



CITY of RIVERSIDE

Parks, Recreation and Community Services Non-Contractual Activity Fees

AU12 – 01
September 2011

INTRODUCTION

In accordance with the City Internal Audit FY 2011/12 Work Plan, we have completed an audit of the non-contractual activity fees charged to residents and non-residents by the Parks, Recreation and Community Services Department (PRCSD).

STATEMENT of OBJECTIVES

The objectives of the audit review were to:

- ❑ Determine if the fees charged for services are accurate and in compliance with the regulations set forth in the City of Riverside's Municipal Code *Chapter 3.30, Fee and Service Charge Revenue/Cost Comparison System* and the *City's Master Fees and Charges Schedule*;
- ❑ Determine if the fees charged for services are in compliance with the regulations set forth in the various State of California codes (e.g. Gov't Code and Public Resources Code) and propositions (e.g. Propositions 13, 62, 218, and 26); and
- ❑ Ascertain if controls over the creation of fees are adequate.

SCOPE and METHODOLOGY

The review was conducted during the period from May 2011 through July 2011, and addressed the development of PRCSD non-contractual fees for city-run programs, events, and classes from inception of program to advertising of classes to charging of patrons. To address audit objectives and as part of our assessment of risk, we:

- ❑ Reviewed the appropriate State of California and City of Riverside rules and regulations regarding the creation of fees;
- ❑ Interviewed staff from the Finance Division of the City Manager's Office, and reviewed *the Fees and Charges Study* and *Master Fees and Charges Schedule* and supporting documentation to gain an understanding of the creation of fees on a city-wide basis;
- ❑ Interviewed PRCSD staff and reviewed internal documents to gain an understanding of the creation of fees, on an as needed basis, pursuant to the *Master Fees and Charges Schedule*;
- ❑ Performed a walk-through of the creation of PRCSD fees.
- ❑ Vouched fees from the *Fees and Charges Study* to the *Master Fees and Charges Schedule* to RecWare to the most recent Parks, Recreation and Community Services Activity Guide (Summer 2011); and
- ❑ Met with the City Attorney's Office to obtain advice and opinions on fee related issues.

Key documents used during our review:

- *FY 2007/08 Fee and Charges Study*
- *Resolution No. 21960 - January 2010*
- *Master Fees and Charges Schedule – January 20101*
- *Chapter 3.30, Fee and Service Charge – Revenue/Cost Comparison System*
- *Proposition 26 Implementation Guide - April 2011*
- *Proposition 26 Impacts on Taxes and Fees - May 2011*

Our review was conducted in accordance with *Generally Accepted Government Auditing Standards* and according to the *Standards for the Professional Practice of Internal Auditing* of the Institute of Internal

Auditors. Those standards require that the audit is planned and performed to afford a reasonable basis for judgments and conclusions regarding the department, division, program, activity or function under audit. An audit also includes assessments of applicable internal controls and compliance with requirements of laws and regulations when necessary to satisfy the audit objectives. We believe our audit provides a reasonable basis for our conclusions.

BACKGROUND

PRCSD offers numerous classes, programs, activities and special events to the City of Riverside residents and surrounding communities. The majority of these services are advertised quarterly in the PRCSD Activity Guide. *The Summer 2011 Activity Guide* is over 50 pages and provides information on more than 200 classes/activities.

To provide the community with a variety of classes, PRCSD does not have the staffing or staff with specific skills needed for some of the classes requested by the community (e.g. karate, blow-dry boot camp, etc.). As such, the department enters into agreements with various contractors to provide classes to supplement those provided by City staff. PRCSD estimates that in any given year approximately 300 classes/activities are provided, with approximately 83% or 250 provided by contractors.

Based on the FY 2010/11 PRCSD budget, revenue is expected to be \$1.55 million for the use of pools, facility rentals, classes, special events, and activities.

Authority to Set Fees – State of California

Over the past 30 years, California voters have insisted that local voters be consulted on a variety of revenue-raising measures. Prior to Proposition 13 in 1978, voter approval was not required for taxes, charges, or fees. Beginning with Proposition 13, the following progression has occurred:

- Proposition 13 (1978): 2/3 voter approval required for “special taxes” and property tax otherwise limited to 1% of assessed valuation;
- Proposition 62 (1984): majority voter approval required for “general taxes” in general law cities and counties;
- Proposition 218 (1996): majority vote approval required for “general taxes” in general law and charter cities and counties; property-owner required for assessment and property-related fees; and
- Proposition 26 (2010): adds a definition of “tax” to the California Constitution. The new definition and what impacts it has on cities, counties, and the State is a matter of much debate. In April 2011, the League of California Cities published Proposition 26 – Implementation Guide, which outlines a number of assumptions that can potentially impact and eliminate the common practice among cities to charge different fees based on residence and limit the transfer of electric and water funds from enterprise funds to a city’s General Fund. The vast majority of this Proposition’s impact, much like Proposition 218, will not be understood until a ruling from the court shapes public policy.

