



BUILDING PERMITS:
Extension practices inconsistent;
documentation lacking

April 2014

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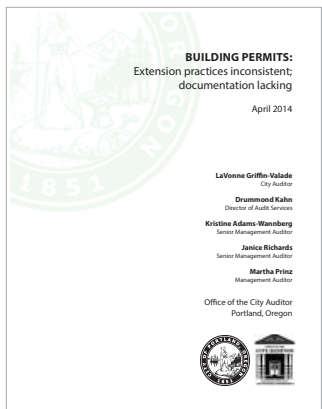
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April 3, 2014

TO: Mayor Charlie Hales
Commissioner Nick Fish
Commissioner Amanda Fritz
Commissioner Steve Novick
Commissioner Dan Saltzman
Paul Scarlett, Director, Bureau of Development Services

SUBJECT: Audit Report – *Building Permits: Extension practices inconsistent; documentation lacking* (Report #420B)

The attached report contains the results of our audit on building permit extension practices. A well-managed permit process enables construction work to progress while ensuring safety and proper oversight. When permits need to be extended there should be a clear process to govern how this occurs and when permits should be considered abandoned.

We initiated this audit to review the Bureau's management of building permits expiring after issuance. We found the Bureau often grants permit extensions, but not canceling permits could result in public safety concerns. Authorization practices are inconsistent, and customer requests are frequently not well documented, leaving gaps in public information. In addition, different options for reminder letters should be considered.

Due to potentially negative impacts to public safety, system efficiency, and management oversight, we recommend three improvements to better align permit extension practices with City Code and ensure consistent and transparent processes.

We ask BDS to provide us with a status report in one year, through the Commissioner-in-charge, detailing the steps taken to address our recommendations in this report. We appreciate the cooperation and assistance we received from BDS staff as we conducted this audit.

LaVonne Griffin-Valade
City Auditor

Attachment

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BUILDING PERMITS:

Extension practices inconsistent;
documentation lacking

Summary

Building permits are important for public safety and community development. A well-managed building permit process allows development work to proceed for new construction and improvements and also regulates construction to ensure safety and proper oversight. Sometimes permits need to be extended due to construction delays, financing issues, or other reasons. The City needs a clear process to govern how permits are extended, expired, and abandoned.

We reviewed 143 building permits and considered how permit extensions, expirations, and abandonments were handled by the Bureau of Development Services (BDS). We found that although these activities are clearly governed by City Code, bureau policies and practices are not always aligned with those regulations. As a result,

- BDS often grants permit extensions, but not canceling inactive permits could result in public safety concerns
- Customer requests are often not well documented, leaving gaps in information the public and City need
- Many extension requests lacked authorization from a manager
- Reminder letters may motivate customers but raise questions about different treatment and timeliness

Due to potentially negative impacts to public safety, oversight, and program efficiency and effectiveness, we recommend three improvements. These improvements will better align bureau practices with City Code and ensure a more consistent process.

We did not conduct this audit due to a specific concern about the Bureau. We performed this audit because we noted permit extensions and expirations as problems during our most recent audit of BDS Inspections on September 25, 2013. The first audit addressed oversight and management practices over residential and commercial inspections.

Background

The Bureau of Development Services (BDS) actively works with developers, builders, and homeowners to guide them through the development process. Staff review construction plans, issue permits, and inspect industrial, commercial and residential construction to ensure compliance with construction and land use codes. In FY 2012-13, the bureau issued about 42,000 building and trade permits combined and performed over 134,000 residential and commercial inspections. This work promotes the safety of buildings and livability of Portland's neighborhoods.

Figure 1 New residential construction



Source: Audit Services Division photo

In Portland, permits are required for a variety of commercial and residential construction work, such as new construction or remodeling existing structures. Many projects that require a building permit

may also require other permits, such as for mechanical, plumbing, and electrical work. BDS reviews construction plans against current building and trade codes and issues permits.

