



**TAP**International

# Final Report

**Construction and  
Demolition Waste  
Diversion Program  
Needs Improvement to  
Ensure City  
Requirements and  
Program Intent are Met**

January 2021





**Date:** January 25, 2021

**Memorandum For:** Ruthe Holden, Internal Audit Manager

**From:** TAP International, Inc.

**Subject:** Transmittal of TAP International Audit Report

Attached for your information is our final report, *Construction and Demolition Waste Diversion Program Needs Improvement to Ensure City Requirements and Program Intent are Met*, that (1) determined the prospective status of revenues on deposit in the Construction and Demolition Waste Diversion Program (C&D) deposit account and (2) Identified potential changes to the C&D process that can provide added assurance of compliance to City code, strengthen internal controls, and improve overall operational effectiveness to accomplish diversion goals of 75 percent.

This report contains two sets of financial analyses conducted on the C&D Fund 406 account. One set was conducted by TAP International and another set was conducted by the City's Finance Department. Each analysis applied a different approach and each approach utilized appropriate audit methods. TAP International included the work completed to date by the City for side by side comparison. The two analyses provide additional information that should be considered in subsequent decision-making about how much to retain in the C&D Fund account for future refunds.

This audit report further describes multiple opportunities to enhance management and administration of the C&D program that could result in reduced errors, improved financial management, better compliance with City Code, and reduced risks for fraud although no actual fraud was identified in the transactions judgmentally selected for review. The audit report also describes that the diversion rate accomplished solely by the C&D program is unknown because tracking mechanisms are needed to collect accurate data as well as to calculate diversion rates across covered permitted projects. To address these and other areas, the report offers eight recommendations for the City's consideration. Management from three departments generally agreed with these recommendations.

*TAP International, Inc.*

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An aerial photograph of a city skyline, featuring a prominent domed building on the left and various other structures. A large, solid yellow rectangle is overlaid on the lower half of the image, containing the text "Audit Highlights".

# Audit Highlights

# AUDIT HIGHLIGHTS

## Why the Audit Was Conducted

Construction and demolition (C&D) waste represents a significant part of the solid waste stream. Most C&D debris can be reused or recycled, conserving natural resources, and saving valuable landfill space. The City of Pasadena (City) adopted the Construction and Demolition Waste Management Ordinance (Pasadena Municipal Code (PMC) Chapter 8.62) to require that certain demolition and/or construction projects divert at least 75 percent of waste either through recycling, salvage, or deconstruction.

When a City permit is requested for a project that will generate C&D debris, the permit holder pays a deposit, submits a C&D Waste Management Plan and a Final Compliance Report that must show compliance with the City required 75 percent diversion rate. The City subsequently processes a refund of the deposit upon verifying compliance with PMC Chapter 8.62.

In mid-2020, the City implemented a new permit system, referred to as Energov, that replaced the legacy system, Tidemark. Energov is expected to provide greater automated support of the C&D program upon completion of Phase 3 system implementation activities. Meanwhile, the City's Internal Audit Office identified manual business processes and other operational issues within the C&D program that led to a concern about the disposition of C&D deposits for building and demolition permits issued through September 2020.

In December 2020, the City contracted with TAP International to:

1. Determine the prospective status of revenues on deposit in the C&D deposit account.
2. Identify potential changes to the C&D program that can provide added assurance of compliance to City code, strengthen internal controls, and improve overall operational effectiveness to accomplish diversion goals of 75 percent.

## How the Audit Was Conducted

The audit work included:

- Analyzing building and demolition permit numbers and project addresses to determine which projects have been completed or are inactive and which are still active (as of 9/30/20), based on PMC Chapter 8.62. The active project status list was evaluated for accuracy and completeness and then used to determine the amount of

money in the City C&D Deposit account<sup>1</sup> that should be 1) retained for active, cancelled, and expired projects that could become eligible for a refund; or 2) forfeited or escheated for inactive projects.

- Reviewing the financial system accounting transactions to identify errors, anomalies, and assess data documentation issues.
- Evaluating the administrative guidelines/rules and regulations for managing the program to determine if they are sufficient.
- Assessing the effectiveness of achieving the 75 percent diversion rate and analyzing whether contractors forfeit the deposit paid to avoid the diversion requirements.
- Evaluating opportunities for improvement in the current program and provide recommendations to strengthen the internal controls.
- Reviewing a sample of refunds and comparing to original deposits to assess accuracy in processing and other potential risks.

## What the Audit Found

This audit report discusses four key points:

- **Funds are available for City use.** TAP International determined that as of September 30, 2020, the City has a balance of \$10.8M in the 406 Fund Account (which holds all C&D deposits). The City should retain about \$7.50M in this account to pay refunds on future deposits. The City, on the advice of the City Attorney, could escheat or transfer up to another \$3.33M.<sup>2</sup> It is important to note that C&D program staff identified, after September 30, 2020, approximately \$628K in permit transactions that require additional research by the City on how they should be transferred, potentially reducing the amount of funds available for escheatment and/or transfer. The Finance Department conducted a second analysis in its early response to our draft audit recommendations. See page 21 for additional information.
- **The C&D process, which extends across four City departments, is not implemented effectively.** The C&D process has many gaps in internal controls. These gaps include the absence of activities related to governance, controls to prevent fraud, waste and abuse, risk management and monitoring, and information sharing and communication. In addition, when internal controls are present, the controls do not work effectively. Multiple cases, for example, show data errors, accounting anomalies, and absence of documentation that have led to compliance concerns with PMC Chapter 8.62. Although the Department of Public Works has primarily responsibility for developing and implementing the C&D process, the department has not yet established formal policies and procedures to guide its consistent and

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<sup>1</sup> City Fund 406

<sup>2</sup> \$2.41M of \$3.33M are for deposits paid on permits prior to February 3, 2014.



uniform implementation. At the time of report issuance, the Department of Public Works Director had taken action to develop and implement program improvements.

- **The diversion rate directly attributed to the C&D program is unknown and likely overestimated.** The C&D program is one of 40 City activities that contribute to the City's goal of accomplishing a 75 percent diversion, but diversion rates attributed to the C&D program could not be determined because of the absence of data necessary to compute the measure. The total amount of solid waste generated by compliant and non-compliant covered projects is needed, not just those projects that submitted a Final Compliance Report. The C&D diversion rate could be overstated without the inclusion of the C&D debris generated (and not diverted) by noncompliant projects. Department management and staff explained that program success is measured by examining diversion rates on a project-by-project basis, customer satisfaction and by comparing the number of refunds issued to the number of forfeited deposits. Because Public Works has processed far more refunds than forfeited deposits, management further explained, this demonstrates a high rate of diversion rate compliance on individual permitted projects.<sup>3</sup>
- **No one department or person is responsible for all the issues identified in this report.** Although the Department of Public Works is responsible for overall program administration, the C&D process spans across four departments and each are dependent on the other to perform their role responsibly and effectively. The process over the years had not accomplished a high level of maturity in its service delivery wherein, if mature, past incidents or errors would lead to continuous improvement.

## Recommendations

The development of recommendations described below considered the available staffing resources within the City, practicality, and cost. The principal goals of the recommendations are to improve compliance with PMC 8.62 and to increase accountability for the C&D process across the four departments involved with its administration.

1. The City Attorney should determine whether \$2.41M of \$3.33M in unrefunded deposits that was paid prior to February 3, 2014 and retained in the City's Fund Account 406 should be escheated or transferred.

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<sup>3</sup> The C&D Program did not provide performance data on customer satisfaction and refund to deposit forfeiture ratios to evaluate program success. Limited testing of diversion rates reported on a case by case basis showed that 13% of 15 cases did not meet established diversion rate requirements.

2. The Finance Department should conduct its own research on \$628K of the \$3.33M to determine how it should be transferred.
3. The Director of Finance should monitor the refunds and forfeiture activities administered by the Department of Public Works associated with the approximately \$1.73M in permits that are in finalized status and within 180 days of 9/30/2020. Once all the permits have either been refunded, forfeited (for non-compliance) or have aged over 180 days after being finalized, the City may then transfer the remaining balance of the \$1.73M.
4. The Director of Public Works, in consultation with the City Attorney, should assess the option of issuing automatic refunds to the payer of the deposit (e.g. without need of a refund request submitted by the permittee) on the \$1.78M of cancelled and expired permits, and on deposits paid on these types of permits in the future. The escheatment process may be needed to verify payers.
5. The Director of Public Works, with support of the Finance Department, Department of Information Technology, and the Planning & Community Development Department, should develop a comprehensive management accountability plan and internal control framework to govern the C&D process. See page 25 for a list of internal control recommendations. The framework developed should include a detailed definition of the roles and responsibilities that define management accountability in each Department. The Departments involved should agree on the date of implementation.
6. Upon modifying the C&D process, the Director of Finance should establish a new Fund account effective July 1, 2021 to record C&D deposits and refunds for permits issued after July 1, 2021. The existing fund account should be retained until all outstanding deposits paid prior to July 1, 2021 have been properly refunded, forfeited, or escheated.
7. The Director of Public Works, in coordination with the Director of Information Technology, should develop a method to systematically collect data necessary (from the Waste Management Plan and Compliance Reports) to accurately report the diversion rate attributed to the C&D program. The Director of Public Works should annually report on the C&D process diversion rate to the City Manager.
8. The Director of Public Works, with support of the Department of Information Technology (DOIT), Finance Department, and Planning and Community Development Department, should develop a technology plan to enhance Energov and Tyler-Munis to support monitoring for compliance with PMC 8.62. To develop the plan, the Department of Public Works should identify their reporting needs to monitor for compliance. (see page 25 for suggested features).





