

I. EXECUTIVE SUMMARY

The Office of Public Integrity (OPI) examined the accountability of reported cash collections, the adequacy of internal control procedures, and compliance with City policies in the Department of Recreation and Youth Services (DRYS), Public Market. We noted improvements from our prior review of the Public Market including significantly less outstanding accounts receivables and in the timeliness of depositing revenue. However, we noted the following findings that require management attention to improve administrative controls and ensure compliance with City policy.

- ◆ OPI noted that Market personnel do not impose fees on vendors who do not properly clean their stalls. DRYS policy requires vendors to clean their stalls and leave them free of litter. The policy includes fines for vendors who do not adhere to this regulation.
- ◆ Market personnel could not provide lease agreements for 3 vendors. Additionally, we noted 43 leases that included terms and rental rates included on a fee schedule that the Commissioner of DRYS did not authorize and two leases that included terms and rental rates not included in any fee schedule. The City Code requires that the Commissioner of DRYS set and authorize rental rates at the Market.
- ◆ Market personnel inconsistently charge late payment fees.
- ◆ We noted an inadequate review of cash collection records by Market management.
- ◆ OPI noted that Market personnel do not maintain a waiting list for vendors who want to lease space at the Public Market. The City Code requires that the Public Market lease space on a first-come first-served basis. Failure to maintain a waiting list could create the perception that the Market gives preference or shows favoritism towards particular vendors.
- ◆ OPI examined Market receipts issued to vendors and traced them to bank deposit tickets to verify that market personnel deposited all revenue. We noted several exceptions during this test work that appear to be a result of clerical errors. However, we did note one \$100 shortage that we could not account for.

II. BACKGROUND, OBJECTIVES AND SCOPE

A. Assignment

The Office of Public Integrity routinely reviews City operations, cash handling procedures, and accountability for cash collections. OPI selected the Public Market for this examination of cash handling activities. We performed the last review of this area in December 2007.

B. Background

The Public Market is a unit within the Department of Recreation and Youth Services, Bureau of Recreation. The unit manages and operates the Rochester Public Market facilities at 280 North Union Street. Market personnel rent stall space to vendors, collect rent payments, maintain buildings and grounds, and supervise operations on market days. Facilities at the Public Market include two open-air sheds, one heated and enclosed shed, four kiosks, and additional non-traditional open air spaces within the market grounds. Public Market personnel divide sheds into stalls and rent them to vendors on a daily, seasonal, or annual basis at rental rates established by the DRYS Commissioner. For fiscal year 2010-2011 the Public Market reported cash collections of \$681,443.

The seasonal or annual rental of Market space requires a lease agreement between the vendor and the City. The following table summarizes the number of stalls and the current seasonal and annual occupancy rate:

<u>Public Market Rental Summary 2011-12 Season</u>				
<u>Location</u>	<u>Available Stalls</u>	<u>Stalls Currently Rented</u>	<u>Seasonal/ Annual Leases</u>	<u>Occupancy Rate</u>
Shed A	124	124	57	100%
Shed C	68	68	50	100%
Winter shed	60	60	31	100%
Kiosks	4	4	4	100%
Non-traditional space	63	62	37	97%

C. Objectives and Scope

In this review we assessed the adequacy and effectiveness of internal controls, determined accountability of reported cash collections, and ascertained compliance with City Cash Collection Policies. The Office of Public Integrity selected records applicable to all revenue reported for the period May 1, 2011 through October 31, 2011. For this period, the Public Market deposited \$47,572 applicable to daily rentals and \$351,891 applicable to seasonal/annual lease payments.

Management is responsible for establishing and maintaining a system of internal accounting and administrative control. Fulfilling this responsibility requires estimates and judgments by management to assess the expected benefits and related costs of control procedures. The objectives of a system are to provide management with reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition, and that transactions are executed in accordance with management's authorization and recorded properly to permit the preparation of accurate, informative reports that are fairly stated.

Because of inherent limitations in any system of internal accounting and administrative control, errors or irregularities may nevertheless occur and not be detected. Also, projection of any system evaluation to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the degree of compliance with procedures may deteriorate.

The recommendations presented in this report include the more significant areas of potential improvement that came to our attention during the course of the examination, but do not include all possible improvements that a more extensive review might develop.

III. RESULTS OF REVIEW

The results of this review indicate that, in general, internal controls are adequate, Public Market personnel adequately report and deposit revenue in a timely manner and they follow the City's Cash Collection Policies and procedures. However, we noted that certain deficiencies exist that require management attention to improve administrative controls and ensure compliance with City policy.