Authority to Adopt Fees – City of Riverside

Per *Chapter 3.30, Fee and Service Charge - Revenue/Cost Comparison System*, of the Riverside Municipal Code, the City is required to, at a minimum, review fees annually. Chapter 3.30 of the Riverside Municipal Codes establishes a policy for the recovery of costs incurred (and percentages of recovery) to be recovered from users of City services.

The establishment of fees, in conformity with Chapter 3.30 of Riverside’s Municipal Code and various State of California codes (e.g. Gov’t Code and Public Resources Code) and propositions (e.g. Propositions 13, 62, 218, and 26) is formally adopted by Resolution; the latest being Resolution No. 22227, which amended Resolution 21960 (January 2010) and was adopted on June 21, 2011.

Attached and referenced in each *Fees and Charges Resolution* is a *Master Fees and Charges Schedule*. The *Master Fees and Charges Schedule* is organized by Reference Number, which corresponds to the allowable fee categories in *Section 3.30.030, Schedule of Fees and Service Charges*. Generally, there is one fee for each category. However, in some cases the Schedule notes additional attachments (e.g. Community Development Electrical Work, PRCSD Pool Fees, etc.) and in other cases the language states staff is given the authority to create a fee as needed.

The fees approved by the City Council, listed in the *Master Fees and Charges Schedule*, are based on two (2) main drivers: the City’s cost for providing a service and the cost recovery percentage of the same services. The Finance Division estimates the cost of providing services using time studies and fully

burdened rates of employees performing a specific service. The fully burdened rates are calculated based on information from the annual cost allocation plan created by the Finance Division. Those cost estimates (fully burdened rates x number of hours per person + additional materials and supplies costs) are memorialized in the *Fees and Charges Study*, a large document that is several hundred pages long. Each fee stated in the Fees and Charges Study has a reference number, which corresponds to a fee category in *Section 3.30.030, Schedule of Fees and Service Charges*, of the Riverside Municipal Code.

PRCSD Fee Process

Each City Department participates in the fee update, working with the Finance Division to modify the fees and the cost recovery percentages.

Currently, the majority of fees charged by PRCSD were updated in FY 2007/08. Due to the downturn in the economy the City did not update fees in FY 2008/09. During the FY 2009/10 fee review, PRCSD updated planning fees for new parks, rental fees of certain city facilities, and fees relating to ball field usage and lighting. During our review, the City adopted new/updated fees per Resolution 22227 for FY 2011/12 on June 21, 2011. This fee update pertaining to PRCSD, included a change for methodology for field and facility rentals, from a cost basis to a market rate basis; however, the majority of the fees charged by PRCSD still have not been updated since FY 2007/08. The adoption of new/updated fees during our fieldwork does not change the scope or nature of this review.

Certain Reference Numbers on the *Master Fees and Charges Schedule* specifically allow PRCSD to create their own fees in accordance with Riverside Municipal Code Chapter 3.30. For example, Reference Number 5221, Youth Sports Program, under the Calculation of Fee of the Schedule states, "Fee set by Park and Recreation Department in conformity with RMC 3.30.030 and Master Fees and Charges Schedule." Other fees do not have this language. Reference Number 5222, Adult Sports, for example, does not include this language. Instead, Reference Number 5222 specifically lists fees for Softball and Volleyball. Per review of the *Summer 2011 Activity Guide*, Internal Audit noted there are several other Adult sports someone can register for, including Adult Football. Per inquiry with PRCSD, staff was not aware that certain sections of the *Master Fees and Charges Schedule* did not explicitly allow them to create fees for every Reference Number.

Internal Audit inquired about the process of creating fees that are not specifically stated in the Master Fees and Charges Schedule. We obtained a listing of fees that were created by PRCSD and the calculation for those fees. According to PRCSD, fees are created using a similar process performed by the Finance Division, using the number of estimated hours by position and other miscellaneous costs needed for an event, class, or activity. Using the cost recovery percentage established by the City Council, PRCSD staff multiplies the total cost (Hours by position x fully burdened rate + supplies) and multiplies this by the cost recovery percentage. Internal Audit noted formal policy and procedures over the creation of fees do not exist.

