

Real Estate Management

Internal Audit Report

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EXECUTIVE SUMMARY

Why We Did This Audit

The objectives of this audit were to determine whether the department is operating efficiently and effectively and with appropriate internal controls to provide reasonable assurance of compliance with policies, procedures, and regulations and to determine whether departmental records are accurate and complete.

This audit was included in the 2018-2019 Annual Audit Plan.

Observations and Conclusion

Audit Results at a Glance			
	Risk/ Impact Category		
Risk/Impact Ratings	Significant	Moderate	Minor
IA - Internal Audit or M - Management	IA - 1	IA - 5	M - 1
D - Deficiency or O - Opportunity	D - 1	D - 4 O - 1	D - 1

We concluded that management is operating efficiently, but needs to strengthen internal controls related to compliance with policies and procedures. Management has an opportunity to implement conflict of interest statements and training.

Management should improve its oversight of cell tower revenue. The Access database and department files could be utilized more effectively to ensure records are accurate and complete.

Results and Recommendations

- Staff and committee members should sign annual conflict-of-interest statements indicating their understanding of the policy and their agreement to comply with it and immediately disclose any potential conflicts.
- Cell tower agreements should be actively managed.
- Final acquisition and disposition decisions should be recorded in committee minutes and in the Access database.
- The next in-line selection procedure to acquire service consultants should be documented in the files.
- Departmental procedures for site dispositions should be followed.
- Joint use agreements and facilities use agreements included in the Real Estate Inventory should be complete and current.
- Department files should contain complete information and use a standardized format.

This report has been discussed with management and they have prepared their response which follows.

DEFINITIONS:

Risk / Impact Ratings

Minor	Low risk with a financial impact of less than one percent and/or an isolated occurrence limited to local processes (low impact and low likelihood)
Moderate	Slight to moderate risk with a financial impact between one and five percent and/or a noticeable issue that may extend beyond local processes (low impact and high likelihood or high impact and low likelihood)
Significant	High risk with a financial impact greater than five percent and/or a significant issue that occurs in multiple processes (high impact and high likelihood)

Observations Categories

Deficiency	A shortcoming in controls or processes that reduces the likelihood of achieving goals related to operations, reporting and compliance
Opportunity	A process that falls short of best practices or does not result in optimal productivity or use of resources

Criteria for Observations Sourced to Management

- Internal audit was informed of the issue prior to starting detailed testing
- Management identified, evaluated, and communicated the issue to appropriate levels of the district
- Management has begun corrective action with clear, actionable plans and targeted completion dates

Management reported concerns about the comprehensiveness and completeness of department records for prior property searches and acquired properties. We noted this in the Results and Recommendations section of this report, item 7.

BACKGROUND:

Real Estate Management (REM) is entrusted with management of the District's real estate portfolio. The department is charged with the efficient acquisition and disposition of real estate. It oversees the properties in order to maximize their value and usage. As a section within the Facilities Services Department, it is responsible for buying, selling and leasing properties for Orange County Public Schools. It has a key role in assuring that these transactions occur timely. The department also has the responsibility to provide real estate information to internal and external decision makers and other departments.

The department was last audited in 2008 with a follow-up audit performed in 2010. This is a performance audit of management processes. Performance audits assess the entity's internal controls and ability to achieve objectives with economy, efficiency and effectiveness within available resources. The department is presently operating with one vacant position. Its functionality should improve when this position is filled.

OBJECTIVES, SCOPE AND METHODOLOGY:

Objectives

The objectives of this audit were to determine whether the department is operating efficiently and effectively and with appropriate internal controls to provide reasonable assurance of compliance with policies, procedures, and regulations and to determine whether departmental records are accurate and complete.

Scope

The scope of the audit included acquisitions and other activities of the department, including planning, site selection, due diligence, and negotiations during the period of July 1, 2017 through December 31, 2018.

Real Estate Management is responsible for buying, selling and leasing properties for OCPS.

Objectives = efficiency, effectiveness and appropriate internal controls.

Our scope included all acquisitions and dispositions during the period from July 1, 2017 through December 31, 2018.

Methodology

Our methodology included:

A review of policies and procedures which govern this process.

- Florida State Statutes
- Orange County Ordinances
- Orange County School Board Policies
- 2014 OCPS Facilities Services Process & Procedures

An examination of REM documentation:

- Real Estate Inventory book
- REM Access database
- Committee meetings – Advanced Planning, Site Assessment Meeting (SAM) and Site Planning Assessments Meeting (SPAM)
- Facilities Use Agreements
- Joint Use Agreements
- Cell Tower Agreements
- School Board Minutes
- SAP records for revenue
- Due Diligence Reports
- Acquisition records
- Disposition records

We also interviewed management and staff.

