



City Auditor's Office Memorandum

Date: December 22, 2014
To: Brenda S. Fischer, City Manager
From: Candace MacLeod, City Auditor
Subject: Audit Follow-Up: Inter Technologies Lease Agreements

As part of the approved FY2014 audit plan, an audit of the city's two lease agreements (Agreements) with Inter Technologies Corporation (Lessee) was completed by the City Auditor's Office in May 2014. The purpose of the audit was to review compliance with the terms and conditions of the Agreements.

This month, a follow-up audit was conducted to ensure appropriate actions were taken by management to address the internal control risks identified in the May 2014 report. Out of the 32 audit recommendations made in the original report, one item remains open relating to the development of an ordinance surrounding fee waivers in the Community Services Department. The estimated date of completion of the ordinance is March 31, 2015.

The attached Appendices A and B summarize sections in the Agreements where compliance issues were identified, along with updated management responses for each issue. Appendix A refers to C-7901 for 5754 W. Glenn Drive; Appendix B refers to C-8505 for 5752 W. Glenn Drive. The lease at 5752 W. Glenn Drive was not renewed and the Lessee vacated the premises in July 2014.

Please let me know if you have any questions. We would like to extend our appreciation to the staff that assisted us throughout the follow-up audit.

Attachments

cc: Michael D. Bailey, City Attorney
Jim Brown, Director, Human Resources and Risk Management
Mark Burdick, Fire Chief
Jennifer Campbell, Assistant City Manager
Tom Duensing, Director, Financial and Technology
Jack Friedline, Director, Public Works
Brian Friedman, Director, Economic Development
Julie Frisoni, Assistant City Manager
Charles Jenkins, Fire Marshal
Sam McAllen, Director, Development Services
Brent Stoddard, Director, Intergovernmental Programs
Erik Strunk, Director, Community Services
Julie Watters, Director, Communications

Appendix A
C-7901 - Inter Technologies Lease Agreement - 5754 W. Glenn Drive

	Recommendation	Management Response May 2014	Management Response December 2014	Status
1.	Community and Economic Development (CED) should retain a copy of the square footage of a leased city property in the contract folder for that property.	Concur. Leasable square footage is always subject to debate and negotiation in any tenant lease. The building plans on file were used to obtain gross square footage amounts and then calculate the net leasable space. The email from the former building official/ Engineering office that measured the facility could not be located that stated the exact figure, but is very close to the figure our present building official provided.	Development Services retains a record of the gross square footage of every project. It is recorded in the Hansen permit system. However, this is the building area as defined by the building code which may differ from the method used to calculate leasable area.	Closed
2.	CED should work in conjunction with Public Works and formally assign the responsibility for calculating and retaining square footage of city properties.	Concur. CED agrees and is in the process of modifying Certificate of Occupancy permits to provide for a square footage figure as part of the permit. This will not address leasable space, but will provide a much needed baseline figure for negotiations.	Per the city's building safety official, as of August 14, 2014, the building area in square feet has been added to the Certificate of Occupancy in the custom "Comments" field at the bottom of the certificate.	Closed
3.	CED should assign a contract administrator to monitor the Agreement, conduct and document inspections, and address any compliance issues in a timely manner.	Concur. The position of contract administrator is a very specific position. CED does not have a staff person with specialized skills to be considered a contract administrator. CED has and will continue to provide Program Manager level oversight. The entire city has recently been considering a contract administrator because of the complexities of each contract.	See May 2014 response. The Lessee reserved Murphy Park Amphitheater four times in October 2014 and paid the city a total of \$440 for these reservations. The 2014 Annual Report provides additional information regarding 24 music events and 10 cultural events held within the Glendale municipal boundaries.	Closed
4.	CED should ensure that any amendments to the Agreement are formally documented, approved and recorded.	Concur. Although Communications agreed to waive the six-month notice because they realized how cumbersome that process was, CED will ensure that amendments to the agreement are formalized, approved and recorded.	See May 2014 response. No amendments to the lease have been made.	Closed

