/10/2020	\$2,500,000
38th Street Studio	12/17/2020	\$282,354
Total		\$3,105,231

Source: City Ordinances and Housing and Community Development Department Files.

The Housing and Community Development Department has not established a policy that imposes deadlines for contract execution or substantial progress to address projects that are inactive or unresponsive. Management has taken some steps to address inactive or unresponsive projects. In November 2022, the city

¹⁰ *Administrative Regulation 3-21, "Contract and Procurement Policies and Procedures,"* July 19, 2007; *Manual of Instructions 2-02, "Contracts,"* July 23, 2008; *Procurement Procedures Manual, Section 8.3, "Authority to Contract,"* August 28, 2007.

manager sent a letter to contractors or awardees of projects that were not submitting required status reports to the city. This included projects with a contract and some without a contract. In March 2023 city staff began researching steps to withdraw awarded funds from inactive or unresponsive projects.

A recently passed ordinance gives city staff some guidance on an expected timeframe for inactive projects' awards to be rescinded. In April 2023, the City Council passed an ordinance enacting Section 74-12 of the Code of Ordinances that limited project construction timelines for incentives that are \$300,000 or over.¹¹ The ordinance also applies to projects receiving CCED funds. It requires incentivized projects to substantially complete construction within three years of the approval date. After three years the incentive project deadline offer expires unless the timeline is modified by City Council ordinance or resolution. The ordinance also specifies a deadline to expire incentives that the City Council approved prior to the ordinance.

The Housing and Community Development Department should communicate these new deadlines to CCED contractors that exceed the \$300,000 threshold. To implement the termination of CCED projects that are inactive, the department needs a policy and procedure to guide staff in notifying and documenting implementation of this policy. Without this guidance, staff may not consistently apply requirements.

Out of the 38 approved projects, 7 have award amounts that are less than the new ordinance's \$300,000 threshold. Three of these projects are in our sample, one of which is inactive. Projects awarded less than \$300,000 that are not covered by the new ordinance need similar guidance to fairly terminate if they are not substantially completed in a reasonable timeframe. This will allow CCED funds to be directed to projects that can more timely address the CCED area's needs.

Recommendation

To improve the efficiency and effectiveness of CCED tax funds, the director of housing and community development should:

- ensure deadlines established in Section 74-12 of the Code of Ordinances are included in all CCED contracts and
- develop policies and procedures for addressing CCED projects with expiring funds as outlined in Section 74-12 of the Code of Ordinances and include in those policies, procedures to address inactive projects below the \$300,000 threshold established in this City Code section.

¹¹ Ordinance 230316, April 13, 2023.

Contract Reporting Should be Enforced, Monitoring Responsibility Clarified

Awardees Not Always Reporting as Required, Staff Not Enforcing Requirement

Many Central City Economic Development (CCED) contractors do not regularly submit project updates. Contracts require CCED contractors to submit periodic project status and financial reports to the Housing and Community Development Department. Prior to March 14, 2021, the city contracted a consultant, Dean & Dunn, to monitor contract compliance. After that contract ended, city staff began monitoring contract compliance. In 2022, staff implemented an electronic reporting system for contractors to submit written reports. Prior to that, contractors were disputing staff's verbal presentations to the board about contractor progress.

In total, over one third of the contractors did not submit information to the Housing and Community Development Department for the May 2023 board meeting as required. In November 2022, the City Manager's Office sent six letters to contractors on various projects because they were not reporting as required. The letter notified the contractor that they needed to report their use of the CCED tax funds or face potential repercussions. Half of the contractors did not report for the February/March 2023 timeframe by the May 2023, Board Meeting. (See Exhibit 6.)

Exhibit 6: February/March 2023 Progress Reported by May 10, 2023



Source: Housing and Community Development Department reports.

City staff said CCED board members requested the department work with contractors not providing reports instead of taking action. After contractors continued to fail to properly report in March 2023, the board agreed staff should take steps to address these issues. Most CCED contracts allow the city to recover or suspend funds if the contractor is not in compliance with the contract, including non-compliance with reporting requirements. Contractors' periodic progress reports help city staff ensure public tax dollars are used as intended. Enforcing contract provisions like reporting is an important tool for transparency and promoting public trust.

