



**OFFICE OF THE
CITY AUDITOR**

**SEMI-ANNUAL RECOMMENDATION FOLLOW-UP REPORT
ON ALL OUTSTANDING AUDIT RECOMMENDATIONS
FOR THE SIX MONTHS ENDED DECEMBER 31, 2008**

**A REPORT TO THE
SAN JOSÉ CITY COUNCIL
PUBLIC SAFETY, FINANCE AND STRATEGIC SUPPORT COMMITTEE**

April 6, 2009

Honorable Mayor and Members
of the City Council
200 East Santa Clara Street
San José, CA 95113

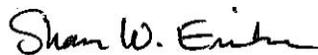
Transmitted herewith is the *Semi-Annual Follow-Up Report On All Outstanding Audit Recommendations For The Six Months Ended December 31, 2008*.

An Executive Summary is presented on the blue pages in the front of this report. In accordance with procedures, the City Auditor gave the City Manager's Office a preview copy of this report for review.

The format of the Semi-Annual Follow-Up Report is intended to highlight recommendations requiring Public Safety, Finance and Strategic Support Committee attention and report on the status of all open recommendations.

I will present this report to the Public Safety, Finance and Strategic Support Committee at its April 16, 2009 meeting. Should you have any questions or need additional information in the interim, please let me know.

Respectfully submitted,



Sharon W. Erickson
City Auditor

SE:bh
Dec08

cc: City Manager's Office
and affected departments

EXECUTIVE SUMMARY

In accordance with the City Auditor's approved 2008-09 Workplan, we have prepared a report of the status of open recommendations for the six months ending December 31, 2008. To prepare this report, we met with department staff, reviewed department assessments of audit status, and reviewed documentation provided by departments. The City Auditor's Office would like to thank the City Manager's Office and the Airport, City Attorney's Office, Environmental Services, Finance, Fire, PBCE (Planning, Building and Code Enforcement), PRNS (Parks, Recreation and Neighborhood Services), Public Works, the Retirement Boards, Team San Jose, and Transportation Department for their assistance in compiling this report.

IMPLEMENTATION STATUS OF OPEN RECOMMENDATIONS

During the semi-annual period covering July 1 through December 31, 2008, there were 110 outstanding recommendations. This included 47 recommendations that were outstanding after our last status report as of June 30, 2008, and 63 new recommendations that the City Council approved during this semi-annual period. Of the 110 outstanding recommendations:

- 35 recommendations were implemented;
- 51 recommendations were partly implemented;
- 17 recommendations were not implemented;
- 1 recommendation was deferred; and
- 6 recommendations are recommended to be dropped because they are no longer applicable.

Table I summarizes these recommendations by audit report in chronological order.

TABLE I
STATUS OF OPEN RECOMMENDATIONS BY AUDIT REPORT ENDING DECEMBER 31, 2008

Report #	Audit Report	Implemented	Partly Implemented	Not Implemented	Deferred	Recommended to be Dropped
97-01	An Audit Of The City Of San Jose's Utility Billing System	1				
00-04	An Audit Of The City Of San Jose Building Division's Building Permit Fee Process		1			
01-02	An Audit Of The City Of San Jose Fire Department's Overtime Expenditures		3			
01-05	An Audit of the City of San Jose Fire Department's Strategic Plan Regarding Proposed Fire Stations		2			
02-03	An Audit Of The Property Management Operations Of The City Of San José's Department Of Public Works – Real Estate Division		1			
03-04	An Audit Of The Airport Neighborhood Services Group		1			
03-10	An Audit of The San José Fire Department's Bureau of Fire Prevention		4		1	
04-08	An Audit Of San José Family Camp		1			
05-01	An Audit Of The Public Art Program		1			
05-02	An Audit Of The Agreements Between The City And The Filipino American Senior Opportunities Development Council	1				
06-01	An Audit Of Citywide Grant Oversight	1	1			
06-02	An Audit Of The San Jose Municipal Water System Fire Hydrant Maintenance And Repair Program		1			
06-04	2004-05 Annual Performance Audit Of Team San Jose	3	2			
07-02	Municipal Water System Consolidated Water Utility Fund	1				
07-03	An Audit Of the Traffic Calming Program		1			
07-04	An Audit Of DOT's Efforts To Secure Federal Highway Bridge Replacement And Rehabilitation (HBRR) Funds		1			
07-05	2005-06 & 2006-07 Performance Audit of Team San Jose					1
07-06	City's Tax-Exempt Bond Program and Use of Interfund Loans to Provide Financing for Capital Bond Projects	2	8	1		
MEMO 1-9-08	Review of the Procurement Card Program - Ongoing Audit	1				
08-01	Emergency Communication System Support Fee					5
MEMO 5-5-08	Review of Allied Waste Expenditures for the Period April 1, 2007 Through February 29, 2008			1		
MEMO 8-8-08	Review of the Department of Public Works' Oversight of the Foxworthy Bridge Project		4			
MEMO 8-15-08	Review of the 2005-06 Sister City Grant Reimbursement for the Pune sister City Program	5				
08-02	An Audit of Retirement Services' Travel Expenses	8	9	6		
08-03	An Audit of Commercial Solid Waste Franchise and AB939 Fees Collection Program	6	3	1		
08-04	An Audit of the City's Oversight of Financial Assistance to Community-based Organizations	6	7	8		
	Totals	35	51	17	1	6

As of December 31, 2008, the distribution of the 69 recommendations which remain open are as follows:

- | | | | |
|----|-----------------------------------|---|--|
| 1 | Airport | 3 | Planning, Building, and Code Enforcement |
| 20 | City Administration/City Council | 1 | Parks, Recreation, and Neighborhood Services |
| 1 | City Attorney | 3 | Public Works Department |
| 1 | Economic Development | 8 | Retirement Boards |
| 4 | Environmental Services Department | 2 | Team San Jose |
| 13 | Finance Department | 2 | Transportation |
| 10 | Fire Department | | |

Of the 69 recommendations which remain open:

- 10 recommendations are Priority 1;
- 11 recommendations are Priority 2; and
- 48 recommendations are Priority 3.

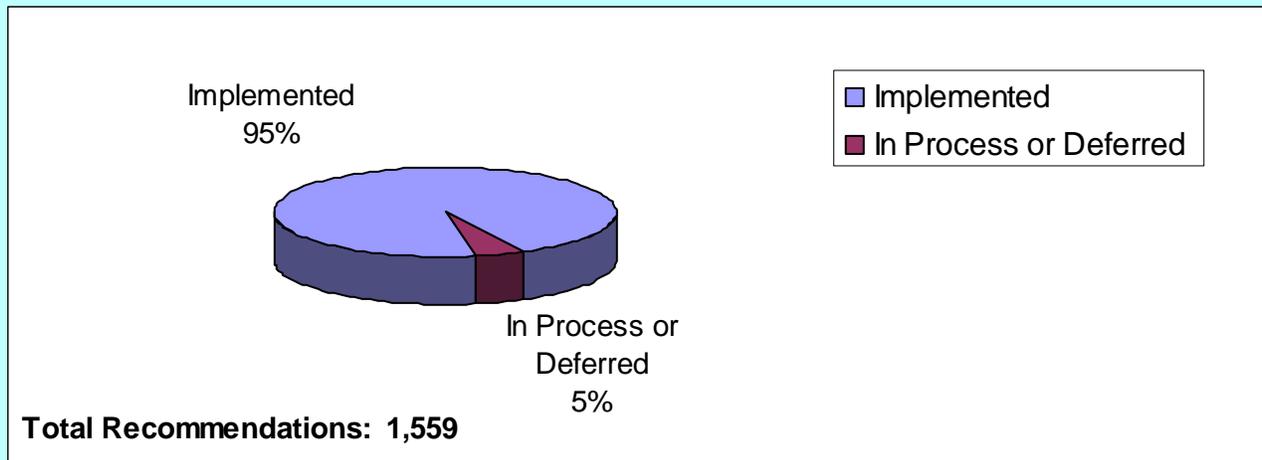
Of the 17 recommendations which are “not implemented”:

- 1 recommendation is Priority 1;
- 2 recommendations are Priority 2; and
- 14 recommendations are Priority 3.

One Priority 2 recommendation is “deferred.”

Graph I shows the number of City Auditor recommendations made and implemented from May 1985 through December 2008.

GRAPH I
RECOMMENDATIONS IMPLEMENTED
May 1985 through December 2008



RECOMMENDATIONS REQUIRING PUBLIC SAFETY, FINANCE AND STRATEGIC SUPPORT COMMITTEE ATTENTION

Recommendations requiring City Council attention are those recommendations for which either 1) the City Auditor and the Administration disagree on the recommendation's implementation status, 2) the Administration has not informed the City Auditor as to the status of the recommendation's implementation, 3) the Administration has indicated it cannot or will not implement the recommendation, 4) the recommendation will require additional funding in order to be implemented, or 5) implementation would generate additional revenues or cost savings. Any recommendations with budget implications are also tracked as part of each year's budget process.

01-02: AN AUDIT OF THE CITY OF SAN JOSÉ FIRE DEPARTMENT'S OVERTIME EXPENDITURES

#8 (San José Fire Department/GM) - Implement a proactive sick leave reduction program to inform line personnel of the benefits of conserving sick leave and rewarding personnel with perfect attendance. (Priority 3)

PARTLY IMPLEMENTED. In order to address concerns that there may be individual abuse of sick leave, the SJFD is developing a new sick leave review process, to allow line managers (Battalion Chiefs) to periodically review individual sick leave usage and then work with the line supervisors (Captains) to follow-up on any usage anomalies by specific employees. The SJFD has also undertaken a review of routine operational procedures to ensure that the policies and procedures reflect the latest contract language between the City and the Local 230 firefighters as it relates to sick leave. An initial data report, covering July-December 2008 is in the process of being formatted for review, with roll out of the new quarterly process is expected in June 2009. The Department anticipates that this proactive approach will encourage its line personnel to ensure that sick leave is appropriately utilized. Target date: 6-09.

COST SAVINGS: TBD.

#9 (San José Fire Department/GM) - Evaluate the feasibility of implementing a comprehensive Wellness-Fitness Initiative Program for the San José Fire Department (SJFD) and prepare a budget proposal should the initiative appear cost beneficial. (Priority 3)

PARTLY IMPLEMENTED. The SJFD's request of a Wellness Coordinator as part of the Citywide Gain Sharing Program was not approved for funding in the previous budget cycle. The SJFD is in the process of determining its next steps to enhance the Department's Wellness Program. Target date: 6-09.

REQUIRES FUNDING: TBD.