After permit issuance, City Code prescribes that customers get 180 days (about 6 months) to call for and pass an inspection. There may be more than one work item to inspect for each permit. Passing an inspection automatically extends a permit's life another 180 days. When all the inspections are passed, the final inspection is performed. If passed, the project is considered complete.

There are situations when a project gets stalled and the customer may need more time to get all work completed and inspected.¹ According to the Bureau, there can be a variety of reasons for needing a permit extension, such as losing funding for the project or changing contractors.

When customers cannot meet the 180 day window before the permit expires, City Code requires a request in writing to the Bureau with a justification for a permit extension. An inspection manager can consider the request and approve or deny it. If the permit expires, BDS can reactivate and extend it if requested by the customer. If the permit remains inactive for a period exceeding six months (i.e. abandoned), the Bureau can cancel the permit. The customer would then have to go through plan review again and obtain a new permit in accordance with current building codes.

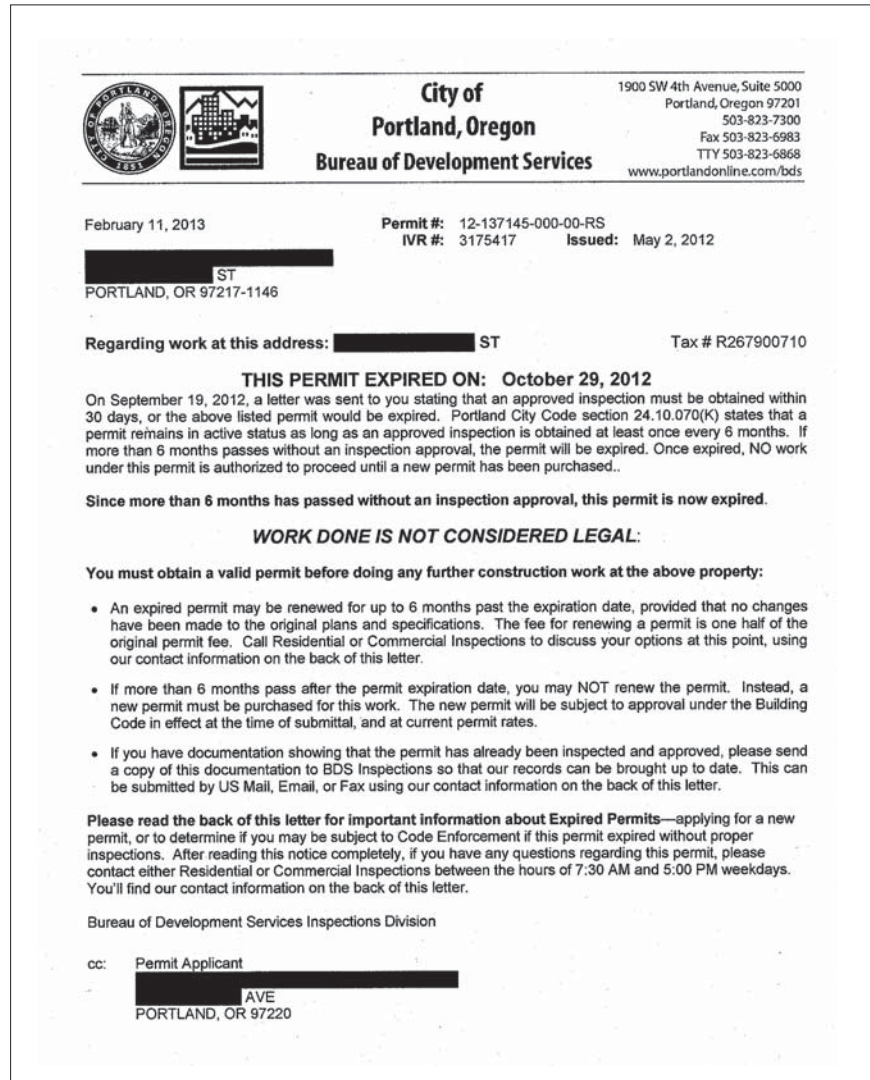
According to the Bureau, expired permits can cause problems for the public and the Bureau. Expired permits are inactive but still valid. They can still be reactivated even if they are several years old. BDS does not cancel an expired permit unless requested by the customer.