To ascertain the accuracy of fees created by PRCSD, Internal Audit performed a walkthrough of the process used by the Department for the creation of two (2) fees, Youth Flag Football and Adult Basketball. Using the PRCSD calculation, we noted estimated costs for youth flag football were \$125,303.36 for the participation of 300 youths. Using the 10% cost recovery percentage adopted by the City Council in the *Master Fees and Charges Schedule*, total cost recovery should be \$12,530.34 or \$41.77 per participant. The current fee is \$41.00. The calculation of \$125,303.36 is a combination of staff hours (2,100) spread over a variety of positions (Recreation Superintendent, Recreation Supervisor, Recreation Coordinator, Assistant Recreation Coordinator, and Recreation Leader) plus the costs of other expenses (services, uniforms, supplies and print). Internal Audit, using the same number of hours, positions, and other costs, re-calculated total costs to be \$139,646.12. Using the 10% cost recovery percentage, cost per participate would be \$46.55. Per a review of the two (2) calculations the difference lies in the fully burdened rates used. PRCSD staff has most recently used the FY 09/10 fully-burdened rates, and we used the fully-burdened rates stated in the FY 2007/08 Fees and Charges Study. According to PRCSD the Finance Division provided them with updated fully-burdened rates from FY 2009/10 that was not included in the *FY 2009/10 Fees and Charges Study*.

Using the same methodology above, we tested the Adult Basketball fee. Including a cost recovery of 50% and a total of 2,018 employee hours plus \$1,500 in additional costs, allowing cost recovery was \$32,958.45 or \$274.65 per team. Currently, PRCSD charges \$270 per team. Internal Audit's calculation for the same program was \$38,222.67 or \$318.52 per team.

Internal Audit believes the variance between the two fees calculations described above would be greater if updated fully burdened rates were included for FY 2011/12, which may translate into lost revenue for PRCSD. With the addition of new parks the cost to operate the department will most likely increase.

After meeting with staff from PRCSD and the Finance Division to determine the process for the creation and updating of city-wide and PRCSD fees, Internal Audit randomly selected 25 classes for testing. Internal Audit created a profile in RecWare, the department's recreation software that would simulate what an individual signing up for a class would use. Using the category search tool, Internal Audit randomly selected 15 classes in total from contract categories and 10 classes from non-contract categories, as designated in RecWare.¹

The 10 classes selected for testing:

- 1) Special Events – Riverside Sings
- 2) Mini Summer Day Camp
- 3) Adult Sports Program – Basketball
- 4) Adult Sports Program – Volleyball
- 5) Time for Tops Program
- 6) Challenged Citizen Activities – Friendly Star Program
- 7) Recreational Swimming – Child Season Pass
- 8) Recreation Swimming – Family Season Pass
- 9) Pool Rentals – 1 to 100 people
- 10) Boathouse – Boat Rentals

Internal Audit tested the following attributes:

- 1) Fee selected for testing is consistently advertised and charged in RecWare pursuant to the *2011 Summer Activity Guide, Master Fee and Charges Schedule*, and the *Fees and Charges Study*;
- 2) When applicable, fee(s) charged are consistent with the fees established in the *Master Fees and Charges Schedule* and attachments;
- 3) When applicable, fee(s) charged are consistent with the cost recovery percentage set forth in the *Master Fees and Charges Schedule* and attachments;
- 4) Fees in the *Master Fees and Charges Schedule* designated, "Shall be set by PRCSD in conformity with RMC 3.30.031," have adequate documentation of the free creation;
- 5) Fees in the *Master Fees and Charges Schedule* designated, "Shall be set by PRCSD in conformity with RMC 3.30.031," have adequate documentation of the appropriate cost recovery set forth in the Master Fee and Charges Schedule;
- 6) Non-resident fees are properly charged in RecWare and advertised in the *Summer 2011 Activity Guide*, as adopted in the *Master Fee and Charges Schedule*;
- 7) Fees charged are allowable under the provisions of Propositions 13, 62, 218 and 26 and allowable with respect to the applicable State code sections (Gov't Code, Public Resources Code, etc.); and
- 8) Fee charged is consistent with the cost recovery percentage established in the Master Fees and Charges Study.

Based on our review, we noted significant deficiencies² exist in the internal controls over the creation and consistency of fees charged by PRCSD. Specifically, Internal Audit noted:

- Certain fees charged by PRCSD Department are not consistent with fees adopted by the Mayor and City Council in the *Master Fees and Charges Schedule* (Resolution 21960 – 1/12/10);
- Insufficient supporting documentation for fees charged/developed by PRCSD Department in accordance with RMC *Section 3.30.030, Schedule of Regulation, Products and Services*; and
- Advertised fees for services in the quarterly Activity Guide (Summer 2011) are not consistent with the fees in the PRCSD Department's recreation software, RecWare, or fees stated in the *Master Fees and Charges Schedule*.

