French Market Corporation Use of Funds

Follow-up Report

Final Report • October 26, 2016

NEW ORLEANS OFFICE OF INSPECTOR GENERAL

E. R. Quatrevaux, Inspector General

OFFICE OF INSPECTOR GENERAL

CITY OF NEW ORLEANS

ED QUATREVAUX
INSPECTOR GENERAL

October 26, 2016

Re: French Market Corporation Use of Funds: Follow-up Report

I certify that the inspector general personnel assigned to this project are free of personal or other external impairments to independence.

E.R. Quatrevaux
Inspector General

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The Office of Inspector General (OIG) conducted a follow-up to its 2013 performance audit titled *"A Report on French Market Corporation Use of Funds"* (2013 Report). The purpose of the follow-up was to determine the extent that the French Market Corporation (FMC) implemented its corrective actions and/or the OIG's recommendations identified in the 2013 Report.

The 2013 Report contained six findings and five observations, including the following:

- The FMC made sponsorship payments to other organizations which violated the Louisiana Constitution;
- The FMC exceeded budgeted overtime limits;
- FMC employees exceeded annual and weekly overtime limits established by the Civil Service Commission; and
- The FMC received $1.00 per year in accordance with the lease agreement for Edison Park rather than the fair market rental value of the leased property.

The 2013 Report included recommendations to increase the FMC's revenues and to reduce its costs, ultimately decreasing its cost to the City of New Orleans (City). The FMC fully or partially agreed to implement all of the OIG's recommendations in the 2013 Report.

Auditors found positive results during follow-up testing that demonstrated that the FMC implemented the majority of the 2013 Report's recommendations. All FMC sponsorship payments to other organizations contained a cooperative endeavor agreement (CEA) which was in compliance with the Louisiana Constitution. The FMC also ended a lease agreement where it previously earned $1.00 per year, and instead, entered into a new lease agreement where the FMC collected approximately $180,000 in the first year. Auditors did not note any questionable expenses during the period tested, and all disbursement transactions tested were approved properly.

The FMC's actual overtime expenses exceeded its budgeted amount for the period tested; however the difference was largely due to FMC assuming management of three parking lots and Crescent Park. The FMC Board of Directors approved to contribute 100 percent of the quarterly parking lot net revenues to the City for at least three years, beginning in 2015. This change increased the FMC's annual contribution to the City from $1.1 million in 2014 to approximately $2.0 million in 2015.

However, the FMC did not implement corrective actions for all findings and observations nor did it resolve all findings and observations. Auditors noted that FMC employees continued to violate Civil Service rules because two employees exceeded 416 hours of annual overtime by 135 hours and 39 hours, respectively. Additionally, the FMC did not obtain prior approval for any employees who exceeded eight hours of overtime in a single week.

The FMC did not comply with its record retention policy because it did not keep sole source justifications, and FMC managers acknowledged that a security officer did not observe the cash counts as required by its policy.

The FMC's Executive Director resigned in January 2016. As a new Executive Director assumes office, it is important that the FMC continue to implement and enforce the recommendations and corrective actions in the 2013 Report so the FMC can minimize its expenses and maximize its revenue and annual contribution to the City.

I. Objectives, Scope, and Methodology

The OIG conducted a follow-up to its audit of the FMC's use of funds.[1] The objective of the 2013 Report was to evaluate the FMC's internal controls over its use of funds and to determine if those controls were implemented and operating effectively. The OIG conducted a follow-up to determine the extent that the FMC implemented its corrective actions and/or the OIG's recommendations identified in the 2013 Report.

The scope period for this follow-up was January 1, 2014 through December 31, 2014.

To accomplish the objectives of the follow-up, auditors obtained various supporting documentation (i.e. checks, invoices, payroll reports, etc.) and:

1. Interviewed FMC personnel to gain an understanding of current policies, processes, and controls;
2. Obtained and reviewed various FMC policies and procedures;
3. Obtained and reviewed all CEAs in effect during the scope period to verify that they were in compliance with best practices;
4. Compared budgeted and actual overtime expenses to verify the FMC overtime expense did not exceed the pre-approved, budgeted amount;
5. Selected the 25 employees who incurred the most annual overtime hours during the scope period and verified that the overtime:
    a. Did not exceed the 416 hours per calendar year as established by the Civil Service Commission; and
    b. Was pre-approved by the Civil Service Commission when an employee was expected to exceed eight hours of overtime in a single week;
6. Used their judgment to select a sample of 25 disbursements from the check register and verified that the FMC's disbursements:[2]
    a. Were in compliance with FMC policies and procedures and/or best practices; and
    b. Did not violate the Louisiana Constitution's prohibition of the donation of public funds; and

[1] "A Report on French Market Corporation Use of Funds." New Orleans Office of Inspector General. October 10, 2013. http://nolaoig.gov/reports/advanced-search/french-market-corporation-s-use-of-funds.
[2] Auditors used their judgment to select disbursements based on the nature of the expense.