For example, the city has adopted a policy for withholding of funds for projects that do not comply with city Minority and Women Owned Businesses requirements.¹² Without a similar policy on withholding or recalling funds for non-compliance with city reporting requirements, city staff do not have guidance on the application of this contract requirement. Withholding funds is a serious matter that must be applied consistently and fairly.

The recently enacted Sec 74-12 of the Code of Ordinances requiring deadlines for projects receiving incentives increases the need for regular reporting from CCED projects to help monitor their status.

Required project updates allow city staff to monitor whether projects are progressing in accordance with the contract. Without this information, city staff cannot evaluate whether contractors are making progress and/or using public funds as intended.

Recommendation

To ensure protection of public tax dollars through the enforcement of contract provisions, the director of housing and community development should establish policies and procedures to guide enforcement in a consistent and fair manner including and up to the withholding or recalling of funds and direct staff to enforce contract provisions when contractors do not comply.

Provision in City Contract Should Allow City Staff to Monitor the Santa Fe Homes Project

The Housing and Community Development Department is not sure of their role to monitor the use of public funds for the Santa Fe homes rehabilitation project. The city's contract should have monitoring and reporting requirements to ensure CCED public tax dollars are used as intended. Housing staff generally set up contracts¹³ where contractors submit expenditure documentation to the city over the course of the project. Monitoring of fund disbursement allows city staff to oversee the public funds directly.

The city manager directly negotiated and signed the contract with the Santa Fe Area Council. The contract did not include the contractor's financial reporting requirements to the city and delegated authority to disburse funds to a disbursement agent.¹⁴

¹² *Administrative Regulation 3-25*, "Withholding of Contractual Damages," August 1, 2010.

¹³ Projects receiving funds from other incentive agencies (TIF, LCRA, PIEA) may be monitored by the other incentivizing agency.

¹⁴ Escrow refers to a neutral third party (disbursement agent) holding funds before they are transferred from one party (the city) in a transaction to another (contractor). A disbursement agent should only release the funds from the escrow account upon the fulfillment of the contractual obligations.

The funding contract outlines requirements for the disbursement agent to follow, however the disbursement agent is not a party to the city's contract with Santa Fe. Santa Fe signed a separate agreement directly with the disbursement agent and because the city was not represented in the disbursement contract, the city may not have authority over the disbursement agent's distribution of public funds. The Housing and Community Development Department did not have a copy of the disbursement agreement on file or know if one existed. Santa Fe is not required to submit financial expense information to the city on a regular basis. They are only required to report to the city the eligibility of the applications received, projects awarded, and construction status.

The purpose of Santa Fe's CCED award is to complete home rehab repairs for qualified households. This award requires the Santa Fe Area Council to advertise, screen, and oversee the construction rehab of the home. The contract outlines these requirements along with the required construction standards. Additionally, each rehabbed home requires a forgivable loan recorded as a deed restriction limiting the home's future sale and use for a time period. These detailed program requirements are all the responsibility of the Santa Fe Area Council. Without involvement in the disbursement or review of approved disbursements, the Housing and Community Development Department is not clear on their authority to oversee use of public funds for this contract, forgivable loan implementation, or adherence to eligibility requirements.

In lieu of staff being able to monitor the use of funds as expenses occur for individual home rehab projects, the contract between the city and the Santa Fe Area Council gives the city the authority to audit or examine all the project records. Periodic review of project details, financial records, and Santa Fe Council processes should give the city assurance CCED funds are used as intended. The Santa Fe contract states that if they are in breach of any term in the contract, project funds can be withheld, or the contract terminated by written 30-day notice and any unused funds at the end of the contract term returned to the city.

Recommendation

To provide better oversight of CCED funds, the director of housing and community development should develop a policy to periodically examine project details and financial records of projects that do not require direct financial reporting to the city.

CCED Board Is a Recommending, Not Oversight Body

The Central City Economic Development (CCED) Board directed city staff in project contract negotiation and monitoring beyond the board’s identified authority. State Statute¹⁵ and City Code¹⁶ outlines the CCED Board’s responsibilities as:

- Considering economic development plans, projects, or designations and their impact based on established criteria;
- Holding public hearings; and
- Recommending to the City Council adopting economic development plans, projects, or designations in an area.