Appendix A
C-7901 - Inter Technologies Lease Agreement - 5754 W. Glenn Drive

	Recommendation	Management Response May 2014	Management Response December 2014	Status
5.	PRLS should ensure that proper approvals are obtained before city fees are waived and staff should be trained.	Concur. Only the director has authority to waive fees based upon Administrative Code 1.22 and the department's Facility and Activity Reservation System Policies and Procedures Manual. The manual is currently being updated and staff will be trained appropriately to handle such requests in the future.	The director has not issued fee waivers or discounts since receiving this audit recommendation in May 2014. The department is currently in the process of reviewing all fees for further consideration by City Council in 2015. Additionally, staff met with the city attorney and is developing draft ordinance language that, if approved, will provide Council authorization to waive and/or discount fees in certain circumstances. All department policies and procedures will be revised pending Council approval of the draft ordinance language. The estimated date of completion is March 31, 2015.	Open
6.	CED should ensure that contracts are provided to the city clerk in a timely manner.	Concur. All the proper documents were drafted and sent out per the agreement; renewal letters will be submitted to the city clerk for recording.	The Lessee's renewal letter was received by the city on November 3, 2014 and filed on the same day with the City Clerk's Office as C-7901-5.	Closed
7.	CED should ensure that city leases are fair market value and consider incorporating rent escalators into future lease renewals, as applicable.	Concur. CED concurs with the statement in general, but not for this specific lease. The Council was aware this was never intended to be a full rate market lease. The rationale for requiring the Lessee to perform 38 events annually proves this point, as full market lease rates have no other performance-based stipulations other than primarily length of term and rate. The council report proves this point. This lease is a partnership and collaborative effort to bring art, music and visitors to the downtown as past city events are not being funded by the city any longer.	See May 2014 response.	Closed

Appendix A
C-7901 - Inter Technologies Lease Agreement - 5754 W. Glenn Drive

	Recommendation	Management Response May 2014	Management Response December 2014	Status
8.	Financial Services should invoice the Lessee for missed rent payments.	Concur. Financial Services will invoice the Lessee for the missed rent in May 2014.	The Lessee was invoiced on May 13, 2014 and paid the missed invoice in full on June 9, 2014. Their rent payments are current as of December 9, 2014.	Closed
9.	Financial Services should develop controls to ensure that invoices are sent out in a timely manner and charge interest on late payments in accordance with the Agreement.	Concur. Financial Services will develop additional controls to ensure that invoices are sent out in a timely manner and charge interest on late payments. Additionally, 12 monthly invoices for any future lease renewals will be sent out all at once at the beginning of the lease.	The Lessee's remaining monthly invoices for the fiscal year were uploaded to SharePoint in May 2014 and 12 monthly invoices will be sent out at the beginning of the lease renewal period. Finance and Technology will charge interest for late payments per the Agreement, if applicable. Waiving interest will be at the discretion of the department.	Closed
10.	Public Works should ensure that minutes are maintained by the Building Standards Committee for proposed modifications to city buildings.	Concur. While minutes from the meeting were not found, notes from the meeting, including the modification plans, were found.	Minutes are currently being maintained by the Building Safety Committee.	Closed
11.	CED should work with Public Works to ensure the Lessee is invoiced for electric costs since the inception of the Agreement and going forward for the term of the lease.	Concur. A summary of invoices for the electricity in the Bead Museum building were recently provided to CED but are not consistent and fluctuate wildly month-to-month in kilowatt per hour charges. The Lessee has put in writing they will remunerate the city. CED and Public Works are working together to resolve the APS billings and will then invoice the Lessee by May 30, 2014.	On August 8, 2014, a letter was emailed to the Lessee stating the city was willing to provide terms to allow payment over time as follows: 1) An initial 50% payment (\$13,440.66) by August 31, 2014; 2) The remaining balance paid in 11 equal monthly payments of \$1,120.05 and a final payment of \$1,120.11 remitted with rent payments beginning in September 2014 through August 2015. On September 9, 2014, the initial payment of \$13,440.66 was received. The Lessee's monthly rent payments are current as of December 9, 2014.	Closed