7. Verified that the FMC modified the lease agreement for Edison Park and received fair market rental value for the lease of the property.

Auditors deemed these sample sizes large enough to determine if the finding and/or observation was resolved. However, the sample sizes were not statistically generated, and auditors could not project errors to the population.

The auditors assessed the reliability of computer-processed data by interviewing officials knowledgeable about the data, comparing data to source documents for reliability, and reviewing selected system controls. Auditors determined that the data were sufficiently reliable for those purposes.

Auditors used four categories to classify the status of corrective actions:

- Implemented - The FMC implemented actions that resolved the findings noted in the 2013 Report.
- Partially Implemented - The FMC implemented actions, but the actions did not fully resolve the findings noted in the 2013 Report.
- Pending Implementation - The FMC initiated action plans that, if fully implemented, may reasonably be expected to resolve the findings noted in the 2013 Report. However, the FMC did not complete implementation at the time of testing.
- Not Implemented - The FMC did not initiate or implement any actions in response to the findings noted in the 2013 Report.

FOLLOW-UP STANDARDS

This follow-up was conducted in accordance with the Principles and Standards for Offices of Inspector General (the Green Book).[3]

LEGAL AUTHORITY

The authority to perform this follow-up is established in La. R.S. 33:9613 and in City Code Sec. §2-1120 of the City of New Orleans.

Note: All responses from the FMC in the body of this report are direct statements and were not modified.

[3] "Quality Standards for Offices of Inspector General," *Principles and Standards for Offices of Inspector General* (Association of Inspectors General, 2014).

The FMC is a non-profit corporation owned by the City. The FMC was incorporated by the City in 1973 and entered into a Lease and Franchise Agreement with the City to provide for the operation and maintenance of various properties, which include retail stores and restaurants, a farmers market, a flea market and several parking lots located in Orleans Parish.[4] This agreement extends through December 31, 2050, and it requires the FMC to make a minimum annual contribution to the City's general fund for the greater of $100,000 or 20 percent of its net adjusted revenues at the end of each year ending on December 31.[5]

The FMC can exceed the minimum annual required contribution to the City. In 2014 and 2015, the FMC was required to contribute $563,544 and $455,131.[6] The FMC actually contributed $1.1 million and $2.0 million in 2014 and 2015, respectively.

The FMC is administered by a twelve member Board of Directors appointed by the Mayor. The FMC is a political subdivision of the City, authorized by law to perform the governmental function of managing and operating those City assets. Accordingly, the FMC is subject to the Louisiana Constitution's prohibition of the donation of public funds.[7] FMC employees are subject to the rules and regulations of the Civil Service Commission and are paid through the City's payroll system, ADP.

[4] *See* Articles of Incorporation, French Market Corporation, dated March 5, 1973; and City of New Orleans Ordinances M.C.S. 4745, 5175, 5061, 14626.

[5] City of New Orleans Ordinance M.C.S. 14626 defines net adjusted revenues as "the gross annual revenues derived by the Corporation from the French Market Properties remaining after (i) payment of principal, interest and premium, if any, on all loans or bonds of the Corporation, including all other payments required to be made into funds or reserves established under the terms of any instrument authorizing the issuance of bonds, (ii) payment of all expenses of administering, managing, operating, advertising, maintaining and repairing the French Market Properties, including, but without limiting the generality of the foregoing, taxes, insurance, licenses, etc., and (iii) maintaining reasonable reserves for depreciation, replacement, maintenance, management, promotion and tax purposes."

[6] The required contribution was based on 20 percent of net revenues. Net revenues totaled $2,817,718 and $2,275,656 in 2014 and 2015, respectively.

[7] "La. Constitution Article VII, §14. http://www.legis.la.gov/legis/Law.aspx?d=206541.

III. Follow-up on Recommendations

Finding 1: The FMC made payments to sponsor local events held by other organizations. These sponsorships lacked the required CEA or other written agreement, and for this reason were in violation of the Louisiana Constitution's prohibition of the donation of public funds.