Our audit was conducted in accordance with the *International Standards for the Professional Practice of Internal Auditing* of the Institute of Internal Auditors and included such procedures as deemed necessary to provide reasonable assurance regarding the audit objectives. Internal Auditing is an independent, objective assurance and consulting activity designed to add value and improve an organization’s operations. It helps an organization accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes.

We are required to note any material deficiencies in accordance with Florida Statutes, School Board Policy and sound business practices. We also offer suggestions to improve controls or operational efficiency and effectiveness.

We reviewed policies and procedures, examined documentation, and interviewed staff and management.

This audit was conducted in accordance with the International Standards for the Professional Practice of Internal Auditing.

RESULTS & RECOMMENDATIONS:

**1) REM should implement written conflict of interest statements.
(Opportunity) *Moderate Risk***

Best Practice:

Conflict of interest prevention measures are strongest when awareness of policies is high among staff members. Each staff and committee member should be aware of conflict of interest policies and their requirements. Best in class organizations have strong ethics programs that clearly define relationships that are not appropriate or must be disclosed and require affirmation (usually in writing on an annual basis) that staff members understand the policies and agree to follow them.

Audit Results:

The REM staff handles millions of dollars in real estate transactions with many persons and entities. While the district has School Board Policy KCE, *Ethics and Lobbying*, there is no departmental policy requiring REM staff and committee members to affirm their knowledge and understanding of the need to avoid conflicts of interest and disclose any relationships that may present potential conflicts of interest. There is also no training for employees to acquaint them with examples of conflicts of interest and how to deal with them.

We compared a list of former and current OCPS employees to the list of sellers of properties acquired in the audit period. There was one match - a former substitute teacher related to the seller of a small parcel. There was no conflict of interest apparent in this transaction.

Recommendation:

REM staff and committee members should receive training about the potential for conflicts of interest pertaining to real estate transactions. Each staff member and committee member should sign an annual conflict of-interest statement indicating their understanding of the policy and their agreement to comply with it and immediately disclose any potential conflicts.

There is no written policy for staff or committee member disclosure of conflicts of interest.

We recommend that staff sign annual conflict of interest statements.

2) Cell Tower agreements are not actively managed by the department. *Moderate Risk*

Best Practice:

The REM department should track and record lease payments for cell towers to determine whether they are received timely and in the correct amount. Cell tower agreements have clauses for annual and other increases that should be calculated and verified. There are also co-locations on some of the towers.

Audit Results:

Facility Name	Lessee	Revenue Received 7-1-17/12-31-18
Edgewater HS	Secure Communications Inc.	\$35,854.65
Facilities Services	American Tower	\$37,369.55
Meadowbrook MS	Secure Communications Inc.	\$24,638.22
Orange Technical College – Orlando Campus	BellSouth Mobility	\$63,303.32
Winter Garden	T-Mobile (Lease expired)	\$7,053.92
Total Revenue Received		\$168,219.66

Prepared by: Internal Audit

Source: REM Records and SAP

The District does not actively manage its cell tower lease agreements. Cell tower lease payments are received in the Finance department which records the revenue in the general ledger. Finance does not maintain the lease agreements and is unable to verify whether the revenue received is correct. REM maintains the lease agreements, but does not verify whether payments are received or if they agree with the lease terms. Revenue is being received steadily but no one is determining whether it is in accordance with the lease agreements.

Recommendation:

Abstracts should be prepared for all agreements and expected lease payments should be calculated based on lease terms and compared to what is actually received. The staff member assigned this responsibility should monitor and confirm receipt of lease payments via SAP.

Cell tower rental revenue totaled \$168,219.66 for the audit period.

No one actively manages cell tower lease agreements.

3) Advance Planning Committee decisions to acquire property should be recorded in detail, both in the minutes and in the Access database.

Moderate Risk

Best Practice:

Facilities Process & Procedures - PP 100 – Site Acquisition 4 states that AP reviews a prioritized list and determines and approves the preferred site. This decision should be clearly documented in the minutes and recorded in the Access database.

Audit Results:

The Advance Planning Committee’s minutes do not clearly disclose and support certain actions taken by the REM department. The minutes were vague about chosen site options in certain acquisitions. In two instances, sites 20 and 119, there was no distinct choice documented in the committee minutes. In another instance, site 90, there was a recommendation made by the committee to acquire option #2. It was discovered subsequent to the committee’s decision that one of the tracts in this option had already been purchased by another entity. An adjacent, available tract was purchased instead. This change was not recorded in the committee minutes.

Recommendation:

The committee minutes should be specific when a site option is chosen and the decision should be recorded in both the committee minutes and in the Access database.