Appendix A
C-7901 - Inter Technologies Lease Agreement - 5754 W. Glenn Drive

	Recommendation	Management Response May 2014	Management Response December 2014	Status
12.	CED should ensure that lease rates incorporate any city costs that are incurred as part of the lease agreement.	Concur. CED concurs with the statement in general, but not for this specific lease. The Council was aware this was never intended to be a full rate market lease. The rationale for requiring the Lessee to perform 38 events annually proves this point as full market lease rates have no other performance-based stipulations other than primarily length of term and rate. The maintenance of the grounds immediately surrounding the building was discussed and it was decided the city should maintain the grounds as it is in the heart of downtown in an area where the city owns many buildings and is adjacent to a memorial which must be maintained to a very high standard.	See May 2014 response.	Closed
13.	Human Resources and Risk Management should review the Lessee's insurance and notify CED of any compliance issues.	Concur. Human Resources and Risk Management will review the Lessee's insurance in May 2014 and notify CED of any compliance issues.	On September 30, 2014, the city's risk manager received and reviewed the corrected Certificate of Insurance which complied with the Agreement's requirements. The certificate was officially filed with the November 3, 2014 Letter of Intent.	Closed
14.	Financial Services should ensure that the Lessee has been charged the correct sales tax rate since inception of the Agreement and going forward for the term of the lease.	Concur. Financial Services will invoice the Lessee for the additional sales tax owed to the city by May 30, 2014. Additional controls will be developed in miscellaneous receivables to ensure sales tax rates are checked before an invoice is sent out. Additionally, 12 monthly invoices for any future lease renewals will be sent out all at once at the beginning of the lease.	The Lessee was invoiced for the additional sales tax owed on May 13, 2014, and paid the invoice on May 27, 2014.	Closed

Appendix A
C-7901 - Inter Technologies Lease Agreement - 5754 W. Glenn Drive

	Recommendation	Management Response May 2014	Management Response December 2014	Status
15.	Financial Services should review the general ledger to ensure that sales tax relating to the lease is charged to the correct account for the term of the lease.	Concur. Financial Services will review the general ledger by May 30, 2014 to ensure sales tax was correctly recorded.	The general ledger was reviewed in April 2014 and no issues were identified.	Closed
16.	Financial Services should verify whether the Lessee is required to pay government property lease excise tax and is filing all required returns.	Concur. Financial Services will review this information by June 30, 2014.	At the request of Finance and Technology, Economic Development contacted the Lessee on December 16, 2014 and requested that they submit a government property lease excise tax form, regardless of whether they owe the tax.	Closed
17.	The Council Office should request a written policy for councilmember donations, in consultation with city management, the City Attorney's Office and Financial Services.	Concur. The Council Office will request a written policy for councilmember donations, in consultation with city management, the City Attorney's Office and Financial Services, by June 30, 2014.	On September 2, 2014, the Council approved a written policy which includes a form that must be signed by each Councilmember and includes a right to audit form that must be signed by organizations accepting donations.	Closed

Appendix B
C-8505 - Inter Technologies Lease Agreement - 5752 W. Glenn Drive

	Recommendation	Management Response May 2014	Management Response December 2014	Status
1.	Community & Economic Development (CED) should retain a copy of the square footage for a leased city property in the contract folder for that property.	Concur. Leasable square footage is always subject to debate and negotiation in any tenant lease. The building plan sets still on file were used to obtain gross square footage amounts and then calculate the net leasable space. The email from the former building official/Engineering office that measured the facility could not be located that stated the exact figure, but is very close to the figure our present building official provided.	Development Services retains a record of the gross square footage of every project. It is recorded in the Hansen permit system. However, this is the building area as defined by the building code, which may differ from the method used to calculate leasable area.	Closed
2.	CED should work in conjunction with Public Works and formally assign the responsibility for calculating and retaining square footage of city properties.	Concur. CED agrees to and is in the process of modifying Certificate of Occupancy permits to provide for a square footage figure as part of the permit. This will not address leasable space, but will provide a much needed baseline figure for negotiations.	Per the city's building safety official, as of August 14, 2014, the building area in square feet has been added to the Certificate of Occupancy in the custom "Comments" field at the bottom of the certificate.	Closed
3.	The Fire Marshal's Office should inspect the Lessee's space to ensure all issues identified in the April 16, 2014 inspection report have been satisfactorily addressed.	Concur. Fire conducted two follow-up inspections, on April 19, 2014 and May 1, 2014, to ensure compliance.	The Fire Marshal's Office conducted a follow-up inspection in June. Item 1 "Key locks on the exit door" was corrected; however, Item 2 "Missing glass tube on pull station" was not replaced. The Lessee had since moved out and the Civic Center Manager was instructed to ensure this item was corrected. A follow-up inspection was conducted on December 10, 2014 and the violation still existed, plus three additional violations were reported. An additional inspection was conducted on December 17, 2014, and all noted violations were corrected.	Closed

