



OFFICE OF
CONTROLLER

LAURA N. CHICK
CONTROLLER

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July 6, 2004

The Honorable James K. Hahn
The Honorable Rockard J. Delgadillo
The Honorable Members of the City Council
City Hall
200 North Spring Street
Los Angeles, California 90012

Dear Mayor Hahn, City Attorney Delgadillo and Members of the City Council:

Business Improvement Districts (BIDs) serve an important function throughout the local Los Angeles economy. Through BIDs, businesses are able to identify unique service needs and impose self-assessments to pay for them, supplementing existing City services. BID services vary from security patrols, trash pick-up, visitor services, special event production, marketing and capital improvements. There are 31 active bids citywide and 20 more in various stages of formation.

Under state law, the City establishes business improvement districts and then enters into contracts with non-profit organizations to oversee the operations of the BID. Under the contract, the City and the non-profit have the responsibility to ensure that services are provided and the BID is managed in a fiscally appropriate manner. The City's responsibilities are managed by the City Clerk and the non-profits are managed by an executive director and an oversight board.

My Office conducted audits of the BIDs run by Central City East Association and the Westwood Village Community Alliance. What we found were two startling different stories. While Central City East was generally in compliance, Westwood Village was not, having ignored major provisions of its contract. During the three years before Westwood Village's contract was terminated, it never submitted any required financial statements to the City. Because of this, City leadership, business participants, and the public were left in the dark regarding the sub-standard operations of the BID.



The Honorable James K. Hahn
The Honorable Rockard J. Delgadillo
The Honorable Members of the City Council
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These audits further raise questions about the City's responsibility and ability to oversee and monitor the services provided through BIDs. The City Clerk, on behalf of the City is responsible for ensuring that services are provided and terms of the contract are met. My audits show that they have not been given the authority or the tools to discharge that responsibility efficiently and effectively.

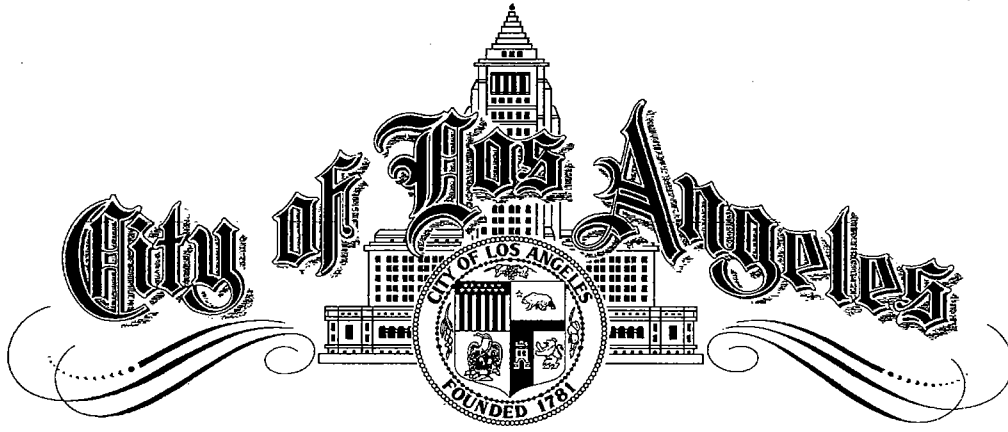
First and foremost, the executive directors and boards that manage the City's BIDS have a fiduciary responsibility to ensure that services are delivered in a timely and cost effective way. These audits reveal problems with the manner in which the executive directors and boards are meeting this basic standard so integral to the success of Business Improvement Districts.

BIDs can be an effective way to empower local businesses to enhance the quality of their community . The management and oversight of these districts are important issues that we as City elected leaders must review and improve .

Sincerely,

A handwritten signature in black ink that reads "Laura N. Chick". The signature is written in a cursive, flowing style.

LAURA N. CHICK
City Controller



OFFICE OF
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July 6, 2004

Mr. J. Michael Carey
City Clerk
200 N. Spring St., Room 360
Los Angeles, CA 90012

Dear Mr. Carey,

Enclosed are two audit reports pertaining to Business Improvement Districts entitled "Contract Compliance Audit of the Westwood Village Community Alliance, Inc. (C-99914)" and "Contract Compliance Audit of the Central City East Association (C-97899)."

Drafts of these two audit reports were provided to your office on April 29, 2004, and May 12, 2004, respectively. An exit conference was subsequently held on May 25, 2004, wherein the findings and recommendations in the two reports were discussed with you and your staff. Your responses before and during the exit conference were evaluated and considered prior to finalizing both reports.


Please review the final audit reports and advise the Controller's Office within 30 days of the date of this report on actions taken to implement the recommendations.

Mr. J. Michael Carey
City Clerk
July 6, 2004
Page 2 of 2

If you have any questions or comments, please contact Farid Saffar, Director of Auditing, at (213) 978-7392.

Sincerely,

LAURA N. CHICK, CITY CONTROLLER

By:  CPA

For Marcus Allen
Chief Deputy Controller

Enclosure

cc: Honorable James K. Hahn, Mayor
Honorable Members of the City Council
Honorable Rockard J. Delgadillo, City Attorney
Timothy B. McOsker, Chief of Staff, Office of the Mayor
Carmel Sella, Deputy Mayor
William T. Fujioka, City Administrative Officer
Ronald F. Deaton, Chief Legislative Analyst
Antoinette Christovale, Director of Finance
Independent City Auditors



**City of Los Angeles
Office of the Controller**

**Contract Compliance Audit
of the Westwood Village Community
Alliance, Inc. (C-99914)**

July 6, 2004

**Laura N. Chick
City Controller**

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CONTRACT COMPLIANCE AUDIT OF THE WESTWOOD VILLAGE COMMUNITY ALLIANCE, INC. (C-99914)

EXECUTIVE SUMMARY

The City Controller's Internal Audit Division completed a contract compliance audit of the Westwood Village Community Alliance, Inc. (WVCA), a California non-profit corporation that administered the Westwood Village Property and Business Improvement District (Westwood BID). The primary objectives of this audit were to determine whether the WVCA complied satisfactorily with the significant provisions of the contract and to evaluate the adequacy of the City Clerk's oversight of the contract. The scope of the audit covered the contract period from April 1, 2000 through June 30, 2003.