# **Background and Methodology**

## BACKGROUND

### What is the Construction and Demolition Waste Diversion Program (C&D Program)?

Construction and demolition waste represents a significant part of the solid waste stream. In response to State-mandated solid waste reduction goals, and as part of the City's continued efforts to reduce landfilled solid waste, the City adopted the Construction and Demolition Waste Management Ordinance (Chapter 8.62 of PMC) in 2002. The City updated PMC Chapter 8.62 in 2014 to comply with changes in state requirements, which included expanding the scope of applicable construction and/or demolition projects to include residential remodeling projects and to require that applicable projects divert 75 percent of waste either through recycling, salvage, or deconstruction, which is greater than the State requirement of 65 percent. The City also made procedural changes to PMC Chapter 8.62, including the addition of forfeiture of the deposit if the City determines non-compliance with the ordinance's requirements.

When applicants request a demolition or construction permit, and the project falls under the "Covered Project" criteria<sup>4</sup>, the applicant must pay a refundable performance deposit and a non-refundable administrative fee. The permit system computes the amount of the deposit, based on the greater of \$1,000 or three percent of the valuation of the construction project, with a maximum deposit amount of \$30,000 for building permits. For demolition permits, the permit system computes the deposit based on the greater of \$1,000 or \$1 per square foot, not to exceed \$30,000 for demolition permits. Administrative fees, based on the project type, cost about \$300.

Upon payment of the deposit with other permit fees, the applicant must submit a C&D Waste Management Plan. The C&D Management Plan Application includes a list of authorized haulers, recycling facilities, donation facilities and a table to calculate weights. The applicant must submit C&D Waste Management Application even if the project will not include demolition. Upon project completion, the applicant must submit a C&D Waste Management Compliance Report and

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<sup>4</sup> Under Chapter 8.62.030, criteria for "covered projects" includes: "(1) All residential additions; (2) Tenant improvements of 1,000 square feet or more of gross floor area; (3) New structures of 120 square feet or more of gross floor area; (4) All residential alterations and remodels; (5) All demolitions; and (6) All city public works and city public construction projects which are awarded pursuant to the competitive bidding procedure established by Chapter 4.08 of this code."

provide the actual C&D tonnage generated including receipts from the hauling company(s) that transported the debris and from the recycling facility to ensure diversion rate compliance.<sup>567</sup>

If the City determines that the project has met the ordinance's requirements, the City processes a refund on the deposit previously paid if the applicant submits a refund request. If a project does not meet the requirements, the applicant must forfeit the deposit. The C&D program conducts hearings when applicants appeal forfeiture decisions.

## **How does the City's C&D Program Work?**

The Department of Public Works, through support of four City employees, has primary responsibility to administer the C&D program with direct responsibility for processing refunds. One full time Senior Office Assistant issues and receives Waste Management Plans, reviews Compliance Reports, and prepares check requests for refunds. An analyst spends some of her time assisting with these tasks. A Program Coordinator I will review and approve refunds of deposits and a Program Coordinator II will approve the check request.<sup>8</sup> Prior to the City's work-from-home order due to COVID-19, the Program Coordinator II manually reviewed the project file prior to electronically approving the check request. Under current pandemic conditions, the Program Coordinator II uses the electronic workflow to review and approve the check request only.

Figure 1 below shows that number of permits with a C&D deposit collected by the City varied from year to year. The adoption of an updated PMC Chapter 8.62 in February 2014, which expanded the types of projects required to pay a C&D deposit, increased both the number of permits with a C&D deposit and the annual dollar amount of the net C&D deposits. Between 2015 and 2019, the number of permits issued annually averaged 1,170 as shown in Figure 1 below.

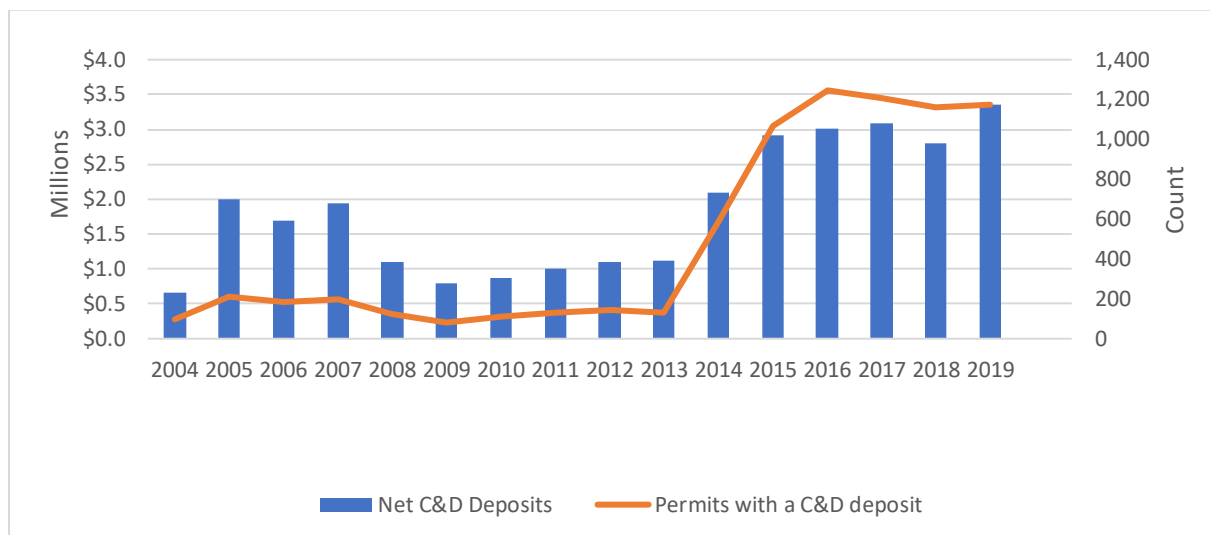
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<sup>5</sup> The ordinance (Chapter 8.62.040) requires that the C&D Waste Management Plan be submitted as part of the permit application. However, the Planning and Community Development Department only includes the payment of the C&D deposit as part of the permit fees and provides the applicant a brochure from the Department of Public Works with instructions on how to submit the required Waste Management Plan.

<sup>6</sup>The C&D Management Plan Application includes a list of authorized haulers, recycling facilities, donation facilities and a table to calculate weights. The C&D Waste Management Application must be completed even if the project will not include demolition.

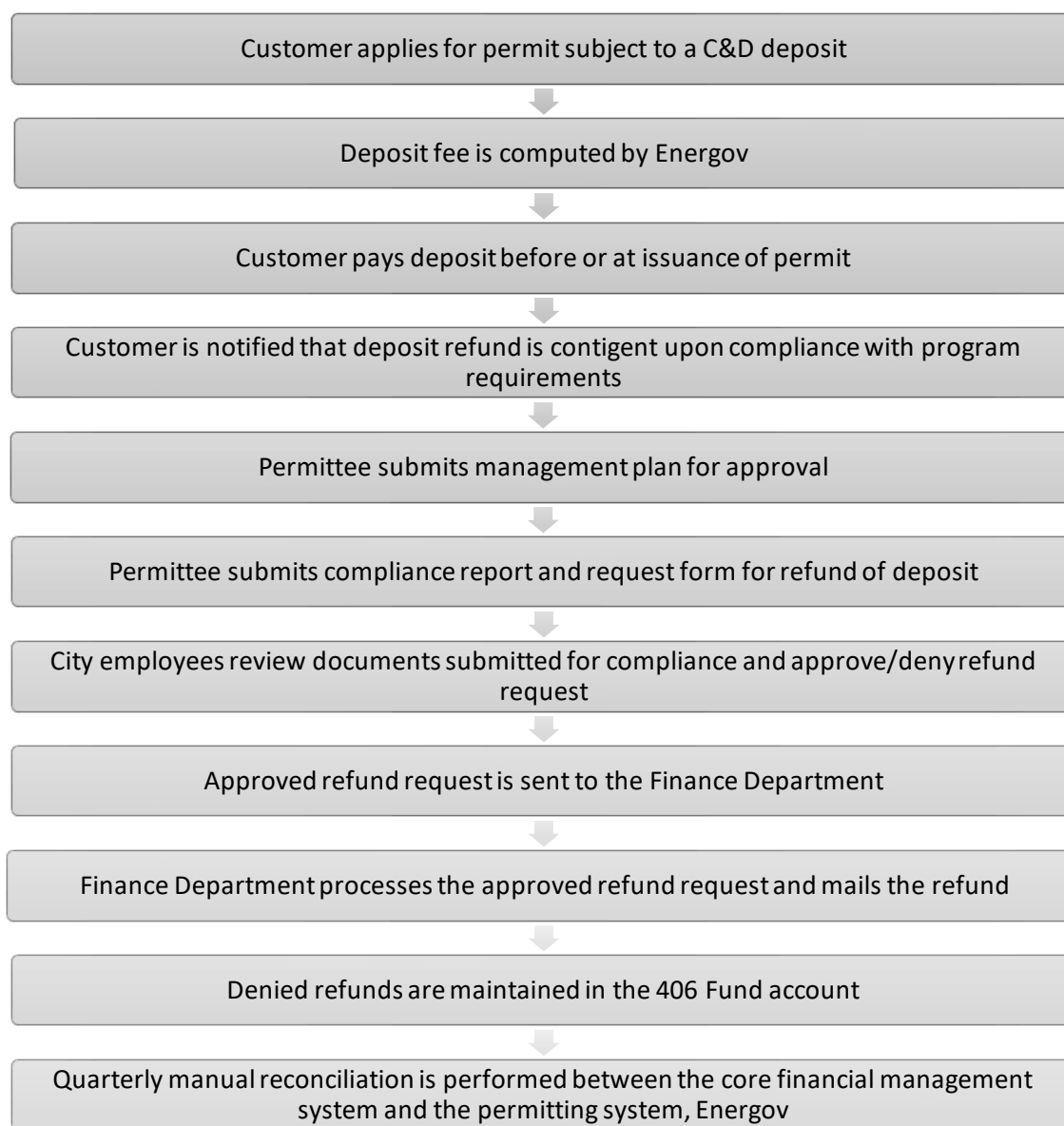
<sup>7</sup>Chapter 8.62.70 (5) requires "original receipts from all vendors and facilities which collected or received construction and demolition debris, indicating actual weights and volumes received by each."

