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BUDGET AND PERFORMANCE IMPROVEMENT
Internal Audit Division

INTERNAL AUDIT REPORT

TO: Jorge M. Gonzalez, City Manager
VIA: Kathie G. Brooks, Budget and Performance Improvement Director
FROM: James J. Sutter, Internal Auditor

DATE: December 10, 2010
AUDIT: Public Auctions Sale of Excess and Surplus Property Audit
PERIOD: June 26, 2010 public auction and the documentation provided for the previous three City auctions held within the past year

This report is the result of a regularly scheduled audit to review the process upon which the City's excess and surplus property is selected, safeguarded and sold at the June 26, 2010 public auction by Fisher Auction Co, Inc. and their level of compliance with tested sections of the signed personal property auction listing contract. Additionally, the September 26, 2009, December 12, 2009 and April 27, 2010 auctions were reviewed to determine the sufficiency of the auctioneer's submitted documentation and payments as well as the City's processing of the monies received.

INTRODUCTION

The City of Miami Beach holds periodic public auctions at the Convention Center (1901 Convention Center Drive) or Fleet Management (140 MacArthur Causeway) to dispose of excess and surplus inventory. The auction inventory typically includes vehicles from the Fleet Management Division; computers and related products from the Information Technology Division; and assorted equipment from the Public Works Department, Parks & Recreation Department and Property Management Divisions. Previously, miscellaneous personal property from the Police Department's Property and Evidence Unit would also be included but these items are now sold via the internet website entitled PropertyRoom.com.

The City's Procurement Division authorized Fisher Auction Co. Inc., (Fisher), through the preparation of personal property auction listing contracts to sell the inventory provided by the listed terms and conditions. In return, Fisher receives a 10% buyer's premium that is added to each final bid price as earned commission and is paid solely by the bidder. Consequently, this method of compensation encourages Fisher to attract qualified bidders because their revenues increase as selling prices increase.

Additionally, advertising and marketing expenses associated with promoting the auction are fully reimbursable up to a maximum of \$2,264.32. Fisher can also deduct any expenses incurred for security services as well as any sales taxes owed from the collected gross proceeds.

Auctions are usually held when there are sufficient surplus vehicles to warrant their sale. For example, the June 26, 2010 auction was comprised of 69 vehicles representing 83.13% of the 83 total items available for sale. Internal Audit attended this event unannounced to perform such tasks as recording selling prices, observing City and Fisher employees' actions, ensuring that all items were accounted for, etc. All items were sold ranging from a high of \$16,000 for a 2000 garbage truck to \$5 for a Robinair coolant exchanger with Fisher remitting net proceeds (adjusted for advertising and any other deducted expenses) equaling \$168,771.96 to the City.

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While the primary focus of this audit was the June 26, 2010 City auction, Internal Audit also reviewed the final settlement documentation provided by Fisher for the following three auctions staged within the past year:

- The September 26, 2009 public auction was held at the Fleet Management facility where a total of 114 vehicles were sold fetching \$171,529.68 in net proceeds for the City.
- The December 12, 2009 public auction was held at Florida International University located at 11200 SW 8th Street in Miami. This joint auction resulted in the City selling four salvage only titled vehicles, and a jet ski and trailer in return for \$5,088.75 in net proceeds.
- The April 27, 2010 was done by sealed bid with the City selling various chairs, patio tables, office furniture, computer equipment, etc. for \$5,000 in net proceeds.

The City's Fleet Management Department acted as Fisher's liaison and assisted them in the staging of the 06/26/10 auction. Selected staff members attended the auction and were responsible for starting the vehicles. Also, Beach Auto Tag & Insurance distributes all vehicles' keys and titles to their new owners. In addition, the Procurement Division negotiated each personal property auction listing contract with Fisher and received their final settlement documents accompanied by the City's payment. Finally, the Finance Department would then prepare a journal entry so that the payment received was properly distributed among the applicable City departmental revenue accounts.

