

**PARKS AND RECREATION
ATHLETICS
AUDIT 17 – 03
JUNE 18, 2018**



CITY OF TAMPA

Bob Buckhorn, Mayor

Internal Audit Department

Christine Glover, Internal Audit Director

June 18, 2018

Honorable Bob Buckhorn
Mayor, City of Tampa
1 City Hall Plaza
Tampa, Florida

RE: Athletics, Audit 17-03

Dear Mayor Buckhorn:

Attached is the Internal Audit Department's report on Athletics.

We thank management and staff of Parks and Recreation Department, Athletics Division for their cooperation and assistance during this audit.

Sincerely,

/s/ Christine Glover

Christine Glover
Internal Audit Director

cc: Dennis Rogero, Chief of Staff
Sonya Little, Chief Financial Officer
Ernest Mueller, Chief Assistant City Attorney
Paul Dial, Director of Parks and Recreation Department
Heather Wolf-Erickson, Manager of Athletics Division

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/s/ Stephen Mhere

Stephen Mhere, Auditor

/s/ Christine Glover

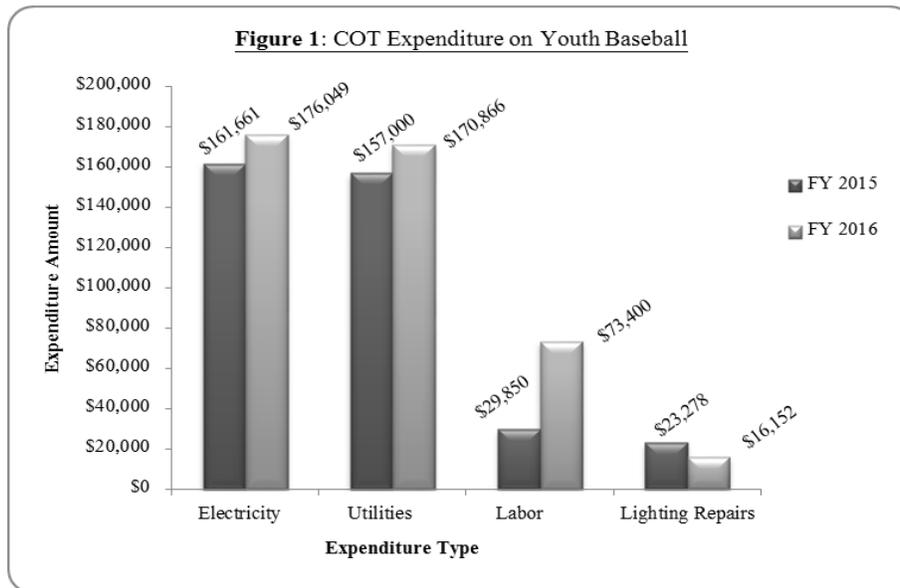
Christine Glover, Audit Director

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BACKGROUND

The City of Tampa (COT)'s Parks and Recreation Department (P&R), through its Athletics Division (Athletics), provides its youths with various recreational and competitive sports, including lacrosse, football, gymnastics, and baseball. Participating youths range in age from about 5 to 17 years. Various nongovernmental entities partner with Athletics to provide the program's training needs. In some instances, youth athletic partners apply for facility use permits and pay a fee to be granted access to COT sports fields. In others, their access is through no cost lease agreements.

COT's main intent is to foster and encourage sports and allow for other recreational uses of its facilities by Tampa's youth. As a way to deliver this public benefit, COT agreed with youth baseball partners that it would help defray some of their leased facility expenses. Those expenses amounted to \$371,789 and \$436,467 in FY 2015 and 2016, respectively, a total of \$808,256 in the two years (see Figure 1).



Source: Auditor analysis of data in Athletics Division's annual Little League Report

STATEMENT OF OBJECTIVES

This audit was conducted in accordance with the Internal Audit Department's FY 2017 Audit Agenda. The overall objective was to verify that Athletics has implemented appropriate internal controls to provide reasonable assurance that youth athletics partners, particularly baseball organizations, are compliant with requirements in their contractual agreements. Primarily, we wanted to verify that:

1. There are adequate policies and procedures for youth athletics to enable the division to manage the athletics program effectively and efficiently.
2. Operations of youth baseball partners comply with relevant contractual and statutory requirements.

