



Audit of the District's Eastern Market Program and Fund

July 29, 2014

Audit Team:

Toya Murphy, Auditor-in-Charge
Amy Wu, Auditor

A Report by the Office of the District of Columbia Auditor
Lawrence Perry, Acting District of Columbia Auditor



July 29, 2014

Mr. Hanlon:

Included herein is the Office of the District of Columbia Auditor (ODCA) report entitled "Audit of the District's Eastern Market Program and Fund." The audit was conducted pursuant to D.C. Code § 37-103 (c), which states that all Eastern Market accounts shall be independently audited biennially by the District of Columbia Auditor and the audit shall be submitted to the Mayor and the Council.

The objectives of this audit were to determine whether revenue was accurately collected and deposited into the Eastern Market Fund and accurately recorded in SOAR; and disbursements made from the Fund were related to Eastern Market activities.

We would like to thank staff from the Department of General Services for their assistance and cooperation during this audit.

Sincerely,

A handwritten signature in black ink that reads "Lawrence Perry". The signature is written in a cursive style with a large, prominent "P" at the end.

Lawrence Perry
Acting District of Columbia Auditor



July 29, 2014

Audit of the District's Eastern Market Program and Fund

Why ODCA Did This Audit

This audit was conducted pursuant to District of Columbia Code § 37-103 (c). D.C. Code § 37-103 (c) states that all Eastern Market accounts shall be independently audited biennially by the District of Columbia Auditor, and the audit shall be submitted to the Mayor and the Council.

What ODCA Recommends

1. We recommend that DGS execute new lease agreements with all South Hall merchants that accurately reflect market rates. Until new lease agreements are signed, DGS should enforce the holdover provisions of the current lease agreements.
2. We recommend that DGS enforce and collect the \$3,500 in late payment penalties for South Hall merchants in accordance with the lease agreements.
3. We recommend that DGS create a standard contract for North Hall rentals that documents all relevant information and that are approved and signed by the CPMO.
4. We recommend that DGS and OFRM conduct monthly deposit reconciliations.

For more information regarding this report, please contact Anovia Daniels, Communications Analyst/ANC Outreach, at Anovia.Daniels@dc.gov or 202-727-3600.

What ODCA Found

Eastern Market is the District's oldest, continually operating, public fresh food market. Located in the heart of the historic Capitol Hill neighborhood, Eastern Market is one of the District's destinations for fresh food, hand-made arts and crafts, and community events. During the scope of our audit, Eastern Market was managed by the Department of General Services (DGS).

District of Columbia Code § 37-103 (a) and (b) established the Eastern Market Enterprise Fund (Fund), an interest-bearing account that shall be operated by the Chief Property Management Officer (CPMO) in accordance with general accepted accounting principles. The code also requires the CPMO to deposit into the Fund all revenue, proceeds, and moneys from whatever source derived which are collected or received by the CPMO on behalf of Eastern Market. During our audit scope, DGS served as the CPMO. DGS forwarded all collections related to the Eastern Market Fund to the Office of the Chief Financial Office, Office of Finance and Resource Management (OFRM) for deposit.

Overall, we found control deficiencies while determining whether revenue was collected and deposited to the Eastern Market Fund. These deficiencies were noted for deposits related to South Hall, North Hall and Weekend Market activities.

As a result of our testing conducted on a sample of disbursements, we found that the disbursements made from the Eastern Market bank account were related to Eastern Market activities.

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Background

The Department of General Services (DGS) provides cost-effective, centralized facility management services. In October of 2011, the agency assumed the functions and responsibilities of the Department of Real Estate Services (DRES), Office of Public Education Facilities Modernization (OPEFM), the Municipal Facilities non-Capital agency, and the capital construction and real property management functions of several other District agencies.

Eastern Market is the District's oldest, continually operating, public fresh food market. Located in the heart of the historic Capitol Hill neighborhood, Eastern Market is one of the District's destinations for fresh food, hand-made arts and crafts, and community events. During the scope of our audit, Eastern Market was managed by DGS.

Eastern Market includes the South Hall market, North Hall event space, Weekend Farmers' Line and Weekend Outdoor Market.

