

GENERAL SERVICES DEPARTMENT
CHATTANOOGA AFRICAN-AMERICAN MUSEUM
BUILDING MAINTENANCE FUND
AUDIT 08-09

May 5, 2008



City of Chattanooga

INTERNAL AUDIT

City Hall

Chattanooga, Tennessee 37402

Stan Sewell
Director

Ron Littlefield
Mayor

May 22, 2008

Honorable Ron Littlefield
Mayor, City of Chattanooga
City Hall
Chattanooga, TN 37402

RE: Chattanooga African-American Museum Building Maintenance Fund, Audit 08-09

Dear Mayor Littlefield:

Attached is the Internal Audit Division's report on Chattanooga African-American Museum Building Maintenance (CAAM) Fund.

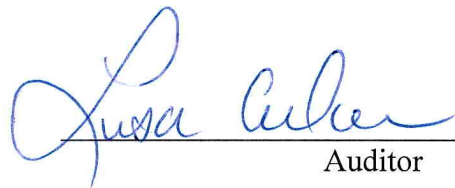
We thank the management and staff of General Services, Finance department and the Chattanooga African-American Museum (CAAM) for their cooperation and assistance during this audit.

Sincerely,

Stan Sewell, CPA, CGFM
Director of Internal Audit

cc: Dan Johnson, Chief of Staff
Paul Page, Director of General Services
Daisy Madison, Finance Administrator
Rose Martin, Executive Director of CAAM
Louis Wright, Hamilton County Finance Administrator

**GENERAL SERVICES DEPARTMENT
CHATTANOOGA AFRICAN-AMERICAN MUSEUM BUILDING MAINTENANCE FUND
AUDIT 08-09**



A handwritten signature in blue ink, appearing to read "Lisa Baker", is written over a horizontal line.

Auditor



A stylized handwritten signature in blue ink is written over a horizontal line.

Audit Director

**GENERAL SERVICES DEPARTMENT
CHATTANOOGA AFRICAN-AMERICAN MUSEUM BUILDING
MAINTENANCE FUND
AUDIT 08-09**

INTRODUCTION

The Bessie Smith Hall (BSH) and the Chattanooga African-American Museum (CAAM) are both housed in the Heritage Center. This facility was jointly funded and built by Hamilton County and the City in 1996. Each year the City and County both give appropriations to Bessie Smith Hall/CAAM. CAAM submits an annual request for an appropriation for their programs from both the City and County. Additionally, the City makes a request to the County each year for an appropriation to help fund the maintenance and operational costs of the entire facility from the City's general fund. The City's General Services department handles the operation and upkeep of the building. They process all the payments for the maintenance and utilities of the building and provide staff for maintenance requests.

The Bessie Smith Hall, named in honor of the Chattanooga-born Bessie Smith, "Empress of the Blues," contains a performance hall, a fully equipped "catering" kitchen, a resource library, program activity/rehearsal rooms and a permanent exhibition about the charismatic woman.

Located in the same facility, the Chattanooga African-American Museum is a cultural center exhibiting African-American contributions to Chattanooga. It features a unique collection of African art and a Bessie Smith exhibit.

STATEMENT OF OBJECTIVES

This audit was conducted in accordance with the Internal Audit Division's 2008 Audit Agenda. The objectives of this audit were to determine if:

1. The CAAM agreement has been approved by Council and if terms are written according to Code.
2. There is an intergovernmental agreement between the City and County outlining obligations and responsibilities relating to the building.
3. The terms of the agreement between the City, County and CAAM for the Heritage Center/Bessie Smith Hall are being followed.
4. Any inspections are performed on the building on a periodic basis.

STATEMENT OF SCOPE

Based upon the work performed during the preliminary survey and the assessment of risk, the audit period will cover activity for the CAAM Building Maintenance fund for July 1, 2006 to June 30, 2007. Where necessary the scope was expanded to meet the objectives of the audit.