Background

In June 2000, the City entered into an agreement with WVCA to administer the Westwood BID. The agreement stipulates that WVCA shall be fully responsible for developing, implementing, directing and operating the Westwood BID programs as described in the Management District Plan. In addition, WVCA is also responsible for submitting required reports such as Annual Reports, quarterly reports and financial statements to the City. The City Clerk, as the City's Business Improvement District program coordinator, was to administer the agreement with WVCA. As such, the City Clerk was responsible for enforcing contractual provisions and maintaining fiscal oversight over the activities of WVCA. The term of the agreement was from April 1, 2000 to June 30, 2003.

A Business Improvement District (BID) is a geographically defined area within a municipality, in which services, activities and programs are supplied and paid for through special assessments charged to all members within the BID. Two state laws authorize the establishment of BIDs: The Parking and Business Improvement Area Law of 1989 (California Streets and Highways Code Section 36500 et seq) allows for the creation of merchant-based BIDs, and the Property and Business Improvement District Law of 1994 (California Streets and Highways Code Section 36600 et seq) allows for the creation of property-based BIDs. The operation of a merchant-based BID is supported by assessments collected from business owners in the BID, while a property-based BID's operation is supported by assessments collected from property owners in the BID. As of May 2003, there were 31 active BIDs citywide and 20 more BIDs in various stages of formation.

The Westwood BID, a property-based BID, was established on October 5, 1999. The Management District Plan of the Westwood BID stated the following services and activities to be provided to the property owners in the BID: security, maintenance, marketing, parking, cultural and special events (festivals, concerts, etc.) and general services (holiday decorations, Farmers Market support, etc.)

The City discontinued the Westwood BID effective October 1, 2002, due to concerns about the management of the BID. Also, the City did not renew the contract with WVCA, which expired on June 30, 2003. WVCA received approximately \$2.5 million in assessment revenue during the three fiscal years 2000 through 2002. Our audit was initiated after the City discontinued the Westwood BID.

Summary of Audit Results

The City Clerk, as the City's BID program coordinator, did not properly monitor WVCA's operations and did not provide adequate monitoring oversight over the contract with the City. The City Clerk did not diligently enforce WVCA's compliance with contract requirements. As a result, WVCA did not fulfill some of the key contractual requirements, such as annual reports filing, budget modification approval, and safeguarding of assets, as specified in the contract.

The WVCA's Executive Director and the Board of Directors did not exercise adequate fiscal prudence in managing the WVCA's operations. WVCA spent funds in excess of budgeted amounts and incurred questionable administrative expenses. WVCA had an operating deficit of \$150,154 for the fiscal year ended September 30, 2002.

Overall, the City Clerk did not take a proactive approach in administering BID programs Citywide. The City Clerk believed that their role was limited to assistance in organizing BIDs, billing and collecting assessments on behalf of BIDs, gathering quarterly and annual reports for the disbursement of assessment funds, and reporting to the City Council. It was up to each BID to determine how each BID would spend its funds in the Management District Plan. The City's contract with WVCA did not state specific monitoring oversight to be performed by the City Clerk.

The City Clerk did not have clear monitoring guidelines for its staff to follow to ensure that all contractual requirements were met and that BID funds were spent in accordance with contractual, budgetary and City regulations and procedures. According to the City Clerk, at the end of 2002, they developed comprehensive monitoring guidelines and started to implement the procedures.

Compliance with Significant Provisions of the Contract

The WVCA's Executive Director and Board of Directors did not submit the Annual Reports for fiscal years ended September 30, 2001 and September 30, 2002 to the City

Clerk, as required in the contract. Also, financial statements were not submitted to the City Clerk, as required in the contract, within 90 days of the close of each fiscal year. The City Clerk did not enforce the submission of the reports from WVCA. Financial statements for the three fiscal years 2000, 2001 and 2002 were submitted to the City Clerk in April 2003, after the City discontinued the Westwood BID.

Without the financial information in the Annual Reports and financial statements, the City Clerk could not make an adequate operational and financial analysis of the program activities for the Westwood BID. A comparative analysis of budgeted and actual revenue and expenses at the end of each program year would have allowed the City Clerk to identify necessary changes to the following year's program activities and budget in a timely manner.

WVCA was also required to implement each program within the annual budgeted amount, not to exceed 10 % of the Westwood BID's total budget. Any changes exceeding 10 % required submissions to the City Clerk of written requests for adjustments per the contract.

Our review disclosed that WVCA did not submit any written requests, even though its administrative and maintenance expenses exceeded budgeted amounts by over 10 %. Furthermore, administrative expenses averaged 35 % of the total revenue, far exceeding the budgeted level of 14 %. The Executive Director and Board of Directors of WVCA were not aware of the modification requirement.

The City Clerk had no knowledge that the budgeted category limits for maintenance and administrative expenses had been exceeded. According to the City Clerk, an ongoing analysis of budgetary expenditures was not performed, and consequently, it was not possible to determine the level of budgetary compliance.

In addition, the City Clerk did not enforce the provision of the contract requiring the City to take control of WVCA's assets, when the contract expired. As of the end of the audit fieldwork in January 2004, bank accounts were still under the control of WVCA. At the time of our audit fieldwork, WVCA and the auditors could no longer locate the property and equipment of WVCA for \$656,087, as reported in the financial statements as of September 30, 2002. The property and equipment had a net book value of \$249,378.

As of June 2003, WVCA reported outstanding liabilities of \$247,097, with less than \$30,000 cash available to pay them.

Monitoring Oversight and Administrative Controls

The WVCA Board of Directors did not adequately monitor the compensation practices of the Executive Director, in accordance with his employment contract, and did not validate payments to cellular phone service providers. As a result, funds in the amount of \$50,268 were used to pay payroll costs that had not been approved by the Board of

Directors. In addition, the Executive Director was paid a severance payment of \$28,424 in cash when he was terminated from his employment in October 2002. The Employment Contract Review Committee of WVCA approved the modification to his employment contract to accommodate his severance payment. However, it is questionable whether the committee was delegated the required authority by the Board of Directors to approve the modification of the employment contract, as specified in the WVCA's bylaws.

