



MIAMIBEACH

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: September 10, 2010
AUDIT: Landscaping Contracts - Citywide
PERIOD: June 9, 2005 through January 31, 2010 (Florida Lawn Services, Inc. and Neighborhood Maintenance, Inc.)
August 2009 through January 31, 2010 (Superior Landscaping; Everglades Environmental; Country Bill's Lawn Maintenance; SFM Services, Inc.; Villa and Son Landscaping; and Elan Lawn and Landscaping Services)

This report is the result of a regularly scheduled audit to review the City's signed landscaping contract agreements with eight separate companies providing grounds maintenance and mowing services for the causeways, islands and other agreed upon locations between June 9, 2005 and January 31, 2010.

INTRODUCTION

On June 8, 2005, the City Commission approved agreements with Florida Lawn Services, Inc. to provide landscape maintenance services for the Citywide spoil areas and similarly with Neighborhood Maintenance, Inc. for the Beachwalk (1400 through 2100 Collins Avenue) and the Boardwalk (2100 through 4600 Collins Avenue) based on their responses to Invitation to Bid (ITB) No. 08-04/05. These two separate agreements were extended for two additional one year terms by the City to expire on June 9, 2010.

Consequently, these contracts have since expired and have been extended on a month-to-month basis until the received bids to the new RFP are analyzed and the new vendor and negotiated terms are approved by the City Commission. Hence, since writing the above, this item supersedes by ITB No. 35/09/10 which is currently under the cone of silence where it will be presented at the upcoming September Commission meeting.

Furthermore, the Mayor and City Commission approved the ITB No. 34-08/09 on October 1, 2009 which superseded RFP No. 21-05/06 for approval to award contracts, upon execution between the City and contractors to provide grounds maintenance and mowing services for the City of Miami Beach causeways, islands and other designated locations. As a result, six companies named Superior Landscaping, Everglades Environmental, Country Bill's Lawn Maintenance, SFM Services Inc., Villa and Son Landscaping and Elan Lawn and Landscaping Services were awarded contracts that expire on July 15, 2012 unless either or both of their two additional one year renewal options are exercised. The options are exercised through ITB No. 34-08/09, which superseded (ITB No. 31-04/05 for the landscape of the causeways portion of the contract, and RFP No. 21-05-06 (Resolution No. 2006-26296 for the mowing portion of the contract.

These eight companies are to provide a wide range of landscape related services including but not limited to: mowing, edging, line trimming, blowing, pest control, fertilization, palm and tree pruning, shrub pruning, mulching, weeding, litter retrieval, mulching and landscape installation in adherence to the quality standards as defined in contract specifications. It is incumbent upon the Greenspace

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Management Division's Contract Services Team, which is led by a Parks Superintendent, to closely monitor and ensure strict compliance in order to achieve the quality objectives mandated in contract documents.

The Parks & Recreation Department's Landscape Operations Section has written policies and procedures for monitoring landscaping which among other items includes the performance of continuous field inspections by the City's Project Manager.

Within 48 hours of completing work, the contractor must notify the Parks and Recreation Supervisor assigned to monitor the contract either in person or by phone of said completion. Upon receiving notification from the contractor, the City shall inspect the serviced location the following business day. If, upon inspection, the work specified has not been completed, the City shall contact the contractor to indicate the necessary corrective measures.

The contractor will be given 48 hours from this notification to make appropriate corrections. If the work has been completed successfully then the City will pay for services billed. However, damaged plants and repairs to the irrigation lines are to be repaired as quickly as possible by the contractors at their own expense.

According to the Certification of Contract, eligible companies must be in continuous service and incorporated in the State of Florida for a minimum of four (4) years. Furthermore, they must be fully licensed with all required State and/or local government licenses, and permits (irrigation, pest control, horticultural services, etc.). A minimum of one (1) full time graduate horticulturist or Florida Certified Landscape Contractor is required to manage all facets of the landscape and turf management. Additionally, an I. S. A. Certified Arborist and a Certified Pest Control Operator must be on staff, or under contract as a consultant.

The City's Project Manager and the contractors' representatives shall meet at the sites once a month, or more frequently at the discretion of the Project Manager, for a walk-through inspection. All on-going maintenance functions shall be completed prior to this meeting. The Project Manager verifies that the amount of work for each specified area work schedules is completed in accordance to the contract.