The City Council is responsible for determining the final use of CCED tax dollars.¹⁷ City Council authorizes the Housing and Community Development Department director or City Manager to negotiate or execute contracts with CCED awardees. City staff have the responsibility to disburse funds and monitor these contracts in accordance with city policies. Confusion over monitoring roles may contribute to projects not complying with contract reporting requirements.

Exhibit 7. CCED Sales Tax Roles and Responsibilities

Entity	Role	Responsibilities
CCED Board	Recommendation	<ul style="list-style-type: none"> • Propose goals, project criteria • Issue RFP • Hold public hearings • Recommend project for funding
	↓	
City Council	Authorization & Oversight	<ul style="list-style-type: none"> • Authorize project funding and scopes
	↓	
City Staff	Administration	<ul style="list-style-type: none"> • Execute contracts • Monitor compliance with city requirements • Protect public funds

Sources: RSMo 67.1305, Code of Ordinances, Kansas City Missouri Sec. 68-449, City Contracts, and City Auditor Analysis.

Some of the board’s actions are not within their statutory responsibilities. A CCED Board report incorrectly identifies their role as administering CCED funds.¹⁸ After making

¹⁵ RSMo §67.1305 (2012).

¹⁶ Code of Ordinances, Kansas City Missouri, Sec. 68-449.

¹⁷ RSMo § 67.1305 Sec. 13 (2012).

¹⁸ Central City Economic Development Report, Inception to Date Status Report, Harrison-Lee Development Consulting, December 2022, slide 7.

recommendations to the council, the CCED Board continues to assume a project oversight role. While discussing contract reporting requirements, one board member told Housing and Community Development Department staff that CCED projects are not part of the Housing and Community Development Department and that the administrative decisions made by the department are not necessarily how it should be done. A board member requested staff to change city contract language during a CCED board meeting. The board also gave directions to change contract provisions on contractor reporting frequency and the city's recourse against contractors for failure to comply. Board members continued to communicate between staff and the awardee while the city was negotiating the release of project funds. City staff state they have followed some of these board directions, even though staff should be taking direction from city policy and procedures.

While it is reasonable and commendable for CCED board members to be interested in and request information about CCED project progress, the city is responsible for managing and protecting public tax dollars. The city's contract requirements should not be altered based on direction from the CCED board. City staff have stated they feel pressure to make changes to contracts or release funds because of direction from the board. City staff are responsible for carrying out the city's policies and requirements related to contracting but cannot do so without clear direction and support from city management.

Recommendation	To ensure Housing and Community Development Department staff adequately monitoring and protect public tax dollars, the director of housing and community development should clarify roles and responsibilities of city staff including contract development and project monitoring to all parties after the City Council approves CCED funds.
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Unclear How Two Projects Spent Public Funds

We selected two projects to evaluate whether the contractor's use of CCED funds was in accordance with their contracts.

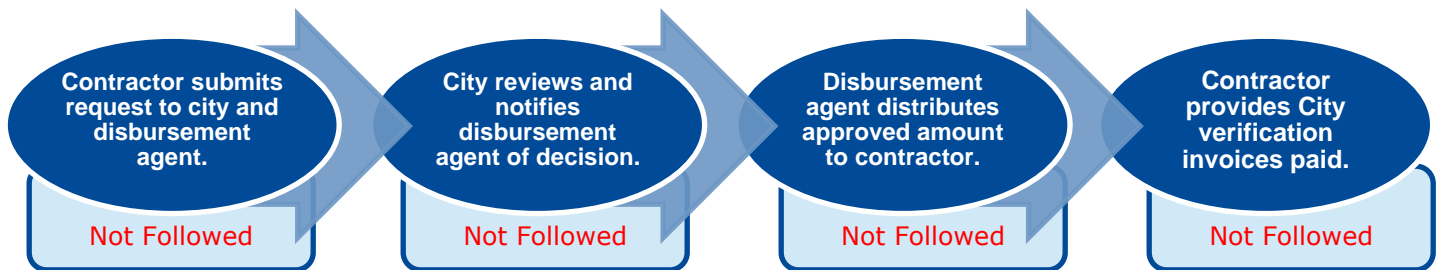
- Conrad Wright Media Building, a project to rehabilitate a building for mixed use development; and,
- Neighborhoods United, a project to redevelop duplexes for affordable veteran housing.