Our review also disclosed that WVCA was lax in monitoring payment of payroll and other expenses. WVCA did not maintain personnel files and payroll documents to validate employees' employment and current compensation packages, as well as to ensure propriety of other expenses. Also, WVCA's Board of Directors did not ensure that cellular phone accounts were used for legitimate business purposes and did not appropriately validate payments over \$11,000 to cellular phone service providers. As a result, 8 cellular phone numbers, including 5 out-of-town area codes, were opened for 5 employees. BID funds were used to pay for the questionable cellular phone bills.

We believe that the unauthorized compensation of the Executive Director and questionable cellular phone bill payments contributed to the excessive administrative costs of the WVCA.

The lack of oversight by the City Clerk, including the lack of formal written guidelines to BIDs may have contributed to the above-mentioned issues. We believe that as part of its responsibilities as BID coordinator, the City Clerk should have provided guidelines to all BIDs to facilitate and maintain adequate internal and management controls.

The fieldwork for this audit was conducted from July 29, 2003 through January 21, 2004 and was performed in accordance with Generally Accepted Government Auditing Standards.

TABLE OF RECOMMENDATIONS

RECOMMENDATIONS	PAGE REFERENCE
<p>The City Clerk stated that they have implemented the majority of the recommendations enumerated in Section I. We encourage the City Clerk to continue to fully implement our recommendations.</p> <p>We recommend that City Clerk:</p> <p><u>Section I Compliance with the Significant Provisions of the Contract</u></p> <ol style="list-style-type: none"> 1. Provide guidelines to all BIDs for the proper oversight of their operations. Guidelines should include, but not be limited to: <ul style="list-style-type: none"> • Training of members of the Board and Executive Director in their duties and responsibilities, including awareness and understanding of contract requirements. • Timely submission of contractually required reports by the BIDs. • Penalties, such as immediate withholding of funds if BIDs, do not meet contractual obligations. 2. Ensure that detailed revenue sources are included in the preparation of the Management District Plan. 3. Ensure that Annual Reports and financial statements are prepared and submitted to the City Council in order to recommend or take any necessary corrective actions in a timely manner. 4. Ensure proper monitoring and analysis of expenditures for all BIDs to ensure that they stay within the approved budget. 5. Formally approve any changes in line items exceeding 10% of the total budget, as required in the contract. 6. Enforce contract provisions and immediately take control of any assets for disestablished or discontinued BIDs to protect the interests of the property owners and the City and to prevent possible loss of assets. 	<p>Pg 18-19</p>
<p><u>Section II. Monitoring Oversight and Administrative Controls</u></p> <ol style="list-style-type: none"> 1. Ensure that BIDs' Board hiring practices are proper and adequate for all BIDs. 2. Ensure that BIDs pay their employees in accordance with employment agreements, and any changes are adequately supported and documented. 3. Determine total overpayments made to the Westwood BID Executive Director and pursue recovery of the overpayments. 4. Ensure that adequate controls are developed and properly implemented to safeguard and prevent possible misuse of funds among BIDs. 	<p>Pg 22</p>

INTRODUCTION AND BACKGROUND

In 1994, Governor Pete Wilson signed AB 3754, California Streets and Highways Code Section 36600 et seq., establishing the Property and Business Improvement District Law of 1994. This state law created a mechanism for property owners to join forces and improve their commercial districts through the formation of Business Improvement Districts.

A BID is a geographically defined area within a municipality, in which services, activities and programs are supplied and paid for through special assessments charged to all members within the BID.

Generally, the County of Los Angeles collects the assessments through property tax bills and remits the funds to the Office of the City Clerk. As the assessment funds collected in a given BID cannot legally be spent outside of that BID, the City creates a trust fund for each BID, with funds periodically released to support operations of the BID.

The California Streets and Highways Code require that a non-profit corporation be designated as the agent responsible for procuring the improvements and providing services to the BID. The contracted non-profit corporation is obligated to provide the City with financial reports, disclosing financial and program activity associated with the use of the assessment funds.

Westwood Village Property and Business Improvement District

The Westwood Village Property and Business Improvement District (Westwood BID) was formed by the adoption of City Ordinance 172,866 (Council File 99-1486) on October 5, 1999. Said ordinance authorized the annual levy of a special assessment upon the various parcels of real property within the BID to support supplemental activities and services provided to property owners located within the BID.



The Westwood BID, located in Council District 5, was a commercial/retail area comprised of retail and high-rise buildings. Because of the scope and nature of the district and services to be provided, two (2) separate benefit zones, Zone 1 and Zone 2, were created. Zone 1 is located within the area commonly known as “Westwood Village” while Zone 2 includes all the high-rise buildings of the BID (See insert for a map of the Westwood BID).

The signed written petition of property owners located within the BID initiated the ballot process to form the Westwood BID. The ballot included a copy of the Management District Plan, which contained the following:

- a map of the BID,
- the boundaries of the BID,
- the main programs, activities and services to be provided,
- proposed annual budgets,
- proposed sources of financing including assessments to be levied and their calculations,
- time and manner of collecting the assessments,
- specific number of years that assessments will be levied, and
- a list of properties, by assessor's parcel number, to be assessed.

Westwood BID's Management District Plan was approved by the City Council when the Westwood BID was established.

Originally, the Westwood BID was established as a merchant-based BID in 1995. Merchant BIDs allow assessments to be charged to business owners engaged in any type of business within the area. The Westwood BID became a property-based BID in 1999. Property-based BIDs allow assessments to be levied upon property owners within the area. The Westwood BID assessments were collected by the Office of the City Clerk instead of the County of Los Angeles, as is usually the case with property-based BIDs.

Within the Westwood BID, the Westwood Village Sidewalk and Tree Maintenance Assessment District (Maintenance District) is also located. The Maintenance District was previously formed to provide sidewalk cleaning and tree trimming services, with assessments collected from property owners on their Property Tax Bills. The disbursement of the funds is under the control of the Department of Public Works, Bureau of Street Lighting. On October 1, 1996, the Board of Public Works entered into a Memorandum of Agreement with the City Clerk to transfer funds from the Maintenance District to the WVCA, through the City Clerk, to reimburse the WVCA for the actual costs of sidewalk cleaning, tree trimming, and administrative costs incurred by WVCA for the Maintenance District. The Bureau of Street Lighting was still responsible for the disbursement of the Maintenance District's funds.

Westwood Village Community Alliance, Inc.