4) There was no evidence that the next-in-line continuing services consultant procedure was followed. *Moderate Risk*

Best Practice:

To ensure a fair and equitable distribution of district work among qualifying vendors, the Facilities Services Department uses a “next-in-line” method of assigning continuing contracted vendors to various projects. The project management team maintains the vendor list and assigns the vendor with the least dollar value of work done. The assignment is not a guarantee of work. Bids must still be submitted and evaluated in relation to previous and similar work. If a particular

Advance Planning Committee meeting minutes should be specific when school sites options have been selected.

Minutes did not clearly document authorization of actions taken in three acquisitions we examined.

Documentation for vendor selection should be in the files.

vendor has performed previous work on the project or similar work, staff can request that vendor. This process is used to promote a uniform and systematic method for procurement in an efficient, cost effective manner.

Audit Results:

There was no evidence in 68 of 69 examined records that the next-in-line continuing services consultant under contract was engaged to perform due diligence services.

Recommendation:

Maintain documentation that departmental procurement procedures are followed.

5) Facilities Process and Procedures were not followed for site dispositions. *Significant Risk*

Best Practice:

Comply with Facilities Process & Procedures - PP 110 – Site Disposition:

- (2) “There should be a presentation of potential surplus property to the Advance Planning Committee (AP), Site Planning & Assessment Meeting (SPAM) and Capital Programs Steering Committee (CPSC) to ask for their final recommendation.”
- (5) “Obtain at least one appraisal to determine the market value.”
- (6) c. “Sale/transfer or exchange to governmental entity, prepare documents, obtain second appraisal and additional appraisals on exchanged property if an exchange is contemplated.”

Audit Results:

There were two dispositions in the audit period to governmental entities and neither was submitted as potential surplus to the three committees. In only one instance was a first appraisal obtained. No second appraisal was obtained for any of the properties. No closing documents were found for one disposition.

There was no evidence that the next-in-line procedure was followed in 68 of 69 examined records.

Procedures for site dispositions should followed.

Two disposition transactions we examined did not follow the required procedures.

Recommendation:

Facilities Process and Procedures should be followed for all dispositions.

6) Joint Use Agreements (JUA) and Facilities Use Agreements (FUA) were not complete or accurate in the Real Estate Inventory published by the department. *Moderate Risk*

Best Practice:

Property records and agreements should be current and accurate with the publication of each year's inventory.

Audit Results:

Eleven (11) facilities use agreements (FUA) were missing from the 2018 inventory book. Ten (10) of these agreements were dated from 1995 to 2017 and one agreement was dated December 2018. Another agreement that had expired in January 2018 was on the list, but should have been removed.

Seven (7) joint use agreements (JUA) were not on the 2018 inventory. One agreement was dated 2007. Another agreement was dated in 2015. Five agreements were dated in 2017 and 2018. One joint use agreement had been terminated because of a comprehensive renovation but the party had not been notified.

Recommendation:

The Real Estate Inventory should be complete and current to provide management and local governmental agencies with an accurate record of educational facilities. For those agreements that were expired or cancelled, notice should be sent to the other party.

7) File standardization and completeness are needed. (Sourced to Management) *Minor Risk*

Best Practice:

Department files should be uniformly kept. Required documentation should be filed consistently. This system is beneficial for records management and retrieval.

The Real Estate Inventory book should be current and accurate.

Eleven Facilities Use Agreements were missing from the list.

Seven Joint Use Agreements were not on the list.

Standard file procedures make record retrieval easier and quicker.

Audit Results:

We noted incomplete files in the Access database. Some sites had multiple purchase options. The database listed all sites but may have had little information on all of the site options. Certain documents were missing and may have been misfiled. Staff was able to locate most of the documents that were needed during the audit. Some had been filed in a different folder. REM staff and management acknowledged that do not follow a uniform filing system or procedure.

Recommendation:

Records, such as site options, which support the REM function should be filed in the proper folders. All staff should file records in a standard format.

We would like to thank the management and staff of the Real Estate Management Department for their cooperation and assistance during the audit.