01-05: AN AUDIT OF THE CITY OF SAN JOSÉ FIRE DEPARTMENT'S STRATEGIC PLAN REGARDING PROPOSED FIRE STATIONS

#3 (San José Fire Department/RM) - Develop for City Council consideration plans for expanding its use of the Omega priority response level. These plans should include: obtaining the software necessary to fully implement the Omega priority response level; options and costs for dispensing non-emergency medical advice; and any other issues that need to be addressed. (Priority 3)

PARTLY IMPLEMENTED. Under the Priority Dispatch Omega protocol, the 911 call receives an alternate response, such as medical advice over the phone from a nurse. The San Jose Fire Department (SJFD) has completed some of the steps necessary to implement the Priority Dispatch Omega protocol. Specifically, it renewed its accreditation as an Accredited Center of Excellence in April 2008; it implemented the new CAD system necessary to integrate ProQA software necessary for the Priority Dispatch Omega protocol; and it has begun using the ProQA software. However, the current Emergency Medical Services (EMS) Agreement with the County requires that the SJFD respond on all 911 calls received. The County has approved the County EMS contract extension for three years and the SJFD followed up with data collection through June 2007. Furthermore, the SJFD was successful in obtaining County EMS Agency authorization to respond to lower-priority medical aid service requests, as determined through the Medical Priority Dispatch System, with Basic Life Support resources. However, a retrospective review of patient care data by the SJFD identified data integrity issues that must be resolved prior to response modification. The SJFD is confident that data integrity features specifications of the Records Management System, which it is in the process of implementing, will ensure its future ability to determine which Omega calls could safely receive an alternate response. The Records Management System EMS module implementation is scheduled to be operational in March 2009. Target date: 6-09.

REQUIRES FUNDING: TBD.

#5 (San José Fire Department/RM) - Implement a pilot project to evaluate the use of SUVs or Light Units to respond to lower priority emergency medical calls. (Priority 3)

PARTLY IMPLEMENTED. The SJFD has completed its initial operational planning related to temporary redeployment of resources and the use of an alternatively staffed unit to respond to lower priority calls. The pilot program will begin with the relocation of Engine 2 to a temporary facility during Station 2's reconstruction, which is scheduled for Spring 2009. The SJPD has also begun a dialog with the firefighters union regarding the proposed pilot test of an alternatively staffed unit during Station 2's reconstruction. During this period, the SJFD will collect patient care, and unit availability and location data regarding this deployment model with the incident-reporting module of the Records Management System and Mobile Data Computer. Target date: 12-09.

REQUIRES FUNDING: TBD.

07-04: AN AUDIT OF DEPARTMENT OF TRANSPORTATION'S EFFORTS TO SECURE FEDERAL HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION (HBRR) FUNDS

#2 (Department of Transportation/RM) - Prepare and submit an indirect cost rate proposal to CALTRANS for approval. (Priority 3)

PARTLY IMPLEMENTED. An indirect cost rate proposal developed by the city's Finance Department was submitted to Caltrans for approval in September 2008. The indirect rate proposal was not accepted by Caltrans. DOT staff is working with the Finance Department to address the issues raised by Caltrans, in order for the plan to be resubmitted to Caltrans for final approval. Target date: 7-09.

POTENTIAL BUDGET IMPACT: TBD.

07-05: THE 2005-06 AND 2006-07 ANNUAL PERFORMANCE AUDIT OF TEAM SAN JOSE, INC.

#1 (Team San Jose/CH) - Engage a team to perform a nation-wide executive search to hire a qualified individual with experience in the management of similar facilities as the Chief Executive Officer of the Convention and Cultural Facilities in accordance with the Management Agreement. (Priority 3)

NOT IMPLEMENTED. We recommend that this recommendation be dropped. We concur with the Administration's interpretation that with the merger of the Team San Jose and Convention and Visitor's Bureau's Board of Directors that the City Council no longer wished to pursue a nation-wide executive search to hire an additional CEO. Through the new Management Agreement, the Administration will continue to monitor their performance. Therefore, we recommend that this recommendation be dropped.

COUNCIL ATTENTION REQUIRED: We recommend dropping this recommendation.

07-06: AN AUDIT OF THE MANAGEMENT OF THE CITY'S TAX-EXEMPT BOND PROGRAM AND USE OF INTERFUND LOANS TO PROVIDE FINANCING FOR CAPITAL BOND PROJECTS

#1 (Finance Department/JL) - Improve controls over the administration of the tax-exempt bond program and processes to mitigate negative cash balances in the City's Cash Pool caused by bond programs and adequately address other negative balances. (Priority 1)

PARTLY IMPLEMENTED. Debt Management staff developed a summary report of negative cash balances which is reviewed monthly and now reports on negative cash balances in its monthly Investment Reports to City Council. The average negative cash balance of \$40 million per month in City bond fund accounts has been reduced to \$5.7 million during 2005-06 and 2006-07, at the end of January 2009. According to the Department, draft policies and procedures are in progress. Target date: 6-09.

POTENTIAL BUDGET IMPACT (all funds): TBD.

#2 (Finance Department/JL) - Work with the City Attorney's Office to evaluate what, if any, foregone interest to restricted funds may need to be repaid. (Priority 1)

NOT IMPLEMENTED. The Administration does not agree with the need to remedy past interest allocations. The Auditor's Office will continue to work with the Finance Department towards resolving any outstanding audit related issues. Target date: TBD.

POTENTIAL BUDGET IMPACT (all funds): TBD.

#8 (City Manager's Office/JL) - Work with the City Attorney's Office to evaluate and report on methods to remedy any potential past compliance issues associated with the loans from restricted funds. (Priority 1)

PARTLY IMPLEMENTED. The audit report identified several concerns with how the City was handling interfund loans. To correct for missed interest on an interfund loan to the Old City Hall Renovation, the Administration brought forward a \$65,000 interest payment as part of the 2006-07 Annual Report. In addition, the 2008-09 Adopted Operating and Capital Budgets included loan repayments for portions of all outstanding loans. Furthermore, the Budget Office developed a new summary of interfund loans in Capital and Operating Funds which provides a description for each interfund loan, loan terms, the amount outstanding, and the 2008-09 budgeted payments. We will continue to work with the Administration and the Attorney's Office to resolve issues related to the Coyote Valley Water interfund loan. Target date: 6-09.

POTENTIAL BUDGET IMPACT (all funds): TBD.

08-01: AN AUDIT OF THE EMERGENCY COMMUNICATION SYSTEM SUPPORT FEE

#3 (City Manager's Office/RM) - Perform a study to determine the amount of time the Emergency Communication Center staff spends on 911-related activity; and officer-initiated and other non-911-related activity to determine the portion of staff costs that are 911-related and can be funded with the Emergency Communication System Support Fee in compliance with the Municipal Code definition of eligible operating costs. (Priority 3)

NOT IMPLEMENTED. We recommend dropping this recommendation. On November 4, 2008, residents of San José approved Measure J. Measure J established a Telephone Line Tax to replace the Emergency Communication System Support (ECSS) Fee. Consequently, this recommendation is no longer necessary.

COUNCIL ATTENTION REQUIRED: We recommend dropping this recommendation.

#6 (Finance Department/RM) - Conduct a review of Emergency Communication System indirect costs to ensure indirect costs are allocated in compliance with the Municipal Code and determine the necessity for a separate Emergency Communication System indirect cost rate. (Priority 2)

NOT IMPLEMENTED. We recommend dropping this recommendation. On November 4, 2008, residents of San José approved Measure J. Measure J established a Telephone Line Tax to replace the Emergency Communication System Support (ECSS) Fee. Consequently, this recommendation is no longer necessary.

COUNCIL ATTENTION REQUIRED: We recommend dropping this recommendation.

#10 (Finance Department/CC) -

- 1) Annually identify and request from service providers the information identified in the Municipal Code and such additional information as Finance determines necessary for it to perform the fee review requirements set forth in the Code,***
- 2) Work with service providers to determine the documentation and review necessary to assess the strength of controls over billing, collecting, and remitting the Emergency Communication System Support Fee,***
- 3) Assess if service provider controls ensure proper billing, collecting, and remitting the Emergency Communication System Support Fee, and***
- 4) If the service providers are unable or unwilling to provide the information the City seeks, the City should explore whether other options or sources are viable ways to comply with Municipal Code provisions. (Priority 3)***

NOT IMPLEMENTED. We recommend dropping this recommendation. On November 4, 2008, residents of San José approved Measure J. Measure J established a Telephone Line Tax to replace the Emergency Communication System Support (ECSS) Fee. This recommendation no longer applies.

COUNCIL ATTENTION REQUIRED: We recommend dropping this recommendation.

#12 (Finance Department/CC) - Conduct a review to determine whether the fee rates for trunk lines continue to reasonably reflect the estimated Emergency Communication System workload relative to access lines. (Priority 3)

NOT IMPLEMENTED. We recommend dropping this recommendation. On November 4, 2008, residents of San José approved Measure J. Measure J established a Telephone Line Tax to replace the Emergency Communication System Support (ECSS) Fee. This recommendation is no longer necessary.

COUNCIL ATTENTION REQUIRED: We recommend dropping this recommendation.

#13 (City Administration/CC) - Exercise its right to an onsite compliance audit of select service providers, if the City does not obtain sufficient information and documentation. (Priority 3)

NOT IMPLEMENTED. We recommend dropping this recommendation. On November 4, 2008, residents of San José approved Measure J. Measure J established a Telephone Line Tax to replace the Emergency Communication System Support (ECSS) Fee. Consequently, the recommendation is no longer necessary.

COUNCIL ATTENTION REQUIRED: We recommend dropping this recommendation.

**COMPLETE LISTING OF THE STATUS
OF OPEN AUDIT RECOMMENDATIONS
AS OF DECEMBER 31, 2008**

97-01: AN AUDIT OF THE CITY OF SAN JOSÉ'S UTILITY BILLING SYSTEM

#20 (Finance/Environmental Services Department/RO) - Establish on-going procedures for (1) scanning for errors and correcting customer data in the database, (2) purging unnecessary data, (3) authorizing changes in account status from active to inactive, and (4) routinely reviewing monthly reports for rate code exceptions. (Priority 3)

IMPLEMENTED. Staff has established procedures to regularly scan and cleanse the Integrated Billing System (IBS) database, address account status changes, and configure and verify rates are being charged in accordance with City Council-approved rate memoranda. Unlike the old Socrates billing system, where purging of old data was necessary, the IBS allows the account history to follow the customer if they should move to another location within the City of San Jose or return after being gone for a period of time. Information Technology (IT) staff has produced written procedures to address account status changes and continues to revise them as needed. The IBS database includes monthly and bi-monthly rates which are assigned to bill factors. The Environmental Services Department (ESD) sets these rates annually and submits them to the City Council for approval between May and June. IT configures the City Council-approved rate changes into the IBS. Staff has completed rate configuration and verification procedures, as well as procedures for reviewing, deleting, and correcting specific billing situations. Staff will continue to review and update the above-mentioned procedures as needed. In addition, a consultant completed an evaluation of the IBS in January 2009. As a result, ESD, Finance, and IT will continue to implement more robust procedures for data cleanup, management reporting, and exception report reconciliations.