WVCA, a California non-profit organization, was one of the private sector proponent groups that worked to establish the Westwood BID. The City contracted with WVCA to administer the Westwood BID program. The term of the contract between the City and WVCA covered the period from April 1, 2000 through June 30, 2003. The WVCA was also responsible for implementing and managing the following programs presented in its Management Plan:

- a. Security
- b. Maintenance
- c. Marketing
- d. Parking
- e. Cultural and Special Events (Farmers' Market)
- f. General Services.

One of the responsibilities of the WVCA, as specified in the contract, was to implement each program within the budget amount specified.

The WVCA was composed of an Executive Director and four employees. The responsibility for the timely preparation of Annual Reports and financial statements rested with the Westwood BID's Advisory Board per § 36633 of the California Streets and Highways Code. The WVCA's Board of Directors was composed of the same members as the Westwood BID's Advisory Board.

The reported revenues and expenditures of the WVCA are presented in Table 1:

	FY 2000	FY 2001	FY 2002
Revenue			
Contract ⁽¹⁾	\$1,154,969	\$1,016,951	\$989,229
Parking validations	42,703	38,999	47,282
Contributions	67,000	68,134	62,302
Interest Income	2,560	1,443	379
Total revenues	\$1,267,232	\$1,125,527	\$1,099,192
Expenditures			
Program services			
Security	\$74,075	\$58,172	\$47,368
Maintenance	264,802	273,158	351,028
Marketing	234,084	273,543	268,797
Parking	44,314	37,810	46,814
Leasing	2,626	16,166	12,400
Implementation and administrative	419,862	370,961	426,511
Strategic planning	0	7,884	156
Depreciation	84,134	94,440	96,272
Total expenditures	\$1,123,897	\$1,132,134	\$1,249,346

Source: WVCA's audited financial statements. Due to significant control weaknesses noted, the independent auditor was unable to form an opinion on the financial statements.

Note⁽¹⁾: The contract revenue includes reimbursement from Maintenance District: \$184,641 for FY 2000, \$175,743 for FY 2001, and \$131,262 for FY 2002.

Office of the City Clerk

The following are the responsibilities of the City Clerk, as the City's BID program coordinator, as stated in the contract with WVCA:

1. Effect the timely collection of the annual assessment.
2. Coordinate the collection of the annual assessment through an Interagency Agreement with the County of Los Angeles, and through other means, including direct billing, as the City Clerk deems appropriate.
3. Provide general assistance, clarification, or information to the WVCA, the assessed parties, business organizations and the public at large.
4. Maintain a continual liaison with the WVCA, including assisting with the coordination of services from various other City departments, bureaus and agencies.
5. Authorize supplemental assessments, adjusted assessments, assessment exemptions, reductions or refunds to be issued by either the City or the County of Los Angeles.
6. Authorize and direct the disbursement of assessment funds to be made by the City Controller to the WVCA.
7. Perform other related administrative, analytical, clerical, financial, technical or public relations tasks, as mutually agreed to by the City Clerk and the Corporation.

During the audit period, the City Clerk directed the disbursement of assessments to the WVCA through the City Controller. The Special Assessment Section of the City Clerk is staffed by the following personnel: one Senior Management Analyst supervising three Management Analysts, three Office Engineer Technicians, and three clerical staff. The BID program of the City Clerk had an operating budget of approximately \$1.4 million for the fiscal year 2002-2003.

The City Clerk had developed comprehensive guidelines and started to implement the following procedures as of December 2002:

- Begin a no-exception policy for all BIDs for meeting all contract requirements before funds are disbursed.
- Use checklists to monitor a BID's compliance with requirements.
- Compare quarterly reports submitted by all BIDs with Management District Plans to determine compliance.
- Hold funds until contract requirements have been met by the BIDs.
- Conduct presentations to all the BIDs. In September 2002 and January 2003, the City Clerk conducted presentations for BID Board of Directors in the City. Presentations included information regarding submission of quarterly and annual reports and the disbursement of funds.

These procedures partially addressed our audit recommendations.

Department of Transportation (DOT) Loan

The City Council authorized the execution of Agreement C-86135 between the City and the (then) WVCA's predecessor, the Westwood Village Management Corporation (WVMC), on March 12, 1993. According to the agreement, the City loaned Special Parking Revenue Fund (SPRF) monies to WVMC for certain tasks to be performed by WVMC. The amount advanced to WVMC was to be repaid to the SPRF from the proceeds of any subsequent business assessment district formed in the Westwood Village. The total amount subject to repayment was approximately \$537,000, payable over 15 years, beginning on October 1, 1996. During the period of the audit, WVCA made loan payments, totaling \$107,436, to the DOT; the current note balance amounts to \$322,307. In the event that the agreement between WVCA and the City was terminated before the 15-year repayment period, WVCA would not be liable for any remaining balance of the unpaid debt.

Objectives and Scope

The objectives of this audit were:

- To determine if the WVCA had complied satisfactorily with all significant provisions of the agreement.
- To evaluate the adequacy of contract monitoring oversight and administrative controls over the agreements.
- To evaluate the reasonableness of services performed and the propriety of expenditures by the contractor (WVCA).

The audit scope included contract oversight practices in the Office of the City Clerk and management controls at the WVCA for the period from April 1, 2000 to June 30, 2003.

Scope Limitation

The scope of the audit was limited by the amount and type of information available to the auditors. The Westwood BID was discontinued by the City effective October 1, 2002. However, the WVCA continued to operate to the end of the contract period, June 30, 2003. During the auditors' fieldwork, access to WVCA's employees and financial records was not fully provided. WVCA's office headquarters were closed in December 2002, and all of its employees, including the Executive Director, were dismissed at that time. Although financial statements prepared by WVCA's independent CPAs were available, an independent assessment of WVCA's internal control structure by the auditors was not possible due to the limited amount of information available. A determination of the reasonableness of any services provided by WVCA was not possible to make.

Audit Techniques and Methodology

In order to achieve the audit objectives, we performed the following audit procedures:

- Interviewed key personnel within the Office of the City Clerk and available WVCA Board members.
- Reviewed and evaluated the City Clerk's management policies and procedures regarding BIDs.
- Evaluated the adequacy and accuracy of collection and remittance practices of the Special Assessments Unit in the Office of the City Clerk, as they related to the WVCA.
- Assessed the accuracy of additional sources of revenue (parking validations) for the WVCA.
- Analyzed all categories of expenses and budgeted amounts, as shown in the Management District Plan, against actual amounts, as presented in the financial statements prepared by the independent CPA.
- Analyzed three areas of disbursements until September 30, 2002, (payroll expenses, other administrative expenses, questionable expenses, legal and marketing expenses) and assessed their reasonableness and appropriateness.
- Assessed the policies and practices of the WVCA Board of Directors.
- Determined WVCA's disposition of assets after September 30, 2002, and the extent of involvement of the Office of the City Clerk.
- Reviewed key contract provisions, such as submission of required financial statements and Annual Reports, to determine WVCA's compliance.

