

Office of Inspector General

City of New Orleans

Evaluation of the City of New Orleans Delinquent Property Tax Collection Program

**E. R. Quatrevaux
Inspector General**

Final Report

March 21, 2013

OFFICE OF INSPECTOR GENERAL
CITY OF NEW ORLEANS



ED QUATREVAUX
INSPECTOR GENERAL

March 21, 2013

Re: Evaluation of the City of New Orleans Delinquent Property Tax Collection Program

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

A handwritten signature in blue ink, appearing to read 'E.R. Quatrevaux', is positioned above the printed name.

E.R. Quatrevaux
Inspector General

Evaluation of the City of New Orleans Delinquent Property Tax Collection Program

Statement of Independence	i
Executive Summary	1
I. Objectives, Scope, and Methodology	3
II. Introduction	4
A. Property Tax Collections	4
B. Collection Schedule	4
C. Delinquent Collections Contract	7
D. Legal Challenges.....	9
III. Findings	12
A. Cost Analysis	12
Finding 1. The City’s contract with SAP cost over ten times more than the cost of basic delinquent tax collection services.	12
Finding 2. The City disregarded a proposal submitted in response to a 2008 RFP that would have cost approximately \$1,000,000 less per year.....	13
Finding 3. The City issued payments to SAP without the detailed monthly invoices required by their contract.	14
B. Effectiveness Analysis	14
Finding 4. SAP’s outgoing phone calls increased payments by less than 0.05% over the period of increased calls.....	14
Finding 5. The City did not adjudicate properties as permitted by state law thereby increasing the cost of collection.....	17
Finding 6. The City delayed tax collection by not conducting the tax sale at the earliest opportunity allowed by state law.	18

IV. Conclusion and Recommendations 20

 A. Conclusion..... 20

 B. Recommendations 20

Recommendation 1. The City should bring its delinquent property tax collection program in house In order to control costs..... 20

Recommendation 2. The City should issue a new RFP if it does not perform the functions in house..... 20

Recommendation 3. The City should not issue payment unless it receives detailed monthly invoices as required in the SAP contract..... 21

Recommendation 4. The City should discontinue calling delinquent taxpayers as a method of increasing payments. 21

Recommendation 5. The City should adjudicate eligible properties. 21

Recommendation 6. The City should align its collection schedule with state enforcement mechanisms. 22

APPENDICES

- A. Cost Analysis Methodology
- B. Payment Data Analysis
- C. Official Comments From City of New Orleans

LIST OF FIGURES

Figure 1.	City of New Orleans Property Tax Collection Schedule for the 2012 Tax Year	5
Figure 2.	City of New Orleans Tax Sale Schedule for the 2012 Tax Year	5
Figure 3.	Number of Cases by Type of Case.....	9
Figure 4.	Timeline of Legal Challenges.....	11
Figure 5.	Price Versus Cost Analysis.....	13
Figure 6.	Weekly 2010 Delinquent Property Tax Payments by Date with Calls	15
Figure 7.	Tax Sale Timelines in Louisiana.....	19

EXECUTIVE SUMMARY

The Office of Inspector General for the City of New Orleans (OIG) conducted an evaluation of the City of New Orleans (City) delinquent property tax collection program. The purpose of the evaluation was to determine if the program complied with applicable laws and City policies and was efficient and effective. The scope of this evaluation included the collection of property taxes for real, non-movable property for the 2010 tax year, from April 1, 2010 (when the delinquent taxes were referred to the collections contractor) to the fall of 2011 when the City held its tax title sale. During this time, the City paid \$3,317,090 to a contractor to perform delinquent tax collection services including notification of delinquent parties, record keeping, and legal representation. These costs are borne by delinquent taxpayers.

Evaluators conducted background research on the legal requirements governing the collection of delinquent taxes and interviewed City staff and principals of the City's collection contractor, Strategic Alliance Partners, L.L.C., regarding the collections process, the costs involved, and barriers to collection. We gathered payment data from the City and tax sale data from the contractor's online auction site (CivicSource) and solicited prices from vendors for services related to delinquent property tax collection program. Evaluators used this information to conduct a cost analysis of the program's collection services and a time series regression analysis to measure the effectiveness of collection activities.

Evaluators identified the following findings relating to the cost and effectiveness of the City's delinquent property tax collection program:

- The City's contract with SAP cost over ten times more than the cost of basic delinquent tax collection services.
- The City disregarded a proposal submitted in response to a 2008 RFP that would have cost approximately \$1,000,000 less per year.
- The City issued payments to SAP without the detailed monthly invoices required by their contract.
- SAP's outgoing phone calls increased payments by less than 0.05% over the period of increased calls.
- The City did not adjudicate properties as permitted by state law, thereby increasing the cost of collection.
- The City delayed tax collection by not conducting the tax sale at the earliest opportunity allowed by state law.

Evaluators determined that the City paid more than the cost of delinquent tax collection and that there were opportunities to improve tax collection. The OIG recommended the following:

- The City should bring its delinquent property tax collection program in house in order to control costs.
- The City should issue a new RFP if it does not perform the functions in house.

- The City should not issue payment unless it receives detailed monthly invoices as required in the SAP contract.
- The City should discontinue calling delinquent taxpayers as a method of increasing payments.
- The City should adjudicate eligible properties.
- The City should align its collection schedule with state enforcement mechanisms.

A draft of this report was provided to the CAO's Office and the Law Department for review and comment prior to publication. The City's full response is appended to this report.

I. OBJECTIVES, SCOPE, AND METHODOLOGY

The Office of Inspector General for the City of New Orleans (OIG) conducted an evaluation of the City of New Orleans (City) delinquent property tax collection program. This evaluation focuses on the collection of property taxes for real, non-movable property for the 2010 tax year during from April 1, 2010 (when the delinquent taxes were referred to the collections contractor) to the fall of 2011 when the City held its tax title sale.¹ The purpose of the evaluation was to calculate the cost of delinquent immovable property tax collection and to determine if the program was both efficient and effective.

The scope of the evaluation included background information related to property tax collection and an analysis of the effectiveness and cost of the City's program. Evaluators conducted background research on the legal requirements governing the collection of delinquent taxes. Evaluators also interviewed City staff and principals of the City's collection contractor, Strategic Alliance Partners, L.L.C., regarding the collections process, the costs involved, and barriers to collection. We gathered payment data from the City and tax sale data from the contractor's online auction site (CivicSource) in order to analyze the effectiveness of collection activities.

Evaluators interviewed staff at the Jefferson Parish Sheriff's Office and Jefferson Parish Attorney's Office to compare delinquent collections methods in the City to those in Jefferson Parish, a comparable jurisdiction that operates under similar tax collection laws. We also solicited prices from vendors for services related to delinquent property tax collection program.

The evaluation was performed in accordance with Principles and Standards for Offices of Inspector General for Inspections, Evaluations, and Reviews and includes findings and recommendations relating to the cost and effectiveness of the City's collection program.²

¹ The City also collects property taxes for business personal property (movable goods), but the collection of this tax is not considered in this report. For the purposes of this evaluation the term property tax applies only to real, non-movable property.

² "Quality Standards for Inspections, Evaluations, and Reviews by Offices of Inspector General," *Principles and Standards for Offices of Inspector General* (Association of Inspectors General, 2004).

II. INTRODUCTION

A. PROPERTY TAX COLLECTIONS

The City's Treasury Department, a sub-unit of the Department of Finance, is responsible for collecting property taxes in New Orleans.³ The 2011 adopted budget for the City of New Orleans described this function as:

Collection & Disbursement of Ad Valorem Taxes: bills and collects property taxes for the General Fund and dedicated purposes such as the Housing and Economic Development fund, Library, Capital Infrastructure, Board of Liquidation and other taxing agencies such as the Orleans Parish School Board, Southeast Louisiana Flood Protection Authority, Sewerage and Water Board, Sheriff, Downtown Development District, New Orleans Regional Business Park as well as 24 Neighborhood Security Districts.⁴

At the time of the evaluation, twenty-one staff members, including the Director of Treasury, and two full-time contractors worked in the Treasury Department. The Assistant Treasurer produced financial projections, disbursed funds collected on behalf of other agencies, and administered investments. Managerial staff included two Revenue Collection Supervisors, a Financial Operations Manager, and a Chief Accountant. These individuals supervised Tax Administrators, Management Development Analysts, Office Assistants, and Accountants.

The Director of Treasury estimated that the workload dedicated to property tax collection was equivalent to 14.65 full time employees, or about 70 percent of Treasury's total. Tasks related to property tax collection included calculating taxes owed, mailing tax bills, taking payments and reconciling accounts, servicing customers, managing records, coordinating tax sale redemptions, and processing refunds. In 2010, Treasury sent out 147,159 tax bills for property taxes on immovable property.

B. COLLECTION SCHEDULE

State and City laws clearly define the property tax collection process and the consequence of non-payment. The dates and collection activities for New Orleans's 2012 tax year are listed in the table below.

³ The City of New Orleans receives a list from the Orleans Parish Assessor's Office that includes assessed value and the party responsible for payment; the City then calculates taxes due based on millages and collects the taxes. The Assessor, an independently elected officer established by the state constitution, creates tax rolls, assesses property, and processes property tax adjustments.

⁴ City of New Orleans 2012 Adopted Budget Book, p. 214.

Figure 1: City of New Orleans Property Tax Collection Schedule for the 2012 Tax Year

Date	Action	Authority
January 31, 2012	2012 Property taxes due	New Orleans City Code § 150-47(a)
February 1, 2012	10% delinquent penalty and 1% interest per month added to Tax Bill 2012	New Orleans City Code § 150-47(a) and (b)
April 1, 2012	2012 tax bill sent to collections contractor and a 9.5% collection fee added	New Orleans City Code § 150-48 (b)

New Orleans collects taxes over a two-year cycle, and taxes are due at the beginning of the tax year.⁵ Property owners receive a tax bill from the City in late December for taxes due by January 31 of the next year (e.g.: bills are sent in December 2011 for 2012 taxes).⁶ For accounts paid to the City on or after February 1, the City charges delinquent taxpayers a 10 percent penalty and begins charging 1 percent each month.⁷ After April 1, the City gives the account to its collections contractor and charges delinquent taxpayers a 9.5 percent collection fee.^{8,9}

After February of the following year, the state allows the taxing authority to notify delinquent property owners and to sell the property at tax sale after a twenty day notice period.¹⁰ The Louisiana Supreme Court has ruled that the only method for enforcing property tax collections allowed by the state constitution is a tax sale.¹¹ For a schedule of the tax sale and notification process, see Figure 2.

Figure 2: City of New Orleans Tax Sale Notification Schedule for the 2012 Tax Year

Date	Action	Authority
February 2013	Tax Bill 2012 properties can be notified of a pending tax sale	La. R.S. 47:2153(A)
At least 20 days before the sale	Certified notices to tax notice parties	La. R.S. 47:2153(A)
At least 31 days before the sale and within seven days of the sale	Two advertisements of Tax Sale in the Official Journal (Times Picayune)	La. R.S. 47:2153(B)(1)(a)
Three years after the tax sale certificate is filed (2016)	End of redemption period	La. Const. art. VII, §25(B)

Before advertising a property at a tax sale, the City first must ensure that it has met legal requirements for notification. State-mandated notification includes a notice sent by certified

⁵ All jurisdictions in the state besides Orleans Parish bill at the end of the year.