South Hall Market

The South Hall Market consists of 14 indoor merchants who offer a variety of goods ranging from fresh produce and flowers, to delicatessen, bakery, meat, poultry, cheese and dairy products. The following merchants currently occupy the South Hall Market:

1. Blue Iris Flowers
2. Bowers Fancy Dairy Products
3. Calomiris Fruits & Vegetables
4. Canales Delicatessen
5. Canales Quality Meats
6. Capitol Hill Poultry
7. Capitol Hill Produce
8. Eastern Market Grocery
9. Eastern Market Pottery
10. Fine Sweet Shop
11. Market Lunch
12. Market Poultry
13. Southern Maryland Seafood

14. Union Meat Company, LLC

North Hall Event Space

The North Hall event space is an arts and community center that allows local citizens to rent the hall to hold meetings, wedding receptions, dance classes and other events. Renters are required to enter into a contract with DGS to hold an event in the North Hall. DGS determines the rate charged based on the type of group or individual renting the facility, type of event being held and the date and time of the event.

Weekend Farmers' Line and Weekend Outdoor Market

The Weekend Farmers' Line is an open-air venue where local farmers sell produce. The Weekend Outdoor Market is where local artists sell handmade arts and crafts and antiques. The weekend markets are governed by the rules and regulations set forth in Eastern Market Vendor Agreements. Weekend vendors are required to have a permit to participate in the weekend market and pay a fee each weekend based on the outdoor space to which they are assigned. Some vendors have a permanent space and some vendors are required to check-in for available spaces each weekend. Vendors remit payment each weekend upon arrival at the market. An Office of the Finance and Resource Management (OFRM) employee attends the market each weekend to collect payments from vendors and record payments received. Payments are made in the form of a check, money order or credit card.

Eastern Market Enterprise Fund

District of Columbia Code § 37-103 (a) and (b) established the Eastern Market Enterprise Fund (Fund), an interest-bearing account that shall be operated by the Chief Property Management Officer (CPMO) in accordance with general accepted accounting principles. The code also requires the CPMO to deposit into the Fund all revenue, proceeds, and moneys from whatever source derived which are collected or received by the CPMO on behalf of Eastern Market. During our audit scope, DGS served as the CPMO. DGS forwarded all collections related to the Eastern Market Fund to OFRM for deposit.¹

¹ OFRM collected fees from vendors participating in the Weekend Farmers' Line and Weekend Outdoor Market; however DGS collected fees related to North and South Hall operations and forward those to OFRM for deposit into the Fund.

Objectives, Scope and Methodology

Objectives

The objectives of this audit were to determine whether:

1. Revenue was accurately collected and deposited into the Eastern Market Fund and accurately recorded in SOAR, and
2. Disbursements made from the Fund were related to Eastern Market activities.

Scope

The audit scope was fiscal years (FY) 2011 through 2012 as of June 30, 2012 (October 1, 2010 to June 30, 2012) and included a review of contracting and financial activities related to the Eastern Market Fund.

Methodology

To accomplish our objectives the Auditor reviewed relevant laws, regulations, policies and procedures governing Eastern Market. We reviewed South Hall lease agreements, weekend market permits, and North Hall contracts to determine authority of vendors to operate, and residents and organizations to hold events. We reviewed available weekend market vendor fee collection checklists, deposit transmittals, lease agreements, contracts and expenditures to validate bank statement transactions and SOAR postings. Lastly, we conducted interviews with responsible officials of the Department of General Services (DGS) and the Office of the Chief Financial Officer, Office of Finance and Resource Management (OFRM).

Audit Evidence Limitation

Generally Accepted Government Audit Standards, (2011 Revision) Section 7.11 requires auditors to disclose any limitations on the scope of the work performed.

In conducting this audit, we requested that DGS provide the Auditor with financial records to support collections from North Hall and Weekend Market activities for FY 2011 and FY 2012. DGS was unable to provide sufficient documentation to allow us to conduct the testing needed to fully meet our audit objectives.

Specifically, DGS was unable to provide a record of events held in the North Hall for FY 2011 or a complete financial record of events held at the North Hall for FYs 2011 and 2012. Due to the absence of this information the Auditor did not have a complete record of all events held at the North Hall, the amount paid for each event, the dates DGS received payments or refunded security deposits to renters.

Regarding the Weekend Farmers' Line and Outdoor Markets, DGS could not provide complete financial records documenting the amounts paid by each vendor during FY 2011. For FY 2012, DGS was unable to provide complete documentation for activities during the five weekends we selected for testing.