Construction on projects with expired permits may not have had important inspections completed, which could make the work site a hazard to the public and/or the property owner. New property owners may be unaware that a permit was taken out and they could be responsible for unfinished work. Expired permits may also take resources away from other customers with active permits who request inspections.

¹ Delays can occurring during plan review as well, but the audit work focused on delays occurring after a permit has been issued.

BDS staff told us that it takes more time to research an old permit's history to determine inspections or needed corrections based on the building and trade codes in place at the time the permit was issued. According to BDS, 421 residential and commercial building permit expirations occurred between July 1, 2012 and June 30, 2013.

Figure 2 Example of a permit expiration letter



Source: Bureau of Development Services

In a customer service effort in 2010, BDS's Commercial and Residential Inspections programs started sending out "30-day" letters to customers whose building permits were about to expire. In addition, the programs sent expiration letters to customers whose permits had already expired. Copies of these letters are included in the Bureau's database, TRACS, which the Bureau uses for permit and case management.

Audit Results

Lack of alignment between policies and practices can cost the City and public time and resources

BDS often grants permit extensions, but not canceling inactive permits could result in public safety concerns

We found that recent BDS practices follow the Bureau Program Guide by granting more than one extension. We confirmed that extension periods are most often 180 days for both commercial and residential building permits, but may vary. In addition, we found that abandoned permits were not usually closed out in the BDS system.

We obtained data from BDS's TRACS database to test how frequently permits had been extended. We focused on recently issued building permits. There were 922 residential (RS) and 517 commercial (CO) building permits issued between January 1, 2012 and June 30, 2013 that were extended, expired, or reactivated within the period. We reviewed a judgmental sample of 10 percent of each set, looking at all permits in those categories with three or more extension or expiration actions, and a mix of those that had one or two actions. This created samples of 92 RS permits with 109 actions and 51 CO permits with 67 actions (143 total permits with 176 actions).

Through TRACS, BDS automatically extends building permits for 180 days after passing each inspection. In our review of the 176 actions, we found 59 RS actions and 58 CO actions that were not the result of approved inspection activity. The 59 RS and 58 CO actions were the result of manual processes where staff had to go into TRACS to make an extension.

Extensions

We found, on average, these permits were extended 1.2 times for RS permits and 1.3 times for CO permits. We found 180 days was the most common extension, although some other lengths of time were used on occasion, such as 60 or 45 days. It is unclear whether any extension requests in our sample were denied, because according to the Bureau, there is no process to document denials.

We found that when permits expired in TRACS, most were reactivated soon after. There were 19 RS and 31 CO reactivations in our sample. Of those, 15 RS reactivations (79 percent) and 25 CO reactivations (81 percent) were done within 30 days of expiring. RS reactivations occurred, on average, 21 days after they expired, and CO reactivations were an average of 18 days.

Our review did not include trade permits. During fieldwork, however, managers and staff told us that the Bureau decided not to let trade permits expire. This, in effect, means that the Bureau has given each trade permit an unlimited life.

Abandonment

We reviewed all cases where there was no activity for more than six months after a permit expired to determine if the permits were closed. City Code requires that permits are void six months after expiration. We found that of the 12 RS and six CO permits that met the six-month inactivity threshold, none of the permits were closed. All remained in inactive status and could be re-activated, despite regulations that require the project be resubmitted through plan review for a new permit.

Having a project go through plan review again has benefits and costs. It requires the project to comply with the most current building codes, which makes the project safer for the customer and the community. One staff member told us, however, that it may not make sense for a customer to go back through plan review, even if their permit is older than a couple of code cycles. It would overload the Bureau's work capacity, and the inspectors would have to address them at some point anyway.

BDS needs to reassess its policies and practices for extending and closing permits. The Bureau’s goal of getting projects through inspections is a good one, because it ultimately addresses the public’s safety and convenience. Making extensions easy helps that goal and promotes good customer service. However, BDS has to balance this approach. Permits should not have unlimited lives. BDS should follow City Code and close out permits that have been abandoned past a certain time threshold, and require the project to comply with newer, safer building codes. Re-evaluating these policies and consistently administering them would better help protect the public’s safety.

