



CITY OF
PORTLAND, OREGON

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July 9, 1996

TO: Mayor Vera Katz
Commissioner Charlie Hales
Commissioner Gretchen Miller Kafoury
Commissioner Mike Lindberg
Charles Jordan, Superintendent of Parks & Recreation

FROM: Barbara Clark, CPA, City Auditor *BC*

SUBJECT: Audit of Golf Concessionaire Selection Process

This letter report covers our review of the process followed by the Bureau of Parks and Recreation to select independent contract concessionaires to operate the City's golf courses. Besides being part of the Audit Services Division's 1995-96 audit schedule, it was also conducted because of the controversy and lawsuits stemming from the selection of a concessionaire for the Heron Lakes Golf Course in 1992. We conducted our audit according to generally accepted government auditing standards. A written response from Parks & Recreation Superintendent Charles Jordan is at the back of the report.

Summary

Our review showed that since 1988, the Parks Bureau has used a golf course concessionaire selection process that treats applicants fairly. However, we found the Bureau could improve and strengthen the selection process by 1) soliciting proposals earlier and from a wider geographic area, 2) clarifying the scoring criteria to be used and the basis of contract award, 3) providing more detailed written instructions to the Selection Advisory Committee, and 4) documenting the selection process more completely.

Background

Beginning with Eastmoreland Golf Course in 1923, the Parks Bureau both operated and maintained City golf courses and clubhouse facilities. In the early years, the Bureau contracted with private vendors to provide food and restaurant services. As more courses were built, private golf pros were hired to operate the driving ranges and give golf lessons. Later, the pros were also given responsibility over clubhouse operations and collection of greens fees for the City. By the late 1950s each City course was operated by private concessionaires contracted by the Bureau. The Parks Bureau continued to maintain golf course grounds and, except for Progress Downs, buildings. Concessionaires managed restaurant, pro shop, and driving range operations, tee time reservations and fee collection.

With the transition to contract concessionaires came the need for more control over their selection. Because third party contractors were representing the City to the golfing public, the Bureau was interested in maintaining a positive public image. To ensure this the Council revised the City Code in 1988 to allow a selection process for golf concessionaires that gives equal weight to financial return to the City and to dealing with the public in a way which reflects favorably on the Bureau. The change effectively redefined golf concessionaire contracts as personal service contracts and established procedures, as required by Oregon law, for selecting proposers.

Oregon law exempts personal services contracts from the low bid requirements normally applicable to contracts for goods and/or services. As a result, a personal services contract can be awarded to a qualified candidate who may not have the best or lowest bid, but who possesses qualities that a contracting entity deems more important. The City Council, acting as the City's Contract Review Board, has declared contracts for professional, technical, and expert services, as well as golf concessions, to be personal services contracts.

Objectives, Scope, and Methodology

Our objectives were to answer the following questions about the process followed by the Parks Bureau to select golf course concessionaires: 1) Does the process promote competition among the greatest number of qualified candidates? 2) Does the request for proposal (RFP) clearly state the factors by which candidates will be evaluated and that the contract is for personal services rather than professional services? 3) Does the process result in a fair and unbiased evaluation of qualified proposers?

Because of the change to the City Code in 1988, we limited our review to the two most recent concessionaire contracts awarded: Heron Lakes in 1992 and Rose City in 1993. As part of our scope, we interviewed the Golf Manager and the Parks Bureau Director of Enterprise operations. We also reviewed the Request For Proposals (RFPs) and other documents and records relating to the selection processes. Because the Heron Lakes contract award was the subject of a lawsuit, we also reviewed sworn depositions taken in 1992 from proposers, members of the Selection Advisory Committee, and Parks Bureau staff. In addition, we researched the history of each of the golf courses and related concessionaires to learn when and how the courses were obtained and when contract concessionaires were first used. This history was not readily available and is provided as additional information in the attached Appendix.

Audit Results

1. Does the process promote competition among the greatest number of qualified candidates?

The process attracts a sufficient number of candidates. However, competition could be enhanced by soliciting a greater number of qualified candidates. For the Heron Lakes contract in 1992, 12 RFPs were sent to potential concessionaires. However, four of the 12 went to existing City golf concessionaires, six went to Portland residents, and only two went to out-of-state candidates. The Selection Advisory Committee interviewed four candidates - all from the Portland area and two were existing City golf course concessionaires. One of the existing concessionaires was awarded the contract.