OVERALL OPINION

Overall, Internal Audit believes that the involved City departments/divisions should exert additional controls over the auctioneer to ensure that the correct and optimum amount of revenues is received. Fortunately, Internal Audit's reconciling of the 06/26/10's selling prices with the auctioneer's settlement sheets did not reveal any material differences that could not be subsequently explained. However, the establishment and implementation of better controls on the auctioneer's work will most likely result in improved performance if they are cognizant that the City is closely scrutinizing their work product.

The following items were noted during our analysis and are in need of improvement prior to the next City held public auction:

- Inventory stored at the Convention Center in the designated store room was not properly safeguarded or documented.
- The City's Fleet Management Department discounted Johnnys Auto Sales highest bid price by \$500 due to identified transmission problems in contradiction to the terms of the auction statement signed by the bidder.
- The auctioneer did not initially remit \$100 to the City after a bidder's deposit was confiscated for making the highest bid but refusing to remit the corresponding purchase price. Additionally, supporting documentation (invoices, cancelled checks, etc.) was not always present in the final settlement package for such deducted sales expenses as security, advertising and lunch. Finally, the \$219.72 monies deducted for lunch at the 09/26/09 and 06/26/10 auctions were not addressed in the applicable personal property auction listing contracts.
- The Procurement Division has retained the same auctioneer's services for at least the past ten years under substantially identical terms pursuant to their State of Florida contract as

competitive bids from other companies were not obtained. Furthermore, the corresponding reviewed personal property auction listing contracts are basic and incomplete thereby possibly exposing the City to potential risks and losses.

- Updated policies and procedures do not presently exist that accurately and completely reflect current operations.

PURPOSE

The purpose of this audit was to determine whether tested City property was properly deemed excess and surplus in accordance with administrative policy and should have been made available for sale at auction; whether the property was adequately safeguarded until disposition; whether the auctioneer's reported selling expenses were proper; whether auctioned items' selling prices were accurately recorded so that the City received the correct net proceeds payments; whether the auctioneer complied with selected terms in their signed agreements; and whether all tested transactions were correctly recorded in the City's Financial System.

OBJECTIVES

1. Confirm that effective and detailed excess and surplus property auction operating policies and procedures have been developed and are being utilized for the proper control and accountability of all related transactions.
2. Confirm that proper documentation was received, maintained and reviewed to support the selling prices listed in the auctioneer's settlement sheets and the net proceeds remitted to the City.
3. Confirm that auction revenues were timely received and correctly recorded in the appropriate departmental revenue accounts.
4. Confirm that the auctioneer has complied with all tested terms listed in the personal property auction listing contracts.
5. Confirm that all inventory sent to the auction is adequately safeguarded and that access is properly restricted to authorized employees and permitted only in accordance with management policy.

FINDINGS, RECOMMENDATIONS AND MANAGEMENT RESPONSES

1. Finding: Inadequate Security and Record Keeping of City Property in the Convention Center Storage Room
The City maintained a locked storage room located in the southwest corner of the Miami Beach Convention Center that was used by various departments/divisions to store property. Global Spectrum's Chief Engineer stated that his staff was instructed to allow access to the storage room only to City employees showing proper identification. Despite recording in a log the names of personnel accessing the room and their reasons for admittance, they subsequently left the premises afterwards and no record was maintained of any items

removed from the room. Also, City personnel tended to haphazardly place any property near the entrance in close proximity to other items where they were more susceptible to damage. Under the current scenario, any inventory stored in this room can be damaged, misappropriated or disposed of and there is no or little means to indicate by whom.

Although outside the designated audit period, inquiries discovered that previously an expensive Central Services printer was inadvertently thrown away, newly purchased ceiling tiles were accidentally sold, an administrative division's conference table and chairs (temporary stored) were missing and could not be located, etc. These inadvertent errors occurred because City departments were incorrectly using this room for storage rather than its designated purpose as a temporary holding facility until the excess and surplus items can be sold at the next auction. As a result, the Tourism & Development Department Director directed that only items to be sold at auction are to be placed in this Convention Center storage room as it is not to be used as a long term storage facility. Finally, Internal Audit found that this room was void of City property on July 8, 2010 as instead it was being used to store air wall parts for ongoing renovations at the facility.