<sup>8</sup>A Management Analyst V and Administrator approve check requests in the amount of \$30,000.

**Figure 1: Number of Permits Issued Annually, 2004-2019**

Note: The amount of a C&D deposit currently varies from \$1,000 to a maximum of \$30,000.

Figure 2 below shows the key steps inherent in the City's C&D process. A full analysis of these activities as well as many other processing activities is discussed later in this report.

**Figure 2. Overview of the City's C&D Process (Key Steps Only)**

### **C&D Program is Supported by Two Information Systems and Four Departments**

When the C&D program began in the early 2000s the City had in place an information system, referred to as Tidemark, which maintained records on building and demolition permits issued and the status of their completion. The City's core financial management system, PeopleSoft, recorded the deposits associated with these permits until July 2015 when the City implemented Tyler Munis, its new core financial management system. In the changeover of financial systems, the fund balance for the account recording the deposits were transferred from the legacy financial management system to Tyler Munis without the supporting documentation and

explanatory data for each transaction. In June 2020, the City subsequently implemented a new permit system, Energov, that replaced the legacy permit system, Tidemark. To the extent possible, all permit data and records were transferred to Energov. The City's Department of Information Technology (DOIT) assumes responsibility for system administration and has continued its efforts to finalize the implementation of Energov, such as developing specific reports for business processes and developing system workflow.

Presently, the C&D process spans across four City departments that implement various activities, as illustrated in Figure 3. The efficient and effective delivery of services is largely dependent on the efforts of the Planning and Community Development Department's permitting services to process permit applications, accurately input data to generate correct deposit amounts, record the name of the original payer, conduct inspections of permitted developments, and update the permit status.

**Figure 3: C&D Program Responsibilities Among City Departments**

<b>Integrated Waste Management Division, Department of Public Works</b>	<b>Planning &amp; Community Development Department</b>	<b>Department of Information Technology</b>	<b>Department of Finance</b>
Notifies permit applicants of program requirements	Accepts permit applications and enters data for computation of performance deposit fees due if any	Updates system fee tables	Accepts and records deposit payment
Receives and reviews Management Plans to ensure use of City approved haulers	Provides C&D Waste Management Plan and other Program material to permit applicants	Serves as system administrator for Tidemark and Energov permit systems	Processes refund requests submitted by the C&D Program Unit and issues checks
Receives and verifies Compliance Reports to ensure 75% diversion of debris and materials	Determines the status of each construction and/or demolition permit (e.g. Issued, Finaled, Expired) and associated dates		
Receives refund requests from permittee	Inspects projects for compliance with permit terms and conditions		
Prepares and approves refund payment requests			
Determines forfeits eligibility			
Reconciles 406 Fund Account			



## What are the City's Requirements for C&D Deposits and Refunds?

A full summary of C&D Municipal Code requirements is shown in Appendix A.

PMC Chapter 8.62 describes the requirements that the City employees, contractors, business owners and homeowners must follow when implementing construction and/or demolition projects expected to produce solid waste. The requirements address criteria for project exemptions, deposit amounts, refunds, forfeits, Waste Management Plan and Compliance Report (e.g., Compliance Report) submission and approval, and an appeals process.

The PMC Chapter 8.62 provides detailed guidance on:

- Projects that are covered by the ordinance, including competitively bid City-sponsored projects.<sup>9</sup>
- Projects to be exempted from the ordinance and procedures for seeking an “exception” from the ordinance including the completion of an “exception application.”
- Required diversion rate (75 percent).
- Information required in the Waste Management Plan and Compliance Report.
- Timeframes within which the applicant must submit, and the City complete its review of the Waste Management Plan and Compliance and determine compliance with the ordinance.
- Timeframes within which the City must issue a refund or notify the applicant of a forfeit of the deposit.
- Appeal of the City's decision related to either: (1) the approval or denial of a waste management plan, or (2) to granting or denying an application for an exception from compliance with the ordinance.

PMC Chapter 8.62 allows for City officials to adopt administrative rules and regulations for the purpose of carrying out and enforcing the payment, collection, and remittance of the fees, clarifying any of the administrative requirements, and specifying the types of diversion activities and facilities that meet the requirements of the Municipal Code.<sup>10</sup> The City had not established formal policies and procedures (a component of internal controls) to guide each step of the C&D process. See page 24 for further discussion about internal controls.

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<sup>9</sup> PMC Chapter 8.62.030 (6)] explicitly requires “all” city projects that are awarded by competitive bid to comply with “all” provisions of Chapter 8.62 including the payment of the performance security deposit, submission of a Plan, and meeting the diversion requirement and shall comply with all provisions of this chapter.

<sup>10</sup> A proposed rule or regulation shall be posted in the permit center, providing notice that it is to be adopted no earlier than 21 calendar days from the date on the posted notice and indicating the manner in which written comments may be provided to the director. A copy of the final adopted rule or regulation shall be posted in the permit center no later than 10 days prior to the effective date of the rule or regulation. A copy of all adopted administrative rules and regulations shall be on file with the City.



## How does the City's C&D Program Compare with Other Cities?

Of the six cities examined – Santa Monica, Long Beach, Burbank, Glendale, Sacramento, and San Luis Obispo – four cities implement construction and demolition recycling deposit programs like Pasadena. Each of these four cities<sup>11</sup> similarly:

- Imposed C&D requirements on city-sponsored projects.
- Adopted principles for computing performance deposits but use different multipliers based on project size, project value, and/or waste production.
- Required diversion of 65 to 75 percent of construction debris although each have different levels of documentation required as evidence of diversion. The City of Glendale has the most documentation requirements that include submission of original facility tags with project address documenting diversion activities and 100 percent re-use of green waste prior to approval of refunds.
- Set minimum and maximum deposits. While the City of Pasadena has a \$1,000 deposit minimum and maximum deposit of \$30,000, the other cities minimum and maximum deposits range from \$249.40 to \$53,425, respectively.
- Allowed for the forfeit of refunds. The City of Santa Monica has the most conditional requirements for forfeit of performance deposits that include use of unapproved facilities or permitted haulers.

In clear contrast to the City of Pasadena, each of the four cities have established policies and procedures and/or robust information systems to track the C&D process. Only the City of Long Beach refunds the deposit paid based on a proportion to the actual materials diverted.

The remaining two cities – Sacramento and San Luis Obispo – do not require deposits on building permits but utilize code enforcement resources to ensure construction and recycling debris hauling meet City diversion requirements. The City of San Luis Obispo may have the most streamlined process in comparison to the other cities by requiring permit holders to submit receipts showing proof of diversion at the time of final inspection.

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<sup>11</sup> The four cities are Burbank, Santa Monica, Long Beach and Glendale.

# AUDIT METHODOLOGY

## Audit Objectives

Concerned about accurate processing of C&D deposits and refunds the City contracted TAP International to:

1. Determine the prospective status of revenues on deposit in the C&D deposit account that included the following:
  - Determine, through building permits or other means, which projects have been completed and which are open.
  - Evaluate the active project status list as of 9/30/20 for accuracy and completeness and based on City ordinances, determine the amount of money in the City C&D Deposit account that should be 1) forfeited, 2) escheated, 3) still active project, 4) accounting error (identify the reason for error).
2. Identify potential changes to the C&D program that can provide added assurance of compliance to City code, strengthen internal controls, and improve overall operational effectiveness to accomplish diversion goals of 75 percent that included the following:
  - Evaluate the administrative guidelines for managing the program to determine if they are sufficient, and if needed, make recommendations to improve the efficiency of the program.
  - Determine whether the program has been effective at achieving the desired diversion rates defined in the Municipal Code. Analyze whether contractors are opting to pay and forfeit the deposit rather than diverting the waste.
  - Evaluate weaknesses in the current program and provide recommendations to strengthen the internal controls.

## Scope of Work

The scope of the review examined C&D processing from 2004 through September 30, 2020. Program activities evaluated included permit application processing, permit compliance examination, deposit, and refund processing. The review also included an examination of legal requirements of the program, and an evaluation of information system controls, including report preparation capabilities.