Due to the lack of documentation provided by DGS, our audit objective, to determine whether revenue was collected and deposited to the Eastern Market fund and accurately recorded in SOAR could not be fully achieved.

It should be noted that The District of Columbia Office of the Chief Financial Officer, Financial Policies and Procedures Manual requires agencies to retain cash receipts documentation onsite for up to three years after the close of the fiscal year and an additional three years in archive. We found that DGS did not maintain complete cash receipts documentation for collections from the Weekend Farmers' Line and Outdoor Market vendors for FY 2011 or FY 2012. According to the Eastern Market manager, DGS implemented a policy to retain a weekend vendor checklist beginning January 2012. Despite claims establishing this policy we found that DGS continued to maintain insufficient records.

We strongly recommend that DGS ensure that outdoor market activities payments received are maintained in accordance with the District's Office of the Chief Financial Officer, Financial Policies and Procedures Manual.

Audit Standards

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Audit Results

Overall, we found control deficiencies while determining whether revenue was collected and deposited to the Eastern Market Fund. These deficiencies were noted for deposits related to South Hall, North Hall and Weekend Market activities. To address our findings we recommend the following actions.

- 1. We recommend that DGS execute new lease agreements with all South Hall merchants that accurately reflect market rates. Until new lease agreements are signed, DGS should enforce the holdover provisions of the current lease agreements.**

DC Code, § 37-105(b)(1) states that “The CPMO [Chief Property Management Officer] shall lease the Eastern Market Square, including the Eastern Market building and its public land and public space to the market manager who then may sublease by written contracts all or part of the public building and public land and public space to one or more person for use in accordance with this chapter.”

Department of General Services (DGS) provided lease agreements between the South Hall Merchants and Eastern Market Venture, Inc., the former market manager contracted by the District to manage Eastern Market activities. DGS also provided one MOU between the District and Eastern Market Pottery.²

Each agreement with the South Hall merchants, with the exception of National Capital Bank that operates an ATM, had an effective lease term period of August 22, 2007 through June 30, 2008. The effective lease term period for National Capital Bank agreement was November 13, 2001 through December 31, 2008.

Each merchant’s agreement provides that “in the event that a merchant does not voluntarily vacate the merchant’s premises at the end of the agreement term, the merchant shall be deemed a Holdover Merchant on a month-to-month basis at a monthly rent equal to two (2) times the amount of monthly rent paid during the initial agreement term.”

² The MOU between the District and the Eastern Market Pottery is for a space at 320 3rd Street. Eastern Market Pottery was displaced by the April 30, 2007 fire at the Eastern Market. During renovations to Eastern Market, Eastern Market Pottery relocated to 320 3rd Street and did not return to Eastern Market after the Market reopened in June 2009.

Since the expiration of agreements in June and December of 2008, no South Hall merchants have entered into or signed a new agreement nor vacated the premises. As a result, these merchants are currently operating under the holdover provision; however, DGS is not collecting the applicable hold over payment amounts as stated in the agreements.

According to DGS officials, DGS attempted to increase the rent by negotiating with the merchants; however, the South Hall merchants did not agree to the terms of the new agreement. According to DGS, the holdover provisions were not enforced because DGS believed that the holdover terms were unrealistic as they would have ranged from \$1,318.80 to \$5,766.60 per South Hall merchant. This however, resulted in \$386,498.70 in uncollected rent revenue during the audit period. Figure 1 below presents the rent that should have been collected during our audit period had the holder over provision been enforced.

Figure 1

Name of the Merchant	Base Rent	Base Rent x 21 Months	Holdover Rent (Base Rent x 2)	Holdover Rent x 21 Months	Difference
National Capital Bank	\$875.00	\$18,375.00	\$1,750.00	\$36,750.00	\$18,375.00
Tom G's Inc.	\$2,883.30	\$60,549.30	\$5,766.60	\$121,098.60	\$60,549.30
Blue Iris Flowers	\$672.80	\$14,128.80	\$1,345.60	\$28,257.60	\$14,128.80
Market Poultry, LLC	\$850.50	\$17,860.50	\$1,701.00	\$35,721.00	\$17,860.50
Thomas Calomiris & Son, Inc.	\$1,411.20	\$29,635.20	\$2,822.40	\$59,270.40	\$29,635.20
Bowers Fancy Dairy Products	\$716.10	\$15,038.10	\$1,432.20	\$30,076.20	\$15,038.10
Fine Sweet Shop	\$1,638.00	\$34,398.00	\$3,276.00	\$68,796.00	\$34,398.00
Capitol Hill Poultry & Paik Produce	\$1,413.30	\$29,679.30	\$2,826.60	\$59,358.60	\$29,679.30
Canales Delicatessen	\$1,310.40	\$27,518.40	\$2,620.80	\$55,036.80	\$27,518.40
Canales Inc.	\$659.40	\$13,847.40	\$1,318.80	\$27,694.80	\$13,847.40
Canales Quality Meats	\$724.50	\$15,214.50	\$1,449.00	\$30,429.00	\$15,214.50
Union Meat, LLC	\$2,137.80	\$44,893.80	\$4,275.60	\$89,787.60	\$44,893.80
Southern	\$2,306.40	\$48,434.40	\$4,612.80	\$96,868.80	\$48,434.40