The Rose City concessionaire selection process was initiated in 1992 and 14 RFPs were sent to potential concessionaires. One went to an existing City golf concessionaire, one to a golf concessionaire employee, 11 were sent to Portland-area residents, and only one went to an out-of-state candidate. The process was terminated because of a threat of lawsuit, then restarted and completed in 1993. This start/stop/start seemed to reduce the number of candidates. In 1993, only six candidates were sent RFPs, attended the pre-bid conference, and submitted proposals. All six proposers were from the Portland metropolitan area and one was an employee of the Eastmoreland Golf Course concessionaire. The Eastmoreland employee was awarded the contract.

The method used to solicit proposals appears to limit competition to the immediate tri-county area. In both cases, RFPs were sent to candidates based on a list of names developed by the Bureau's Director of Enterprise Operations. Additionally, proposals were solicited by advertising for a single day in the City's official newspaper - The Daily Journal of Commerce. Consequently, all of the proposers on the 1992 Heron Lakes and 1993 Rose City contracts were from the Portland metropolitan area. While a single publication in the Daily Journal of Commerce meets the contracting law's minimum notice requirement, we question whether the Journal is widely read by those in the golf industry.

We believe greater competition may produce lower costs and better service. Publishing longer-running advertisements in golf industry trade publications and searching for qualified candidates outside the region may increase the number of qualified competitors.

2. *Does the request for proposal (RFP) clearly state the factors by which proposers will be evaluated and that the contract is for personal services rather than professional services?* In each case the criteria for proposer qualification and Parks Bureau goals were clearly stated in the body of the RFPs. The selection process was also fully described. However, none of the RFPs clearly stated that the contract was a personal services contract to alert candidates that other factors may be more important than a financial return to the City. The 1992 Heron Lakes RFP Contract Objectives stated: *"The goals of this contract will be to maximize the revenue potential of the Heron Lakes Golf Course, while at the same time maximizing the potential of the Heron Lakes Golf Course as a public service. The Park Bureau must be well represented to the public by the Concessionaire."* By putting service first, the contract objectives of the 1992 and 1993 Rose City RFPs were somewhat better: *"The goal of this contract will be to maximize the potential of the Rose City Golf Course as a service to the public. A secondary objective will be to maximize the revenue potential of the Rose City Golf Course. Portland Parks and Recreation must be well represented to the public by the Concessionaire."*

Similarly, paragraph 8, Basis of Award in Appendix C (Instructions to Proposers) of the 1992 Heron Lakes RFP (and 1992 and 1993 Rose City RFPs) merely stated in part that: *"The award will be made by the City Council to the responsible bidder submitting the most advantageous bid (proposal) to the City. In determining such bidder (proposer), the City will take into account among other factors, the bidder's (proposer's) qualifications to operate concession at Heron Lakes (Rose City) Golf Course."*

However, the Heron Lakes RFP Appendix C contained paragraph 9 that was even more vague: *"The bidder's attention is called to the requirements of Oregon Revised Statutes 279 and to the provisions of the Code and Character [sic] of the City of Portland, Oregon with reference to public contracts and bidding."* The majority of ORS 279 as well as City Code Section 5.32.070 relating to golf concessionaires do not refer to personal services contracts. City Charter and Code deal primarily with awarding contracts to the lowest bidder. The wording used would not lead a proposer to infer that this was a personal services contract or that ORS 279.051, Personal Services Contracts; Procedures, provided the basis for the change to City Code Section 5.32.070 governing the selection process. Had the RFP been more clear, the City may have avoided the extensive litigation that followed the Heron Lakes contract award. Paragraph 9 was deleted from Appendix C in the 1992 and 1993 Rose City RFPs.

3. *Does the process result in a fair and unbiased evaluation of qualified proposers?*

The process followed by the Parks Bureau was, in our opinion, fair because it was the same for all proposers. The Bureau printed, advertised, and distributed a written RFP. The Parks Bureau's Director of Enterprise Operations held pre-bid conferences at the golf course clubhouses. The Superintendent of Parks appointed Selection Advisory Committees to review proposals and interview potential concessionaires. The Committees interviewed qualified proposers, deliberated, reached a consensus as to the best proposer, and forwarded their recommendations to the Superintendent of Parks. The Superintendent, considered the Committees' recommendations and forwarded his recommendations to the Commissioner in Charge for final approval and permission by the Council to enter into contracts.