Recommendation(s):

A Citywide email should be distributed reminding departments/divisions that this room is not to be used for temporary storage but only for items to be sold at the next auction. Going forward, the City's Procurement Division should maintain a centralized master list of all property stored on the premises so that they can conduct periodic reconciliations to help ensure that all items are accounted for and can be auctioned. Additionally, they should accompany anyone accessing this room so that they can adjust this master list for the addition or deletion of inventory.

Management Responses:

Procurement Division: The Procurement Division Director concurs with the recommendation, but there's a level of concern relative to the amount of time Procurement designated staff will spend accompanying anyone accessing this room. Administrative policies and procedures have been prepared to address the overall findings and recommendations, and are pending approval.

Tourism & Cultural Development Department: Tourism and Cultural Development Director concurs with the recommendation and believes this is not an activity the Convention Center Manager should be responsible for. The Convention Center is only required to provide the space for the City and is not responsible to monitor the City's use of the space.

2. Finding – Inconsistent Enforcement of Auction Terms

Among other provisions, section 2 of the bidder's catalog terms of auction states "*All merchandise to be sold to the highest bidder(s) for cash at the fall of the hammer. All such sales are final! Each lot will be sold in "AS IS" condition. Inspection as to condition of all merchandise sold is to be the sole responsibility of the buyer. FISHER AUCTION CO., INC., nor the Seller, will not be responsible for the correction description, mileage, genuineness, authenticity, or defect in any lot, and makes no warranty in connection therewith. No sale will be set aside or allowance made on account of any imperfection not noted, and there will be no deductions for damaged articles.*" The bidder agrees to comply with all listed terms as he signs this document and remits the \$100 refundable cash deposit.

Johnnys Auto Sales of Cairo, GA was selected the highest bidder on nine separate vehicles

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at the June 26, 2010 auction whereby they properly paid the bid price for eight of these vehicles. However, the bidder subsequently determined that lot number 15 consisting of City vehicle number 2575, a 2003 Silver Ford Taurus, had a transmission problem and would soon be in need of \$1,000 in estimated repairs. At the bidder's request, the City's Fleet Management Department agreed to reduce Johnnys Auto Sales purchase price by \$500 or half the estimated repair price as they frequently procure City vehicles at auctions.

Recommendation(s):

All listed provisions in the signed terms of auction document should be uniformly and consistently enforced to all bidders with no exceptions.

Management Responses:

Procurement Division: Procurement concurs with the recommendation that no exceptions should be made and the procedures outlined in the auctioneer's catalog be adhered to. All surplus stock is to be sold to the highest bidder(s). All sales are final, with each item sold in "as is" condition.

Fleet Management Department: The decision to adjust the vehicle price in order to affect a sale of the vehicles was made utilizing sound business logic; however, it was not consistent with the terms and conditions of the auction and will not reoccur. We agree that these situations although rare can create an environment which would foster future challenges and abuse and would not be in the best interest of the city.

3. Finding: *Retained Customer Deposits Were Not Paid to the City and Submitted Sales Expenses Were Not Always Sufficiently Documented in the Final Settlement Package*
Fisher collects all monies from bidders during the auction. Afterwards, they prepare a final settlement package which documents all monies received and any sales expenses incurred. The difference or net proceeds are to be remitted to the City with the final settlement package within five business days following the auction.

Internal Audit attended the June 26, 2010 auction unannounced and recorded each items' selling price so that they could be compared to those listed in Fisher's final settlement package. All listed items except for lots 15 and 25 were found to be in agreement with the recorded selling price. The reason for the \$500 difference in lot 15 is addressed in finding number 2.

