

Office of the City Auditor

CONSENT CALENDAR

May 29, 2012

To: Honorable Mayor and Members of the City Council
From: Ann-Marie Hogan, City Auditor
Subject: Business License Taxes: Providing Better Guidance and Customer Service Will Increase Revenues

RECOMMENDATION

Request the City Manager report back by November 30, 2012, and every six months thereafter, regarding the status of recommendations until reported fully implemented.

SUMMARY

Finance staff accurately assigned business license tax codes, but did not always assess taxes, penalties, and interest accurately and consistently. This occurred primarily due to complex and unclear requirements in the Berkeley Municipal code, but also due to insufficient guidance and responsibilities being dispersed among multiple units in Finance. Errors and inconsistencies result in businesses being taxed inequitably and can lead to businesses appealing their cases. This can hurt the City's reputation, as well as the bottom line.

Finance does not follow recognized best practices or take full advantage of available options for collecting delinquent business license accounts. Consequently, only \$381,000 of the \$1.1 million of delinquent business license accounts was within the statute of limitations for pursuing collection. More timely and persistent collection efforts could generate an additional \$90,000 of revenue annually.

Finance does not comply with the BMC requirement to record liens against business properties when transferring delinquent business license accounts to Alameda County for collection. Also, due to limitations in the BMC, Finance is not able to recover the administrative fee that Alameda County charges to collect these accounts. Amending the BMC to allow recovery of the County's fee would increase the amount of revenue the City receives on these collections.

FISCAL IMPACTS OF RECOMMENDATION

The City loses substantial business license tax revenue annually due to the lack of timely and persistent collection efforts. Of \$1.1 million in delinquent accounts receivable, only a small amount is likely to ever be recovered.

For license years 1995 through 2009, 964 businesses owe the City about \$711,000 in delinquent taxes, penalties, and interest that are past the statute of limitations for pursuing collection. For license years 2010 and 2011, the City will likely collect only about \$50,000 of \$381,000 in delinquent taxes, penalties, and interest owed by 469 businesses. We calculated that the City could receive approximately \$90,000 of additional revenue annually if Finance staff were more timely and persistent in their collection efforts.

Amending the BMC to allow Finance to recover Alameda County's collection fee and the administrative cost Finance incurs when it transfers delinquent accounts to the County for collection with property taxes would minimize the losses the City incurs on these collection efforts.

RATIONALE FOR RECOMMENDATION

Implementing our recommendations will result in more consistent and equitable assessment of business licenses taxes, penalties, and interest, and will increase City revenues and help prevent fraud.

CONTACT PERSON

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Attachments:

- 1: Business License Taxes: Providing Better Guidance and Customer Service Will Increase Revenues

City of Berkeley Office of the City Auditor



Business License Taxes: Providing Better Guidance and Customer Service Will Increase Revenues

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Presented to Council on May 29, 2012

TABLE OF CONTENTS

Executive Summary.....	1
Objectives.....	3
Background	3
Findings and Recommendations.....	7
Finding 1: Business License Guidance is Insufficient and Inconsistently Applied	7
Finding 2: Efforts to Collect Delinquent Business License Taxes, Penalties, and Interest and to Write off Uncollectable Accounts Are Ineffective and Insufficient	26
Finding 3: Amend the BMC to Clarify the Requirement for Recording Liens, to Allow for Recovery of the County’s Collection Fee, and to Align Requirements With the County’s Processes.....	37
Finding 4: Establish Online Capability for Filing Business License Applications, Renewals, and Payment.....	41
Fiscal Impact.....	43
Conclusion.....	44
Appendix A:	
Scope and Methodology	46
Appendix B:	
Sample Business License Application and Renewal Forms and Instructions	48
Appendix C:	
Audit Findings, Recommendations, and Management Response Summary	55



City Of Berkeley - Office Of the City Auditor

Business License Taxes: Providing Better Guidance and Customer Service Will Increase Revenues

May 29, 2012

Purpose of the Audit

We conducted this audit to determine if Finance assigns correct business licenses tax codes and accurately calculates business license taxes, penalties, and interest. We also assessed the effectiveness of Finance's collection activities on delinquent business license accounts.

Executive Summary

\$14.5 Million Annually in Business License Revenue

The City Council enacted the business license tax ordinance in 1977 to raise revenue for municipal purposes. In Fiscal Year 2011, the general fund received \$14.5 million from more than 13,000 business licenses.

Repeat Audit Findings Include Fraud Risks

Our audit identified three issues that our office and/or the City's external financial statement auditor have identified in previous audits, but that remain uncorrected:

- fraud risks associated with the lack of support and supervisory approval of adjustments,
- fraud risks related to the lack of reconciliation, and
- the need to hire a collection agency to pursue collection on delinquent accounts.

Guidance Is Insufficient and Inconsistently Applied

Finance staff accurately assigned business license tax codes, but did not always assess taxes, penalties, and interest accurately and consistently. This occurred primarily due to complex and unclear requirements in the Berkeley Municipal Code, but also due to insufficient guidance and responsibilities being dispersed among multiple units within Finance. Errors and inconsistencies result in businesses being taxed inequitably and can lead to businesses appealing their cases. (Finding 1, page 7)

Potential to Receive Additional \$90,000 Annually With More Timely and Effective Collection Efforts

Finance does not follow recognized best practices or take full advantage of available options for collecting delinquent business license accounts. Consequently, only \$381,000 of the \$1.1 million of delinquent business license accounts was within the statute of limitations for pursuing collection. More timely and persistent collection efforts could generate an additional \$90,000 of annual revenue. (Finding 2, page 26)

Clarify Requirements for Recording Liens and Recovering the County's Collection Fee

Finance does not comply with BMC requirements to record liens against business properties when transferring delinquent business license accounts to Alameda County for collection. Due to limitations in the BMC, Finance is not able to recover the administrative fee that Alameda County charges to collect these accounts. Amending the BMC to allow recovery of the County's fee would increase the amount of revenue the City receives on these collections. (Finding 3, page 37)

Implementing Recommendations Will Increase City Revenues

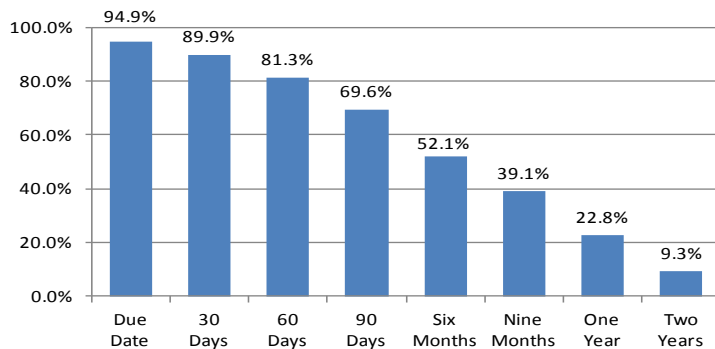
Timely implementation of the recommendations in this report will increase the City's revenues and help prevent fraud.

Recommendations

The audit report recommends improving consistency in applying the City’s business license tax ordinance; the accuracy of business license taxes, penalties, and interest; and collection of delinquent business license accounts. Key recommendations include:

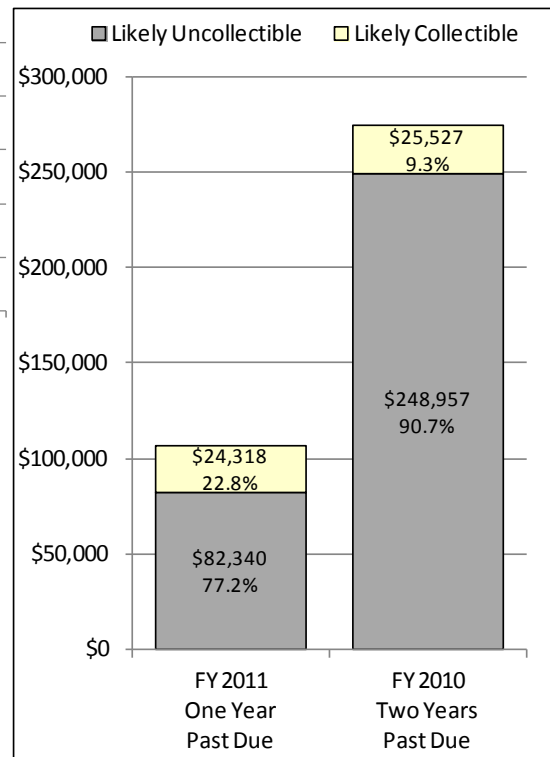
- Clarify BMC language regarding business license tax requirements and when to transfer delinquent accounts to Alameda County for collection.
- Calculate taxes, penalties, and interest consistently and in accordance with BMC requirements.
- Develop a single set of written procedures for the business license processes and provide training on the revised procedures.
- Explore the feasibility of consolidating Finance’s business license tax activities into a single unit.
- Revise the business license forms to minimize the potential for errors and to notify businesses of the potential consequences of underpaying their taxes.
- Provide training to City staff on effective debt collection strategies.
- Engage an outside collection agency to pursue collection of certain delinquent accounts.
- Pursue collection of all delinquent accounts that are within the statute of limitations for collection.
- Monitor collection activity on a monthly and quarterly basis.
- Develop performance measures to evaluate the effectiveness of collection efforts.
- Strengthen the language in Administrative Regulation 3.15, Write-Offs of Uncollectable Receivables.

Probability of Collecting Delinquent Accounts Receivable Over Time



Source: Commercial Collection Agency Association Member Survey

Potential Collectability of Delinquent Business Licenses for FY 2011 and FY 2010



Source: Audit staff analysis of delinquent business license accounts, based on Commercial Collection Agency Association’s survey on collectability of delinquent accounts.

AUDIT OBJECTIVES

This audit was requested by the Director of Finance and was included in the City Auditor's Fiscal Year 2011 Audit Plan, which we presented to Council on June 29, 2010. Our audit objective was to determine if business licenses are assigned correct tax codes, taxes are accurately calculated, and, when appropriate, that interest and penalties are accurately assessed. As we conducted the audit, we also identified unpaid business license accounts that were long past due and added an objective to determine the effectiveness of Finance's collection activities on delinquent business license accounts. Appendix A provides a discussion of the scope and methodology we used to conduct this audit.

BACKGROUND

Business license taxes raise revenue for municipal purposes

General fund received \$14.5 million in FY 11 from 13,000 businesses

Three units in Finance enforce the BMC's business license provisions

The City Council enacted the current business license tax ordinance in 1977, codified as Chapter 9.04 of the [Berkeley Municipal Code](#) (BMC), to raise revenue for municipal purposes. The BMC requires all individuals and entities engaged in business in Berkeley to purchase a City business license. In Fiscal Year 2011, the City received \$14.5 million in business license tax revenue from more than 13,000 active business licenses.

The Finance Director is responsible for enforcing the BMC's business license provisions. Three different Finance units have primary responsibility for carrying out these provisions:

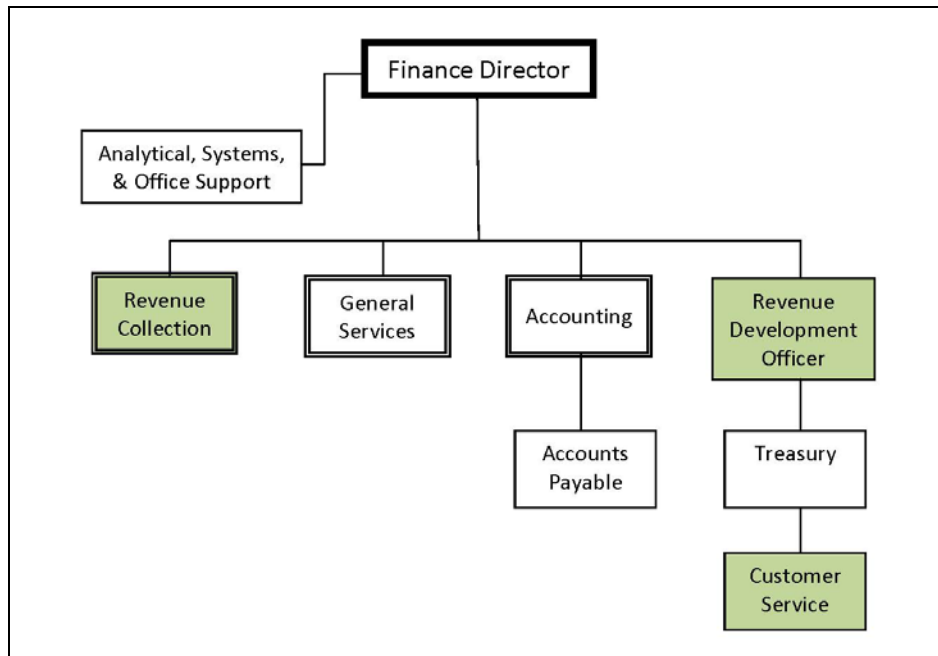
- The Revenue Collection Division processes mail-in applications for new and renewing licenses, mails annual license renewal notices, bills and collects delinquent renewals and amounts billed by Revenue Development, and processes tax liens associated with delinquent business license accounts.
- Revenue Development is part of the Office of the Director and Finance Administration. It generates new revenue by

identifying businesses that have not paid or have underpaid their business license taxes and by collecting the delinquent taxes, penalties, and interest.