Recommendation 1: The FMC should require written agreements for all sponsorships and other cooperative endeavors. At a minimum, each written agreement should:

1. Clearly identify the public purpose for the expenditure or transfer;
2. Describe how the benefit offered to the FMC was at least equivalent to the public funds or property used; and,
3. Outline the reciprocal obligations between the parties.

*Recommendation **Partially Accepted** by the FMC.*[8] *"In October 2012 the FMC Board of Directors revised its by-laws adopting a policy for the receipt and consideration of sponsorship requests that states, 'Sponsorship requests will only be considered in furtherance of a public interest that brings value back to the French Market.' "*

Follow-up 1: The FMC obtained written CEAs for all sponsorships and other cooperative endeavors.

Although the FMC only partially accepted the OIG recommendation in its response to the 2013 Report, it ultimately adopted the OIG's recommendation and obtained written agreements for sponsorships and other cooperative endeavors. The FMC had five written CEAs in effect at the time of testing, and each CEA:

1. Clearly identified the public purpose for the expenditure or transfer;

[8] The FMC's legal counsel disputed that the FMC was not a state or political subdivision. He stated, "The FMC and UPBRC are not part of the state or political subdivisions as defined by law and, therefore, the prohibitions in the La Const. do not apply." The OIG disagreed, responding, "The FMC is a public benefit corporation incorporated by the Mayor of the City of New Orleans as authorized by the City Council. It has only one purpose, which is to operate and maintain property owned by the City of New Orleans. The suggestion that they are not subject to the Constitution does not comport with the law."

2. Described how the benefit offered to the FMC was at least equivalent to the public funds or property used; and
3. Outlined the reciprocal obligations between the parties.

By obtaining written agreements, the FMC clearly identified the public purpose for its sponsorships and cooperative endeavors as well as the benefit that the FMC would receive. Because the FMC included these requirements in its written agreements, the FMC reduced its risk of violating the Louisiana Constitution.[9]

Finding 2: FMC employees worked overtime hours that exceeded the amount approved in the annual budget.

Recommendation 2: The FMC should monitor overtime by taking into account the amount of overtime budgeted for each division to fulfill the mission of the FMC and the overtime hour limits established by the Civil Service Commission.

> *Recommendation **Accepted** by the FMC. "The excess overtime was a result of the FMC utilization of overtime personnel in lieu of hiring additional personnel to fill staffing shortages. The FMC has added additional Staff to fill staffing shortages."*

FOLLOW-UP 2: **THE FMC RECEIVED OVERTIME REPORTS FROM THE CITY TO MONITOR OVERTIME. HOWEVER, THE FMC STILL EXCEEDED ITS BUDGETED OVERTIME IN 2014. THE FMC INCURRED $223,000 IN OVERTIME EXPENSES WHICH EXCEEDED ITS BUDGETED OVERTIME OF $127,000 FOR THE YEAR ENDED DECEMBER 31, 2014.**

The FMC previously contracted with a third party, Standard Parking, for management of its three parking lots before it assumed management of those lots on April 1, 2014.[10] The FMC also entered into a CEA to operate, maintain, and provide security at Crescent Park, which opened to the public in February 2014. The FMC's 2014 budget was approved on November 21, 2013. The budget

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[9] La. Constitution Article VII, §14 states, "…funds, credit, property, or things of value of the state or of any political subdivision shall not be loaned, pledged, or donated to or for any person, association, or corporation, public or private."

[10] The parking lots are located at: 400 Elysian Fields Avenue, New Orleans, LA 70117; 500 Elysian Fields Avenue, New Orleans, LA 70117; and the 400 block of St. Peter Street, New Orleans, LA 70130.

did not include overtime attributed to the FMC assuming management of its three parking lots and Crescent Park.[11]

The FMC incurred $223,000 in overtime expenses which exceeded its budgeted overtime of $127,000 for the year ended December 31, 2014. FMC managers asserted that approximately $52,000 of the $96,000 overage was attributed to managing the three parking lots, and approximately $9,000 of the overage was attributed to managing Crescent Park. The remaining $35,000 overage pertained to additional overtime in the Security department which, according to FMC managers, continued to experience staffing shortages due to turnover. The FMC should monitor its employees' overtime to ensure all overtime expenditures are necessary.

