

Memorandum



CITY OF DALLAS
Audit # A07-003

DATE: December 15, 2006

TO: Honorable Mayor and Members of the City Council

SUBJECT: Follow-Up Report of the April 29, 2005 Audit of Revenue Related Activities of WRR-FM

The original audit report contained five findings with 27 recommendations. The following is a summary of the status of the recommendations: 18 – implemented, 7 – partially implemented, and 2 – not implemented.

We conducted this audit under the authority of Chapter IX of the City Charter. We performed this audit according to applicable government auditing standards. We conducted tests of records and reviewed program guidelines and procedures that we considered necessary in the circumstances.

Our objective was to determine whether Municipal Radio WRR-FM, a division of the Office of Cultural Affairs (OCA), has implemented the audit's recommendations or taken other acceptable actions to remedy the control weaknesses identified in the original audit report.

1. WRR General Manager's commission computations are inaccurate and payments are questionable.

We recommended that the Director of the Office of Cultural Affairs:

- A. Consult with the City Attorney to:
 1. Develop and implement a plan, including the guidelines established by Administrative Directive 3-69, to recover the amount overpaid to the General Manager (GM) as commissions. **(Not Implemented)**
 2. Determine impact on payroll taxes and deferred compensation. **(Implemented)**

3. Evaluate and formalize the commission-based agreement into a contract with the current WRR GM; ensure that applicable contract terms are clearly defined, specific, and free from misinterpretation and ambiguity; and that the contract requires the annual audited Comprehensive Annual Financial Reports (CAFR) be used as the basis for the annual commission payment. **(Implemented)**
 4. Determine whether City Council Resolution 00-1593 also covered annual commission payments subsequent to the lump-sum payment approved and made in May 2000. **(Implemented)**
- B. Consult with the Chief Financial Officer to request the City's external auditor to separately identify and include the amount transferred to the General Fund to cover administrative expenses within the "Operating Expenses" section of future annual CAFR of WRR as required by Governmental Accounting Standards Board (GASB) 34. **(Implemented)**
 - C. Consult with the administrator of the City's Employee Retirement Fund to address/adjust the impact of the questioned amount, associated with the lump-sum payment amount, on future employee retirement benefits. **(Partially Implemented)**
 - D. Develop and implement applicable internal control mechanisms to ensure that WRR GM's annual commission payment calculations are adequately reviewed and verified for accuracy, and approved by appropriate OCA oversight personnel, before payment is made. **(Implemented)**

We found the following:

- A.1. *Management disagreed with the Auditor's interpretation of the commission-based agreement and with the amount determined to be overpaid to the GM as commissions. Management's interpretation of the commission-based agreement determined that the GM was underpaid by \$2,594.67. Management paid the GM the \$2,594.67 without prior consultation with the City Council.*
2. *Management concluded that there was not an overpayment, thus there was no impact on payroll taxes and deferred compensation resulting from the lump-sum payment.*

3. *City Council authorized a commission-based agreement for the GM on April 13, 2005. The "Agreement of Commission Arrangement" (Agreement) with GM was signed by the WRR GM, the City Attorney and the City Manager. The Agreement specifically states that an annual commission is to be paid based on operating income as stated in the City's CAFR.*
4. *Based on Council Resolution 00-1593, the City Manager was authorized not only to disburse the lump-sum payment, but also to execute the commission-based compensation agreement previously negotiated by the GM of WRR and the Director of Event Services.*
- B. *We reviewed the CAFR for FY 2004-2005 and verified with the Office of Financial Services that the amount transferred to the General Fund to cover administrative expenses is properly included within Operating Expenses shown in the CAFR.*
- C. *An agreement dated March 31, 2005, addressed to the Administrator of the Employees' Retirement Fund (ERF), and signed by the Acting City Manager, the Assistant City Auditor, and WRR's GM, requested that "... the earnings from the May 2000 payroll adjustment be 'distributed' and treated as though they were paid in separate years ..."*

In a memo dated August 9, 2005, the ERF Administrator notified the City Manager that "Based on the information provided to date and advice from legal counsel, there does not appear to be an issue to be brought before the Board at this time." Also, "Under the terms of Chapter 40A, a member or beneficiary can waive all or part of a benefit that is determinable and payable. Once Mr. Davis retires and his benefit is determined, he too, will be able to waive any or all of his benefit. Imposing such a waiver in advance is not a prudent interpretation of the provisions of Chapter 40A."