AUDIT FINDINGS

The audit concluded that the City Clerk, as BID program coordinator, did not properly monitor the operations and contract compliance of the WVCA. In addition, the WVCA's Executive Director and Board of Directors did not exercise adequate fiscal prudence in managing the WVCA operations. As a result, funds were spent in excess of the budget, and questionable administrative expenses were incurred. Also, WVCA did not fulfill some of the key contractual requirements specified in the contract and in the BID stipulations under the California Streets and Highways Code, such as submission of required financial reports.

Our audit revealed weaknesses in the following areas:

Section I. Compliance with Significant Provisions of the Contract

The WVCA's Executive Director and Board of Directors did not submit the Annual Reports for fiscal years 2001 and 2002 and financial statements for fiscal years 2000, 2001 and 2002, as required in the contract. Without the Annual Reports and financial statements, the City Clerk could not make an adequate operational and financial review of the program activities, which would have enabled the City Clerk to identify necessary changes to the following year's program activities and budget. The City Clerk did not enforce the submission of required reports from WVCA. Also, the City Clerk did not enforce the provision of the contract requiring the City to take control of the WVCA's assets when the contract expired.

Finding No. 1: WVCA failed to modify budgeted program activities when revenue did not meet budgeted projections.

We noted that WVCA did not perform an operational and financial analysis of the program activities in the Management District Plan, including budgeted revenue projections and expenses at the end of each program year to facilitate any necessary changes in the following year's program activities and budget. As a result, no changes and reallocations were submitted to the City Clerk for approval.

WVCA had estimated that it would receive \$1.3 million in revenue each year to carry out its proposed programs, as contained in the Management District Plan. As revenue declined for each program year, expenses continued to rise, causing an operating deficit. The table below presents financial results for the Westwood BID, as reported in financial statements submitted to the City Clerk on March 2003:

Period (Oct 1-Sep 30)	Budgeted Revenue	Actual Revenue	Actual Expenses	Excess (Deficit)
FY 2000	\$1,286,000	\$1,267,232	\$1,123,898	\$143,334
FY 2001	\$1,286,000	\$1,125,526	\$1,132,133	\$ (6,607)
FY 2002	\$1,286,000	\$1,099,192	\$1,249,344	\$ (150,152)

A decrease in assessment receipts, a decrease in Maintenance District reimbursements and an increase in other charges caused the decline in annual actual revenue for fiscal year 2000. The Westwood BID's Management District Plan did not provide specific funding sources with corresponding amounts in their revenue budget. As a result, the auditors could not identify the specific revenue source that fell short of the budgeted revenue.

Assessment Receipts

Assessment receipts for the first program year was \$928,579. Using the first program year as the base year, assessment receipts declined \$11,439 for the second program year and \$72,592 for the third program year. The decline in revenue was mainly due to the elimination by WVCA and by the City Clerk of some property owners from the assessment roll due to some of the owners' discontent with not receiving services provided within the Westwood BID.

Any changes in the assessment roll were to be noted in the Annual Report submitted by WVCA to the City Clerk. Annual Reports were to be presented to the City Council by the City Clerk; however, we noted that changes in the assessment tax roll were not officially made in the Annual Report and presented by the City Clerk to the Council for approval, as required in the California Streets and Highways Code. (See footnotes 1, 2, and 3.)

Maintenance District Reimbursements

Maintenance District reimbursements to WVCA for the first year were \$247,686. Using the fiscal year 2000 as the base year, the Maintenance District's reimbursements declined \$65,846 for fiscal year 2001 and \$45,895 for fiscal year 2002, respectively.⁴ WVCA was reimbursed by the Department of Public

¹ § 36633 (a) The report [Annual Report] may propose changes, including, but not limited to, the boundaries of the property and business improvement district or any benefit zones within the district. (c) The City Council may approve the report as filed by the advisory board or may modify any particular contained in the report and approve it as modified. Any modification shall be made pursuant to Sections 36640 and 36641. (As of July 2001, § 36650 was added by Stats.2001, c. 88 (A.B.1021), § 7 to amend §36633)

² § 36640 The advisory board may, at any time, request that the city council modify the management district plan...

³ §36641 (a) Upon the written request of the advisory board, the City Council may modify the management district plan by adopting a resolution after holding hearings on the proposed modification... (As of July 2001, §§36635 and 36636 were added by Stats.2001, c. 88 (A.B.1021), § 5 to amend §§36640 and 36641.)

⁴ Third year reimbursement from Maintenance District includes payment of \$74,647 made directly to service contractors by the Department of Public Works, Bureau of Street Lighting.

Works, Bureau of Street Lighting, for maintenance services provided to the Maintenance District.

Other Charges

WVCA made loan payments to the DOT. Payments were made directly by the City Clerk and deducted from assessment receipts. Loan payments reduced revenue for fiscal years 2001 and 2002 by \$74,659 and \$39,397, respectively.

WVCA's Executive Director and Board of Directors did not have adequate financial information to recognize the extent of the reduced level of revenue available to WVCA. WVCA's Executive Director and Board of Directors did not prepare financial statements for the three fiscal years 2000 through 2002 and annual reports for fiscal years 2001 and 2002 until the Westwood BID was discontinued by the City. As a consequence, the WVCA did not decrease its level of expenditures, but continued to overspend.

Although the City Clerk had recognized that the budgeted revenue of the Westwood BID was not going to be realized, they did not recommend any modifications to the Management District Plan because the City Clerk relied on quarterly reports. However, the quarterly reports did not report Westwood BID's actual expenditures. The City Clerk stated that it was WVCA's responsibility to recommend modifications to the Management District Plan to ensure that program activities were adjusted to reflect the reduced level of revenue.