⁶ La. R.S. 47:1997.

⁷ New Orleans City Code § 150-47(a)-(b).

⁸ New Orleans City Code § 150-47(b).

⁹ These collection penalties and fees are the subject of pending litigation, discussed later in the report.

¹⁰ La. R.S. 47:2153.

¹¹ *Fransen v. City of New Orleans*, 988 So.2d 225 (La. 2008).

mail at least twenty days before the tax sale and advertisements in the taxing authority's journal of record (the City's journal of record is currently the Times Picayune) two times prior to the tax sale. The law also defines the precise wording of all notices.

The City holds its tax sales online in an auction format, and the tax sale is hosted on the CivicSource website.¹² The site includes descriptions of the properties available for sale and the sale prices. The law limits the auction price to statutory impositions, interest (1 percent per month), and the cost of collection to date⁵²⁰¹.¹³ The auction is open to the public at large, and there is no charge to participate.

After tax title interest is sold at a tax sale, interested parties have three years to redeem full ownership of the property by settling the bill with the taxing authority. Immediately after the auction, the tax sale purchaser must file a tax sale certificate with the recorder of mortgages, which begins the three-year redemption period. If the property is not redeemed within three years, the tax sale purchaser has the legal right to take possession of the property after notifying the property owner and other interested parties in a process similar to the notification process prior to the tax sale.

To redeem the property, the property owner or an interested party must pay outstanding taxes owed, penalties and fees, an additional five percent penalty, a redemption fee, and costs associated with notification and title research.¹⁴ If the property is redeemed, the tax sale purchaser's investment must be reimbursed, plus the additional 5 percent penalty and an additional 1 percent per month for the duration of the redemption period.

Not all properties sell at a tax sale. For example, a property might not sell if the amount owed in taxes is more than the value of the tax title. If a property is not sold at the tax sale, state law provides that the taxing authority may adjudicate the property to itself as purchaser.¹⁵ To begin the adjudication process, the taxing authority files a certificate providing notice of the adjudication into the public records, starting the owner's three-year redemption period.

If the property owner fails to pay the redemption price within three years, the taxing authority may sell the property at an auction of adjudicated property or donate the property to a government or non-profit entity. Unlike at a tax sale, purchasers acquire full possession of the property. Opening prices at a sale of adjudicated property are determined by the City and may increase to as much as bidders are willing to pay. After the auction, the property is transferred to the winning bidder free of all liens.¹⁶

¹² www.civicsource.com.

¹³ La. R.S. 47:2154.

¹⁴ La. R.S. 47:2243-2244.

¹⁵ La. R.S. 47:2196.

¹⁶ La. R.S. 47:2266.

C. DELINQUENT COLLECTIONS CONTRACT

The City has used a collections contractor to assist with delinquent collections since the late 1990s. The current collections contractor, Strategic Alliance Partners L.L.C. (SAP), has held the contract since 2005. SAP's contract with the City stipulates that it notify interested parties about delinquent taxes and provide related legal services to the City. The City's Director of Finance stated that contracting with a collections company was advantageous, because the contractor offered specialized knowledge, flexible staffing, and better technology for collections.

SAP did not offer direct services but managed subcontracts that provided collections and legal services. SAP's main subcontractors were Scheuermann & Jones, L.L.C. for legal services and Archon Information Systems (Archon) for collection services. SAP provided records management software and an online tax sale auction through Archon. According to the contract, collection services included:

- Determining contact information for parties with interests in properties with delinquent taxes due;
- Preparing and sending notification as required by state law;
- Making follow-up calls for the notifications; and
- Responding to communications from delinquent tax payers who receive letters.

In addition to these activities, the contract also stipulated that SAP must provide monthly reports to the City that include quantitative and qualitative analyses of the month- and year-to-date activities. In addition, SAP must be able to exchange information and data via computer with the City.

SAP provided legal services through Scheuermann and Jones, L.L.C. Legal services identified in the contract included:

- Advice on issues related to ad valorem taxes to ensure that collection service activities comply with federal, state, and local laws;
- Coordination with the Assessor to resolve challenges to tax assessments;
- Records management, including publishing required notices in the City's official journal of record as required by state law, compiling necessary documents and conducting tax sales, filing tax liens and recording all ad valorem tax sale deeds with the Recorder of Mortgages, maintaining records of ad valorem tax sale documents, and monthly reporting to the City regarding legal activities; and
- Legal Defense, including representing the City in bankruptcy actions and reviewing properties with taxes due to ensure that they are not exempt from sale, handling all litigation aspects of each delinquent property tax account by filing the necessary pleadings to obtain judgment, and defending challenges to City ordinances related to delinquent ad valorem taxes.

Evaluators grouped SAP's activities into six categories for purposes of analysis: identifying properties, notifying delinquent tax payers, documenting notices, conducting tax sales,

representing the City in any legal challenges to the City's collections process, and providing customer service. These activities are described in detail below.

1. Determining contact information

The 2010 tax rolls the Assessor sent to the City contained the party responsible for paying taxes on a property, but in many cases, this information was not in a format that provided actionable contact information. SAP staff parsed records to prepare them for skip tracing. SAP described this process: "Archon parses the information received in order to put the data into a format that lends itself to higher matching results, or otherwise better identifies the correct owner, for skip tracing purposes." SAP also provided a few examples of what this process involves:

- 123456789 BUSY INVESTMENT CO INC 0 (*No Address Supplied*)
- 223456789 JOHN A DOE III TRUST #1 ET AL 1000 Main St Hometown, IA 10000 (*Must Remove "ET AL"*)
- 323456789 DOE JOHN A JANE A. DOE 1000 MAIN STREET NEW ORLEANS LA 70000 (*First Name Last Name Separation Needed*).

After parsing the accounts, SAP used skip tracing databases to find the correct contact information (mailing addresses and phone numbers) for property owners. In 2010, there were 36,077 delinquent accounts at the time the City gave the list to SAP.

2. Notifications

SAP and the City communicated with delinquent payers in three ways: non-mandated mailings, state-mandated mailings and newspaper advertisements, and non-mandated phone calls.

Notification of delinquency: SAP's first contact with property owners was a collection letter sent to property owners who were delinquent on their taxes. SAP also sent a first class collection letter to delinquent property owners and other parties with interests in delinquent properties (tax sale parties). State law does not require these notices, but SAP recommended them as a reasonable step to pursue contact with delinquent payers.

State-mandated notices: Prior to the tax sale, SAP sent state-mandated notices to delinquent property owners and tax sale parties. In addition to SAP's notices, the City sent the tax bill for the next year to all property owners (including delinquent tax payers) in the middle of the two-year collection cycle.

Outbound calls: In addition to mailed notifications, SAP called delinquent tax payers to encourage payment. SAP did not make calls consistently over the cycle but ramped up calls in April before the tax sale. SAP makes these calls to roughly 10,000 accounts, but places on the order of 150,000 calls in order to make contact by phone. State law does not require phone notification.

3. Documentation

SAP documented the notification process in an electronic database. State law mandates that the City notify property owners of their delinquency before listing the property at a tax sale.

Documenting the notification process protects the City in the event a property owner challenges a tax sale based on the grounds that the property owner was not properly notified.

4. Tax Sale

SAP conducted an online tax sale through its subcontractor, Archon, on the CivicSource website. In addition to hosting the auction, SAP also provided computer terminals and technical assistance at New Orleans City Hall during the sale for people who did not have computer access.

5. Legal Support

SAP subcontracted with Scheuermann and Jones to provide legal services to the City. SAP submitted monthly lists to the City providing brief summaries of case files handled by Scheuermann and Jones. In 2011, there were seventy-seven cases.¹⁷ These cases are listed in Figure 3. Scheuermann and Jones provided defense on four new cases in 2011; these were all petitions to recover taxes paid under protest.

Figure 3: Number of Cases by Type of Case

Type of Case	Unique Cases Open During 2011
Open Bankruptcy Files	44
Petition to Annul Tax Sale	11
Petition to Quiet Title	6
Petition to Recover Taxes Paid Under Protest	14
Delinquent Fee Waiver Application	2
Total	77

The legal team also provided defense to the City in the case against Ordinance M.C.S. 22207

6. Customer Service

SAP provided customer service representatives to answer questions from delinquent tax payers. It operated a call center that received 76,711 incoming calls and provided two customer service representatives who were regularly available to answer questions at City Hall.

D. LEGAL CHALLENGES

Since 2002, individuals have challenged the ordinance that authorizes the penalties and collection fees for delinquent property taxes; in *Fransen v. City of New Orleans*,¹⁸ the Louisiana Supreme Court issued a ruling related to City Ordinance M.C.S. 18637 (codified in City Code Sec. 150-46 et seq.), which outlined the funding structure for delinquent property tax collection. The ordinance provided for a penalty of 3 percent and a 30 percent collection fee.

¹⁷ Because most of SAP's work for the 2010 tax year was conducted in 2011 (certified notices and the tax sale title auction), we examined 2011 legal expenses.

¹⁸ 988 So. 2d 225 (La. 2008).

The Supreme Court found that the ordinance was unconstitutional insofar as it imposed penalties and collection fees, because the Louisiana State Constitution provided that a tax sale is the sole mechanism a taxing authority may use to collect delinquent property taxes.¹⁹

In May 2006, after the original *Fransen* case was filed but before the Louisiana Supreme Court issued its ruling, the New Orleans City Council passed a second ordinance, City Ordinance M.C.S. 22207. The new ordinance increased the late penalty to 10 percent and decreased the collection fee to 9.5 percent.

The legality of City Ordinance M.C.S. 22207 is currently the subject of pending litigation. In 2009, tax payers again filed suit against the City of New Orleans alleging that Ordinance M.C.S. 22207 was unconstitutional, pursuant to the Louisiana Supreme Court's ruling in *Fransen*. The Civil District Court for the Parish of Orleans issued several rulings on the issue, including one that stated, "This Court finds that there are no appreciable differences between the relevant provisions of Ordinance No. 18637, which were found unconstitutional in *Fransen*, and Ordinance No. 22207."²⁰

The Civil District Court judgments are the subject of an appeal that is pending in the Louisiana Supreme Court, and the matter has not yet reached final resolution.

¹⁹ "We hold Ordinance No. 18637 [...] unconstitutional with respect to any provisions that permit the City to proceed in any manner other than by the constitutionally mandated manner of tax sales to collect delinquent ad valorem property taxes on immovables and that permit the City to impose penalties, other than interest, upon delinquent ad valorem property taxes on immovables." *Id.* at 242-243.

²⁰ *Jackson et al. v. City of New Orleans*, Civil District Court for Parish of Orleans, No. 2009-05493, Judgment dated April 5, 2012. This and other rulings can be found at nolaig.org/public_records.