Follow-up 2 Additional Information Concerning the FMC's Parking Lot Management:

During testing, auditors noted that after the FMC assumed management of the three parking lots in April 2014, annual operating expenses for those parking lots decreased from $764,424 in 2013 to $480,477 in 2014. As a result, the FMC's parking lot net revenues increased significantly from 2013 to 2014 (See Table 1).[12]

On April 28, 2015 the FMC Board of Directors voluntarily approved to make contributions to the City in amounts equaling 100 percent of the quarterly parking lot net revenues for at least three years, beginning January 1, 2015.[13] The FMC's contribution to the City for the year ended December 31, 2015 was approximately $2.0 million. Approximately $1.9 million was generated from parking lot net revenues.[14] Comparatively, the FMC's contribution to the City was $1.1 million for the year ended December 31, 2014.

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[11] See "Follow-up 2 Additional Information Concerning the FMC's Parking Lot Management" section below.

[12] Parking lot operating expenses for 2013 and 2014 were not part of the scope of the follow-up but were noted during overtime testing. Auditors obtained operating revenue and expense information from the annual trial balances audited by the FMC's external auditor.

[13] City of New Orleans Ordinance M.C.S. 14626 requires the FMC to make a minimum annual contribution to the City's general fund for the greater of $100,000 or 20 percent of its net adjusted revenues at the end of each fiscal year regardless of the parking lot net revenues.

[14] To avoid a negative net position in 2015, on March 29, 2016, the FMC Board of Directors approved to reduce the 2015 4th quarter contribution to the City. Instead of contributing approximately $2.4 million in annual parking lot net revenues, it contributed $1.9 million and an additional $100,000 in annual rent, for a total of $2.0 million.

Table 1: Comparison of Parking Lot Net Revenues Before and After FMC Assumed Management

Income Statement	2013 (A)	2014 (B)	Increase (Decrease) from Prior Year (B) – (A)	2015[15]
Parking Lot Revenues	$3,094,924	$3,154,169	$59,245	$3,046,729
Less Expenses:				
Operating Expenses	764,424	480,477	(283,947)	475,246
Fees & Taxes	335,591	333,896	(1,695)	177,285
Total Expenses	1,100,015	814,373	(285,642)	652,531
Net Revenues	**$ 1,994,909**	**$ 2,339,796**	**$344,887**	**$2,394,198**

Finding 3: The FMC allowed employees to exceed the Civil Service Commission rule on the annual overtime limit of 416 hours.

Recommendation 3: FMC division heads and its Human Resources department should monitor overtime hours to ensure that no employee is working in excess of the 416 hour annual limit established by the Civil Service Commission.

*Recommendation **Accepted** by the FMC. "FMC will comply with the Civil Service Commission Rule IV, Section 9.10…."*

FOLLOW-UP 3: IN 2014, TWO FMC EMPLOYEES EXCEEDED THE CIVIL SERVICE COMMISSION'S ANNUAL OVERTIME LIMIT. HOWEVER, THE CIVIL SERVICE COMMISSION GRANTED AN EXCEPTION AND ALLOWED ONE OF THE TWO EMPLOYEES TO EXCEED THE 416 HOUR ANNUAL OVERTIME LIMIT.

Auditors noted that two of the 25 FMC employees tested exceeded the Civil Service Commission's annual overtime limit. The rule stated, "… under no circumstances shall an employee be permitted to work … in excess of 416 hours of overtime in any calendar year."[16] See Table 2 for details of employees that exceeded the annual overtime limit in 2014.

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[15] Parking lot operating expenses for 2015 were not part of the scope of the follow-up but were noted during overtime testing. Auditors obtained operating revenue and expense information from the FMC's Chief Accountant.

[16] "Civil Service Commission Rule IV, Section 9.10." *Rules of the Civil Service Commission City of New Orleans*, February 28, 2014. On June 20, 2016, the Civil Service Commission amended Rule IV, Section 9.10. The amended rule allows employees to exceed the annual overtime limit, but "… approval must be obtained

Table 2: FMC Employees Who Exceeded Annual Overtime Limits

Employee's Department	Total Overtime Hours[17]	Total Overtime Wages	Overtime Hours Exceeding Annual Limit
Security	551	$ 23,136	135
Administration	455	$ 17,617	39

The City requested an exception to the overtime rules for various departments, including FMC Security, from the Civil Service Commission for the year ended December 31, 2014. The Civil Service Commission granted the request at its January 12, 2015 regular meeting. Auditors noted only one FMC employee was included on the exception list.

The FMC violated the annual overtime limit which could result in overtime expenditures for hours that were unnecessary or excessive. The FMC should monitor its employees' overtime to ensure all overtime expenditures are necessary.