As part of its responsibilities as BID coordinator, the City Clerk was required to monitor the use of revenue generated through assessments paid by BID members to ensure that it was spent according to contractual, budgetary, and statutory and City regulations and procedures. Assistance was to be provided to facilitate the BID's achievement of its goals and objectives. Quarterly district operating statements and activity reports were to be reviewed to make recommendations to the WVCA's Executive Director and/or Board of Directors regarding the adjustment of various program elements. Also, City Clerk staff may prepare and present required progress reports and other materials or documents to the City Council for use during evaluation of BID operations.

Finding No. 2: WVCA did not submit annual financial statements for three fiscal years and Annual Reports for two fiscal years to the City Clerk.

As stated in the contract, WVCA was required to submit financial statements within 90 days of the close of each fiscal year to the City Clerk. The statements were to be prepared and reviewed by a Certified Public Accountant (CPA) and submitted to the City Clerk. Financial statements prepared by an independent CPA for the WVCA for fiscal years ended September 30, 2000, 2001, and 2002 were prepared in 2003, after the City discontinued the Westwood BID effective October 1, 2002.

WVCA did not submit Annual Reports for the second fiscal year, October 1, 2000 through September 30, 2001, and for the third fiscal year, October 1, 2001 through September 30, 2002, to the City Clerk, as required in the contract. Submission of Annual Reports was also required under §36633 of the California Streets and Highways Code.

The Annual Report is to summarize program information and accomplishments within the Westwood BID for each operating year. It is supposed to include any proposed changes in the boundaries of the BID, an estimate of the cost of providing the improvements and activities for that fiscal year, the amount of any surplus or deficit revenues to be carried over from a previous fiscal year, and the amount of any contributions to be made from sources other than assessments levied.

The contract required the Annual Report to be submitted to the City Clerk on or before August 1, 2000, for the second operating year, and on or before August 1 of each successive year of operations. The Management District Plan, as approved by the City Council, was considered the Annual Report for the first operating year (October 1, 1999, to September 30, 2000) of WVCA. The WVCA's bylaws also required submission of an Annual Report to the Board of Directors. The report was to be submitted within 90 days after the end of the WVCA's fiscal year.

The City Clerk did not ensure that the WVCA submitted required Annual Reports and financial statements in a timely manner, as required in the contract. Instead, the City Clerk routinely accepted fourth quarter funding requests of the WVCA in lieu of Annual Reports. However, funding requests did not meet the criteria, as stated in the contract, and as presented under §36633 of the California Streets and Highways Code.

Due to WVCA's failure in submitting Annual Reports and financial statements, the City Clerk was not able to evaluate the financial and program performance of WVCA and to recommend or take any necessary corrective actions in a timely manner. Furthermore, Annual Reports were not submitted to the City Council in a timely manner, as required in the California Streets and Highways Code as previously noted in Finding No. 1.

Finding No. 3: WVCA did not control its expenses, in accordance with the pre-approval budget process.

WVCA was required to implement each program in Westwood BID's Management District Plan within the annual budget amount specified. WVCA was allowed in the contract to make budget allocation changes not to exceed 10% of its total budget. Any changes exceeding 10% required submissions to the City Clerk of a written request for adjustment.

The WVCA's administrative and maintenance expenses exceeded the budgeted amounts by over 10%. Furthermore, administrative expenses averaged 35% of the total budget, far exceeding the budgeted level of 15%. Our analysis of budgeted versus actual expenses showed the following:

<u>Period/Category</u>	<u>Budget</u>	<u>Actual</u>	<u>Budget %</u>	<u>Actual %</u>
Maintenance				
FY 01-02	\$200,478	\$351,028	16%	32%
Administrative				
FY 99-00	\$173,300	\$419,862	13%	33%
FY 00-01	\$176,766	\$370,961	14%	33%
FY 01-02	\$182,069	\$426,511	14%	39%

The WVCA Executive Director and Board of Directors were not aware of the contract requirement and, consequently, did not request the City Clerk's approval for any necessary budgetary reallocations exceeding 10%. In addition, WVCA's bylaws that required Board approval for any changes in budgetary allocations were ignored.

Administrative expenses averaged 35% of Westwood BID's total revenue. A comparison with another City BID with a similar budget showed that the comparative BID had managed to maintain budgetary limits (18%) for its administrative costs.

In 1995, the City of New York (NYC) released a report, "CITIES WITHIN CITIES: Business Improvement Districts and the Emergence of the Micropolis." The report found that larger BIDs allocated a smaller percentage of their budgets to administrative costs. The 21 BIDs with budgets of less than \$500,000 budgeted 29% for administrative costs, the three BIDs with budgets between \$500,000 and \$1 million budgeted 15% in this area, and the nine BIDs with budgets greater than \$1 million budgeted 13% for administrative costs.

Data from a comparative BID and the NYC study indicated that the Westwood BID's administrative budget allocations were reasonable; however, WVCA incurred unreasonable and excessive administrative expenses because the City Clerk and the Board of Directors did not monitor and enforce contractual requirements efficiently and in a timely manner.

The City Clerk was not able to control the Westwood BID's excessive expenditures through the budget modification process because both WVCA and the City Clerk had no knowledge that budget category limits had been exceeded. According to the City Clerk, an ongoing analysis of budgetary expenditures was not performed and consequently, it would not have been possible to determine the level of budgetary compliance. Board members interviewed during the course of the audit were not aware that such a requirement existed as part of Westwood BID's contract obligations.

As part of its ongoing administrative changes, the City Clerk stated that a policy to require operational and financial analyses from all BIDs has been implemented in December 2002 to maintain control over any budgetary reallocations.

Finding No. 4: The City Clerk did not oversee the safeguarding of assets when the WVCA contract expired on June 30, 2003.

The City Clerk did not enforce the provision of the contract requiring the City to take control of the WVCA's assets when the contract expired on June 30, 2003. As of the end of the audit fieldwork, bank accounts were still under the control of WVCA, when the City Clerk should have taken over after the contract expired. Also, assets and pertinent program and financial records were not secured immediately after the expiration of the contract under the advice of the City Attorney's Office. As of June 2003, the WVCA reported outstanding liabilities of \$247,097, with only less than \$30,000 cash available to pay them.

The City decided to discontinue the Westwood BID effective October 1, 2002. However, WVCA was allowed to continue to operate from October 2002 until the expiration of the contract on June 30, 2003, to carry out any necessary closing activities and spend any remaining funds. All remaining assets of WVCA should have been transferred to the City on June 30, 2003, as required by the contract.

