

AUDIT REPORT



CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BUREAU OF FINANCIAL AUDIT
WILLIAM C. THOMPSON, JR., COMPTROLLER

Audit Report on the Compliance of the Central Park Conservancy with Its Department of Parks and Recreation Management Agreement

FK07- 096A

April 1, 2009



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
NEW YORK, N.Y. 10007-2341

WILLIAM C. THOMPSON, JR.
COMPTROLLER

To the Citizens of the City of New York

Ladies and Gentlemen:

In accordance with the Comptroller's responsibilities contained in Chapter 5, §93, of the New York City Charter, my office has audited the compliance of the Central Park Conservancy, a private, not-for-profit organization, with its Department of Parks and Recreation management agreement.

Under the agreement, the Central Park Conservancy is to manage Central Park and raise and expend a minimum of \$5 million annually for park maintenance, repairs, programs, landscaping, and renovation and rehabilitation of existing facilities. For these services, the Department of Parks and Recreation pays the Central Park Conservancy an annual fee based on a formula specified in the agreement. Audits such as this provide a means of ensuring that private concerns under contract with the City comply with the terms of their agreements and that they are adequately monitored by City oversight agencies.

The results of our audit, which are presented in this report, have been discussed with officials from the Central Park Conservancy and the Department of Parks and Recreation, and their comments have been considered in preparing this report. Their complete written responses are attached to this report.

I trust that this report contains information that is of interest to you. If you have any questions concerning this report, please e-mail my audit bureau at audit@Comptroller.nyc.gov or telephone my office at 212-669-3747.

Very truly yours,

A handwritten signature in cursive script that reads "William C. Thompson, Jr.".

William C. Thompson, Jr.

WCT/fh

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*The City of New York
Office of the Comptroller
Bureau of Financial Audit*

**Audit Report on the Compliance of the
Central Park Conservancy with Its Department of Parks
and Recreation Management Agreement**

FK07-096A

AUDIT REPORT IN BRIEF

The Central Park Conservancy (CPC) is a private, not-for-profit organization founded in 1980 that manages Central Park under a contract with the Department of Parks and Recreation (Parks). Under the terms of CPC's management agreement, CPC agrees to raise and expend annually a minimum of \$5 million with respect to maintenance, repairs, programs, landscaping, and renovation and rehabilitation of existing facilities in Central Park. In consideration for CPC's services, Parks pays CPC an annual fee based on monies raised and expended by CPC in the prior fiscal year and on revenues received by Parks from its Central Park concessions in the prior fiscal year.

According to CPC's certified financial statements for the year ended June 30, 2006, CPC expended \$12.8 million on maintenance, repairs, programs, landscaping, and renovation and rehabilitation of existing facilities in Central Park (operating expenses). In consideration for these services, Parks paid CPC \$4,282,200 (\$2,000,000 of which were for the monies raised and expended) and supplied CPC with \$100,000 worth of vehicles.

Audit Findings and Conclusions

CPC generally complied with its management agreement. In that regard, CPC exceeded its funding commitment, maintained Central Park in accordance with agreement standards, and complied with New York City Procurement Policy Board (PPB) and Parks purchasing rules. According to CPC's certified financial statements for the year ended June 30, 2006, CPC expended \$12.8 million on maintenance, repairs, programs, landscaping, and renovation and rehabilitation of existing facilities in Central Park. This sum is well in excess of the \$7 million required to receive the maximum funding allowable based on monies raised and expended by CPC. (CPC must raise and expend \$5 million to receive the first \$1 million and an additional \$2 million to receive another \$1 million.) Parks Site Inspection Reports evidenced that Central Park was well maintained and that hazardous conditions noted by Parks inspectors were addressed and corrected by CPC in a timely manner.

However, CPC did not implement a system that would allow it to identify costs associated with its agreement. Further, Parks did not request and review any supporting documentation for expenses reported by CPC to ensure that CPC included only eligible expenses and maintained documentation to support those expenses. In the absence of a tracking system, CPC officials informed us that all expenses charged to its operations account and reported as horticulture, maintenance, and operations on its financial statements pertained to its agreement. However, CPC's operations account included expenses that were ineligible under the terms of its agreement. These expenses were ineligible because they were: prohibited under the terms of CPC's agreement, were not for operating expenses, were not incurred during Fiscal Year 2006, or lacked supporting documentation. Although these expenses were ineligible, they were generally in keeping with CPC's mission of restoring, managing, and preserving Central Park. Nevertheless by including ineligible expenses in amounts used to support funding received from Parks, CPC could potentially increase the amount of funding it receives.

Parks also assigned permit fee revenue to CPC that Parks should have collected and deposited in the City's General Fund and granted CPC the use of two City-owned properties in Central Park without a valid agreement or approval from the Franchise Concession and Review Committee (FCRC).

Audit Recommendations

We make four recommendations to CPC and eight recommendations to Parks, including the following.

CPC should:

- Establish and maintain accurate records and accounts that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of its agreement.
- Include only expenses that are incurred in the prior fiscal year and directly related to the maintenance, repair, programs, landscaping, and renovation and rehabilitation of existing facilities in Central Park in the amounts used to support the funding received from Parks.

Parks should:

- Issue permits and collect permit fees for all events in Central Park.
- Enter into valid agreements for use of the Dairy and Conservatory Gardens.
- Adhere to FCRC rules and regulations and obtain FCRC approval when granting private use of City properties.

INTRODUCTION

Background

CPC is a private, not-for-profit organization founded in 1980 that manages Central Park under a contract with Parks. Under the terms of CPC's management agreement, CPC agrees to raise and expend annually a minimum of \$5 million with respect to maintenance, repairs, programs, landscaping, and renovation and rehabilitation of existing facilities in Central Park. In consideration for CPC's services, Parks pays CPC an annual fee based on monies raised and expended by CPC in the prior fiscal year and on revenues received by Parks from its Central Park concessions in the prior fiscal year. Specifically, CPC receives \$1 million for the first \$5 million raised and expended annually, 50 percent of monies raised and expended in excess of the first \$5 million (up to an additional \$1 million), and 50 percent of Central Park concession revenues in excess of \$6 million. Additionally, CPC may be reimbursed for vehicle purchases for up to \$100,000 annually.