## Project Approach

To address our audit objectives, TAP International performed the following activities:

- Examined the following C&D processing documents to assess service delivery:
  - City Municipal Code
  - Program brochures
  - Permit applications
  - Sample compliance report forms
  - Management plan forms
  - Documented policies and procedures
  - C&D Reconciliation worksheets
  - C&D related correspondence
- Interviewed C&D management and staff, from the Planning & Community Development Department, Finance Department, and DOIT to discuss C&D processes.
- Examined all financial transactions recorded in the C&D 406 fund account for data anomalies, accounting discrepancies, duplicate payments, and compared summary data between Tyler-Munis and Energov. This analysis identified several accounting transactions that required resolution before performing further analysis, that include:
  - Status of Liquidated Damages assessed between 2003 and 2006<sup>12</sup>
  - Use of Opening Balance Entries
  - Duplicate deposit and refunds

TAP International matched deposits received and recorded in the City's financial systems since 2005 to the City's permitting systems (Tidemark and Energov). The results were then categorized to determine the financial amount of funds that should be maintained in the 406-fund account, the financial amount eligible for escheatment or transfer, and the financial value of transactions that could not be verified based on available data.

- All accounting transactions that were shown in the financial system as possibly having two refunds issue or two deposits recorded (e.g. double refund or double deposit) were reviewed (27 permits).<sup>13</sup> For these transactions, TAP International examined documentation to assess sufficiency of internal controls and for potential fraud.
- Examined files (electronic and hard copy) for 52 permits for compliance to the City's diversion rate goals and for adherence to program procedures regarding submissions of management plans and compliance reports by permittees prior to issuance of refunds. The sampling approach included two methods. First, using data extracted from the permit system, for all

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<sup>12</sup> Transactions for recording liquidated damages were identified in the 406 account that required resolution before financial analysis of the 406 account can occur. These transactions were not related to the C&D Account.

<sup>13</sup> These transactions are not necessarily related to permittees that paid a deposit twice in error and two refunds were subsequently issued. Rather, they appeared in the financial system and needed further research.

permits with a C&D deposit and issued after 2/3/2014, TAP International identified case numbers for permits with an inactive status in the City's permitting system, Energov, for finalized (5,171), expired (820), canceled (57), closed (2), revoked (1), and voided (2) permits. For the categories with more than 10 permits – finalized, expired, and canceled – a judgmental sample was drawn starting with the most recently issued permits to create a proportional sample of finalized (40), expired (15) and canceled (10) permits with either a BLD or DEM case number. Twenty-seven permits were selected for examination. Another 25 permits were judgmentally selected based on discrepancies in the accounting transaction activity (e.g., appeared as a double refund, contained deposit reversals, or refunds were issued untimely). However, 22 of the 52 permits selected could not be reviewed because of the absence of documentation. The remaining 30 permits were organized into multiple sample sizes to test for different control activities.

- Examined files (electronic and hard copy) for 10 permits for completed City projects for which the City Engineer identified a case number for the permit.
- Because a report could not be generated showing case numbers for the “forfeited” permits on which to draw a sample, TAP International reviewed a judgmental sample of five forfeited case files) based on our inventory of files identified by C&D staff as forfeited.

This audit is known as a performance audit. A performance audit evaluates the economy, efficiency, and effectiveness of programs, services, and operations. TAP International conducted this performance audit in conformance with standards established by the Institute of Internal Audits. A draft report was provided to the City's Internal Audit unit for distribution to applicable departments for review. Comments from three departments were incorporated as applicable throughout the report. See Appendix B for formal agency comments to the recommendations included in this report.



# Key Findings

## KEY RESULTS

### **C&D Program Accomplishments**

The City established the C&D program to comply with State of California requirements for diversion of waste. The staff who support the program generally review and approve required Management Plans<sup>14</sup> within 15 days. Staff also spend a significant amount of time researching and resolving refund discrepancies in the best interest of the City customer. The issues described below, if resolved, can ensure the success of the C&D program as well as its program goals.

### **Finding 1: Funds are Available for City Use**

TAP International conducted a financial analysis of the City's Fund Account 406 to determine how much revenue should be retained in the account and how much is eligible for potential transfer.

The City also conducted an analysis of the same account, as shown in Figure 4. Each analysis applied appropriate analytical techniques.

TAP international's analysis shows the City's Fund Account 406 has a balance of about \$10.8M as of September 30, 2020. The City should retain funds currently on deposit in the amount of \$7.50M for potential refunds on permits that remain eligible for a refund. The City's analysis shows that \$8.26M should be retained for future refunds, \$2.20M of which the City continues to research.

The TAP International figure of \$7.50M includes about \$1.78M in C&D deposits for permits that were subsequently cancelled or expired. While PMC Chapter 8.62 allows for refunds for these types of permits, the current C&D program requires the payor of the deposit to submit a form requesting a refund, but the City's website and informational brochure do not provide information about refund eligibility for an expired or canceled permit. The funds for these types of permits should be separately tracked in a different account by the City for any future refunds on these types of permits.

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<sup>14</sup> Management plans are required by the permittee before construction and demolition begins to report estimates of the waste to be diverted and to identify City approved haulers for the pick-up and delivery of the waste.

TAP International's analysis shows another \$3.33M is eligible for transfer, adjustment and/or the escheatment process. The City's analysis shows a lower amount because the Finance Department has not yet completed its analysis on the fund account. Based on TAP International's analysis, the City Attorney would need to determine whether approximately \$2.41M of \$3.33 in net deposits paid prior to the effective date of the current PMC (February 3, 2014) is eligible for transfer or subject to escheatment or need further research on how to transfer.<sup>15</sup>

**Figure 4: Status of C&D Deposits as of September 30, 2020**

<b>Category</b>	<b>TAP International Estimates<sup>a</sup></b>	<b>City Finance Department (1/12/2021)</b>
<b>Fund 406 Account Balance as of 9/30/2020</b>	<b>\$10,831,916</b>	<b>\$10,809,752<sup>g</sup></b>
<b>Amount that Should be Retained in Fund 406 – Eligible for Refund</b>	<b>\$7,501,644</b>	<b>\$8,263,333<sup>h</sup></b>
Permits in Issued, Hold or In-Review Status <sup>b</sup>	\$3,997,931	\$3,277,368
Finaled Permits Within 180 days of 9/30/20 <sup>c</sup>	\$1,725,001	\$1,313,158
Permits that have been Cancelled or Expired <sup>d</sup>	\$1,778,733	\$1,475,980
Permits identified by City Finance Department as needing further research		\$2,196,827
<b>Amount Eligible for Escheatment, Transfer, or Adjustment</b>	<b>\$3,330,251</b>	<b>\$2,518,562</b>
C&D program review that was completed after 9/30/2020 for transactions that need further research on how they should be transferred <sup>e</sup>	\$627,756	\$632,836 <sup>i</sup>
Deposits paid on permits prior to the modified C&D Municipal Code (2/3/14)	\$1,802,166	
Balance of deposits eligible for forfeiture and transfer	\$900,329	\$1,885,727
<b>Needs further research per City Finance Department<sup>f</sup></b>		<b>\$27,857</b>

<sup>a</sup> C&D staff, after 9/30/20, completed research on the status of some older permits and initiated steps to process refunds. Financial activity that occurred after 9/30/20 is not reflected in TAP International's analysis.

<sup>b</sup> Active permits for eligible C&D projects.

<sup>c</sup> Permits for projects that have been completed but eligible for a refund on deposits paid. A permit is considered "Finaled" after the City's final inspection approving the project. The City ordinance also defines a project as completed, "on the date on which a permit for the project expired or that such as permit is withdrawn or cancelled."

<sup>d</sup> Permits for construction and demolition projects that did not commence.

<sup>15</sup> Escheatment is the process of handing over unclaimed money.



<sup>e</sup> Unverified amount from C&D staff review that needs independent research and verification by the Finance Department. Of \$627,756 that requires further research, \$605,464 are for deposits paid on permits prior to 2/3/14 (date of modified C&D Municipal Code) and \$22,291 are for deposits paid on permits after 2/3/14.

<sup>f</sup> The Finance Department identified transactions that require additional review of the accounting trail prior to making final determinations of forfeiting, escheating, adjusting, or transferring.

<sup>g</sup> The Finance Department's reported Fund 406 balance as of 9/30/2020 includes an adjustment for Solid Waste Collector Franchise Deposits that is not included in the TAP International estimate.

<sup>h</sup> TAP International's financial analysis for "Amount that Should be Retained in Fund 406" is based on net deposits identified in the permitting system. The Finance Department's analysis includes the results of research requested by TAP International for identified permits that did not have sufficient information for our analysis. The Finance Department added \$2.20M to be retained, which are net permit deposits received between 2018 and 2021 and require further research by the Finance Department prior to their transfer or escheatment. Consequently, the estimate for "Amount Eligible for Escheatment, Transfer, or Adjustment" is lower.

<sup>i</sup> Amount includes two additional permits recently researched that are not included in the TAP International figures, resulting in the difference of \$5,080.

TAP International identified various accounting issues as a result of the financial analysis conducted on the 406 Fund Account that included:

- Adjustments to the fund account balance without detail as to the reasons for the adjustments or absence of identifying the permit associated with the accounting transaction (e.g. deposit, forfeiture, refund, or transfer).
- Financial transactions entered without a reference to a permit number. Currently, the Finance Department uses a free-form comment field to note a permit number, which leads to manual entry errors.
- Multiple accounting entries for deposits and reversals recorded within one day.
- Deposits or refund entries made in error and later reversed without documentation of the reason, which led to financial reports extracted from the Tyler-Munis system to show multiple deposits or refunds for a single permit.
- C&D deposits entered as batches without supporting documentation to link individual amounts to specific permit numbers.