¹ Based on the large percentage of contract classes provided by the PRCSD, Internal Audit performed a review of fees for 15 contract classes and the RecWare software application in a separate, but concurrent audit (AU12-02).

² In October 2008, the AICPA Auditing Standards Board issued Statement on Auditing Standards (SAS) No. 115, *Communicating Internal Control Related Matters Identified in an Audit*. SAS No. 115 provides the following definition: **Significant Deficiencies.** A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

SUMMARY

As a department that reacts with the needs of Riverside citizens and the surrounding community, PRCSD staff is continuing to look for new classes, activities, and special events. As a result, staff must develop fees for these city-run classes, activities, and special events on a regular basis. Internal Audit acknowledges the process of creating/establishing fees outside of the annual fee update/review, as allowed by the *Master Fee and Charges Schedule*, is unique among the majority of City departments.

Based on our review of fees, we believe there is a disconnect exists between the process to develop fees in PRCSD and in the parameters in which those fees must be created. In addition, we noted significant deficiencies in the controls related to the advertising, charging, and depositing of fees.

PRCSD lacks internal policies and procedures that guide employees though the process of fee development. Through detailed testing, we found fees are not consistent from the *Master Fees and Charges Schedule*, which is approved by the City Council, when compared to the *Summer 2011 Activity Guide* and RecWare. Further, changes/amendments to the *Master Fees and Charges Schedule* and Municipal Code Chapter will be needed in the near future for the department to continue to charge for certain fees.

Although various fees, mostly related to the rental of park facilitates, were updated and/or established for FY 2011/12, the majority of the fees charged by PRCSD are outdated. By staying current on fees by annually reviewing cost recovery percentages, changes needed to fee categories, etc., the department will be in a better position to make the necessary changes to avoid future issues.

The amount of work needed to review all fees in detail for consistency and accuracy will be substantial, but necessary. However, this process will allow the Department to identify additional areas of concern and address them immediately. In the end, PRCSD will have established fees that are correctly documented, advertised, charged, and accounted for. Additionally, reviewing all PRCSD fees annually for compliance and accuracy will strengthen internal controls and minimize the risk of lost revenue.

We would like to thank PRCSD employees for all their help and insight during this audit. During the busiest time of their year, they responded to Internal Audit's requests in a timely fashion.

Internal Audit will plan to follow-up on implementation of recommendations within 12-18 months.

Respectfully,

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Finding #1: Significant deficiencies exist in the creation of and accuracy of fees charged. Formal departmental policies and procedures do not exist.

Based on our review of 10 classes/activities, Internal Audit noted:

- Fees charged by PRCSD are not consistent with fees adopted by the Mayor and City Council in the *Master Fees and Charges Schedule* (Resolution 21960 – 1/12/10)
- Insufficient supporting documentation for fees charged/developed by PRCSD in accordance to RMC *Section 3.30.030, Schedule of Regulation, Products and Services*.
- Advertised fees for services in the quarterly Activity Guide (Summer 2011) are not consistent with the fees in PRCSD recreation software, RecWare or fees stated in the *Master Fees and Charges Schedule*.

According to PRCSD, each activity guide is prepared 2 or 3 months in advance. While going through the fee update process each year, PRCSD faces a unique challenge of estimating which fees are going to be updated and which fees are not going to be updated. This uncertainty of which fees City management will propose for increase/adoption and which of those will be adopted by the City Council can create differences between fees stated in the *Master Fees and Charges Schedule*, RecWare, and quarterly activity guide.

Recommendation

A formal review process should be implemented to reconcile all fees in RecWare to specific fees stated in the *Master Fees and Charges Schedule*. When applicable, those fees in RecWare that are subject to the provision in the *Master Fees and Charges Schedule*, that allows PRCSD to develop fees on an as needed basis, should be vouched to the appropriate supporting documentation. Furthermore, Internal Audit recommends PRCSD establish a formal policy and procedure to ensure fees are accurate and consistent.

By not performing the review, PRCSD runs the risk of charging for fees that are not allowed by the Riverside Municipal Code and *Master Fees and Charges Schedule*. Failure to have proper documentation and review processes in place greatly increases the risk of violating State law from lack of sufficient documentation for each fee and by charging fees that exceed the cost of providing services.

Finally, the inconsistency of fees stated in the *Master Fees and Charges Schedule, Summer 2011 Activity Guide*, and RecWare causes confusion for PRCSD patrons and employees. We recommend PRCSD work with the appropriate departments to address the timing issues relating to the printing of the quarterly activity guide and adoption of fees.