CPC officials informed us that all expenses charged to its operations account and reported as horticulture, maintenance, and operations on its financial statements pertained to its agreement. According to CPC's certified financial statements for the year ended June 30, 2006, CPC expended \$12.8 million on maintenance, repairs, programs, landscaping, and renovation and rehabilitation of existing facilities in Central Park. In consideration for these services, Parks paid CPC \$4,282,200 (\$2,000,000 of which were for the monies raised and expended) and supplied CPC with \$100,000 worth of vehicles. Parks also allowed CPC to use Parks employees and equipment to assist CPC in performing required services.

Parks also contracted with CPC to perform capital projects in Central Park. This audit pertains only to CPC's management agreement and payments totaling \$2 million made to CPC for monies raised and expended under this agreement.

Objectives

The objectives of this audit were to determine whether CPC:

- Maintained Central Park in accordance with standards set forth in its agreement,
- Included only eligible operating expenses in amounts used to support funding received from Parks,
- Maintained supporting documentation for those expenses, and
- Adhered to PPB rules.

Scope and Methodology

This audit covered the period July 1, 2005, through June 30, 2006.

To obtain an understanding of the policies, procedures, and regulations that CPC is required to follow, we reviewed CPC's agreement, employee handbook, and section operation manuals, and Parks Inspection Program Standards. We interviewed CPC officials to gain an understanding of their procedures for recording, documenting, and reporting personnel service (PS) and other than personnel service (OTPS) expenses covered under the agreement. Additionally, we observed CPC's timekeeping and payroll distribution procedures.

To determine whether CPC maintained Central Park in accordance with standards set forth in its agreement, we obtained a copy of the Parks Inspection Program Standards and interviewed Parks and CPC officials to ascertain their procedures for inspecting, reporting, and correcting conditions in the park. We obtained and reviewed Parks Site Inspection Reports for all 117 inspections performed during our audit period. We determined whether significant conditions noted in those reports by Parks inspectors were addressed and corrected in a timely manner.

CPC's agreement with Parks states that only expenses related to maintenance, repairs, programs, landscaping, and the renovation and rehabilitation of existing facilities in Central Park are to be included in amounts used in determining funding received from Parks. CPC officials informed us that all expenses charged to its operations account and reported as horticulture, maintenance, and operations on its financial statements pertained to its agreement. According to CPC's 2006 certified financial statements, CPC expended \$9 million on agreement-related PS expenses and \$3.8 million on agreement-related OTPS expenses. To ascertain whether expenses charged to CPC's operations account were accurately reported on its financial statements, we traced operations expenses from the general ledger to the financial statements.

PS Expenses

To determine whether only individuals whose duties were directly related to the maintenance, repairs, programs, landscaping, and the renovation and rehabilitation of existing facilities in Central Park were charged to operations, we traced all individuals on CPC's operations payroll ledger for Fiscal Year 2006 to their sign in-sign out sheets, Central Park section and zone maps, and organization chart. For employees who could not be identified as operations employees from one of these sources, we examined CPC personnel folders to determine whether or not the employees performed duties that were covered under CPC's agreement.

We judgmentally selected the last payday in our audit period—June 21, 2006—and examined timekeeping and payroll documents to determine whether PS expenses were adequately supported by original timekeeping records and whether there was evidence of supervisory review.

OTPS Expenses

We compiled a listing of vendors from CPC's 2006 general ledger. We sorted this list by vendor and identified vendors paid \$5,000–\$25,000 and vendors paid more than \$25,000. There was a total of 118 vendors that were paid at least \$5,000. These 118 vendors received payments totaling \$3,327,494. We selected a sample of 16 vendors that received payments totaling \$622,573 as follows:

- Of the 85 vendors paid \$5,000–\$25,000, we randomly selected 10 vendors and judgmentally selected one vendor whose “relationship is notorious and at arms length,” according to CPC's Form 990 for 2004.
- And of the 33 vendors paid more than \$25,000, we randomly selected 3 vendors and judgmentally selected the 2 highest paid vendors.

To determine whether CPC maintained supporting documentation and included only eligible operating expenses, we examined invoices, contracts, and other relevant documentation. We also checked whether the files contained documentation that bids were obtained in accordance with PPB rules and whether payments greater than \$25,000 were approved by Parks, as required by the agreement.

The results of the above tests, while not projected to their respective populations, provided a reasonable basis for our conclusions in relation to our audit objectives.

This audit was conducted in accordance with generally accepted government auditing standards (GAGAS) and included tests of the records and other auditing procedures considered necessary. This audit was performed in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

Discussion of Audit Results

The matters covered in this report were discussed with CPC and Parks officials during and at the conclusion of this audit. A preliminary draft report was sent to CPC and Parks officials and discussed at an exit conference held on November 21, 2008. On December 12, 2008, we submitted a draft report to CPC and Parks officials with a request for comments. We received written responses from CPC and Parks on December 19, 2008, and December 29, 2008, respectively.

In its response, CPC stated:

In planning for its audit the Comptroller did not develop an audit approach that allowed for the identification of expenses that related specifically to the Management Agreement between The City of New York, Department of Parks and Recreation and the Central Park Conservancy, Inc. Consequently, the Comptroller examined the Conservancy's entire corporate operating account and identified \$574,571 of expenses as “ineligible,” which related to the Conservancy's general operations and

were not submitted by the Conservancy to the City to meet its obligations under the agreement. In addition, a number of the expenses identified as “ineligible” would have been valid under the agreement, should they have been originally submitted by the Conservancy.

The Comptroller’s assertion (paragraph 2 of the Introduction section) that ‘CPC officials informed us that all expenses charged to its operations account and reported as horticulture, maintenance and operations on its financial statements pertained to its agreement’ is a misstatement. During the course of the audit the Conservancy made several attempts to identify items unrelated to the agreement to prevent the Comptroller from inadvertently testing those expenses. The Conservancy was in fact directed by the Comptroller to include all corporate operating expenses for sampling, with assurance that expenses unrelated to the agreement would be excluded The failure to exclude these unrelated expenses from the testing resulted in a number of audit finding that were factually incorrect.