00-04: AN AUDIT OF THE CITY OF SAN JOSÉ BUILDING DIVISION'S BUILDING PERMIT FEE PROCESS

#4 (Building Division/GM) - Establish a policy and process to pay for long-term capital or asset acquisitions. (Priority 3)

PARTLY IMPLEMENTED. The Department acknowledges the need to implement this policy, however, due to the Department's current reserve status, it is unable to implement a "sinking fund" for long-term capital or asset acquisitions. In addition, the IT inventory to be used for the model has become outdated and the Department wishes to wait to implement this policy until the IT Department has deployed its new remote inventory tracking system that will provide real time inventory information. Target date: 12-09.

01-02: AN AUDIT OF THE CITY OF SAN JOSÉ FIRE DEPARTMENT'S OVERTIME EXPENDITURES

#7 (San José Fire Department/GM) - Review sick leave data to establish benchmarks for sick leave use and identify possible patterns of abuse and take appropriate follow-up actions. (Priority 3)

PARTLY IMPLEMENTED. The Fire Department is in the process of reviewing of sick leave usage by personnel assigned to the line. In order to address concerns that there may be individual abuse of sick leave, the Department is developing a new sick leave review process, to allow line managers (Battalion Chiefs) to periodically review this individual sick leave usage and then work with the line supervisors (Captains) to follow-up on any usage anomalies by specific employees. Finally the Department has also undertaken a review of routine operational procedures in order to ensure that the policies and procedures reflect the latest contract language between the City and the Local 230 firefighters as it relates to sick leave. Target date: 6-09.

#8 (San José Fire Department/GM) - Implement a proactive sick leave reduction program to inform line personnel of the benefits of conserving sick leave and rewarding personnel with perfect attendance. (Priority 3)

PARTLY IMPLEMENTED. In order to address concerns that there may be individual abuse of sick leave, the SJFD is developing a new sick leave review process, to allow line managers (Battalion Chiefs) to periodically review individual sick leave usage and then work with the line supervisors (Captains) to follow-up on any usage anomalies by specific employees. The SJFD has also undertaken a review of routine operational procedures to ensure that the policies and procedures reflect the latest contract language between the City and the Local 230 firefighters as it relates to sick leave. An initial data report, covering July-December 2008 is in the process of being formatted for review, with roll out of the new quarterly process is expected in June 2009. The Department anticipates that this proactive approach will encourage its line personnel to ensure that sick leave is appropriately utilized. Target date: 6-09.

COST SAVINGS: TBD.

#9 (San José Fire Department/GM) - Evaluate the feasibility of implementing a comprehensive Wellness-Fitness Initiative Program for the SJFD and prepare a budget proposal should the initiative appear cost beneficial. (Priority 3)

PARTLY IMPLEMENTED. The SJFD's request of a Wellness Coordinator as part of the Citywide Gain Sharing Program was not approved for funding in the previous budget cycle. The SJFD is in the process of determining its next steps to enhance the Department's Wellness Program. Target date: 6-09.

REQUIRES FUNDING: TBD.

01-05: AN AUDIT OF THE CITY OF SAN JOSÉ FIRE DEPARTMENT’S STRATEGIC PLAN REGARDING PROPOSED FIRE STATIONS

#3 (San José Fire Department/RM) - Develop for City Council consideration plans for expanding its use of the Omega priority response level. These plans should include: obtaining the software necessary to fully implement the Omega priority response level; options and costs for dispensing non-emergency medical advice; and any other issues that need to be addressed. (Priority 3)

PARTLY IMPLEMENTED. Under the Priority Dispatch Omega protocol, the 911 call receives an alternate response, such as medical advice over the phone from a nurse. The San Jose Fire Department (SJFD) has completed some of the steps necessary to implement the Priority Dispatch Omega protocol. Specifically, it renewed its accreditation as an Accredited Center of Excellence in April 2008; it implemented the new CAD system necessary to integrate ProQA software necessary for the Priority Dispatch Omega protocol; and it has begun using the ProQA software. However, the current Emergency Medical Services (EMS) Agreement with the County requires that the SJFD respond on all 911 calls received. The County has approved the County EMS contract extension for three years and the SJFD followed up with data collection through June 2007. Furthermore, the SJFD was successful in obtaining County EMS Agency authorization to respond to lower-priority medical aid service requests, as determined through the Medical Priority Dispatch System, with Basic Life Support resources. However, a retrospective review of patient care data by the SJFD identified data integrity issues that must be resolved prior to response modification. The SJFD is confident that data integrity features specifications of the Records Management System, which it is in the process of implementing, will ensure its future ability to determine which Omega calls could safely receive an alternate response. The Records Management System EMS module implementation is scheduled to be operational in March 2009. Target date: 6-09.

REQUIRES FUNDING: TBD.

#5 (San José Fire Department/RM) - Implement a pilot project to evaluate the use of SUVs or Light Units to respond to lower priority emergency medical calls. (Priority 3)

PARTLY IMPLEMENTED. The SJFD has completed its initial operational planning related to temporary redeployment of resources and the use of an alternatively staffed unit to respond to lower priority calls. The pilot program will begin with the relocation of Engine 2 to a temporary facility during Station 2’s reconstruction, which is scheduled for Spring 2009. The SJPD has also begun a dialog with the firefighters union regarding the proposed pilot test of an alternatively staffed unit during Station 2’s reconstruction. During this period, the SJFD will collect patient care, and unit availability and location data regarding this deployment model with the incident-reporting module of the Records Management System and Mobile Data Computer. Target date: 12-09.

REQUIRES FUNDING: TBD.

02-03: AN AUDIT OF THE PROPERTY MANAGEMENT OPERATIONS OF THE CITY OF SAN JOSÉ'S DEPARTMENT OF PUBLIC WORKS – REAL ESTATE DIVISION

#12 (Department of Public Works/RO) - Assign to the Real Estate Division the responsibility for providing oversight over leases of City-owned property. (Priority 2)

PARTLY IMPLEMENTED. According to Department of Public Works (DPW) Administration, a report regarding Asset Management Principles is anticipated to go to the City Council in March 2009. The Department of Public Works, City Manager's Office, and General Services prepared the report in coordination with the Department of Parks, Recreation and Neighborhood Services, and the City Attorney's Office. Based on City Council approval of the Asset Management Principles report and the staff work currently being done to standardize and track Community Based Organization (CBO) leases, staff plans to revisit the subject of oversight of all Citywide leases in the spring of 2009. Target date: 6-10.

03-04: AN AUDIT OF THE AIRPORT NEIGHBORHOOD SERVICES GROUP

#1 (Airport Neighborhood Services Group/RM) - Develop a standardized constituent complaint form to document the nature of the complaint, how the issue was resolved, any follow-up action taken, and how long it took to resolve the complaint. (Priority 3)

PARTLY IMPLEMENTED. The Airport continues to track constituent concerns and complaints with an Excel worksheet, documenting and tracking information about each complaint or concern. The Airport Customer Service Director and the Airport Ombudsperson are working with Airport Technology Services to evaluate, select, and purchase a software package to electronically standardize and track action related to constituent complaints and inquiries. The Airport plans to have a complaint queue as part of the Service Desk application. The Request for Proposal was issued. Vendor selection is expected in March 2009, with implementation scheduled to begin in April 2009. Target date: 4-09.

03-10: AN AUDIT OF THE SAN JOSÉ FIRE DEPARTMENT'S BUREAU OF FIRE PREVENTION

#2 (San José Fire Department/RO) - If Recommendation #1 results in a significant number of facilities being added to the Fire Inspection Billing System (FIBS) database, follow up on the remaining manufacturing facilities in the Business License database that did not have a FIBS number. (Priority 2)

PARTLY IMPLEMENTED. According to San Jose Fire Department (SJFD) Administration, the City Council awarded a contract for the SJFD's Records Management System (RMS) which will help with the automation process. The City's

Information Technology (IT) Department was to transfer the SJFD fire prevention inspection database from the City's VAX system to the SJFD's AMANDA system; implementation was expected by the end of 2007. However, according to SJFD Administration, there has been an ongoing delay in migrating their database off the VAX system as IT has been unable to move it onto the AMANDA system. Subsequently, the SJFD decided to pursue a separate path and move the fire prevention inspection database onto the RMS system instead. According to SJFD Administration, implementation of the RMS system has been delayed. Target date: 6-09.

#3 (San José Fire Department/RO) - Periodically compare the FIBS database with the Business License database using the SIC Codes that are most likely to require a fire safety inspection. (Priority 2)

DEFERRED. The San Jose Fire Department (SJFD) is finalizing its Fire Prevention Business Plan, which addresses outstanding audit recommendations. Relative to this recommendation, the SJFD developed an RFP for a Records Management System (RMS) and the City Council has approved a contract for the system. There is an ongoing delay in migrating the SJFD fire prevention inspection database off of the VAX system, as the City's IT Department has been unable to move it onto SJFD's AMANDA system. The SJFD decided to pursue a separate path and move the database into the RMS system. The SJFD goal is to use the RMS to better capture business license data and to have it link to the FIBS system. According to SJFD Administration, implementation of the RMS system has been delayed, however, this project may be accomplished by July 2009. Deferral date: 7-09.

#10 (San José Fire Department/RO) - Develop a risk assessment methodology to assign facility inspection frequencies. (Priority 3)

PARTLY IMPLEMENTED. The San Jose Fire Department (SJFD) has written a Fire Prevention Business Plan, which includes a risk analysis/assessment model for Fire Inspection Frequency. A draft of the Business Plan has been completed. The SJFD is working with a consultant that has been selected to develop a methodology that will validate the risk assessment model; the scope of the work has not been finalized at this date. The Business Plan will use the methodology to rank facilities needing inspections in priority order. Target date: 6-09.

#12 (San José Fire Department/RO) - Develop a workload analysis to determine its inspection staff needs to achieve its inspection goals and objectives. (Priority 3)

PARTLY IMPLEMENTED. The San Jose Fire Department (SJFD) has written a draft Fire Prevention Business Plan, now under final review, that recommends inspection frequencies based on a risk analysis and assessment model, and includes an analysis of Inspector time and inspection workload. The SJFD is currently working with a consultant to develop a methodology that will validate the risk assessment model; the scope of work has not been finalized at this date. The

consultant will also identify “best practices” for fire inspection activities, which the SJFD will use to determine its inspection staff needs. Target date: 12-09.