The city and the two contractors did not follow processes outlined in these contracts. Therefore, we could not confirm the proper use of all CCED funds for either project.

Conrad Wright Media Building Project Funds Advanced with No Oversight

The Conrad Wright Media Building project’s contractor transferred nearly half of the CCED funds without city approval or knowledge. This project’s contract requires an escrow account¹⁹ to hold and disburse the project funds after the city’s approval. The disbursement agreement describes a four-step process to release up to half of the council-approved funds in advance of work. (See Exhibit 8.)

Exhibit 8: Conrad Wright Media Building Disbursement Agreement – Advance of Funds Process Not Followed



Source: City Contract 2021-0121 and City Auditor’s Office Analysis.

The City Council approved \$200,000 for this project. The city moved \$100,000 to the escrow account. The contractor made almost \$91,000 in transfers (See Exhibit 9.) as of September 2022 without following the required process. Over \$15,000 of the funds may have been improperly transferred by the contractor to another of the contractor’s businesses.

Exhibit 9: Conrad Wright Project – CCED Funds Transfers March to August 2022

Date	Amount	Company	Role
March 9, 2022	\$100,000	Deposit From City	CCED Funds Advancement
March 9, 2022	(\$75,000)	Total Construction	Sub-contractor
June 1, 2022	(\$10,000)	Stay Focused Digital	Contractor’s personal business
July 8, 2022	(\$2,000)	Stay Focused Digital	Contractor’s personal business
July 29, 2022	(\$2,000)	Stay Focused Digital	Contractor’s personal business
August 5, 2022	(\$1,000)	Stay Focused Digital	Contractor’s personal business
August 31, 2022	(\$1,000)	Stay Focused Digital	Contractor’s personal business
August 2022	(\$30)	Disbursement Agent	Transaction Fees
Balance	\$8,970		

Source: CCED funds bank statements and City Auditor’s Office Analysis.

¹⁹ Escrow refers to a neutral third party (disbursement agent) holding funds before they are transferred from one party (the city) in a transaction to another (contractor). A disbursement agent should only release the funds from the escrow account upon the fulfillment of the contractual obligations.

The contractor was able to transfer funds without city approval because the disbursement agent did not restrict access to the funds. The disbursement agent signed a contract committing to releasing funds in advance of work but only when following the process described in the contract (Exhibit 8). The disbursement agent stated that the city instructed them in an email to release the funds. While the intent of the email communication is unclear, it did not comply with the disbursement agreement because it did not include any expense details or proper authorization forms as outlined in the disbursement agreement. Therefore, the contractor should not have transferred CCED funds from the escrow account. The city was unaware the disbursement agent gave the contractor direct access to these funds.

In March 2023, we informed the Housing and Community Development Department director that the disbursement agent was not performing duties as stated in their contract and that the contractor has had unrestricted, direct access to CCED funds since May 2022.

Based on our observations of the appearance of the building's exterior, some rehabilitation for this project has been completed. Without appropriate oversight of the funds, we cannot determine whether those funds were used as described in the contract. We requested the contractor provide documentation that supports the use of the \$91,000. He did not provide our office with any evidence, however a sub-contractor submitted some excel spreadsheets. The spreadsheets were insufficient to support CCED fund use.

Recommendation

To safeguard tax dollars, the director of housing and community development should:

- confirm the contractor's use of CCED funds for the Conrad Wright Media Building project, and pursue legal remedies for improper use if necessary; and
- ensure all CCED projects' disbursement agents are aware of their role as described in the contracts.

Neighborhoods United Project Documentation Inadequate, Affordable Housing Component in Jeopardy

The Neighborhoods United (NU) veterans housing project's contractor did not comply with all requirements of their contract. The contract requires a reimbursement method for receiving CCED funds and a ten-year deed restriction to be placed on the properties.