A. Vendors Not Properly Cleaning Stalls

Rochester Public Market Rules and Regulations issued by the Commissioner of DRYS require that "Stall areas are to be left clean and free of litter at the

end of each market day". This document also includes a fine schedule for vendors who do not adhere to these rules and regulations.

Market personnel do not currently impose fees on vendors who do not properly clean their stalls at the end of each market day. A Public Market employee is responsible for cleaning and removing anything left by vendors. OPI noted that the employee who maintains the Market grounds worked 300 hours of overtime from May 1, 2011 to October 29, 2011 and received overtime wages of \$8,520.59. Additionally, waste disposal fees for the same period totaled \$19,432.

Enforcement of vendors properly cleaning stalls would reduce the amount of clean up required by Market staff. As a result, the City may see a reduction in the waste disposal fees and overtime costs. DRYs personnel indicated that they have significantly reduced waste disposal fees over the last few years and continue to look for ways to reduce it further.

◆ Recommendation

DRYS management should continue to make an effort in further reducing waste disposal fees. Additionally, they should require all vendors to properly clean the stalls in accordance with Department policy. Vendors who do not comply should be fined per DRYs policy.

B. Weaknesses in Execution of Lease Agreements

The City requires vendors to sign lease agreements to reserve the same stall space for a specific period of time, whether it is annual, seasonal or for a shorter time period. The lease agreements specify the rental rate, payment terms, and the location of each stall. Signing the contracts signifies agreement with the terms contained within them. For the 2011 season, the Market entered into 179 leases. OPI examined all leases for all vendor types. We noted the following findings:

1. Three vendors of the Public Market did not have written agreements on file at the time of our review.
2. Forty-three leases included terms and rental rates included on a fee schedule that the Commissioner of DRYs did not authorize.
3. Two leases included terms and rental rates not included in any fee schedule.

The requirement of signed, written leases that specify all terms of the agreements protects the City in the event of a dispute over the terms and liability. Without current, signed agreements, the City may have difficulty demonstrating that the vendors acknowledge and agree to the terms of the contracts. Additionally, the City Code requires that the Commissioner of DRYS establish and approve the Market's rental rates.

♦ Recommendation

DRYS should require all seasonal/annual vendors to complete properly executed leased agreements. Additionally, the Commissioner of DRYS should establish and authorize all Market rental rates.

C. Failure to Apply Late Fees

The Public Market fee schedule states that they will charge a late payment fee of \$40 per stall for payments received from vendors after the 15th of the month in which they are due. The Office of Public Integrity examined for timeliness, all lease payments received by the Public Market during the test period. We noted several instances in which market personnel charged vendors a late fee. However, we also noted 16 delinquent payments, representing 28 stalls, totaling \$1,120 in late fees that market personnel did not apply to the vendor accounts.

Inconsistent application of Market policy could lead to abuse of the policy by vendors, could create potential problems for future legal enforcement, and might create disgruntled vendors if they believe the Market has treated them unfairly due to the inconsistent application of late fees.

♦ Recommendation

DRYS should consistently apply the policy of late payment penalties to all Public Market vendors.

D. Inadequate Supervisory Audits

In a previous audit of Public Market operations, we noted that there was an inadequate separation of duties among the staff regarding the cash handling. As a result, management agreed to institute a supervisory audit in which they would randomly review the day's deposits and document the results at least 3 times per month.

Our review of a six-month period of cash transactions and resulting records indicates no documented occurrences of a supervisory review. In the absence of having the ability to institute an adequate separation of duties, this type of review ensures reporting accuracy and validity of corresponding documents. Employees who perceive a cursory supervisory review of cash transactions and supporting documentation could potentially take advantage of this situation.

City Cash Collection Policies and generally accepted cash control procedures require an adequate separation of cash collection from cash recording responsibilities. Management should not allow employees who collect cash, the opportunity to exempt themselves from accountability by also recording the cash received. Due to the limited number of employees, an adequate separation of duties may be difficult to achieve. In this situation, management emphasis on review can provide assurance of compliance with prescribed policies and accuracy in reporting.

Currently, an employee could adjust reported cash transactions and corresponding records without the knowledge of a supervisor or another employee. This can potentially result in undetectable errors or diversion of cash receipts.

◆ Recommendation

DRYS should require a supervisor who does not collect or record cash to review the daily reported cash activity, compare it to a daily deposit records and record evidence of this review. In the absence of a daily supervisory review, management should require a documented, periodic review.