These issues spanned the entire timeframe of our review, from 2004 through September 2020 and will need further research and resolution by the City. Meanwhile, the Finance Department should establish a second Fund account to record new permit activity to effectively segregate older permit accounts until their resolution.

**Finding 2: The C&D Process is Not Implemented Effectively**

Internal controls are policies, procedures, processes, and activities that when present and working effectively serve as a critical line of

defense against fraud, waste, and abuse. When internal controls were present in the C&D process, these controls were not implemented effectively. Examples include:

- Submitted Compliance Reports with blank fields and without signature from permit holders.
- Issuance of refunds after the 45-days of receiving and approving Compliance Reports.
- Absence of timely review of permits for potential forfeits as evidenced by the \$2.4M in the 406 account from permits issued prior to 2014.
- C&D employee roles and responsibilities do not have clear delineation and separation as evidenced by having the same person review compliance reports (required for refunds) and prepare/sign check requests for refunds<sup>16</sup>. In another area, another person is responsible for completing both year-end reconciliation activities to forfeit deposits and submitting check requests.<sup>17</sup>
- C&D program information does not provide clear guidance to permit holders as evidenced by correspondence sent to the C&D program staff about clarification of deposit requirements.

In November 2020, the City prepared a description of the C&D process, but in comparison to current activities, the description does not address all the activities presently performed by staff. Also, the current process does not align with COSO Internal Control Framework<sup>18</sup> recommended for private and public agencies and contains many gaps, as shown in Figure 5. The COSO framework guides public agencies in relevant aspects of organizational governance, business ethics, internal control, business risk management, fraud, and financial reports.

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<sup>16</sup> Our analysis found that check requests were prepared without required Compliance Reports. Better segregation of duty would prevent this occurrence.

<sup>17</sup> A person who is responsible for account reconciliation can potentially issue a check request inappropriately.

<sup>18</sup> The Committee of Sponsoring Organizations of the Treadway Commission (COSO).

Figure 5: Internal Control Gaps in the C&amp;D Process

Program Component		
Governance		
<i>Elements Presently in Place</i>	<i>Gaps in Internal Controls</i>	<i>Recommended Controls</i>
<ul style="list-style-type: none"> <li>Department management demonstrates a commitment to ethics and integrity.</li> <li>City has held employees accountable in pursuit of program objectives.</li> </ul>	<ul style="list-style-type: none"> <li>Development of formal policies and procedures</li> <li>Implementation of formal training on the C&amp;D program</li> <li>Preparation of performance reports on C&amp;D program operations</li> </ul>	<ol style="list-style-type: none"> <li>The Department of Public Works should develop formal C&amp;D program policies and procedures that address: <ul style="list-style-type: none"> <li>Permit application issuance</li> <li>Permit deposit fee calculation<sup>19</sup></li> <li>Permit deposit accounting</li> <li>Compliance verification/reporting – management plans</li> <li>Refund computation<sup>20</sup></li> <li>Forfeiture process</li> <li>Refund processing</li> <li>Appeal/hearing process</li> <li>Refund accounting (creating check request and submitting data to the finance department)</li> <li>Refund is not booked in the permitting system</li> <li>Unclaimed refund</li> <li>Account reconciliation.</li> </ul> </li> <li>Develop training curriculum for online tutorials and provide annual training, including training on fraud awareness and prevention.</li> <li>Define clear lines of segregation of duty within the C&amp;D program. Changes needed include: <ul style="list-style-type: none"> <li>Senior Office Assistant reviews management plans and Final Reports – completes form attesting to verifying compliance. Prepares and issues letters for management and Final Report review status.</li> </ul> </li> </ol>

<sup>19</sup> Energov computes the deposit fee. Policies and procedures should guide staff on the types of data to enter into Energov for the fee calculation and the types of permits that should have \$0 fees computed.

<sup>20</sup> Policies should address the circumstances that refunds may be issued partially and how full refunds should be processed.

		<ul style="list-style-type: none"> <li>• Program Coordinator I verifies and prepares check request for refund, and reviews all permits for proper exemption.</li> <li>• Program Coordinator II performs reconciliation and approves check requests but does not prepare them.</li> </ul> <ol style="list-style-type: none"> <li>4. Designate clear and divided responsibilities among Departments.</li> <li>5. Modify C&amp;D program forms to include City verification of diversion rates reported.</li> <li>6. Configure Energov to prepare report templates as described in this report.</li> </ol> <p><u>Building and Planning:</u></p> <ol style="list-style-type: none"> <li>7. The Director of Public Works, with support of the Building and Planning Department, should establish policies and procedures for:             <ol style="list-style-type: none"> <li>a. Identifying eligible permits for \$0 deposits;</li> <li>b. Documenting the justification for exemption</li> </ol>             Training should be provided to the Building and Planning Department upon their development.           </li> </ol> <p><u>Finance Department:</u></p> <ol style="list-style-type: none"> <li>8. The Director of Public Works, with support of the Finance Department, should establish policies and procedures for:             <ol style="list-style-type: none"> <li>a. Rejecting the processing of refunds if the check request is 225 days after Final Report submission. Check request forms must be modified to make this determination.</li> <li>b. Recording a permit number for all deposits posted.</li> <li>c. Ensuring that check requests are issued to the Finance Department with sufficient time to issue refunds within 45 days of Final Report submission.</li> </ol> </li> </ol>
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Risk Assessment		
<i>Elements Presently in Place</i>	<i>Gaps in Internal Controls</i>	<i>Recommended Controls</i>
<ul style="list-style-type: none"> <li>C&amp;D program management has identified deposit risks applicable to City-sponsored C&amp;D projects.</li> <li>Program management has identified some control risks stemming from new system implementation.</li> </ul>	<ul style="list-style-type: none"> <li>Identification of all compliance and internal control risks</li> <li>Identification of all potential fraud risks across the C&amp;D program</li> </ul>	<p>9. Document all control and fraud risks within the C&amp;D program and update policies and procedures to reduce risks.</p>
Control Activities		
<i>Elements Presently in Place</i>	<i>Gaps in Internal Controls</i>	<i>Recommended Controls</i>
<ul style="list-style-type: none"> <li>Secondary approval is routinely provided of refund check requests.</li> <li>Waste Management plans and Compliance Reports allow for</li> </ul>	<ul style="list-style-type: none"> <li>Use of System or manual notification to the C&amp;D program when deposits have been paid, which is necessary for subsequent issuance of management plan applications and compliance report template</li> <li>Use of electronic upload of management plans and compliance reports</li> </ul>	<p>10. Develop an interim system to produce weekly reports that track all deposits paid by date, payee name, case number and contact information for C&amp;D program review and action to send required report templates, until completion of Phase 3 Energov implementation.</p> <p>11. Develop online file transfer mechanism for permit holders to upload completed management plans and compliance reports.</p> <p>12. Develop electronic recording of the receipt date of management plans and compliance reports.</p> <p>13. At a minimum, develop a tracking system that records issuance and receipt of management plans and compliance reports to/from the permittee, follow up activities (e.g. issuance of</p>

documentation of City approval.	<ul style="list-style-type: none"> <li>• Date stamping or tracking of management plan submissions and Final Reports</li> <li>• Standardized tools or tracking systems on follow up with the permittee about late management plan submissions</li> <li>• Use of formal template to notify permittee of approval or denial of management plans and/or Final Reports</li> <li>• Use of forms to provide consistent verification of Final Reports</li> <li>• Use of regular timetable to initiate forfeit of permit deposits</li> <li>• Use of system edits to prevent computation of fees for exempted permits</li> <li>• Use of form to review and verify diversion rate contained in Final Reports</li> <li>• Use of field in Tyler Munis to record unique permit numbers when posting deposits</li> <li>• Use of supervisory review and authorization of “exceptions” granted to permit holders on PMC requirements</li> <li>• Use of electronic interface between Tyler Munis and</li> </ul>	<p>letters), actual diversion rates, disposition of permit updated monthly, and disposition of refund (e.g. forfeited, finalized, paid) or configure Energov to record and report on the data.</p> <ol style="list-style-type: none"> <li>14. Create letter templates to notify permittee of approval or denial of management plans and/or compliance reports.</li> <li>15. Create an electronic interface between Tyler Munis and Energov to transfer payment of refunds information to Energov.</li> <li>16. Configure Tyler Munis to have a required data entry field to input case numbers.</li> <li>17. Configure Energov to compute \$0 C&amp;D deposits for permits not covered by PMC Chapter 86.62.</li> <li>18. Automatically issue refunds for projects that should have been exempted from deposit payments without waiting for the permittee to send a request for refund.<sup>21</sup></li> <li>19. Develop written policies that include seeking Department Director review and authorization for “exceptions” granted by C&amp;D staff for permits that exceed established valuation and volume thresholds established in the PMC.</li> <li>20. Develop written instructions and a checklist for verification of diversion rates; rejection of compliance reports that do not include copies of tipping fee tickets and waste receipts). The instructions must include guidance on how to address lost tickets and receipts.</li> <li>21. Provide supervisory review and approval of refunds forfeited and exempted.</li> <li>22. Develop functionality within Energov an interim system to enforce the 15-business day timeline to review submitted compliance reports and the 30-business day timeline for either the issuance of a refund or the forfeiture of the refund and notification of the applicant. The interim system should notify the Department of Public Works management when the</li> </ol>
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<sup>21</sup> For payees that cannot be contacted to verify address, escheatment may be needed.