Figure 4: Timeline of Legal Challenges

March 1998	The New Orleans City Council passed Ordinance M.C.S. 18637, which created a 3 percent penalty and 30 percent collection fee for delinquent property taxes.
April 2002	Fransen and Hardin filed suit in district court claiming that the collection fees and penalties of Ordinance M.C.S. 18637 were illegal.
May 2006	The New Orleans City Council passed Ordinance M.C.S. 22207 that increased the penalty to 10 percent and decreased the collection fee to 9.5 percent.
July 2008	In <i>Fransen v. City of New Orleans</i> , 988 So.2d 225 (La. 2008), the Louisiana Supreme Court ruled that Ordinance M.C.S. 18637 was unconstitutional insofar as it imposed penalties and collection fees, because the Louisiana State Constitution provides that a tax sale is the sole mechanism a taxing authority may use to collect delinquent property taxes.
April 2012	In <i>Jackson et al. v. City of New Orleans</i> , ²¹ the Civil District Court for Orleans Parish found “no appreciable differences between the relevant provisions of Ordinance No. 18637, which were found unconstitutional in <i>Fransen</i> , and Ordinance No. 22207.”
Present	<i>Jackson et al. v. City of New Orleans</i> has been appealed to the Louisiana Supreme Court and the case has not yet reached final resolution.

²¹ *Jackson et al. v. City of New Orleans*, Civil District Court for Parish of Orleans, No. 2009-05493, Judgment dated April 5, 2012.

III. FINDINGS

Evaluators analyzed payment data over the two-year period that the City collected 2010 property taxes, evaluating the contract based on cost and effectiveness of collection activities.

A. COST ANALYSIS

FINDING 1. THE CITY’S CONTRACT WITH SAP COST OVER TEN TIMES MORE THAN THE COST OF BASIC DELINQUENT TAX COLLECTION SERVICES.

City staff managing this contract stated that they did not consider cost as a factor in evaluating the program, because the City charges the cost of the contract to delinquent tax payers. The payments were not reflected in the general fund budget or charged to on-time (non-delinquent) tax payers.²² The contractor’s website encouraged potential customers to disregard cost by stating that its services came at “no cost to your department” and that the collection fee was “small.”

In 2010, the City charged delinquent tax payers \$3,317,090 in collection fees for delinquent non-movable property tax.²³ As a point of comparison, evaluators performed a cost analysis to determine what it would cost to procure each of the component activities encompassed in the process of delinquent tax collection. Evaluators requested price quotes from vendors and made cost comparisons to JPSO in order to understand the expenses involved in collecting taxes.²⁴ For an explanation of the cost analysis methodology, see Appendix A.

Figure 5 compares the results of the cost analysis to the City’s current contract. The analysis determined that the cost of obtaining delinquent tax collection services was \$278,987. The price for the City’s collection contract is \$3,317,090 or ten times the cost determined in the analysis. Therefore the program costs approximately three million dollars in excess of reasonable costs each year.

²² The cost of the property tax collection program was not included in the City’s 2011 adopted budget even though the City received the 9.5% fee as revenue and paid it to the contractor, SAP, as an expense. For further discussion, see City of New Orleans Office of Inspector General, “Inspection of the Vendor Payment Process of the City of New Orleans” (October 18, 2011), pp. 14-16.

²³ For this evaluation, we addressed only the City’s collection program for non-movable property taxes. The City paid SAP \$3,644,896 in 2010 for collections for both non-movable property taxes and business personal property tax.

²⁴ JPSO collects property taxes on properties located in Jefferson Parish, a similarly sized jurisdiction that also operates under La. R.S. 47:2121-2163, which governs tax sales. JPSO had a similar number of properties to bill and a similar number of delinquent tax bills. In 2010, JPSO sent out 145,564 property tax bills for non-movable property compared to the City’s 147,159 bills. Thus, the two jurisdictions performed a similar amount of work to collect taxes.

Figure 5: SAP Price Versus Cost Analysis

Component Service	SAP Price²⁵	Cost According to Analysis
Data Parsing	\$ 3,317,090	\$6,013
Skip Tracing		\$10,442
April Delinquent Letters		\$23,100
Pre Tax Sale Delinquent Letter		\$23,100
Outgoing Phone Calls		\$19,843
Software Annualized Cost		\$91,696
Online Tax Sale Module		\$7,500
Legal		\$97,020
Total	\$3,317,090	\$ 278,987

FINDING 2. THE CITY DISREGARDED A PROPOSAL SUBMITTED IN RESPONSE TO A 2008 RFP THAT WOULD HAVE COST APPROXIMATELY \$1,000,000 LESS PER YEAR.

In December 2008, three years after the City awarded the current collection contract to SAP, the City issued another request for proposals (RFP) for delinquent property tax collections but did not award a contract.²⁶ The City received seven proposals in response to the 2008 RFP. The lowest priced proposal—to perform the work for a 6.5 percent collection fee rather than 9.5 percent—was submitted by “Alliance Partners,” a group headed by the principal and sole member of the current contractor, SAP. Archon, a sub-contractor under the current SAP contract, submitted a competing proposal for 10 percent.²⁷

According to City officials, none of the responses met the needs of the City, including the proposal submitted by the Alliance Partners group. The City could not provide any records of a written evaluation of the RFP, but City staff stated that the reason none of the proposals was selected was that none of them had SAP’s experience in both delinquent collections and law.

²⁵ SAP could not break down its price into component services.

²⁶ The decision not to award a contract was made by the prior administration.

²⁷ As a sub-contractor for SAP, Archon managed the collection side of the contract and conducted the New Orleans tax sales on its CivicSource website.

The City decided to continue its relationship with SAP even though, under its existing contract, the City had no direct contractual relationship with either of the SAP subcontractors that provided the additional experience.

The Alliance Partners' lower commission rate of 6.5 percent, one-third lower than the current contract, would have saved tax payers about \$1,000,000 in 2010 alone, and each year since, for a total savings of about \$4,000,000 to date. Instead, the City decided to extend the SAP contract, despite (1) the clear willingness of the principal agent to perform the contracted work at a significantly lower cost, and (2) the City's inability to enforce the arrangement between SAP and the subcontractors whose experience it valued (specifically Scheuermann & Jones and Archon).²⁸

FINDING 3. THE CITY ISSUED PAYMENTS TO SAP WITHOUT THE DETAILED MONTHLY INVOICES REQUIRED BY THEIR CONTRACT.

The City did not require the contractor to submit invoices that included the hours spent in servicing the contract, contrary to the contract terms. Article III Section 3 of the contract states that:

As a prerequisite to payment, Contractor shall submit to City monthly invoices describing in detail, at a minimum, the services performed and time expended in the performance of such services.

The City has never required such a report before issuing payment under this contract. Evaluators asked for reports of the services performed and the time expended, but SAP never provided this information to the City. The City may have overlooked this requirement, because payment is unrelated to the amount of work SAP does; the City must pay SAP 9.5 percent of the amount of delinquent taxes it collects regardless of the hours worked.

Invoices are an important contract management tool in spite of a fixed payment structure. Without knowing the effort it takes to collect delinquent taxes, the City would not have the information it needed to plan for changes such as performing the services in house or determining reasonable costs in the event that the City issued a new RFP and changed vendors.

B. EFFECTIVENESS ANALYSIS

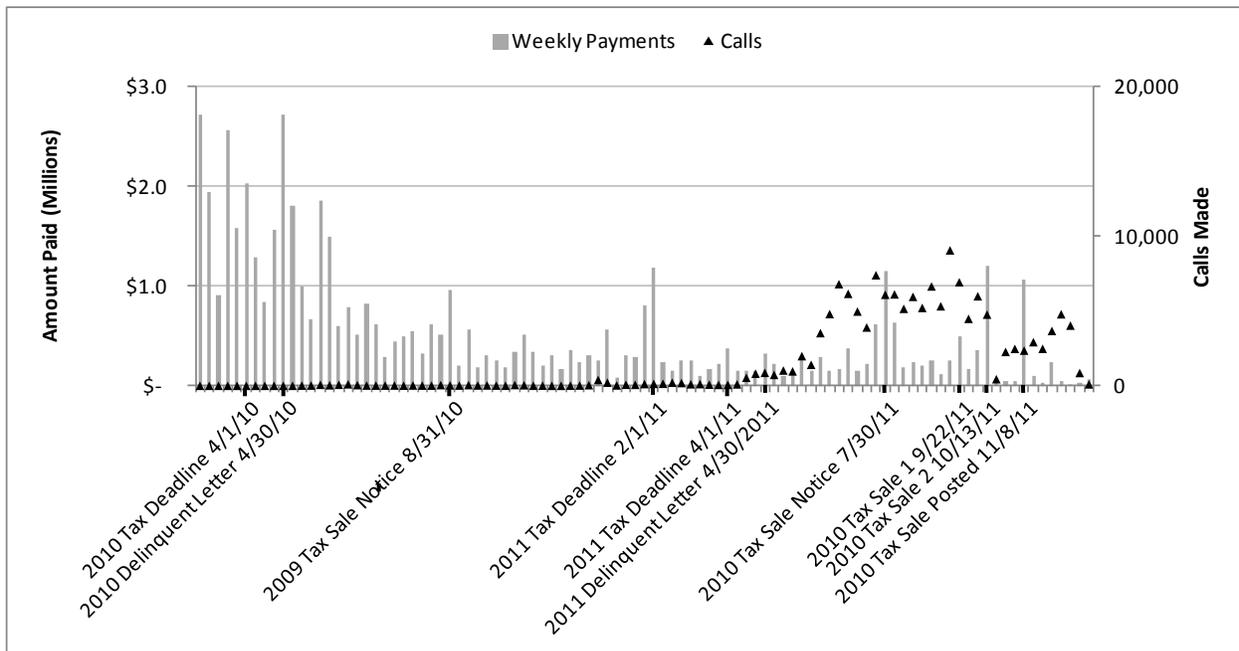
FINDING 4. SAP'S OUTGOING PHONE CALLS INCREASED PAYMENTS BY LESS THAN 0.05% OVER THE PERIOD OF INCREASED CALLS.

In order to assess the effectiveness of SAP's collection activities, evaluators charted payment data for 2010 delinquent accounts against SAP's collection activities. The City provided daily payment data for 2010 delinquent taxes (between February 27, 2010 and December 31, 2011),

²⁸ As the principal contractor, SAP could change subcontractors at will.

which we aggregated into weekly payments. SAP provided the dates it mailed notifications with specific payment deadlines and the number of phone calls made each day. We conducted three separate statistical analyses to measure the impacts of the (1) payment deadline, (2) phone calls, and (3) end of the month on weekly payments made during the entire delinquent collection period.

Figure 6: Weekly 2010 Delinquent Property Tax Payments by Date with Calls



As seen in Figure 6, there were seven major peaks in weekly payments and each appeared to be associated with a notification deadline.

- Payments were highest in the beginning of the time period. These were on time payments and were influenced by the April first deadline. Payments decreased over time.
- The highest peak after the April 1 deadline occurred in late April of 2010, near the payment deadline listed on an SAP mailer.
- The next peak, at August 31, 2010, was associated with an end-of-month deadline listed on the tax sale for the previous year’s delinquent properties. Some property owners who pay to avoid the property going to tax sale are most likely also paying additional tax money toward the current year’s taxes, increasing the amount collected.
- The peak in the middle of the two year period at February 1, 2011, was associated with the 2011 tax deadline listed on the tax bills the City sent at the end of December 2010. In this instance, some people may have made 2010 tax payments along with their 2011 tax payments.