- The Customer Service unit within Revenue Development processes new license applications and license renewals, and receives payments from walk-in customers.

The following chart shows the organizational structure of Finance. The colored boxes are the units with primary responsibility for business license tax activities. Throughout this report, we refer to the specific unit in Finance when the discussion pertains only to that unit and to “Finance staff” when the discussion pertains to more than one unit in Finance.

DEPARTMENT OF FINANCE – ORGANIZATION CHART



Source: City of Berkeley Adopted Biennial Budget, Fiscal Years 2012 & 2013, pg. 173

City Auditor conducts annual business license compliance audit

In addition, the City Auditor’s Office conducts an annual business license tax audit to identify underreporting, delinquent, and unlicensed businesses, and bills the owners for unpaid taxes, penalties and interest. Finance’s Revenue Collection Division pursues collection of the Auditor’s billings.

Business license taxes generally assessed as percentage of gross receipts

The BMC lists tax rate codes for various business categories. For most businesses, Finance staff align a business' description with the business classification descriptions in the BMC to determine the tax rate code. The appropriate tax rate is not always obvious for businesses that should be taxed as a business, personal and repair service, or as a professional/semiprofessional business. Finance staff use the North American Industry Classification System (NAICS)¹ to determine the appropriate tax rate code for businesses in these two classifications.

Taxes generally are assessed as a percentage of a business' prior year's gross receipts generated in Berkeley. In some instances, the tax is a flat fee or a percentage of gross payroll or value added (e.g., gross receipts less the cost of raw materials). There is a minimum tax of:

- \$26 for nonprofit organizations and for in-home businesses operating in a residential area or having annual gross receipts of \$2,000 or less.
- \$51 for businesses that maintain an office or operate a business in Berkeley, whether or not any gross receipts are derived from or attributable to business activities in Berkeley.
- \$77 for each rental building, structure, or property subject to licensing.

Licenses expire on December 31 each year

Business licenses are effective January 1 through December 31 annually or, for new licenses, from the purchase date through December 31. The BMC requires licenses to be paid in full:

- Within 30 days of commencing or discontinuing business; a \$25 registration fee is due within 15 days of commencing business.
- Before March 1 for renewals.

¹ NAICS classifies businesses into industry groups based on a business' operations and is also used for business statistic purposes. The United States, Canada, and Mexico jointly developed NAICS in 1997 to replace the Standard Industrial Classification (SIC) system, to recognize new businesses in our economy, and to allow comparison of economic data across borders in North America.

Penalties and interest assessed on delinquent licenses; additional remedies available

The BMC requires licenses to be assessed a 10 percent penalty immediately upon becoming delinquent, or a 50 percent penalty if payment remains delinquent for another 30 days. Delinquent licenses are to be assessed interest at the rate of one percent per month, or fraction thereof, on unpaid taxes and penalties from the date the license fee first became delinquent until paid. The City can pursue additional remedies for delinquent licenses, such as:

- Passing the debt, plus a \$50 administrative charge, to the county auditor to collect with the next business property tax payment.
- Issuing a citation.
- Seeking court action, such as Small Claims Court.
- Seeking criminal prosecution.

Remedies prescribed in the BMC are cumulative, and the BMC allows more than one to be used on a delinquent licensee.

Businesses may appeal license and tax decisions

Businesses have the right to appeal decisions regarding the City's issuance or refusal to issue a license, or the amount of a license tax. A hearing examiner from the City Manager's Office listens to the City's and the business' description of the concerns. The hearing examiner accepts and evaluates all evidence provided, and issues a written decision to all parties, which shall be final.

Transactions are processed in FUND\$ Occupational License module, which is being replaced

Business license transactions are processed in the Occupational License module of FUND\$,² the City's financial and work management system. However, because the module – which is considered obsolete – does not have online application, renewal, or payment capabilities, business owners must apply for licenses and renewals and pay license taxes by mail or in person at the Customer Service Center. The City Council approved a contract in July 2011 to replace the Occupational License software. Appendix B shows the forms used to apply for and renew a business license.

² FUND\$ is a product of SunGard Public Sector, formerly HTE.

FINDINGS AND RECOMMENDATIONS

Finding 1: Business License Guidance Is Insufficient and Is Inconsistently Applied

Finance staff accurately assigned business license tax codes in the sample of new business license applications we reviewed. However, they did not always assess taxes, penalties, and interest accurately and consistently, primarily because available guidance is not sufficient. Several provisions in the BMC are not clear as to their intent, written policies and procedures are insufficient, and business license forms are poorly designed and do not adequately reflect BMC requirements. These deficiencies result in varying interpretations of how to assess business license taxes, penalties, and interest. They also cause businesses to make errors in calculating the amount of business license taxes, penalties, and interest due. The errors and inconsistencies can result in businesses being taxed inequitably and can lead to businesses appealing their cases.

Other weaknesses in Finance could affect the accuracy of tax, penalty, and interest assessments. Weaknesses include the lack of supporting documentation for and supervisory review of adjustments, payments received but not applied to a business license, and not reconciling business license deposits recorded in the FUND\$ general ledger holding account with the payments received in the Occupational License module. Dispersed business license responsibilities among multiple units within Finance also increase the risk for inconsistency in applying business license tax requirements.

BMC needs clarification; forms need to be redesigned

The following sections of the BMC require clarification and the business license forms should be redesigned to align with the BMC:

- 9.04.120, *Interest* – Clarify how to apply the term, “or fraction thereof,” to interest calculations and whether interest should be calculated as simple or compound.
- 9.04.070, *Declaration statement required for license and amended tax and renewal for new business*, and 9.04.110, *Penalty for nonpayment or underpayment of annual*

license--Accrual of cause of action – Clarify when closed businesses become delinquent and if the penalty provision applies to them.

- 9.04.165, *Professional-Semiprofessional – Connected business* and 9.04.180, *Construction contractors* – Define “subcontractor” and the intent of the allowing the deduction.

Finance staff accurately assigned business license tax codes

Finance staff assigned appropriate business license tax rate codes in the sample of new and renewal applications we reviewed. Assigning the correct tax rate code is essential because it is the basis for calculating the amount of business license taxes a business must pay.

In 2007, Finance staff conducted a review of the business license renewals for that year and identified about 400 businesses that were assigned an incorrect business license tax rate code. As a result of that review, Finance staff initiated a project to review the tax rate codes for all licensed businesses. We believe the effort Finance staff put into this project is the likely reason we did not identify any errors in assigned tax rate codes.

Tax errors due to not understanding BMC allowance for subcontractor deductions

The BMC allows professional and semiprofessional businesses and construction contractors to exclude from their gross receipts “the portion of those receipts paid to subcontractors” prior to calculating the amount of business license tax due. The business must provide Finance with a list of subcontractors and the amounts paid to them. The BMC does not define “subcontractor” or state the intent of this provision, such as whether the purpose is to prevent double taxation within Berkeley.

Staff involved in the business license tax process do not clearly understand when subcontractor deductions are allowed, and the business license renewal form adds further confusion as to when the deduction is allowed:

BMC allows professional and semiprofessional businesses to deduct subcontractor payments; staff do not

- A supervisor in Revenue Collection said the BMC provision allowing businesses to deduct the gross receipts paid to subcontractors applies only to construction subcontractors, but later retracted that statement.
- In a recent business license tax appeal, a hearing examiner stated that the City’s revisions to the Business License Tax Renewal Form make it clear “that deductions from gross receipts may be made only by those with Tax Code C for contractors,”³ although BMC 9.04.165.D also specifically allows the deduction for professional and semiprofessional businesses.

Forms do not provide space for professional and semiprofessional businesses to deduct subcontractor payments

- The application for a new business license, available on the City’s website, includes a section specifically notifying *contractors* that they must attach a subcontractor list if they will deduct payments to subcontractors. However, the form does not address that the deduction is also allowed for professional and semiprofessional businesses.
- The business license renewal form does not include a line for professional and semiprofessional businesses to deduct subcontractor payments. The separate instruction sheet specifically tells those businesses that they must report their gross receipts “without any deduction due to the costs of property sold, materials used, labor or services, interest paid or payable, any losses, or *other expenses [emphasis added].*” The instruction sheet does not mention elsewhere that professional and semiprofessional businesses may deduct subcontractor payments. In contrast, construction contractors calculate their taxes in another section of the form that has a separate line for subcontractor deductions, and the instruction sheet specifically mentions the allowable deductions for subcontractor payments.
- The renewal form sent to delinquent businesses also does not include a line for professional and semiprofessional businesses to deduct subcontractor payments, but the instructions on the reverse side refer the business owner to the BMC to determine what deductions are allowed.

³ Tax code C is used only for construction contractors.

Finance’s procedures lack guidance on professional and semiprofessional businesses’ deduction of subcontractor payments

- Finance’s Miscellaneous Information document, used by staff who process business licenses, says, “If you are renewing a CONTRACTOR and they have made deductions, make a copy of the subcontractor list and renewal form and give to [Finance staff].” The document does not mention that professional and semiprofessional businesses may also have taken subcontractor deductions.
- The Business License Renewal Frequently Asked Questions document, used internally by Finance staff who process business licenses, says that receipts paid to subcontractors are allowable deductions for professional, semiprofessional, and contractor businesses. However, a separate box for professional and semiprofessional businesses conflicts with the accompanying narrative by stating that no deduction is normally allowed for these two business types.

Not allowing deductions can cause businesses to overpay their taxes

Disallowing subcontractor deductions permitted by the BMC and having forms that do not provide space for the deduction has likely caused some businesses to overpay their business license taxes. The overpayment would also cause a delinquent business to be overcharged penalties and interest, since both are assessed as a percentage of delinquent taxes.

Interest calculated inconsistently; varying methods cause inequity

Finance sometimes assesses interest through end of previous month; sometimes through end of current month

BMC 9.04.120 requires interest to be assessed “at the rate of one percent per month, *or fraction thereof [emphasis added]*, on the amount of the fee and penalties from the date on which the license fee first became delinquent until paid.” Finance staff use various methods to calculate interest on delinquent business license accounts. Finance staff:

- Sometimes assess interest only through the end of the previous month on delinquent licenses they process at any time during a month. They do this because they believe the extra work involved and the increased chance of error outweigh the benefit of getting slightly more interest from partial month billings. Using this method suggests they interpret “or fraction thereof” to mean they should prorate interest for any fraction of a month that an account is delinquent.

Interest not always assessed on penalties	<ul style="list-style-type: none">• Sometimes assess interest through the end of the month during which a billing is made. Using this method suggests they interpret “or fraction thereof” to mean they should charge a full one percent of interest for any fraction of a month that an account is delinquent.• Do not always assess interest on the penalties. One case we reviewed did not have interest assessed on the penalty. Although the business accurately calculated the amount of interest due, Customer Service staff recalculated it based only on the delinquent tax amount. Because the Occupational License module is not configured to calculate interest on penalties, it is likely the lower interest amount resulted from Customer Service staff relying on the Occupational License module to calculate the interest due.
Varying methods cause inequity	<p>These different methods result in delinquent businesses being assessed interest inequitably, and do not ensure that businesses pay interest that accrues through the payment date, as the BMC requires. It is not realistic to expect Finance staff to calculate interest through the payment date since they do not always know in advance what that date will be. However, there should be consistency in meeting the intent of the BMC and in how interest calculations are made to ensure the City taxes businesses equitably.</p>
Should interest be simple or compound?	<p>The BMC does not specify whether to assess interest on a simple or compound basis. As a benchmark, federal regulations prohibit charging compound interest on overdue obligations, including penalties and administrative costs. However, if a debtor defaults on a previous repayment agreement, charges that accrued but were not collected under the defaulted agreement are added to the principal. This methodology results in interest being assessed on interest under the new repayment agreement. Finance staff calculate interest at a simple one percent per month. For example, if a business is late in renewing its business license, Finance calculates simple interest as follows:</p> <p>(tax amount due + penalty) x 1% x number of months delinquent</p>

FUND\$ is not configured to assess interest accurately

The FUND\$ Occupational License module calculates the amount of taxes and penalties due. Although FUND\$ can be configured to calculate interest on both the delinquent tax amount and the penalty, as required by the BMC, it is currently configured to calculate interest only on the delinquent tax amount. Revenue Collection developed a spreadsheet to calculate taxes, penalties, and interest on delinquent business licenses, but the spreadsheet is designed to calculate interest for full months only. This means delinquent businesses billed any time during a month will be charged either no interest or a full month's interest for the billing month, depending on the date entered into the spreadsheet.

Reconfigure FUND\$ to eliminate inconsistencies in interest calculations

The inconsistencies in how interest is calculated could be eliminated if the FUND\$ Occupational License module were reconfigured to calculate interest on penalties. This would require only minor changes, but would ensure all businesses are taxed equitably. The Occupational License module also could be changed, if needed, to calculate compound interest.