City staff approved reimbursement without adequate evidence that the funds were spent according to the contract. The NU contract requires the contractor to show the sources of all resources and expenditures for work before the city will reimburse them with CCED funds. This typically means invoices from sub-contractors and receipts showing proof of payment to the sub-contractors. The City Council authorized \$313,804 in CCED funds towards this project. We reviewed documentation for this project and over \$40,000 of the reimbursement did not have appropriate supporting documentation. Without sufficient supporting documentation the city does not know whether project funds were used as intended.

City staff state they were frustrated and slowed trying to understand the unorganized and incomplete reimbursement paperwork received from the contractor. The same individual worked as both the contractor and the subcontractor on this project, increasing confusion in the documentation. Additionally, the Civil Rights and Equal Opportunity Department allowed the use of sweat equity in lieu of some prevailing wage contract requirements during the project's construction. This changed the documentation requirements. Staff state they attempted to verify the costs as much as possible given the circumstances.

Recommendation

To provide better oversight of CCED funds, the director of housing and community development should ensure city staff enforce documentation reimbursement requirements.

City staff approved reimbursement without a deed restriction on the rehabbed property. The Neighborhoods United (NU) contract obligates them to file a deed restriction with the Jackson County Recorder of Deeds within 20 days of substantial completion of the project. The deed restriction should limit the use of each duplex as affordable veteran's housing. The Jackson County Recorder of Deeds does not have this deed restriction on file. The Housing and Community Development Department has no record of the deeds on file.

On April 14, 2023, Neighborhoods United transferred these properties to a private company without the written consent of the city. The contract restricts the sale of the properties without written approval from the city. The new owner took out loans and deeded the property to a bank. Without deed restrictions in place, the city cannot ensure these properties will be used to support CCED goals. Recourse is difficult because the city has paid all reimbursements. Enforcing a breach of contract is often more time consuming and costly after the fact. Delaying the release of funds until the contractor has fulfilled the contract would have been a

more efficient way to ensure the duplexes are used as affordable veterans housing.

Recommendation To ensure the duplexes are used as affordable veteran’s housing for 10 years after substantial completion, as required in the contract, the director of housing and community development should explore options to enforce the Neighborhoods United project deed restriction requirement.

Recommendations

1. The director of housing and community development should ensure deadlines established in Section 74-12 of the Code of Ordinances are included in all CCED contracts.
2. The director of housing and community development should develop policies and procedures for addressing CCED projects with expiring funds as outlined in Section 74-12 of the Code of Ordinances and include in those policies, procedures to address inactive projects below the \$300,000 threshold established in this City Code section.
3. The director of housing and community development should establish policies and procedures to guide enforcement in a consistent and fair manner including and up to the withholding or recalling of funds and direct staff to enforce contract provisions when contractors do not comply.
4. The director of housing and community development should develop a policy to periodically examine project details and financial records of projects that do not require direct financial reporting to the city.
5. The director of housing and community development should clarify roles and responsibilities of city staff including contract development and project monitoring to all parties after the City Council approves CCED funds.
6. The director of housing and community development should confirm the contractor’s use of CCED funds for the Conrad Wright Media Building project, and pursue legal remedies for improper use if necessary.
7. The director of housing and community development should ensure all CCED projects’ disbursement agents are aware of their role as described in the contracts.

8. The director of housing and community development should ensure city staff enforce documentation reimbursement requirements.
9. The director of housing and community development should explore options to enforce the Neighborhoods United deed restriction requirement.

Appendix A: Objective, Scope and Methodology, and Compliance Statement

We conducted this performance audit of the Central City Economic Development Sales Tax use under the authority of Article II, Section 216 of the Charter of Kansas City, Missouri, which establishes the Office of the City Auditor and outlines the city auditor's primary duties.

A performance audit provides "objective analysis, findings, and conclusions to assist management and those charged with governance and oversight with, among other things, improving program performance and operations, reducing costs, facilitating decision making by parties with responsibility for overseeing or initiating corrective action, and contributing to public accountability."²⁰

Why We Did This Audit

The sales tax is around the midpoint of its 10-year lifespan. The public is interested in learning how the CCED sales tax is being used. Some external and internal stakeholders have concerns about the slow progress of projects with approved funding. Shortly after we issued our fiscal year 2023 annual audit plan that included an audit of CCED, the newly appointed Housing Director requested our office to conduct an audit of projects and processes.