#16 (San José Fire Department/RO) - Develop procedures and controls to reduce the number of times inspectors return to facilities to confirm that an Hazardous Materials Business Plan (HMBP) is in place and to ensure that facilities submit their HMBP in a timely manner. (Priority 3)

PARTLY IMPLEMENTED. The City Council has approved an update to the San Jose Fire Department (SJFD) Administrative Citation Schedule of Fines, which includes fines for failing to maintain an updated Hazardous Materials Business Plan (HMBP). According to SJFD Administration, this provides the Hazardous Materials Inspectors with an enforcement tool that was lacking in the past. In addition, as the SJFD finalizes implementation of its RMS system, including integrating the fire prevention inspection database, this will finally allow electronic data tracking of facilities’ inspections to confirm that an HMBP is in place. According to SJFD Administration, implementation of the RMS system has been delayed. Target date: 6-09.

04-08 AN AUDIT OF SAN JOSÉ FAMILY CAMP

#5 (Parks, Recreation, And Neighborhood Services/CC) - Reconcile permitted camp tent platforms with U.S. Forest Service Permit. Remove non-permitted tent platforms or obtain permit amendment to allow additional platforms. (Priority 3)

PARTLY IMPLEMENTED. PRNS executed a Collection Agreement with the USDA Forest Service to perform surveys, write reports and carry out any needed environmental analysis pursuant to the National Environmental Protection Act. According to PRNS, staff is working with the USDA Forest Service to finalize the renewal of the Family Camp Special Use Permit. The current permit expires in December 2009. Target date: 6-09.

05-01: AN AUDIT OF THE PUBLIC ART PROGRAM

#6 (Office of Economic Development/CC) - Track and report information on pooled public art project funds to the City Council and the City Manager’s Budget Office. (Priority 3)

PARTLY IMPLEMENTED. The Office of Economic Development tracks public art projects through the City’s Capital Project Management System, which is accessible on the City’s website. Public Art staff estimates submitting a Five-Year Public Art Work Plan to the City Council in April 2009. Target date: 4-09.

05-02: AN AUDIT OF THE AGREEMENTS BETWEEN THE CITY AND THE FILIPINO AMERICAN SENIOR OPPORTUNITIES DEVELOPMENT COUNCIL (FIL-AM SODC)

#13 (Parks, Recreation, And Neighborhood Services/JO) - Work with the City Attorney's Office and City Manager's Office to develop and implement procedures to ensure organizations do not occupy City facilities without the benefit and protection of a current operating or facility use agreement. (Priority 2)

IMPLEMENTED. PRNS has implemented additional controls to track the expiration of existing operating and lease agreements within the department's responsibilities. PRNS developed procedures to guide the use of community center facilities for events and programmatic uses. Short-term users and long-term programmatic users must complete a facility use application. According to PRNS staff, PRNS is using the RFP (Request for Proposal) process to select long-term facility operators and this process culminates in an operating agreement for the specific facility. For additional information see Audit Report 08-04, recommendation #15.

06-01: AN AUDIT OF CITYWIDE GRANT OVERSIGHT

#1 (City Departments/GM) – Develop a procedures manual to formally document the City's policies and procedures regarding grant oversight. (Priority 3)

IMPLEMENTED. The grants manual has been completed. The grants manual kick-off meeting was held on November 6, 2008. Grants monitoring staff were provided initial training on use of the manual. Additional trainings were also held in September 2008 to provide training to staff on non-profit financial concepts, budgeting and reading financial statements. The manual is available to all grants monitoring staff on a shared Citywide folder. The OED Deputy Director anticipates providing staff with annual training to provide updates on changes in the manual.

#2 (Office of Economic Development/GM) – Develop a Citywide grant database to provide comprehensive grant information, facilitate better grant awarding decisions and grantee monitoring, and help ensure grantee compliance with grant requirements. (Priority 3)

PARTLY IMPLEMENTED. The City Manager's Office has selected a vendor and awarded a contract for its Citywide Grants Database. Staff expects that the database will be deployed among the City's grant programs by January 2010. In the meantime, responsibility for compiling and maintaining a complete and accurate list of grants has been assigned within the City Manager's Office (see Audit Report #08-04, recommendation #2). Target date: 1-10.

06-02: AN AUDIT OF THE SAN JOSE MUNICIPAL WATER SYSTEM FIRE HYDRANT MAINTENANCE AND REPAIR PROGRAM

#5 (City/RO) – Negotiate the ownership, maintenance, and replacement of about 13,500 fire hydrants with the private water companies in San Jose service areas. (Priority 2)

PARTLY IMPLEMENTED. The City Manager’s Office and the Environmental Services Department have contacted private water companies and inquired about their interest in purchasing, maintaining, and replacing the 13,500 fire hydrants in the San Jose service areas. Discussion will continue to negotiate with the private water companies. Target date: 12-09.

06-04: THE 2004-05 ANNUAL PERFORMANCE AUDIT OF TEAM SAN JOSE, INC.

#2 (Team San Jose/CH) – Develop a new Economic Impact Performance Measure Target based on factors such as historical data, the capacity of the Facilities, and the potential for future growth and amend the Management Agreement accordingly. This target should also include the actual number of room nights booked for events held in the Facilities. (Priority 3)

IMPLEMENTED. The Administration has negotiated a new Management Agreement for the period of July 1, 2009 to July 30, 2014. The new economic impact performance measure targets have been included in the new Management Agreement. The new economic impact performance measure includes total attendance (by local/out-of-town visitors, exhibitors) for events and hotel room nights. Components for this measure also include estimated economic impact (as measured of direct visitor spending) and a measure of the City’s return on investment. The new Agreement also includes a separate performance measure for Theater Performance which is designed to measure both activation of the theaters and overall utilization of the theaters.

#5 (City Administration & Team San Jose/CH) – Develop a clearer and more specific Customer Service Results Performance Measure Target and amend the Management Agreement accordingly. (Priority 3)

IMPLEMENTED. The Administration has negotiated a new Management Agreement for the period of July 1, 2009 to July 30, 2014. The new customer service performance measure target has been included in the new Management Agreement.

#14 (Team San Jose/CH) – Work with the Office of Equality Assurance and provide required documentation in order to fully meet the City’s Living Wage and Prevailing Wage Policies as required in the Management Agreement. (Priority 3)

PARTLY IMPLEMENTED. The director of OEA met with representatives from Team San Jose on 2/25/09 to discuss Team San Jose’s obligations as it relates to prevailing wage and living wage requirements in their contract with the City. As a follow-up to this meeting, TSJ will revise its List of Contracts and work with its current contractors to ensure compliance. The Office of Equality Assurance has

provided TSJ with soft copies of relevant forms and instructions. Additionally, OEA will provide TSJ with wording to include in their quotes and service orders as it relates to prevailing wage or living wage. Target date: 6-09.

#15 (Team San Jose/CH) – Work with the City to amend the Management Agreement to allow TSJ to store and use any hazardous materials that are needed to operate and maintain the facilities. (Priority 3)

IMPLEMENTED. The new Management Agreement for the period of July 1, 2009 through June 30, 2014 includes updated language (including definitions) regarding Hazardous Materials as Section 19 of the Agreement.

#16 (Team San Jose/CH) – Develop and implement a workplan to correct ADA noncompliant items and notify the City accordingly. (Priority 3)

PARTLY IMPLEMENTED. The previous Management Agreement between the City and TSJ required that TSJ develop a work plan to correct or avoid any violations or non-compliance with the Americans Disabilities Act of 1990 (ADA). Staff has completed the TSJ agreement negotiation process with the new management agreement for the period of July 1, 2009 through June 30, 2014. The Office of Economic Development will coordinate with various City departments and complete the review of TSJ's ADA Assessment. In addition, as the expansion process moves forward, improvements and upgrades including ADA items will be identified and addressed depending on funding availability. The complete review of the assessment should be completed by June 2009. Target date: 6-09.

07-02: AN AUDIT OF THE SAN JOSE MUNICIPAL WATER SYSTEM CONSOLIDATED WATER UTILITY FUND TRANSFERS

#1 (City Council/RO) - Adopt a policy regarding the use and replenishment of the System Rehabilitation/Replacement Reserve Fund and the Rate Stabilization Reserve Fund. (Priority 3)

IMPLEMENTED. A policy regarding the use and replenishment of the System Rehabilitation/Replacement Reserve and the Rate Stabilization Reserve was adopted by City Council in August 2008. The policy established annual budgeted amounts for replenishing the reserves and specified the circumstances for their use.

07-03: AN AUDIT OF THE TRAFFIC CALMING PROGRAM

#11 (Department of Transportation/RM) - Develop a performance measure to monitor the three Traffic Enforcement Unit officers that replaced the NASCOP program. (Priority 3) [Revised at 6/21/07 PSFSS Committee meeting]

PARTLY IMPLEMENTED. The three new Traffic Enforcement Officers were deployed in early February 2009. In August, 2009, the Police Department will have six months of data with the three officers in place for developing the performance measure. Target date: 8-09.

07-04: AN AUDIT OF DEPARTMENT OF TRANSPORTATION'S EFFORTS TO SECURE FEDERAL HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION (HBRR) FUNDS

#2 (Department of Transportation/RM) - Prepare and submit an indirect cost rate proposal to CALTRANS for approval. (Priority 3)

PARTLY IMPLEMENTED. An indirect cost rate proposal developed by the city's Finance Department was submitted to Caltrans for approval in September 2008. The indirect rate proposal was not accepted by Caltrans. DOT staff is working with the Finance Department to address the issues raised by Caltrans, in order for the plan to be resubmitted to Caltrans for final approval. Target date: 7-09.

POTENTIAL BUDGET IMPACT: TBD.

07-05: THE 2005-06 AND 2006-07 ANNUAL PERFORMANCE AUDIT OF TEAM SAN JOSE, INC.

#1 (Team San Jose/CH) - Engage a team to perform a nation-wide executive search to hire a qualified individual with experience in the management of similar facilities as the Chief Executive Officer of the Convention and Cultural Facilities in accordance with the Management Agreement. (Priority 3)

NOT IMPLEMENTED. We recommend that this recommendation be dropped. We concur with the Administration's interpretation that with the merger of the Team San Jose and Convention and Visitor's Bureau's Board of Directors that the City Council no longer wished to pursue a nation-wide executive search to hire an additional CEO. Through the new Management Agreement, the Administration will continue to monitor their performance. Therefore, we recommend that this recommendation be dropped.

COUNCIL ATTENTION REQUIRED: We recommend dropping this recommendation.

07-06: AN AUDIT OF THE MANAGEMENT OF THE CITY'S TAX-EXEMPT BOND PROGRAM AND USE OF INTERFUND LOANS TO PROVIDE FINANCING FOR CAPITAL BOND PROJECTS

#1 (Finance Department/JL) - Improve controls over the administration of the tax-exempt bond program and processes to mitigate negative cash balances in the City's Cash Pool caused by bond programs and adequately address other negative balances. (Priority 1)

PARTLY IMPLEMENTED. Debt Management staff developed a summary report of negative cash balances which is reviewed monthly and now reports on negative cash balances in its monthly Investment Reports to City Council. The average negative cash balance of \$40 million per month in City bond fund accounts has been reduced to \$5.7 million during 2005-06 and 2006-07, at the end of January 2009. According to the Department, draft policies and procedures are in progress. Target date: 6-09.