Maryland Seafood, Inc.					
Eastern Market Pottery	\$806.00	\$16,926.00	\$1,612.00	\$33,852.00	\$16,926.00
Total Amount	\$18,404.70	\$386,498.70	\$36,809.40	\$772,997.40	\$386,498.70

DGS' failure to update South Hall lease agreements to reflect fair market rents not only violated DC Code § 37-107(a)(2)³ but also prevented the District from obtaining additional revenue that could have been collected reflecting fair market value.

³ DC Code, § 37-107(a)(2) states that: "Rents or other financial arrangements shall reflect fair market rents and practices... Annual rent increases for any operators shall be limited to 102% of the Consumer Price Index ("CPI"), or to an additional amount to reflect the cost of additional services provided, except that in no instance shall the annual increase exceed 110% of the CPI."

2. We recommend that DGS enforce and collect the \$3,500 in late payment penalties for South Hall merchants in accordance with the lease agreements.

The Eastern Market agreements state that late payments shall include a late charge of ten percent for each rental payment that is more than five days late. The Auditor found that DGS did not collect late fees totaling \$3,500 from seven merchants. According to DGS, the late fee assessment was not enforced but could provide no further justification for not charging the fee.

3. We recommend that DGS create a standard contract for North Hall rentals that documents all relevant information and that are approved and signed by the CPMO.

DC Code §37-106 (e) provides that “the market manager may enter into a written contract with a tenant to operate the North Hall as a community arts center. The North Hall shall also be available for periodic use by community groups not involved in promoting the arts, and on a space-available basis, rented for fund-raising or for-profit activities. The contract shall specify a space charge that shall reflect rents or fees charged to art galleries, dance companies, theatrical companies and other similar arts-promoting entities, and to community-based or non-profit public activities.”

We reviewed contracts for 26 events held in the North Hall during our audit period. During our testing, we found that many of the provided contracts were missing vital information.

We conducted a review of the FY 2012 North Hall contracts and noted that:

- 12 of the 26 contracts were not signed or dated by the DGS staff. Therefore it is unknown when the contract was received and approved by DGS.
- 11 of the 26 contracts did not complete the payment received information. Therefore it is unknown when the deposit, security deposit and final payment were paid by the renter.
- For 5 of the 26 contracts, DGS did not clearly document the pricing category to which the renter was assigned based on the type of event. The information in the contract was not sufficient to determine the correct pricing category.

By not properly document all relevant information in the contract, DGS may have charged the incorrect amount for events held at the North Hall and DGS has no way to ensure that correct fees are being collected or that fees are accurately deposited to the Fund. In addition, by failing to properly document payment information, a renter could potentially use the facility without remitting full payment.

4. We recommend that DGS and OFRM conduct monthly deposit reconciliations.

The District's Office of the Chief Financial Officer Financial Operations Policy and Procedures Manual 10203000.00 C & D provides that all transactions are recorded, in the correct amounts, and assigned proper account and sub-account categories.

We found in some instances OFRM processed deposits from various transmittal dates and various Eastern Market components (South Hall and North Hall) to one deposit transaction but did not maintain accurate records detailing the components of each deposit.