Renewal form not clear on how to calculate interest: inequitable results

Businesses calculate their own interest when they use the business license renewal form to submit delinquent payments, so the intent and calculation method must also be clear to the business community. Finance's renewal form requires a full one percent of interest to be added as of the first day of each month during which a license is delinquent. This causes businesses that self-report and calculate interest on their delinquency to pay a month more of interest than businesses for which Revenue Collection calculates and bills the interest.

Because the renewal form does not include a line to subtotal the tax and penalties, it is not clear that interest must be paid on both the delinquent tax and the penalties. A separate instruction sheet says interest is to be added to the tax and penalties. However, that requirement could be easily missed because it is at the bottom of the second page of a two-sided document that is full of fine print. The table below shows the section of the 2012 business license renewal form used to calculate penalties and interest on delinquent accounts.

EXTRACT OF 2012 BUSINESS LICENSE RENEWAL FORM

<u>RENEWAL AFTER FEBRUARY 29TH</u>	
TAX AMOUNT \$ _____
(from Renewal Fee Section)	
10% PENALTY ADDED	
MARCH 1 ST \$ _____
ADDITIONAL 40% PENALTY	
ON APRIL 1 ST \$ _____
1% INTEREST ADDED	
MARCH 1 ST \$ _____
ADDITIONAL 1% PER	
MONTH AFTER APRIL 1 ST	\$ _____
TOTAL DELINQUENT RENEWAL FEE	\$ _____

Not clear that interest is to be added to both tax amount and penalty

Source: 2012 Business License Renewal Form

The renewal form Revenue Collection sends to delinquent businesses is different from the standard renewal form. It includes a separate line to subtotal the tax and penalty amounts before calculating the interest due, making it clearer that interest is to be calculated on the sum of the delinquent taxes and penalties.

Penalties and interest not assessed on delinquent closed businesses

BMC requirements not clear on whether to assess penalties and interest on closed businesses

Revenue Collection staff said they do not assess penalties and interest on closed businesses. The BMC does not clearly require closed businesses to pay penalties and interest, but also does not specifically exempt them. Reading various sections of the BMC together suggests the penalty and interest provisions may also apply to closed businesses that do not submit an amended tax declaration within 30 days of closing:

- BMC 9.04.070 requires businesses to file an amended tax declaration within 30 days of ceasing operations and pay a fee based upon the gross receipts generated for the period of the year the business was in operation, but does not specifically say a closed business is delinquent if it does not meet that timeline.

- BMC 9.04.110 cites timelines for when new and renewed licenses become delinquent and associated penalties, but does not specifically say if penalties apply to closing businesses that submit late amended tax declarations.
- BMC 9.04.120 requires interest to be assessed on *any* license fee that has not been remitted as required “from the date on which the license fee first became delinquent until paid.” The lack of a specific exemption in this section and the use of the word “any” suggests the requirement to pay interest may also apply to closed businesses that do not submit a final business license tax payment within 30 days of closing.

One closed business in our sample did not submit its amended declaration within 30 days. There was a dispute between this licensee and the City regarding the amount due. The Revenue Collection Manager said it is their policy not to charge penalties and interest on disputed assessments because the amount owed is not clear, although this policy is not in writing. In this particular case, however, the licensee paid significantly less than the undisputed amount of taxes due. At a minimum, the licensee should have been required to pay penalties and interest on the undisputed amount.

Renewal form adds confusion about when closed businesses must file an amended tax declaration

The annual business license renewal form adds confusion about when the amended tax declaration is actually due and whether closed businesses are required to pay penalties and interest when they do not file their amended tax returns timely. The back of the 2012 business license form says, *“If you closed your business or sold your rental property in 2011 you must complete the required section of this form and pay taxes based upon Gross Receipts received in 2011. Perform the calculations as indicated and remit the calculated amount.”* The attached instruction sheet says the license must be renewed before March 1st to avoid penalties and interest.

Receiving a renewal form can remind closed businesses to make their final business license tax payment if they have not already done so. However, having them follow the renewal form

guidance contradicts BMC 9.04.070.C. This provision requires closed businesses to file an amended declaration within 30 days of closing the business. Regardless of when the business closed the prior year, complying with the BMC's 30-day requirement means the due date would always be earlier than the February renewal date in the subsequent year.

Further, the renewal form requires taxes to be calculated in the "Renewal Fee Section" and penalties and interest to be calculated in the "Renewal After February 29th" section. Although Revenue Collection staff said they do not assess penalties and interest on closed businesses, telling closed businesses to use the renewal form suggests that Finance does expect closed businesses to pay penalties and interest if they have not paid their final taxes by the last day of February in the year after the business closed. However, a closed business may think it does not have to pay penalties and interest since it is not actually renewing its license.

Finance has a separate Amended Business License Declaration form that businesses can use when they close. Revenue Collection staff send this form when they become aware of a business closing. Although other business license forms are available on the City's website, this one is not.

The form does not require a business to pay penalties if it does not submit the form within 30 days of closing, but does say that failure to respond to the letter within 30 days will result in additional penalties. The letter does not mention whether interest would also be assessed. Citing the penalty provision suggests that Finance staff understood that penalties should be assessed on a closed business.

30 days may not be enough time for closed businesses to file an amended tax declaration

The Revenue Collection Manager questioned the reasonableness of requiring closed businesses to submit an amended tax declaration within 30 days of closing. Specifically, she expressed concern about whether 30 days is sufficient time for a closing business to be able to close their books and know the appropriate amount to report on its amended tax declaration.

Fraud risks: some are repeat audit findings and a citywide problem

We identified three fraud risks related to Finance’s business license tax activities: 1) staff performing incompatible duties, 2) lack of reconciliation, and 3) insufficient support for and lack of supervisory review of adjustments. Prior audits by both our office and the City’s external financial statement auditor have identified all of these issues as citywide concerns. Although we did not find evidence of fraud in Finance’s business license activities, not correcting these risks could allow fraud to occur in the future.

Incompatible duties: staff could create and delete records; issue corrected during audit

Although we did not identify any instances of fraud related to Finance’s business license processes, we determined that a Revenue Collection supervisor had the ability to create and delete records in the FUND\$ Occupational License module. Having the ability to both create and delete records provides an opportunity for fraud to occur and not be detected because deleting a record removes all of its history. Disallowing record deletion would require staff to inactivate a record instead, making it more transparent that a record was created. After we mentioned this concern to Department of Information Technology staff, they eliminated the ability for any staff to delete records in the Occupational License module.

We have identified concerns with incompatible duties in at least three prior audits.⁴ We mention it again here to increase citywide awareness of the need to ensure that one individual does not perform all tasks related to a process, which increases the potential for errors and fraud to occur and not be detected.

Reconciliation not being done; cited in at least three prior audits

It is important that City staff perform reconciliations as an accounting monitoring control. Reconciliation helps prevent fraud by ensuring that all business license tax receipts are attributed to the correct licensee account and are deposited. We have cited the lack of reconciliation as a finding in at least three

⁴ [Marina Surprise Cash Count: Controls Over Cash Receipts Need Improvement, October 2007](#)
[City Fuel Operations Need Improvement, April 2011](#)
[Animal Shelter Surprise Cash Count: Controls Need Improvement, October 2007](#)

other City audits.⁵ Based on recent audit work and status reports City departments have provided on these three audits, we have learned that this condition continues to exist in other City departments. Lack of reconciliation can and has resulted in employee fraud.

Business license cash receipts are placed in a temporary holding account before posting the revenues to the general ledger. Finance did not reconcile, as an accounting monitoring control, deposits recorded in the holding account to payments received in the Occupational License module. This means the City had no assurance that business license revenue was not misappropriated or that it was recognized in the City's financial statements.

Insufficient support for and lack of supervisory review of adjustments; cited in multiple prior audits

We reviewed 22 business license accounts to determine if tax adjustments made were necessary and accurate. Six (27 percent) of the adjustments did not provide reasons for the adjustments or how the amounts were determined. Five (23 percent) adjustments, including two that exceeded \$1.7 million each, did not have evidence of supervisory review. The lack of explanation or review prevented Finance management from verifying that the tax, penalty, and interest adjustments were necessary or accurate.

Finance staff make adjustments for various reasons, such as correcting a misapplied payment; correcting an error in the amount of taxes, penalties, or interest due; reversing a payment when a check is returned for insufficient funds; or adjusting the amount due based on a hearing examiner's decision. Staff in various units in Finance have the ability to initiate or input adjustments. In some cases, Revenue Collection staff input adjustments that were initiated by Customer Service or Revenue Development staff, but there was no requirement for them to verify or return adjustments that lacked support or supervisory

⁵ [Parks, Recreation & Waterfront Cash Receipts/Cash Handling Audit, September 2002](#)
[Customer Service – Cash Receipts/Cash Handling Audit, April 2003](#)
[Purchase Order Audit – Select Public Work Divisions at the Corporation Yard, March 2005](#)

approval. The staff who initiate an adjustment have responsibility for documenting the reason for the adjustment and ensuring it receives supervisory approval. Supervisory approval should occur in the unit of Finance that initiated the adjustment. The adjustments lacking adequate support and supervisory review were made or requested by various staff in Customer Service, Revenue Development, and Revenue Collection.

Revenue Collection staff were not aware that business license tax adjustments are shown on one of the Occupational License module reports and therefore relied on staff to present each adjustment, on paper, for review. This process could allow an employee to make inaccurate, inappropriate, or fraudulent adjustments in FUND\$ and bypass the supervisory review requirement, thereby preventing the errors or inappropriate or fraudulent adjustments from being identified and corrected.

Written explanation for and review of adjustments is a fundamental management procedure, and explanations should stand on their own without need for additional explanation. The lack of support for and review of adjustments has been a recurring citywide issue. We cited it as a finding in at least two other City audits.⁶ The City's external auditor also cited it as a significant deficiency⁷ in its audits of the City's financial statements for fiscal years 2009, 2010, and 2011.

Audit recommendation not implemented; internal guidance issued but not followed

When we issued the budget monitoring audit in 1999, the former Finance Director responded that no adjustments that materially affect the City's financial statements should be made without supervisory approval, but did not agree that all other adjustments need approval. Finance's response to the payroll

⁶ [Lack of Support for Payroll Adjusting Journal Entries: Grant Revenue at Risk?, October 2010](#)
[Departmental Budget Monitoring Audit, May 1999](#)

⁷ A "significant deficiency" is a deficiency, or combination of deficiencies, in financial reporting procedures that is considered less severe than a "material weakness" yet important enough to merit attention by those charged with governance. A "material weakness" presents a reasonable possibility that a material misstatement of an entity's financial statements will not be prevented, or detected and corrected, on a timely basis.

audit said they would issue an administrative regulation with clear guidance on the documentation that must be attached to support adjustments, and that one department had already made changes to include support. However, Finance has not yet published a citywide policy requiring supervisory approval of adjustments. It also has not implemented changes, as indicated by the fact that its business license policies and procedures did not address when adjustments may be made, who was authorized to make them, or that a supervisor must review them.

The Finance Director issued a memorandum in December 2009 notifying the Acting Customer Service Manager, the Revenue Collection Manager, and the Revenue Development Officer that all business license adjustments for penalties and interest must be documented on an adjustment request form. This management directive requires the Revenue Collection Manager or Finance Director to sign the form to approve the adjustment. However, Finance did not incorporate this management directive into its policies and procedures and staff did not always follow its requirements.

City's reputation at risk if fraud actually occurs

In addition to creating fraud risks, these issues can have a severe impact on the City's reputation if a fraud actually occurs, regardless of whether the dollar value of the fraud is material to the financial statements. The significance of these risks is emphasized by the fact that they have been cited in multiple audits.

Payments not all applied to business license accounts

Even if taxes, penalties, and interest are calculated correctly, a licensee's records in the Occupational License module of FUND\$ may not be accurate. FUND\$ produces a License Receipts Applications report showing accounts with an "unapplied balance," but a supervisor in Revenue Collection was not aware of these balances. The November 15, 2010, License Receipts Applications report showed almost \$91,000 that had not been applied to about 360 licensee accounts during calendar years

2001 through 2010. This revenue remains in a suspense account indefinitely until Finance identifies how to record it. This practice may cause business license revenue to be understated.

Unapplied balances occur when a payment exceeds the charge for the business license. This might occur if staff apply a payment to an incorrect license, for example, when a business owner has more than one business, such as multiple rental properties that require separate licenses.

Not applying these payments to the appropriate accounts could cause Finance to send delinquency notices to some businesses that were not actually delinquent.

Fragmentation of business license activities among three Finance units increases potential for errors and inconsistency

Multiple guidance documents, but none provide sufficient guidance

In addition to the reasons cited above, many of these deficiencies occurred because business license responsibilities are fragmented primarily among multiple units within Finance: Revenue Collection, Revenue Development, and Customer Service. This fragmentation increases the potential for inconsistency in how licenses are processed and how taxes, penalties, and interest are calculated and assessed.