- The last four peaks were associated with the tax sales held on September 22 and October 13.²⁹ Payment activity increased when SAP sent out certified notices for these tax sales. Payments peaked on July 30, 2011, as some people paid upon receiving a certified notice of tax sale. The peak was followed by a lull, but another smaller peak occurred on the September 22, 2011 deadline followed by a larger peak on the October 13, 2011 tax sale deadline. The fourth peak in this area occurred when CivicSource posted payments from the tax sale to the City's account on November 8, 2011.³⁰

Our analysis of the entire pay period found that payments increased by nearly \$600,000 during weeks that included a deadline. Most of these notices and deadlines were mandated by state law. The initial delinquent letter with a deadline at the end of April, however, was optional. The analysis suggested that the April delinquent letter, which cost \$32,800 to send but increased payments by an estimated \$600,000, was worth the investment.³¹

The 144,163 optional phone calls made by SAP increased payments by less than \$5,000 overall (less than 0.05% of the total amount collected). This increase did not warrant an estimated cost of \$19,843 for phone calls.³² For a detailed description of the statistical analysis, see Appendix B: Payment Data Analysis.

²⁹ The two 2011 tax sales, on September 22 and on October 13, are marked Tax Sale 1 and Tax Sale 2 in Figure 6.

³⁰ Newspaper advertisements may also affect this peak. These advertisements are state-mandated as well.

³¹ According to the cost analysis, skip tracing cost \$10,800 and the cost of mailing was \$22,000, for a total of \$32,800. See Finding 1.

³² See Finding 1.

FINDING 5. THE CITY DID NOT ADJUDICATE PROPERTIES AS PERMITTED BY STATE LAW THEREBY INCREASING THE COST OF COLLECTION.

Louisiana law outlines the process that taxing authorities must follow in order to collect property taxes. The process is comprised of an initial bill, a tax sale, and a sale of adjudicated property. According to the process, whether the property sells at tax sale or is adjudicated, the owner must pay the delinquent tax bill within three years or the law permits the taxing authority to recover the past-due taxes by selling the property. If the taxing authority takes these steps and adequately documents the process, in the end there should be few properties for which delinquent taxes are due.³³

The City did not follow the entire process for the 2010 tax year as outlined in state law. The City relies heavily on the tax sale as an enforcement mechanism, but because of the costs associated with selling adjudicated property, it has decided as a matter of practice not to adjudicate unsold tax sale properties.

The costs of adjudicating property begin with the cost of filing a tax sale certificate stating that the City has notified the owner of the delinquent taxes and the cost of transferring the tax title to the City. If the owner has not paid the taxes by the end of the three-year redemption period and the City decides to sell the adjudicated property, it must repeat the notification process outlined in state law regarding notification for the tax sale. The City must also absorb the costs of performing title research to identify all interested parties, notifying the property owners of the coming sale, documenting the notice, and advertising the transfer in the journal of record.³⁴ The City has not budgeted for the costs associated with selling adjudicated property since 2007.

Although there are costs associated with adjudicating and selling adjudicated properties, there are greater costs associated with not taking these steps. First, not adjudicating wastes the costs incurred when a property is offered at a tax sale. The 2011 tax sale included 3,595 properties that were advertised at the 2010 tax sale but did not result in payment of taxes, representing 54 percent of the total properties available. Each of these 3,595 properties incurred \$139 in 2010 tax sale costs (including the cost of certified notice, title research, and advertisements), for a total cost of \$499,705.

³³ There may always be a few properties remaining delinquent after the tax sale. However, this is generally because the taxing authority chooses not to offer certain eligible properties at the sale for one of the following reasons:

- A taxing authority might choose to defer the tax sale if the balance owed is so low that it might be due to an error on the part of the tax payer. For example, if a tax payer makes a payment but neglects to add the 1 percent interest payment (because the payment came in at the beginning of the month), the outstanding balance may be so low that the taxing authority might wait until next year's taxes to collect.
- A taxing authority might choose not to sell a property at a tax sale if it has not been able to document notice according to state and federal laws. In this case, if the property owner challenges the sale, it could be voided, causing additional expense.
- A taxing authority might not be able to sell a property at a tax sale if it is in the redemption period after having been adjudicated or if it is in bankruptcy.

³⁴ La. R. S. 47:2169.

If the City does not adjudicate unsold properties and instead offers them at tax sale again the following year, it compounds the costs associated with advertising the properties. These costs are ultimately borne by tax payers, because tax sale costs are added to the property's outstanding tax balance year after year. For example, a delinquent property was assessed at \$90,100 in 2013 and had a tax bill of \$20,400 as of March 20, 2013. The property was advertised at the tax sale every year between 2009 and 2012 but was never adjudicated to the City. Between 2009 and 2012 the property incurred tax sale costs totaling \$483. Each year the tax sale costs were added to the property's outstanding tax balance, increasing the price of the property and making it less likely that the tax title would be purchased at a tax sale.

Second, the City's decision not to adjudicate properties increases the cost of tax collection overall by undermining the enforcement mechanism inherent in the process. The fact that the City did not adjudicate properties told property owners who owed more taxes than the value of the associated tax title in 2010 that they could ignore their property taxes with impunity. Adjudicating properties creates a solid enforcement mechanism for tax collections and clearly signals to property owners that property taxes must be paid, thus decreasing the cost of tax collection overall.

FINDING 6. THE CITY DELAYED TAX COLLECTION BY NOT CONDUCTING THE TAX SALE AT THE EARLIEST OPPORTUNITY ALLOWED BY STATE LAW.

The state property tax collection enforcement timeline places limits on when jurisdictions can enforce collections against delinquent payers. With the exception of New Orleans, all jurisdictions in Louisiana collect property taxes during the year in which they are due and consider taxes delinquent at the end of the year. Except for New Orleans, taxes for the 2010 tax year were due on December 31, 2010, and state law allowed a tax sale for delinquent 2010 taxes as early as May of 2011.³⁵ In all jurisdictions except for New Orleans, the entire tax collection program can be completed within six months.

In contrast, the City of New Orleans collects taxes at the beginning of the year; tax year 2010 taxes were due on February 1, 2010.³⁶ In the 1960s, the state legislature allowed the City to move its property tax due date earlier to cover spending needs, but it did not permit the City to push up the date of the tax sale. As a result, the City was left with the legacy of an inefficient property tax collection schedule. Properties that became delinquent on February 1, 2010, could not go to tax sale until May 2011, a full fifteen months later. Compared to other parishes in the state, New Orleans must wait more than twice as long before taking action against delinquent payers. In 2011, the City chose to delay the process even further by postponing its sale from May to the fall of 2011.³⁷

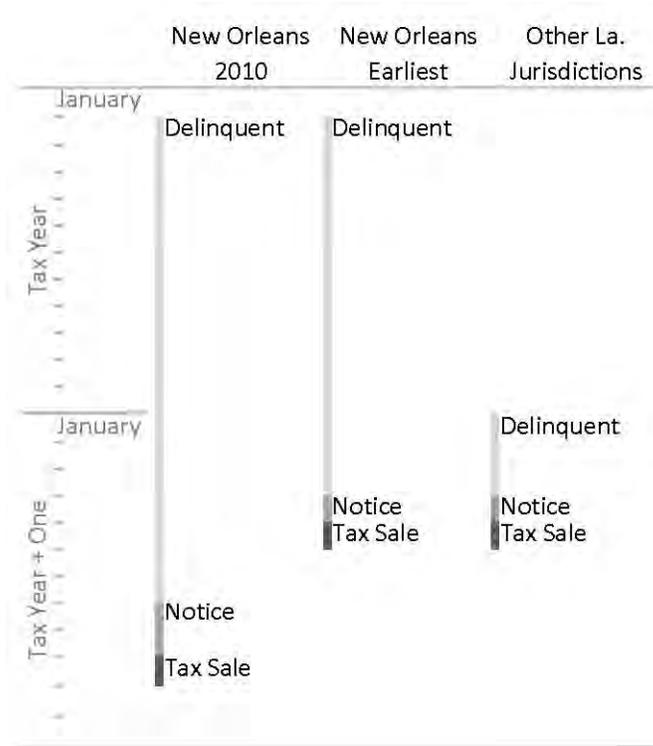
³⁵ La. R.S. 47:2154.

³⁶ New Orleans City Code § 150-47(a)-(b).

³⁷ In 2011, the City held two tax sales: one in September and one in October.

Figure 7 illustrates the timelines for tax sales in Louisiana. The first column shows New Orleans’s tax schedule as it was conducted for the 2010 tax year. Taxes became delinquent in February and the City held the tax sale in the fall of the following year. The second column shows the earliest possible date the City could hold a tax sale according to state law. The third column depicts the timeline for tax sale in all other jurisdictions in Louisiana.

Figure 7: Tax Sale Timelines in Louisiana



The state constitution protects the right of property owners who wait until the tax sale to pay property taxes. According to Archon, the City’s collection subcontractor, many people would rather not pay until the threat of a tax sale is imminent, even if it means paying increased fees. The evidence supports this assertion. If the City hosted its tax sale earlier, it is logical to assume that people would pay earlier.

IV. CONCLUSION AND RECOMMENDATIONS

A. CONCLUSION

Evaluators found that SAP charged ten times the cost of tax collection services. Furthermore, a prior City administration chose not to accept a lower priced offer for this service, and the City did not require monthly invoices from the contractor before making payment. Analysis of payment data showed that beyond state-mandated activities, SAP's activities were not cost effective in increasing payments. Additionally, evaluators found that the City failed to address chronically delinquent properties and that the City did not hold the tax sale as soon as legally allowable, effectively delaying the collection of past-due taxes by several months. Based on these findings, evaluators offer the following recommendations.

B. RECOMMENDATIONS

Recommendation 1. THE CITY SHOULD BRING ITS DELINQUENT PROPERTY TAX COLLECTION PROGRAM IN HOUSE IN ORDER TO CONTROL COSTS.

The City should bring its collection program in house. Following the Louisiana Supreme Court's decision in *Fransen*, the Civil District Court for Orleans Parish has ruled that the current program did not meet constitutional requirements, and our evaluation found that the program provided limited value to the City.

The costs of the collection program could be greatly reduced by performing tax collection functions in house. Evaluators estimated that bringing the collection program in house would cost the City \$278,987, a marked contrast to the \$3,317,090 that the City paid SAP in 2010 at the expense of delinquent tax payers. Operating the program in-house would save an estimated \$3 million per year.

Recommendation 2. THE CITY SHOULD ISSUE A NEW RFP IF IT DOES NOT PERFORM THE FUNCTIONS IN HOUSE.

In 2008 the City issued an RFP for delinquent property tax collection services but failed to award the contract despite receiving a bid that would have lowered costs by \$1 million per year. If the City decides to continue using a contractor, which we believe to be highly inefficient, it should request new proposals for service. The City should develop a detailed RFP that includes:

- A compensation structure and detailed description of how submissions will be tabulated;
- Appropriate minimum qualifications;
- A clear description of needed services that does not overly restrict competition;
- A detailed description of the quantity of work entailed;

- Reporting or oversight requirements that include how work will be evaluated; and
- Penalties or incentives based on performance.

The contract review committee should document its process and reasons for selecting a contractor.

Recommendation 3. THE CITY SHOULD NOT ISSUE PAYMENT UNLESS IT RECEIVES DETAILED MONTHLY INVOICES AS REQUIRED IN THE SAP CONTRACT.

Our report found that the City did not receive detailed monthly invoices from SAP as a prerequisite for payment as required in the contract. The contract required monthly invoices despite the fact that the payment amount was not affected by the amount of work done. For the remainder of the SAP contract, the City should require reports before issuing payment.

