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October 26, 2004

HONORABLE IGNACIO DE LA FUENTE, PRESIDENT
AND MEMBERS OF THE CITY COUNCIL
Oakland, California

President De La Fuente and Members of the City Council:

**SUBJECT: CITY AUDITOR'S QUARTERLY REPORT ON THE STATUS OF
RECOMMENDATIONS FOR THE QUARTER ENDED SEPTEMBER 30,
2003**

Attached is a copy of the City Auditor's Quarterly Report on the Status of Recommendations for the Quarter Ended September 30, 2003. Also included is the latest tally of Good Government inquiries.

The purpose of this report is to inform the Council of areas where changes in procedures could result in better controls, greater efficiencies and reduced opportunities for the loss of City resources.

Prepared by:

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Chief Deputy City Auditor

Issued by:

Roland E. Smith
ROLAND E. SMITH, CPA, CFS
City Auditor

Attachments

04-122

Item: _____
Finance & Management Committee
October 26, 2004

STATUS OF RECOMMENDATIONS FOR QUARTER ENDED SEPTEMBER 30, 2003

Report Title/#: Oakland Tow Car Association Contract Compliance Audit; 04-024			
Report Date: September 23, 2003			
Background: Progress report on the audit of the contract between the City of Oakland and the Oakland Tow Car Association (OTCA). This report specifically focuses on the contract award process and whether the contract is written to maximize revenue to the City.			
<u>AUDITOR'S FINDING</u>	<u>RECOMMENDATIONS</u>	<u>STATUS</u>	<u>IMPLICATIONS IF UNACHIEVED</u>
1. OTCA has consistently been awarded single sole source contract extensions.	<ul style="list-style-type: none"> Practice of awarding contract extensions to OTCA without going to open competitive bid process should be discontinued. 	<ul style="list-style-type: none"> Not implemented. 	<ul style="list-style-type: none"> Potential loss of revenue.
2. OTCA exists in name only. The contract is carried out by A&B Auto Co. Inc. and A&B Vehicle Processing Inc.	<ul style="list-style-type: none"> Discontinue issuing contracts to OTCA, a nonexistent entity. 	<ul style="list-style-type: none"> Not implemented. 	<ul style="list-style-type: none"> Potential liability to the City.
3. OTCA's members and form of ownership changed without any documentation or justification.	<ul style="list-style-type: none"> In future contracts, the City should monitor changes in contract language and document and/or justify all significant changes. 	<ul style="list-style-type: none"> Not implemented. 	<ul style="list-style-type: none"> Potential for inadequate management decisions.
4. A complete set of contracts, amendments, resolutions and agenda reports related to the contract between the City and OTCA could not be located.	<ul style="list-style-type: none"> All future contracts and amendments should be filed with the City Clerk's office. 	<ul style="list-style-type: none"> Not implemented. 	<ul style="list-style-type: none"> Potential for inadequate management decisions.
5. Contract amendments contained errors, inconsistencies and deficiencies, contract errors. Contract errors, inconsistencies and deficiencies occurred because of a lack of oversight.	<ul style="list-style-type: none"> City agencies with specific responsibilities under the contract should fulfill those responsibilities to avoid inconsistencies and errors in future contracts and amendments. The City Attorney, City Auditor and a designee responsible for contract 	<ul style="list-style-type: none"> Not implemented. Not implemented. 	<ul style="list-style-type: none"> Potential liability to the City. Potential liability to the City.

	<p>administration should review contracts and amendments to ensure that contract provisions are clear, and do not contain errors, inconsistencies and ambiguities.</p>		
<p>6. The contract between the City and OTCA does not provide for the City to share in the revenues from lien sales or storage.</p>	<ul style="list-style-type: none"> The towing contract should provide for the City to receive revenues from storage and lien sales. 	<ul style="list-style-type: none"> Not implemented. 	<ul style="list-style-type: none"> Loss of revenue to the City.
<p>7. The contract's insurance, bonding and liquidated damages requirements need to be updated. The City does not require Workers' Compensation.</p>	<ul style="list-style-type: none"> The City should immediately amend the contract to require Workers' Compensation insurance coverage by the Contractor. New tow car contracts should reflect State vehicle code requirements and the City should look at tow car contracts in other jurisdictions to determine insurance requirements. In the new contract, the City should update the contractor's bonding and liquidated damages requirements to coincide with the cost of the present contract. 	<ul style="list-style-type: none"> Not implemented. Not implemented. Not implemented. 	<ul style="list-style-type: none"> Potential liability to the City. Potential liability to the City. Potential liability to the City.
<p>8. Late tows are not being adequately monitored by OPD as required in the contract.</p>	<ul style="list-style-type: none"> OPD should develop a monitoring system to track the number of lien tows and collect the late fees to the City. 	<ul style="list-style-type: none"> In progress. 	<ul style="list-style-type: none"> Potential loss of revenue to the City.
<p>9. OTCA is not in compliance with contract requirements if its payment of Administrative fees to the City.</p>	<ul style="list-style-type: none"> OTCA should immediately bring payment the City for the required Administrative fees. 	<ul style="list-style-type: none"> Implemented. 	<ul style="list-style-type: none"> Not applicable.