Finding 4: The FMC did not obtain advance approval from the Civil Service Commission prior to allowing employees to work overtime in excess of eight hours in a single week.

Recommendation 4: The FMC should comply with the Civil Service Commission rule and obtain advance approval for employees expected to exceed eight hours of overtime in a single week.

> *Recommendation* ***Accepted*** *by the FMC. "The FMC will seek advance Civil Service Commission approval for weekly overtime to cover special events and fill staff shortages due to employee leave and temporary vacancies."*

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from the Civil Service Department if an employee is expected to exceed 416 hours [of overtime] in a year, whether regularly scheduled or otherwise."

[17] Civil Service Commission Rules defined overtime hours as those overtime hours where the employee is "paid overtime at their appropriate rate of not less than one and one-half (1 ½) times their rate of pay for each hour worked in a work period in excess of the maximum hours allowable…." Therefore, the auditors did not include "straight-line" regular pay overtime hours when determining whether FMC employees exceeded the annual Civil Service overtime limit.

FOLLOW-UP 4: THE FMC DID NOT OBTAIN ADVANCE APPROVAL FROM THE CIVIL SERVICE COMMISSION FOR EMPLOYEES THAT EXCEEDED EIGHT HOURS OF OVERTIME IN A SINGLE WEEK.

Twenty-two of the 25 employees tested exceeded eight hours of overtime in a single week during the period tested. The FMC did not seek advance approval from Civil Service for any of the 22 employees, and FMC managers could not provide a reason for not seeking advance approval from Civil Service. Civil Service rules required that:

> "…advance approval must be obtained from the Civil Service Department if an employee is expected to exceed 8 hours of overtime in a work week, whether regularly scheduled or otherwise."[18]

The FMC violated the weekly overtime limit which could result in overtime expenditures for hours that were unnecessary or excessive. The FMC should monitor its employees' overtime to ensure all overtime expenditures are necessary.

Finding 5: The originating department did not use or sign a receiving report upon pick-up of goods as required by the FMC's Accounting Policy and Procedures Manual.

Recommendation 5: The FMC should enforce its policy or change the policy to reflect actual practices.

> *Recommendation* ***Accepted*** *by the FMC. "The FMC will update its accounting policy to reflect the current operating procedures."*

[18] "Civil Service Commission Rule IV, Section 9.7(a)." *Rules of the Civil Service Commission City of New Orleans*, February 28, 2014. On June 20, 2016 the Civil Service Commission amended Rule IV, Section 9.10. The amended rule does not require departments to receive advance approval for employees expected to exceed eight hours of overtime. Instead, "… approval must be obtained from the Civil Service Department if an employee is expected to exceed 416 hours [of overtime] in a year, whether regularly scheduled or otherwise."

FOLLOW-UP 5: THE FMC UPDATED ITS POLICY AND REQUIRED EMPLOYEES TO ELECTRONICALLY SIGN-OFF TO ACKNOWLEDGE RECEIPT OF INVOICED GOODS. THE REVISED POLICY AND CONTROLS APPEARED TO BE IMPLEMENTED AND OPERATING EFFECTIVELY.

The FMC revised its Accounting Policy and Procedure Manual and adopted it on July 31, 2014. The revised policy required the ordering department to verify receipt of merchandise before the invoice was processed for payment. The policy stated:

> "The originating department will receive a copy of each invoice or packing slip for verification of receipt of merchandise winch [sic] is processed for payment. Any discrepancies should be reported to the Accounting Department immediately."[19]

Auditors noted that department heads electronically signed-off via the FMC's accounting software upon receipt of the invoice to verify the invoiced items were received for all 25 disbursements tested.

Finding 6: The FMC did not post public notice of "Whistleblower Protection for Public Employees" in accordance with Louisiana State Law.[20]

Recommendation 6: The FMC should comply with state law by posting the "Whistleblower Protection for Public Employees" notice in all work areas with more than ten public employees.

> *Recommendation **Accepted** by the FMC. "The FMC has posted the public notice of whistleblower protection in accordance with state law."*

FOLLOW-UP 6: THE FMC DISPLAYED THE "WHISTLEBLOWER PROTECTION FOR PUBLIC EMPLOYEES" NOTICE IN ITS MAIN OFFICE WHERE IT WAS VISIBLE TO ALL EMPLOYEES.

[19] French Market Corporation Accounting Policy & Procedures Manual, revised July 31, 2014.
[20] La. R.S. 42:1169(F).