Recommendation 4. THE CITY SHOULD DISCONTINUE CALLING DELINQUENT TAXPAYERS AS A METHOD OF INCREASING PAYMENTS.

Our analysis found that phone calls were not an effective way to increase payments. Phone calls increased payments by nearly \$5,000 but cost \$19,843. The City should not include phone calls in its collection program whether it brings the program in-house or continues to contract with a collections company.

Recommendation 5. THE CITY SHOULD ADJUDICATE ELIGIBLE PROPERTIES.

The City should begin adjudicating properties that do not sell at tax sales in order to prepare to sell or donate the properties. During the review period, the City did not adjudicate property but cycled it back into the next year's tax sale. This process wasted money (nearly \$500,000 in 2010 tax sale costs) and made the entire tax collection process less efficient.

Though there is a large backlog of undesirable properties that includes many properties for which more is owed in taxes and fees than the value of the tax title, the City should nonetheless begin reducing the number of unproductive properties on the City's tax rolls. Although initial costs associated with adjudication may not be recoverable, selling or donating adjudicated property should be cost effective in the long run, as it reduces the recurring notification expenses associated with selling delinquent properties at tax sale year after year.

There are three additional advantages to adjudicating property in a timely manner. First, after dealing with the backlog, the City would no longer be burdened by numerous properties that owe more in taxes than the value of the tax title. Second, adjudicating property in a timely manner would increase the ratio of the value of property to the value of the taxes owed, which would encourage either immediate payment of back taxes by the owner, a third party purchaser at a tax sale, or ensure a sale of adjudicated property that redeemed costs. Finally, by making adjudication a certain consequence of nonpayment of taxes, the City would strengthen the incentive to property owners to pay their taxes.

Recommendation 6. THE CITY SHOULD ALIGN ITS COLLECTION SCHEDULE WITH STATE ENFORCEMENT MECHANISMS.

New Orleans's property tax collection schedule required it to wait more than twice as long as other jurisdictions before holding a tax sale for delinquent properties. Although the City cannot move the tax sale as close to its tax deadline as other parishes in the state, it could hold its tax sale earlier. State law allows taxing authorities to host a tax sale in May of the year following the year taxes were due, but in 2011, the City waited five and a half months after that date to hold a tax sale.³⁸ The City should collect tax revenue as soon as it is legally possible.

³⁸ La. R.S. 47:2131.

APPENDIX A—COST ANALYSIS METHODOLOGY

We calculated the cost of delinquent property tax collection activities by dividing them into five categories: identifying parties responsible for payment, notifying delinquent tax payers, documenting notices, conducting a tax sale, and representing the City in any legal challenges to this process. The following paragraphs describe our methodology.

1. Identification of Party Responsible for Payment

In order to calculate the cost of data parsing, evaluators assumed that a data processor could process about one record per minute for compensation of \$10 per hour. For 36,077 records, this would equal \$6,013.

Evaluators requested informal price proposals from vendors to estimate the cost of skip tracing. The highest quote evaluators obtained was \$10,442 for finding correct contact information for 36,077 bills with a 70 percent rate of return.

2. Notifications

Notification of delinquency: The City of New Orleans chose to send a non-state mandated delinquency notice to taxpayers who have not paid their bills by the due date. Evaluators requested proposals to estimate the cost of this optional mailing. There were 36,077 delinquent 2010 accounts on April 4, 2010, and hiring a company to mail 40,000 notifications of late accounts would cost approximately \$23,100. This price included setting up a template, addressing, printing (with variable data), and postage.

The second mailing just prior to the tax sale is distributed to about the same number of accounts, because it includes a fewer number of delinquent accounts but also includes tax sale parties.

State-mandated notices: State law allows taxing authorities to pass the costs of state-mandated notices onto delinquent payers, so evaluators did not include them in the analysis.

Outbound calls: To determine the cost for phone calls, evaluators requested informal price proposals from call centers. The highest quote evaluators received was \$19,843 for calling 10,000 accounts (with up to three attempts for a successful contact).

3. Documentation

To calculate the cost of records management software, we used JPSO's software costs. JPSO originally spent \$225,000 on its records management software four years ago and pays \$40,000

per year for a software licensing fee. This amounts to an annualized cost over five years of \$91,969.³⁹

4. Tax Sale

Evaluators also based the cost estimate for the tax sale on a comparison to JPSO. Rather than using a contractor to conduct its tax sale, as the City does, JPSO purchased software that enables it to conduct its own tax sale auction. JPSO staff stated that the auction was easy to conduct, and they had no problems associated with implementation. JPSO spent \$7,500 for an auction module, which it was able to implement with its regular staff.

5. Legal Support

SAP has not provided invoices to the City to document the time the legal team spends on City related business. The City did not require SAP to bill for hours performed on legal work, and though evaluators requested it, SAP could not provide evaluators with information on the amount of time spent on legal work. Therefore, we used SAP's monthly reports to provide a rough estimate of the number of hours spent on legal defense. In 2011, there were seventy-seven cases.⁴⁰ These cases were listed in Figure 7 on page 7. There were forty-four bankruptcy cases and thirty-three other cases.

SAP's role in bankruptcy cases is limited to excluding properties in active bankruptcy from tax sales. In order to calculate the City's cost for bankruptcy cases, we interviewed a bankruptcy attorney who informed us that, in most cases, monitoring a bankruptcy case takes no more than two hours of work over the lifetime of the case. We multiplied the forty-four bankruptcy cases by two hours and multiplied the hours by \$175, the Louisiana Attorney General's benchmark rate for an attorney with at least ten years of experience, resulting in a total cost estimate of \$14,520 for bankruptcy cases.

For the other thirty-three cases, evaluators used an estimate provided by JPSO. JPSO typically paid \$2,500 per case for outside legal defense. Multiplying the open cases by this rate gave a cost estimate of \$82,500. This amount plus the cost for bankruptcy cases totaled \$97,020 for legal services.

6. Excluded Costs

Evaluators excluded two kinds of costs from the cost analysis: customer service costs and research and notification costs.

Customer Service Costs: SAP provided staff to answer phone call inquiries related to delinquent bills and in-person customer service staff at City Hall. Evaluators excluded these costs, because we determined that the City was already paying its own staff to provide customer service to delinquent payers. In 2011, the City had 14.65 people on staff to collect taxes. Though the City did not list the Treasury Department's costs associated with property tax collection as a line

³⁹ To calculate an annualized cost, we projected that the software would have a five year life span and a 5 percent cost of capital.

⁴⁰ See Footnote 19, on page 11.

item in the department’s 2011 budget, evaluators calculated Treasury Department tax collection expenses by summing line-item operating expenses for treasury, cashiers, and ad valorem taxes for a total of \$1,491,163.

In order to determine if the City had staff available to collect delinquent property taxes, we compared the number of bills handled per employee at the City to the number handled by JPSO staff. Property tax collection follows a standard activity cycle. At the beginning of the cycle, staff prepare and send out tax bills and receive and process payments. After the date on which taxes become delinquent, staff notifies delinquent payers. Tax sale preparation and administration follow delinquent notification.

The analysis demonstrated that the City had adequate staff to collect delinquent taxes when compared to JPSO. For tax year 2010, JPSO prepared and mailed over twice as many bills per employee as the City: New Orleans sent out 147,159 bills for non-movable property taxes with a staff of 14.65 employees, and JPSO’s eight employees sent out 145,564 bills. This resulted in 10,822 bills per employee for New Orleans and 23,250 per employee at JPSO.

New Orleans sent out more certified notices than JPSO but fewer notices per employee. If City employees sent out certified notices (currently they are mailed by SAP), they would send out 1,019 state-mandated notices per employee⁴¹ while JPSO sent out 1,361 state mandated notices per employee. Even without including the extra staff provided by SAP, JPSO manages more late bills per employee than the City.

Figure A: Comparison of Bills or Certified Notices per Employee

	Employees	Bills	Bills per Employee	Certified Notices	Certified Notices per Employee
City of New Orleans	14.65	147,159	10,045	14,924	1,019
JPSO	8.0	145,564	18,196	10,885	1,361

Research and Notification Costs: We also excluded the costs of title research and notification, because these costs are recoverable. However, for property owners who never pay their taxes and/or the charges associated with late payment, the unrecovered research and notification costs for properties that were never adjudicated totaled nearly \$500,000 in 2010.

It is possible that some of these costs could be reduced. For instance, the cost of title research, certified notices, and advertising could be lower. Both the City and JPSO have the same legal requirements for research and notification, but JPSO’s costs were much lower. See Figure B for a comparison.

⁴¹ This number does not include contract employees.

Figure B: Research and Notification Costs by Jurisdiction

	Title Research	Certified Notice	Advertisement⁴²
City of New Orleans	\$85 ⁴³	\$15	\$12
JPSO	\$35	\$10	\$30

Some of the nearly \$500,000 in research and notification costs that were not recovered from tax payers after the tax sale could also be avoided entirely. Because the City did not adjudicate the properties, SAP re-notified them in 2011 and re-posted the properties at the next tax sale.

Because the City uses a collections contractor and does not bear the cost of notifying delinquent property owners, it has little incentive to limit the number of properties it notifies each year. Many of the properties that are charged these uncollected research and notification costs are notified year after year despite the fact that they are unlikely to pay or be sold at tax sale. If, instead of re-notifying the property owners, the City adjudicated the property after the first notification, these costs would not be borne by the City or the contractor year after year.

⁴² The amount each taxing authority pays for advertisements is not determined through competitive bid, rather each must use its journal of record. The City of New Orleans's journal of record is the Times Picayune and JPSO's journal of record is City Business.

⁴³ In 2012, SAP reduced this cost to \$35.

APPENDIX B—PAYMENT DATA ANALYSIS

Evaluators performed three separate time series analyses on the collection data: (1) the first analysis examined the impact of deadlines, phone calls, and the end of the month on weekly payments made during the entire delinquent collection period (February 27, 2010–December 31, 2011, 97 weeks); (2) the second analysis examined the impact of deadlines, phone calls, and ends of the month on weekly payments made during a subset of the delinquent collection period (April 1, 2011–December 31, 2011, 40 weeks), a period of heightened phone calling; and (3) the third analysis examined the impact of deadlines and phone calls on weekly payments during an earlier subset of the delinquent collection period (February 20, 2010–November 27, 2010, 40 weeks), a time when SAP made very few phone calls.⁴⁴ Based on a visual inspection of the data, we did not expect phone calls or ends of month to impact weekly payments; however, we included both as predictors to see if the time series analysis could detect any significant effects.

Analysis 1: Impacts on Payment Over Entire Collection Period

We developed a time series model for weekly payments to examine the effects of the deadlines listed on mailers, phone calls, and the end of the month on weekly payment amounts; we entered those data into SPSS Time Series Modeler.^{45, 46} The results revealed a significant effect of deadlines ($t = 9.20$, $p < .001$) on weekly payments. Specifically, payments were estimated to increase by nearly \$600,000 during the weeks that included a noted deadline. The analysis demonstrated that the deadline dates indicated on the mailed notifications were a significant predictor of payment behavior.

Analysis 2: Impact of Deadline and Phone Calls on Payments During Period of Heightened Calling Activity

It is possible that including the entire period, as was done in the first analysis, masked the effect of phone calls on payments. Thus, in order to obtain a true measure of the effect of phone calls, it was necessary to isolate our analysis to the period when SAP was making calls.