Management's Response

The Department concurs with this finding and recommendations. As acknowledged in the audit finding, the PRCSD faces a unique challenge of having to reconcile Fees and Charges in an Activity Guide that is published three times per year (Fall, Spring, and Summer). While it is unlikely that perfect synchronization will ever be achieved due to the different schedules required for the publication of the Activity Guide versus updating of Master Fee and Charges Schedule as well as the flexibility that is expected of the Department which is in contrast to the rigid and arcane process of establishing fees and charges citywide; to the best of the PRCSD's ability, a process of constant review and verification will be put in place to help minimize the discrepancies among what ends up being published in the Activity Guides versus what ends up being approved by City Council and what ends up being actually implemented via RecWare.

The organizational structure has been revised slightly in order to assign this work effort. An analyst currently assigned to Recreation Services has been re-assigned to Administration instead and will work closely with the Sr. Analyst and Interim Deputy Director to address deficiencies noted in the audit. The position of Deputy Director is currently filled on a part-time/temporary basis. Should this situation change, it will impact the PRCSD's ability to address the findings of the audit. Ideally, an additional full-time Analyst and a full-time Deputy Director are needed to have proper administrative oversight and controls in place.

Details of Proposed Solutions:

- 1) Verify and reconcile all non-contractual activity fees listed in RecWare starting with those listed in the Spring 2012 Activity Guide (to be published January, 2012). Sub-tasks include:
 1. Conduct training and overview on RecWare for Admin staff unfamiliar with this software
 - a. How to run reports and export or import data
 - b. How to add, delete, or update fees
 - c. How to change GL code associated with fees
 2. List each non-contractual activity fee in RecWare.
 3. For each non-contractual activity fee listed in RecWare, determine if there is documentation regarding calculation of fee.
 4. Obtain FY 11/12 fully burdened rates from Finance.
 5. Coordinate with appropriate Superintendent and Recreation and Community Services staff to gather information and create proper documentation for each non-contractual fee and update fee calculation using FY 11/12 fully burdened rates.
 6. Complete a master spreadsheet listing all non-contractual activity fees with the following information listed:
 - a. Fee name/description
 - b. Corresponding Fee Category from adopted Fees & Master Schedule
 - c. Cost Recovery percentage approved by Council
 - d. Fee amount in RecWare
 - e. Fee amount calculated using FY 11/12 fully burdened rate
 - f. Note discrepancies between fee in RecWare and fee calculated using FY 11/12 fully burdened rate
 - g. Determine if fee should be updated in RecWare to match calculated fee using FY 11/12 fully burdened rate (this may not always be feasible if it will result in significantly increased fees since clients may either be unable to or refuse to pay increased fees).
 7. If a corresponding Fee Category cannot be identified for a fee in RecWare that is being charged or cannot be reconciled with the Council Approved Fees and Charges – determine appropriate course of action (discontinue activity and fee; seek mid-year Council approval for fee; wait until next available opportunity to update Fee and Charges along with citywide update).
- 2) Draft/update internal policy outlining the process and procedure for on-going review of fees and maintenance of proper documentation to support fees that are implemented. Controls also need to be put in place regarding who has access to RecWare and the process of updating, adding, and deleting Fees and Charges. Circulate for review and input from Recreation and Community Services Superintendent and obtain approval by Department Head.

Finding #2: Language contained in the Master Fees and Charges Schedule (Resolution 21960 – 1/12/10) does not specifically allow the PRCSD to charge for certain current fees.

Certain Reference Numbers on the *Master Fees and Charges Schedule* attached to the *Fee Resolution* specifically allow for the Department to create their own fees in accordance with Riverside Municipal Code Chapter 3.30. For example, Reference Number 5221, Youth Sports Program, under the *Calculation of Fee of the Schedule* states, “Fee set by Park and Recreation Department in conformity with RMC 3.30.030 and Master Fees and Charges Schedule.” Other fees do not have this language. Reference Number 5222, Adult Sports, for example, does not include this language. Instead, Reference Number 5222 specifically lists fees for Softball and Volleyball. Per review of the *Summer 2011 Activity Guide*, Internal Audit noted there are several other Adult sports a member of the community can register for, including Adult Football. Staff was not aware that certain sections of the *Master Fees and Charges* schedule did not explicitly allow them to create fees for every Reference Number.

Recommendation

Based on a conversation with the City Attorney’s Office on July 20, 2011, Internal Audit recommends that the *Master Fees and Charges Schedule* be revised to allow for fees to be created in every applicable Reference Number of the Master Fees and Charges Schedule for the PRCSD. In addition to lack of consistency, PRCSD runs the risk of charging for fees that were not allowed to be created.