DGS collects monthly rental payments from South Hall merchants and provides all checks received to OFRM with a summary transmittal deposit which lists all payments received. During the audit period, there were 36 transmittal deposits for South Hall merchants processed by OFRM. For 5 of the 36 transmittal deposits reviewed, we were unable to trace the amount collected by DGS as recorded on the transmittal deposit directly to a bank statement. In addition, for 4 of the 36 transmittal deposits, we could not trace the amount collected by DGS as recorded on the transmittal deposit directly to the SOAR reports. OFRM could not provide reconciliation or other supporting documentation to provide evidence that amounts recorded on these five transmittal deposits were deposited in the Eastern Market Fund account or that the payments from the four transmittal deposits were posted to SOAR.

Due to the lack of reconciliations and lack of supporting deposit transmittals, we could not verify the accuracy of the amounts deposited into the Eastern Market bank account and posted to SOAR. As a result, it is unknown if all deposits provided to OFRM from DGS were deposited in the Eastern Market bank account and posted to SOAR.

Conclusion

Overall, we found control deficiencies while determining whether revenue was collected and deposited to the Eastern Market Fund. These deficiencies were noted for deposits related to South Hall, North Hall and Weekend Market activities. As a result of the deficiencies noted, the Office of the District of Columbia Auditor could not determine whether the FY 2011 and FY 2012 (as of June 30, 2012) revenue was properly collected and deposited to the Eastern Market bank account and recorded in SOAR.

We are pleased however that Department of General Services (DGS) has taken steps to begin the implementation of the recommendations outlined in this report.

Sincerely,

A handwritten signature in black ink, appearing to read "Lawrence B. Perry". The signature is written in a cursive style with a large, stylized initial "L".

Lawrence Perry,
Acting District of Columbia Auditor

Agency Comments

On June 19, 2014, we submitted a draft version of this report to the Department of General Services (DGS) for review and comment.

The Auditor received written comments from DGS on July 16, 2014. DGS agreed with our recommendations and has taken steps to begin the implementation of the recommendations outlined in this report. The response provided by DGS is included with this report.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF GENERAL SERVICES**



Office of the Director

July 11, 2014

Lawrence Perry
District of Columbia Auditor
717 14th Street, NW, Suite 900
Washington, DC 20005

Re: Responses to Office of the District of Columbia Auditor;
“Audit of the District Eastern Market Program”

Dear Mr. Perry:

The agency is in receipt of your request entitled “Audit of the District Eastern Market Program.”

Attached, please find the response to your draft report. Should you have any questions, please do not hesitate to call on 202-727-2880.

Sincerely,

A handwritten signature in black ink, appearing to read 'Brian Hanlon', with a stylized flourish at the end.

Brian Hanlon,
Director

Audit of the District's Eastern Market Program and Fund

Recommendation	Agency Agrees Date Agency will Implement Recommendation	Agency Disagrees Alternative Recommendation
<p>1. We recommend that DGS execute new lease agreements with all South Hall merchants that accurately reflect market rates. Until new lease agreements are signed, DGS should enforce the holdover provisions of lease agreements.</p>	<p>The Agency agrees that new lease agreements with all South Hall vendors are necessary and agrees to use best efforts to execute agreements with all vendors under terms consistent with the Eastern Market Act and other applicable laws. We must first determine the market rent by procuring an appraisal. The agency will procure an appraisal and determine market rent by December 2014. It is not clear that sales volume for Eastern Market South Hall merchants can support market rents. This will be evaluated and a determination of the appropriate rent levels will be made after the appraisal and analysis of sales volume. Once this determination is made, DGS will enforce holdover provisions of lease agreements against any vendors who fail to execute a new lease agreement.</p>	
<p>2. We recommend that DGS enforce and collect the \$3,500 in late payment penalties for South Hall merchants in accordance with the lease agreements.</p>	<p>The Agency agrees to request that South Hall vendors pay late payment penalties in accordance with lease agreements. The Agency will send collection letters to vendors by August 30, 2014.</p>	

Audit of the District's Eastern Market Program and Fund

<p>3. We recommend that DGS create a standard contract for North Hall rentals that documents all relevant information and that are approved and signed by the CPMO.</p>	<p>The Agency has already implemented this recommendation by updating our standard form to include all vital information within a single document. The standard form now also includes an attached pricing sheet and the Market Manager, as a delegate of the DGS Director (formerly CPMO), signs all forms on a regular interval. This recommendation was implemented while the ODCA was conducting the Eastern Market audit. Please see attached updated form.</p>	
<p>4. We recommend that DGS and OFRM conduct monthly deposit reconciliations.</p>	<p>The agency has already implemented this recommendation.</p>	