Appendix B
C-8505 - Inter Technologies Lease Agreement - 5752 W. Glenn Drive

	Recommendation	Management Response May 2014	Management Response December 2014	Status
4.	CED should assign a contract administrator to monitor the Agreement, conduct and document inspections, and address any compliance issues	Concur. CED staff contacted and visited the site multiple times over the term of the lease to date and will document per the request. Note: The tenant has given notice.	See May 2014 response.	Closed
5.	CED should ensure that only authorized individuals approve Agreements.	Concur. The CED director will continue to ensure that the city manager's office is consulted prior to the renewal of a lease.	A lease renewal did not take place. The Lessee vacated the storage room on July 13, 2014.	Closed
6.	CED should ensure that contracts are provided to the city clerk in a timely manner.	Concur. All the proper documents were drafted and sent out per the agreement; renewal letters will be submitted to the city clerk for recording.	See May 2014 response.	Closed
7.	CED should ensure that leases are fair market value.	Concur. CED received analyses from NAI Horizon and Levrose Real Estate in determining fair market value.	See May 2014 response.	Closed
8.	Financial Services should develop controls to ensure invoices are sent out in a timely manner and charge interest on late payments in accordance with the Agreement.	Concur. Financial Services will develop additional controls to ensure that invoices are sent out in a timely manner and charge interest on late payments.	The Lessee vacated their space in July 2014 and lease payments are no longer being collected.	Closed
9.	The Civic Center should consider installing a control box over the air conditioning panel in the leased space.	Concur. The Civic Center will consult with the Lessee about room temperature set points so that the room temperature does not damage any equipment or supplies stored in the leased space. The Civic Center will also contact Facilities Management to install locked covers for HVAC thermostats with programmed recommended set points.	A control box was not installed as the Lessee vacated their space in July 2014 and the room is now under the direct control of the Civic Center.	Closed
10.	CED should ensure city costs are considered when a lease rate is being developed.	Concur. The City Manager's Office and the Communications department were engaged in dialog about the subject of opportunity costs and direct costs for entering into this lease.	See May 2014 response.	Closed

Appendix B
C-8505 - Inter Technologies Lease Agreement - 5752 W. Glenn Drive

	Recommendation	Management Response May 2014	Management Response December 2014	Status
11.	CED should ensure that the Lessee pays for all damages to the premises.	Concur. CED will work in conjunction with the Civic Center and Financial Services to ensure that the Lessee is invoiced for any repairs or damages by May 30, 2014.	As of July 13, 2014, the tenant vacated their leased space. On July 14, 2014, a walk-through of the facility was done by city staff and no damage was found.	Closed
12.	CED should ensure that security deposits are incorporated into leases, where applicable.	Concur. CED will ensure that security deposits are incorporated into future leases, as applicable.	See May 2014 response.	Closed
13.	The Civic Center should ensure that the Lessee complies with Section 7.1 of the Agreement.	Concur. Since the July 2013 noise issue, Civic Center management has provided the Lessee with events scheduled in the Annex when they have been requested by the Lessee to prevent any potential noise issues. Since that communication, no further noise disruptions have occurred.	The Lessee vacated their space in July 2014 and noise issues no longer exist.	Closed
14.	Human Resources and Risk Management should review the Lessee's insurance and notify CED of any compliance issues.	Concur. Human Resources and Risk Management will review the Lessee's insurance in May 2014 and notify CED of any compliance issues.	The Lessee vacated their space in July 2014 and no additional follow-up was performed.	Closed
15.	Financial Services should verify whether the Lessee is required to pay government property lease excise tax and is filing all required returns.	Concur. Financial Services will review this information by June 30, 2014.	The Lessee vacated their space in July 2014 and no further action was taken.	Closed