Finance has multiple guidance documents, primarily in the form of written policies and procedures for processing business licenses, but none provide sufficient guidance on how to apply the BMC requirements. The guidance that is provided is hard to follow because it is not clearly presented. For example, single lines of instructions are inserted between images of FUND\$ screens in the documentation and can be easily missed. The existing procedures do not provide guidance on:

- How to calculate penalties and interest on delinquent business license taxes in accordance with BMC requirements.
- Assessing penalties and interest if a business owner fails to report and pay taxes within 30 days of closing a business.
- Determining allowable deductions from gross receipts for payments to subcontractors.
- The need for explanatory support for or supervisory review of adjustments to business license accounts.

- Resolving unapplied balances.
- Reconciling business license revenue recorded in the FUND\$ Occupational License module with deposits in the FUND\$ Cash Receipts module.

Written procedures are widely recognized as a management tool that promotes consistency of work performed and helps ensure that employees understand management’s intent. Written procedures save time, prevent mistakes, and improve the quality of products and services. Steven Bragg, author of *Billing and Collections Best Practices*, recommends having policies and procedures manuals and using them to train staff as a best practice for efficient collection of accounts.

Recommendations

Amend BMC to clarify requirements

The Department of Finance should:

- 1.1 In collaboration with the City Attorney and City staff involved in the business license and appeals process, draft recommended language and request the City Council to amend BMC 9.04 to:
 - Reword the phrases, “*or fraction thereof*” and “*until paid,*” so it is clear whether interest should be prorated for payments billed/paid mid-month or if a full one percent of interest should be assessed for any fraction of a month in which an account is delinquent. When selecting the revised language, consider the administrative practicality of implementing it and industry standards for assessing interest.
 - Clarify whether interest should be calculated as simple or compound interest.
 - Clarify whether a closed business is considered delinquent when it files its amended tax declaration more than 30 days after closing and, if so, whether it becomes subject to the BMC’s penalty and interest provisions. While clarifying this requirement, consider whether 30 days is sufficient time to require a business to submit its amended tax declaration or whether the timeline should be lengthened, and amend the timeline if necessary.

- Define “subcontractor” and cite the intent of allowing subcontractor deductions to clarify what may be deducted (e.g., a business that holds a separate business license in Berkeley and therefore pays business license taxes on its own revenues). Require subcontractor lists submitted to include the subcontractors’ Berkeley business license numbers. Include language on the business license forms reminding businesses that the City may verify that claimed deductions are allowed.

NOTE: If any of the above amendments might increase any individual’s tax liability, that amendment would require voter approval.

Reconfigure the FUND\$ Occupational Module so it accurately calculates taxes, penalties, and interest

1.2 Submit a request to the Department of Information Technology to reconfigure the FUND\$ Occupational License module so it calculates taxes, penalties, and interest in accordance with BMC requirements. Once that is done, discontinue use of the spreadsheet.

Provide in-depth written guidance, including examples, to achieve consistency

1.3 Develop a single set of Finance Department written procedures to provide complete guidance on how to process business licenses and calculate the amount of taxes, penalties, and interest due. Provide copies of the updated procedures and training to staff to ensure all staff involved in the business license process follow the same procedures and provide consistent guidance to businesses. The procedures should:

- Provide guidance and examples on the date to use as the basis for calculating penalties and interest due for both renewing and closed businesses.
- Provide guidance and examples for the types of subcontractor deductions allowed, how to determine that claimed deductions are appropriate, and the business types allowed to take the deduction. The determination of whether a deduction is appropriate should be based on the definition of “subcontractor” developed under Recommendation 1.1 above.

- Include sample answers to questions that businesses frequently ask regarding business licenses.
- As recommended in previous audits, require written support, including guidance on what constitutes sufficient support, for adjustments related to business license taxes. Revenue Collection staff should return to the initiating staff any adjustments received for input that do not include sufficient support.
- As recommended in previous audits, require evidence of supervisory review of business license tax, penalty, and/or interest adjustments. Revenue Collection staff should return to the initiating staff any adjustments received for input that have not had supervisory review. Supervisory review should include:
 - Written evidence of the review.
 - Manager review of large dollar transactions. The Director should establish criteria as to what constitutes a large-dollar transaction.
 - Documented review of the monthly list of adjustments from the FUND\$ Occupational License module and evidence that the list is used to identify and review all adjustments for necessity and accuracy.
- Require a supervisor to reconcile, at least monthly, revenue recorded in the general ledger holding account with the payments recorded in the Occupational License module and for management to verify that reconciliations are performed as required.
- Run the completed policies and procedures manual through a rigorous review process to ensure it adequately addresses questions and issues staff encounter while performing business license activities and that staff are clear on how to apply the procedures.

Explore the feasibility of consolidating Finance business license tax activities into a single unit

- 1.4 Explore the feasibility of consolidating Finance’s business license tax activities into a single unit to minimize the potential for inconsistency in applying business license tax requirements. As part of that process:
- clarify staff roles and responsibilities by job title, and

- review and update position descriptions to ensure they include language that appropriately reflects the knowledge, skills, and abilities required to perform the assigned responsibilities, including knowledge of methods of fraud prevention and detection.

- Revise business license forms for clarity and to minimize the potential for errors

1.5 Revise the business license renewal forms and instructions to make them more user-friendly and minimize the potential for errors. For example:

 - Have only one section for businesses to calculate taxes based on gross receipts.⁸ Include a separate line for allowable deductions and a statement that contractors, professional, and semiprofessional businesses may deduct subcontractor payments and that manufacturers may deduct the value of raw materials and energy costs. Revise the instruction sheet to provide clear guidance regarding allowable deductions for these business types.
 - In the late renewal section, provide subtotal lines and language to clarify that interest is to be calculated on the renewal fee plus penalties.

- Revise the Amended Business License Declaration form and post it on the City’s website

1.6 After clarifying the BMC requirements for closing businesses, revise the Amended Business License Declaration form to accurately reflect those BMC requirements and to include the “under penalty of perjury” statement. Ensure the form is clear as to how to calculate penalties and interest for businesses that do not file it within the timeline specified in the BMC. Post the revised form on the City’s website.

- Revise the Business License Renewal form to include a section specifically for closing businesses

1.7 Revise the standard Business License Renewal form to include:

 - a reminder that if the business has or will cease operations in Berkeley during the current year, it needs to complete the renewal as usual and then file an

⁸ Finance revised the 2012 business license renewal form to consolidate the contractor and manufacturer sections. This section includes a line for allowable deductions. However, there is still a separate section for all other businesses that pay their taxes based on gross receipts.

amended business license declaration within the timeline specified in the BMC and pay business license taxes due through the date of business closure, and

- a specific section for closing businesses to use to file their final business license declaration.

Resolve the large number of unapplied balances

- 1.8 Prior to converting to the new Occupational License software, investigate the large number of unapplied balances and ensure they are applied to the appropriate license and tax year and/or account. In the future, Finance staff should:
- review the cash post listing to identify and resolve any unapplied balances (shown as an “overpayment” on the cash post listing).
 - review the unapplied balances list at least monthly and promptly investigate to ensure business license account balances are accurate.

Disable the software feature that allows records to be deleted

The Department of Information Technology should:

- 1.9 Deactivate the feature in the FUND\$ Occupational License module that allows records to be deleted. When the new Occupational License module is implemented, configure it so no individual can access functions that, when used together, could allow the employee to commit fraud and not be detected.

City Manager’s Response

The City Manager agreed with all of the recommendations. The full response is at Appendix C.

Finding 2: Efforts to Collect Delinquent Business License Taxes, Penalties, and Interest and to Write off Uncollectable Accounts Are Ineffective and Insufficient

Finance needs to be more aggressive and consistent in its efforts to pursue collection from businesses that owe past-due taxes, penalties, and interest, or that are delinquent in renewing their annual business license. Finance's collection efforts fell short of recognized best practices and did not take advantage of all available collection and enforcement options. Consequently, there was \$1.1 million of unpaid business license taxes, penalties, and interest recorded in the Occupational License module as of January 30, 2012. However, only \$381,000 (35 percent) of that amount was within the statute of limitations for pursuing collection. The City could receive approximately \$90,000 of additional revenue annually if Finance staff were more timely and persistent in their collection efforts. Finance also needs to write off unpaid business license accounts that are beyond the statute of limitations for pursuing collection.

Finance does not follow best practices to improve its collection rate

Fair Isaac⁹ – the company that developed the FICO credit scoring system – recommends increased contact efforts for accounts that have a higher risk of becoming uncollectable. Finance does not follow this recognized best practice and does not have a systematic process for improving its collection of delinquent business license taxes, penalties, and interest. For example, Finance does not:

- Contact the debtor within 30 days of the due date and make frequent contact thereafter until the account is paid.
- Age accounts receivable to increase the probability of collecting delinquent accounts.
- Prioritize delinquent accounts based on their risk of not paying to identify past-due accounts that require intensified collection effort.
- Use an outside collection agency to collect overdue accounts.

Quicker and more frequent contact needed

Finance's policies and procedures identifying timelines for pursuing collection of delinquent business license accounts are inconsistent and are not followed:

⁹ Fair Isaac is now called FICO.

- Revenue Collection Division’s written policy requires the first run identifying delinquent accounts to be made 45 to 60 days after the annual license renewal date – one-and-a-half to two times beyond the minimum industry standard.
- The scope of services with the contractor that processes the delinquency notices says notices are mailed three times a year, but does not specify the time interval between notices.

Contrary to their written procedures, Revenue Collection staff told us they send notices only twice per year, in May and October or November. The FUND\$ business license records show they sent the three most recent notices on December 21, 2011; May 16, 2011; and November 22, 2010. The City could receive approximately \$90,000 in additional revenue annually if Finance staff pursue collection immediately upon a business license account becoming delinquent.

Staggered renewal periods could improve timeliness of collection follow-up

Annual business license renewals are due by the last day in February for all active businesses. Finance’s Customer Service and Revenue Collection units process approximately 13,000 renewals annually, the majority of which are processed during February and March. Having to process this large volume of licenses at one time delays Revenue Collection’s ability to identify businesses that have not renewed their licenses timely. That, in turn, prevents Revenue Collection from applying the best practice of contacting nonrespondent businesses within 30 days of the due date. Staggering business license renewal dates would help balance the workload throughout the year and improve Revenue Collection’s ability to apply collection best practices. Alternatively, implementing an online renewal process (see Finding 4) could significantly reduce the time spent processing paper applications, thereby providing Revenue Collection staff with more time to focus on collections.

Aging delinquent accounts would help prioritize collection efforts and activities

Finance records business license accounts with unpaid balances as “Payment Pending” in the Occupational License module but does not record these balances as accounts receivable in the City’s financial statements or prepare aging reports on the

unpaid accounts. This prevents Finance from knowing where to focus or intensify its collection efforts and from identifying the best activities to pursue to improve the probability of collection. Finance staff said they do not prepare aging reports because FUND\$ does not offer this feature. Given the number and amount of uncollected business license accounts, Finance should use alternate methods to age its accounts receivable to determine where to focus its collection efforts. One method could be to download unpaid account information into a spreadsheet and sort it by age and amount.

Using an outside collection agency is a best practice

Finance does not use a collection agency to collect delinquent accounts, though some other Bay Area jurisdictions do for certain obligations.¹⁰ Several authoritative sources recommend using outside collection agencies to collect delinquent accounts and provide criteria for when their use should be considered:

- Steven Bragg, author of *Billing and Collections Best Practices*, recommends using a collection agency when there are insufficient internal resources to effectively pursue collection or for collecting accounts that owe small amounts.
- Fair Isaac recommends using outside agencies to collect accounts that have a low likelihood of collection.
- The Commercial Collection Agency Association recommends sending debts that are 120 days delinquent to a collection agency.

Using collection agencies for delinquent accounts is a best practice because:

- There is a point of diminishing returns for pursuing collections internally. It continues to cost money – sometimes more than the value of the delinquent account – to pursue collection internally. Using collection agencies is cost-effective because they charge and are paid only if they collect the debt, rather than for the time actually spent pursuing collection.

¹⁰ San Mateo County uses a collection agency for its hospital receivables. The City of Fremont uses a collection agency for a variety of invoiced obligations, such as driving under the influence, damage to city property, nonsufficient funds checks, fire-related billings, and permits.

- Involving a collection agency encourages payment because the debtor knows the organization owed the debt is not going to tolerate the delinquency.
- Collection agencies can use more aggressive collection tactics than City staff have available to them.

Repeat audit finding: use a collection agency to improve collections

Our June 2007 audit of [Fire Department ambulance billing](#) noted that the billing contractor recommended using an outside collection agency for accounts remaining unpaid at the end of a billing cycle. We recommended that Finance or an outside collection agency perform collection efforts on billings for which the ambulance billing contractor had discontinued collection efforts. In September 2008, Fire reported the recommendation as implemented. The audit status report said the ambulance billing contractor provides Finance with a monthly report listing accounts to consider for collection, but it did not address whether a collection agency would be used or what collection efforts Finance would undertake.