Management’s Response

The Department concurs with this finding and recommendation. The Fees and Charges are typically updated and approved on a citywide basis with Finance coordinating this effort. The process is drawn out and typically includes many starts and stops. Ultimately, decisions as to whether to update certain sections of the Fees and Charges are usually made by individuals outside the PRCSD. The language that provides the PRCSD’s flexibility to set fee in conformity with RMC 3.30.030 and Master Fees & Charges Schedule was left out of the City Council approved Fees and Charges section pertaining to Adult Sports Program as well as other sections.

After a comprehensive review has been conducted, PRCSD will draft a mid-year report for City Council agenda requesting to update the Fees and Charges schedule to revise it to allow for fees to be created in every applicable Reference Number of the Master Fees and Charges Schedule for the PRCSD. Other amendments will also be necessary which is why it is best to do this after a comprehensive review is completed and a process has been put in place to centrally review and reconcile Fees and Charges. Whether the report moves forward will depend on City Manager approval.

Finding #3: Based on testing, the majority of the PRCSD fees appear to be outdated.

Internal Audit found that updated fully-burdened rates used in the calculation of many PRCSD fees have not been updated since FY 2007/08. The current fully-burdened rates (FY 2011/12) may be larger than they were in FY 2007/08. As such, PRCSD may be missing an opportunity to collect increased revenues for various classes and activities. It may be also possible, with the reductions in the City's General Fund, fully-burdened rates for PRCSD from FY 2007/08 may be too high.

Recommendation

Internal Audit recommends PRCSD work with the Finance Division and the City Manager's Office to update the majority of the PRCSD fees with updated fully-burdened rates.

To ensure PRCSD is collecting the proper amount of revenues, Internal Audit recommends the creation of a formal policy on the development of a fee for an event/class/activity that mirrors the process currently completed by the Finance Division. This step will also provide assurance that the department is creating fees, when needed, which mirrors the city-wide process.

To help PRCSD staff stay consistent with the methodology used by the Finance Division, Internal Audit created a template for the Department to follow (Attachment 1). Modeled after *the Fees and Charges Study* worksheets, PRCSD will be responsible for updating the fully-burdened rates as they are updated by the Finance Division. Internal Audit recommends this template be used for each fee created and charged to patrons for PRCSD facilities, programs, and events. Internal Audit recommends that PRCSD and the Finance Division work together to get an updated set of fully-burdened rates for PRCSD staff as soon as possible.

Management's Response

The Department concurs with this finding. The fees that are set by PRCSD in conformity with RMC 3.30.031 and for which a worksheet is available used the latest available fully-burdened rates for FY 2009-10 that were provided by Finance. Using more recently updated fully-burdened rates for FY 2011-12 is a good idea; however, it should be noted that these have not been fully updated by Finance. Also, if it causes a dramatic spike or increase in fees, those increases may not be feasible to implement. Interpreting the Fees and Charges recovery rate to be a rigid target is not always feasible for the PRCSD.

The Department proposes to calculate the fees based on the latest fully-burdened rates that are available; however, the recovery rate that is approved by City Council is interpreted to be a maximum goal. Setting the rates at the maximum recovery level may not always be feasible and may result in a lack of participation or complaints from participants; therefore, it may be necessary to set the rates lower than the maximum recovery rate approved by City Council. Setting the rates lower than the calculated rate based on City Council approved recovery goal will require justification and written approval by the Department Director.

Finding #4: Activity Fees charged in conjunction with classes/activities are not documented and may jeopardize the PRCSD City Council adopted fee category cost recovery percentage.

While performing a walkthrough of class fees, Internal Audit noted certain classes/activities advertise a flat fee and a per day cost. For example, there are several activities planned in the *Summer 2011 Activity Guide* for Day Camp Programs (5212):

- Summer Day Camp - \$80/session plus \$12 activity fee
- Mini Summer Day Comp - \$30/session plus an \$8 activity fee
- Youth Opportunity Center - \$30/session plus and \$8 activity fee

According to the *Fees and Charges Schedule* cost recovery for these programs is set at 50%. Internal Audit also found language in the *Master Fees and Charges Schedule* under fee category 5212 that states, "Fee set by Park and Recreation Department in conformity with RMC 3.30.030 and Master Fees and Charges Schedule." As such, the department is being allowed to create certain fees providing they formally document their calculation/methodology for the fee amount.

Internal Audit was able to obtain documentation on the creation of the amount (\$) per session fee, but not the activity fee. Findings over fee creation and fees charged that are not appropriately documented can be found in detail in this Audit Finding, Recommendations, Responses and Action Plan section. (Finding #1 and Finding #3). By charging both the per session and activity fee, PRCSD runs the risk of violating the cost recovery percentages set by the City Council. Additionally, if the total revenue exceeds the cost per participant for the activity, PRCSD runs the risk of violating state law.