In its response, Parks stated:

Parks is pleased that your Audit Findings and Conclusions found that the Central Park Conservancy (CPC) complied with its management agreement. . . . We respectfully disagree with some of the findings, as detailed in the attached document; particularly, we disagree with the findings that certain expenses were submitted for reimbursement, when they were not in fact submitted.

Specific CPC and Parks comments and our rebuttals are contained in the relevant sections of this report. However, the egregious and misleading nature of CPC’s response calls for an immediate response. We did in fact develop a sound audit plan to identify, sample, and test agreement expenses in accordance with GAGAS. CPC did not implement a system that would allow it to identify costs associated with its agreement. In the absence of a tracking system, CPC officials informed us that all expenses charged to its operations account and reported as horticulture, maintenance, and operations on its financial statements pertained to its agreement. (See Appendix I.) Accordingly, we sampled these operating expenses and determined whether they were: permitted under the terms of the agreement; related to maintenance, repairs, programs, landscaping, and the renovation and rehabilitation of existing facilities in Central Park; incurred during Fiscal Year 2006; and supported by timekeeping records, invoices, contracts, and other relevant documentation.

More important, CPC’s assertion that we directed CPC to include all corporate operating expenses for sampling and assured CPC that we would exclude ineligible operating expenses from our sample is categorically false. We are dismayed that CPC chose to impugn the integrity and reputation of the Comptroller’s Office rather than address the audit report findings and recommendations. Further, we are disturbed that Parks uses its own its lack of oversight—i.e., not requesting and reviewing *any* supporting documentation for expenses reported by CPC—to dispute our finding regarding ineligible expenses by simply stating that these expenses were not actually submitted.

The full text of the responses received from CPC and Parks are included as addenda to this report.

FINDINGS AND RECOMMENDATIONS

CPC generally complied with its management agreement. In that regard, CPC exceeded its funding commitment, maintained Central Park in accordance with agreement standards, and complied with PPB and Parks purchasing rules. According to CPC's certified financial statements for the year ended June 30, 2006, CPC expended \$12.8 million on maintenance, repairs, programs, landscaping, and renovation and rehabilitation of existing facilities in Central Park. This sum is well in excess of the \$7 million required to receive the maximum funding allowable based on monies raised and expended by CPC. (CPC must raise and expend \$5 million to receive the first \$1 million and an additional \$2 million to receive another \$1 million.) Parks Site Inspection Reports evidenced that Central Park was well maintained and that hazardous conditions noted by Parks inspectors were addressed and corrected by CPC in a timely manner.

However, CPC did not implement a system that would allow it to identify costs associated with its agreement. Further, Parks did not request and review any supporting documentation for expenses reported by CPC to ensure that it included only eligible expenses and maintained documentation to support those expenses. In the absence of a tracking system, CPC officials informed us that all expenses charged to its operations account and reported as horticulture, maintenance, and operations on its financial statements pertained to its agreement. However, CPC's operations account included expenses that were ineligible under the terms of its agreement. These expenses were ineligible because they were: prohibited under the terms of CPC's agreement, were not for operating expenses, were not incurred during Fiscal Year 2006, or lacked supporting documentation. Although these expenses were ineligible, they were generally in keeping with CPC's mission of restoring, managing, and preserving Central Park. Nevertheless by including ineligible expenses in amounts used to support funding received from Parks, CPC could potentially increase the amount of funding it receives.

Parks also assigned permit fee revenue to CPC that Parks should have collected and deposited in the City's General Fund and granted CPC the use of two City-owned properties in Central Park without a valid agreement or FCRC approval.

These issues are discussed in detail in the following sections of the report.

CPC Did Not Track Agreement Expenses

CPC did not implement a system that would allow it to identify costs associated with its agreement. CPC's agreement with Parks states that only expenses related to maintenance, repairs, programs, landscaping, and the renovation and rehabilitation of existing facilities in Central Park are to be included in amounts used in determining funding received from Parks. In view of that provision, the agreement requires CPC to "establish and maintain accurate records and accounts which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this agreement." However, CPC did not maintain such records and accounts. Further, Parks did not request and review any supporting documentation for expenses reported by CPC to ensure that it included only eligible expenses and maintained documentation to support those expenses.

In the absence of a tracking system, CPC officials informed us that all expenses charged to its operations account and reported as horticulture, maintenance, and operations on its financial statements pertained to its agreement. However, CPC's operations account included expenses that were ineligible under the terms of its agreement. These expenses were ineligible because they were: prohibited under the terms of CPC's agreement, were not for operating expenses, were not incurred during Fiscal Year 2006, or lacked supporting documentation. (These issues are discussed in detail in the following section of the report.) Without an effective tracking system that can readily identify agreement costs, CPC and Parks cannot be assured that only eligible expenses are included in amounts used to support funding received from Parks.

Recommendations

CPC should:

1. Establish and maintain accurate records and accounts that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of its agreement.

Parks should:

2. Ensure that CPC establishes and maintains accurate records and accounts that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of its agreement.

CPC Response: "The Conservancy has established a project structure on our general ledger where all expenses are tracked by projects, and with the use of reference codes for sub-projects within the projects. Consequently, the expenses related to projects, and sub-projects, outside the scope of the Agreement are identifiable and are not included in the amounts associated with the agreement. We are not required to segregate expenses related to the agreement, and therefore, our project structure on our general ledger includes expenses related to the agreement as well as expenditures for restricted funds. The Conservancy's 2006 financial statements, audited by an independent auditor, which included a review of our compliance with the agreement, are in conformance with GAAP."

Parks Response: "Parks and CPC maintain that there is a structure on the CPC General Ledger where all expenses are tracked by projects, with the use of reference codes for sub-projects within the projects. CPC is not required to segregate expenses related to the agreement. CPC's financial statements were independently audited in accordance with GAAP."

Auditor Comment: CPC cannot identify agreement expenses using a project structure as claimed in its response and as indicated on its invoices submitted to Parks. At the onset of the audit, we asked CPC to use its project structure and provide us detailed lists of agreement-associated program expenses for three invoices submitted to Parks totaling \$4.6 million. (See Appendix II.) Although these invoices contained agreement-associated program expense totals, CPC could not provide detailed lists of

expenses to support these figures. Instead, CPC officials informed us that CPC calculated agreement-associated program expense totals using a formula. However, CPC officials provided us neither the methodology nor the computations used to determine agreement-associated program expenses. Clearly, CPC is not able to identify agreement expenses using its project structure.