For the second analysis, we developed a time series model for weekly payments to examine the effects of the deadline, phone calls, and the end of month on weekly payment amounts for the isolated collection period (April 1, 2011–December 31, 2011). Again, we entered data into SPSS Time Series Modeler.^{47, 48}

⁴⁴ A time series analysis is a statistical analysis that factors in the variable of the passage of time on a dependent variable; in this case, the amount of money collected.

⁴⁵ The program fit an ARIMA (2,1,0) model with a stationary $R^2 = .74$ and was validated by Ljung-Box test ($Q(18) = 15.36$, $p = .498$).

⁴⁶ The analysis excluded five outliers. Four were outliers in the negative direction, meaning payments were lower than expected.

⁴⁷ The program fit an ARIMA (0,0,0) model with a stationary $R^2 = .72$ and was validated by Ljung-Box test ($Q(18) = 10.11$, $p = .928$).

The results revealed a significant effect of deadlines ($t = 5.48$, $p < .001$) and phone calls ($t = 3.13$, $p < .01$), indicating that both collection methods increased weekly payments during the abbreviated time interval.⁴⁹ Deadlines increased weekly payments by an estimated 286 percent, while phone calls were estimated to increase weekly payments by less than 1 percent. Specifically, deadlines were found to increase weekly payments by approximately \$330,321, for a total of nearly \$2 million in additional payments during the 40-week period; phone calls were found to increase weekly payments, on average, \$104 per week for an overall impact of \$4,160 across the same time.

Our first analysis showed that deadlines were effective across the entire delinquent collection period, which included many weeks when SAP did not make phone calls. Our second analysis, which included heightened phone calling, revealed a significant impact of both deadlines and phone calls; however, the analysis assumed that phone calls only affected payments made during the weeks the calls were made. As a result, it is possible the second analysis missed an effect that heightened phone calling may have had on payments during deadline weeks. In other words, the phone calls may have had a duplicative effect on deadline payments when compared to the mailed notices. When SAP made a call to a delinquent payer, if they provided the same information that was provided in the notice (the deadline), the effect could have been the same as the mailed notice. In this case, the analysis would have combined the effect of those phone calls with the effect of the deadline. The analysis did not differentiate whether the effect the deadline made on payments was due to mailed notices or phone calling.

⁴⁸ This analysis excluded two outliers. Both were in the negative direction and occurred after the tax sale was posted.

⁴⁹ The program used a natural log transformation of the series data to develop the best fitting model. The natural log estimate for weekly payments, excluding the effects of deadline and phone call, was 11.657. The inverse of this natural logarithm is \$115,497, and is equal to the pre-intervention estimated weekly payment. The model identified the deadline interval as a significant predictor of payments with a natural log estimate of 1.35, the inverse of which is 3.86; this suggests late payments increased by about \$330,321 (or 286 percent of the pre-intervention estimated average) during deadline weeks. The model also identified phone calls as a significant predictor of payments with a natural log estimate less than .001, the inverse of which is 1.0009; this suggests phone calls increased weekly payments, during the isolated time period, by \$104 (or .09 percent of the pre-intervention estimated average).

Analysis 3: Impact on Payments During Isolated Period with Low Calling Activity

There was no way for us to compare a group of delinquent payers who received phone calls to a group who did not. Therefore, we developed a third time series model for weekly payments to examine the effects of deadlines and phone calls during a subset of the entire collection period in which SAP made very few, if any, phone calls (April 1, 2011–December 31, 2011); again, we entered data into SPSS Time Series Modeler.^{50, 51}

The results revealed a significant effect of deadlines ($t = 4.72$, $p < .001$), indicating the mailed notifications significantly increased weekly payments during the abbreviated time interval without any help from phone call notification. Specifically, deadlines increased weekly payments by an estimated \$650,447 during a time when very few calls were made.

⁵⁰ The program fit an ARIMA (0,1,0) model with a stationary $R^2=.60$ and was validated by Ljung-Box test ($Q(18) = 7.89$, $p = .98$).

⁵¹ This analysis excluded two unexplained outliers.

APPENDIX C— OFFICIAL COMMENTS FROM CITY OF NEW ORLEANS

City Ordinance section 2-1120(8)(b) provides that a person or entity who is the subject of a report shall have 30 working days to submit a written explanation or rebuttal of the findings before the report is finalized, and that such timely submitted written explanation or rebuttal shall be attached to the finalized report.

An Internal Review Copy of this report was distributed on January 14, 2013 to the entities who were the subject of the evaluation in order that they would have an opportunity to comment on the report prior to the public release of this Final Report. Comments were received from Chief Administrative Officer Andy Kopplin and his comments are included in their entirety in this section.

OIG comments on the City's Response:

Finding 1: The basic delinquent tax collection services we included in our analysis contained all of the activities SAP performs to meet legal notification requirements: state-mandated notices, non-mandated notices, advertising, phone calls, and a tax sale.

Finding 2: SAP's current contract does not require any services beyond what was included in the Alliance Partners response to the City's 2008 RFP.

Finding 3: As stated in the report, the contractor did not include the "time expended in the performance of such services" as required in the contract.

Finding 4: We found that the City's established mailing schedule was effective, so we did not conduct an analysis that measured impact of changing the number of mailers. Our analysis suggested that notification of the payment deadline is what impacted delinquent payment. Therefore, we controlled for the impact of the mailings by qualitatively assessing the impact of the deadline event communicated in the letters.

Finding 5: The City acknowledged that it did not adjudicate eligible properties after a tax sale. The City's strategy for blighted properties does not include properties that are eligible for adjudication but not blighted.

Finding 6: The City will review the possibility of moving the tax sale process to May or June.

Recommendations 1 and 2: The City substantially agreed. To clarify: the OIG did not ask the City to delay its RFP, but provided feedback that the RFP did not meet our procurement review standards.

Recommendation 3: The City agreed with this recommendation.

Recommendation 4: The City will review the analysis.

Recommendation 5: The City disagrees with this recommendation.

Recommendation 6: The City failed to respond to this recommendation.

CHIEF ADMINISTRATIVE OFFICE
CITY OF NEW ORLEANS

MITCHELL J. LANDRIEU
MAYOR

ANDREW D. KOPPLIN
FIRST DEPUTY MAYOR & CAO

March 4, 2013

Ed Quatrevaux
Inspector General
525 St. Charles Avenue
New Orleans, LA 70130

RE: Evaluation of the City of New Orleans Delinquent Property Tax Collection Program

Dear Mr. Quatrevaux:

Thank you for your review of the City's Delinquent Property Tax Collection Program. The Landrieu administration has placed a high priority on improving our collections of all taxes, including property taxes, and we share your view that the fair, effective and customer-friendly administration of our tax system is of vital importance to the City and our residents.

Before getting into the specific findings of your report, I believe it is important to note that property tax delinquency rates have been dropping due to the Landrieu Administration's efforts. By the end of January 2013, we had collected 86.1% of billed real estate taxes, which is up from 83% in 2011 and 2012, even as we collected \$29 million more in property tax revenue in 2013 than in 2012. We have made it more convenient for taxpayers to pay online as well as in person, and this year we added three public libraries as drop off sites while continuing to offer curbside drop off at City Hall during the last week before the property tax payment deadline. Additionally, we held two tax title sales to collect delinquent property taxes in 2011 and another in 2012. The 2012 tax sale prompted payments of taxes and other statutory impositions of \$6.1 million before the actual sale date, and \$2.2 million worth of tax titles were sold at the actual tax sale, for a total of \$8.3 million. To ensure consistent administration of the tax sales, we also ended the practice used in the past of selectively excluding properties from tax sales without justification; Only those properties that meet the City's statutory or written administrative policies may be exempted from the tax title sale.

In the following part of my letter, we respond to the specific findings and recommendations. Additionally, we have attached three appendices to give readers a more complete understanding of the tax title sale process, to clarify other areas of the report where we believe additional information is required, and to present citations from prior court decisions that lay out the extensive statutory and constitutional requirements that the City must meet before proceeding with a tax title sale.

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Response to the Findings:

Finding 1: "The City's contract with SAP costs over ten times more than the cost of basic delinquent tax collection services."

This Finding implies that the City could legally undertake "basic delinquent tax collections" prior to a tax title sale, which we cannot. It would be irresponsible for us to do only "basic" collections given legal mandates and court decisions that require us to do a much more comprehensive delinquent tax collection process. Therefore, we suggest that this Finding is not at all on target.

The City cannot undertake a tax title sale while only providing *basic* tax collection services. The U.S. Supreme Court, the Louisiana Supreme Court, and other state and local courts, have held that a comprehensive, repeated, and documented series of contacts with all delinquent interested parties is required prior to any delinquent tax title sale that could lead ultimately to the "taking" of a person's property. The City must clearly meet this test in its tax sale process, and the costs involved in doing so far exceed any estimate of a set of basic services. Not only do these court precedents apply to New Orleans, but some of these precedents were actually established in cases in which the City of New Orleans was the defendant. Moreover, the City's goal is to have taxpayers receive numerous notices of delinquent taxes to encourage and facilitate its overall goal of having all or almost all taxpayers come into timely compliance with property tax billings.

As the report notes on page two, "State and City laws define the property tax process." However, there are a number of factors other than statutes and ordinances that also define the process in terms of how information must be communicated—to whom, how often, and the documentation of these contacts that must be maintained regarding the entire process. These other factors include:

- U.S. and Louisiana Constitutions, and in particular, their protections for property holders,
- U.S. Supreme Court cases, and in particular, *Mennonite*, that require extensive noticing of all parties,¹

¹ "Notice by mail or other means as certain to ensure actual notice is a minimum constitutional precondition to a proceeding which will adversely affect the liberty or property interests of *any* party, whether unlettered or well versed in commercial practice, if its name and address are reasonably ascertainable." *Mennonite Bd. of Missions v. Adams*, 462 U.S. 791, 800, 103 S. Ct. 2706, 2712, 77 L. Ed. 2d 180 (1983).

Prior to an action, which will affect an interest in life, liberty or property protected by the Due Process Clause of the Fourteenth Amendment, a State must provide "notice reasonably calculated, under all circumstances, to apprise interested persons of the pendency of the action and afford them an opportunity to present their objections." *Mennonite*, 462 U.S. at 795, 103 S.Ct. at 2709 (quoting *Mullane v.*

- Louisiana courts have emphasized the importance of notification and the standard established in *Mennonite*. In particular, the City of New Orleans was previously found to have provided insufficient notice in a case from a few years ago, and the court recognized that there will be greatly increased costs as a result: "One can argue that imposing a high burden of notification on the local and state governments **will greatly increase the administrative costs** of establishing some degree of normalcy to the region. Nevertheless, considering the advances in information technology and other available resources, the City through reasonable diligence could have ascertained the Burgers physical and/or mailing address to give them notice of the pending tax sale. The similarity of identification between the mortgagee in *Mennonite* and the mortgagees in this case are such that we can conclude the city did not afford the Burgers the minimum due process protection recognized in *Mennonite*." *Padilla v. Schwartz*, 11 So.3d 6, 14-15, 2006-1517 (La.App. 4 Cir. 3/11/09), 12-13, emphasis added. A number of other Louisiana cases have similarly required noticing regarding tax sales (see Appendix).