However, the Selection Advisory Committees were not given a written explanation of their roles, and the selection process. Our review of the depositions of Heron Lakes Selection Advisory Committee members disclosed that there was some uncertainty among the Committee on how the process would proceed and be conducted. The lack of clear instructions to the Committee could lead to errors in the scoring process, or biases from other Committee members or Parks Bureau staff.

In addition, more detailed records of the Selection Advisory Committee's proceedings, final scoring, and deliberations toward a consensus should be created. For the Heron Lakes concessionaire, only an agenda, blank scoring forms, and handwritten notes by a member of the City's Purchasing Bureau were retained. Neither the interviews, the deliberations of the Committee, nor the scores given to each of the proposers were recorded or maintained for the official record. Fortunately, the sworn depositions given

by members of the Committee and Parks Bureau staff in conjunction with the lawsuit, supported the Committee's recommendation. For the Rose City concessionaire, individual scoring sheets were retained; however, neither a summary total of the scores nor any records of the interviews with proposers or the Committee's deliberations were found. Although the total scores supported the Committee's recommendation, there was nothing to support a different recommendation had one been made. The lack of adequate records makes it harder to conclude that the process set forth in the RFPs was followed consistently and without bias for or against any one proposer. Had adequate records of the Committee's selection of the Heron Lakes concessionaire been maintained, it is very possible that the lawsuit could have been resolved more quickly and at less cost to the City and to members of the Selection Advisory Committee.

Recommendations

To strengthen the process for selecting golf concessionaires, we recommend the following:

- 1. In addition to the Daily Journal of Commerce notice, the Bureau should also advertise the contract opening in national golf professional or golf trade journals.**

The ad should run several months before the RFP is distributed and instruct interested parties to call or write the Director of Enterprise Operations to be put on a list of potential proposers and recipients of the RFP. Sufficient time should then be built into the process to allow out-of-area proposers to respond and participate.

- 2. The RFP, and Appendix C - Instructions to Proposers, should clearly state the goals of the Bureau and that qualitative factors will take precedence over any fee proposal.**

Although the RFP lists the four criteria and the scores assigned to each, more detailed explanations should be provided for the four criteria. This would help both the candidates in preparing their proposals, and the Selection Advisory Committee in scoring them. Also, there should be no doubt in a reader's mind that this will be a personal services contract as provided by ORS 279.051 and that it may not be awarded to the candidate with the most advantageous financial proposal.

- 3. To insure an unbiased selection process, the Superintendent of Parks should issue specific instructions to each member of the Selection Advisory Committee.**

These instructions should state that a) each qualified proposer is to have an equal opportunity to win, b) each proposal is to be scored on the basis of each of the criteria set forth in the RFP, c) the combined scores from each Committee member will be added to determine an overall score, and d) the Committee will include the overall scores from each proposer in their written recommendation to the Superintendent. If the Committee recommends a proposer whose score is not the highest, then a full description of their reasons should be included in their written recommendation to the Superintendent.

4. *The deliberations of the Committee and the interviews with each of the proposers should be documented.*

We suggest that any questions to be asked of each proposer be: a) developed prior to the interviews, b) in writing, and c) assigned to various Committee members to be asked of each proposer consistently. Because of the controversy surrounding these contracts in the past, we suggest that proposer interviews be tape recorded. Committee deliberations need not be taped; however, any comments or concerns expressed by any of the Committee members about any of the proposers should be noted in writing. Scoring sheets should be used and the scores given to proposers by each Committee member should be totaled. In the unlikely event that the Committee decides that a proposer with the highest total score should not be awarded the contract, their reasons should be clearly stated in their written recommendation to the Superintendent of Parks. All selection process documentation should be retained separately for each course until the contract comes up for renewal and another selection process is completed.

Eastmoreland Golf Course

Eastmoreland is a par 72, 6,529-yard, 18-hole, championship golf course built on 163 picturesque acres in the heart of Portland. It encompasses Portland's Rhododendron Test Gardens and the 10 acre Crystal Springs Lake. Portland municipal golf began on July 5, 1916 when the City Council accepted an offer from the Ladd Estate Company to lease 152 acres to the City rent-free for five years for the purpose of developing a public golf course. The course was designed by national amateur champion H. Chandler Egan. The first 9 holes opened for play on July 4, 1918. The Ladd Estate Company also donated a real estate tract office to use as a caddy shack, plus a half block of residential lots on which to build a clubhouse. The first clubhouse was built at a cost of \$26,000 financed by personal notes that were repaid from greens fees. By 1921, all 18 holes were completed.