In addition to routine landscape maintenance, the contractors may perform such other services for the Greenspace Management Division as irrigation design and installation; landscape design and installation; installation of trees and/or palms; pruning or removal of trees. These services are not routine maintenance functions and are not included in the maintenance contracts so they come at an additional charge to the City. Likewise, any services performed by private landscape maintenance contractors on non-contract sites, will also result in a charge to the City.

Due to monitoring of contract sites by the Parks & Recreation Department's Landscape Operations Section from January 2009 to September 2009, the City was able to save the sum of \$99,509.12. Much of the savings were realized due to the contractor's overbilling as listed work was not performed or was not deemed satisfactory. These discovered amounts were deducted from the City's next payment to the corresponding vendor.

Finally, the City elected to re-bid the \$368,000 parking lots maintenance contract in 2009/10 fiscal year. As a result, the new bids came in at the much lower price of \$125,882 and the City was able to save the \$242,118 difference.

OVERALL OPINION

The Parks & Recreation Department's Landscaping Operations Section maintains that overall they have been pleased with the contractors' work. Additionally, it was found that sampled contractors staff was properly certified in accordance with the signed agreements. Despite these positive findings, improvements were noted to be needed in the following areas:

- Although the required daily reports have been received from the contractors, they have not been submitting reports of their performance for the preceding month to the City Project Manager in accordance with section 4.7.6 of the agreement.
- The contractors did not submit a listing of all chemicals, herbicides and pesticides proposed for use to the Project Manager, including Material Safety Data Sheets for each item in accordance with section 4.6.7 of the agreement.
- The signed agreements do not specifically address the contractors need to comply with all of FEMA's requirements in the aftermath of a hurricane strike or other natural disaster affecting Miami Beach or payments may be withheld by the City.
- Only Superior Landscaping of the eight tested contractors or 12.5% properly obtained their business tax receipt during the audit period in accordance with section 3.13 of the signed agreements.
- None of the eight contractors submitted their insurance coverage to the City for approval during the audit period in accordance with section 1.27 of the signed agreements.
- An invoice calculation error resulted in the City inadvertently overpaying Villa & Sons by \$2,598 in December 2009 on invoice number 2931-26.
- Florida Lawn Services, Inc. and Neighborhood Maintenance, Inc. retained the required performance and payment bonds specified in section E of their agreement for the first year of the term rather than throughout the term of the signed agreement.

PURPOSE

The purpose of this audit is to review the eight tested contractors compliance with selected key provisions in the Landscaping Certification Contracts and to determine whether the Parks & Recreation Department has policies and procedures in place that are followed to efficiently monitor the landscaping contractors.

SCOPE

1. Confirm that the Parks & Recreation Department has documented policies and procedures that are known, understood and followed by staff.
2. Confirm that the contractors complied with selected key provisions of the agreements.

3. Confirm that the concessionaire complied with selected provisions in the submitted Requests for Proposal that are either not covered or are more stringent than in the signed agreements.
4. Confirm that the contracts contain provisions for debris removal (hurricane) that comply with FEMA requirements.
5. Confirm that the contractors adhere to a work schedule provided by the City in accordance with section 4.7.2.
6. Confirm that the mowing, edging, trimming, litter retrieval, etc. are completed in a continuous manner.
7. Confirm that all tested invoices were properly authorized, accurately calculated and timely paid.

FINDINGS, RECOMMENDATIONS AND MANAGEMENT RESPONSES

1. Finding: *Quality Control Performance Reports Were Not Furnished to the Project Manager*
Section 4.7.6 of the contractors' signed agreements states "The contractors shall submit to the City Project Manager a report of their performances for the preceding month, under term of the contract. These reports shall be postmarked no later than the fifth (5th) day of each month following the month in which services were performed. Failure to do so shall result in delay of payment until this requirement is fulfilled". Testing found that the contractors have been submitting the required daily reports to the Project Manager but not the similarly required monthly summary reports. The receipt of this information in an agreeable format is essential in order to prevent delays in repairing damages to irrigation systems, damaged plants, theft, vehicle damage, underdetermined causes, etc. and to determine the amount of monies due to the contractors.

Recommendation(s):

The Parks & Recreation Department should determine the necessity of these monthly reports as the submitted daily reports may be sufficient. If so, they should amend the contracts accordingly. In the interim, the contractors should comply with section 4.7.6 by sending timely monthly performance reports to the City's designated Project Manager. If it is not received, the Project Manager should delay payment until this requirement is fulfilled and they can verify that the desired work has been adequately completed.