POTENTIAL BUDGET IMPACT (all funds): TBD.

#2 (Finance Department/JL) - Work with the City Attorney's Office to evaluate what, if any, foregone interest to restricted funds may need to be repaid. (Priority 1)

NOT IMPLEMENTED. The Administration does not agree with the need to remedy past interest allocations. The Auditor's Office will continue to work with the Finance Department towards resolving any outstanding audit related issues. Target date: TBD.

POTENTIAL BUDGET IMPACT (all funds): TBD.

#3 (Finance Department/JL) - Develop and implement procedures to ensure proper allocation of interest to restricted funds held within the City Cash Pool. (Priority 1 – may require additional staff resources)

PARTLY IMPLEMENTED. According to the Finance Department, a draft policy and procedures are in progress; they expect to implement the procedures by June 30, 2009. We will continue to work with the Finance Department towards resolving any outstanding audit related issues. Target date: 06-09.

#4 (Finance Department/JL) - Develop procedures applicable to all types of bond financings that incorporate appropriate timeframes for Project Managers and the Finance Department Debt Management Group review of the bond allocation process. (Priority 1)

PARTLY IMPLEMENTED. According to the Finance Department, they have developed an internal draft Disbursement of Bond Proceeds procedure, which will be implemented on a trial basis in order to solicit feedback from departments; they expect the trial to begin in the second half of 2008-09.

The draft procedures specify time frames for expenditure submittals for responsible City departments and for disbursement letter requests by the Debt Management Group. We will review the procedures after the trial implementation period.
Target date: 6-09.

#5 (Finance Department/JL) - Implement a Compliance Check List and a Form of Bond Proceeds Allocation Certificate to ensure appropriate documentation and timeframe compliance for each bond issuance. (Priority 2)

PARTLY IMPLEMENTED. According to the Finance Department, work is commencing on the implementation of the recommendations and is included in the Finance Department's Workplan for FY 2008-09. We will continue to work with the Finance Department to resolve any outstanding audit related issues.
Target date: 6-09.

#6 (Finance Department/JL) - Work with the City Attorney's Office to develop written policies and procedures for Project Managers and other City staff to determine eligible and ineligible expenditures for each type of bond financing. (Priority 1)

PARTLY IMPLEMENTED. According to the Finance Department, a draft is in process. We will continue to work with the Finance Department to resolve any outstanding audit related issues. Target date: 6-09.

#7 (Finance Department/JL) - Annual audits of Measures O and P be added to the external auditor's scope of work. (Priority 1)

PARTLY IMPLEMENTED. The agreement with Macias, Gini & Company, LLP was amended to include an audit of the financial statements of the Park Bond Projects Capital Project Fund and Branch Libraries Bond Projects Capital Project Fund ("Parks and Libraries Bond Funds") for the period of fiscal years 2001-02 through 2007-08. We expect these reports to be completed in April 2009. Target date: 4-09.

#8 (City Manager's Office/JL) - Work with the City Attorney's Office to evaluate and report on methods to remedy any potential past compliance issues associated with the loans from restricted funds. (Priority 1)

PARTLY IMPLEMENTED. The audit report identified several concerns with how the City was handling interfund loans. To correct for missed interest on an interfund loan to the Old City Hall Renovation, the Administration brought forward a \$65,000 interest payment as part of the 2006-07 Annual Report. In addition, the 2008-09 Adopted Operating and Capital Budgets included loan repayments for portions of all outstanding loans. Furthermore, the Budget Office developed a new summary of interfund loans in Capital and Operating Funds which provides a description for each interfund loan, loan terms, the amount outstanding, and the 2008-09 budgeted

payments. We will continue to work with the Administration and the Attorney's Office to resolve issues related to the Coyote Valley Water interfund loan. Target date: 6-09.

POTENTIAL BUDGET IMPACT (all funds): TBD.

#9 (City Manager's Office/JL) - Develop and implement a formal written policy on interfund loans, including the establishment of a prudent investor standard, and written procedures on how to manage and enforce such a policy. (Priority 1)

PARTLY IMPLEMENTED. The Administration amended the City's Operating Budget and Capital Improvement Program Policy to incorporate the treatment of Interfund Loans as part of the 2007-08 Annual Report actions that were approved by the City Council on October 21, 2008. Staff from the Finance Department and the Budget Office will work together to draft procedures to manage and enforce the policy. However workload demands from the economic downturn have impacted the ability of staff to prepare these procedures. Target date: 8-09.

#10 (City Manager's Office/JL) - Incorporate into the City's interfund loan policy controls to ensure short-term loans from restricted funds are not being used for on-going structural budget problems. (Priority 1)

IMPLEMENTED. As part of the 2007-08 Annual Report actions, the City Council approved an amendment to City Policy I-18 entitled Operating Budget and Capital Improvement Program Policy to add a section on Interfund Loans. Under the Interfund Loan Eligibility Requirements in this new section, the following language is included: "Interfund loans may not be used to solve ongoing structural budget problems."

In addition, a revision to Section A.2 Fiscal Integrity of City Council Policy I-19 was approved as part of the adoption of the Mayor's June Budget Message for 2008-09 that addressed this recommendation. The following language was added:

Interfund loans will not be used as a funding mechanism to address ongoing gaps between revenues and costs. If a new program is added on an ongoing basis, an ongoing revenue source will be identified to fund the program costs. Any available carryover balance will only be used to offset one-time costs.

#11 (City Manager's Office/JL) - Improve controls to ensure future transfers are in compliance with the City's Municipal Code. (Priority 2)

IMPLEMENTED. A new summary of interfund loans in Capital and Operating funds was included in the 2008-09 Operating Budget. Any new loans proposed in the future will be coordinated with the City Attorney's Office to ensure compliance with the Municipal Code.

The Administration brought forward an amendment to the City's Operating Budget and Capital Improvement Program Policy to incorporate the treatment of Interfund

Loans as part of the 2007-08 Annual Report actions that were approved by the City Council on October 21, 2008. Under the Interfund Loan Documentation Requirements in this new section, the following language is included: “Loans will be coordinated with the City Attorney’s Office to ensure compliance with the Municipal Code and will be approved by the City Council.”

MEMO 1-9-08: REVIEW OF THE PROCUREMENT CARD PROGRAM – ONGOING AUDIT

#1 (Finance Department/CC) - Consider an approving official exception process for designating approving officials to ensure a consistent chain of responsibility when approving officials change. (Priority 2)

IMPLEMENTED. The revised Procurement Card Policy requires that the Department Procurement Card Coordinator keep records of Procurement Cardholders and assigned Approving Officials. Additionally, the policy allows another Approving Official to review and approve cardholder statements.

08-01: AN AUDIT OF THE EMERGENCY COMMUNICATION SYSTEM SUPPORT FEE

#3 (Finance Department/RM) - Perform a study to determine the amount of time the Emergency Communication Center staff spends on 911-related activity; and officer-initiated and other non-911-related activity to determine the portion of staff costs that are 911-related and can be funded with the Emergency Communication System Support Fee in compliance with the Municipal Code definition of eligible operating costs. (Priority 3)

NOT IMPLEMENTED. We recommend dropping this recommendation. On November 4, 2008, residents of San José approved Measure J. Measure J established a Telephone Line Tax to replace the Emergency Communication System Support (ECSS) Fee. Consequently, this recommendation is no longer necessary.

COUNCIL ATTENTION REQUIRED: We recommend dropping this recommendation.

#6 (Finance Department/RM) - Conduct a review of Emergency Communication System indirect costs to ensure indirect costs are allocated in compliance with the Municipal Code and determine the necessity for a separate Emergency Communication System indirect cost rate. (Priority 2)

NOT IMPLEMENTED. We recommend dropping this recommendation. On November 4, 2008, residents of San José approved Measure J. Measure J established a Telephone Line Tax to replace the Emergency Communication System Support (ECSS) Fee. Consequently, this recommendation is no longer necessary.

COUNCIL ATTENTION REQUIRED: We recommend dropping this recommendation.

#10 (Finance Department/CC) -

- 1) Annually identify and request from service providers the information identified in the Municipal Code and such additional information as Finance determines necessary for it to perform the fee review requirements set forth in the Code,**
- 2) Work with service providers to determine the documentation and review necessary to assess the strength of controls over billing, collecting, and remitting the Emergency Communication System Support Fee,**
- 3) Assess if service provider controls ensure proper billing, collecting, and remitting the Emergency Communication System Support Fee, and**
- 4) If the service providers are unable or unwilling to provide the information the City seeks, the City should explore whether other options or sources are viable ways to comply with Municipal Code provisions. (Priority 3)**

NOT IMPLEMENTED. We recommend dropping this recommendation. On November 4, 2008, residents of San José approved Measure J. Measure J established a Telephone Line Tax to replace the Emergency Communication System Support (ECSS) Fee. This recommendation no longer applies.

COUNCIL ATTENTION REQUIRED: We recommend dropping this recommendation.

#12 (Finance Department/CC) - Conduct a review to determine whether the fee rates for trunk lines continue to reasonably reflect the estimated Emergency Communication System workload relative to access lines. (Priority 3)

NOT IMPLEMENTED. We recommend dropping this recommendation. On November 4, 2008, residents of San José approved Measure J. Measure J established a Telephone Line Tax to replace the Emergency Communication System Support (ECSS) Fee. This recommendation is no longer necessary.

COUNCIL ATTENTION REQUIRED: We recommend dropping this recommendation.

#13 (Finance Department/CC) - Exercise its right to an onsite compliance audit of select service providers, if the City does not obtain sufficient information and documentation. (Priority 3)

NOT IMPLEMENTED. We recommend dropping this recommendation. On November 4, 2008, residents of San José approved Measure J. Measure J established a Telephone Line Tax to replace the Emergency Communication System Support (ECSS) Fee. Consequently, the recommendation is no longer necessary.

COUNCIL ATTENTION REQUIRED: We recommend dropping this recommendation.

MEMO 5-5-08: REVIEW OF ALLIED WASTE EXPENDITURES FOR THE PERIOD OF APRIL 1, 2007 THROUGH FEBRUARY 29, 2008

#1 (Environmental Services Department/CC) - Follow-up with BFI and seek reimbursement for the \$60.69 overcharge and the \$629.98 unsupported transaction. (Priority 3)

NOT IMPLEMENTED. According to ESD, BFI has failed to adequately respond. ESD is seeking meetings to resolve the outstanding issues. Target date: 6-09.