A similar finding for use of activity fee revenue can be found in AU12-03, Cash Handling.

Recommendation

In conjunction with the advice provided to PRCSD and Internal Audit the City Attorney's Office (7/20/11), Internal Audit recommends PRCSD establish a separate activity fee category. This will not only allow the department more flexibility, but will allow a greater recovery of costs to potentially be approved by the City Council.

Management's Response

The Department concurs with this finding. However, the activity fee was established partly in response to budget cuts that eliminated funding for programs offered by the PRCSD. As is, the fees approved by City Council only partially recover costs incurred by the Department. With budget cuts, implementation of this activity fee was necessary to avoid reduction in service levels. Activity fees are generally collected from participants and then used to pay third party vendors via a revolving account such as for trips/excursions and entrance fees to theme parks.

Changing the way this is handled by including this as a separate fee that is recovered at 100% rate implies that this would then be reported as program revenue and included in the Department's operating budget. While this may be appropriate, it requires City Manager's and City Council approval. The Department will need to have this included in its budget allocation so that sufficient spending authority will exist to cover the cost of activities included in Programs. If this fee is not approved by City Council and is not included in the budget, the level of programs offered by the PRCSD will be affected.

After a comprehensive review has been conducted, PRCSD will draft a mid-year City Council report requesting to update the Fees and Charges schedule to revise it to allow for a separate activity fee category to be included in the Master Fees and Charges Schedule for the PRCSD. Other amendments may also be necessary which is why it is best to do this after a comprehensive review is completed. Whether the report moves forward will depend on City Manager approval.

MANAGEMENT LETTER COMMENTS & RECOMMENDATIONS

During the course of this review Internal Audit discovered the following three (3) scenarios that do not require a response by PRCSD, but are important to our review of PRCSD fees.

Management Comment # 1: No formal agreement with And 1 Officials, who referee adult basketball games on behalf of the City.

One of the classes/activities selected for testing was Adult Basketball. Per review of the Summer 2011 Activity Guide, the cost is \$270/team (8 wks.) and each team is required to pay a \$25 referee fee prior to the start of each game. This class/activity is not listed as a contract class; however, the referees were not City employees.

PRCSD indicated that referee fees are not included with the registration fee, because listing the league at \$470 (\$270 + 8 x \$25) per team tends to "scare away" teams and in some cases is cost prohibitive. PRCSD contends even though the fees add up to the same amount, advertising a \$25 per game per team referee fee is more marketable.

Referees are currently assigned by And 1 Officials. Approximately two (2) years ago PRCSD conducted a RFP process to secure a vendor that could provide referee services. Bids were rejected as incomplete. And 1 Officials were referred to the PRCSD by surrounding agencies that utilize their services (Norco, Diamond Bar, and Hesperia).

The City was provided an insurance certificate by And 1 Officials listing the City as "additionally insured" in the event there were any mishaps or injuries resulting from their services.

Internal Audit met with the City Attorney's Office and PRCSD on July 20, 2011. According to the City Attorney's Office, it does not appear the City is in immediate danger by not having a formal agreement because the certificate of insurance provided by And 1 Officials appears to meet the City's insurance provisions. However, the City Attorney's Office did indicate that entering into a formal agreement in the near future is in the best interest of the City moving forward.

Recommendation

We recommend that PRCSD enter into a formal agreement with And 1 Officials to mitigate issues that may arise from a lack of a scope of services, control of money passed from patron to And 1 Officials, insurance, legal remedies, etc.

Management Comment # 2: Staff does not appear to have an in-depth understanding of the potential impact of Proposition 26, adopted November 2, 2010.

Proposition 26, adopted by the California voters in late 2010, adds the definition of tax to the California Constitution. The new definition and what impacts it has on cities, counties, and the State is a matter of much debate. The vast majority of this Proposition's impact, much like Proposition 218, will not be understood until rulings from the court shape public policy.

Michael Colantuono, Chair of the League of California Cities Proposition 26 Implementation Guide Committee, states in a May 5, 2011 white paper, Proposition 26: New Limitation on Government Fees, "In general, the measure defines as a tax requiring voter approval "any levy, charge, or exaction of any kind imposed by a local government unless a stated exception applies. The measure is not retroactive as to local governments and therefore will affect cities, counties and special districts only when they propose to adopt a new fee or to increase an existing fee by adopting new legislation or changing an administrative 'methodology' for calculating and collecting a fee. Moreover, Proposition 26 is not applicable to assessments and property related fees governed by Proposition 218 or to most land use fees. As detailed below, the measure's seven express exemptions which will cover most current fees imposed by local governments. However, the measure will have significant impacts and, as is almost always true with initiatives, there is significant uncertainty as to what the measure means and how the courts will interpret it."