	<p>Energov to record payment, refund, or forfeit information</p> <ul style="list-style-type: none"> <li>• Added use of system edits to prevent data entry errors</li> <li>• Development of formal process to guide the closing permit files</li> <li>• Use of naming conventions for permit numbers that avoids data entry errors. Permits are given the same identifier year to year (e.g. BLD2020-00100, BLD2019-00100)</li> </ul>	<p>window has been past. Until the Energov functionality can be implemented, an interim system should be developed.</p> <p>23. Prepare checklist for use in closing out of permit files within 30 days of refund/forfeit. The checklist should include Amount of Deposit Paid, Submission of Management Plan, Submission of Compliance Report, Approval/Denial of Management Plan, Approval/Denial of Compliance Report, Deposit Forfeited/Paid and Amount, and date Formal letter correspondence sent to the permittee.</p> <p>24. Modify the naming conventions to sequentially number permits.<sup>22</sup></p> <p>25. Add system edits to prevent data entry errors.</p> <p>26. Add system capability to upload management reports and compliance plans by BLD number.</p>
<b>Information and Communication</b>		
<i>Elements Presently in Place</i>	<i>Gaps in Internal Controls</i>	<i>Recommended Controls</i>
None identified	<ul style="list-style-type: none"> <li>• Incomplete C&amp;D web page information.</li> <li>• Lack of acknowledgement from permit applicants about submission of management plans and compliance reports.</li> <li>• System does not automatically issue correspondence letters for approval or denial of required reports and refunds.</li> <li>• C&amp;D program staff are not automatically notified when the status of a permit changes.</li> </ul>	<p>27. Update the City's C&amp;D web page information to include:</p> <ol style="list-style-type: none"> <li>a. Information that deposits are paid first prior to receiving management plan and Final Reports, b) expected timelines for review of required forms and issuance of refunds if approved).</li> <li>b. Provide instruction on how to determine diversion rates.</li> <li>c. Provide a sample of a completed management plan and compliance report with related tipping fee tickets and receipts attached.</li> </ol> <p>28. Issue letters to permit applicants with instructions on how and when to submit management plans and compliance reports.</p> <p>29. Develop an interim system to track correspondence to/from the permittee concerning C&amp;D required reports as well as C&amp;D</p>

<sup>22</sup> The C&D program staff explained that revamping the naming convention would be burdensome for the City and unnecessary for the C&D program. However, the current naming convention has led to data entry errors and does not effectively prevent potential fraud.



	<ul style="list-style-type: none"> <li>• Use of an electronic portal to communicate the status of refunds to customers.</li> </ul>	<p>deposits and refunds until completion of Phase 3 Energov implementation.</p> <p>30. For longer term planning, configure Energov to allow electronic workflow of review and approval of management plans and compliance forms and allow for capturing of permittee and notifications.</p>
<b>Monitoring</b>		
<i>Elements Presently in Place</i>	<i>Gaps in Internal Control</i>	<i>Recommended Control</i>
Quarterly reconciliation of data between Tyler Munis and Energov is performed.	<ul style="list-style-type: none"> <li>• Use of lag studies to predict funding requirements for outstanding refunds.<sup>23</sup></li> <li>• Use of performance metrics to monitor operational efficiency and effectiveness.</li> <li>• Use of electronic reconciliation of C&amp;D deposits and payments.</li> <li>• Tracking the frequency and outcomes of appeal hearings.</li> </ul>	<p>31. Develop a system to annually estimate the amount of deposits to set aside to pay expected future refunds (e.g. lag study)<sup>24</sup>.</p> <p>32. Develop performance measures (e.g., average timeframe from deposit payment to refund, average turnaround time from submittal of compliance report to refund payment, total number of permits with C&amp;D requirements issued monthly, and total number of permits with C&amp;D requirements processed for payment.</p> <p>33. Develop an interim system to reconcile C&amp;D deposits and payments until completion of Phase 3 Energov configuration.</p> <p>34. Develop tracking mechanisms to track hearings and outcomes.</p> <p>35. Conduct semi-annual desk review of diversion rate compliance on all covered projects for review by the City Manager.</p>

<sup>23</sup> Lag studies are an accepted method of financial analysis to determine the amount of revenue to set aside to pay expected refunds in the future.

<sup>24</sup> Lag studies serve as an internal control to help identify potential fraud by verifying if Fund Account 406 has sufficient fund balances to pay future liabilities that can reasonably be expected based on historical information and refund history.

Although TAP International did not identify fraud in the transactions judgmentally selected for review, the gaps in internal controls have led to the identification of multiple discrepancies, errors, and compliance issues with PMC Chapter 8.62 based on the review of financial transactions, permit files (electronic and hard copy), email correspondence, and interviews with staff (corroborated) across the C&D process.<sup>25</sup>

**Figure 6: C&D Process Issues Identified**

Type of Issues	Number or % ( % shown if a sample of documents were reviewed)	Responsible Department
Absence of recording permit identification when refunds are recorded	1400	Building Department and Finance Department
Issuance of refunds prior to permit being finalized	318	C&D program staff
Posting and reversing deposits on the same day or different dates	224	Finance Department
Issuing refunds on deposits that should have been forfeited	158	C&D program staff
Insufficient evidence of approval of completed Final Reports	47%	C&D program staff
Incomplete or missing hard copy permit files	34%	C&D program staff
Charging of deposits fees when fees should have been \$0 for not meeting covered criteria triggering deposit requirements	8%	DOIT – system configuration Planning & Community Development
Voiding Accounts Payable Invoiced (API) transactions without notes documenting the void, so it shows on financial reports as a dual refund	50%	Finance Department
Missing date of submissions for Management Plan to assess timeliness per PMC	30%	C&D program staff
Compliance Reports contained insufficient proof of diversion rates (3), missing dates of receipt to assess refund timeliness (4) or were not submitted on eligible permits (8) <sup>26</sup>	73%	C&D program staff

<sup>25</sup> The scope of work for this audit did not include a compliance audit of the PMC Chapter 8.62. However, TAP International reviewed eight areas of PMC 8.62 during the course of the audit. C&D activities were not in compliance with seven areas across five chapters of the Code. The remaining area could not be assessed for compliance because of insufficient information.

<sup>26</sup> C&D Program staff explained that they allow permit holders extra time to provide supporting documentation or to submit a Final Compliance Report so they can obtain a refund, instead of immediately processing a forfeit.

Untimely response to customers about refund status	25%	C&D program staff
Other discrepancies (e.g. Incorrect data entry of the payee of the deposit, notifying permittees of forfeited deposits two years later, unrefunded deposits on old permits even though all required reports were submitted, Initiating the forfeit process up to ten years late, cancelling of transfers of Public Works deposits to 406 account by Accounts Payable, initiating refund process only after receipt of customer inquiries, and untimely refunds, sending correspondence to the permittee that refund was approved and then later stating refund approval was needed)	32%	Finance Department, C&D program staff
Acceptance of incomplete Final Compliance Reports (e.g., no signatures, receipts).	71%	C&D program Staff
Unprocessed eligible refunds on permits that contained all the required documentation	2	C&D program Staff
Comment field has data errors. Example: inputting BLD2016-00009 when it should have been DEM2016-00009	Not available <sup>a</sup>	Finance Department
Combining refunds across multiple permit numbers but recording only one permit number in the comment field in Tyler Munis	Not available <sup>a</sup>	Finance Department

<sup>a</sup> Analysis of financial information identified multiple exceptions that were not quantified by TAP International.

C&D program staff, Finance department staff, and DOIT staff provided various explanations for the conditions identified:

- Increased workload from the growth in the number of permits requiring a C&D deposit since 2014 when the Ordinance was updated to include all residential projects.
- Many transactions required a deposit and then a reversal during the Tyler Munis implementations.
- Errors made by Permit Center staff in data entry.
- Errors made by Municipal Services staff when collecting and recording payment of C&D deposits.

- No automated notification by the permit information system to notify C&D program staff each time the City's issues a permit with a C&D deposit; C&D program staff described existing reports that show permits with C&D deposits as "overwhelming."
- Noncompliance by haulers and recycling facilities with state diversion requirements that jeopardize permit holders' ability to demonstrate compliance with their Waste Management Plans.
- Need for additional assistance from other Departments to help Public Works improve its administration of the C&D program process (for example, greater technical assistance with the annual fund account reconciliation and timely communication on permit status)
- System limitations in Energov until the City completes its implementation.

No one department or person created all the issues identified in this report because the C&D process spans across four departments and each are dependent on the others to perform their role responsibly and effectively. The process over the years had not accomplished a high level of maturity in its service delivery wherein past incidents or errors generally lead to continuous improvement. In addition, when changes in management and staff led to inheriting the C&D program, the procedures were not routinely examined for their effectiveness.

### **Finding 3: The Diversion Rate Attributed to the C&D Program is Unknown**

The City has established a policy objective to divert 75 percent of waste from area landfills to meet state mandates of 65 percent.<sup>27</sup> The City's diversion rate is the outcome of aggregated data submitted by over 40

different waste management and recycling components, such as the C&D program, curbside collection, and school recycling programs.