STATEMENT OF SCOPE

The main focus of the audit was COT's Youth Baseball Program. To provide context for comparative purposes, we also looked at activities pertinent to other sports such as gymnastics that are included in the Youth Athletic Program. In addition, we reviewed relevant financial information for FY 2015 and 2016 as well as the legal and regulatory environment for FY 2017.

STATEMENT OF METHODOLOGY

To achieve our objectives, we reviewed documents including leases, facility use permits, and fee schedules for field rentals. We reviewed Athletics' regulatory environment and consulted the City Attorney's Office for legal interpretation of ordinances and state statutes. We toured baseball facilities and attended, as observers, Athletics' meetings with baseball officials.

We evaluated the effectiveness of Athletics' background check compliance system by looking at the background check records of partners' baseball coaches. We achieved this by using statistical sampling techniques to determine a viable sample size and then selecting coaches by using the fixed interval method. We also accessed records of the State of Florida's Division of Corporations to determine the nonprofit status of COT's youth baseball partners.

STATEMENT OF AUDITING STANDARDS

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

AUDIT CONCLUSIONS

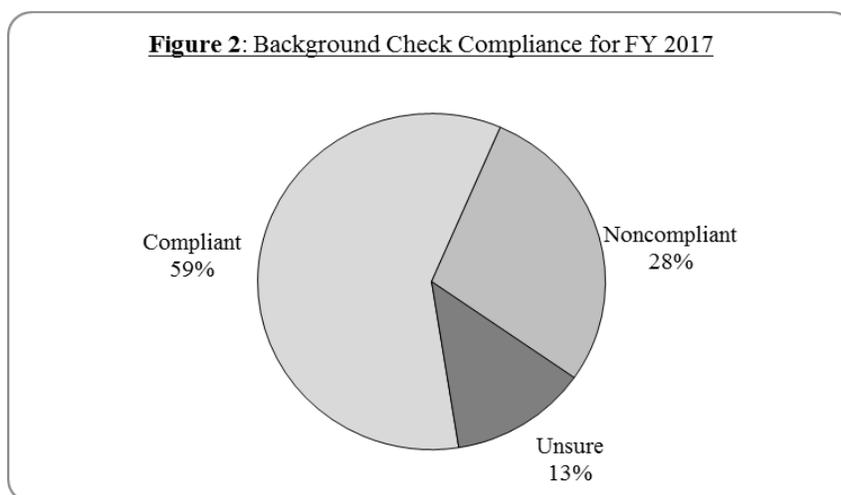
Based upon the work we performed, we conclude that:

1. Policies and procedures for youth athletics are in place, but the division may need to enhance them in order to manage the Athletics Program more effectively and efficiently.
2. Athletics endeavors to inform and educate COT's youth baseball affiliates about their contractual and statutory obligations. However, there are areas of non-compliance with program requirements.

BACKGROUND CHECKS IN YOUTH BASEBALL

STATEMENT OF CONDITION: As of FY 2016, COT’s Athletics Program had 2,998 participants in youth baseball. There were 2,474 boys and 524 girls affiliated with nine organizations based at various COT facilities. Between them, these organizations had 397 coaches who trained the children. In keeping with the law and cognizant of the children’s need for a safe environment, Athletics requires organizations to perform yearly background checks on their coaches. The division holds meetings with organization presidents every year to remind them of this requirement and to obtain attestations to that effect. Athletics also performs compliance checks annually, reviewing organizations’ adherence to various program requirements including background checks.

We examined background check records of 39 club officials randomly selected from a population of 382 baseball coaches. Our objective was to verify if appropriate background checks had been done on them. We found this not to be the case for 28% of officials in our sample (see Figure 2).



Source: Auditor analysis of a sample of baseball coaches’ background checks

Upon further review of noncompliant organizations, we found that one of them had not done the required Florida Department of Law Enforcement (FDLE) background check on any of its 101 coaches. The organization did, however, perform the national criminal background checks on the coaches.