Source documentation was obtained from the City's Finance office, Real Estate office and CAAM staff. Original records as well as copies were used as evidence and verified through physical examination.

STATEMENT OF METHODOLOGY

Internal Audit staff interviewed City, County and CAAM personnel to gather information on the audit. IA reviewed documents gathered from the City's Finance and Real Estate offices, City Council minutes, City Code and Charter regulations and CAAM and conducted on-site inspection of the Heritage Hall building.

STATEMENT OF AUDITING STANDARDS

We conducted our audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to afford a reasonable basis for our judgments and conclusions regarding the organization, program, activity, or function under audit. An audit also includes assessments of applicable internal controls and compliance with requirements of laws and regulations when necessary to satisfy the audit objectives. We believe that our audit provides a reasonable basis for our conclusions. In addition we abide by the standards of professional practice established by the Institute of Internal Auditors.

AUDIT CONCLUSIONS

Based upon the test work performed and the audit findings noted below, we conclude that:

1. The CAAM Memo of Understanding was approved by City Council and the terms seem to be written according to City Code.
2. A written intergovernmental agreement between the City and County could not be located that relates to the Heritage Center building.
3. Terms of the CAAM Memo of Understanding are not being followed.
4. It appears that the Heritage Center building is being inspected on a periodic basis.

While the findings discussed below may not, individually or in the aggregate, significantly impair the operations of the General Services Department, they do present risks that can be more effectively controlled.

NO INTERGOVERNMENTAL AGREEMENT IN EFFECT

It appears there is not an intergovernmental agreement between the City and County concerning their joint ownership of the Heritage Center building. After contacting both City and County officials, a written intergovernmental agreement could not be located that detailed any obligations or responsibilities related to the building. Both offices stated that a written document had never been formally put together. It seems that only a verbal agreement is currently in place.

RECOMMENDATION 1

The City needs to work with County officials to design an agreement that would cover all the applicable terms as joint owners of the Heritage Center building which could include funding, occupancy, ownership, and up keep requirements of the building etc. The final agreement must be approved by the City Council and the County Commission.

AUDITEE RESPONSE

We concur. A formal agreement will be designed by City and County personnel and presented to the County Commission and City Council for approval.

FORMAL CAAM LEASE NEVER EXECUTED

A formal and executable lease agreement has never been entered into by the City and County with CAAM. The current binding agreement, the CAAM Memo of Understanding, has an effective date of July 1, 1999 with an option to renew for 10 years. In 1999, when the Memo of Understanding was approved, it stated that a lease was forthcoming and the Memo was only to expedite the operations of the Museum. However, over the last nine years, two different lease drafts have emerged from the City but were never approved or executed by the parties.

RECOMMENDATION 2

The General Services department needs to initiate the drafting of a lease agreement in cooperation with the County that would cover terms as determined by both parties for the lease of the Heritage Center building by CAAM. The lease needs to address all issues that any landlord-tenant lease would require. The lease must be reviewed and recommended by the Regional Planning Commission, then approved by the City Council and the County Commission.

AUDITEE RESPONSE

We concur. We have notified the County Attorney's office that we need a formal lease agreement approved by General Services on behalf of the City and the Property Division on behalf of the County. After the entities have approved the documents, we will then proceed to get the County Commission and the City Council's approval.

CAAM AGREEMENT NEVER APPROVED BY THE REGIONAL PLANNING COMMISSION

It is required by Tennessee State Code Section 13-4-104 that the Regional Planning Commission is to approve all the rentals/leases of municipal property. After contacting the Regional Planning Agency, they could not locate in any of their cases from 1998 or 1999 an approval for the CAAM Memo of Understanding. It appears that the CAAM Memo was never approved by the Regional Planning Commission as required by State Code.

RECOMMENDATION 3

Whenever City and County officials enter into a lease agreement for the Heritage Hall building, the lease has to be reviewed by the Regional Planning Commission before proceeding to the City Council and the County Commission.