While CPC and Parks are correct in stating that CPC is not required to segregate agreement expenses, CPC must be able to identify agreement expenses. Therefore, we reiterate that CPC should establish and maintain accurate records and accounts that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of its agreement.

**CPC Included Ineligible Expenses Totaling \$574,571
in Amounts Used to Support Funding Received from Parks**

CPC included ineligible expenses in amounts used to support funding received from Parks. Although these ineligible expenses should not have been included in amounts used to support funding received from Parks, they were generally in keeping with CPC's mission of restoring, managing, and preserving Central Park. Furthermore, their disallowance would not have affected the amount of funding received from Parks for work performed during Fiscal Year 2006.

As noted above, CPC did not implement a system that would allow it to identify costs associated with its agreement. And in the absence of a tracking system, CPC officials informed us that all expenses charged to its operations account and reported as horticulture, maintenance, and operations on its financial statements pertained to its agreement. However, CPC's operations account included expenses that were ineligible because they were: prohibited under the terms of CPC's agreement, were not for operating expenses, were not incurred during Fiscal Year 2006, or lacked supporting documentation.

CPC Response: "the Comptroller examined the Conservancy's entire corporate operating account and identified \$574,571 of expenses as 'ineligible,' which related to the Conservancy's general operations and were not submitted by the Conservancy to the City to meet its obligations under the agreement."

Parks Response: "we disagree with the findings that certain expenses were submitted for reimbursement, when they were not in fact submitted."

Auditor Comment: CPC and Parks are correct in their repeated claims that cited expenses were "not included in the amounts submitted under the contract." However, they fail to mention that CPC did not submit *any* expenses to Parks.

As noted above, CPC submitted three invoices totaling \$4.6 million to Parks that provided only agreement-associated program expense totals. (See Appendix II.) CPC did not provide detailed lists of expenses for each agreement-associated program. Instead, CPC officials informed us that CPC calculated agreement-associated program expenses

using a formula. However, CPC officials provided us neither the methodology nor the computations used to determine agreement-associated program expenses.

PS Expenses

CPC reported PS expenses that were prohibited under its agreement and that were for individuals who did not perform tasks directly related to the operation of Central Park. CPC included PS expenses totaling \$392,282 for Fiscal Year 2006 as follows:

- \$267,947 for salary and benefit expenses for three individuals who work in the CPC President’s office. CPC’s agreement with Parks states that “in no event shall (i) any costs and expenses attributable to the corporate or developmental offices” be included in amounts used in determining funding received from Parks.

CPC Response: “The position of President of the Conservancy and the Central Park Administrator are held by the same person, which is allowable under the agreement The portion of salaries related to the Administrator duties was charged to the Conservancy’s operating account. Although reimbursement for the Central Park Administrator, the Executive Assistant to the Central Park Administrator and the Manager of Park Information positions all relate to the operation of Central Park and are allowable under the contract, *these costs were not included in the amounts submitted under the contract in FY2006.*” (Emphasis in original.)

Parks Response: “The amount of \$267,947 was for the President and supporting staff. These expenditures are allowed under the agreement with Parks because they were for operating expenditures. However, these costs were not included in the amounts submitted under the contract in FY2006.”

Auditor Comment: Again, CPC’s agreement with Parks plainly states that “in no event shall (i) any costs and expenses attributable to the corporate or developmental offices” be included in amounts used in determining funding received from Parks. Whether individuals work for the CPC President or the Central Park Administrator, their salaries are nonetheless attributable to corporate offices and are therefore prohibited—regardless of the nature or merit of their work.

Further, as noted above, CPC cannot identify agreement expenses and does not submit any such expenses to Parks.

- \$75,050 for salary and benefit expenses for two individuals who did not perform operations work. These individuals work for CPC’s Capital Projects Department. As mentioned, capital projects are not funded under CPC’s management agreement.

CPC Response: “Capital projects staff at times are scheduled to administer routine maintenance projects within the park and therefore charge their time accordingly to park-wide operations. The park-wide operations project is identifiable as outside the

scope of the agreement and therefore, these costs were not included in the amounts submitted under the contract in FY2006.”

Parks Response: “Capital Projects staff salaries of \$75,050 were also not included in the amounts submitted under the contract in FY2006. Although not included in the amount submitted for the contract, portions of their salary were for direct maintenance projects within the park.”

Auditor Comment: CPC did not provide us any documentation to support that these expenses were for routine maintenance—i.e., operations—as opposed to capital projects.

Further, as noted above, CPC cannot identify agreement expenses and does not submit any such expenses to Parks.

- \$49,285 for salary and benefit expenses for four individuals who did not work in Central Park.

CPC Response: “Four individuals who did not work in Central Park: Conservancy has received restricted funds to maintain parks outside of Central Park. These individuals billed their time to a restricted project. The restricted project is identifiable as outside of the scope of the agreement, and therefore, these costs were not included in the amounts submitted under the contract in FY2006.”

Parks Response: “Finally, four individuals not assigned to Central Park at a value of \$49,285 were also not included in the FY2006 contract.”

Auditor Comment: As noted above, CPC cannot identify agreement expenses and does not submit any such expenses to Parks.

OTPS Expenses

We sampled payments made to 16 vendors totaling \$622,573 and found that CPC included ineligible payments made to 6 vendors totaling \$182,289. These payments were ineligible because they were prohibited under CPC’s agreement, were not for operating expenses, were not incurred during Fiscal Year 2006, and lacked supporting documentation.

Prohibited Expenses

CPC included a payment to one vendor for \$23,625 that was prohibited under its agreement. This payment was for the restoration of the Central Park carousel, which is operated pursuant to a concession agreement. CPC’s agreement states that CPC is responsible for repairs of “All recreation facilities and equipment, *other than* . . . facilities and equipment that are located in Central Park and are operated pursuant to concession agreements.” (Emphasis added.)