CRITERIA: COT ordinance Chapter 16-11 requires all individuals working in programs held on City property and involving minors to pass a background check. To that effect, Athletics requires all coaches to undergo a nationwide criminal background screening. In addition, all coaches must also undergo an annual background screening encompassing searches through state and federal registries of sexual predators and sexual offenders, employment history checks, and statewide criminal correspondence checks. This is a statutory requirement of Florida Statute Section 943.0438, and is only fulfilled through FDLE.

CAUSE: According to Athletics, the division exercises due diligence in the creation of a safe environment for children. That includes reminding sports partners of their obligation to do annual background checks on their coaches and obtaining attestations to that effect. However, the division does not enforce the background check requirements because it does not believe either the lease or facility

use permit terms provide it with enforcement powers. Also, the ordinance and statute do not include enforcement action.

EFFECT OF CONDITION: Youth athletic partners that have not performed FDLE background checks on their coaches are noncompliant with state law. This creates a potentially unsafe environment for minors participating in sports activities on COT facilities.

RECOMMENDATION 1: The Athletics Division should consider rewriting all contracts, including leases and facility use permits, to include provisions for COT to enforce not only contractual terms but also all relevant city ordinances as well as state and/or federal statutes. This will strengthen internal controls to ensure sports partners comply with all pertinent laws and regulations, thereby helping with the creation of a safe environment for vulnerable populations that participate in COT sports programs.

MANAGEMENT RESPONSE: Agree. Based on the Audit recommendation the Parks and Recreation Department initiated the development of a Facility Use Agreement. This Agreement went before Tampa City Council on March 1, 2018 and was approved.

The Facility Use Agreement will provide the structure and compliance requirements to hold organizations responsible that are non-compliant. This could include not being permitted to use City Athletic fields.

The language of the approved Recreation partner Facility Use Agreement contains specific requirements pertaining to the background screening policy.

The City of Tampa is committed to continuing our work with volunteer lead organizations to achieve the highest level of compliance.

TARGET IMPLEMENTATION DATE: The youth sports partner draft agreement, relevant to all sports, was in draft form prior to the audit and was approved by the Tampa City Council on March 1, 2018. Baseball teams with leases expiring on August 7, 2018, will change to a Facility Use Agreement as of that date. For other sports, they will change to the Facility Use Agreement at the beginning of their next sport season.

NONPROFIT STATUS OF BASEBALL PARTNERS

STATEMENT OF CONDITION: COT partners with nine private organizations to provide competitive and recreational baseball to Tampa's youths. The City provides facilities and the partners training services. Partners sign lease agreements with COT in order to use the facilities. Our review showed that all but one of the nine organizations had leases, with the one using a facility use permit.

COT requires all lessees to have active nonprofit certification as a condition to engage in commercial activities¹ on COT property. One of the lessees was in violation of this requirement. We reviewed records of the Florida Division of Corporations and found that this lessee had its nonprofit certification revoked. However, these records also show that an official of this lessee is the registered agent of another active nonprofit entity. This entity and the lessee share the same principal address. Athletics does not have any documentation showing these two entities to be one and the same.

CRITERIA: According to COT ordinance Section 16-44, all entities conducting commercial activities on City property are required to be actively registered nonprofit organizations.

CAUSE: When lessee signed its lease agreement with COT, it was an active nonprofit organization. When this nonprofit status was subsequently revoked, the president of this entity obtained a nonprofit certification for a differently-named organization. He purported the status of the new organization to satisfy the nonprofit requirement of the lessee. However, the lessee neither formally notified COT of the name change nor requested an amendment of lease to include the newly-named organization.

EFFECT OF CONDITION: The organization is in violation of the City ordinance requiring it to be an actively registered nonprofit entity.

RECOMMENDATION 2: We recommend Athletics to consider adopting one of the following options for corrective action:

1. Work with the City Attorney's Office and the entity to resolve the name-change issue, update the lease agreement to reflect the name-change, and verify that the newly named entity is actively registered as a nonprofit organization.
2. Terminate the lease agreement, offer the entity the opportunity to utilize training facility using the facility use permit, and withdraw all lessee privileges, including the privilege to conduct commercial activities on COT property.

MANAGEMENT RESPONSE: Agree: The organization was non-compliant and was brought into compliance. The organization turned in its insurance policy and listed the City of Tampa as an additional insured as required.