Meanwhile, lot 25's \$750 difference (\$3,000 - \$2,250) was due to the fact that the highest bidder misunderstood the auction process and supposedly did not realize that he had to pay \$3,000 to purchase the vehicle. Once told, he balked and refused to pay so the 2003 White Ford Crown Victoria was re-bid to those still present where a winning bid of \$2,250 was garnered. Inquiries found that this scenario occurs rarely but there have been other instances. As a result, the initial winning bidder's \$100 deposit was retained but was not submitted to the City. Upon notification from Internal Audit, Fisher issued check number 15018 on July 9, 2010 payable to the City for \$100.

Although it was found that the four sampled auctions' final settlement packages and net proceeds' payments were remitted timely, the following documentation shortcomings were noted that went unquestioned by Procurement Division personnel:

- a. Fisher deducted \$160 in security expenses from the September 26, 2009 auction in

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- accordance with section VII of the applicable personal property auction listing contract but no supporting documentation was included in the final settlement package.
- b. Review of the September 26, 2009 and June 26, 2010 final settlement packages found that they correctly included copies of English and Spanish advertisements for the City's upcoming auctions. However, Fisher did not provide invoices and cancelled checks showing that the maximum deduction for advertising expenses (\$2,264.32) was warranted for each auction in accordance with section IV of the signed personal property auction listing contracts.
 - c. Monies totaling \$219.72 were deducted from the total gross proceeds to purchase lunch for both City and Fisher employees working at the September 26, 2009 and June 26, 2010 auctions despite not being addressed in the corresponding personal property auction listing contracts reviewed. Furthermore, no invoice was present in the September 26, 2009 final settlement package to substantiate the corresponding \$96 deduction.

Recommendation(s):

The City should consider increasing the amount of the bidder's refundable deposit from \$100 to help reduce the possibility and minimize the City's loss when the highest bidder refuses to finalize the purchase. The final settlement package should contain vendor invoices and cancelled checks to verify that any sales expenses deducted were actually paid by Fisher. Internal Audit opines that lunch should not be purchased with City monies going forward as it was not addressed in the reviewed personal property auction listing contracts. In addition, Procurement Division personnel should closer review the received final settlement package for accuracy and completeness with any found shortcomings questioned.

Management Responses:

Procurement Division: The deduction of \$160 was for police officers that had worked the September 26, 2009 auction. Fisher Auction obtained a signed receipt from Sgt. Zeifman which was not included in the final settlement package.

The maximum deduction for advertising expenses was not only for the print ads in the Spanish paper and the Miami Herald, but also for the auction postcard, postage, and other related expenses. A copy of the budget has been provided.

On the issue of lunch being purchased for City employees, please note that employees are working non-stop from as early as 8 a.m. to as late as 4 p.m. The purchase of meals for employees (i.e., police officers, fleet automotive mechanics, and other city support staff) working at the auction is consistent with purchasing card (p-card) procedures whereby employees are allowed to purchase meals under certain parameters.

Increasing the bidder's refundable deposit may result in a decrease in participation by prospective bidders. This is an issue that will be explored via a Request for Proposals (RFP) processed if approved for issuance by the Mayor and City Commission.

The final settlement should include all invoices, receipts and/or cancelled checks relative to any sales expenses deducted. Said review will be accomplished by Procurement and Fleet Management.

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4. Finding: *Auctioneer Contract's Listed Terms Are Incomplete*

Fisher has provided auction services to the City for more than ten years as the City piggybacked of the auctioneer's contract with the State of Florida. Inquiries found that the Procurement Division has not issued a Request For Proposal or solicited bids from other companies during this period.

A basic 1 ½ page personal property auction listing contract documenting the terms of the auctioneer's employment was prepared and signed for each auction reviewed. Testing found that the total amount received by Fisher for staging each auction during the audit period was below the current \$25,000 threshold requiring City Commission approval.