CPC Response: “An endowment fund was established in 1994 for the maintenance of the Carousel building. Any earnings on the funds up to a maximum of 6% of the average annual balance must be used for this purpose. These costs related to the restricted funds were coded to a restricted sub-project and identifiable as outside the scope of the agreement, and therefore, were not included in the amounts submitted under the contract in FY2006.”

Parks Response: “The audit also determined that an expenditure to one vendor violated the agreement. The dollar amount of \$23,625 was for the restoration and not the general maintenance or upkeep of the Central Park Carousel. This was coded as a restricted project, and therefore not included in the amounts submitted under the agreement. The restoration was done on the Carousel horses which are owned by the City and provides a wonderful experience for thousands of visitors to Central Park.”

Auditor Comment: If these expenses were for the restoration and not the maintenance of the Central Park Carousel, then they should have been charged to capital and not operations. As mentioned, capital projects are not funded under CPC’s management agreement.

Further as noted above, CPC cannot identify agreement expenses and does not submit any such expenses to Parks.

Non-Operating Expenses

CPC included payments to two vendors totaling \$138,698 that were not for operating expenses as follows:

- \$133,209 for construction projects. Again, capital projects are not funded under CPC’s management agreement.

CPC Response: “Emergency maintenance and repair work was performed as part of park-wide operations. The park-wide operations project is identifiable as outside of the scope of the agreement and therefore, these costs were not included in the amounts submitted under the contract in FY2006.”

Auditor Comment: CPC did not provide us any documentation to support that these expenses were for operations and not capital projects.

Further as noted above, CPC cannot identify agreement expenses and does not submit any such expenses to Parks.

- \$5,489 for background checks of new employees. These payments are not directly related to the maintenance, repairs, programs, landscaping, and renovation and rehabilitation of existing facilities in Central Park.

CPC Response: “For background checks for new employees: Under the contract (paragraph 19C) Conservancy is responsible for the screening of all personnel, including substantiating credentials and reference checks. This expense is allowable under the terms of the contract. The costs were not included in the amounts submitted under the contract in FY 2006.”

Auditor Comment: Again, these payments are not directly related to the maintenance, repairs, programs, landscaping, and renovation and rehabilitation of existing facilities in Central Park, and therefore should not be included under the agreement.

Further, as noted above, CPC cannot identify agreement expenses and does not submit any such expenses to Parks.

Not Incurred During Fiscal Year 2006

CPC included payments to two vendors totaling \$13,966 that were not incurred during Fiscal Year 2006 as follows:

- \$10,830 for fountain pump maintenance for the months of July and August 2006.

CPC Response: “Conservancy concurs with comment, amounts were included as accrued at 6/30/06.”

- \$3,136 for a lumber order placed on July 18, 2006.

CPC Response: “Conservancy concurs with comment; amounts included as accrued 6/30/06.”

Lacked Supporting Documentation

CPC included payments to one vendor totaling \$6,000 that lacked supporting documentation. CPC officials informed us that these expenses were for work performed in the Conservatory Garden and provided us with a memorandum dated November 2, 1989. However, the memorandum did not detail the scope of services, including the goods or services to be provided. Since it is unclear what goods or services were provided, we cannot determine whether these payments were for eligible operating expenses.

CPC Response: “Conservancy concurs with comment. This contract has since been terminated.”

By including ineligible expenses in amounts used to support funding received from Parks, CPC could potentially increase the amount of funding it receives. However, Parks did not request and review any supporting documentation for expenses reported by CPC to ensure that it included only eligible expenses and maintained documentation to support those expenses.

Recommendations

CPC should:

3. Ensure that it does not include expenses prohibited by its agreement in the amounts used to support the funding received from Parks.
4. Include only expenses that are incurred in the prior fiscal year and directly related to the maintenance, repair, programs, landscaping, and renovation and rehabilitation of existing facilities in Central Park in the amounts used to support the funding received from Parks.
5. Maintain supporting documentation for all expenses included in the amounts used to support funding received from Parks.

Parks should:

6. Ensure that CPC maintains supporting documentation for and includes only eligible expenses in the amounts used to support the funding received under the agreement.

Other Matters

During the course of our audit, we noted the following issues that were not related to CPC's management agreement:

Parks Assigned Permit Fee Revenues to CPC

Parks assigned permit fee revenue to CPC that Parks should have collected and deposited in the City's General Fund. The Rules of the City of New York, Title 56, Chapters 1 and 2, stipulate that all events in City parks require special-event permits from Parks and authorize Parks to charge a \$25 fee for processing these permits. Parks issues permits and collects associated fees for all events in Central Park, except for those at the Conservatory Garden at Fifth Avenue and 105th Street. Parks granted CPC the exclusive right to issue permits and collect permit fees for events in the Conservatory Garden. Further, Parks did so without any documentation or approval.

CPC issues permits for wedding ceremonies and photography in the Conservatory Garden and charges fees of \$400 and \$100, respectively. In Fiscal Year 2006, CPC reported revenues totaling \$107,380 for rental of the Conservatory Garden. We do not understand why Parks has assigned these revenues to CPC and permitted CPC to charge more than \$25—the fee paid for special events held in all other areas in Central Park as well as in other City parks. Parks should collect these fees and deposit them in the City's General Fund. By assigning permit fees to CPC, Parks is bypassing the City's budget process and deciding where and how City funds are spent.

Recommendations

Parks should:

7. Issue permits and collect permit fees for all events in Central Park.
8. Charge permit applicants fees as stipulated in the Rules of the City of New York, Title 56, §2-09.
9. Deposit all permit fees in the City's General Fund.

CPC Response: “The Conservancy awaits appropriate guidance from the Department of Parks and Recreation and the City of New York on this issue.”

Parks Response: “One issue that the auditors raised was the assigning of permit fee revenues to the Conservancy that the auditors claim should have been deposited in the General Fund. Parks already issues permits pursuant to its special events and demonstration regulations for events in Central Park. Upon consultation with the City's Law Department, Parks will explore whether it should also include the wedding ceremony and photography activities at the Conservatory Gardens as special events under the rubric of Parks special events rules, or whether another arrangement is appropriate.”

Auditor Comment: Again, Parks issues permits and collects associated fees for *all* wedding ceremonies and photography in Central Park—except for those at the Conservatory Garden—and deposits these fees in the City's General Fund. We do not understand why permits and fees for use of the Conservatory Garden should be treated any differently.