Other collection options not used optimally

Finance did not take advantage of one potentially powerful collection and enforcement option. BMC 9.04.060 states that any person violating any provision of the Business License Chapter shall be deemed guilty of an infraction as set forth in BMC Chapter 1.20. Under BMC 1.20.010.B, an owner may be charged with a separate misdemeanor violation for each day after being warned to discontinue the conduct constituting an infraction and fined an amount that does not exceed:

- \$100 for the first violation.
- \$200 for the second violation.
- \$500 for each subsequent violation.

Thus, an owner who operates a business without a license for one year after being warned to obtain a license and/or pay delinquent taxes, penalties, and interest could be fined \$181,800, in addition to the penalties and interest due on the delinquent business license taxes.

Revenue Collection staff said the Division routinely threatens delinquent business owners with the provisions of BMC Chapter 1.20. However, they could not provide a copy of a Notice of Violation where this had been cited and could not recall ever prosecuting a delinquent business owner under this provision. Although we do not advocate implementing this remedy for every delinquent account, pursuing it for the most egregious violators could improve Finance's success in collecting certain delinquent accounts. Using this remedy could also deter other businesses from allowing their accounts to become delinquent.

Finance lacks criteria for when to use various collection strategies

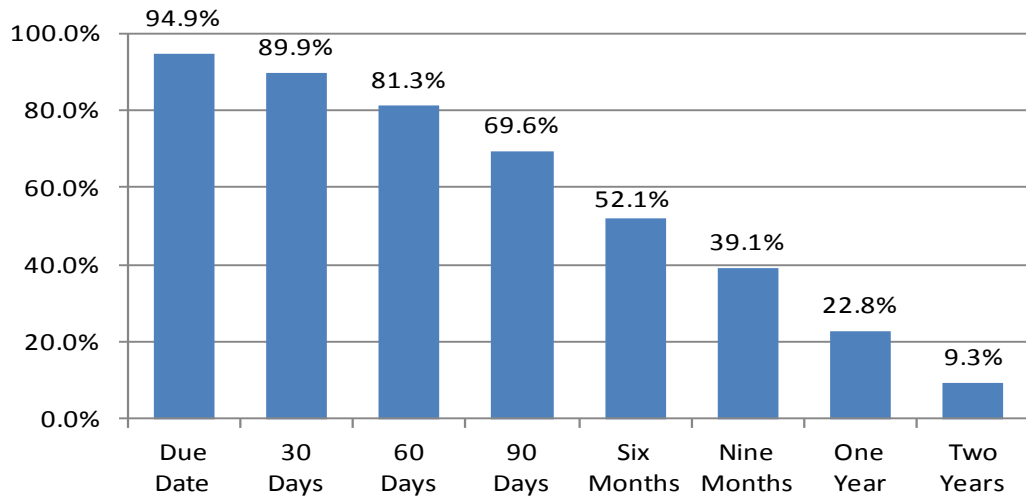
Revenue Collection staff cited other tools they use to pursue collection of delinquent accounts, such as liens on business property and other assets, bank levies, small claims court, and till taps.¹¹ However, Finance does not have policies for when each remedy will be pursued or criteria to trigger their use. Finance staff commented that some of these options are difficult to pursue. Instead, they pursue action based on their perceptions of what they think will yield the most favorable result for the City. The only collection option Revenue Collection demonstrated they use with some regularity is forwarding uncollected business license taxes, penalties, and interest to the county auditor for collection with the business owner's property taxes. In fiscal years 2011 and 2012, Finance sent 134 and 140 delinquent accounts, respectively, to the county for collection.

Collectability of accounts declines rapidly over time

It is important to actively pursue collection of delinquent accounts because the probability of collecting drops rapidly over time. A Commercial Collection Agency Association survey shows a business can expect to collect 94.9 percent of its accounts receivable in full by the due date. The rapid decline that follows, shown in the graphic below, emphasizes the importance of early and persistent collection efforts.

¹¹ Finance must obtain a court order to conduct a till tap. When conducting a till tap, a Finance Department field agent, accompanied by a deputy sheriff, seizes the cash from a business' cash register. Finance may need to conduct multiple till taps to collect the full amount a business owes to the City.

PROBABILITY OF COLLECTING DELINQUENT ACCOUNTS RECEIVABLE OVER TIME



Source: Commercial Collection Agency Association Member Survey

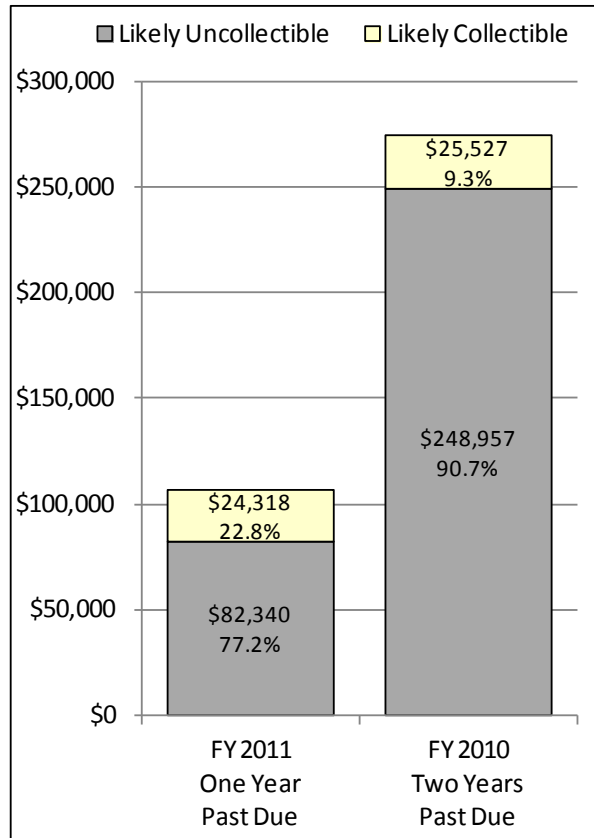
\$711,000 of \$1.1 million in delinquent accounts is outside statute of limitations for pursuing collection

The City loses substantial business license revenue as a result of lax collection efforts. As of January 30, 2012, 1,433 businesses owed the City unpaid taxes, penalties, and interest totaling \$1.1 million. Of that amount, \$710,744 (65 percent) was for license years 1995 through 2009 and is past the three-year statute of limitations for pursuing collection. Based on the Commercial Collection Agency Association’s member survey, the following amount of delinquent assessments would likely be collectable if Finance pursues collection:

- \$25,527 (9.3 percent) of the \$274,484 in delinquent assessments for 277 business licenses due in 2010.
- \$24,318 (22.8 percent) of the \$106,658 in delinquent assessments for 192 business licenses due in 2011.

The probability of collecting some of the amounts is likely higher for businesses that still have active licenses, but only if Finance actively pursues collection before the statute of limitations expires. Some of these amounts may already have been paid and either been misapplied or are on the unapplied balances list. The following graph shows the potential collectability of the delinquent assessments for 2010 and 2011 business licenses.

POTENTIAL COLLECTABILITY OF DELINQUENT BUSINESS LICENSES FOR FY 2011 AND FY 2010



Source: Audit staff analysis of delinquent business license accounts, based on the Commercial Collection Agency Association’s survey on the collectability of delinquent accounts.

Additional \$90,000 could be collected annually with better collection efforts

We determined that the City could expect to receive an average of about \$90,000 more each year if Finance staff pursue collection immediately upon a business license account becoming delinquent. We calculated this figure by averaging the total amount of delinquent accounts for the past ten years and multiplying the result by 89.9 percent, which is the amount the Commercial Collection Agency Association’s member survey identified as being collectable within 30 days after the due date.

ADDITIONAL ANNUAL REVENUE THAT CAN BE EXPECTED WITH TIMELY COLLECTION ACTIVITY

Average of Unpaid Accounts FY 2002 Through 2011		Amount Collectable Within 30 Days of Due Date		Average Additional Annual Revenue
\$100,819	x	89.9%	=	\$90,637

Source: Audit staff calculations.

Staff have limited guidance on collection strategies to pursue

Finance’s procedures do not address collection strategies to pursue

Administrative Regulation does not identify best practices in debt collection

Revenue Collection’s written procedures for delinquent business licenses focus on the steps required to prepare delinquency notices rather than on the efforts and strategies Finance staff should pursue to collect delinquent accounts. The procedures do not mention collection options to pursue if delinquency notices do not achieve payment, other than to say that licenses remaining unpaid for 30 days after the final notice “may require further collection efforts.”

Administrative Regulation 3.15, Write-Offs of Uncollectable Receivables, provides examples of the “due diligence in collection efforts” that City staff must pursue to write off a delinquent account. However, the examples, listed below, are limited and do not demonstrate collections best practices:

- Monthly/quarterly/annual statements or invoices are mailed
- At least three reminder or collection letters are mailed for all past-due accounts
- City files creditor claim in debtor (customer’s) bankruptcy by deadline, or
- Court awards judgment in response to City action (Small Claims)
- Attempts to collect awarded judgment have failed

Having citywide guidance that identifies best practice collection strategies, as well as criteria for when to pursue them, would ensure consistency not only for Finance staff but for all City staff involved in collecting debts.

Uncollectable accounts remain in system indefinitely

Repeat citywide audit finding: uncollectable accounts not written off

These uncollectable amounts remain in the Occupational License module indefinitely because Revenue Collection does not follow the requirements in Administrative Regulation 3.15, Write-Offs of Uncollectable Receivables. Not writing off uncollectable receivables has been a long-time concern of the Auditor’s Office. We cited it as a finding:

- For six consecutive years in our annual Business License Tax Audit Reports for fiscal years 1996 through 2001. Finance, in an audit response submitted to Council in February 2001,

reported that our recommendation was included in the City Manager's Project Management System, with an expected completion date of December 2001. Indeed, Finance wrote A.R. 3.15, originally published in June 2002, but is not applying those requirements to uncollectable business license accounts.

- In our April 2003 audit, [Customer Service - Cash Receipts and Cash Handling](#).
- In our May 1993 audit of Refuse Collection Billing Operations in Public Works.

More than 900 uncollectable business license accounts not written off

Finance does not routinely write off unpaid business license accounts that are beyond the statute of limitations for pursuing collection. As a result, the Occupational License module included \$711,000 in delinquent taxes, penalties, and interest for 964 businesses, as of January 30, 2012, that were beyond the statute of limitations for pursuing collection. These accounts should be recommended for write off. Seven of the 964 accounts, totaling \$130,436 would require Council approval to write off because they exceed \$10,000 each.

Administrative regulation needs language to *require* write offs

Further, A.R. 3.15, Write-Offs of Uncollectable Receivables, "encourages" but does not specifically require writing off uncollectable accounts that meet certain criteria. It requires the Revenue Collection Manager to identify and prepare quarterly summaries of accounts for which Revenue Collection is responsible and to submit the list to affected department directors and/or fund managers for approval. There was no evidence that Revenue Collection followed this requirement for delinquent business license accounts.

Strengthening the A.R. to include examples of best practice collection efforts, along with Finance making aggressive efforts to follow those practices, would likely reduce the number of business license accounts that reach an uncollectable status.

Recommendations

Because other City departments have responsibilities for collecting accounts receivable, the following recommendations should be implemented on a citywide basis. **Thus, the City Manager should ensure that the Department of Finance collaborates with other City departments having accounts receivable to:**

Train City staff on effective collection strategies

2.1 Provide training to Revenue Collection staff and other City staff on effective collection strategies, including how to identify and prioritize high-risk accounts, and on the requirements of A.R. 3.15 for writing off uncollectable business license accounts.

Use a collection agency to collect delinquent amounts owed to the City

2.2 Enter into a contract with an outside collection agency to pursue collection of citywide delinquent accounts. Identify criteria for when to transfer accounts to the collection agency rather than pursuing collection in-house.

Pursue aggressive collection efforts; follow best practices

2.3 Immediately pursue collection efforts on all delinquent accounts that are within the statute of limitations for pursuing collection. Follow proven best practices for seeking payment, based on the age and amount of each account. Before initiating collection action, verify whether each account is on the unapplied balances list, and if so, adjust the account to determine whether there is a remaining delinquent balance to pursue for collection.

Use reports to monitor collection activity and identify effective collection strategies

2.4 Develop reports to monitor collection activity on a monthly and quarterly basis, including an aging report of past-due accounts and a report identifying collection strategies pursued on each delinquent account and the results. Use the results as a long-term planning tool for developing effective collection strategies and criteria for when to use them.

Develop performance measures to evaluate the effectiveness of collection efforts

2.5 Develop performance measures to evaluate the effectiveness of collection efforts. Establish a performance goal for each measure and monitor performance toward achieving the goals. Examples include:

- Percentage of delinquent accounts collected
 - Percentage of delinquent dollars collected
 - Average time to collect a delinquent account
- Strengthen language in Administrative Regulation 3.15, Write-Offs of Uncollectable Receivables
- 2.6 Amend A.R. 3.15, Write-Offs of Uncollectable Receivables, to:
- Change the language in the basic steps and authorities section from, “Departments *are encouraged to* recommend write-off actions...” to “Departments *shall review their accounts receivable annually and* recommend write off actions...”
 - Include examples of recognized best practices for pursuing collection of delinquent debts and provide criteria, including timelines, for when each should be pursued.
 - Include examples of progressively firmer collection letters, including one that threatens legal action if payment is not made.
 - Establish criteria, including timing, for ceasing collection activity on a delinquent account and, instead, recommending the account for write off.
 - Emphasize the importance of timely collections and the need to follow through in pursuing the actions cited in letters sent.