AUDITEE RESPONSE

We concur. It is our understanding that rentals and leases must be approved by the Regional Planning Agency. We are currently preparing a Mandatory Referral to get the approval to proceed with a lease. It is our understanding that the Regional Planning Agency must approve the leasing of space to the CAAM, but not the specific lease agreement.

CAAM SHOULD APPLY FOR CITY/COUNTY APPROPRIATIONS

The Memo of Understanding allows a \$1,500 monthly rental rate to be charged to CAAM for the lease of the entire Heritage Hall building. This rate is well below the market rate for a building of its size. Along with the low rental fee, the City and County cover all the expenses for the maintenance of the building as well as utilities and other operational costs. According to the City Attorney, this should be considered a donation to CAAM. This would require CAAM to follow City Code Section 2-526 which outlines the requirements for disbursements to non profits, as they currently do when requesting funds for assistance with their annual programs.

Currently, the City's Budget office puts together the budget request for the building maintenance fund appropriation each year and forwards it to the County for approval. This arrangement has been going on since 1999. The Budget office estimates the building's expenditures which include all the utilities, cleaning services, cleaning supplies, landscaping, waste disposal, and regular maintenance expenses each year and splits the estimated costs between both the City and County. They also factor in the rental income from CAAM to help offset the expenditures.

RECOMMENDATION 4

If the City and County continue to set the rental rate for the Heritage Hall building below that of a rate comparable to a building of its size and continue to fund costs outside of a landlord's normal responsibility, then the tenant must be a non profit and follow the City Code requirements for disbursements to non profits, Section 2-526.

AUDITEE RESPONSE

We concur. We will draft a lease agreement based on current market rates. The lease will not include any services or City/County obligations beyond that of a normal (arms length) transaction. To more clearly identify the (total) donation being made by the City and County, CAAM should request additional appropriations, if needed, to cover the market rate rental amount.

CITY AND COUNTY ARE FUNDING EXPENSES NOT REQUIRED BY THE CAAM AGREEMENT

Outside of the Memo requirements, the City and County have been appropriating funds to the CAAM building fund and the City Council has approved this annual appropriation. However, the City and County are in no way required or obligated to pay all the expenses that are covered by this appropriation. After reviewing expenses detailed in the Appropriation Transaction Ledger from FY99 to FY07 for the Building Maintenance fund, it is evident that expenditures have been paid for items such as exterminating services,

electricity, natural gas, water, alarm monitoring, waste disposal, and other costs not associated with the maintenance of the building. It appears that the City and County are financially supporting the operations of the building (and CAAM) although it is not required by the Council approved Memo of Understanding.

RECOMMENDATION 5

The General Services department needs to initiate the drafting of a lease agreement in cooperation with the County that would cover terms as determined by both parties for the lease of the Heritage Hall building by CAAM. The lease needs to address all issues that any landlord–tenant lease would require. The lease must be reviewed and recommended by the Regional Planning Commission, then approved by the City Council and the County Commission.

AUDITEE RESPONSE

We concur. We will draft a lease agreement based on current market rates. The lease will not include any services or City/County obligations beyond that of a normal (arms length) transaction. To more clearly identify the (total) donation being made by the City and County, CAAM should request additional appropriations, if needed, to cover additional operating expenses. We would suggest the City Finance Officer review the financial statements of CAAM to determine needs based on alternate revenues, current fund balance, prior year excess revenues, etc.

CAAM NOT SUBMITTING SUBLEASES

According to the terms of the CAAM agreement, CAAM has the right to sublease portions of the building and parking lot. However, the City has the right to approve any and all subleases. It appears that CAAM staff has not been submitting subleases for the City to approve.

RECOMMENDATION 6

The General Services department needs to contact CAAM staff to determine what subleases are currently in place and follow-up periodically on the status of all subleases and available space.

AUDITEE RESPONSE

We concur. We will request a current listing of any occupants and formally request that CAAM immediately begin to comply with the requirement of the MOU (and future lease).