Report Title/#: Review of the Lease Agreement Between the City of Oakland and the Clay Street Garage Corporation; #02 032			
Report Date: November 12, 2002			
Background: The Clay Street Garage Corp. manages and operates the City-owned Clay Street Garage.			
<u>AUDITOR'S FINDING</u>	<u>RECOMMENDATIONS</u>	<u>STATUS</u>	<u>IMPLICATIONS IF UNACHIEVED</u>
1. Electrical lighting retrofit, stairs and safety railing repair work needs to be done.	<ul style="list-style-type: none"> Get retrofit and repair work done to reduce costs and improve safety. 	<ul style="list-style-type: none"> Implemented - lighting retrofit. Deferred – stairs and safety rail repair. 	<ul style="list-style-type: none"> Expenditure increases and safety liability.

Report Title/#: OPD Community Oriented Policing Services (COPS) Grants Report; #03-008			
Report Date: October 22, 2002			
Background: To determine whether the City applied for and received available federal COPS grants, the type and amount of grants received and whether all grants were fully utilized.			
<u>AUDITOR'S FINDING</u>	<u>RECOMMENDATIONS</u>	<u>STATUS</u>	<u>IMPLICATIONS IF UNACHIEVED</u>
1. OPD did not spend all grant funds before the grants expired.	<ul style="list-style-type: none"> Develop a comprehensive strategy to utilize grant funds before the expiration of the grants. 	<ul style="list-style-type: none"> Implemented. 	<ul style="list-style-type: none"> Reimbursement of COPS grant funds not utilized.
2. OPD could not provide local matching funds for some grants.	<ul style="list-style-type: none"> OPD continue to identify sources to support the City in providing matching funds. 	<ul style="list-style-type: none"> Implemented. 	<ul style="list-style-type: none"> Reduction of COPS grant funding.

Report Title/#: Franchise Fee Audit of AT&T Broadband and Internet Services; #99 021.2			
Report Date: August 11, 2000			
Background: Audit of cable television franchise fees for years ended December 31, 1996, 1997, and 1998.			
<u>AUDITOR'S FINDING</u>	<u>RECOMMENDATIONS</u>	<u>STATUS</u>	<u>IMPLICATIONS IF UNACHIEVED</u>
Franchise Fees 1. Section 6.002 of the franchise agreement requires the Contractor to pay the City a franchise fee quarterly, not later than May 1, August 1, November 1 and February 1 for the preceding three month period ending respectively, March 31, June 30, September 30 and December 31 of each year.	<ul style="list-style-type: none"> Since the Contractor charges franchise fees to customers monthly, we recommend that the Office of the City Clerk consider, in negotiating with the Contractor for renewal of the agreement, require that the Contractor remit franchise fees to the City monthly instead of quarterly. 	<ul style="list-style-type: none"> Negotiations with the City Clerk, City Attorney and Comcast are in process. 	<ul style="list-style-type: none"> Lost revenue to the City.
Underpaid Franchise Fees 2. We found that the Contractor had underpaid the City \$162,623, including interest and penalties.	The Contractor should: <ul style="list-style-type: none"> Pay the City the \$162,623 due through December 31, 1998 Calculate and pay the City any amounts due, including interest and penalties, for the period January 1, 1999 to date. Assure that in the future the franchise fees paid to the City are accurate. 	<ul style="list-style-type: none"> The City Auditor has billed Comcast for the \$162,623, plus interest and penalties up to December 31, 2000. Negotiations with the City Clerk, City Attorney and Comcast are in process. 	<ul style="list-style-type: none"> Underpaid franchise fee.

**CITY AUDITOR'S
SPEAK OUT FOR GOOD GOVERNMENT PROGRAM**

A program which provides a fair, neutral and confidential process through which all employee and citizen complaints of wrongdoing, dereliction of duty and improper behavior are provided a thorough review for the purpose of satisfactorily resolving the complaint.

- A) **Total Number of Good Government Inquires
from January 1, 2003 through June 30, 2003:** 7
- B) **Total Number of Good Government Inquires
since Program Began in February of 2000:** 150

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