The city has a fiduciary duty to safeguard public tax funds by following rules, regulations, and the city's policies and procedures. Analyzing the progress of CCED projects helps identify barriers affecting project completion and process gaps.

Audit Objective

This report is designed to answer the following questions:

- Are Central City Economic Development Sales Tax projects making progress towards completion?
- Were Central City Economic Development Sales Tax funds spent according to contracts for the projects in our sample?

²⁰ Comptroller General of the United States, [Government Auditing Standards](#) (Washington, DC: U.S. Government Printing Office, 2018), pp. 10, 11.

Scope and Methodology

Our audit focuses on a select number of CCED projects. Our audit methods included:

- Selecting projects from Request For Proposal rounds 1, 2, and 3 at various stages for review. Due to resource and time constraints, we were not able to review every CCED project.
- Surveying project awardees and contractors to understand their barriers and reasons for delays.
- Analyzing 10 projects to determine progress they made towards completing the project.
- Reviewing the reporting, reimbursement, and disbursement documentation for eight projects to determine compliance with contracts.
- Assessing expense documentation for two projects to determine whether funds were used as intended.
- Reviewing state statutes and city code to understand state and city requirements.
- Interviewing city staff, and relevant stakeholders to understand current practices, issues, and roles.
- Communicating with disbursement agents and reviewing disbursement agreements to understand and evaluate disbursement agent roles.
- Observing project locations to determine whether work has commenced or completed.

Statement of Compliance with Government Auditing Standards

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 confidential or sensitive.

Scope of Work on Internal Controls

We assessed internal controls relevant to contracts for projects approved Central City Economic Development Sales Tax funds. This included assessing the design, implementation and operating effectiveness of the funding contract including contract requirements such as project monitoring and the fund disbursement processes. We identified internal control deficiencies that are discussed in the body of the report.

Appendix B: Project Sample Detail

Round	Project Name	Project type and summary	CCED Amount
1	Prospect Biz Incubator (KC Comm Builder)	Office Incubator Renovation for Entrepreneur Space at 5008 Prospect	\$627,785
1	National Association of Construction Coop	Housing Rehabilitation of Homes throughout the District	\$215,000
2	Urban America - KC EVE, LLC	Housing Redevelopment of Castle Building and 36 net zero homes near 20th & Vine	\$1,205,231
2	Prospect Summit Duplexes	Housing Construction of 23 townhomes at 22nd/23rd & Prospect Ave.	\$2,500,000
3	38th Street Studio	Housing/Office Rehabilitation of building located at 38th & Agnes for office space and housing	\$282,354
3	The Overlook District (KC Comm Builder)	Office Site infrastructure for future 11 acre office/mixed-use development	\$5,150,000
3	Jazz Hill Apartment	Housing Multi-family rehabilitation of Jazz Hill Apartments - 197 affordable units	\$4,124,296
3	Santa Fe Homes	Housing Home rehabilitation program in Santa Fe Neighborhood (\$50,000 maximum loan per home)	\$610,000
3	Conrad Wright Media Building	Mixed Use Rehab building for commercial and apartments	\$200,000
1	Neighborhoods United	Housing Rehab of units for veterans, low-income	\$313,804

Source: Housing and Community Development Department.

Appendix C: Director of Housing and Community Development's Response



Housing and Community Development Department

Office of the Director

24th Floor, City Hall, Suite 2403
414 East 12th Street
Kansas City, Missouri 64106

816-513-3200
Fax: 816-513-9091

RECEIVED

JUN 29 2023

CITY AUDITOR'S OFFICE

Date: June 29, 2023
To: Douglas Jones, City Auditor
From: Jane Pansing Brown, Director
J. Brown
Housing and Community Development Department
Subject: Response to Performance Audit: *Central City Economic Development Sales Tax Projects Making Progress, Clarifying Roles and Responsibilities Can Improve Oversight of Funds*

