

FRAUD HOTLINE REPORT:
City's repeated installation of
curb ramps was inefficient
and wasteful

November 2023



SUMMARY

The Auditor's Office found evidence of waste and inefficiency in project management stemming from unclear responsibilities and miscommunication throughout a curb replacement project.

TIP TO THE FRAUD HOTLINE

A May 2022 tip raised concerns about the City's installation of curb ramps at the corner of SW 16th Avenue and SW Spring Street. The tip alleged waste because the tipster and other neighbors noticed the project was taking a long time to complete and workers were repeatedly pouring and ripping out concrete in the process of constructing the ramps. The sidewalk was under construction from at least June 2021 until August 2022.

BACKGROUND

The Bureau of Environmental Services oversaw the installation of this set of curb ramps as part of the Goose Hollow Sewer Repair Project. The project involved repairing and replacing aging sewer pipes throughout the Goose Hollow and Southwest Hills neighborhoods. City Council authorized the sewer work in 2020 to protect the public and the environment by reducing the possibility of sewage releases to homes, businesses, and streets.

The sewer work triggered a requirement to upgrade sidewalks with American with Disability Act-compliant curb ramps. That requirement was part of a City settlement with residents with disabilities who alleged the City violated federal disability law by not making sidewalks accessible.

Environmental Services was responsible for installing the ramps and the Bureau of Transportation provided design, inspection, and other services. Transportation inspected the ramps in two phases: first for general conformance to specifications and then a second time by a specialized group for compliance with more narrowly-defined Americans with Disabilities Act standards. Environmental Services hired a contractor to help complete the construction work.

INVESTIGATION FINDINGS

We found evidence of waste and inefficiency in project management

The contract for the entire Goose Hollow Sewer Repair Project at the time of the contractor's bid was set to cost \$6 million and take 400 days, or approximately 13 months, to complete. This single corner took at least 14 months to complete. We couldn't estimate the cost of the corner because the City did not keep detailed enough records. An Environmental Services project log tracking work on the corner that covered the bulk of the project period included entries that reflected communication issues between the City and contractors. Interviews with staff and managers from Environmental Services and Transportation confirmed that work on the corner did not go as smoothly as planned.

Contractor was paid for non-compliant work

The first curb ramp installation we received records for was completed in August 2021, but we couldn't make a definitive conclusion about a start date because of incomplete records. For example, when we asked about a more precise timeline that covered the entire project period, Environmental Services told us it was their understanding that the timeline they provided us included information from before the last project manager took over, but that did not appear to be the case. Environmental Services also did not have records that showed when the initial design was completed.

In October 2021, Transportation determined the contractor did not follow the design, but Environmental Service paid the contractor anyway because they later determined that even if the curbs had been installed as the plan directed them to do, they would not have met Americans with Disability Act requirements. Better coordination with Transportation could have prevented concrete being poured using a non-compliant plan.

According to photos from a local newsletter, an earlier concrete pour took place in June 2021, and those ramps were removed in July 2021. The Environmental Services work log did not cover that period of time because the contract manager for the project changed.

After several months of inactivity, and two more designs, Transportation determined curb ramps installed in June 2022 were also not poured per design. Environmental Services said that the contractor tried to make field adjustments and design revisions in collaboration with Transportation, but the ramps still did not pass inspection for Americans with Disability Act requirements.

The final curb installation we received records for was in July 2022, and Transportation determined those curb ramps were installed correctly in August 2022.

Although it is difficult to estimate project costs for a small portion of a large project because costs and other information are not broken out with that level of detail, Environmental Services records show the Bureau paid the contractor for three ramp installations. Environmental Services said their policy is to only pay for conforming work, but they did not document their reasons for deciding to pay for non-conforming work, even though it was counter to their own policy. According to an Environmental Services manager, in the Bureau’s view, that was the most equitable, or fairest, approach but the Bureau did not further specify what they meant by that.

It took the City several tries to make one corner accessible to people with disabilities.