Customer requests are often not well documented, leaving gaps in information the public and City staff need

Portland City Code and BDS policy require that permit extensions or reactivations are requested in writing by the permit holder and the justification documented. Our comparison of the 59 RS and 58 CO actions to these requirements showed the following results:

Figure 3 Extension request documentation

Criteria	Residential extensions			Commercial extensions		
	Documented	Not Documented	Total	Documented	Not Documented	Total
Requestor identified	9 (15%)	50 (85%)	59	14 (24%)	44 (76%)	58
Extension request written	2 (3%)	57 (97%)	59	11 (19%)	47 (81%)	58
Justification documented	6 (10%)	53 (90%)	59	1 (2%)	57 (98%)	58

Source: Audit Services Analysis of BDS data

We found that documentation requirements in City Code and BDS policy are not often met. Only 15 percent of RS extension requests and 24 percent of CO requests had records in TRACS documenting the requestor. Only 3 percent of RS requests and 19 percent of CO requests had written extension requests. In addition, only 10 percent of RS requests and 2 percent of CO requests gave a reason for the extension request.

BDS managers told us that documenting the requests is not always done. If a letter was submitted they put it into TRACS. However, most communications occur over the phone. Details about the request, such as who requested the action, the date, and the justification are not frequently entered into the system.

The lack of information results in an incomplete history of the permit and creates a number of problems for the public and the Bureau. Without documentation, there is no record of which customer, such as the property owner or the project contractor, initiated the action or the reason behind it. This may be needed, for example, during a title search for property buyers or sellers. It would be needed by a new property owner to get a former owner or contractor to transfer building plans to the new owner, or to request that an old permit be closed. BDS noted that they have seen many real estate transactions fall through because there were expired permits on a piece of property.

The lack of information causes challenges for BDS as well. Solid information is needed by Bureau staff to determine who they need to contact about current work on the project. Without the information, time is potentially wasted trying to contact old sources and trying to figure out whether further work has been done on the project. Information gaps will also be problematic when the Bureau gets further along in its Information Technology Advancement Project (ITAP), and it has to convert the incomplete data from TRACS over to the new system.

Other jurisdictions have a number of ways they address extension requests. We reviewed the requirements of 15 other local governments. These included these Oregon cities and counties: Beaverton, Bend, Eugene, Gresham and Hillsboro, as well as Lane, Marion, and Washington Counties. We also reviewed some governments outside of Oregon including the cities of Anaheim, CA; Austin, TX; Bellingham, WA; Des Moines, IA; Kyle, TX; Manteca, CA; and Lake County, FL. The majority required that extension requests be in writing and have justification. Over half used a form for customers to request a permit extension.

Many extension requests lacked approval from a manager

BDS policies require that extensions be reviewed by the appropriate section manager. Our data review showed the following results:

Figure 4 Manager approval of extension requests

Category	Residential extensions			Commercial extensions		
	Approved by Manager	Approved by non-manager	Total	Approved by Manager	Approved by non-manager	Total
Extend 180 Days	1 (2%)	40 (98%)	41	16 (67%)	8 (33%)	24
Extend Manual	0	2	2	2 (22%)	4 (67%)	6
Reactivate permit	0	16	16	23 (82%)	5 (18%)	28
Total	1 (2%)	58 (98%)	59	41 (71%)	17 (29%)	58

Source: Audit Services Analysis of BDS data

Manager approvals were much higher for commercial building permit extensions than for residential extensions. Forty-one commercial extensions were approved by a manager (71 percent), but only one residential extension (2 percent) was approved by a manager. Our further research on residential permits showed that about a third of residential extensions (32 percent) were approved by senior inspectors, while the remainder (66 percent) were approved by administrative staff. During our audit work, the Residential Inspections manager told us that approvals by administrative staff have stopped. Delegation of approval authority to a Senior Inspector occurs when the manager is away from the office. Approvals are now performed by a manager or a Senior Inspector.