E. No Waiting List for Vendors Who Wish to Lease Market Space

The City Code states that "The Commissioner shall cause the stalls, stands and spaces to be leased on the Public Market on a "first-come first-served basis...." OPI noted that Market personnel do not maintain a waiting list for vendors who wish to lease space at the Public Market. Per the Supervisor of Markets, when a stall becomes available, Market personnel review the list of active Market participants, defined as vendors who have previously leased space at the Market at least three times, and offer the space to one of them. Per the Rochester Public Market Rules and Regulations, Market personnel give preference as follows:

1. Farmers
2. Other food vendors
3. Craft vendors
4. Prepared food vendors
5. General merchandise vendors

The establishment of a waiting list would help provide assurance that the Market meets the City Code requirement of leasing on a first-come first-served basis. Additionally, it would help avoid any perception that the Market gives preference or shows favoritism to particular vendors.

◆ Recommendation

Public Market personnel should consider maintaining a waiting list, by vendor type, for vendors who wish to lease space at the Market. When space becomes available for lease, Market personnel should offer it to the first vendor on the most preferred vendor type list.

F. Clerical Errors

Market personnel issue daily and seasonal/annual receipts for all payments received from vendors. For the period tested, Market personnel issued 2,478 receipts and deposited \$399,463. We reviewed these receipts and traced them to bank deposits. Except as noted below, we accounted for all collections listed on the receipts. However, we noted the following clerical errors:

1. We noted a \$650 check that Market personnel deposited on May 7, 2011 but did not include on the deposit ticket.
2. We found a check for \$1,000 stapled to a receipt. Market personnel received this check in May 2011 and included it on the deposit ticket on May 7, 2011 but inadvertently attached it to a receipt and did not deposit it. As a result of our audit, Market personnel deposited this check in November 2011.
3. We noted the total stated on a deposit ticket for May 14, 2011 was \$60 less than the actual deposit amount. This was the result of an error made when totaling the receipts.
4. We noted a deposit ticket prepared for May 14, 2011 totaled \$11,490 but the receipts for that day totaled \$11,790. An addition error on the deposit ticket resulted in a \$200 difference. However, we could not account for the remaining \$100 difference.

5. We noted that Market personnel incorrectly completed a receipt in the amount of \$40 for a \$30 check received on June 16, 2011. Market personnel posted the correct amount to the vendors account.
6. We noted that on September 15, 2011, Market personnel received a \$65 check and \$50 cash payment from a vendor but incorrectly completed a receipt for \$125. Market personnel posted the incorrect amount to this vendor's account and, as a result, this vendor underpaid \$10.
7. We noted that on October 17, 2011, Market personnel completed a deposit ticket for \$9,750, however, the actual deposit was for \$10,750. This \$1,000 difference occurred because of a \$295 addition error on the deposit ticket and not listing a \$705 check on the deposit ticket that was included in the deposit.

The clerical errors above that involved errors on the deposit tickets resulted in the bank sending a correction letter to the Bureau of Accounting. However, Accounting did not notify Market personnel of these corrections and, as a result, they were not aware of them. As a result of this audit the Bureau of Accounting is now notifying Market personnel of any correction letters that they receive from the bank.

◆ Recommendation

Although clerical errors are sometimes unavoidable, Market personnel should be made aware of the types of errors that they are making and be advised to exercise care in the preparation of deposits regarding these specifically identified errors. Additionally, the Bureau of Accounting should continue to notify Market personnel of any correction letters that they receive from the bank.

V. DEPARTMENTAL RESPONSE

The response of the Department of Recreation and Youth Services to this report begins on the next page.



City of Rochester

Inter-Departmental Correspondence

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CITY OF ROCHESTER
OFFICE OF PUBLIC INTEGRITY



To: Daniel A. Mastrella, Manager of Internal Audit

From: Luis Burgos, Commissioner, Recreation and Youth Services.

Date: November 7, 2012

Subject: Public Market Cash Handling Audit

I have attached the DRYs response to the Cash Handling Audit at the Rochester Public Market. I appreciate you and George taking the time to meet with DRYs staff to further clarify and discuss the findings. It was a productive meeting that facilitated an open discussion of our current Market processes and procedures and suggested changes that will ensure that we are in compliance with the City Code and the current Market rules.

It also initiated a further conversation with the Law Department, which resulted in a recommendation for DRYs, OPI and Law Department staff to review the entire Market section of the City Code to ensure that it reflects the modern usage of the site and the City's vision for the future. This is something that is long overdue. As stated in the attached response, we plan to begin that review process in December, 2012.

Again, we appreciate your guidance, and we look forward to the Code review process.