Parks Granted CPC the Use of Two City-Owned Properties Without a Valid Agreement or FCRC Approval

Parks granted CPC the use of two City-owned properties in Central Park without having a valid relevant agreement or FCRC approval. The City Charter and the Rules of the City of New York require agencies to obtain FCRC approval prior to awarding concessions. Further, significant concessions, such as those with terms of 10 years or more, are subject to public hearing prior to being awarded.

In 1984, Parks granted CPC the use of the Dairy, in mid-Central Park at 65th Street, and the Conservatory Garden. CPC operates a gift shop at the Dairy and, as mentioned, CPC issues permits and collects fees for wedding ceremonies and photography in the Conservatory Garden. For Fiscal Year 2006, CPC reported revenues totaling \$517,818 and \$107,380, respectively, for these operations. Parks provided us an unsigned agreement from 1984 that it described as “expired but operational.” However, the agreement was never signed and did not authorize CPC to operate a gift shop at the Dairy or to charge and collect fees for use of the Conservatory Garden. The agreement stated that the Dairy and Conservatory Garden should be used for

organizing programs and activities and to serve as information and education centers for Central Park.

Although Parks effectively awarded CPC two concessions, it did not enter into a valid agreement, hold a public hearing, obtain FCRC approval, or register the agreements with the Comptroller's Office before granting CPC use of the Dairy and Conservatory Gardens. Parks circumvented the City's award process, which was established to ensure that concession and franchise awards are fair, competitive, transparent, and in the best interests of the City.

Recommendations

Parks should:

10. Enter into valid agreements for use of the Dairy and Conservatory Gardens.
11. Ensure that the terms of the agreement accurately and completely reflect the intended use of City properties.
12. Adhere to FCRC rules and regulations and obtain FCRC approval when granting private use of City properties.

CPC Response: "The Conservancy awaits appropriate guidance from the Department of Parks and Recreation and the City of New York on this issue."

Parks Response: "Additionally, Parks agrees that we should enter into a formal agreement with CPC for their historic management of the Dairy and Conservatory Garden subject to the resolution of the special events issue. Parks will work with City Law Department, and will seek to enter into specific agreements with CPC regarding their activities at the Dairy and the Conservatory Garden, provided that Parks and CPC wish the current activities at the Dairy and the Conservatory Gardens to continue.

"Lastly, Parks agrees that it should adhere to the FCRC rules and regulations regarding the granting of concession agreements on parkland."

Auditor Comment: We are pleased that Parks agrees that it should enter into agreements for use of the Dairy and Conservatory Gardens. However, entering into these agreements should not be predicated on "the resolution of the special events issue." Again, Parks should issue permits and collect associated fees for all events in Central Park and deposit these fees in the City's General Fund.

[REDACTED]

From: [REDACTED]@centralparknyc.org]
Sent: Wednesday, June 20, 2007 8:53 AM
To: [REDACTED]
Subject: RE:

that would be correct

[REDACTED]
Central Park Conservancy, Inc.
212.310.6628

>>> [REDACTED]@comptroller.nyc.gov> 6/19/2007 3:11 PM >>>

OK, I see the part of the Financial Statements you are referring to. So are we correct in saying that the expenses in the Horticulture, maintenance, and operations category are the only ones covered under the agreement with NYC, and therefore the total expenses under the agreement for the year ending June 30, 2006 would be \$12.791 million?



CHAIRMAN
A.J.C. SMITH

TREASURER
MICHAEL GROBSTEIN

SECRETARY AND GENERAL COUNSEL
KENNETH H. HEITNER

January 10, 2007

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Mr. David Stark
Comptroller - Office of Management & Budget
City of New York Parks & Recreation
The Arsenal, Central Park
New York, New York 10021

Dear Mr. Stark:

In compliance with the Agreement Between The Central Park Conservancy, Inc. and The City of New York Parks & Recreation (paragraph 11) I am submitting a request for payment number 1 for contracted services rendered to date in Fiscal Year 2007. I have attached an invoice in the amount of \$1,725,025; itemized by the approved CPC Programs associated with the General Standards outlined in the agreement (paragraph 3.)

If you have any questions, please contact me at (212) 310-6623.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen Spinelli".

Stephen Spinelli
CFO & Vice President for Finance and Administration

Cc: Doug Blonsky, CPC

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SCHEDULE OF CONTRACTED SERVICES

SUPPORT TO VOLUNTEERS	35,591
ZONE GARDENERS	250,287
ROVE CREW	235,239
SECTION 2	77,089
LANDSCAPE MAINTENANCE	102,008
TURF CARE	179,067
TURF MATERIALS & SUPPLIES	17,898
NORTH-END ROVE CREW	202,688
NORTH-END TURF CREW	93,460
BATHROOM CREW	137,724
2 ND SHIFT CREW	210,212
OPERATIONS MANAGEMENT	146,040
NORTH MEADOW BALLFIELD CREW	37,720
PAYMENT TOTAL:	<u>\$1,725,025</u>

CENTRAL PARK
CONSERVANCY

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April 30, 2007

Mr. David Stark
Comptroller - Office of Management & Budget
City of New York Parks & Recreation
The Arsenal, Central Park
New York, New York 10021

Dear Mr. Stark:

In compliance with the Agreement Between The Central Park Conservancy, Inc. and The City of New York Parks & Recreation (paragraph 11) I am submitting a request for payment number 2 for contracted services rendered to date in Fiscal Year 2007. I have attached an invoice in the amount of \$1,427,000; itemized by the approved CPC Programs associated with the General Standards outlined in the agreement (paragraph 3.)

If you have any questions, please contact me at (212) 310-6623.