The Department of Finance should:

- Revise business license forms to alert businesses that collection will be pursued
- 2.7 Revise the business license application and renewal forms to add language to the applicant’s declaration alerting businesses that the City may pursue multiple remedies when a business underpays its business license taxes. For example, “I understand that providing false information on this form may result in the City of Berkeley pursuing civil and/or criminal penalties, in addition to penalties and interest that may be imposed for underpayment of business license taxes under the provisions of BMC 9.04.110, 9.04.115, and 9.04.120.”

Explore the feasibility of staggering business license renewal dates

2.8 Explore the feasibility of having staggered timelines for businesses to renew their licenses to ease the volume of work Finance staff have during the current annual renewal period. Report the results to Council. If determined to be feasible, draft recommended language and request the City Council to amend BMC 9.04.065, *Annual license*, and 9.04.110, *Penalty for nonpayment or underpayment of annual license—Accrual of cause of action*, to implement a system of staggered renewal dates. If the Council approves the change, develop a plan to transition businesses to their new renewal dates. *(Note: This recommendation may not be needed if Recommendation 4.1, online business license processing and payment, is implemented.)*

City Manager’s Response

The City Manager agreed with all of the recommendations. The full response is at Appendix C.

**Finding 3:
Amend the BMC to Clarify the Requirement for Recording Liens, to Allow for Recovery of the County’s Collection Fee, and to Align Requirements With the County’s Processes**

Finance does not comply with BMC requirements to record liens against business properties when transferring delinquent business license accounts to Alameda County for collection. Clarifying the intent of the BMC for recording liens would help ensure compliance. Finance also does not recover the costs associated with Alameda County collecting these accounts. Adding a provision to the BMC allowing the City to recover the County’s administrative fee for collecting Berkeley’s delinquent business license accounts would increase the amount of revenue the City receives on these collections.

The BMC’s requirement for the Director of Finance to turn delinquent accounts over to the county assessor for collection does not align with the county’s actual business processes. The county assessor does not have a role in the process, but the county auditor and tax collector do.

Delinquent accounts required to be collected with property taxes

BMC 9.04.125 requires the Finance Director to turn over delinquent business license tax accounts to the county to collect with the next property tax assessment if taxes are not paid when due. This requirement implies that Finance should not pursue other collection options when the business owner also owns the property on which it is located. However, since Finance turns these accounts over only once a year, best practices dictate that it is reasonable to expect Finance to pursue collection activity until that point.

Specifically, the BMC requires the amount turned over to include:

- the amount of delinquent taxes and penalties,
- a \$50 administrative charge,
- interest at the rate of 18 percent per year from the recording date to the lien date, and
- a release of lien filing fee in an amount equal to the amount charged by the Alameda County Recorder's Office.

Administrative fee insufficient to recover costs

The \$50 administrative fee is intended to recover costs Finance incurs to pass a delinquent account to the county to collect. The \$50 fee has been in place since 1988 and, after 24 years, is unlikely to recover Finance's costs of preparing and reviewing the packet sent to the county.

In 2007, the City Council approved an increase in the administrative lien fee the Housing Department charges residential rental property owners who are delinquent in paying Rental Housing Safety Program fees. The increase, from \$75 to \$125, was intended to more fully recover the costs associated with collecting delinquent accounts.

Although it is likely that Housing and Finance have similar processes for turning delinquent accounts over to the county, that does not necessarily mean Finance's administrative fee should be \$125 since Housing's fee increase was based on its 2007 costs. Setting the fee "to equal the costs incurred" or to recover a specified percentage of the costs incurred would allow

Finance to recover its actual costs without needing to request a change to the BMC when the costs change.

Lien not formally “recorded”; 18 percent interest rate and release of lien filing fee not assessed

Finance sends delinquent accounts to Alameda County to add to businesses’ property tax assessments but does not go through the official process to record them as liens. Instead, Revenue Collection considers a “tax lien” to exist once it is “recorded” on the property tax bill. Consequently, Finance also does not add to these delinquent accounts a “release of lien filing fee” in an amount equal to the county’s fee. BMC 9.04.125 states that the assessments against the business property “shall be a lien on the property” and the requirement to impose a release of lien filing fee further suggests that the intent is to officially record the lien.

Finance assesses interest at the rate of one percent per month on delinquent accounts, up to the point it turns an account over to the county for collection. This is the rate required by BMC 9.04.120 for delinquent accounts. BMC 9.04.125 requires accounts turned over to the county for collection to be assessed interest at the rate of 18 percent per year from the date of recording to the date of the lien, but Finance does not assess this higher interest rate when it assigns an account to the county for collection. The BMC does not state the intent of charging the higher interest rate.

City loses 1.7 percent of amounts the county collects on our behalf

Alameda County retains 1.7 percent of the amount collected on delinquent accounts as a collection fee. The BMC does not include a provision to add this amount to the delinquent account, so the City loses 1.7 percent of each delinquent account that the county collects.

For tax years 2011 and 2012, Finance transferred \$483,052 in delinquent business license taxes to the county to collect.¹² If the county successfully collects all of this money, it will retain \$8,212 in collection fees for the two years. While the amount for

¹² These amounts reflect adjustments as of February 3, 2012, for assessments the City collected after reporting them to the county. When this situation occurs, Finance notifies the county to remove the assessments from the property taxes.

any one year is not significant, it can add up over time, particularly since the amount Revenue Collection turned over to the county for collection increased 69 percent since 2009.

BMC requirement does not align with the county’s process

BMC 9.04.125 requires delinquent business license tax accounts that the City sends to Alameda County for collection to be sent to the county assessor for collection. Revenue Collection staff told us that they send the delinquent accounts to the county auditor, not the assessor. Staff in the county’s Auditor-Controller’s Office confirmed it is their responsibility, not the assessor’s, to add our assessments to the property tax bill and to adjust those assessments based on information the City provides. The Auditor Agency’s website indicates that they also apportion the tax collections to the appropriate jurisdictions. Revenue Collection’s procedures align with the county’s actual process; the BMC requirement does not and needs to be corrected.

Recommendation

Amend the BMC to clarify actions to be taken on delinquent accounts

The Department of Finance should:

- 3.1 Draft recommended language and request the City Council to amend BMC 9.04 to:
- Clarify that because Finance can only transfer delinquent business license accounts to Alameda County once a year, in August, Finance should actively pursue collection in the interim.
 - Delete the requirement for delinquent business license tax accounts to be sent to the county assessor and add a requirement for the accounts to be sent to the county Auditor-Controller’s Office.
 - Clarify whether Finance should officially “record” liens against a business property when transferring delinquent business license accounts to Alameda County for collection. If that is not the intent, delete the language requiring Finance to record the lien and to add the “release of lien filing fee” to transferred accounts.
 - Change the requirement for Finance to assess “an administrative charge of fifty dollars” on transferred

business license accounts to “a fee equal to the cost of transferring the account to Alameda County for collection” or to a specified percentage of that cost.

- Clarify if/how interest accrues on delinquent accounts transferred to Alameda County for collection.
- Add a provision allowing the City to add a fee to transferred business license accounts to recover the County’s administrative collection fee. Because the County would retain 1.7 percent of the delinquent account balance plus the City’s recovery fee, the City would have to add approximately 1.73 percent to the delinquent balance to recover the full amount of the County’s fee.

***City Manager’s
Response***

The City Manager agreed with all of the recommendations. The full response is at Appendix C.

**Finding 4:
Establish Online
Capability for
Filing Business
License
Applications,
Renewals, and
Payment**

The FUNDS Occupational License module does not provide online capability for business license application, renewal, and payment. Business owners must apply for, renew, and pay for their business licenses either by mail or in person at the Customer Service Center. Online filing would reduce costs incurred in processing paper documents, increase the accuracy of payments, reduce the processing backlog that occurs during the annual renewal period, and provide a convenience for business owners.

**Online processing
and payment could
provide several
advantages**

Online processing and payment could provide several advantages for both the City and businesses:

- Over time, the City would save contract costs for services, paper, and postage associated with printing and mailing paper renewal notices annually. Eliminating paper is also good for the environment.
- The City would receive its money sooner without waiting for checks to clear.

- Having less paper means Revenue Collection would have less data entry, which would allow them to focus more on the collections aspect of their work.
- Revenue Collection would have a smaller backlog during the annual renewal period, which would allow them to more quickly identify delinquent businesses and begin pursuing collection.
- It is a convenience for the business owner.
- It could prompt the business to enter the amount of its allowable deductions, which would ensure businesses pay no more than they are legally required to pay.
- It would increase the accuracy of payments, potentially eliminating unnecessary penalty and interest expenses for businesses because the system would calculate the amount of taxes due, based on the business owner's input of its gross receipts or payroll.
- Increased accuracy of tax calculations could reduce the number of appeals filed.

The Department of Information Technology expects to have the new business license software fully implemented by January 2013. Information Technology anticipates that online payment capability for business licenses will be available at that time or shortly thereafter, although that capability will be provided through different software, *Official Payments*.

An important aspect of receiving online payments is ensuring the safety of cardholder information. In our May 2011 report, [Audit of Citywide Payment-Card Acceptance: Is Cardholder Information Safe?](#), we discussed the rigorous data security measures necessary to ensure sensitive cardholder information is protected from fraud and misuse. The City has the opportunity to incorporate security measures in the online payment application while implementation is still in the planning phase.

Recommendation

Ensure new occupational license software can accurately calculate taxes, penalties, and interest

Ensure cardholder information is protected when implementing new online payment software

The Departments of Finance and Information Technology should:

- 4.1 When implementing the new occupational license software for processing business licenses, ensure that it can accurately calculate the taxes, penalties, and interest due, based on whether it is a new license or a renewal, or a closing statement, and the renewal date and/or business start/end date.
- 4.2 When implementing the online payment software for business license taxes, develop written procedures and security measures to protect sensitive cardholder information in accordance with industry standards.

City Manager's Response

The City Manager agreed with all of the recommendations. The full response is at Appendix C.

FISCAL IMPACT

The City could receive an additional \$90,000 annually if Finance staff are more timely and persistent in collecting delinquent business license accounts

The City loses substantial business license tax revenue annually due to the lack of timely and persistent collection efforts. For license years 1995 through 2009, 964 businesses owe the City about \$711,000 in delinquent taxes, penalties, and interest. The City is unlikely to collect this revenue since the three-year statute of limitations for pursuing collection has expired. The City also is unlikely to collect the full amount of business license taxes, penalties, and interest from the 469 businesses that we identified as delinquent for license years 2010 and 2011. Based on statistics from a survey conducted by the Commercial Collection Agency Association, only about \$50,000 of the \$381,000 owed for these two years is likely to be collected. We calculated that the City could receive approximately \$90,000 of additional revenue annually if Finance staff were more timely and persistent in their collection efforts.

County collects delinquent accounts on behalf of City but keeps 1.7 percent of the amount collected

The City is more likely to collect delinquent accounts that are forwarded to the Alameda County for collection with businesses' property tax bills. However, this option is only available if the licensee owns the property used in the business. The county retains 1.7 percent of the amount it collects on each account. For accounts forwarded to the county in Fiscal Years 2011 and 2012, this fee amounts to \$8,212. Finance also is not able to fully recover its administrative costs when it forwards these cases to the county for collection due to the current \$50 administrative fee limit. Amending the BMC to allow recovery of these costs would minimize the losses the City incurs on these collection efforts.

CONCLUSION

Fraud risks in business license function

There are fraud risks associated with the City's business license function due to the lack of supporting documentation for and supervisory approval of adjustments, and not reconciling deposits recorded in the general ledger holding account with the payments received in the Occupational License module. Both our office and the City's external financial statement auditor have identified these risks in previous audits, but they continue to exist. Although we did not find evidence of fraud in the business license function, similar risks (e.g., lack of reconciliation) have allowed fraud to occur in other City functions and not be detected timely.¹³

Errors and inconsistencies in calculation of business license taxes, penalties, and interest

Unclear guidance in the BMC, insufficient policies and procedures, and poor design of business license forms cause businesses and Finance staff to make errors and inconsistently calculate business license taxes, penalties, and interest. These errors and inconsistencies result in businesses being taxed inequitably and can lead to businesses appealing their cases. The

¹³ Review of Embezzlement of Monies in Police Department Administrative Office of Public Safety Business Office; Office of the City Auditor; May 21, 1991.
Center Street Garage Embezzlement Audit; Office of the City Auditor; February 2, 1993.

BMC sections pertaining to business licenses need to be updated and clarified, and Finance staff need a single, complete set of policies and procedures describing how to accurately and consistently calculate business license taxes, penalties, and interest.