1. *The director of housing and community development should ensure deadlines established in Section 74-12 of the Code of Ordinances are included in all CCED contracts.*

Agree in part. The Housing and Community Development Department (Housing Department) agrees deadlines in the Code of Ordinances should be followed; however, an amendment to Section 72-12 was passed recently without discussion with the Housing Department. In May of 2023, the Housing Department asked Law to prepare an additional amendment to this ordinance and submit for Council approval to reflect the variety of issues Housing faces when contracting with developers, including low-income housing tax credits, MHDC, environmental reviews, pre-development costs, funding cycles at MHDC, asbestos removal, underground tank removal, and soil remediation issues. A proposed ordinance was drafted by Law and is expected to be submitted to Council by August 2023.

2. *The director of housing and community development should develop policies and procedures for addressing CCED projects with expiring funds as outlined in Section 74-12 of the Code of Ordinances and include in those policies, procedures to address inactive projects below the \$300,000 threshold established in this City Code section.*

Agree in part. The Housing Department agrees it should develop procedures for addressing CCED projects with expiring funds. At the direction of the CCED Board, Housing staff have already contacted those projects awardees to address inactive projects. It is the intent of the CCED Board to claw back funds from inactive projects to use on other projects. The Housing Department agrees in part with the remainder of this recommendation because in May of 2023, the Housing Department asked Law to amend Section 74-12 and submit for Council approval to reflect the

variety of issues Housing faces when contracting with developers, including low-income housing tax credits, MHDC, environmental phase reviews, pre-development costs, funding cycles at MHDC, asbestos removal, underground tank removal, and soil remediation issues. A proposed ordinance has been drafted by Law and is expected to be submitted to Council by August 2023.

3. ***The director of housing and community development should establish policies and procedures to guide enforcement in a consistent and fair manner including and up to the withholding or recalling of funds and direct staff to enforce contract provisions when contractors do not comply.***

Agree. Policies should always be enforced in a consistent and fair manner including and up to the withholding or recalling of funds. CCED started in earnest in 2018, and just two years later, COVID began. COVID delayed most of the projects by two years. Only in the last year has it become apparent which projects were still unable to comply with their contracts. The CCED Board determined earlier in 2023 city staff should contact those projects to advise them funds would be withheld and distributed to other projects if progress was not shown. City staff contacted all projects not showing progress in April, May and June of 2023 and gave those projects a deadline.

4. ***The director of housing and community development should develop a policy to periodically examine project details and financial records of projects that do not require direct financial reporting to the city.***

Agree. A policy to periodically examine project details and financial records of projects that do not require direct financial reporting to the city will be established by August 2023.

5. ***The director of housing and community development should clarify roles and responsibilities of city staff including contract development and project monitoring to all parties after the City Council approves CCED funds.***

Agree. The roles and responsibilities of city staff including contract development and project monitoring to all parties after the City Council approves CCED funds were clarified in February 2022.

6. ***The director of housing and community development should confirm the contractor's use of CCED funds for the Conrad Wright Media Building project and pursue legal remedies for improper use if necessary.***

Agree in part. The Housing and Community Development Department already requested documents from the contractor for the Conrad Wright Media Building project as did the City Auditor. Requesting those same documents, a third time, to confirm the contractor's use of the CCED funds is pointless. The matter will be referred to the City's Legal Department to pursue legal remedies within 30 days.

- 7. *The director of housing and community development should ensure all CCED projects' disbursement agents are aware of their role as described in the contracts.***

Agree. The Housing Department has now contacted all disbursement agents to ensure they are aware of their roles as described in the contract.

- 8. *The director of housing and community development should ensure city staff enforce documentation reimbursement requirements.***

Agree. It has been the policy of the Housing and Community Development Department since February 2022 to enforce documentation reimbursement requirements to the extent allowed by the CCED Board and provided in all CCED contracts.

- 9. *The director of housing and community development should explore options to enforce the Neighborhoods United deed restriction requirement.***

Agree. The Housing Department reached out to Neighborhoods United about this deed restriction in May 2022 and several emails have been exchanged to obtain the required signature(s) for the deed restriction approved by the Law Department. This is expected to be resolved by August 2023.

cc: Brian Platt, City Manager