Manager approval of extension requests is necessary so that customers receive a decision from an authoritative source in the Bureau. It also helps the manager monitor the number of requests coming in, the types of permits needing extensions, and the reasons behind those requests so Bureau policy may be consistently applied. However, it would be reasonable that some degree of delegation would be in place during manager absences. If this works well for BDS, it should be reflected in their policies and the delegation documented.

Reminder letters may motivate customers but raise questions about different treatment and timeliness

BDS's practice to send reminder notices to some customers is a good practice to monitor a permit's progress. According to the Bureau, in late 2010 BDS started sending reminder notices to commercial and residential building permit holders when permits were within 30 days of expiration and when permits expired. Although these reminders are not legally required, managers and staff told us that their customer service effort helped projects stay in compliance and complete required inspections.

We found the success of the letters and the timing varied. For the 30-day letter, we found 61 percent of RS permits and 32 percent of CO permits were successful in getting the permit extended – whether by a successful inspection or an extension – within the expiration date in the 30-day reminder letter. We found the 30-day letters did not always give 30 days of notice, and some letters did not reach the recipients until after the stated expiration date. For the expiration letters, we found 49 percent of RS and 68 percent of CO permits were successful in getting the permit reactivated within 30 days after the expiration letter date.

The cost to send the reminders is modest. We estimated yearly costs for sending the reminders is about \$6,000 for labor, materials, and postage. This cost to keep a permit active and complete inspections in a timely manner may be lower than the cost of an expired permit that requires significant research time by an inspector later. There may be other options, however, the Bureau should explore to reduce their expenses. These might include sending postcards, rather than full letters, sending one letter rather than two when the permit holder and the property owner are the same person, and looking into how reminders could be more automated.

Currently, the notices only go to customers with building permits, which may raise questions about different treatment. Notices do not go to trade permit holders, although many building permits have trade permits associated with the projects. Staff explained this was

While the letters may be useful tools, we found they are not always timely and enforcement sometimes lags. Some letters we reviewed, for example, had their 30-day reminder letter sent after the permit's listed expiration date. This makes the reminder ineffective.

We also found permits did not always expire on the expiration date identified in the reminder letters. For example, one of the RS permits we reviewed had a four-month gap between the expiration date in the expiration letter and when the permit expired in TRACS. Until the permit is expired in the database, the permit is still active. Inspections could be requested and processed, even if the expiration letter stated the permit expired and work done after the expiration date would be illegal. Significant lags between expiration letter dates and the actual expiration dates in the database were not uncommon and could undermine any urgency by the customer to contact the Bureau.

BDS policies do not consistently enforce permit extension and renewal regulations

Some BDS policies are more flexible than state regulations or City Code allow

BDS policies for extending and renewing permits are based on interpretation of various sections of City Code. City Code sections 24.10.070, 26.04.080, and 25.05.050 prescribe the requirements customers must meet to get a permit extended, the length of extension allowed, the approval needed, and how long a permit may be expired before it is not able to be renewed. City Code is based on the State of Oregon's regulations, administered by the Oregon Department of Consumer and Business Services, Building Codes Division.

We reviewed state regulations, City Code, and BDS policies in their Program Guide. We found that the Program Guide often provides more latitude than the state regulations and City Code allow in three areas. These are noted in the table:

Figure 3 Comparison of State regulations, City Code and BDS policies

Criteria	State Regulations	Portland City Code	BDS Program Guide	Code and Program Guide aligned?
Permit life and automatic extensions				
Permit life from issuance	180 days	180 days	180 days	Yes
Automatic extension given with an approved inspection	Not specifically addressed	Yes (180 days)	Yes (180 days)	Yes
Permit renewal threshold	Invalid after expiration	No renewal if permit is expired more than 6 months.	General rule is to not extend permits older than two code cycles. (1)	No
Non-automatic extensions requested				
Number of non-automatic extensions allowed	Multiple for building permits. Once for trade permits	One	Multiple	No
Extension period	180 days	180 days	90 days for Commercial permits and 180 days for Residential	Partially
Form of extension request	Written	Written	Written (implied)	Yes
Request deadline	Before expiration	Before expiration	Unclear	No
Justifiable cause shown for inactivity	Yes	Yes	Yes	Yes
Person authorized to extend or cancel permits	The building official	The building official and Director	The building official	Yes

Source: Audit Services analysis of state regulations, City Code, and BDS policies

¹ A code cycle is the period of time between when new building and trade codes are issued and when they are eventually revised and issued again.

