OCTA

May 14, 2025

To: Finance and Administration Committee

From: Darrell E. Johnson, Chief Executive Officer

Janet Sutter, Executive Director
Internal Audit

Subject: Real Estate Administration, Internal Audit Report 25-506

Overview

The Internal Audit Department of the Orange County Transportation Authority has completed an audit of real estate administration. Based on the audit, controls over real estate administration could be improved. Five recommendations have been made to develop procedures for implementing fair market adjustments, improve documentation of approval for negotiated lease rates, document reviews of insurance requirements, develop procedures for periodic inspection of leased properties, and to implement procedures for collection of late payment fees.

Recommendation

Direct staff to implement five recommendations provided in Real Estate Administration, Internal Audit Report No. 25-506.

Background

The Real Property Department (Real Property), within the Capital Programs Division, has management responsibilities for properties acquired and owned by the Orange County Transportation Authority (OCTA). The Real Property Policies and Procedures Manual (Policy) outlines responsibilities including managing leases, licenses, and rights-of-entry, conducting fair market analyses of revenue generating real estate interests, monitoring tenant insurance, periodic inspection of leased properties, and coordination with the Accounting Department for revenue collection.

OCTA permanently owns and manages 695.8 acres of rail right-of-way property and acquires additional properties as part of its responsibilities in delivering highway and rail projects. As of September 2024, OCTA owned 803.58 acres of capitalized real estate property, including bus bases and transit centers. As of October 2024, Real Property manages 165 revenue-generating leases, licenses, and rights-of-entry, with annual collections of $1.69 million and $1.55 million for fiscal years 2022-23 and 2023-24, respectively.

Real Property is staffed with one manager and five real property agents (RPA). Real Property also utilizes two consultant firms, CBRE Group, Inc. (CBRE) under Agreement No. C-0-2160, and Cal Pacific Land Services, Inc. (Cal Pacific) under Agreement No. C-3-2807, to perform various activities including development of initial fair market valuations, assistance with lease negotiations, monitoring of tenant insurance coverage, and development of recommendations for periodic fair market and Consumer Price Index adjustments.

On a monthly basis, Accounts Receivable staff prepares a billing list for the RPAs' review and approval prior to mailing invoices. For any invoices outstanding 90 days or more, Accounts Receivable will send duplicate invoices and notify the RPA of the delinquency. In accordance with California Revenue and Taxation Code, Real Property prepares and files an annual Possessory Interest Report with the County of Orange and notifies the County Assessor's office of revenue-generating agreements, which the leaseholder is responsible for paying taxes on the interest in the property created.

Discussion

Results of initial fair market valuations performed by consultant firms are accepted through informal means, including email and sticky notes, rather than requiring formal reports describing methodology and support for the rate used to determine value. In addition, management has not developed procedures to ensure that periodic fair market value adjustments are implemented in accordance with agreement terms and the Policy. Internal Audit recommends management develop and implement standards for the conduct and documentation of fair market valuations and assessments and require consultant firms to provide opinions of value in writing, including descriptions of the methodology and support for the rates used. Management should also develop and implement procedures to ensure fair market analyses and related adjustments are conducted and applied in accordance with agreement terms and Policy requirements. Management agreed and indicated that an updated appraisal is underway and will be used as the basis for calculating future fair market valuation increases. Management will also develop a procedure to memorialize steps to determine fair market value calculations and decisions as to imposing such increases.

Rate adjustments not applied, or modified, due to negotiation and/or other considerations are not documented and approved as required by the Policy. Internal Audit recommends management comply with the Policy requiring documentation and approval of lease rate adjustments modified or not applied and implement procedures to ensure lease amendments are processed to reflect negotiated rate adjustments. Management agreed and will document consultant calculations, history of negotiations, and the final negotiated rate in each tenant file, and amend licenses to reflect any negotiated adjustments.

There is no evidence that insurance requirements included in lessee agreements are reviewed by the Risk Management Department (Risk Management) for sufficiency, as required by the Policy. Internal Audit recommends Real Property obtain documentation of Risk Management's review and direction as to insurance requirements. In addition, management should consider reviewing and updating license agreements that do not contain insurance requirements or other standard terms and conditions. Management agreed and will request a memorandum from Risk Management to confirm the minimum requirements for license insurance each January. If a potential licensee is requesting a unique or unusual use, the Risk Manager will be made aware so that they can determine if the insurance requirements are sufficient.

There is currently no documented, systematic process to periodically inspect leased properties to ensure compliance with agreement terms and to prevent unauthorized uses. Internal Audit recommends management develop and implement procedures for periodic inspection of properties to ensure compliance with agreement terms and identify unauthorized uses. Inspections should be documented. Management agreed and will identify tenants that require inspection each January and will perform and document the inspections.

Late payment fees, outlined in lease agreements, are not applied. Internal Audit recommends management develop and implement procedures to ensure late payment provisions are enforced. Management agreed and will calculate and document the value of late fees based on the licensee's individual agreement with OCTA and communicate this rate with the tenant and Accounts Receivable.

Summary

Internal Audit has completed an audit of real estate administration and has offered five recommendations for improvement.

Attachment

A. Real Estate Administration, Internal Audit Report No. 25-506

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