MEMO 8-8-08: A REVIEW OF THE DEPARTMENT OF PUBLIC WORKS' OVERSIGHT OF THE FOXWORTHY BRIDGE PROJECT

#1 (Planning, Building and Code Enforcement Department, in cooperation with the Department of Public Works/RM) - Ensure that the language in the General Development Plans conditions of approval is clear and sufficiently detailed as to what conditions have been approved by the City Council, and that significant changes are returned to the City Council. (Priority 2)

PARTLY IMPLEMENTED. Planning staff is working with the City Attorney's Office to amend Title 20 to specify that when there is a proposed change to a condition of an approved rezoning and the proposal does not meet the intended goal of the original approval, or increases the obligation to the City, the matter shall come before the City Council for approval. Target date: 9-09.

#2 (Planning, Building and Code Enforcement Department/RM) - Affirmatively state findings for required off-site improvements ("exactions") when the substitution of improvements or mitigation is included in the permit. Furthermore, such findings should show a reasonable connection ("nexus") between the impact caused by the project and the exaction. This may require the City Council to revise Title 20 of the Municipal Code. (Priority 2)

PARTLY IMPLEMENTED. Planning staff is updating the procedures and training staff on the drafting of appropriate language to include in the General Development Standards. Such update includes the drafting of language to include the goal(s) of any required mitigation or required off-site improvements such that if there is the ability to alter the specifics at the discretion of others, the goal is still accomplished.

Should said goal not be able to be met by any proposed alteration, the procedures require that the change needs to be approved by the City Council. Planning staff already ensures a reasonable connection (“nexus”) between the impact caused by the project and the requirement typically through the review of reports associated with the project, including but not limited to traffic, biotic, geologic, historic, noise, etc. With the implementation of the above measures, Title 20 will not need to be revised. Target date: 9-09.

#3 (Department of Public Works/RM) - Use Title 19 procedures to require off-site improvements, and develop procedures that limit use of City-Private developer agreements to insure consistency and conformity with: (1) the requirements of the land use approvals for the project and (2) all the requirements needed for Council authorization for such agreements under the circumstances specified in Title 14 of the Municipal Code. (Priority 3)

PARTLY IMPLEMENTED. Public Works is working with the City Attorney’s Office to amend Title 19 in order to address this recommendation. Target date: 5-09.

#4 (Department of Public Works/RM) - Propose revisions to Municipal Code Sections 14.04.490 and 14.04.510 to streamline the quarterly reporting requirements for City-Private Developer Agreements, and to delete the requirement for DPW to file the City-Private developer agreements with the Department of Finance within five days of executing the agreements. (Priority 3)

PARTLY IMPLEMENTED. Public Works is working with the City Attorney’s Office to amend Title 14 in order to address this recommendation. Target date: 5-09.

MEMO 8-15-08: REVIEW OF THE 2005-06 SISTER CITY GRANT REIMBURSEMENT FOR THE PUNE SISTER CITY PROGRAM

#1 (Office of Economic Development/JO) - Request Pacific Neighbors to return the 2005-06 \$2,500 grant payment to the City and make necessary arrangements to reimburse the Pune Sister City Committee for eligible expenses incurred under the 2005-06 grant agreement. (Priority 3)

IMPLEMENTED. The Office of Economic Development sent a letter to Pacific Neighbors on December 10, 2008 to request that Pacific Neighbors return the \$2,500 to the City. The office of the City Attorney also send a letter to Pacific Neighbors on January 8, 2009 requesting the \$2,500 payment by January 26, 2009. On February 12, 2009, the Office of Economic Development received a check in the amount of \$2,500.

#2 (Office of Economic Development/JO) - Request that Pacific Neighbors transfer the \$1,327 related to Pune Sister City activities to the Pune Sister City Committee. (Priority 3)

IMPLEMENTED. The Office of Economic Development has made several efforts to contact and request that Pacific Neighbors return \$1,327 to the Pune Sister City Committee. Pacific Neighbors has received the communications but has decided not to return the funds. Since the funds in question are not City funds, no further action by the City is needed.

#3 (Office of Economic Development/JO) - Ensure future grant agreements for the Sister City Program consistently define the parties responsible for submitting grant reimbursement requests and receiving payment. (Priority 3)

IMPLEMENTED. The grant agreement language for FY 2008-09 was modified to consistently define the parties responsible for submitting grant reimbursement requests and receiving payment.

#4 (Office of Economic Development/JO) - Adopt and implement guidelines to clearly define whether donations to humanitarian organizations abroad qualify under the Sister City Program and if they are eligible, the criteria by which they will qualify. (Priority 3)

IMPLEMENTED. The FY 2008-09 Agreement with the San José Pune Sister City Organization states that City funds may be used to provide assistance to charitable, non-profit organizations or schools in San José or Pune, India if the following conditions are met:

- A. The charitable, non-profit organization or school receiving the funds is engaged in a Sister City related project with the Sister City Committee.
- B. The sister city related project is identified in the sister city committee's annual work plan submitted to the City.
- C. There is a substantial involvement in the project by members of the sister city committee.
- D. The funds from the City are not the sole source of funding of the project and City funds are not more than 33 percent of the fund of the project.

#5 (Office of Economic Development/JO) - Develop and implement a process to formally recognize organizations designated to implement Sister City Committee activities and use the Sister City name. (Priority 3)

IMPLEMENTED. The Sister City Guidelines adopted by the Council on May 20, 2008 included criteria for City recognition and Financial Support of Sister City Program Committees, including:

- 1. A minimum of eight active committee members.
- 2. Provide a list of active members and identify elected officers.
- 3. The committee or its non-profit entity must maintain its non-profit incorporation status with the State of California.

4. Provide the City with an annual work plan.
5. Provide the City with an annual report of the previous year's activities.

08-02: AN AUDIT OF RETIREMENT SERVICES' TRAVEL EXPENSES

#1 (Boards/MH) - Promote a culture of fiscal prudence and encourage the most economical and practical travel accommodations. (Priority 3)

PARTLY IMPLEMENTED. In their official response to the audit, the acting chairs of the retirement boards committed to promoting a culture of fiscal prudence. A February 24, 2009 file review of the 2008-2009 travel records confirmed that travelers were making more prudent travel decisions by making economical and practical travel arrangements. The City is in the process of updating the citywide travel policy which will encourage travelers to seek economical and practical travel arrangements. The boards' adoption of the citywide travel policy will formalize their existing efforts in promoting prudent travel. Target date: 6-09.

#2 (Finance Department/MH) - Require travelers to provide written justification when exceeding the estimated travel costs noted on the Travel Request Form. (Priority 2)

PARTLY IMPLEMENTED. During a February 24, 2009 file review of the 2008-2009 travel records, no Statements of Travel Expenses materially exceeded the amounts estimated on the corresponding Travel Request Forms. The City is in the process of updating the citywide travel policy which will require travelers to provide written justification when exceeding estimated travel costs. The boards' adoption of the citywide travel policy will formalize their existing efforts. Target date: 6-09.

#3 (Boards/MH) - Actively seek conference rates, government rates, and other general travel discounts. (Priority 3)

PARTLY IMPLEMENTED. A February 24, 2009 file review of the 2008-2009 travel records confirmed that travelers have begun seeking conference rates, government rates, and other general travel discounts. The City is in the process of updating the citywide travel policy which will compel travelers to actively seek conference rates, government rates, and other general travel discounts. The boards' adoption of the citywide travel policy will formalize their existing efforts. Target date: 6-09.

#4 (Retirement Services Department/MH) - Use a competitive process to identify an appropriate travel agency. (Priority 2)

IMPLEMENTED. Retirement Services no longer uses the services of a travel agency. While reviewing a sample of travel records for fiscal year 2008-2009 (most of which corresponded to travel that occurred after the audit was issued), there did not appear to be any instances in which travelers' arrangements were set up by a third-party travel agency.

#5 (Boards/MH) - Adopt the City of San José Employee Travel Policy as their own. (Priority 2)

NOT IMPLEMENTED. The City is in the process of updating the citywide travel policy. Through their committees, the boards have considered the draft travel policy, provided input, and are waiting for the City to finalize the travel policy. Target date: 6-09.

#6 (Boards/MH) - Establish reasonable parameters for travel and training. (Priority 3)

NOT IMPLEMENTED. According to Retirement Services staff, the two boards have not yet adopted supplemental policies, because of a recent turn-over in the boards' committee membership. Target date: 6-09.

#7 (Boards/MH) - Require mandatory training on travel policies for Boardmembers and Staff. (Priority 3)

NOT IMPLEMENTED. Retirement Services staff report that they will provide boardmembers and staff with training once the citywide travel policy is finalized and adopted by the boards. Target date: 6-09.

#8 (Finance Department/MH) - Incorporate language into the City of San José Employee Travel Policy that requires written justification for last-minute travel arrangements. (Priority 3)

PARTLY IMPLEMENTED. Finance staff estimate that the citywide travel policy will be implemented in March 2009. The most recent draft policy requires written justification for last-minute travel arrangements. Target date: 6-09.

#9 (Retirement Services Department/MH) - Completely document its travel activity and improve the organization of its travel files. (Priority 2)

IMPLEMENTED. During a February 24, 2009 file review, all files from a sample of 2008-2009 travel records were complete, correctly labeled, and correctly filed. Retirement Services staff were able to produce specific travel files as they were requested.

#10 (Finance Department/MH) - Revise the City of San José Employee Travel Policy to require travelers to include event brochures and itineraries with their Travel Request Forms and Statements of Travel Expenses to help approving officials verify that expenses are related to approved travel activities. (Priority 3)

PARTLY IMPLEMENTED. Finance staff estimate that the citywide travel policy will take effect in March 2009. The most recent draft policy incorporates language that travelers are to include event brochures and itineraries with their travel forms. Target date: 3-09.

#11 (Finance Department/MH) - Provide training for RSD and City employees who process travel documents. (Priority 3)

NOT IMPLEMENTED. Finance staff estimate that the citywide travel policy will be implemented in March 2009. After that, Finance staff reports that it will offer training for the new policy. Target date: 3-09.

#12 (Finance Department/MH) - Require actual receipts, proof of payment, or in unique circumstances, written explanations for missing receipts or proof of payment. (Priority 1)

PARTLY IMPLEMENTED. Finance staff estimate that the citywide travel policy will be implemented in March 2009. As currently drafted, individuals subject to the citywide travel policy will be required to provide actual receipts, proof of payment, and written explanations for missing receipts or proof of payment. Target date: 6-09.

#13 (Finance Department/MH) - Revise the City of San José Employee Travel Policy to require travelers to clearly disclose, itemize, and account for group expenses. (Priority 3)

PARTLY IMPLEMENTED. Finance staff estimate that the citywide travel policy will be implemented in March 2009. The most recent draft of the citywide travel policy incorporates language that requires travelers to clearly disclose, itemize, and account for group expenses. Target date: 3-09.

#14 (Retirement Services Department and Boards/MH) - Require Boardmembers and Staff to complete and sign their own Travel Request Forms and Statements of Travel Expenses. (Priority 2)

IMPLEMENTED. According to Retirement Services staff, travelers are completing and signing their own travel documents. During a February 24, 2009 file review, all files from a sample of 2008-2009 travel records, all Travel Request Forms and Statements of Travel Expenses appeared to be completed and signed by the travelers.