Finance's efforts to maximize collection of delinquent business license taxes were neither efficient nor effective. Their efforts to collect delinquent accounts were not timely and did not follow best practices for collecting delinquent debts. As a result, almost \$711,000 of \$1.1 million in delinquent business license taxes has aged beyond the time where collection may be pursued under the statute of limitations. The remaining \$381,000 is still within the statute of limitations for collection, but collection is likely only if Finance aggressively pursues collection. Finance needs procedures describing the various collection strategies they should pursue and criteria for when to pursue them.

Timely implementation of the recommendations in this report will increase the City's revenues and help prevent fraudulent activities from occurring, not only in Finance, but also citywide.

APPENDIX A:

Scope and Methodology

Our audit of the Department of Finance’s business license tax activities focused on whether Finance assesses taxes, penalties, and interest accurately and in accordance with BMC requirements. We also analyzed the collectability of unpaid tax, penalty, and interest assessments. Our audit focused on business license transactions processed in calendar year 2010, all recorded delinquent accounts, and procedures for processing business license transactions. We did not audit our own procedures for conducting business license audits.

To accomplish our audit objectives, we obtained an understanding of the business license provisions in the Berkeley Municipal Code (BMC). We interviewed Finance staff in Revenue Collection, Revenue Development, and Customer Service to understand their roles and responsibilities in the business license process. We observed transaction processing; examined documents that show actual procedures used; and reviewed written business license policies, procedures, and related documents to obtain an understanding of how Finance:

- Processes applications for new and renewing business licenses,
- Processes delinquent renewals,
- Determines the appropriate tax code and rate for each licensed business,
- Calculates penalties and interest on delinquent taxes,
- Bills and collects delinquent taxes, penalties, and interest, and
- Deposits and records business license taxes.

We also reviewed:

- Treasury’s procedures for depositing business license revenues and entering license revenue data to the FUND\$ Cash Receipts Module.
- Accounting’s procedures for updating the general ledger for business license receipts.

We randomly selected 60 business license applications to review: 30 new licenses and 30 renewals, as well as 7 business license tax refunds. To focus on more significant transactions, we limited our sample of license renewals to transactions of \$500 or more, and our sample of refunds to transactions of \$1,000 or more. We selected one alternate new application to review because our office had previously audited one we initially selected. We selected two alternate renewals and two alternate new licenses to review because Finance staff could not locate the applications that we initially selected.

We also reviewed 22 adjustments made to business license accounts, since adjustments present an opportunity for fraud:

- 13 we randomly selected from transactions that reduced revenue by \$500 or more, and
- 9 we judgmentally selected due to a perceived fraud risk.

Because our samples were not statistical, the results of our review cannot be considered representative of the overall population of business license transactions.

The Department of Information Technology (IT) extracted from the FUND\$ Occupational License module a list of the calendar year 2010 business license transactions, which we assessed for reliability. Our [FUND\\$ Change Management Audit](#) report disclosed that Information Technology had not segregated programmer duties and has given both its programmers and SunGard¹⁴ unrestricted access to production files. This has not been corrected and compromises data integrity because unauthorized changes could be made. Therefore, we did not rely on FUND\$ controls over the data.

Instead, we compared business license information recorded in the Occupational License module with source documents. We compared business descriptions on new and renewal license applications with the City's business license tax codes to verify that the businesses paid the correct tax rates. We also verified that businesses were assigned the appropriate North American Industry Classification System code. Because Finance uses both the BMC descriptions and the NAICS codes to assign tax rate codes for businesses classified as B (business, personal, and repair services) and P (professional/semiprofessional), we cross referenced the assigned NAICS codes with the tax rate codes to verify those business types paid the correct tax rate. We also verified that each field was populated and included the correct information. We identified some amounts that differed, but noted that they resulted from Finance correcting licensees' calculation errors. We determined that the new license, renewal, and refund data were sufficiently reliable for the purposes of this report. We could not determine the reliability of adjustments made due to the lack of supporting documentation, and reported on this in Finding 1.

We provided a copy of the draft report to the City Manager, Department of Finance, Department of Information Technology, and City Attorney for their review and have incorporated their comments into the final report, as appropriate.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

¹⁴ SunGard is the company that developed the FUND\$ Occupational License module.

APPENDIX B

Sample Business License Forms and Instructions



Date this business became active under your ownership: _____
 Check here if this business was already active and you are a new owner
 Check here if you have an ownership interest in another business in Berkeley
 Name/s of other business/es in which you have an ownership interest: _____
 Rev May 2007

NEW BUSINESS LICENSE APPLICATION FORM

Please read all instructions on the other side before completing this application and TYPE or PRINT CLEARLY.

Business Type _____	For Finance Use Only BL # _____ NAICS Code _____ Tax Code _____ Loc Verified: <input type="checkbox"/> Yes <input type="checkbox"/> No Dt started in Berk _____
Address in Berkeley _____	
Business Name (DBA) _____	
Owner Name: FIRST _____ LAST _____	
Mailing Address _____	
City, State & Zip _____	

Planning _____
 Fire _____
 Health _____
 Police _____
 Building _____
 Toxics _____

PLEASE COMPLETE THE FOLLOWING INFORMATION

1. Business Phone _____ 2. Emergency Phone _____ 3. Fed ID or Soc Sec # _____ 4. <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Sole Owner 5. State Seller's Permit/Resale # _____ 6. Contractors Lic #/Exp Dt _____ 7. Do you sell tobacco products? <input type="checkbox"/> Yes <input type="checkbox"/> No	8. # of Employees _____ 9. # of Business Vehicles _____ 10. Female Owned: <input type="checkbox"/> Yes <input type="checkbox"/> No 11. Minority Owned: <input type="checkbox"/> Yes <input type="checkbox"/> No 12. Date Fiscal Year Ends _____ 13. Email Address _____
--	--

COMPUTING THE PAYMENT AMOUNT FOR YOUR NEW BUSINESS LICENSE

14. New Business License Tax: \$51 for most businesses; \$77 for rental property (See note)	\$ _____
15. New Business License Registration Fee	\$ 25.00
16. TOTAL AMOUNT DUE FOR NEW BUSINESS LICENSE	PLEASE REMIT \$ _____

Bus. Lic. # _____
 Amount Paid \$ _____

NOTE: Some businesses require different fees for a new license. Please contact Customer Service for more information. MAKE CHECKS PAYABLE TO: **City of Berkeley** and mail or deliver to Finance – Customer Service, 1947 Center Street, Berkeley, CA 94704.

Under penalty of perjury, I declare I am authorized to make this application and that to the best of my knowledge and belief it is a true, correct and complete statement made in good faith for the period stated, in compliance with the provisions of the Berkeley Business License Ordinance.

Signature/Title _____ Date _____

See the other side for important information and instructions before completing this application.

NEW BUSINESS LICENSE APPLICATION INFORMATION & INSTRUCTIONS

Please read these instructions before completing the application on the other side.

Basic information: The City's regulations are incorporated in the Berkeley Municipal Code (BMC). Copies of the BMC are at all branches of the Berkeley Public Library. You may also access the BMC and Zoning Ordinance on the City's website at: <http://www.cityofberkeley.info/bmc/> BMC Chapter 9.04 is the primary source of information on business licenses, including definitions of terms, business classifications, current business license tax rates, and allowable deductions to gross receipts.

Additional information: Visit the **Customer Service Center** at **1947 Center Street**, Monday – Friday 9:00 am to 4:30 pm. Customer Service Representatives are available by phone at **510.981.7200** or by email to **BusLic@ci.berkeley.ca.us**.

If you have not already done so: Please go to the Permit Service Center (PSC) at 2120 Milvia Street and complete the process to obtain all necessary permits for your business license. For additional information, call the PSC at 510.981.7500.

BUSINESS INFORMATION

Please print all information clearly:

- Line 1 & Line 2: Business & Emergency phone numbers.
- Line 3: Business Federal ID # or Owner's Social Security number.
- Line 4: Check the box designating form of ownership that applies to this business.
- Line 5: **If this business has a State Seller's Permit/Resale #, please enter that # here.**
- Line 6: If you are a contractor, please enter your Contractors License number & its expiration date.
- Line 7: Check the box indicating if this business sells tobacco products.
- Line 8: Enter the number of employees working in the City of Berkeley only.
- Line 9: Enter the number of vehicles used in the City of Berkeley only. The maximum number of vehicle decals per business license is 4. These allow use of yellow zones for business loading/unloading up to 20 minutes.
- Line 10: Check the box indicating if this is a Female Owned business.
- Line 11: Check the box indicating if this is a Minority Owned business.
- Line 12: Enter date the business Fiscal Year ends (if a calendar year, it's 12/31; if it's another 12 months, please specify date)
- Line 13: Please enter the Email address for this business.

Note: You must have a separate business license for each location at which you are conducting business.

YOUR BUSINESS INFORMATION: LINES 1 – 13

Please complete all information requested. If any item is not applicable to your business, please enter "N/A" in space provided. NOTE: Lines 8 and 9 relate to those employees working and vehicles used in City of Berkeley only. The maximum number of vehicle decals per business license is 4. These allow use of yellow zones for business loading/unloading up to 20 minutes.

COMPUTING THE PAYMENT FOR YOUR NEW BUSINESS LICENSE: LINES 14 – 16

- Line 14: This is the initial tax payment for your new business license, based on the kind of business it is. (See note, below)
 - Line 15: The registration fee to process a new business license is \$25 for all businesses.
 - Line 16: ADD AMOUNTS ON LINES 14 + 15: THIS IS THE TOTAL AMOUNT DUE FOR YOUR NEW BUSINESS LICENSE.
- Some businesses require different fees for a new license. Please contact Customer Service for more information.**
MAKE CHECKS PAYABLE TO: City of Berkeley and mail or deliver to Finance – Customer Service.

REQUIREMENT TO OBTAIN A NEW BUSINESS LICENSE

A new business license is required for the first license of a newly established business, or for a business that has been sold or transferred to a new owner. A person applying for a new business license must pay the minimum tax (Line 14) as provided in BMC Section 9.04.230 or 9.04.235. In addition, a registration fee (Line 15) of \$25.00 must also be paid. These payments, and a completed new business license application, must be submitted within 30 days from the date of commencement of business activity. Failure to register will subject the taxpayer to penalty and interest the same as provided for by Section 9.04.110.

BUSINESSES LOCATED OUTSIDE OF BERKELEY

If your business is located outside of the City of Berkeley and you are conducting business within Berkeley, you must report gross receipts for business transacted or services performed within the City during your preceding fiscal year, when you renew your business license. If at any time in the future this business is closed, sold or transferred, you must file a closing business statement within 30 days of such action. Contact Customer Service for more information.

CONTRACTORS DOING BUSINESS IN BERKELEY

- All contractors doing business in Berkeley must have an active business license before applying for a building permit.
- If you will deduct payments to subcontractors, you must attach a list with subcontractor name, address, BL#, amount paid.
- If in the future you are no longer doing business in Berkeley, you must complete and file a closing business statement.



CITY OF BERKELEY

1947 Center Street • Berkeley, CA 94704
 Phone 510-981-7200 • Fax 510-981-7280

2012 BUSINESS LICENSE RENEWAL

BUSINESS NAME
OWNER NAME
STREET ADDRESS
CITY, STATE & ZIP

BUSINESS LICENSE NO. _____
 TYPE OF BUSINESS _____
 NAICS CODE _____ TAX CODE _____
 LOCATION _____
 If your Business has moved from the above location, indicate the new Berkeley address and obtain the required signoffs from Permit Service Center at 2120 Milvia Street, Berkeley CA. Phone number: 510-981-7410
 New Location _____
 Fire _____ Env Health _____ Police _____
 Haz Mat _____ Land Use _____

Check box for change of mailing address. New mailing address: _____

EMERGENCY PHONE (____) _____	BUSINESS PHONE (____) _____
FEMALE OWNED: <input type="checkbox"/> YES <input type="checkbox"/> NO	# OF EMPLOYEES _____
MINORITY OWNED: <input type="checkbox"/> YES <input type="checkbox"/> NO	# OF VEHICLES IN BERKELEY _____
DATE FISCAL YEAR ENDS _____	EMAIL ADDRESS _____
<input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Sole Owner	

Federal Tax ID # or Social Security # _____ Contractor's License # & Exp. Date _____ State/Resale License # _____

This section is for **Tax Codes: B, BC, BM, D, E, G, L, P, PC, R, RC, RH, V, W, Z**
 (The tax codes located at the top of this page)

1. Gross Receipt for 2011 \$ _____ X _____ = **TAX \$** _____
Minimum TAX= \$ _____ If the calculated TAX is less than the Minimum TAX, pay the Minimum Tax.
 Write the TAX amount in the renewal fee section on the back of this page.

This section is for **Tax Code: C, M, MC** (The tax code is located at the top of this page)
All contractors doing business in Berkeley must have an active business license before applying for a building permit.