Public Works management and staff reported that the 75 percent diversion goal, both Citywide and for the C&D program, was met because City-approved haulers must submit monthly activity reports. If diversion goals are not met, haulers become subject to liquidated damages. Management and staff further explained that, on a project-by-project basis, refunds of deposits are not issued unless permit holders meet the diversion goals.

TAP International found that the diversion rate directly attributed to the C&D program is unknown for several reasons.

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<sup>27</sup> CAL Green mandates locally permitted new residential and non-residential building construction, demolition and certain additions and alteration projects to recycle and/or salvage for reuse a minimum 65 percent of the nonhazardous C&D debris generated during the project (CAL Green sections 4.408, 5.408, 301.1.1 and 301.3)

- C&D program project files were missing or had incomplete or illegible documentation of C&D diversion data for individual projects, limiting the amount of information available to C&D program staff to determine compliance with the diversion rate for each project.<sup>28</sup>
- The method of tracking C&D diversion rates on a project-by-project basis does not include the solid waste generated by projects required to participate in the C&D program but did not submit a Final Compliance Report showing the gross waste and the amounts diverted. Non-submission of a Final Compliance Report suggests that either the permit holder is aware that the project's diversion goal was not met and is not eligible for a refund, or that the permit holder intentionally forfeited their deposit rather than comply with City diversion requirements. Of the 15 permit files that we examined, about half did not contain the required Final Compliance Report.
- Reliance on the diversion data reported by its franchise haulers to track the aggregate diversion of C&D debris does not account for C&D debris that is self-hauled, hauled by an unlicensed contractor, or materials that are reused or donated. C&D program staff explained that the impact on diversion rates from these activities is small.

To accurately calculate the diversion rate attributed to the C&D program, the total amount of solid waste generated by compliant and non-compliant covered projects is needed, not just those projects that submitted a Final Compliance Report. The C&D diversion rate could be overstated without the inclusion of the C&D debris generated (and not diverted) by noncompliant projects.<sup>29</sup>

Public Works management explained that the success of the C&D program considers other measures in addition to diversion rates reported for individual permits. These measures include customer satisfaction and comparing the number of refunds issued to the number of forfeited deposits. Because Public Works has processed far more refunds than forfeited deposits, management explained this demonstrates a high rate of compliance by individual projects with the City's required diversion rate. TAP International could not reliably assess these two additional measures of C&D program success because of the absence of aggregated information.

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<sup>28</sup> For each project, PMC Chapter 8.62 specifies that the completed Final Compliance Report, which must be submitted within 180 days of the City designating a project as completed, must include:

- o Actual weight in tons of C&D debris that was disposed at a landfill
- o Actual weight in tons of C&D debris that was recycled
- o Copies of weight tickets from all facilities that received debris
- o Explanation of how weights were determined
- o Actual project dates

<sup>29</sup> Public Works management and staff asserted that the non-submission of Final Compliance Reports does not affect the City's reporting to the state because they use the aggregate data reported monthly by the City's franchise waste haulers, which includes debris from all C&D projects, regardless if a Final Compliance Report is submitted.



CITY OF PASADENA  
PERMIT CENTER

# Acknowledgments

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## ACKNOWLEDGEMENTS



TAP International wishes to thank the City staff who participated in this audit from the following departments:

- Finance
- Department of Public Works
- Planning and Community Development
- Department of Information Technology
- Internal Audit Division





# Appendices

## Appendix A: C&D Municipal Code Requirements

### Chapter 8.62 Pasadena Construction and Demolition Waste Management Ordinance

City Municipal Code Requirement Area/Chapter	Description of Requirement	Responsible Party
Permit application		
8.62.30	<p>All residential additions;            Tenant improvements of 1,000 square feet or more of gross floor area;            New structures of 120 square feet or more of gross floor area;            All residential alterations and remodels;            All demolitions; and            All city public works and city public construction projects which are awarded pursuant to the competitive bidding procedure established by Chapter 4.08 of this code.</p>	Permittee
Permit Exemptions		
8.62.035	<p>The following projects are exempt from the C&amp;D program requirements:</p> <ul style="list-style-type: none"> <li>A. Immediate or emergency demolition required to protect the public health, safety, or welfare, as determined by any public safety official or code compliance officer of the city given prior to demolition.</li> <li>B. Projects which consist solely of either one-story accessory structures used as tool and storage sheds, playhouses, and similar uses, provided the floor area does not exceed 120 square feet (11.15 square meters) or a swimming pool.</li> <li>C. A project for which an exception, conditional use permit or design review approval has been obtained from the city prior to the effective date of the ordinance codified in this chapter.</li> <li>D. A project for which a valid building permit has been lawfully issued by the city prior to the effective date of the ordinance codified in this chapter.</li> <li>E. A project for which only a plumbing, electrical or mechanical permit is required.</li> <li>F. A project which may technically fall within this chapter, but due to special circumstances, less than 4 cubic yards of construction and/or demolition debris is anticipated to be generated as determined by the waste management plan compliance official.</li> <li>G. A project of city public works or city public construction for which the notice inviting bids has been published pursuant to Chapter 4.08 of this code prior to the effective date of the ordinance.</li> </ul>	City staff

Permit Deposit		
8.62.050	Performance security deposits may be waived if the total performance security would be 50 dollars or less.	Waste management plan compliance official
Deposit Forfeits		
8.62.50	The deposit shall be forfeited entirely if applicant fails to comply with the requirements of this chapter. No refund shall be authorized when the submittal date of the completed final report is beyond 180 days from the date a covered project has been completed.	City staff
Management Plan Submittal		
8.62.040	All applicants for covered projects shall complete and submit a waste management plan as part of the application packet for a permit issued for a covered project shall be attested by the applicant, under penalty of perjury, as true and correct for all stated facts and as a best estimate based on all information reasonably available about the project, where all the facts cannot be ascertained	Permit applicant
	<p>Approval of the management plan shall be based upon the following information:</p> <ol style="list-style-type: none"> <li>1. The estimated volume or weight of construction and demolition debris, listed for each material;</li> <li>2. The estimated volume or weight of construction and demolition debris that can be diverted, listed for each material;</li> <li>3. The estimated volume or weight of construction and demolition debris that will be landfilled as solid waste;</li> <li>4. The identification of the vendor or facility that will collect or receive the construction or demolition debris or that will deconstruct the structure;</li> <li>5. The estimated date on which demolition or construction is to commence.</li> </ol>	Waste management plan compliance official
Management Plan Approval		
8.62.60	A waste management plan shall be approved or denied no later than 15 business days after a complete application is made <sup>30</sup> based upon information submitted under Section 8.62.040 has been provided; the plan establishes a mechanism such that the diversion requirement shall be met; and the applicant has submitted an administrative review fee and performance security in compliance with Section 8.62.050.	Waste management plan compliance official

<sup>30</sup> Waste management plan means an application packet approved by the director of public works for the purpose of reviewing project compliance with the provisions of this chapter. (Chapter 8.62.020, Definitions, R)

	Denial. If the waste management plan is denied then the grounds for denial shall be clearly stated, in writing.	Waste management plan compliance official
Compliance Report		
8.62.050	Final Report. No later than 90 days from the completion of a covered project, the applicant shall submit a compliance reporting form, the dates demolition and construction actually commenced; the actual volume or weight of construction and demolition debris, listed for each material; the actual volume or weight of construction and demolition debris that was diverted, listed for each material; a specification of the method used to determine the volumes and weights and a certification that the method used was the most accurate, commercially reasonable method available; original receipts from all vendors and facilities which collected or received construction and demolition debris, indicating actual weights and volumes received by each	Permit holder
Deposit Refund		
8.62.075	No later than 15 business days from the date a complete compliance reporting form is submitted, the City shall determine whether the applicant has complied with the requirements of this chapter, and the following shall occur: A. The performance security shall be returned to the applicant within 30 days of determination	City employees
8.62.050	The deposit may be refunded without interest, in total, upon the applicant's timely submission of a final report as outlined in Section 8.62.070 and proof of satisfaction by the waste management plan compliance official that no less than 75% of the debris generated from the applicable project has been diverted from disposal and has been recycled, reused, or stored for later reuse or recycling	City employees
Forfeit of Refunds		
8.62.050	The deposit shall be forfeited entirely if applicant fails to comply with the requirements of this chapter.	City employees
8.62.050	No refund shall be authorized when the submittal date of the completed final report is beyond 180 days from the date a covered project has been completed.	City employees
8.62.075	On a determination of noncompliance with the requirements of this chapter, the performance security shall be forfeited in total and the applicant shall be notified of the forfeiture in writing within 30 days of determination. Prosecution or other administrative proceedings may be recommended, or the responsible official may make a determination not to commence proceedings.	City employees
Exemptions from City Requirements		