IV. Follow-up on Observations

Observation 1: The FMC should lease the Edison Park property for no less than its appraised fair market value.

In March 2002, the FMC entered into a contract with New Orleans Musical Legends (NOML) to lease Edison Park from the FMC for $1.00 per year.[21] In January 2004, the FMC approved a sublease which allowed NOML to sublease Edison Park to Café Beignet. The terms of the sublease required Café Beignet to pay NOML the greater of seven percent of gross sales or $75,000 annually. The FMC did not receive any funds from NOML or Café Beignet as a result of the sublease. Additionally, the lease agreement for $1.00 per year was less than the appraised fair market value and may violate the Louisiana Constitution's prohibition of the donation of public funds.[22]

> *Observation **Partially Accepted** by the FMC. "The FMC has engaged the services of an appraiser to assess the fair market rental value of the Edison Park premises. In accordance with the FMC Expired Leases Policy the current tenant can request for consideration a new lease, conditioned upon the submission of the request prior to the expiration of the lease. The current tenant has requested such consideration. Upon receipt of the appraisal Staff will submit tenant's request to the Board of Directors."*

Follow-up Observation 1: **The FMC obtained an appraisal for the fair market rental value of Edison Park and leased it directly to Café Beignet. The FMC's annual revenue of approximately $180,000 exceeded the appraised fair market rental value of the property.**

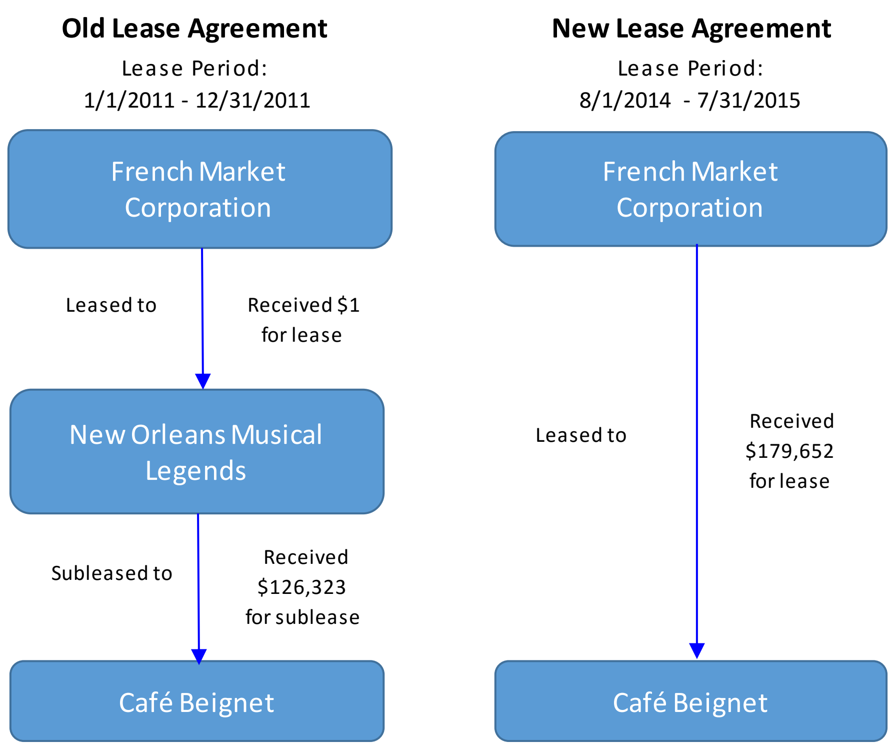
On August 23, 2013, the FMC obtained an appraisal which showed that the annual fair market rental value of Edison Park was $170,450. On August 1, 2014, the FMC excluded NOML and commenced a lease agreement directly with Café Beignet. The rental terms required total annual rent in the amount of seven percent of Café Beignet's annual gross sales with a minimum annual rent of

[21] The NOML was responsible for making the dilapidated Edison Park compatible with other properties in and around the French Market and maintaining the property under the same management standards as the French Market.
[22] La. Constitution Article VII, §14 and La. Atty. Gen. Op. No. 05-0346.

$140,000. As a result of eliminating NOML from the lease agreement, the FMC increased its rental income from $1.00 per year to $179,652 during the first year of the contract. This rental income exceeded the $170,450 appraised fair market value by $9,202. See Figure 1 for a comparison of FMC's revenue from the lease of Edison Park under the old and new lease structures.