*Staff does not follow a
standard filing procedure.*



Department / School Name	Facilities Services, Real Estate Management
Administrator / Department Head	Laura Kelly and Harold Jenkins
Cabinet Official / Area Superintendent	John Morris, Chief Facilities Officer

Exception Noted (Finding / recommendation)	Management Response (Corrective Action)	Responsible Person (Name & Title)	Expected Outcome & Completion Date What is the evidence of the corrective action?
What is? What should be?	What needs to be done?	Who needs to do it?	When will the action be completed? (MM/YYYY)
<p>1) REM should implement written conflict of interest statements. REM staff and committee members should receive training about the potential for conflicts of interest pertaining to real estate transactions. Each staff member and committee member should sign an annual conflict-of-interest statement indicating their understanding of the policy and their agreement to comply with it and immediately disclose any potential conflicts.</p>	<p>REM will develop an annual conflict-of-interest statement for distribution to the REM staff and committee members.</p>	<p>Laura Kelly, Staff Attorney III/Planning and Real Estate</p> <p>Harold Jenkins, Director of REM</p>	<p>REM has already spoken with REM staff and committee members to advise them of the requirement for disclosures and will develop an annual form and brief training for the staff and committee members.</p> <p>Annual statements will be produced or before November 2019 and annually signed by REM staff and committee members.</p>
<p>2) Cell Tower agreements are not actively managed by the department. Abstracts should be prepared for all agreements and expected lease payments should be calculated based on</p>	<p>Working with audit, REM reviewed our files and identified discrepancies in the management of our cell tower agreements. We will review and update abstracts and</p>	<p>Shanelle Robinson, Manager, REM</p> <p>Tim Radabaugh, Senior Manager, REM</p>	<p>REM will review and revise abstracts of leases and work with the finance department to ensure payments are being monitored.</p> <p>The revised abstracts and payment tracking will be implemented on or before March 2020.</p>



<p>lease terms and compared to what is actually received. The staff member assigned this responsibility should monitor and confirm receipt of lease payments via SAP.</p>	<p>work with the finance department to monitor the receipt of lease payments. REM has hired a new manager who will be responsible for tracking these agreements and updating the database.</p>	<p>Harold Jenkins, Director of REM</p>	
<p>3) Advance Planning Committee decisions to acquire property should be recorded in detail, both in the minutes and in the Access database. The committee minutes should be specific when a site option is chosen and the decision should be recorded in both the committee minutes and in the Access database.</p>	<p>REM met with the Chair of the Advance Planning Committee to review the process for developing the minutes to ensure the minutes capture the committee’s decision. This has been implemented and REM will continue to follow this procedure.</p>	<p>Harold Jenkins, Director of REM Advance Planning committee</p>	<p>Implemented effective as of September, 2019 through a revised process for developing the AP minutes.</p>
<p>4) There was no evidence that the next-in-line continuing services consultant procedure was followed. Maintain documentation that departmental procurement procedures are followed.</p>	<p>REM was unable to provide the evidence from a prior employee who is no longer with the district. The current individual who processes due diligence requests and works with the program management team to determine the next-in-line vendors currently tracks this information and maintains a written record of it. REM will ensure that all next-in-line</p>	<p>Kathy Condrey, Administrator, REM Harold Jenkins, Director of REM</p>	<p>Implemented as of January 2019 through the replacement of the prior due diligence coordinator. Written documentation will be maintained on an ongoing basis.</p>



	procedures are being followed and will maintain written records of such requests.		
5) Facilities Process and Procedures were not followed for site dispositions. Facilities Process and Procedures should be followed for all dispositions.	For certain transactions, like those conveyances required as a part of the entitlement process, REM is unable to follow the current process because it is inconsistent with the requirements of the local government. Therefore, we will amend the internal procedures to ensure it is clear that these types of transactions are specifically exempt from the traditional conveyance procedures.	Laura Kelly, Staff Attorney III/Planning and Real Estate Harold Jenkins, Director of REM	REM will work with the Chief Facilities Officer to revise the procedures for disposition no later than January 2020.
6) Joint Use Agreements (JUA) and Facilities Use Agreements (FUA) were not complete or accurate in the Real Estate Inventory published by the department. The Real Estate Inventory should be complete and current to provide management and local governmental agencies with an accurate record of educational facilities. For those agreements that were expired or cancelled, notice should be sent to the other party.	Working with audit, REM reviewed our files and identified discrepancies. We will continue to review the files to ensure they are complete and accurate, will utilize the Access database to track the status of agreements and ensure all parties to agreements are properly notified of any terminations of those agreements. REM has hired a new manager who will be responsible for tracking these	Shanelle Robinson, Manager, REM Kathy Condrey, Administrator, REM Harold Jenkins, Director of REM	Implemented effective as of September 2019 through a revised processing of monitoring long term agreements. The outcome will be evidenced by an updated database and notices to third parties.



	agreements and updating the database.		
7) File standardization and completeness are needed. (Sourced to Management). Records, such as site options, which support the REM function should be filed in the proper folders. All staff should file records in a standard format.	We will utilize the Access database and OCPS server to file all documents and ensure naming and formatting is standardized.	Harold Jenkins, Director of REM	REM has already spoken with REM staff to advise them of the requirement for consistency and standardization, which will be evidenced in the file records. This process will ongoing but will initially be implemented on or before November 1, 2019.