Management Response:

Information provided for on these monthly reports is contained in the daily reports contractors provide and as such, is somewhat repetitive. However, it is a contract requirement. Excel spreadsheets for the monthly reports have been created and provided to all contractors. Notification on August 9, 2010 was made that these reports must be received by the 5th day of each month in order to allow for approval of invoices. Damages to irrigation systems, landscape plants, site amenities, etc., are identified during frequent, routine inspections performed by staff after each regular service (service verification inspections) and/or more thorough monthly site inspections.

2. Finding: *Chemical Listings were not Submitted to the Project Manager*
Section 4.6.7 of the contractors' signed agreements states "The contractors shall submit a listing of all chemicals herbicides and pesticides proposed for use under this Contract for approval by the Project Manager, including MSDS {Material Safety Data Sheets} for each item. Materials included on this list shall be limited to chemicals approved by the State of Florida, the Department of Agriculture, and the Florida Department of Transportation, and

shall include the exact brand name and generic formulation. The use of any chemical on the list shall be based on the recommendations of and be performed under the direction of a Certified Pest Control Operator. No chemical herbicide or pesticide shall be applied until use is approved, in writing, by the Project Manager as appropriate for the purpose and area proposed". The contractors to date have not provided the City with listings of the chemicals used. The concern is that if unapproved chemicals, herbicides and pesticides are used by untrained personnel, it may result in a contamination of landscape areas posing health hazards to the community.

Recommendation(s):

The contractors should submit a listing of all chemicals, herbicides and pesticides proposed for use under this contract for approval by the Project Manager, including MSDS sheets for each item.

Management Response:

Notification was made to all affected contractors on August 6, 2010. As of 09/10/2010, the four full services contractors have submitted Material Safety Data Sheets for chemicals commonly applied. In the future, when a new chemical is anticipated to be used, submission of the MSDS and the Project Manger written approval will be required prior to application.

3. Finding: *Signed Agreements do not Address Compliance with FEMA Requirements*
Section 2.11.2 of the contractors agreements states *"The contractors on an immediate and first priority basis, shall be able to provide the City a minimum of 12 and up to 25 personnel and appropriate equipment on a sustained basis to clear roads, right of ways, parks and other City properties in the event of an emergency or Act of God (i.e. storm, tornado or hurricane at all times or as deemed by the City Manager or his designee".* However, it does not specifically address the need to comply with all of FEMA's requirements so as not to jeopardize the City's reimbursement claims following a declared natural emergency.

Recommendation(s):

The City should make an addendum to the current Certification of Contract by requiring FEMA's standards be utilized by all landscape maintenance contractors. The addendum should include pre-determined labor and debris disposal rates to be charged in the event of an emergency. If the contractors fall short, then the City shall only be obligated to pay them based on the amount subsequently deemed reimbursable by FEMA personnel.

Management Response:

The Department will work with Internal Audit and City Attorney's Office as required, to draft the addendum needed to correct the issue that was raised above.

4. Finding: *Seven Contractors did not Obtain their Required Business Tax Receipts*
Section 3.13 of the contractors' agreements states *"Contractors shall obtain, at their expense, valid permits, licenses, and certificates (City, County, State, and Federal) as required for work under the Contract."* Review of both the City's Permits Plus and Eden Systems found that valid occupational licenses/business tax receipts have not been issued for seven out of eight contractors or 87.5%. The only contractor that obtained their business tax receipt and complied with this section was Superior Landscaping & Lawn. Yet, no evidence was found that the City's Code Compliance Division had cited any of the remaining seven contractors during the audit period.

Recommendation(s):

The seven deficient landscaping contractors should obtain valid business tax receipts and remit the corresponding delinquent amount plus any associated late charges. Additionally, the Parks & Recreation Department, acting as the contract manager for these agreements, should periodically inspect landscaping contractors to help ensure that they are in compliance. The Eden System's Contract Management module should be used to help perform these tasks and to track the contractors' compliance levels.