Auditors noted that the minimum annual rent of $140,000 is less than the fair market value of $170,450. If Café Beignet's annual gross sales do not exceed $2,435,000 then the annual lease payment would not exceed the appraised fair market rental value. The FMC should consider increasing the minimum annual lease payment to $170,450.

Figure 1: Lease Structure for Edison Park



Observation 2: The FMC Board of Directors should not revise its policy forbidding the issuance of general leave credits to flea market vendors.

*Observation **Accepted** by the FMC. "The current policy restricting the issuance of credits will remain unchanged."*

FOLLOW-UP OBSERVATION 2: **THE FMC DID NOT REVISE THE POLICY FORBIDDING THE ISSUANCE OF CREDITS TO FLEA MARKET VENDORS.**

Observation 3: The FMC could not locate support for one of the three required bids for a contract. The support for each written bid should remain on file for all applicable contracts.

*Observation **Accepted** by the FMC. "The FMC will ensure that all supporting documentation for contracts is properly filed."*

FOLLOW-UP OBSERVATION 3: **THE FMC ADDED A RECORD RETENTION POLICY TO ITS ACCOUNTING POLICY AND PROCEDURES MANUAL, BUT IT DID NOT COMPLY WITH THE REVISED POLICY.**

The FMC added a record retention policy to its Accounting Policy and Procedures Manual that required the FMC to retain checks and supporting documentation for seven years. The FMC also adopted a policy for sole source purchases. The FMC policy for sole source purchases of goods and services exceeding $5,000 stated:

> "…written justification will be required describing the uniqueness of the item or service, as well as the sole source vendor's ability to provide the product or service. The Executive Director will make final determination as to whether an item or service is eligible for sole source purchase."[23]

During testing of the 25 disbursements, auditors found that 21 disbursements contained all required supporting documentation (i.e. quotes, bids, invoices, etc.).

[23] French Market Corporation Accounting Policy & Procedures Manual, revised July 31, 2014.

Four of the 25 disbursements selected for testing were sole source purchases. All sole source purchases tested appeared reasonable, and their eligibility was approved by the Executive Director. However, the FMC did not maintain any written justification for the sole source purchases, which would have otherwise required quotes or bids per FMC policy. FMC managers could not provide a reason why they did not maintain the written justification.

The FMC should document justification for sole source purchases over $5,000 on a standardized form and maintain these justifications in its records.

Observation 4: The FMC did not have a written policy concerning the signing off on "Work Completed" in the Accounting Policy and Procedures Manual, and the approving authority did not follow the unwritten policy consistently.

*Observation **Accepted** by the FMC. "The FMC will update its accounting policy to reflect the current operating procedures."*

FOLLOW-UP OBSERVATION 4: **THE FMC DID NOT UPDATE ITS POLICY TO REFLECT THE CURRENT OPERATING PROCEDURES, BUT IT DID ADOPT AN UNWRITTEN POLICY THAT REQUIRED MANAGERS TO ELECTRONICALLY APPROVE PAYMENT OF INVOICES.**

The 2013 Report noted that FMC managers used a "Work Completed" stamp to document completion of work before an invoice was paid, but that the stamp was not used consistently. Although the FMC did not update its policy, it did adopt an unwritten policy that required managers to electronically approve payment of invoices. Auditors found that FMC managers electronically approved all 25 invoices tested. The FMC should consider documenting this control in its Accounting Policy and Procedures Manual.

Observation 5: The FMC did not enforce its policy which required a security officer to observe the end-of-day Flea Market cash count.

*Observation **Accepted** by the FMC. "The FMC will ensure that all Flea Market operating procedures are followed."*

Follow-up Observation 5: The FMC did not enforce its policy. A security officer did not observe the end-of-day flea market cash count.

FMC policy stated, "Throughout the entire process, the cash count is observed by the Security Officer."[24] Per discussion with FMC managers, the cash count during the closeout process was not observed by a Security officer as required by its policy. The FMC should enforce its policy concerning the flea market closeout process.

[24] French Market Corporation Accounting Policy & Procedures Manual, revised July 31, 2014.

The 2013 Report contained six findings and five observations; the FMC fully or partially agreed to implement all of the OIG's recommendations in the 2013 Report.

Auditors found positive results during follow-up testing that demonstrated the FMC implemented most of the 2013 Report's recommendations. The FMC obtained CEAs for sponsorship payments to other organizations in compliance with the Louisiana Constitution. Auditors did not note any questionable expenses during the period tested, and all transactions tested were approved properly. The FMC also ended a lease agreement where it had previously earned $1.00 per year and entered into a new lease where the FMC earned approximately $180,000 in the first year of the new agreement.