Therefore, there is a potential consequence of unintentionally increasing the GM's retirement benefit. However, that retirement benefit is presently not quantifiable because future payment amounts cannot be determined.

- D. *Section 1 of the Agreement states "Commission calculation shall be based on the City's Comprehensive Annual Financial Reports (CAFR). All commission calculations shall be reviewed and approved by the City Manager, City Controller, Director of the Office of Cultural Affairs and verified by the City Auditor. Either actual or estimated commissions shall be paid on or before January 31 for each preceding fiscal year...."*

At the request of the Chief Financial Officer, the City Auditor's Office reviewed and verified the accuracy of the proposed estimated commissions of \$14,880.96 to be paid to the GM for FY 2004-05. We noted that the proposed estimated commission of \$14,880.96 was reasonable.

2. Management oversight and monitoring controls over industry trade account activities are inadequate.

We recommended that the Director of the Office of Cultural Affairs develop and implement control mechanisms to ensure that:

- A. Each WRR employee is required to annually review the City's Code of Ethics and annually complete a form acknowledging that as an employee of WRR the employee will not personally benefit from trade or other WRR activities. The form should also refer to the Code of Ethics and/or the City's Personnel Rules regarding the consequences for non-compliance. **(Implemented)**
- B. OCA management reviews, revises, and approves WRR's policies and procedures for trades. (Developed policies and procedures should take into consideration industry practices.) **(Implemented)**
- C. Ensure that policies and procedures for trade usages address all usages (station as well as employee), required documentation, the levels of approval required for usages (based on the type of goods/service), and exceptions, if any. **(Implemented)**
- D. Ensure that WRR's internal policies and procedures are fully aligned with relevant City policies and guidelines, and identified conflicts are corrected, before approval by OCA management. **(Implemented)**
- E. Implement tracking mechanisms on trade activities. This should include monitoring expiration dates, usages, adjustments, balances, etc. and requiring WRR to provide detailed periodic reports (no less often than quarterly) on trade activities to OCA management. **(Implemented)**
- F. The intent of establishing the \$5,000 dollar value threshold for trade agreements is taken into consideration before changes are made to the current internal policy. **(Implemented)**
- G. Consistent internal policies are developed and implemented for rewarding sales from trade agreements. **(Not Implemented)**

We found the following:

- A. *Effective October 1, 2006, WRR implemented a procedure that requires employees to review the Conflict of Interest, Code of Ethics and Personnel Rules annually. We reviewed the WRR form and determined that it references the Conflict of Interest, the Code of Ethics and the Personnel Rules that an employee of WRR acknowledges as to have read and agrees to abide.*
- B-E. *WRR has policies and procedures regarding procedures for trades which include tracking mechanisms on trade activities.*
- F. *The policy was revised in 2005 and the \$5,000 dollar value threshold was removed from the policy. During the revision of the policy, WRR determined that the dollar threshold was inappropriate to ensure a mutually beneficial transaction for both the station and the client.*
- G. *WRR current policies and procedures state that commissions to sales staff are paid on collection of revenues, not on trade.*

3. Controls over Account Executives' (AEs') draws, commissions and compensation need improvement.

We recommended that the Director of the Office of Cultural Affairs:

- A. 1. Develop control mechanisms to ensure that applicable Council actions and guidelines, as well as other established internal policies and procedures, are complied with. Exceptions, if any, require prior approval from OCA management and/or City Council. **(Implemented)**
- 2. Establish and implement internal policies and procedures to ensure that WRR management monitors draw balances and takes timely actions to prevent excessive accumulated deficit draws on AEs' accounts, and subsequently recover the deficit funds from the employee. **(Implemented)**
- 3. Follow Administrative Directive 3-69 to recover the overpayment from the former WRR employee and consult with the City Attorney. **(Partially Implemented)**
- B. Ensure that established internal policies and procedures are complied with. Exceptions, if any, require prior approval from OCA management. **(Implemented)**

Collect the applicable reinstated commission from the AE. **(Partially Implemented)**

- C. Develop and approve a commission structure for WRR that will maximize AEs' sales performances and the organization's revenue potential. **(Implemented)**
- D. Periodically evaluate WRR's commission structure for adequacy and reasonableness. **(Implemented)**

We found the following:

- A. *1. WRR submitted salary schedules to the City Council for the General Manager, Sales Manager, and Sales Representatives. The schedules were approved by City Council and became effective on October 1, 2005.*
 - 2. WRR has internal policies and procedures to ensure that WRR management monitors draw balances and takes timely actions to prevent excessive accumulated deficit draws on AEs' accounts, and subsequently recover the deficit funds from the employee.*
 - 3. WRR is following Administrative Directive 3-69 to recover the overpayment from the former WRR employee that includes consulting with the City Attorney. However, no payments for overpayment have been received from the former employee.*
 - B. *WRR has established internal policies and procedures for commissions. WRR is in the process of trying to collect commission from an account executive that was overpaid in commissions. WRR has contacted the City Attorney's Office requesting assistance in collecting the overpayment.*
 - C-D. *WRR has a commission structure for WRR that will maximize AEs' sales performances and the organization's revenue potential. WRR periodically evaluates commission structure for adequacy and reasonableness.*
- 4. Some WRR's internal policies and procedures conflict with citywide policies and guidelines.**

We recommended that the Director of Office of Cultural Affairs:

- A. Develop and implement oversight procedures to ensure that WRR's gift policy is revised to comply with citywide policies and guidelines, and that the gifts already received, based on WRRs current gift policy, are reviewed, and then take appropriate actions. **(Implemented)**
- B. Confer with the City Attorney to revise the current advertising contract to:
 - Include a provision for interest charges on late payments to comply with City Code requirements. **(Partially Implemented)**
 - Ensure contract payment terms are clear and free from ambiguity. **(Partially Implemented)**

We found the following:

- A. *WRR has changed its trade policy to indicate that trade is to be used for the benefit of the station only. Also, all WRR personnel are now required to sign an annual certification and acknowledgement of City of Dallas' Conflict of Interest, Personnel Rules, and Code of Ethics.*
- B. *WRR has conferred with the City Controller's Office and other media credit managers regarding interest charges on late payments. However, no policy change has been made.*

WRR has conferred with the City Attorney's Office regarding reviewing contract payment terms. No changes have been made to the contracts.

5. Earned revenues were not collected and verified on a timely basis.

We recommended that the Director of the Office of Cultural Affairs ensures WRR:

- A. Confer with the City Controller's Office (CCO) to allow WRR to develop its own policies and procedures regarding delinquent accounts receivable, and request exemption from AD 4-10 upon receiving approval of policies and procedures from the CCO. **(Partially Implemented)**

Implement procedures to comply with approved guidelines. **(Partially Implemented)**
- B. Develop and implement adequate industry/other control mechanisms to reasonably validate revenue receipts. **(Implemented)**

We found the following:

- A. *WRR has conferred with the City Controller's Office regarding collection on outstanding accounts receivable. However, no policy change has been made.*
- B. *WRR has a policy to reasonably assure that the station is receiving all revenues to which it is entitled.*

We appreciate the cooperation of management during this follow-up.

Craig D. Kinton, CPA
City Auditor

C: Mary K. Suhm, City Manager
Charles Daniel, Assistant City Manager
Maria Muñoz-Blanco, Director, Office of Cultural Affairs