The BDS Program Guide generally reflects state regulations and City Code, except regarding the permit renewal threshold, the number of extensions, and the request deadline. The Code allows only one extension, and no permit may be renewed if has been expired (been inactive) over 6 months. The Program Guide allows for multiple extensions (similar to state regulations), although the general rule is to not extend permits if they are older than two code cycles. A code cycle is the period of time between when new building and trade codes are issued and when they are eventually revised and issued again. According to the Bureau, a cycle is normally three years. City Code states that an extension may be granted for 180 days. The Program Guide gives the same extension length for residential permits, but only 90 days for commercial permits.

The Bureau Program Guide gives more flexibility to help lagging projects get through the inspection process. According to the Bureau, each permit's unique situation is taken into consideration. While the approach promotes customer service, it has the potential to create inconsistencies from permit to permit. It also allows projects to remain inactive for long periods of time, and can take staff resources away from other BDS customers.

Recommendations

We found that City Code, BDS policies, and Bureau practices are not aligned. Improvement in these areas will help the Bureau better achieve their program objectives. We recommend the Commissioner-in-Charge, though the Bureau of Development Services, take the following steps:

- 1. Document any delegations of authority to approve permit extensions or reactivations.**

If a manager gives a staff member authority to approve extensions in their place, that decision should be documented, the authority should be limited to one or two senior staff, and should only apply to the first extension.

2. BDS should consider other options and improvements for reminding customers of current or up coming permit expirations.

Reminder notices are an effort toward good customer service, but the reminders are not sent to all permit holders and are not always timely. BDS should consider whether all permit holders should receive notifications, improve coordination of when reminders are sent out and when permits are expired, and consider options to reduce expenses.

3. Update the City Code, the BDS Program Guide, and BDS practices so that all align and apply regulations consistently.

- The total number of extensions allowed and the threshold for when a permit may not be renewed should be clear and consistently applied. BDS should propose revisions to various City regulations to what best serves public safety as well as a balanced customer-service approach. These policies should be clearly stated on issued permits.
- All non-automatic extension requests should be from permit holders, and the Bureau should enforce its policies. Requests should be written and have justification.

Objective, scope and methodology

The objective of this audit was to assess BDS management oversight for permits expiring after issuance, specifically how the Bureau notifies customers and enforces expired permits. We reviewed commercial and residential building permits, focusing primarily on permits whose extension requests were not automatic extensions due to an approved inspection. The audit does not address extensions during the plan review phase of the development process.

We evaluated BDS' current practices by sampling data in the BDS database, TRACS, against City Code provisions and Bureau Program Guides to determine the alignment between the three. We reviewed data for residential and commercial building permits issued between

January 1, 2012 and June 30, 2013 where there was extension or expiration activity. We compared extension request documentation in TRACS against code and policy requirements. We reviewed whether managers approved requests for permit extensions. We reviewed information from the database to identify performance information for those permits with extension or expiration activity, such as how frequently extensions were given and the amount of time between permit issuance and expiration or final permit approval.

We interviewed management and staff in BDS to gain an understanding of the permitting and inspection process. We also observed BDS Commercial and Residential Inspectors in the field performing inspection work. We reviewed city codes and policies from other jurisdictions to determine the requirements and tools they use to document extension requests.

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.