Sincerely,


Stephen Spinelli
CFO & Vice President for Finance and Administration

Cc: Doug Blonsky, CPC

SCHEDULE OF CONTRACTED SERVICES

SUPPORT TO VOLUNTEERS	29,442
ZONE GARDENERS	207,046
ROVE CREW	194,598
SECTION 2	63,771
LANDSCAPE MAINTENANCE	84,384
TURF CARE	148,131
TURF MATERIALS & SUPPLIES	14,806
NORTH-END ROVE CREW	167,671
NORTH-END TURF CREW	77,313
BATHROOM CREW	113,930
2 ND SHIFT CREW	173,895
OPERATIONS MANAGEMENT	120,809
NORTH MEADOW BALLFIELD CREW	31,204

PAYMENT TOTAL: \$1,427,000



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June 4, 2007

Mr. David Stark
Comptroller - Office of Management & Budget
City of New York Parks & Recreation
The Arsenal, Central Park
New York, New York 10021

Dear Mr. Stark:

In compliance with the Agreement Between The Central Park Conservancy, Inc. and The City of New York Parks & Recreation (paragraph 11) I am submitting a request for payment number 3 for contracted services rendered to date in Fiscal Year 2007. I have attached an invoice in the amount of \$1,427,000; itemized by the approved CPC Programs associated with the General Standards outlined in the agreement (paragraph 3.)

If you have any questions, please contact me at (212) 310-6623.

Sincerely,

Stephen Spinelli
CFO & Vice President for Finance and Administration

Cc: Doug Blonsky, CPC

SCHEDULE OF CONTRACTED SERVICES

SUPPORT TO VOLUNTEERS	29,442
ZONE GARDENERS	207,046
ROVE CREW	194,598
SECTION 2	63,771
LANDSCAPE MAINTENANCE	84,384
TURF CARE	148,131
TURF MATERIALS & SUPPLIES	14,806
NORTH-END ROVE CREW	167,671
NORTH-END TURF CREW	77,313
BATHROOM CREW	113,930
2 ND SHIFT CREW	173,895
OPERATIONS MANAGEMENT	120,809
NORTH MEADOW BALLFIELD CREW	31,204

PAYMENT TOTAL: \$1,427,000



CELEBRATING *Greensward*
THE PLAN FOR CENTRAL PARK 1858-2008

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December 15, 2008

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Mr. John Graham
Deputy Comptroller - Audits, Accountancy & Contracts
The City of New York - Office of the Comptroller
1 Centre Street
New York, New York 10007-2341

RE: Response to Audit Report on the Compliance of the Central Park
Conservancy with its Department of Parks and Recreation Management
Agreement
FK07-096A

Dear Mr. Graham:

This letter should serve as the Central Park Conservancy's official response to
your office's audit report issued on December 12, 2008.

Overview

In planning for its audit the Comptroller did not develop an audit approach that allowed for the identification of expenses that related specifically to the Management Agreement between The City of New York, Department of Parks and Recreation and the Central Park Conservancy, Inc. Consequently, the Comptroller examined the Conservancy's entire corporate operating account and identified \$574,571 of expenses as "ineligible", which related to the Conservancy's general operations and were not submitted by the Conservancy to the City to meet its obligations under the agreement. In addition, a number of the expenses identified as "ineligible" would have been valid under the agreement, should they have been originally submitted by the Conservancy.

The Comptroller's assertion (paragraph 2 of the Introduction section) that, "CPC officials informed us that all expenses charged to its operations account and reported as horticulture, maintenance and operations on its financial statements pertained to its agreement" is a misstatement. During the course of the audit the Conservancy made several attempts to identify items unrelated to the agreement to prevent the Comptroller from inadvertently testing those expenses. The

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Conservancy was in fact directed by the Comptroller to include all corporate operating expenses for sampling, with the assurance that expenses unrelated to the agreement would be excluded (Attachment 1: 5/17/07 email from Comptroller to Conservancy). The failure to exclude these unrelated expenses from the testing resulted in a number of audit findings that were factually incorrect.

Findings and Recommendations

1. CPC Did Not Track Agreement Expenses

Audit Finding – Conservancy did not implement a system which would allow it to identify costs associated with its agreement.

Conservancy Response –

The Conservancy has established a project structure on our general ledger where all expenses are tracked by projects, and with the use of reference codes for sub-projects within the projects.

Consequently, the expenses related to projects, and sub-projects, outside the scope of the Agreement are identifiable and are not included in the amounts associated with the agreement. We are not required to segregate expenses related to the agreement, and therefore, our project structure on our general ledger includes expenses related to the agreement as well as expenditures for restricted funds. The Conservancy's 2006 financial statements, audited by an independent auditor, which included a review of our compliance with the agreement, are in conformance with GAAP.

2. CPC Included Ineligible Expenses Totaling \$574,571 in Amounts Used to Support Funding Received from Parks

A. PS Expenses

Audit Finding - Conservancy reported \$392,282 of PS expenses that were prohibited under its agreement and for individuals who did not perform tasks that were directly related to the operation of Central Park.

Conservancy Response -

1) \$267,947 - President Office staff salaries:

The position of President of the Conservancy and the Central Park Administrator are held by the same person, which is allowable under the agreement (Attachment 2: Modification of the Agreement dated January 2005). The portion of salaries related to the Administrator duties was charged to the Conservancy's

operating account. Although reimbursement for the Central Park Administrator, the Executive Assistant to the Central Park Administrator and the Manager of Park Information positions all relate to the operation of Central Park and are allowable under the contract, *these costs were not included in the amounts submitted under the contract in FY2006*

- 2) \$75,050 - Capital Projects Staff Salaries: Capital projects staff at times are scheduled to administer routine maintenance projects within the park and therefore charge their time accordingly to park-wide operations. *The park-wide operations project is identifiable as outside of the scope of the agreement and therefore, these costs were not included in the amounts submitted under the contract in FY2006 (Attachment 3).*
- 3) \$49,285 - Four individuals who did not work in Central Park: Conservancy has received restricted funds to maintain parks outside of Central Park. These individuals billed their time to a restricted project. *The restricted project is identifiable as outside of the scope of the agreement, and therefore, these costs were not included in the amounts submitted under the contract in FY2006 (Attachment 4).*

B. OTPS Expenses

Prohibited Expenses

Audit Finding - Conservancy included payments to one vendor totaling \$23,625 that was prohibited under its agreement.