Although the FMC's actual overtime expenses exceeded the budgeted amount for the period tested, the difference was largely due to the FMC assuming management of its three parking lots that were previously contracted to a third party. The FMC Board of Directors approved to contribute 100 percent of the quarterly parking lot net revenues to the City for at least three years, beginning January 1, 2015**.** As a result, the FMC's annual contribution to the City increased from $1.1 million in 2014 to approximately $2.0 million in 2015.

The follow-up revealed that the FMC did not resolve the two findings concerning the Civil Service rules for overtime hours. FMC employees exceeded the 416 hour annual overtime limit in 2016. The FMC also did not obtain advance approval from Civil Service for employees expected to exceed eight hours of overtime in a single week.

The FMC did not comply with its record retention policy because it did not keep sole source justifications. Auditors also noted a security officer did not observe the end-of-day cash counts which violated FMC's policy.

A summary of all follow-up results are shown below in Table 3 and Table 4.

TABLE 3: SUMMARY OF FOLLOW-UP FINDINGS

Recommendation	Accepted	**Follow-Up**	Status
The FMC should require written agreements for all sponsorships and other cooperative endeavors.	Partially	The FMC obtained written CEAs for all sponsorships and other cooperative endeavors.	Implemented
The FMC should monitor overtime by taking into account the amount of overtime budgeted for each division to fulfill the mission of the FMC and the overtime hour limits established by the Civil Service Commission.	Yes	The FMC exceeded its budgeted overtime by $96,000 in 2014. The FMC assumed management of three parking lots and Crescent Park in 2014, which attributed to $61,000 of the overage. The 2014 budget was approved in 2013 and did not include overtime incurred for managing the three parking lots and Crescent Park. The remainder of the excess overtime was due to security staffing needs.	Partially Implemented
FMC division heads and its Human Resources department should monitor overtime hours to ensure that no employee is working in excess of the 416 hour annual limit established by the Civil Service Commission.	Yes	Two FMC employees exceeded the 416 hour annual overtime limit in 2014.	Not Implemented
The FMC should comply with the Civil Service Commission rule and obtain advance approval for employees expected to exceed eight hours of overtime in a single week.	Yes	The FMC did not obtain advance approval from Civil Service for FMC employees who exceeded eight hours of overtime in a single week.	Not Implemented
The FMC should enforce its receiving policy or change the policy to reflect actual practices.	Yes	The FMC updated its policy and required employees to electronically sign-off to acknowledge receipt of invoiced goods. The revised policy and controls appeared to be implemented and operating effectively.	Implemented
The FMC should comply with state law by posting the “Whistleblower Protection for Public Employees” notice in all work areas with more than ten public employees.	Yes	The FMC displayed the “Whistleblower Protection for Public Employees” notice in its main office where it was visible to all employees.	Implemented

TABLE 4: SUMMARY OF FOLLOW-UP OBSERVATIONS

Observation	Accepted	**Follow-Up**	Status
The FMC should lease the Edison Park property for no less than its appraised fair market value.	Partially	The FMC obtained an appraisal for the Edison Park property and leased it directly to Café Beignet. The FMC's annual revenue of approximately $180,000 exceeded the property's appraised fair market rental value. However, the lease agreement required a minimum annual rent of $140,000 which was less than the appraised fair market rental value. If Café Beignet's annual gross sales do not exceed $2,435,000 then the annual lease payment would not exceed the appraised fair market rental value.	Partially Implemented
The FMC Board of Directors should not revise its policy forbidding the issuance of general leave credits to flea market vendors.	Yes	The FMC Board of Directors did not revise the policy forbidding the issuance of credits to flea market vendors.	Implemented
The FMC should maintain support for each written bid for all applicable contracts.	Yes	The FMC added a record retention policy to its Accounting Policy and Procedures Manual, but it did not comply with the revised policy for sole source purchases.	Partially Implemented
The FMC did not follow the unwritten policy for signing off on work completed.	Yes	The FMC did not update its policy, but it did adopt an unwritten policy that required managers to electronically approve payment of invoices. FMC managers electronically approved payment for all invoices tested.	Implemented
The FMC did not enforce its policy which required a security officer to observe the end-of-day flea market cash count.	Yes	A security officer did not observe the end-of-day flea market cash count.	Not Implemented