RESPONSES TO THE AUDIT



CITY OF
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March 20, 2014

To: LaVonne Griffin-Valade, City Auditor

From: Amanda Fritz, Commissioner *Amanda Fritz*
Commissioner of Public Utilities

Paul L. Scarlett, Director *PLS*
Bureau of Development Services

Cc: Tom Bizeau, Dora Perry, Deborah Sievert Morris, Doug Morgan, Drummond Kahn,
Kristine Adams-Wannberg, Robert Cowan

Subject: Response to Audit regarding Bureau of Development Services' Permit
Extension/Expiration

Thank you for the opportunity to comment on the March 2014 audit of the Bureau of Development Services' (BDS) permit extension and expiration processes, *Building Permits: Extension practices inconsistent; documentation lacking*. The audit was undertaken to assess whether practices were effective in administering and overseeing permits expiring after issuance. This was the second of two audits. The first audit addressed oversight and management practices in the residential and commercial inspection sections.

We appreciate that the audit recognizes the important role of BDS and building permits in ensuring building safety and neighborhood livability. We also appreciate the acknowledgment that situations arise where permits need to be extended, whether for financial, scheduling, or other conditions, as some of these conditions were particularly acute during the recent recession. While BDS strives to meet the needs of our permit customers, ensuring the safety of permitted work is our first priority.

BDS generally agrees with the audit recommendations and, in fact, had begun work on several of the identified issues prior to the initiation of the audit. The Bureau is in the process of implementing a new permit management system – currently known as the Information Technology Advancement Project (ITAP) – and had identified several of the audit findings for consideration in the new system.

We offer the following observations and comments regarding some of the specific areas discussed in the audit:

- **Expired Permits:** The audit suggestion to “void” permits expired for more than six months as a means to clarify the threshold when a permit can no longer be reactivated is being evaluated by the ITAP team for possible inclusion in the new permit management system.

- **Permit Extension Documentation:** We agree that permit extension requests and decisions should be documented as discussed on pages 7 and 8. The audit notes that many of the jurisdictions surveyed by the audit team require a form to request an extension. BDS is researching this approach and is developing a form to document both the extension request and the approval or denial of the request. We also plan to evaluate whether the extension request and approval/denial process can be further automated through the new permit management system.
- **Permit Extension Approval:** The audit recommends that permit extensions be approved by a manager (page 9). We agree that permit extension approvals should come from an authoritative source. However, we disagree that the authoritative source needs to be a manager in all cases. As noted in the audit, requests for extensions are numerous. Some delegation of extension authority, with appropriate limits, to Senior Inspection staff is prudent to ensure that requests are processed in a timely manner. We are in the process of updating and documenting standard operating procedures, as suggested in the recommendations of the first audit. We will be sure to clarify which positions have authority to extend permits, the limits of each position's authority, and the process by which delegations of authority are to be documented.
- **Permit Expiration Reminder:** Permit expiration reminder notices provide a valuable service to our customers. We agree that the reminder notices must be timely to be most effective (page 10). In fact, the need to automate what is currently a staff intensive process has been identified through the ITAP as a design requirement for the new permit management system. In the meantime, we are adding staff resources to support the notification process and will closely review and monitor the timeliness of the reminder notices.
- **Policies:** Maintaining and communicating clear policies that are consistent with City and State regulations is essential. The audit comments regarding the BDS Program Guide, City regulations, and State regulations are an important finding (page 12). We will conduct a review of BDS policies and the corresponding City and State regulations. A technical review team will evaluate and recommend changes to bring these policies and codes into alignment where necessary.

The Bureau of Development Services is committed to providing the highest level of services to neighborhoods, permit applicants, the development industry, and Portland's residents. We appreciate the thoughtful review by the Audit Division staff and the perspective it provides.

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*Building Permits: Extension practices inconsistent;
documentation lacking*

Report #420B, April 2014

Audit Team: Kristine Adams-Wannberg, Janice Richards,
Martha Prinz

This report is intended to promote the best possible management of public resources. This and other audit reports produced by the Audit Services Division are available for viewing on the web at: www.portlandoregon.gov/auditor/auditservices. Printed copies can be obtained by contacting the Audit Services Division.

LaVonne Griffin-Valade, City Auditor
Drummond Kahn, Director of Audit Services

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