The City, as tax collector for Orleans Parish, must meet these requirements and ensure that tax sales will have little likelihood of being successfully challenged at some later point. To achieve this goal, the City must provide verifiable actual notice to all interested parties, or verifiable "reasonable efforts" to provide notice. Moreover, and this point directly affects the cost and nature of tax collection services, these requirements must be met for all potential properties that could ultimately be sold at a tax sale—the City does not know in advance which of several tens of thousands of delinquent properties in April of a tax year will ultimately sell at a tax sale over 12 months later. Most properties that are initially delinquent do not ultimately sell at a tax sale, but it is not possible to reconstruct a detailed record later of notification and so all delinquent properties must be assumed to meet the highest standard of notice and documentation of notice from the beginning of the process.

Finding 1 also should be assessed in the context of several important factors:

- One hundred percent of the costs of City's property tax collection contract are borne entirely by delinquent taxpayers. The ordinance allows the City to assess an additional charge to delinquent bills that is paid *only* by delinquent taxpayers, and the City's collections contract is written consistent with this ordinance. The City is well aware of the additional costs charged to delinquent taxpayers and has taken additional efforts in recent years to publicize those penalties as well as to give taxpayers many more convenient ways to pay their taxes in a timely manner. The City now offers online, mail-in and in-person methods of payment, including curbside drop off at City Hall during the final week before the property tax deadline.

Central Hanover Bank & Trust Co., 339 U.S. 306, 314, 70 S.Ct. 652, 657, 94 L.Ed. 865 (1950)).

- The estimates provided in the report appear to have been requested piecemeal for separate, uncoordinated collection activities. To survive judicial challenge, a complete record of all communications attempted and contacts made must be maintained for several years for every single property. The estimates as presented do not appear to have included any costs for these coordination efforts, whether by City staff or otherwise.
- The assumptions underlying these estimates are for relatively small quantities of mailings, telephone contacts, and data cleaning. As such, the price quotes presented in this report likely do represent what would actually be required. Regardless, the actual activity undertaken is far greater than the assumptions made in the report, and the resources actually used are therefore commensurately higher. For example, for the 2010 tax year cycle, communications made include:
 - 29,825 letters mailed (April 9-12, 2010),
 - 14,983 letters mailed (August 13, 2010, reflecting the smaller number still delinquent at that time),
 - 14,924 notices in July 2011 for the two tax sales scheduled in the fall of 2011,
 - Over 20,000 tax sale party notices for the tax sales that took place in the fall of 2011, and
 - 150,907 outbound phone calls placed to reach interested parties with 2010 delinquencies (multiple calls must be made to make actual contact with people).

Such communications all serve to document the communications made or attempted during the tax sale process, and also serve as helpful reminders and encouragements to taxpayers to settle the delinquent amounts before the tax sale takes place, a primary goal of the City's overall collection efforts. We would also note that the National Consumer Law Institute also recommends that adequate notice should be given at every stage of the tax sale process (see "The Other Foreclosure Crisis: Property Tax Lien Sales," National Consumer Law Institute, July 2012).

- The report compares the total amount of charges paid by delinquent taxpayers (representing actual performance in collecting delinquent taxes by the City and its contractor) with estimates made of various classes of costs by obtaining quotations for services from other vendors. The report would be more useful if it compared the City's costs with actual costs from other municipalities undertaking comprehensive and coordinated property tax collection, rather than quotes from vendors for services not actually delivered.

The report states in footnote 24 that the City's contractor could not break down its price into component services. The City is unaware of any request that was made to either the City or its contractor to provide a cost breakdown

by the component services developed for this report. As an example of the difference between the cost estimates in the report and actual costs incurred over the past several years, the cost estimate presented in the report for technology is for about \$100,000 per year. The contractor's actual expenditures on technology for the years 2008 to 2011, the vast bulk of which was used for Orleans Parish delinquencies, are estimated to have been about ten times greater than the report's estimate.

In conclusion, the report's estimate for costs related to a "basic" set of services would leave the City exposed to extraordinary legal risk and render tax sales of very limited use compared to the present situation.

Finding 2: "The City disregarded a proposal submitted in response to a 2008 RFP that would have cost approximately \$1,000,000 less per year."

The report notes that an RFP was undertaken by the Nagin Administration in 2008 that received a number of responses, including some that proposed a lower rate for delinquent property tax collection services. While we do not know why the prior administration chose not to select a new vendor at that time, the response cited in this Finding as being \$1,000,000 less expensive did not provide for the same level of services as the existing contractor was providing at that time and continues to provide at present. For example, the current method of on-line tax sales would have been discontinued under the proposal and the prior method of verbal bidding at in-person auctions would have been reintroduced, making the tax sale process less convenient and less attractive to potential bidders.

Since the services offered in the proposal in question differ so substantially from those provided by the City's current contractor, it is possible that the reduced level of collection services that had been proposed would have adversely affected the City's delinquent property tax collection rates overall. If that had been the case, then the result would be that the City would have suffered a loss in delinquent tax collections and the only beneficiaries of this decision would have been the delinquent taxpayers themselves since the savings from a less expensive contract do not go to the City but are passed on directly to the delinquent taxpayers in the form of a smaller collection fee.

Finding 3: "The City issued payments to SAP without the detailed monthly invoices required by their contract."

The City does, in fact, receive a very detailed monthly invoice before making payments. Each invoice shows every tax account by tax ID and the amount collected within the period, thus allowing a very direct record of the basis for the performance payment. The city ordinance and city contract which governs delinquent property tax collection uses a performance-based approach: the contractor is paid only when delinquent taxes are collected, and the contract

provides for no other payments. In a contract of this nature, the performance is the key objective, since remuneration is tied specifically and directly to performance.

The City also receives a second report with details on legal activity, such as cases being worked and recent updates on status.

The detailed content on the invoices will be reviewed with the Contractor to determine how best to incorporate additional information regarding time expended during the invoice period.

Finding 4: "SAP's outgoing phone calls increased payments by less than 0.05% over the period of increased calls"

The report presents an analysis of certain activities related to delinquent tax collections, focusing on the time pattern of *outbound* phone calls made by the contractor compared to actual tax collections, on a weekly basis.

The analysis presents an interesting model and the City will review it in the next few months to assess its usefulness in guiding the overall collection efforts. The analysis uses outbound calls, but it does not directly measure quantitatively all the other activities during the full collection cycle, such as the mailing of 160,000 bills, the over 150,000 phone calls placed, the number of notices or bills mailed, or even the number of inbound calls, of which there were 16,864 during the period of analysis after April in 2010. Focusing on one quantitative factor among the many possible explanatory variables in a statistical analysis may or may not produce actionable results.

It should also be noted that isolating the direct impact of a phone call on that week's collections may be a useful question to examine, but it also is a narrow one. As the United States Supreme Court noted in the 1983 *Mennonite* case, which provides the underpinning to much of the requirements for extensive, comprehensive notice to taxpayers who may ultimately face loss of property: "notice by mail or other means as certain to ensure actual notice is a minimum constitutional precondition to a proceeding which will adversely affect the liberty or property interest of *any* party." Having documented records of phone contacts to taxpayers is an important component of ensuring that the ultimate tax sale will survive legal scrutiny. Thus, even if we assume the report's estimate that these calls would have cost \$19,843, that investment is clearly of some value in terms of assisting the city in meeting the test of a minimum constitutional precondition of notice.

Finally, the use of calls versus mail contacts may not always be a choice that the City has. Not all delinquent taxpayers have current correct addresses so a phone contact that results in direct communication with a taxpayer is preferable to no contact at all. Given the displacement of New Orleans taxpayers after Hurricane Katrina, there are still substantial challenges with having current address or telephone information for some people who have property interests in tax delinquent

property. Making more, rather than fewer attempts to communicate with delinquent taxpayers is critical in the delinquent tax collection process that could lead to the formal "taking" of a taxpayer's property.

Finding 5: "The City did not adjudicate properties as permitted by state law thereby increasing the cost of collection."

The City faces significant challenges with the interrelated issues of blight and property tax delinquency, as many tax delinquent properties are also blighted. The City has a very strong interest in both getting blighted properties back into commerce as well as collecting all property taxes due. With the passage of new state laws post-Katrina that allowed the City to petition the Sheriff to seize and sell blighted property through a code lien foreclosure process, the policy question we have faced is determining which strategy—tax adjudication or Sheriff's sale—will be most effective in addressing the challenges of blight and tax delinquency.

In a series of public discussions that began a few years ago with the report from Mayor Landrieu's Transition Team on Blight, and concluding with Mayor Landrieu's announcement of his Blight Strategy in October of 2010, the Administration determined that fighting blight was a preeminent policy goal and that Sheriff's sales represented a better strategy for addressing both blight and tax delinquency than pursuing tax adjudication sales. Further, not only did we determine that tax adjudication sales were ineffective in fighting blight—as the owners of blighted property were clearly not any more motivated to pay their taxes than they were to fix up their property—but we also determined that tax adjudication sales were an impediment to moving blighted property back into commerce through a Sheriff's sale, a process that also requires delinquent taxes be paid to the City.

Because of the significant legal hurdles that must be addressed prior to the City undertaking a property tax title sale and subsequently adjudicating the property to the City, many title insurance companies would refuse to insure the adjudicated property on behalf of whomever later purchased the property from the City, essentially making it unmarketable. In other words, if the City adjudicated tax delinquent property and then tried to sell it, the market of potential buyers would be limited to the very small number of wealthy speculators who didn't require title insurance, which is mandatory for conventional mortgages. In contrast, a Sheriff's sale "cleans" the property's title fully and title insurance companies regularly write title insurance policies for the properties seized and sold to outside investors through this process. Additionally, as stated above, delinquent taxes and liens are also the first items collected by the Sheriff before the property's title can be transferred, thus this process also helps the City collect delinquent property taxes. We don't want the property; we want the taxes paid and someone other than the City to own the property.

Since the City's goal is to get blighted and tax delinquent property back into commerce, our ability to execute a sale to a third-party buyer is critical. The City has no interest in owning these properties and no resources with which to maintain

them. We also collect delinquent taxes when the property is sold. This is another reason that a sale to a third party buyer is so critical. Given all these facts and our goals, it is clear that the City should not pursue the tax adjudication of blighted property and should be cautious about pursuing that strategy with property that could easily become blighted. While there may be some properties that are neither blighted nor that appear significantly at risk of becoming blighted, those properties are likely in the highest market value areas of the city and therefore are most attractive to tax sale buyers—because they pose the lowest risk to tax sale buyers, who are not, in most cases, looking to adjudicate the property but are instead taking an investment risk that the delinquent taxpayer will eventually pay them back, with significant interest, rather than risk losing the property. An examination of successful tax sales will bear this out—that the most valuable properties brought to tax sale get sold and the least valuable and most likely to be blighted do not. So the properties the City would be most likely to adjudicate are the blighted ones we should bring to Sheriff's sales instead.

As we stated earlier, the City has nonetheless worked to improve the incentive provided by tax sales in encouraging property tax compliance. In 2011, the City held not just one tax sale for 2010 tax-year-only delinquencies (the focus of this report), but also a second tax sale to offer tax titles for sale for 2010 along with any prior eligible year that for one reason or another had not been taken to tax sale before. This second sale was intended to ensure that all eligible properties were offered for tax sale in a timely manner and was also a specific request of City Council Members.