Inquiries were made with the Procurement Division Director to learn the proper format and needed authorizations for these professional service agreements. Subsequent analysis of the September 26, 2009 and June 26, 2010 personal property auction listing contracts found the following deficiencies thereby possibly increasing the City's risk exposure:

- a. Verbiage on such legal issues as indemnification, termination and venue were not addressed.
- b. The reviewed contracts were also silent on enforcement techniques or penalty provisions in the event that Fisher misplaces items or does not make full restitution timely.
- c. Neither contract reviewed was signed indicating approval by the City Clerk, City Manager or Legal Department.

Recommendation(s):

The Procurement Division should issue a Request For Proposals soliciting bids from companies desiring to provide auction services for a three year period. The selected auctioneer and its negotiated contract terms should then be approved by the City Commission before being implemented. Additionally, the agreed upon personal property auction listing contract should contain at least the following provisions and signatures:

- a. The City's Legal Department should review the contract for form approval to help ensure that it contains the needed wording to best protect the City's interests.
- b. Verbiage providing the City recourse against the auctioneer (penalties, performance bond, collateral, default proceedings, etc.) if they fail to adhere to the listed terms.
- c. The required signatures of the City Clerk, City Manager and auctioneer should be present.

Management Responses:

Procurement Division: Although the property listing contract is only 2 pages, it does contain the basic elements associated with the auction. Since the Auctioneer's services were acquired via their state of Florida contract, all the terms and conditions of said state contract would be enforced should the need arise.

Procurement will prepare an agenda item requesting the approval to issue a Request for Proposals (RFP). Should the City Manager and City Commission approve the issuance of said RFP, then all City legal terms and conditions will be incorporated.

Fleet Management Department: Fleet management has experimented with several internal auction companies. Each time the vehicles brought significantly less revenue than an actual physical auction, require more work for the staff and an increased amount of paperwork while continuing to store vehicles after they have been sold.

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We have tried to piggybacking on another government auction with less than satisfactory results. Again the revenue was significantly less than in house auctions and there was no provision to ensure vehicles were officially transferred into the new owner's name.

Fleet Management has through lessons learned; how imperative it is to immediately have a mechanism in place to transfer ownership at the time of sale in order to relieve the city of any future burden of liability for the vehicle. Fleet Management has engaged the local tag agency to attend our vehicle auctions and process transfers on site at no cost to the city.

5. Finding – *Policies and Procedures Need Updating as they do not Fully Reflect Current Practices*

The excess and surplus property auction's operating policies and procedures were last updated in October 2002 and some changes have occurred in the interim so that they no longer fully reflect current practices. The primary differences noted include the usage of PropertyRoom.com to sell property confiscated by the Police Department's Property & Evidence Unit and the lesser involvement of Procurement Division personnel in exchange for a more active role by the Fleet Management Department.

Recommendation(s):

The excess and surplus property auction's operating policies and procedures should be updated to more descriptively outline current operations. Policies and procedures serve both as a benchmark to measure individuals' performance and as an instruction manual in the event employees' change. Once completed, they should be distributed to all applicable personnel so that they can be read, understood and followed.

Management Responses:

Procurement Division: Administrative policies and procedures have been prepared, and upon review and approval by the City Manager, will be distributed to all applicable personnel.

EXIT CONFERENCE

An exit conference was held on October 22, 2010 in OBPI's Conference Room. Participants included Fleet Management Department Director Drew Terpak, Fleet Analyst George Fisher, Fleet Operations Supervisor Jose Tellez, Procurement Division Director Gus Lopez, Internal Auditor James Sutter and Senior Auditor Mark Coolidge. Audit findings and recommendations were discussed, as were management responses, which are included herein. All were in agreement with the contents of this audit report.

JJS:MC:mc

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(Audit performed by Mark Coolidge)

cc: Hilda Fernandez, Assistant City Manager
Patricia Walker, Chief Financial Officer
Drew Terpak, Fleet Management Department Director
Gus Lopez, Procurement Division Director
Max Sklar, Tourism & Cultural Development Department Director