#15 (Finance Department/MH) - Add language to the Travel Request Form that requests signatories to verify that all expenses will be incurred for the purpose of City business. (Priority 1)

PARTLY IMPLEMENTED. Finance staff estimate that the citywide travel policy and revised travel forms will be implemented in March 2009. The most recent draft of the travel forms contain language requiring signatories to verify that all expenses will be incurred for the purpose of City business. Target date: 3-09.

#16 (Boards/MH) - Establish controls to ensure compliance with the San José Municipal Code Chapter 12.08 Prohibition of Gifts. (Priority 2)

PARTLY IMPLEMENTED. Retirement Services reports that the Federated Board's Policy Committee and the Police & Fire Board's Audit Committee are planning to develop policies to ensure boardmembers' compliance with the San José Municipal Code Chapter 12.08: Prohibition of Gifts.

Toward addressing the potential problems that arise from gifts, the Retirement Services Director sent letters to investment advisors and other third-party entities, requesting that they not send gifts to boardmembers and staff. Target date: 6-09.

#17 (Police and Fire Boards/MH) - Consult with the Boards' legal counsel to determine how to handle the conference registration expense of \$595. (Priority 2)

IMPLEMENTED. Retirement Services staff sought and received guidance on this matter from the City Attorney's Office.

#18 (Boardmembers and Staff/MH) - Complete and submit outstanding Statements of Economic Interest, and consider the need to amend previously submitted Statements of Economic Interest. (Priority 1)

IMPLEMENTED. As of late August 2008, all boardmembers had submitted their Statements of Economic Interest. No additional compliance issues have been identified.

#19 (City Clerk/MH) - Consult with the FPPC to determine whether Boardmembers, the RSD Director, the Chief Investment Officer, and other RSD investment staff should be treated as covered by Government Code Section 87200. (Priority 2)

IMPLEMENTED. The City Clerk reported that the FPPC confirmed that boardmembers, the Retirement Services Director, the Chief Investment Officer and other Retirement Services investment staff were included in Government Code Section 87200. Accordingly, the City Clerk's Office developed Council-approved Resolution 74709 which formally subjects these individuals to more rigorous reporting standards per California Government Code Section 87200.

#20 (City Clerk/MH) - Follow-up on outstanding Statements of Economic Interests and report filing violations to the oversight entity and the appropriate enforcement agency as required by the PRA. (Priority 2)

IMPLEMENTED. In late August 2008, one boardmember submitted an outstanding Statement of Economic Interest. No additional compliance issues have been identified. No other issues have been identified that would warrant the Clerk contacting enforcement agencies.

#21 (Boards/MH) - Develop and enforce travel report guidelines for all board-funded travel activities per AB 1234. (Priority 2)

NOT IMPLEMENTED. According to Retirement Services staff, once board vacancies are filled, both boards plan to develop supplemental policies that outline reporting guidelines for all board-funded travel activities. Target date: 6-09.

#22 (Boards/MH) - Develop and publicly post periodic travel expense summaries. (Priority 3)

IMPLEMENTED. Retirement Services staff showed the retirement boards' monthly travel expense summaries. Retirement Services is working to include this information on its website.

#23 (Boards/MH) - Adopt supplemental policies to limit the number of Boardmembers traveling together and post events as required by the Brown Act. (Priority 3)

NOT IMPLEMENTED. According to Retirement Services staff, once board vacancies are filled, both boards plan to develop supplemental policies that outline guidelines on many travel-related matters for board travel. Target date: 6-09.

08-03: AN AUDIT OF COMMERCIAL SOLID WASTE FRANCHISE AND AB 939 FEE COLLECTION PROGRAM

#1 (City Attorney's Office propose to the City Council/CH) - A resolution to the City's dispute with Allied Waste to ensure that the monies that school districts have already paid to Allied Waste are paid to the City and reimbursed to the school districts in a timely manner including outstanding disputes with other franchise haulers. (Priority 3)

PARTLY IMPLEMENTED. In November 2008, the City and Allied Waste settled the dispute regarding fees associated with the service to school districts. Fees have been paid by Allied Waste to the City and three of the five school districts which have agreements with the City for reimbursement have also now been paid. The Environmental Services Department has not yet begun the process to resolve the dispute with Stevens Creek Disposal & Recycling. Target date: 6-09.

#2 (Environmental Services Department in consultation with the City Attorney's Office/CH) - Propose to City Council to either exempt school districts, set franchise and AB 939 fees associated with school districts at \$0, or otherwise simplify the City's current reimbursement process. (Priority 3)

IMPLEMENTED. On October 28, 2009, the City Council adopted a resolution to set the commercial solid waste franchise fee for solid waste collected from public school districts and San Jose State University at zero if the school has a Waste Reduction and Recycling Cooperation Agreement with the City, effective November 2, 2008. The City Council also adopted a resolution to authorize the City Manager to negotiate and execute new and amended Waste Reduction and Recycling Cooperation Agreements with public school districts and San Jose State University to cease the reimbursement process once solid waste providers stop billing eligible public schools

for franchise fees. These resolutions are intended to minimize the administrative cost of reimbursing school districts for these fees.

#3 (Environmental Services Department in consultation with the City Attorney's Office/CH) - Propose to the City Council that the City's agreement with the County of Santa Clara be amended to clarify whether the County should pay the AB 939 fees, and consider including reporting requirements in return for the City reimbursement of the County's franchise fees. (Priority 3)

NOT IMPLEMENTED. According to the City Attorney's Office, the franchise fee provision is a minor aspect of the agreement between the County of Santa Clara, the San Jose Redevelopment Agency, and the City of San Jose. Staff informed us that the County is not currently interested in amending the Agreement to solely deal with the franchise fee or AB 939 fee, or in a waste reduction agreement if the City were to offer an exemption in return for waste reduction reports. We encourage the City Attorney's Office and ESD to continue working towards a resolution of this issue. We will revisit the status of this recommendation during the next follow-up cycle. Target date: 6-09.

#4 (Environmental Services Department/CH) - Work with the Finance Department to pursue collecting all unpaid franchise fees from the haulers and AB 939 fees from those agencies that should be paying the fees. (Priority 1)

IMPLEMENTED. Four non-profit organizations were identified for nonpayment of franchise fees and/or AB 939 fees. These organizations were notified on November 14, 2008, and one organization has paid in full. Payments not received within 60 days of notification are escalated into the collection process through the Finance Department.

#5 (Environmental Services Department/CH) - Require haulers to submit required documentation if a generator refuses to pay, and act on those reports in a timely manner. (Priority 3)

IMPLEMENTED. A meeting was conducted by the Environmental Services Department on November 21, 2008 where haulers have agreed to report on a monthly basis generators who refuse to pay AB 939 fees. ESD will invoice those generators who refuse to pay. Any nonpayment thereafter will then be put into the collections process administered by the Finance Department.

#6 (Environmental Services Department/CH) - Develop procedures for collecting fees and penalties and interest. (Priority 3)

IMPLEMENTED. Procedures for the collection of fees, including penalties and interest, have been established between ESD and Finance.

#7 (Environmental Services Department/CH) - Re-evaluate what kind of information and in what manner a hauler could provide that would make ESD's monitoring efforts more valuable and efficient. (Priority 3)

PARTLY IMPLEMENTED. Staff has re-evaluated the report template, as well as the internal data gathering mechanisms. The franchise agreement beginning July 1, 2009 will contain new reporting requirements to help provide additional information that would be helpful for ESD staff. In addition, ESD plans to refine the report template to include a more user-friendly interface. These changes will go into effect with the new franchise agreement beginning July 2009. Target date: 7-09.

#8 (Environmental Services Department/CH) - Develop policies and procedures to ensure that haulers are adequately and consistently monitored, including:

- ***Disallowing any unapproved adjustments the haulers make; and***
- ***Reaffirming parameters for assessing penalties and interest. (Priority 2)***

IMPLEMENTED. ESD and Finance staff have developed procedures to ensure a documented process for handling adjustments of monthly reports and payments, as well as assessment of penalties and interest.

#9 (Environmental Services Department/CH) - Provide the haulers with the required outreach materials for distribution as stated in its agreements with each of the haulers. (Priority 3)

IMPLEMENTED. ESD provided outreach materials for distribution in October 2008. ESD will continue to develop and provide outreach materials as required by the franchise agreements. Future plans for outreach include mailers detailing recycling opportunities in the current system, as well as highlights of the systems changes to come.

#10 (Environmental Services Department/CH) - Work with the Division of Code Enforcement to develop regular required training for collection vehicle drivers. (Priority 3)

PARTLY IMPLEMENTED. ESD has met with Code Enforcement staff and agreed that the new franchise agreement will not contain a requirement for regular training for collection vehicle drivers. According to ESD, given that code changes related to vehicle drivers have not occurred within the time since these agreements were drafted, ESD has decided to remove this specific requirement from the franchise agreement. If there is a change in the code or any issues of non-compliance arise, ESD staff will work with the haulers to ensure that driver training is provided. The new franchise agreements will take effect for all commercial haulers beginning July 1, 2009.
Target date: 7-09.

08-04: AN AUDIT OF THE CITY'S OVERSIGHT OF FINANCIAL ASSISTANCE TO COMMUNITY-BASED ORGANIZATIONS

#1 (City Administration/CH) - Complete and expand the grants manual and proposed grants database to cover other forms of financial assistance. (Priority 3)

PARTLY IMPLEMENTED. The grants manual is now complete. The Administration is preparing a similar manual to address operating agreements.

The contract for the grants management database has been executed. The Administration will assess the appropriateness of including other forms of financial assistance within this database. Target date: 1-10.

#2 (City Administration/CH) - Assign responsibility for compiling and maintaining a complete and accurate list of grants prior to full implementation of the grants database. (Priority 3)

IMPLEMENTED. The lead responsibility for compiling and maintaining a complete and accurate list of grants has been assigned within the City Manager's Office. A list of grants awarded in FY 2007-08 as segmented by the City Core Service and Funding Source has been compiled and coordinated by the City Manager's Office. This list will continue to be maintained by the Grants Management Oversight Team. A report summarizing grants awarded during FY 2008-09 has also been completed.

#3 (City Administration/CH) - Develop an annual summary of funding by recipient (perhaps in the annual operating budget) that shows all forms of financial assistance. (Priority 3)

PARTLY IMPLEMENTED. An annual summary of funding by recipient has been developed. Once the grants database has been implemented, this summary will be accessible. The FY 2008-09 summary of funding will include funding sources and operating agreements. The mechanism to disseminate the information will be defined once the grants database is operational with the annual budget process. Target date: 12-09.