At the end of the lease, the City bought the land on which the first nine holes were built for \$54,300 cash and assumption of approximately \$13,200 in rebonded liens. In 1922, the Ladd Estate Company extended the lease on the remaining land until December 31, 1923 on the assurance that the City would buy it for \$95,000. The City included the purchase in its budget; however, the chairman of the newly formed Tax Conservation Commission did not approve of spending public money on "supervised playgrounds" and vetoed the City's tax levy. To get around this, the City exercised a little-used Charter section (since repealed) that authorized the City to "issue and sell interest bearing public utility certificates for the construction or acquisition by purchase, condemnation, or otherwise of any public utility to be operated within the city." Eastmoreland Golf Course was declared a public utility and the Ladd Estate Company accepted public utility certificates as payment. The Ladd Estate Company later funded a test in the Oregon Supreme Court that affirmed that golf links were public utilities within the meaning of the law.

The City later bought 11 more acres from the Willsburg Dairy for \$18,000; rebuilt the 3rd, 4th, and 5th holes, and irrigated all the fairways. In 1933 and again in 1990, Eastmoreland was host to the National Amateur Public Links Championship.

Because the City did not officially take over operation of the Eastmoreland Golf Course

until 1923, a private trusteeship was formed to operate the course and concessions. On February 1, 1923, the trustees turned operation of the course over to the City's Park Bureau. Also, in February 1923, the City advertised for clubhouse concessionaire proposals and C.M. Gregory was awarded the contract. The Parks Bureau continued to operate the course and collect greens fees and various individuals were awarded clubhouse and food service concession contracts until November 1943 when the clubhouse concessionaire's duties were expanded to include collecting of greens fees. A driving range was added to the course in the early 1950's and David Killen, golf pro, became the first operator. Various contractors continued to operate the restaurant, clubhouse (pro shop and merchandise) and driving range until May 1970 when David Glenn Lee was given a 5-year contract to operate all facilities. His contract was extended until 1975, when the Cumpston Brothers were awarded the contract. They have been serving the City and the Eastmoreland golfer ever since. Their current contract expires December 31, 1998.

Rose City Golf Course

Rose City Golf Course is a 72 par, 6,520-yard, 18-hole golf course situated in Northeast Portland. It is Portland's second oldest course and began life as the dream of A.H. "Jay" Gould, a resident of Rose City. Jay played his very first round of golf at Eastmoreland in 1921 and upon his return home, looked around for a suitable place to hit golf balls. The Rose City Speedway was only a short distance from his home so he got permission from the City to use the Speedway infield as a makeshift 9-hole golf course. The course was very rough - the grass was burned so golf balls could be found (play had to stop when the weeds got too high), packing crates served as tee boxes, tin cans served as cups, and steel rods with rags tied on top became flags. The biggest hazard was the wreck of two steam engines that were left over from an American Legion head-on collision extravaganza earlier in the summer. The wreck partially blocked the seventh green.

After much organization, beginning with the formation of the Rose City Golf Association, and fund raising, work began on a formal 9-hole course in the spring of 1922. The winter of 1922-23 washed out the bridge at the west end of the track putting an end to the motorcycle races. In the spring of 1923, when over 800 golfers played in one day, the City took over the course completely and Allen Lee Longstaff was contracted as the first concessionaire.

Play became very congested so as soon as funds became available, the City exercised options and condemnation to obtain another 65 acres and began construction of a second nine holes. The first clubhouse was built in 1926 and the second nine opened August 31, 1927. Jay Gould drove the first ball - his dream fulfilled.

Also in 1927, Mrs. Hilda Lees was awarded the contract for food service. The food service concession changed hands several more times until 1931 when Ms. Bernadine Grabel was awarded a contract she kept it until 1941 when she transferred it to Ms. Bonnie Young.

In 1953, the clubhouse underwent extensive remodeling and Roger K. Putnam was awarded the concession contract. Two years later, Melvin Stonebrink and Eugene Frank

were awarded a 5-year contract with an option to renew for another 5 years. During the ten years that followed, the concession changed hands many times and the clubhouse was again remodeled in 1962-63. Finally, Thomas A. Liljeholm took over the contract from Kenneth B. Long on November 1, 1963. Liljeholm's contract was later renewed and extended until 1970. In 1970, Liljeholm was awarded the first personal services concessionaire contract. It covered five years and was awarded without competitive bidding but based on the Golf Advisory Committee's recommendation. In 1975, Byron Wood competed and won a 30-month personal services contract that was later extended to December 31, 1984. Byron and his company, Byron Wood Golf Shops, Inc., continued to win personal services concession contracts until January 1, 1994 when Hank Childs presented the best proposal and was awarded a 5-year contract expiring on December 31, 1998.