8.62.080	<p>Prior to commencing demolition or construction, an applicant wishing relief from the requirements of this chapter may seek an exception, partial or complete, from the requirements of this chapter through the following process:</p> <p>A. Initiation. The exception process shall be initiated by the filing of a complete exception application. The City shall determine the completeness of the exception application within 5 business days of the filing of the application.</p> <p>B. Decision on Application. Following consideration of the exception application, the waste management plan compliance official shall either make the required findings and take action on the application; or shall state why the findings cannot be made and deny the application. A decision on the application shall be rendered within 10 business days following determination the application is complete.</p> <p>C. Findings. All the following findings must be made prior to the approval of an exception:</p> <ol style="list-style-type: none"> <li>1. There are exceptional or extraordinary circumstances or conditions applicable to the project that do not apply generally to similar projects;</li> <li>2. Granting the application will not constitute a grant of special privilege inconsistent with limitations imposed on like projects; and</li> <li>3. Cost to the applicant of strict compliance with this chapter is not the primary reason for granting the exception.</li> </ol>	City employees
Appeal.		
8.62.090	<p>Any person or entity aggrieved by any decision or finding under the provisions of this chapter with respect to approving or to denying a waste management plan, or to granting or denying an application for an exception from compliance with this chapter, may appeal such decision or finding. An appeal must be filed within 3 days after receipt of notice of any protested decision or finding by filing with the director of public works a letter of appeal briefly stating therein the basis for such appeal. A hearing shall be held on a date no more than 10 days after receipt of the letter of appeal. Appellant shall be given at least 5 days' notice of the time and place of the hearing. A hearing officer, appointed by the city manager, shall give the appellant, and any other interested party, a reasonable opportunity to be heard, to show cause why the decision or finding should not be upheld. In all such cases, the burden of proof shall be upon the appellant to show that there was no substantial evidence to support the decision or finding appealed. At the conclusion of the hearing, the hearing officer shall make a final and conclusive determination. The appeal process set forth in this section does not apply to administrative citations pursuant to Chapter 1.25 or to orders to comply pursuant to Chapter 1.26.</p>	Permit holder



## Appendix B: Management Responses

### MEMORANDUM - CITY OF PASADENA

#### DEPARTMENT OF PUBLIC WORKS

**DATE:** January 21, 2021  
**TO:** Ruthe Holden, Internal Audit Manager  
**FROM:** Ara Maloyan, P.E. Director of Public Works  
**RE:** C&D Diversion Program Audit Response

The Public Works Department has developed the following response to the recommendations that are described in Draft Report – *Construction and Demolition Waste Diversion Program Needs Improvement to Ensure City Requirements and Program Intent are Met*, dated January 2021. The recommendations directed to Public Works staff are shown in bold and responses are shown in italic text.

**4. The Director of Public Works, in consultation with the City Attorney, should assess the option of issuing automatic refunds to the payer of the deposit (e.g. without need of a refund request submitted by the permittee) on the \$1.78M of cancelled and expired permits, and on deposits paid on these types of permits in the future. The escheatment process may be needed to verify payers.**

*Staff agrees with this recommendation: Staff will develop a policy for expired/cancelled permits that will process the refunds within 30 days of the date the permit status changes to expired/cancelled and refunds will be issued to the original payer at the address in the system. Staff will first confirm with the Planning and Community Development Department and the permit applicant to verify if any project work was completed prior to the permit expiring or being cancelled. In the case of expired permits, project work may have been completed up to the final building inspection. For cancelled permits, C&D staff will research to determine if the original deposits were transferred over to new permits. Since the status of some deposits may have changed over the past few months since initial research, C&D staff should always confirm that deposits have not been recently refunded or forfeited prior to taking any action on these deposits.*

*With the C&D project status report that DoIT is developing, staff will be notified about cancelled and expired permits earlier. This will resolve these cases in a more-timely manner.*

**5. The Director of Public Works, with support of the Finance Department, Department of Information Technology, and the Planning Department should develop a comprehensive management accountability plan and internal control framework to govern the C&D process. Framework developed should include a detailed definition of the roles and responsibilities that define management accountability in each department.**

*Staff agrees with this recommendation: In order to improve compliance with PMC 8.62 and to increase accountability for the C&D process across the four departments involved with its administration; management staff will develop formal C&D program policies and procedures that address:*

*Permit application issuance, Permit deposit fee calculation entry, Permit deposit accounting, Compliance verification/reporting- Management Plans, Refund computation, Forfeiture process, Refund processing, appeal/hearing process, Refund accounting (creating check request and submitting data to the Finance Department), and Unclaimed refunds C&D Account reconciliation.*

*The Department of Public Works will develop training curriculum for online tutorials and provide annual training including training on fraud awareness and prevention to Public Works Staff.*

*The Department of PW in collaboration with Finance and the audit team will define clear lines of segregation of duty within the C&D program including designating staff that will specifically:*

- *Review waste management plans and compliance reports including verifying compliance.*
- *Prepare and issue letters for management and Final Report Status.*
- *Verify and prepare check requests for refunds.*
- *Reviews all permits for proper exemption.*
- *Performs reconciliation and check requests approvals.*

*To be completed by September 2021.*

**7. Director of Public Works, in coordination with the Director of Information Technology should develop a method to systematically collect data necessary (from the Waste Management Plan and the Compliance Plan to accurately report) the diversion rate attributed to the C&D program. The Director of Public Works should annually report on the C&D process diversion rate to the City Manager.**

*Staff -agrees with this recommendation:*

*Staff will work directly with the Department of Information Technology to develop a method to systematically collect data necessary from the Waste Management Plan and the Compliance Report as accurately as possible in order to track the diversion rate attributed to the C&D program. Knowing that quantities in the Waste Management Plan are merely estimates, staff will still capture that data and compare the data with the actual quantities generated in the submitted Compliance Reports. The Director of Public Works will report the diversion rate generated from this data to the City Manager on an annual basis.*

*To be completed by September 2021.*

**8. The Director of Public Works, with the support of the Department of Information Technology, Finance and Planning, should develop a technology plan to enhance Energov and Tyler-Munis to support monitoring for compliance with PMC 8.62. To develop the plan, the Department of Public Works should identify their reporting needs to monitor for compliance.**

*Staff agrees with this recommendation:*

*Public Works staff has begun meeting jointly with the Department of Information Technology and the Planning Department. Public Works staff has identified their reporting needs for compliance with PMC 8.62 with DoIT and Planning. Public Works staff will continue to meet with the Department of Information Technology in order to develop a plan to enhance the permit and finance systems to facilitate and monitor City Code compliance relating to the C&D Program. Specifically, Public Works staff will review how the permit and financial systems independently and interdependently are used to administer the C&D Program including: roles and responsibilities; reporting functions; documentation and workflow for management review and approval of program exemptions, refunds and forfeitures; and the IT controls used to protect the integrity and accuracy of the data captured by the systems.*

*The target completion date is September 2021.*





DEPARTMENT OF INFORMATION TECHNOLOGY

January 22, 2021

City of Pasadena  
Office of the City Manager  
Ruthe Holden, Internal Audit Manager  
100 N. Garfield Avenue, Room 228  
Pasadena, CA 91101

RE: Audit of the Construction and Demolition Waste Diversion Program

Ruthe:

We appreciate the opportunity provided to the Department of Information of Technology (DoIT) to comment on the Audit of the Construction and Demolition Waste Diversion Program. We agree that the implementation of the technology tools will help provide assurance of compliance to City code, strengthen internal controls and improve overall operational effectiveness to accomplish the program goals.

Our specific comments on the Audit Recommendations that pertain to DoIT are as follows:

**Recommendation 5: Develop a comprehensive management accountability plan and internal controls framework to govern the C&D process.**

DoIT Management agrees with this recommendation. As described, DoIT will work with all department stakeholders to create roles and responsibilities with the corresponding access within technology tools that will be developed to support this program. The timeline to implement all technology recommendations is estimated to be four to six months once there is agreement on the business requirements and capabilities needed by all involved.

**Recommendation 7: Develop a method to systematically collected data necessary to accurately report the diversion rate attributed to the C&D program.**

DoIT Management agrees with this recommendation. Further analysis on the program inputs and reporting requirements will determine the data tracking solutions needed. The timeline to implement all technology recommendations is estimated to be four to six months once there is agreement on the business requirements and capabilities needed by all involved.

Ruthe Holden  
January 22, 2021  
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**Recommendation 8: Develop a technology plan to enhance Energov and Tyler-Munis to support monitoring and compliance with PMC 8.62**

DoIT Management agrees with this recommendation, except the system of record for program data has not yet been determined at the time of this audit. Energov and Tyler Munis are mentioned in the audit the systems to be enhanced, however, there could be other requirements and capabilities needed unavailable in these systems to meet all audit recommendations. Nevertheless, all systems including the development of custom tools will be considered. The timeline to implement all technology recommendations is estimated to be four to six months once there is agreement on the business requirements and capabilities needed by all involved.

In conclusion, we support implementing technology tools to ensure the successful administration of this program.

Sincerely,



Phillip Leclair  
Chief Information Officer



DEPARTMENT OF FINANCE  
January 25, 2021

**TO:** Ruthe Holden  
Internal Audit Manager

**FROM:** Matthew E. Hawkesworth  
Director of Finance

**SUBJECT:** Management Responses to Finance Department Recommendations

The Department of Finance provides the following responses to TAP International's recommendations for actions required by Finance:

Item 2 – The Finance Department will continue to research the outstanding amount and complete the analysis prior to the end of Fiscal Year 2021.

Item 3 – The Finance Department will monitor refunds processed by Public Works and will continue to investigate the approximate \$1.73M in permits with a final status as of 9/30/2020.

Item 5 – The Finance Department is in a support role and will participate with the lead Departments on these items.

Item 6 - The Finance Department will establish a new deposit account as of July 1, 2021 to track C&D deposits.

Item 8 – The Finance Department is in a support role and will participate with the lead Departments on these items.