According to WVCA's contract, in the event that either the BID is disestablished or otherwise discontinued, the existing assets of the BID, including any funds in possession of the WVCA, shall become the property of the City.

The WVCA's financial statements and available records showed the following assets:

Property and Equipment: (As listed in WVCA's financial statements as of September, 30, 2002)

Leasehold Improvements	\$ 97,113
Holiday Decorations	477,957
Landscape Improvements	18,188
Furniture	8,508
Equipment	<u>54,321</u>
Total	<u>\$ 656,087¹</u>

¹ The property and equipment had a net book value of \$249,378 as of September 30, 2002.

The majority of these property and equipment could no longer be located at the time of the audit fieldwork. According to ex-Board members, creditors took some equipment as payment after the Westwood BID was discontinued by the City.

Cash Accounts: WVCA's bank statements for its general checking account and parking validation account, as of June 30, 2003, showed a combined balance of \$10,035.40.

Funds held by the City Clerk: Westwood Village Business Improvement District Fund 613 showed a balance of \$16,723.86. This fund balance consisted of additional assessment funds collected (delinquent accounts) by the City Clerk after the Westwood BID's termination on September 30, 2002, as well as interest earned on the funds.

This available cash was minimal compared to the outstanding obligations of WVCA in the amount of \$247,000 as of June 2003.

In addition to the above items, additional assets and documents have been identified as the property of WVCA:

- Miscellaneous items stored at a City parking garage located at 1036 Broxton Avenue in Westwood Village.
- Administrative records located at Piper Technical Building.
- Administrative and financial records located at the office of WVCA's CPA.

According to the City Clerk, they did not take over the assets of WVCA on the advice of the City Attorney. However, the City Clerk immediately notified the DOT to retain all items owned by WVCA being held in a storage room in a DOT-operated parking structure rented by the WVCA.

Recommendations:

We recommend that the City Clerk:

1. Provide guidelines to all BIDs for the proper oversight of their operations. Guidelines should include, but not be limited to:
 - Training of members of the Board and Executive Director in their duties and responsibilities, including awareness and understanding of contract requirements.
 - Timely submission of contractually required reports by the BIDs.
 - Penalties, such as immediate withholding of funds if BIDs, do not meet contractual obligations.
2. Ensure that detailed revenue sources are included in the preparation of the Management District Plan.

3. Ensure that Annual Reports and financial statements are prepared and submitted to the City Council in order to recommend or take any necessary corrective actions in a timely manner.
4. Ensure proper monitoring and analysis of expenditures for all BIDs to ensure that they stay within the approved budget.
5. Formally approve any changes in line items exceeding 10% of the total budget, as required in the contract.
6. Enforce contract provisions and immediately take control of any assets for disestablished or discontinued BIDs to protect the interests of the property owners and the City and to prevent possible loss of assets.

Section II. Monitoring Oversight and Administrative Controls

The WVCA Board of Directors did not adequately monitor the compensation practices of the Executive Director and did not validate payment to cellular phone service providers. We believe that the unauthorized compensation of the Executive Director of over \$50,000, severance payment of \$28,428 and the questionable cellular phone bill payments of over \$11,000 contributed to the excessive administrative costs of the WVCA. The lack of oversight by the City Clerk, including formal written guidelines to BIDs, might have contributed to the unauthorized compensation and questionable cellular phone bills.

Finding No. 1: The Executive Director's compensation exceeded his authorized pay as stated in his employment contract.

The employment contract of the Executive Director with the WVCA authorized him to be paid an annual salary of \$102,000, plus benefits. The benefits included: \$150 per week for automobile compensation allowance; \$550 per month for health benefits allowance; and 15 days of paid vacation time for every twelve months of employment.

The WVCA Board of Directors did not adequately monitor the compensation practices of the Executive Director, in accordance with his employment contract. As a result, funds were used to pay payroll costs of \$50,268, which were not approved by the Board of Directors. Unauthorized compensation of the Executive Director contributed to the excessive administrative cost of the Westwood BID.

The following table presents details of the overpayment of the Executive Director's compensation and benefits, based on available records:

Excess Payments of Salaries and Benefits

<u>Category</u>	<u>FY 2000</u>	<u>FY 2001</u>	<u>FY 2002</u>	<u>Total</u>
Salaries	\$10,462	\$ 0	\$17,000	\$27,462
<u>Benefits:</u>				
Auto Allowance	\$ 1,175	\$1,175	\$ 3,875	\$ 6,225
Health Allowance	\$ 1,150		\$ 1,375	\$ 2,525
Vacation	<u>\$ 5,884</u>	<u>\$4,577</u>	<u>\$ 3,595</u>	<u>\$14,056</u>
Total	<u>\$18,671</u>	<u>\$5,752</u>	<u>\$25,845</u>	<u>\$50,268</u>

Information regarding amounts paid to the Executive Director for salary, vacation, and benefits was presented to some of the Board members (Treasurer and Vice-Chairman). Both members mentioned that they were not aware that the Executive Director had been paid more than the contract provided.

Information related to the Executive Director's compensation was also discussed with the City Clerk. However, the City Clerk stated that he was not aware that the Executive Director had been paid more than what was stated in the contract. Nevertheless, we believe that routine verification of funding requests should have disclosed that compensation levels had exceeded budgeted amounts and should have prompted the City Clerk to further investigate possible reasons for the discrepancies.

The Executive Director was terminated on October 9, 2002, and received a severance package, in accordance with an Employment Modification Agreement. The agreement provided a severance payment in the amount of \$28,424 in cash.

The modification to terminate and negotiate the Executive Director's package was signed by the Employment Contract Review Committee, which was composed of several Board members. However, there was no evidence to indicate that the Board had delegated authority to the Employment Contract Review Committee to execute the modification agreement, as required by the WVCA's bylaws.

In addition to the Executive Director, the WVCA had four employees. Personnel files and payroll documents were not available to validate these four employees' employment and current compensation packages. However, according to the Executive Director, it was his practice to prepare a one-page summary with the employees' contract terms and submit it to the Board for approval. These documents were also not available for verification. As a result, we were unable to verify the reasonableness of the payments to these employees.

Finding No. 2: Westwood BID funds were used to pay for questionable cellular phone services.