The City has also taken some properties that did not sell at one tax sale to a subsequent tax sale at a later time. This approach was specifically requested by Council Members as opposed to tax adjudication for the reasons outlined above, and the City is assessing its overall usefulness. For tax titles to properties offered at one sale that do not sell, the second offering has resulted in some taxpayers paying to avoid the sale and a small but significant proportion do, in fact, sell when offered a second time.

On the issue of adjudicated sales, the City will continue to review strategies to see whether the tax adjudications of some properties can move forward and be successful. If the City has no use for the property itself, then the key issue that must be resolved before any adjudication proceeded would be to determine, in advance, whether a clean title could be generated. A significant and costly amount of legal research and communication with interested parties must be undertaken to ensure that the title can be guaranteed in some manner acceptable to purchasers and the real estate industry for any properties prior to any properties being brought to adjudication.

Finding 6: "The City delayed tax collection by not conducting the tax sale at the earliest opportunity allowed by state law."

The City schedules its tax sales based on a range of factors. Early in the calendar year, the Bureau of Treasury is extremely busy with handling current year tax processing. On April 1 of each year, the delinquent tax collection effort for the current year begins in earnest with a large number of delinquency mailings. Given that the Orleans Parish Assessor's office issues upcoming year property assessment in August, the pattern we have established in recent years is to commence the more formal phase of tax sale notifications and advertisements in May or June, have notices and advertisements issued over the July to early September timeframe, and conduct the tax sale most often in September. This schedule thus balances workload of a number of partners and gives time for noticing while allowing taxpayers a reasonable period to pay delinquent taxes to avoid the sale. The September date also allows the City to complete administrative tasks to be ready for the subsequent year's billings that go out in late December.

The City will review whether there could be advantages to moving up the tax sale process to a May or June time frame. Such a date would mean beginning preparatory work in February or March which could be a challenge from a workload perspective. As a final note, the City did not postpone its sale from May to the fall of 2011. At no time was a sale ever scheduled for May 2011.

Recommendation 1: The City should bring its delinquent property tax collection program in house in order to control costs.

Recommendation 2: The City should issue a new RFP if it does not perform the functions in-house.

The City believes it is important to conduct RFPs for city services at regular intervals, to ensure we get the best value. In fact, consistent with the viewpoints expressed in this report, we believe a new competitive selection process for delinquent property tax collections could produce meaningful savings which, in accordance with local ordinance, would all be passed on in the form of lower collection charges to those taxpayers who have property tax delinquencies. At the request of the Inspector General's office, however, we delayed issuing an RFP for delinquent property tax collection services in order to have the benefit of this report's Findings. Now that we have received this report, we will quickly review whether to pursue Recommendation 1 or Recommendation 2 and will move in one direction or the other quickly.

The City already has extensive recent experience with undertaking many of the laborious, detailed notifications of all interested parties in-house since the City's Code Enforcement and Hearings Bureau conducts similar legal and noticing work as it pursues Sheriff's sales for blighted properties. The process is very time-intensive, painstaking in detail, and has been challenging without appropriate technological tools in place. Likewise, while we conduct sales and occupational license delinquency collections in-house, we have outsourced collection of delinquent sanitation service charges to a third party vendor with a call center.

Recommendation 3: The City should not issue payment unless it receives detailed monthly invoices as required in the SAP contract.

The City does receive detailed monthly invoices that detail all property tax payments received by tax identification number. The City will request that the contractor include additional information in future invoices.

Recommendation 4: The City should discontinue calling delinquent taxpayers as a method of increasing payments.

The City will review the analysis presented in this report. Since calling is part of an overall strategy of making contact with delinquent taxpayers, and serves a very useful purpose in documenting efforts made to contact people, discontinuing outbound calls would reduce the number of tools available to make contact. Moreover, since many tens of thousands of inbound calls are made, it would be somewhat counter-productive to have call takers only receiving calls and not making outbound calls during downtimes.

Assuming the analysis presented in the report is correct, the report's estimate of a small impact on immediate payments may be accurate but still not outweigh the other advantages of using this additional tool to locate, and document attempts to locate, delinquent taxpayers.

Recommendation 5: The City should adjudicate eligible properties.

The Mayor and City Council have adopted a policy to use Sheriff's sales as the primary tool to get blighted properties back into commerce and property taxes paid up. We continue to believe this is a far more effective strategy than for the City to adjudicate tax delinquent properties. In fact, as we pointed out in our response to the Finding on this subject, we believe such a strategy would be counter-productive to both our efforts to fight blight and to collect delinquent property taxes. In the meantime, the City will continue to work to develop strategies to ensure that adjudicated tax sales could be successful when undertaken for non-blighted properties that do not sell at the tax sales.

Thank you very much for the opportunity to respond to your report and for your continued partnership as we work to make the City of New Orleans government more efficient, effective, and responsive to our constituents.

Sincerely,



Andy Kopplin
First Deputy Mayor and Chief Administrative Officer
City of New Orleans

APPENDIX 1:

SPECIFIC COMMENTS ON ACTIVITIES UNDERTAKEN DURING TAX SALE PROCESS (Section C on page 5 ff).

Notifications: Section 2 on page 6 describes the process of notifications regarding delinquencies. The report describes these as "*non-mandated* mailings, state-mandated mailings and newspaper advertisements, and *non-mandated* phone calls." A straightforward reading of state law regarding tax sales could lead to a conclusion that only a few mailings and advertisements are mandated, but numerous court decisions from the U.S. Supreme Court to local Orleans Parish courts have made clear that an exhaustive, comprehensive, repeated, and documented series of contacts with all delinquent interested parties is required to survive judicial scrutiny. Limiting contacts to just those specifically stated in State law could, in the short run, limit expenses (all charged to delinquent taxpayers) somewhat but would likely lead to much larger costs in the long run if tax sales were successfully challenged due to insufficient noticing of parties.

Documentation: Section 3 on page 6 describes documenting notifications. State law mandates not that property owners are notified, but *all interested parties*, a much larger group and a group much harder to identify, especially in New Orleans after Katrina.

Tax Sale: In the fall of 2011, the city held two separate tax sales: one of three days for tax titles of properties with only 2010 tax year delinquencies, and one of three days for tax titles of properties with 2010 and earlier tax year delinquencies. Two sales were held to ensure that all eligible properties were included since sales in previous years had not always included all eligible properties.

APPENDIX 2:

OTHER CLARIFICATIONS TO THE REPORT:

City Council role: Footnote 3 on page 2 notes that the Assessor transfers a list of assessed values to the City, which then "calculates taxes due on millages and collects the taxes." The process also includes action by the City Council and other governing bodies to adopt millages for the relevant tax year: thus the Assessor's list of values together with adopted millages are used to calculate taxes due, which the City collects.

Bills mailed: Page 2 states that "In 2010, Treasury sent out 158,548 tax bills..." These bills (for 2010 taxes) were sent out in December, 2009, as is typically the practice.

Tax sale notices: Page 3 notes that "the state allows the taxing authority...to sell the property at tax sale after a twenty day notice period." The twenty day period is then followed by advertising requirements so it should be understood that the tax sale does not begin after a simple twenty day period. In general, the process is:

- 20 days after sending a notice, the city can begin to advertise, with one advertisement 30 days before sale, then a second advertisement within 7 days of the tax sale. (A separate statute has the requirement for within 7 days [La RS 43:203])
- The first notice goes to "tax notice parties"
- Research also needs to be done during this period under 47:2153(A) a2
- The second notice goes to "tax sale parties"
- Also, notices are required subsequent to a tax sale taking place.

Tax sale: Page 4 notes that "Before advertising a property at a tax sale..." This should read: Before advertising that a tax sale title to a property with delinquent statutory impositions will be sold according to law at a tax sale.

Redeeming after a tax sale: Page 4 states that "interested parties have three years to redeem full ownership of the property by settling the bill with the taxing authority." This is not strictly correct, in that the taxing authority has already been fully paid for all statutory impositions at the time of the tax sale by the tax title purchaser. Any interested party who later settles is doing so with the tax title purchaser, not the taxing authority. The taxing authority has an administrative role under state law in transferring the funds, including an administrative fee, but is not strictly involved with any settling of the "bill", since all statutory impositions were already paid earlier.

Tax sale certificate: Page 4 states that "after the auction, the tax sale purchaser must file a tax sale certificate with the recorder of mortgages." The City files this certificate, not the purchaser.

Tax efforts: Footnote 23 on page 10 notes that Jefferson and Orleans Parishes "performed a similar amount of work to collect taxes." The city understands that Jefferson Parish has a delinquent property tax collection effort. However, the level of activities in terms of letters sent, calls made, and documentation maintained, the focus of this report, are not similar due to a variety of factors and specific circumstances in each parish.

APPENDIX 3.

CITATIONS FROM OTHER RELEVANT COURT DECISIONS

"The failure of the Sheriff to give the Bank, in its capacity as mortgagee with a significant property interest, due notice of the tax sale was, however, in violation of its constitutional right to due process. Thus, the tax sale is rendered an absolute nullity." Bank of W. Baton Rouge v. Stewart, 2000-0114 La. App. 1 Cir. 2/16/01, 808 So. 2d 464, 466 (La. Ct. App. 2001).

"Because Dr. Weatherly was identified as a mortgagee in the mortgage records, *Mennonite* required that he be notified of the impending tax sale if his whereabouts could have been ascertained by reasonably diligent efforts." Weatherly v. Optimum Asset Mgmt., Inc., 2004-2734 La. App. 1 Cir. 12/22/05, 928 So. 2d 118, 123 (La. Ct. App. 2005).

"Constructive notice of an impending tax sale is not sufficient to satisfy due process "[w]hen a mortgagee is identified in a mortgage which is publically recorded. *Mennonite*, 462 U.S. at 798, 103 S.Ct. at 2711. Because the tax sale was executed without proper notice under the Fourteenth Amendment of the federal constitution, the tax sale must be annulled. This is the proper result notwithstanding LSA-R.S. 13:4112, 13:3886.1 and LSA-C.C. art. 2619, as federal law is controlling in this circumstance." See *USX Corp. v. Champlin*, 992 F.2d at 1385. Parkview Oak Subdivision Corp. v. Tridico, 95-0604 La. App. 1 Cir. 11/9/95, 667 So. 2d 1101, 1104 (La. Ct. App. 1995) writ denied, 96-0622 La. 5/10/96, 672 So. 2d 921.

"[T]he search for the holder of a publicly recorded mortgage requires only the routine examination of land records-"a simple 24 minute undertaking." Sec. First Nat. Bank v. Murchison, 98-1225 La. App. 3 Cir. 3/17/99, 739 So. 2d 803, 807 writ denied, 99-1712 La. 10/15/99, 748 So. 2d 1147. As *Mennonite* instructs, constructive notice of the two tax sales should have been supplemented by actual notice to Security. "When the mortgagee is identified in a mortgage that is publicly recorded, constructive notice by publication must be supplemented by notice mailed to the mortgagee ..." Id., at 810. The annulment of these defective tax sales advances the elementary and fundamental requirement of due process guaranteed by the United States Constitution which, by virtue of the Supremacy Clause, we are obligated to uphold. Accordingly, even though Security did not file for annulment until six years after the occurrence of the tax sales, prescription does not prevent us from recognizing its claim and rendering a just decision." Id., at 810.