Progress Downs Golf Course

Progress Downs Golf Course is a 71 par, 6,149-yard, 18-hole golf course located eight blocks from the Washington Square shopping center. It was born out of a need to replace the former West Hills Golf Course that was donated as the site for the new Washington Park Zoo. In July 1954, A.D. Newman & Co., Realtors, brought an offer to the City for 103 acres. The Council authorized purchase of the property at an average price of \$1,250 per acre (\$128,750). Later that year, the City bought another 66.1 acres for approximately \$82,080 to complete the site.

The course opened for play in 1965 with Elmer P. Hanegan as the first concessionaire. After building the course, the City lacked funds to construct a first class clubhouse and restaurant. So the City contracted with a third party to construct the facilities in exchange for a long-term lease and concessionaire rights. In 1972, the City signed a 50-year lease for 3/4 acre of land adjacent to Progress Downs Golf Course, including concession rights, with Par-4 Corporation. In return, Par-4 was to remove existing buildings, construct a new clubhouse, restaurant, and driving range, and operate the facilities as concessionaire. Par-4 Corporation operated Progress Downs until November 1, 1985 when it was sold. At the time of the sale, Par-4's additional rental payments to the City exceeded its operating costs.

After the sale, Par-4 Corporation was renamed Double Eagle Golf, Inc. As part of the sale, the City allowed Double Eagle to use some \$359,000 of additional rental payments over costs, incurred during the years ended September 30, 1973 through 1981, as a credit against future additional rental payments due the City. This gave Double Eagle time to turn the facility into a profitable enterprise. The credits were used up by 1990.

Heron Lakes Golf Course

Heron Lakes Golf Course at West Delta Park (formerly West Delta Golf Course) has two 72-par, 18-hole, championship courses located in North Portland in the old Vanport Flood Area. The first 18-hole course, later named The Greenback, was designed by Robert Trent Jones, Jr. This 6,608-yard course opened in 1971 and was the scene of the 1979 U.S.G.A. Public Links Championship. A temporary clubhouse was also completed in 1971 and Joseph C. Player was awarded the first golf concessionaire contract. His contract was renewed and extended until December 31, 1985.

In 1985, Robert Trent Jones, Jr. was again called upon to design the first nine holes of what was later to be named "The Great Blue" course. In that same year, Byron Wood Enterprises, Inc. was awarded a contract to construct a permanent clubhouse and operate the golf concession in an arrangement similar to Progress Downs. Flood plain restrictions prevented construction of a new clubhouse; however, Byron Wood Enterprises, Inc. continued to operate the golf concession. The first nine holes of the Great Blue opened for play in 1988. Because of the considerable investment of time and money spent by Byron Wood Enterprises, Inc. toward construction of a permanent clubhouse, the Bureau of Parks and Recreation awarded an interim personal services concession contract that eventually expired on October 31, 1992.

In 1989, Robert Trent Jones, Jr. was again hired to design the last nine holes of the Great Blue course. Construction began in 1991 and the second nine holes opened for play in 1993. The City now had two championship courses in the same location. In the meantime, the concessionaire contract was put out for bid and Byron Wood Enterprises, Inc. was awarded a 5-year personal services contract to serve as the golf course concessionaire until October 31, 1997.

PORTLAND PARKS AND RECREATION



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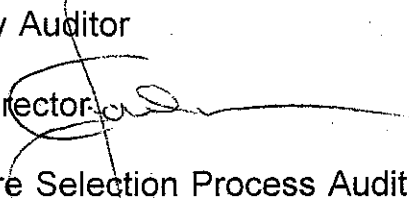
CHARLIE HALES, COMMISSIONER

CHARLES JORDAN, DIRECTOR

June 28, 1996

M E M O R A N D U M

TO: Barbara Clark, City Auditor

FROM: Charles Jordan, Director 

RE: Golf Concessionaire Selection Process Audit

Thank you for sending us the report of your audit of the golf concessionaire selection process and giving us the opportunity respond.

We appreciate the work of the audit staff in analyzing the selection process. We especially appreciate the recommendations about how the process might be improved and strengthened.

We plan to work with the City Attorney's office and the City Purchasing Manager to implement the recommendations as appropriate when the next golf concession contract is due for reconsideration.

Thanks again.

CJ:fh\audit.1