Attachment

Copies: Anthony Jordan
James Farr



Findings: OPI noted that Market personnel do not impose fees on vendors who do not properly clean their stalls. The Department of Recreation and Youth Services (DRYS) policy requires vendors to clean their stalls and leave them free of litter. The policy includes fines for vendors who do not adhere to this regulation.

Response: Although there were no fines imposed during the audit period, fines have been imposed against chronic violators on a number of occasions. Vendors are allowed to leave cardboard for recycling. The Market is exploring strategies to reduce the labor involved in the recycling process including an on-site cardboard compactor and a surcharge for vendors who generate large amounts of recyclable materials. The total waste charges for the Market have decreased during the past 10 years. From over \$50,000 per year to the current level of approximately \$20,000. Much of the over –time cited in the report is related to coverage of special events and off-day usages not solely litter clean-up. The overtime will be analyzed to determine areas where savings can be achieved.

Findings: Market personnel could not provide lease agreements for three vendors. Additionally, we noted forty-three leases that included terms and rental rates included on a fee schedule that the Commissioner of DRYS did not authorize and two leases that included terms and rental rates not included in any fee schedule. The City Code requires that the Commissioner of DRYS set and authorize rental rates at the Market.

Response: The three leases missing from the vendor's files folders were probably due to an error in filing. The leaseholders were making payments and abiding to the lease terms. New leases have been created and signed by these vendors and Market staff. Additionally, beginning immediately, all leases will be scanned after they are executed. This will provide back-up should a hard copy be misplaced.

The 43 leases with different terms and rates than listed in the schedule were for periods for shorter than the customary seasonal (8 month) or annual leases. All were at a higher rate, per Diem, than the rates in the fee schedule. The Market rules signed by the Commissioner authorized the Market Supervisor to enter into pro-rated leases for lease periods not listed in the schedule. This change was made in response to a prior audit. The language in the rules has been amended to state, "all rates must be approved by the Commissioner. The listing of pro-rated lease charges and the rules change have been reviewed and approved by the Commissioner.

Findings: Market personnel inconsistently charge late payment fees.

Response: The late fees are utilized to encourage timely payment. However, there are circumstances when staff and management determine that late fees should be waived e.g., vendor has never had late payments in the past, circumstances beyond the vendor's control, etc. Also late fees are often waived as part of a settlement of a past due account. The Market rules require that a member of the DRYs management staff approve all waivers. To insure this is being done, the DRYs budget analyst will review the accounts at the Market quarterly in January, April, July, and October and share the results of the review with the Commissioner of DRYs. Past due accounts have declined dramatically over the past ten years, due to consistent review of accounts by Market staff.

Findings: We noted an inadequate review of cash collection records by Market management.

Response: Management personnel are at the site the majority of the days the Market is open. During these visits, cash collection and attendance

documents are routinely reviewed. However, management staff neglected to consistently complete the required documentation of these reviews during the audit period. To ensure that reviews are taking place, DRYS has created a review log which will be maintained by the Secretary to the Commissioner. Copies of review forms will be scanned and forwarded to her. Additional Management staff has also been trained in the review process and will assist with unannounced spot audits.

Findings: OPI noted that Market personnel do not maintain a waiting list for vendors who wish to lease space at the Public Market. The City Code requires that the Public Market lease space on a first-come first-served basis. Failure to maintain a waiting list could create the perception that the Market gives preference or shows favoritism towards particular vendors.

Response: Market staff utilize the Market's accounting system as a tool to maintain a data-base of vendors awaiting a lease. Currently, when a stall becomes available for lease, Market staff query the active vendor data-base which includes all vendors who have participated at least three times a year at the market over the past 5 years as daily vendors or as vendors with off-season, e.g. winter leases. The vendors are then contacted by category, e.g. farmers first, then other foods, etc. in the order of the length of time they have been vending (longest first). Market staff routinely advise prospective vendors that they must participate at least three times in a calendar year to be considered for a lease in the future. The City Law Department is comfortable that the current system meets the intent of the code, but they have recommended that DYRS, OPI and Law staff meet and review the entire code section related to the Market and develop recommendations for changes and amendments to the code which take into account the changes in the Market's operation in the modern era. DRYS will institute this recommendation and convene a working group beginning in December, 2012.

Findings: OPI examined Market receipts issued to vendors and traced them to bank deposit tickets to verify that market personnel deposited all revenue. We noted several exceptions during this test work that appear to be a result of clerical errors. However, we did note one \$100 shortage that we could not account for.

Response: Market staff will continue to review systems and look for areas to improve accuracy and decrease clerical errors.