Internal Audit has reviewed the League of California Cities, Proposition 26 Implementation Guide (April 2011) and the Proposition 26 Impacts on Taxes and Fees by Michael Colantuono; and participated in the California Municipal Rates Group 2011 Spring Conference related to Proposition 26, the majority of which were moderated by Michael Colantuono.

Included in Resolution No. 22227 (June 2011) is a recital that states, "WHEREAS, all of the proposed fee revisions fall within the stated exceptions to the definition of "tax" established by Proposition 26, and are therefore not subject to the requirements of Article XIII C of the California Constitution." Acknowledging the assertion made in Resolution No. 22227, using the information obtained, Internal Audit reviewed PRCSD fees for potential impacts. After internal discussion, we noted several areas of concern.

In a memorandum dated July 6, 2011 Internal Audit raised the following questions with the City Attorney's Office:

"Internal Audit understands that fees adopted prior to Proposition 26, unless changed/amended are exempt. However, since fees were last adopted in June 2011, the single greatest protection from Proposition 26 may be gone. Per review of the documentation and analysis provided by the League of California Cities and Michael Colantuono on Proposition 26, there appears to be numerous exceptions including *Fees for Services or Products* (Exemption No. 2) and *Fees for Use of Government Property* (Exemption No. 4) that can be applied to PRCSD fees. Furthermore, Internal Audit is not aware of any instances where PRCSD in any city have been questioned as a result of Proposition 26. The goal of our question is be proactive and pass along the concerns expressed by Michael Colantuono, for consideration by the City Attorney's Offices.

1. Free Services.

Certain documented fees for services are not charged to one group and yet the fees for the same services are charged to another. Michael Colantuono explained that he believes the courts may rule that once a service is provided for free, it must be provided for free to everyone. City fees that could be subject are Day Camp (some services at Community Centers are charged for a fee, while others are free); and Field Rentals (free to non-profits).

2. Subsidy of one group for another

Instances where one group is charged less than 100% and the next group is charged over 100%. Internal Audit is not aware of City fees that may qualify, but if fees are set at 90% to 100% fee recovery in the future, and some individuals are charged a non-resident fee, Michael Colantuono indicated this may be a violation of Proposition 26.

3. Force users of a City facility to use only one vendor.

The crux of Proposition 26 dates back to a ruling over a regulatory fee by the California Supreme Court (*Sinclair Paint Co. vs. State BOE* (1997.)) During discussion at the 2011 Municipal Rates Group meeting, Michael Colantuono expressed that cities requiring

patron's to use only one vendor (e.g. food) when renting a space may be in violation of Proposition 26 because they would be imposing a "tax/fee" for something other than the use of a space. The City's Boathouse rentals and use of a single caterer is an example of this scenario.

Internal Audit met with the City Attorney's Office and PRCSD management on July 20, 2011. According to the City Attorney's Office, it does not appear the City is currently in violation of Proposition 26.

Recommendation

PRCSD staff should work with the City Attorney's Office and the Finance Division of the City Manager's Office to be current on the potential fee issues related to Proposition 26.

Management Comment # 3: The methodology of charging non-resident fees does not appear to be consistent.

Charging non-resident fees is a common practice of local, state, and federal jurisdictions. PRCSD has various fees and charges for service that have different non-resident fees ranging from a flat dollar amount to a percentage to no charge. Certain activities have a non-resident fee associated with it, while other activities do not. The following are several examples:

- Youth Contract Classes (5210): \$10/person
- Day Camp Programs (5212): 50% of the resident fee added to the resident fee.
- Youth Sports Program (5221): 100% of the resident fee added to the resident fee
- Adult Sports Program (5222): 15% of the resident fee added to the resident fee
- Challenged Citizen Activities (5228): 75% of the resident fee added to the resident fee
- Senior Citizen Classes (5227): Does not have a non-resident fee

Internal Audit met with the City Attorney's Office and PRCSD on July 20, 2011. According to the City Attorney's Office, the methodology behind non-resident fees should be consistent. Without full understanding the methodology for charging different non-resident fees the City Attorney's Office could not provide any further direction or opine if the current non-resident fee structure needs to be changed.

Recommendation

Internal Audit recommends creating or affirming new non-resident fees that are based on a consistent methodology by fee category stated in the *Master Fees and Charges Schedule* and Riverside Municipal Code Chapter 3.30.