The language of the approved Facility Use Agreement contains specific requirements pertaining to the not-for-profit status of the organizations.

¹ All lessees operate concession stands at their leased facilities as a means of raising funds for their baseball operations.

TARGET IMPLEMENTATION DATE: The youth sports Facility Use Agreement, relevant to all sports, was in draft form prior to the audit and was approved by the Tampa City Council on March 1, 2018. Baseball teams with leases expiring on August 7, 2018, will change to a Facility Use Agreement as of that date. For other sports, they will change to the Facility Use Agreement at the beginning of their next sport season.

ADVERTISING, PUBLICITY, AND SIGNS

STATEMENT OF CONDITION: COT has entered into lease agreements with a number of youth athletics organizations for custodianship and use of sports facilities. Some of the lessees have allowed third party entities like private businesses to advertise their services by affixing signs to various structures on the facilities. Neither the P&R director nor the Athletics manager issued authorization in writing to grant third party entities permission to advertise on City property.

CRITERIA: COT ordinance Section 16-45 prohibits the posting or affixing of signs or posters to fences, buildings, benches or gates on any department managed land without prior written authorization from the department director or designee.

CAUSE: Some of the youth baseball teams struggle to independently fund their sports activities. As such, sponsorship from the business community plays an important role in helping defray expenses. In some instances, the sponsorship comes in exchange for advertising space on benches, buildings and fences on and around the leased facilities.

EFFECT OF CONDITION: Advertising on COT property without prior written authorization is a violation of COT ordinance Section 16-45. The signs may also be in violation of related ordinances, specifically Section 27 which regulates sign dimensions and defines prohibited signs.

RECOMMENDATION 3: In order to comply with the COT ordinances, the P&R director (or anyone the director designates) should consider doing the following:

1. Issue written authorizations for all advertising, publicity, and signs displayed at leased facilities used by COT sports partners.
2. Ascertain that all authorized signs conform to the dimensions and other requirements of COT ordinance Section 27-289.14.

MANAGEMENT RESPONSE: Agree. There was no provision directing our recreational partners regarding advertising, publicity, and signs. The youth programs have long time relied on local business sponsorships to support their leagues. Leagues were not being given written sign dimensions, only verbally instructed to have all sponsorship signs pointing inside the park and not toward the public. However, the language in the approved Recreation partner Facility Use Agreement contains specific requirements pertaining to advertising, publicity, and signage.

TARGET IMPLEMENTATION DATE: The youth sports Facility Use Agreement, relevant to all sports, was in draft form prior to the audit and was approved by the Tampa City Council on March 1, 2018. Baseball teams with leases expiring on August 7, 2018, will change to a Facility Use Agreement as of that date. For other sports, they will change to the Facility Use Agreement at the beginning of their next sport season.

POLICIES AND PROCEDURES

STATEMENT OF CONDITION: COT's Athletics Program is a portfolio of many different sports, including providing space for private, not for profit entities to facilitate outdoor sports programs such as baseball, football, lacrosse, and soccer programs. Such diversity in a program tends to bring a multiplicity of administrative issues: compliance considerations, maintenance and good upkeep of sports complexes, and equitable public access to facilities to name a few. In addition to this, P&R has undergone restructuring since 2014, resulting in significant management and organizational changes in Athletics, including the formation of new management teams and adoption of new supervisory roles by team leaders.

Athletics does not have documented policies and/or standard operating procedures (SOPs) that provide guidance on how best operations should be carried out and enforced within the contracts. The division does have requirements and a compliance checklist covered in annual meetings with each organization. The division does have some processes and procedures described in leases, permits, and on the COT website. However, some content in the leases and permits is outdated and references to current standards are not included in the contracts.

CRITERIA: Chapter 2-46 of COT's municipal code requires departments to create and maintain, among other things, proper documentation of their functions, policies and procedures. Also, documented policies and/or SOPs are useful and effective not only for retention of an organization's operational knowledge and new employee training, but also for reliable internal control.

CAUSE: Terms in lease agreements, requirements in facility use permits, and institutional knowledge within Athletics have been relied upon to provide guidance on the performance of day-to-day responsibilities of the recreational partners. Departmental compliance guidelines for risk management are used. However, existing youth sport leases and facility use permits do not include SOP documentation.