#4 (City Administration/CH) - Establish criteria for when audited financial statements should be required and reviewed. (Priority 3)

IMPLEMENTED. The criteria has been included in the grants manual. The Administration has set the criteria where community-based organizations who receive at least \$200,000 or more in grant funding from the City are required to have financial statements and have these statements reviewed.

#5 (City Administration or the City Auditor/CH) - Prepare an annual report to City Council based on a review of the financial audits of community-based organizations that meet the criteria established by Recommendation # 4 including:

- *Financial ratios;*
- *Summary of external audit findings; and*
- *Percentage of agency revenue comprised of City funding. (Priority 3)*

PARTLY IMPLEMENTED. The Administration is currently in the process of completing a draft annual report to the City Council. The first report to the City council will be submitted following completion of the Citywide grants management database. Target date: 6-09.

#6 (City Administration/CH) - Clearly identify the individual or office responsible for overseeing each of the CBO operators including gathering, documenting, and providing oversight of the organizations' financial health, governance, and performance. (Priority 3)

IMPLEMENTED. The Administration has identified the Departments that will oversee the CBO operators that include gathering, documenting, and providing oversight of the organizations' financial health, governance, and performance.

#7 (City Administration/CH) - Establish a monitoring program for CBO operators that gathers, documents, and consistently evaluates financial statements and other documents for indications of the organization's financial health, governance, and performance; and develop policies and procedures for resolving questions and for escalating response for non-compliance (e.g. written notification if an organization has not provided required documents), so that the City and CBO organizations know what to expect. (Priority 3)

PARTLY IMPLEMENTED. The Administration is currently in the process of completing a draft of the Manual for the Management of Operations and Maintenance Agreements, which will utilize certain common components of the grants manual. The manual will include the proposed monitoring elements and related policies and procedures for resolving questions and for escalating response for non-compliance. The General Services Department and the Office of Cultural Affairs, the two departments overseeing CBO operators, will be contributing to the manual. Once the manual is completed, a shared file system will be established for all key documents. Target date: 6-09.

#8 (City Administration/CH) - Track maintenance of all CBO-operated facilities to identify deferred maintenance and enforce operating and maintenance agreement provisions if the scheduled maintenance is not performed. (Priority 3)

NOT IMPLEMENTED. The provision for tracking maintenance will be incorporated into the manual being created for monitoring and oversight of CBO operators. This provision, in which General Services will also contribute to, will provide details related to the identification of deferred maintenance and to enforce the operating and maintenance agreement provisions if the scheduled maintenance is not performed. Target date: 6-09.

#9 (City Administration/CH) - Clarify when the 7-1 policy should apply to leases with CBOs of City facilities. (Priority 3)

NOT IMPLEMENTED. The Department intends to clarify Policy 7-1 to remove ambiguity as to whether it applies to all CBOs occupying any City property at a below market rate, regardless of whether the City intends to surplus the property. Leases with CBOs will be clarified to be consistent with the Policy, and where appropriate, the standardized 7-1 lease agreement will be used. Revisions to Policy 7-1, if necessary, will be submitted to the Council for approval prior to December 31, 2009. Target date: 12-09.

#10 (Public Works/CH) - Identify all the CBO leases and other agreements for long-term use of City-owned properties, and assign responsibility for monitoring each of them. (Priority 3)

NOT IMPLEMENTED. The Department plans to coordinate implementation of this recommendation with the Grants Management Working Group and Public Work's Property Acquisition and Disposition Committee. DPW compiled a list of known CBO leases which were provided to the City Auditor's Office during the CBO audit. DPW plans to have more in-depth discussions with other departments responsible for the CBO leases to ensure consistency and a centralized location for reporting this information. Target date: 12-09.

#11 (Public Works/CH) –

- 1) Develop a centralized spreadsheet to track the status of CBO leases and other long-term use agreements for City-owned properties with CBOs including key terms and rental payments.**
- 2) Bring current all expired leases, rental payments, insurance certificates, and other required reporting documentation. (Priority 3)**

PARTLY IMPLEMENTED. DPW is currently reviewing and responding to non-compliant leases that it administers. However, the centralized spreadsheet to track the status of CBO lease and other long-term use agreements for City-owned properties has not yet been developed since the Department is in the process of identifying all the leases. Work to bring the remaining leases and other long-term use agreements up-to-date will proceed after this has been done. Target date: 12-09.

#12 (Public Works/CH) - Establish policies and procedures regarding billing and collection for CBO leases and other agreements with CBOs for the long-term use for City-owned properties. (Priority 3)

NOT IMPLEMENTED. DPW has met with the City's Finance Department and Budget Office to improve billing and tracking payments for the leases administered by DPW. The Department plans to share the methods and procedures identified with the other departments responsible for the leases and long-term use agreements. Target date: 12-09.

#13 (Public Works/CH) - Establish a Citywide policy for enforcement of lease provisions and include provisions for non-compliance in future leases. (Priority 3)

NOT IMPLEMENTED. DPW's Real Estate Division is currently reviewing its leases. Staff is considering various lease enforcement options including a provision whereby the City would begin billing the lessee at a fair market rate until compliance is achieved. The non-compliance provisions that are developed will be brought to the Property Acquisition And Disposition Committee for consideration as a Citywide policy. Target date: 12-09.

#14 (Public Works/CH) - Centralize basic real estate functions or train City department staff on consistent implementation and monitoring of CBO leases and other agreements. (Priority 3)

NOT IMPLEMENTED. The Asset Management Program that is under development will include a consistent and comprehensive strategy for managing leases and monitoring the status of all City property leased to outside entities. CBO leases will be included in this strategy. Target date: 12-09.

#15 (Public Works/CH) - Develop a process to ensure that the City coordinates its oversight and monitoring of individual CBO leases and other long-term use agreements for City-owned properties with the oversight and monitoring of individual CBO grants or other forms of financial assistance. (Priority 3)

NOT IMPLEMENTED. DPW intends to work with the Grants Management Group to identify grantees that have leases or other long-term use agreements. When this work is completed, DPW will develop a process to ensure on-going coordination. Target date: 12-09.

#16 (Public Works/CH) - Identify all of the City's leases to CBO organizations, estimate the rental subsidy of these leases, and prepare an annual public report listing each CBO organization and the estimated amount of the subsidy. (Priority 3)

PARTLY IMPLEMENTED. DPW has completed calculating annual subsidies on all grantees that receive \$190,000 annually from the City. DPW estimates that rental subsidy calculations on all CBO leases will be completed by June 2010. Target date: 6-10.

#17 (Public Works/CH) - Establish an approval/renewal process for CBO leases and other agreements for long-term use for City-owned properties as they come due. (Priority 3)

NOT IMPLEMENTED. DPW staff plans to collaborate on implementation of this recommendation with the Grants Management Working Group. The specifics of this process will be developed as part of a proposed Asset Management Program that will be brought to the City Council in early 2009. Target date: 12-09.

#18 (City Administration/CH) - Include in the grant manual specific on-going training requirements for monitoring staff. (Priority 3)

IMPLEMENTED. An ongoing training schedule and recommended frequency of training for staff is included in the introduction to the grants manual. In addition, a regular training program for staff of the grants manual will be conducted in conjunction with City departments who administer grants and the Human Resources Department. On November 6, 2008, City program staff received the first training on the grants manual.

Program staff will receive separate training on non-profit financial analysis. This training will be conducted through an outside organization until staff gains the internal capacity to be able to conduct this training on an ongoing basis. The first non-profit financial analysis training for City staff was completed on September 19, 2008.

#19 (City Administration/CH) - Develop and implement a clear fraud policy which includes a referral policy, what City staff should do if they suspect fraud, and on-going training. (Priority 3)

IMPLEMENTED. As part of the grants manual, the Administration, in coordination with the City Attorney's office, has developed a fraud definition and identified key concepts and steps for staff to take if they suspect fraud. The annual City staff training program includes a module related to supporting staff in identifying fraud and adhering to the guidelines established in the respective referral policy.

#20 (City Administration/CH) - Consider other alternatives to fiscal agents and explore alternative methods to provide insurance coverage for smaller grant programs. (Priority 3)

PARTLY IMPLEMENTED. A working group has been formed among departments who administer grants and who use fiscal agents. It also includes staff from Risk Management and the City Attorney's Office. This group consider alternatives methods of using fiscal agents and alternatives to providing insurance coverage for smaller grant programs. This group will also develop policies and procedures to minimize risk involved in any grant programs in which a fiscal agent was necessary. The Administration will continue to monitor the use of fiscal agents with whom the City currently has an agreement. The grants manual will be modified to reflect any changes in the application of fiscal agents. Target date: TBD.

#21 (City Administration/CH) - Require staff involved in grant oversight to fill out conflict of interest forms and recuse themselves from certain decisions; and develop clear protocols for determining who should make final determination on whether potential conflicts exist. (Priority 3)

IMPLEMENTED. The grants manual includes the following requirements:

- 1) All staff involved in oversight of grants over \$10,000 shall comply with the provisions in City Policy 5.1.1;

- 2) Staff involved in oversight of grants under \$10,000 will complete, acknowledge and sign a statement indicating that the staff member has reviewed the conflict of interest regulations of the specific funding source(s) being managed including applicable federal, state and local requirements;
- 3) Staff will also acknowledge that a conflict of interest does not exist; if staff is unable to certify that no conflict exists, staff will be required to recuse themselves from decisions involving the potential conflict of interest; and
- 4) Per Council Policy 0.35, the City Attorney's Office will make the final determination on whether potential conflicts exist.

APPENDIX A

DEFINITIONS OF PRIORITY 1, 2, AND 3 AUDIT RECOMMENDATIONS

The City of San Jose's City Policy Manual (6.1.2) defines the classification scheme applicable to audit recommendations and the appropriate corrective actions as follows:

Priority Class¹	Description	Implementation Category	Implementation Action³
1	Fraud or serious violations are being committed, significant fiscal or equivalent non-fiscal losses are occurring. ²	Priority	Immediate
2	A potential for incurring significant fiscal or equivalent fiscal or equivalent non-fiscal losses exists. ²	Priority	Within 60 days
3	Operation or administrative process will be improved.	General	60 days to one year

¹ The City Auditor is responsible for assigning audit recommendation priority class numbers. A recommendation which clearly fits the description for more than one priority class shall be assigned the higher number.

² For an audit recommendation to be considered related to a significant fiscal loss, it will usually be necessary for an actual loss of \$50,000 or more to be involved or for a potential loss (including unrealized revenue increases) of \$100,000 to be involved. Equivalent non-fiscal losses would include, but not be limited to, omission or commission of acts by or on behalf of the City which would be likely to expose the City to adverse criticism in the eyes of its citizens.

³ The implementation time frame indicated for each priority class is intended as a guideline for establishing implementation target dates. While prioritizing recommendations is the responsibility of the City Auditor, determining implementation dates is the responsibility of the City Administration.