Management Response:

On August 6, 2010 all affected contractors were advised that immediate submittal of current tax receipts is required. As of September 10, 2010, six of the eight contractors have submitted current business tax receipts and two failed to respond. The Parks and Recreation Departments' Greenspace Management Division will coordinate with the Finance Department to send cures notices to the non-compliant contractors to address this issue. Also, the Parks and Recreation Departments' Greenspace Management Division agrees with the findings regarding the usage of the Eden System's Contract Performance module and will schedule the training for the appropriate staff required to use the module, within the first quarter of FY10.

5. Finding: *Contractors' Insurance Policies were not Submitted to the City for Review*
Section 1.27 of the contractors' signed agreements states "After acceptance of bid, the City will notify the successful bidder to submit a certificate of insurance in the amount specified in Section 1.58. No evidence was found indicating that any of the eight contractors' insurance policies had been submitted to the City for review and approval.

Recommendation(s):

The usage of the Eden System's Contract Performance module would be helpful in confirming that all contractors' insurance policies are currently valid. Meanwhile, the Parks & Recreation Department should immediately request and obtain required certificates of insurance from all applicable landscape contractors. Once received, they should be reviewed by the City's Risk Manager to ensure that they satisfy the requirements listed in the signed agreements.

Management Response:

On August 6, 2010 all affected contractors were contacted and advised that immediate submittal of current certificate of insurance in the amount specified in section 1.58 of contract specifications is required. As of September 10, 2010, all eight contractors are in compliance with this item. The Parks and Recreation Departments' Greenspace Management Division agrees with the findings regarding the usage of the Eden System's Contract Performance module and will schedule the training for the appropriate staff required to use the module, within the first quarter of FY10.

6. Finding: *Villa & Sons was Inadvertently Overpaid by \$2,598 in December 2009*
Section 1.17 of the contractors' agreements states "Payment will be made by the City after the items awarded to a vendor have been received, inspected, and found to comply with award specifications, free of damage or defect and properly invoiced." After the testing of 98 invoices against the landscaping contracts, Internal Audit discovered that Villa & Sons invoice #2931-26 contained a mathematical error in calculating the amount charged for a particular area serviced for the month of October 2009. This amounted to the City being overcharged \$2,598 which was paid by the City on February 2, 2010. Upon notification by Internal Audit, the Parks Department obtained a credit from the contractor on invoice #2853-

15 on March 25, 2010 for the entire amount.

Recommendation(s):

Going forward, the City should better scrutinize created invoices to ensure that they are accurately calculated before being sent to the vendor.

Management Response:

As of February 2010, an additional step in the approval process has been implemented whereby Parks Operation Supervisors are checking invoices for accuracy and initialing, prior to review and approval by the Contract Administrator and the Assistant Director.

7. Finding: *Performance and Payment Bonds were not Maintained Throughout the Term of the Signed Agreement*

Section E of Florida Lawn Services, Inc. and Neighborhood Maintenance, Inc. contract, which is currently extended on a month to month basis, states "The Contractor shall file with the Procurement Director of the City of Miami Beach a Performance Bond in the amount of \$50,000 per awarded location per year, and a Payment Bond in the amount of \$25,000 per awarded location per year." This requirement was eliminated in the other six contractor's agreements and the recently issued RFPs to either renew or replace these aforementioned two contractors.

Testing found that Florida Lawn Services, Inc. and Neighborhood Maintenance, Inc. had obtained and furnished these bonds initially to the City's Procurement Director in satisfaction of section E. However, the contractors did not renew these bonds for the subsequent years covered by the agreement. Furthermore, the Parks & Recreation Department was not cognizant of this lapse and therefore did not require the contractors to have them reinstated.

Recommendation(s):

Although a moot point because the maintenance of performance and payment bonds are no longer required in the current agreements, the usage of the Eden System's Contract Performance module would have been helpful in alerting the monitor to verify these bonds existence.

Management Response:

The Parks and Recreation Departments' Greenspace Management Division agrees with the findings regarding the usage of the Eden System's Contract Performance module and will schedule the training for the appropriate staff required to use the module, within the first quarter of FY10.

EXIT CONFERENCE

An exit conference was held on August 10, 2010 in OBPI's Conference Room. Participants included Parks & Recreation Director Kevin Smith, Assistant Director-Parks John Oldenburg, Parks Superintendent Millicent McFadden, 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.

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Audit performed by Carmin Dufour

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cc: Kevin Smith, Parks & Recreation Director
John Oldenburg, Parks & Recreation Assistant Director
Millicent McFadden, Parks Superintendent
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