WVCA's Board of Directors did not ensure that cellular phone accounts were used for legitimate business purposes and did not appropriately validate payments to service providers.

The auditors noted numerous payments to Cingular Wireless and AT&T Wireless, totaling over \$11,000, in WVCA's accounting records.

Payments made to Cingular Wireless were for the use of 8 telephone numbers. From January 2001 through September 2002, 30 invoices were paid to Cingular; charges for the period averaged \$343 per month. Payments made to AT&T Wireless related to an account opened for WVCA's operations manager. Charges amounted to \$71 per month over a period of two years.

WVCA was headquartered in West Los Angeles and had only five employees. Cingular Wireless telephone numbers included five numbers with area codes in San Francisco, one for Gardena, and one in Santa Barbara. The telephone number under AT&T

Wireless carried an area code for Beverly Hills. According to the Executive Director, telephone lines were opened because the Westwood BID had many business contacts in those areas; however, the Executive Director did not remember to whom the telephone lines were assigned.

There was no evidence to indicate that WVCA's Executive Director and Board of Directors performed proper authorization and verification of payments. As a consequence, Westwood BID's funds were spent improperly, reducing the amount of funds available for its programs. In addition, Westwood BID's funds might have been spent for personal use.

According to the City Clerk, it was not aware that payments had not been properly approved by WVCA's management. However, as part of its responsibilities as BID program coordinator, the City Clerk was responsible for ensuring that assessments paid by BID members are used appropriately and in accordance with the contract and other pertinent regulations and requirements.

Recommendations:

We recommend that City Clerk:

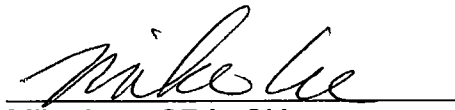
1. Ensure that BID's Board hiring practices are proper and adequate for all BIDs.
2. Ensure that BIDs pay their employees in accordance with employment agreements, and any changes are adequately supported and documented.
3. Determine total overpayments made to the Westwood BID Executive Director and pursue recovery of the overpayments.
4. Ensure that adequate controls are developed and properly implemented to safeguard and prevent misuse of funds among BIDs.

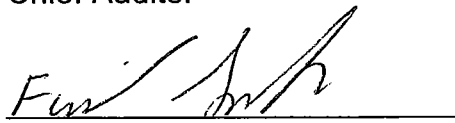
A draft audit report was provided to the Office of the City Clerk on April 29, 2004. An exit conference was conducted on May 25, 2004, at which time the audit staff discussed the findings and recommendations in the draft audit report with the City Clerk and his staff. The City Clerk stated that the recommendations enumerated in Section II are policy issues, which were the responsibilities of the BID and their Board of Directors, and not the responsibility of the City Clerk. The City Clerk's response during the exit conference was evaluated and considered prior to finalizing the report.

Respectfully submitted,


Miguel A. De La Peña
Internal Auditor


Teresita Bautista, CGFM
Internal Auditor


Mike Lee, CPA, CIA
Chief Auditor


Farid Saffar, CPA
Director of Auditing

January 21, 2004

OFFICE OF THE CONTROLLER

CONTRACT COMPLIANCE AUDIT OF THE WESTWOOD VILLAGE PROPERTY AND BUSINESS IMPROVEMENT DISTRICT

Ranking of Recommendations

Section	Summary Description of Findings	Ranking Code	Recommendations
1.	<ul style="list-style-type: none"> • Westwood Village Community Alliance (WVCA) failed to modify budgeted program activities when revenue did not meet budgeted projections. 	N	<p>The City Clerk should:</p> <ol style="list-style-type: none"> 1. Provide guidelines to all BIDs for the proper oversight of their operations. Guidelines should include, but not be limited to: <ul style="list-style-type: none"> • Training of members of the Board and Executive Director in their duties and responsibilities, including awareness and understanding of the contract requirements. • Timely submission of contractually required reports by the BIDs. • Penalties, such as immediate withholding of funds if BIDS, do not meet contractual obligations. 2. Ensure that detailed revenue sources are included in the preparation of the Management District Plan.
	<ul style="list-style-type: none"> • WVCA did not submit annual financial statements for three fiscal years and annual Reports for two fiscal years to the City Clerk. 	N	<ol style="list-style-type: none"> 3. Ensure that Annual Reports and financial statements are prepared and submitted to the City Council in order to recommend or take any necessary corrective actions in a timely manner.
	<ul style="list-style-type: none"> • WVCA did not control its expenses in accordance with the pre-approval budget process. 	N	<p>The City Clerk should:</p> <ol style="list-style-type: none"> 4. Ensure proper monitoring and analysis of expenditures for all BIDs to ensure that they stay within the approved budget. 5. Formally approve any changes in line items exceeding 10% of the total budget as required in the contract.

Section	Summary Description of Findings	Ranking Code	Recommendations
	<ul style="list-style-type: none"> The City Clerk did not oversee the safeguarding of assets when the WVCA contract expired on June 30, 2003. 	N	6. Enforce contract provisions and immediately take control of any assets for disestablished or discontinued BIDs to protect the interests of the property owners and the City and to prevent possible loss of assets.
2.	<ul style="list-style-type: none"> Executive Director's compensation exceeded his authorized pay as stated in his employment contract. 	N N N	<p>The City Clerk should:</p> <ol style="list-style-type: none"> Ensure that BID's Board hiring practices are proper and adequate for all BIDs. Ensure that BIDs pay their employees in accordance with employment agreements, and any changes are adequately supported and documented. Determine total overpayments made to the Westwood BID Executive Director and pursue recovery of the overpayments.
	<ul style="list-style-type: none"> Westwood BID funds were used to pay for questionable cellular phone services. 	N	1. The City Clerk should ensure that adequate controls are developed and properly implemented to safeguard and prevent possible misuse of funds among BIDs.

Description of Recommendation Ranking Codes

U - Urgent - The recommendation pertains to a serious or materially significant audit finding or control weakness. Due to the seriousness or significance of the matter, immediate management attention and appropriate corrective action is warranted.

N - Necessary - The recommendation pertains to a moderately significant or potentially serious audit finding or control weakness. Reasonably prompt corrective action should be taken by management to address the matter. Recommendation should be implemented no later than six months.

D - Desirable - The recommendation pertains to an audit finding or control weakness of relatively minor significance or concern. The timing of any corrective action is left to management's discretion.

N/A - Not Applicable