When was it poured?	June 2021	August 2021	June 2022	July 2022
Did it pass design review & inspection?	✘	✘	✘	✔
Was the contractor paid?	?	\$	\$	\$

Source: Audit Services’ analysis of information received from Bureau of Environmental Services and Bureau of Transportation

Paying the contractor for unsuccessful installations was wasteful, but true project costs were even higher because they included City staff emails, phone calls, meetings in the field, and other staff time.

The Environmental Services log showed a lot of staff time spent on the corner where the ramps were constructed. There were also environmental and financial costs from the wasted materials used in the failed concrete pours and other construction work performed at the job site, such as steel rebar and wooden building forms.

Unclear responsibilities and miscommunication throughout the project added delays

- Contractors were confused about what could be fixed on site and what could not, or how to approach issues that arose, despite strict Americans with Disability Act standards For example, on one occasion, Transportation was at the job site on a consulting basis, but the contractor thought their advice constituted an inspection and poured concrete for a curb ramp when they did not actually have approval from Transportation to do so. Better coordinated oversight from the City could have helped.

- Environmental Services does not have a long track record managing contracts for this type of work. The collaboration, oversight, and inspection process was not well-coordinated between Environmental Services, Transportation, and contractors, as seen in the project log we reviewed. For example, it was not clear from the log that the contractor had a lot of interaction with Environmental Services as things kept going wrong throughout the project. Also based on the log, it was not evident that that the prime contractor kept a close eye on the work of the subcontractor.
- The first two ramp designs we received information for were completed by an Environmental Services consultant, but the consultant was not always available to come to the job site. Having the consultant on site might have helped to address issues with the design. According to Transportation, the project design that ultimately passed inspection was completed by one of their engineers, who was able to visit the site.
- A subcontractor was absent from the job site for several months. Environmental Services described some of this absence as standard practice during the winter months, but the length of the absence extended beyond the typical season. Environmental Services provided no other explanation for the subcontractor's extended absence.

Outside factors increased risk, underlining the importance of stronger controls for these kinds of projects.

- The contractor may not have provided the appropriate level of supervision to a subcontractor who worked on the project and was new to this type of work. Both Environmental Services and Transportation stressed to us that it is up to the contractor to supervise their subcontractor, including being available on site as needed to give advice.
- The project terrain is sloped on both sides, which added complexity.
- Environmental Services told us staffing shortages and staff turnover were a factor, noting the COVID-19 pandemic as one cause of staffing challenges.



OUR RECOMMENDATIONS

While construction projects can go awry for many reasons, it is essential that the City make every effort to efficiently use public resources, especially when the work involves making the City more accessible for people with disabilities. Providing closer oversight of projects would help ensure shorter timelines and less waste. And when bureaus do not adhere to what they say is standard practice, they should do so with greater transparency, so that their reasons for not doing so are clear to policy makers and the public.

1. Environmental Services should develop a process for closer oversight of Americans with Disability Act ramp construction projects that includes an emphasis on avoiding cost and schedule overruns and better-defined roles and responsibilities between Bureaus and with contractors. It is especially important that this work be done correctly and in a timely manner given the importance of serving Portlanders with disabilities and complying with federal disability law.
2. Environmental Services should develop criteria for when it is allowed to diverge from its stated practice of only paying for work that meets its standards, including a requirement to document the rationale for those decisions.

RESPONSE FROM THE BUREAU

The Bureau of Environmental Services responded to the investigation with a statement agreeing with our recommendations and providing additional context. Our report and their statement are available on our website at www.portland.gov/audit-services/news.

ABOUT PORTLAND'S FRAUD HOTLINE

The Auditor's Office administers the Fraud Hotline to enable the public and City employees to confidentially report suspected fraud, waste and abuse of position by or against the City. The Hotline also serves to identify and prevent losses of City funds and act as a deterrent to fraud, waste and abuse of position. Hotline tips can be submitted online at www.PortlandFraudHotline.com or by phone by calling 866-342-4148.

When the Auditor's Office finds waste, inefficiency or abuse of position via the Hotline, it is required by law to notify the Portland City Council of the findings. This report, which is delivered to the City's mayor and commissioners, serves as that notice. It is also released publicly to inform about substantiated Hotline tips.