EFFECT OF CONDITION: Without documented and enforceable policies and/or SOPs, there is likely to be inconsistency in the way processes and procedures are carried out. Training of new employees is likely to be affected, resulting in their productivity and efficiency being negatively impacted. There is also an elevated dependence on institutional knowledge, which is a risky situation considering the possibility of staff separation from the division. Ultimately, the effectiveness of internal control system could be compromised.

RECOMMENDATION 4: Athletics should document policies and/or SOPs for recreational sports partner agreements to reflect current practice as well as encapsulate contemporary statutory requirements for compliance; for inclusion in the recreational partner contracts.

MANAGEMENT RESPONSE: Agree. The Youth Sports Program will benefit from the ability to use standardized, detailed, best practices that are included in the contractual agreement.

The language of the approved Facility Use Agreement contains specific requirements pertaining to policies and procedures for use of parklands by recreational partners.

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LEASE AGREEMENTS AND FACILITY USE PERMITS

STATEMENT OF CONDITION: P&R works with private, not-for-profit entities within Tampa to provide community youths an opportunity to engage in confidence-building and healthy athletic activities. In this collaboration, COT provides sporting facilities (baseball fields, football fields, tennis courts, etc.) and the private entities organize and train the teams.

There is a disparity in how the various entities are granted authority to use COT facilities. Baseball teams get their authority through lease agreements and all other sports through facility use permits, both of which are administered by Athletics. The following disparities exist:

- Duration – Leases are for up to 25 years, while permits vary depending on the duration of the event/season.
- Cost – Baseball leases are for \$1 per year, while the costs of permits vary, but are often in excess of the \$1 per year charged to baseball organizations.
- Sublet Authority – Leaseholders are allowed to sublet facilities with director approval and in at least one instance have done so in an amount well in excess of the \$1 lease amount without formal request and approval. No such authority is granted to athletic permit holders, nor is exclusive facility use granted.
- Utilities – COT is bearing the entire cost of utility payments, for the facilities: the lease stipulates that the lessee is responsible for payment of all utilities and that the lessor may budget funds annually to assist in the payment of reasonable charges for electricity.
- Leases have been in place for over 15 years and do not address increased insurance requirements, nor do they address the change in the State of Florida’s legal environment that requires more stringent background checks.
- There is a lack of clarity on responsibilities related to athletic facility maintenance.

CRITERIA: COT should comply with all aspects of the State of Florida’s legal requirements. To that end, agreements should reflect that compliance. There is an expectation of fairness and equality in granting citywide access to public facilities.

CAUSE: The age of the leases. Further, reorganization and management turnover has resulted in a lack of clarity on the current instruments and processes in place for the management of youth sports partners. The reorganization also brought to light the inconsistency in the interactions with youth sports.

EFFECT OF CONDITION: There is a lack of consistency in the management of contractual relationships between COT and its partners in youth sports. This could create a perception of preferential treatment of some organizations over others, resulting in the possible erosion of COT’s goodwill among stakeholders of youth athletics in the community.

RECOMMENDATION 5: Athletics should work with the City Attorney’s Office to establish a common contractual document to grant youth sports organizations access to COT facilities. Addendums or other means may be used to add any operational details that may be needed to address issues specific to the various sports involved. This document should also detail compliance with legal and insurance requirements. Once established, Athletics should enforce compliance by all involved parties. Additionally, the document should be updated, as needed, to ensure compliance with required regulations.

MANAGEMENT RESPONSE: Agree. The department had outdated long term leases that did not account for the changing compliance standards. The facility use permits were for general use throughout the department and the development of the Facility Use Agreement allows for more defined roles between Parks and Recreation and its youth sports partners.

Although the Athletics Division has departmental compliance criteria for youth sports partners, they were not included as part of their compliance prior the Facility Use Agreement. Programs will benefit with more defined expectations for execution of youth sports, required background screenings, code of conduct, coach training, financial accountability, maintenance requirements and more.

We concur that a common agreement specific to youth sports with detailed compliance criteria is beneficial and creates a consistent environment to grow quality youth sports within our community. These items have been included in the approved Facility Use Agreement.

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