Conservancy Response -

- 1) \$23,625 - For the restoration of the Central Park Carousel: An endowment fund was established in 1994 for the maintenance of the Carousel building. Any earnings on the funds up to a maximum of 6% of the average annual balance must be used for this purpose. *These costs related to the restricted funds were coded to a restricted sub-project and identifiable as outside the scope of the agreement, and therefore, were not included in the amounts submitted under the contract in FY2006 (Attachment 5).*

Non-Operating Expenses

Audit Finding - Conservancy included payments to two vendors totaling \$138,698 that were not for non- operating expenses.

Conservancy Response -

- 2) \$133,209 - Construction projects: Emergency maintenance and repair work was performed as part of park-wide operations. *The park-wide operations project is identifiable as outside of the scope of the agreement and therefore, these costs were not included in the amounts submitted under the contract in FY2006 (Attachment 6).*
- 3) \$5,489 - For background checks for new employees: Under the contract (paragraph 19C) Conservancy is responsible for the screening of all personnel, including substantiating credentials and reference checks. This expense is allowable under the terms of the contract. *The costs for non-operating personnel were not included in the amounts submitted under the contract in FY2006.*

Not Incurred During Fiscal Year 2006

Audit Finding - Conservancy included payments to two vendors totaling \$13,966 that were not incurred during Fiscal Year 2006.

Conservancy Response -

- 4) \$10,828 - Fountain pump maintenance for the months of July and August 2006: Conservancy concurs with comment, amounts were included as accrued at 6/30/06.
- 5) \$3,136 - For lumber order placed on July 18, 2006: Conservancy concurs with comment; amounts were included as accrued at 6/30/06.

Lacked Supporting Documentation

Audit Finding - Conservancy included payments to one vendor totaling \$6,000 that lacked supporting documentation.

Conservancy Response -

- 6) \$6,000 - Lynden Miller: Conservancy concurs with comment. This contract has since been terminated.

3. Other Matters

Audit Finding - Parks Assigned Permit Fee Revenues to CPC

Conservancy Response -

The Conservancy awaits appropriate guidance from the Department of Parks and Recreation and the City of New York on this issue.


Audit Finding - Parks granted CPC the Use of Two City-Owned Properties Without a Valid Agreement or FCRC approval

Conservancy Response -

The Conservancy awaits appropriate guidance from the Department of Parks and Recreation and the City of New York on this issue.

I am available to discuss the Conservancy's response to the Comptroller's audit findings. I can be reached directly at (212) 310-6623. Thank you.

Respectfully



Stephen Spinelli
CFO - Central Park Conservancy, Inc.

Cc: Douglas Blonsky - President & Central Park Administrator
David Stark - NYC Parks & Recreation
Alessandro Olivieri - NYC Parks & Recreation
Encl.



City of New York
Parks & Recreation

Adrian Benepe
Commissioner

December 24, 2008

Mr. John Graham
Deputy Comptroller-Audits, Accountancy & Contracts
The City of New York-Office of the Comptroller
1 Centre Street
New York, New York 10007-2341

Dear Mr. Graham,

Thank you for submitting your draft audit report on the "Compliance of the Central Park Conservancy with Its Department of Parks and Recreation Management Agreement (FK07-096A).

Parks is pleased that your Audit Findings and Conclusions found that the Central Park Conservancy (CPC) complied with its management agreement. Additionally, Parks agrees with your findings that CPC exceeded its funding commitment, maintained Central Park in accordance with agreement standards, and complied with New York City Procurement Policy Board (PPB), and Parks purchasing rules. Parks also agrees and is pleased with your finding that the CPC maintained Central Park at a high level and addressed hazardous conditions in a timely manner. We also agree that we need to have the 20-year-old agreements on managing the various visitors centers and sites brought up to date and in compliance with pertinent roles. We respectfully disagree with some of the findings, as detailed in the attached document; particularly, we disagree with the findings that certain expenses were submitted for reimbursement, when they were not in fact submitted.

Thank you again for your work. The following is Parks' response to that draft.

Sincerely,

David Stark
Assistant Commissioner for Fiscal
Management and Budget

Cc: Adrian Benepe
Alessandro Olivieri
Douglas Blonsky
Stephen Spinelli



Parks' Response

The auditors concluded that CPC did not implement a system which would allow it to identify costs associated with its agreement. Parks and CPC maintain that there is a structure on the CPC General Ledger where all expenses are tracked by projects, with the use of reference codes for sub-projects within the projects. CPC is not required to segregate expenses related to the agreement. CPC's financial statements were independently audited in accordance with GAAP.

The auditors found ineligible Personal Services expenses totaling \$392,282. The amount of \$267,947 was for the President and supporting staff. These expenditures are allowed under the agreement with Parks because they were for operating expenditures. However, these costs were not included in the amounts submitted under the contract in FY2006. Additionally, Capital Projects staff salaries of \$75,050 were also not included in the amounts submitted under the contract in FY2006. Although not included in the amount submitted for the contract, portions of their salary were for direct maintenance projects within the park. Finally, four individuals not assigned to Central Park at a value of \$49,285 were also not included in the FY2006 contract.

The audit also determined that an expenditure to one vendor violated the agreement. The dollar amount of \$23,625 was for the restoration and not the general maintenance or upkeep of the Central Park Carousel. This was coded as a restricted project, and therefore not included in the amounts submitted under the agreement. The restoration was done on the Carousel horses which are owned by the City and provides a wonderful experience for thousands of visitors to Central Park.

There are other matters that relate to Parks. One issue that the auditors raised was the assigning of permit fee revenues to the Conservancy that the auditors claim should have been deposited in the General Fund. Parks already issues permits pursuant to its special events and demonstration regulations for events in Central Park. Upon consultation with the City's Law Department, Parks will explore whether it should also include the wedding ceremony and photography activities at the Conservatory Gardens as special events under the rubric of Parks special events rules, or whether another arrangement is appropriate.

Additionally, Parks agrees that we should enter into a formal agreement with CPC for their historic management of the Dairy and Conservatory Garden subject to the resolution of the special events issue. Parks will work with City Law Department, and will seek to enter into specific agreements with CPC regarding their activities at the Dairy and the Conservatory Garden, provided that Parks and CPC wish the current activities occurring at the Dairy and the Conservatory Gardens to continue.

Lastly, Parks agrees that it should adhere to the FCRC rules and regulations regarding the granting of concession agreements on parkland.