1. Gross Receipt for 2011 \$ _____
 2. Allowable Deductions * (\$ _____) * See Instruction Sheet
 3. Adjusted Gross Receipts \$ _____ X _____ = **TAX \$** _____
Minimum TAX= \$ _____ If the calculated TAX is less than the Minimum TAX, pay the Minimum Tax.
 Write the TAX amount in the renewal fee section on the back of this page.

This section is for **Tax Codes: Q**
 (The tax code is located at the top of this page)

1. Gross Payroll for 2011 \$ _____ X _____ = **TAX \$** _____
Minimum TAX= \$ _____ If the calculated TAX is less than the Minimum TAX, pay the Minimum Tax.
 Write the TAX amount in the renewal fee section on the back of this page.

This section is for **Tax Codes: A, H, N, S, X, Y**
 (The tax code is located at the top of this page)

* Street Vendors, if you plan to renew for the 2nd half of the year only, mail renewal and fees in June.
 1. Renewal amount due (flat fee)..... **TAX \$** _____
 Write the TAX amount in the renewal fee section on the back of this page.

**CITY OF BERKELEY
BUSINESS LICENSE RENEWAL – PAGE 2**

If you **CLOSED** your business or sold your rental property in 2011 you must complete the required section of this form and pay taxes based upon Gross Receipts received in 2011. Perform the calculations as indicated and remit the calculated amount. **Minimum Tax** does not apply.
Date of Closure: _____

<u>RENEWAL FEE SECTION</u>	<u>RENEWAL AFTER FEBRUARY 29TH</u>																								
<p>TAX AMOUNT \$ _____</p> <p>Make checks payable to The City of Berkeley.</p> <p>To renew in person visit the Customer Service Center at 1947 Center Street, Monday–Thursday 8:30 a.m. to 4:00 p.m.</p>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">TAX AMOUNT</td> <td style="width: 20%;">\$ _____</td> </tr> <tr> <td colspan="2" style="text-align: center;"><small>(from Renewal Fee Section)</small></td> </tr> <tr> <td colspan="2">10% PENALTY ADDED</td> </tr> <tr> <td>MARCH 1ST</td> <td>\$ _____</td> </tr> <tr> <td colspan="2">ADDITIONAL 40% PENALTY ON APRIL 1ST</td> </tr> <tr> <td>.....</td> <td>\$ _____</td> </tr> <tr> <td colspan="2">1% INTEREST ADDED</td> </tr> <tr> <td>MARCH 1ST</td> <td>\$ _____</td> </tr> <tr> <td colspan="2">ADDITIONAL 1% PER MONTH AFTER APRIL 1ST</td> </tr> <tr> <td>.....</td> <td>\$ _____</td> </tr> <tr> <td colspan="2"> </td> </tr> <tr> <td>TOTAL DELINQUENT RENEWAL FEE</td> <td>\$ _____</td> </tr> </table>	TAX AMOUNT	\$ _____	<small>(from Renewal Fee Section)</small>		10% PENALTY ADDED		MARCH 1 ST	\$ _____	ADDITIONAL 40% PENALTY ON APRIL 1ST		\$ _____	1% INTEREST ADDED		MARCH 1 ST	\$ _____	ADDITIONAL 1% PER MONTH AFTER APRIL 1ST		\$ _____	 		TOTAL DELINQUENT RENEWAL FEE	\$ _____
TAX AMOUNT	\$ _____																								
<small>(from Renewal Fee Section)</small>																									
10% PENALTY ADDED																									
MARCH 1 ST	\$ _____																								
ADDITIONAL 40% PENALTY ON APRIL 1ST																									
.....	\$ _____																								
1% INTEREST ADDED																									
MARCH 1 ST	\$ _____																								
ADDITIONAL 1% PER MONTH AFTER APRIL 1ST																									
.....	\$ _____																								
TOTAL DELINQUENT RENEWAL FEE	\$ _____																								

Customer Service Representatives are available by phone at 510-981-7200 or by email at: BusLic@ci.berkeley.ca.us.

I declare under penalty of perjury that I am authorized to complete this application and that to the best of my knowledge the statements made herein are true, correct and complete, and in compliance with the provisions of the Berkeley Business License Ordinance.

Signature/Title _____ **Date** _____

CITY OF BERKELEY
1947 Center Street
Berkeley, CA 94704-1169

Basic Information: Berkeley Municipal Code (BMC) Chapter 9.04 is the primary source of information on business licenses, including definitions of terms, business classifications, current business license tax rates, and allowable deductions to gross receipts. Copies of the BMC are at all branches of the Berkeley Public Library. You may also access the BMC and Zoning Ordinance on the City’s website at: www.cityofberkeley.info.

BUS LIC # _____
 Pymt Type: _____
 Amount PD \$ _____
 CK # _____



Department of Finance
Revenue Collection Division

Business License Renewal Instructions

Please Read these Instructions to Complete the Form Correctly

Business Licenses expire on December 31st 2011 and must be renewed before March 1st 2012 to avoid penalties and interest.

Preprinted Information

Gray Box Located on the front page, top right corner. Please review this information and make corrections that apply. If your business has changed locations from the preprinted location, please obtain the necessary sign-offs as indicated.

Mailing Address Change Please check box below the preprinted mailing address and write the corrected address on the line provided.

Miscellaneous Business Information

Please complete all information requested. If any item is not applicable to your business, please enter "N/A" in the space provided. The number of employees and vehicles relates to those employees working and vehicles used in the **City of Berkeley** only.

Four Loading Zone decals are allowed per business. Loading Zone decals allow use of Yellow Zones for up to 20 minutes for loading/unloading.

Businesses with Tax Codes B, BC, BM, D, E, G, L, P, PC, R, RC, RH, V, W, Z

Line 1 Enter the total gross receipts from your preceding fiscal year. Multiply the gross receipt amount by the tax rate indicated. This is the business license tax due. Write this amount on the back of the Renewal form in the **Renewal Fee Section** under **Tax Amount**. **Gross Receipts includes** all receipts, cash, rental payments, bonuses, commissions, and property of any kind or nature; without any deduction due to the costs of property sold, materials used, labor or services, interest paid or payable, any losses, or other expenses. **You must report Gross Receipts, Gross Payroll, or other reporting basis, from all business activity in Berkeley.**

Businesses with Tax Code C - All contractors doing business in Berkeley must renew their business license **before** applying for a building permit. Building Permits will not be issued to any Contractor without first having an active business license.

Line 1 Enter the total gross receipts from your preceding fiscal year for work performed in the City of Berkeley.

Line 2 Enter the amount of Allowable Deductions for payments to subcontractors. You **MUST** attach a letter that indicates for each subcontractor paid, the subcontractor business name, address, contractor license number and the amount paid to subcontractor. Subtract the total deductions for all subcontractors from Line 1 and enter the resulting amount on Line 3.

Line 3 Multiply your adjusted gross receipt amount by the tax rate indicated. This is the business license tax due. Write this amount on the back of the Renewal form in the **Renewal Fee Section** under **Tax Amount**.

Businesses with Tax Code M, MC

Line 1 Enter the total gross receipts from your preceding fiscal year for work performed in the City of Berkeley.

Line 2 Enter the amount of Allowable Deductions. Allowable deductions include value of raw materials (including cost of energy), or the value of the partially completed product at the time it enters the manufacturing process within the City.

Line 3 Multiply your adjusted gross receipt amount by the tax rate indicated. This is the business license tax due. Write this amount on the back of the Renewal form in the **Renewal Fee Section** under **Tax Amount**.

Businesses with Tax Code Q, BANK

Line 1 Enter the total gross payroll from your preceding fiscal year. Multiply your gross payroll amount by the tax rate indicated. This is the business license tax due. Write this amount on the back of the Renewal form in the **Renewal Fee Section** under **Tax Amount**.

1947 Center Street, Berkeley, CA 94704 Tel: 510.981.7200 TDD: 510.981.6903 Fax: 510.981.7280
E-mail: BusLic@ci.berkeley.ca.us Website: <http://www.ci.berkeley.ca.us/finance>

CITY OF BERKELEY - BUSINESS LICENSE RENEWAL
Instructions – PAGE 2

Businesses with Tax Codes A, H, N, S, X, Y

Line 1 If this is a non-profit business the annual fee is \$26 per BMC 9.04.230 (c). The flat fee is not a tax based upon gross receipts.

Write the flat fee in the **Renewal Fee Section** on the back of the renewal form. * *Street Vendors, if you plan to renew for the 2nd half of the year only, mail renewal and fees in June.*

Closing Business License

Write the last date of business performed in Berkeley on the line provided. Locate your TAX CODE in the renewal form and complete the corresponding section. The Minimum Tax does not apply when closing a business.

Renewal Fee Section

TAX AMOUNT Enter the Tax Amount due after calculations have been made in the appropriate section.

Businesses Located Outside of Berkeley

If your business is located outside the City of Berkeley and you conduct business within Berkeley, **you must report gross receipts received from all business activities within the City** during your preceding fiscal year. If you do not plan to conduct business within Berkeley in the coming year, you must close your business license. (See instructions above for Closing Business License)

Downtown Business Improvement District (DBID)

The DBID surcharge is no longer applied to the Business License. If you have further questions, please refer to Resolution #65,370-N.S.

Business Licenses Renewed on or after March 1st 2012 are subject to penalties and interest. Penalties and interest apply to the business license tax.

Renew your business licenses on or before **February 29th 2012** to avoid penalties and interest. If you renew by mail, the envelope must have a postmark date of **February 29th 2012** or earlier to avoid penalties and interest.

- **On March 1st** a 10% penalty is added to the total license fee and interest begins to accrue.
- **On April 1st** an additional 40% penalty is added to the total license fee, in addition to the 1% interest per month, until all fees, including penalties and interest, are paid.

10 % Penalty Added Add a 10% late payment penalty to your renewal if you renew your business license after March 1st.

Additional 40% Penalty Add an additional 40% late payment penalty to your renewal if you renew your business license after March 31st.

1% Interest Added Add a 1% interest charge to your renewal if you renew your business license after March 1st.

Additional 1% Interest Add an additional 1% interest charge per month to your renewal if you renew your business license after March 31st.

You can find more information about renewing your Business License on The City of Berkeley website at, www.cityofberkeley.info.

To renew in person, visit the Finance Customer Service Center at 1947 Center Street, Monday – Thursday 8:30 a.m. to 4:00 p.m. Customer Service Representatives are also available to assist you by phone at 510-981-CITY (2489) from 8:00 a.m. to 5:00 p.m.

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APPENDIX C

Audit Findings, Recommendations, and Management Response Summary

Audit Title: Business License Taxes: Providing Better Guidance and Customer Service Will Increase Revenues						
Findings and Recommendations		Lead Dept.	Agree, Partially Agree, or Do Not Agree	Implementation Plan	Expected Implementation Date	Status of Outstanding Audit Recommendations and Implementation Progress Summary
Finding 1: Business License Guidance Is Insufficient and Is Inconsistently Applied						
1.1	<p>In collaboration with the City Attorney and City staff involved in the business license and appeals process, draft recommended language and request the City Council to amend BMC 9.04 to:</p> <ul style="list-style-type: none"> • Reword the phrases, “<i>or fraction thereof</i>” and “<i>until paid,</i>” so it is clear whether interest should be prorated for payments billed/paid mid-month or if a full one percent of interest should be assessed for any fraction of a month in which an account is delinquent. When selecting the revised language, consider the administrative practicality of implementing it and industry standards for assessing interest. • Clarify whether interest should be calculated as simple or compound interest. 	Finance, in collaboration with the City Attorney	Agree	<p>Finance will work with the City Attorney to revise the BMC 9.04 to improve guidance and clarify interest calculation; subcontractor definition; and closed business responsibilities. To the extent any of the recommended ordinance amendments might increase any individual’s tax liability, this would require voter approval and City management may decide not to implement.</p> <p>Finance is verifying with Accela (new Occupational License software) that daily calculations of interest are possible.</p>	October 31, 2012	

Audit Title: Business License Taxes: Providing Better Guidance and Customer Service Will Increase Revenues					
Findings and Recommendations	Lead Dept.	Agree, Partially Agree, or Do Not Agree	Implementation Plan	Expected Implementation Date	Status of Outstanding Audit Recommendations and Implementation Progress Summary
<ul style="list-style-type: none"> • Clarify whether a closed business is considered delinquent when it files its amended tax declaration more than 30 days after closing and, if so, whether it becomes subject to the BMC’s penalty and interest provisions. While clarifying this requirement, consider whether 30 days is sufficient time to require a business to submit its amended tax declaration or whether the timeline should be lengthened, and amend the timeline if necessary. • Define “subcontractor” and cite the intent of allowing subcontractor deductions to clarify what may be deducted (e.g., a business that holds a separate business license in Berkeley and therefore pays business license taxes on its own revenues). Require subcontractor lists submitted to include the subcontractors’ Berkeley business license numbers. Include language on the business license forms 					

Audit Title: Business License Taxes: Providing Better Guidance and Customer Service Will Increase Revenues						
Findings and Recommendations		Lead Dept.	Agree, Partially Agree, or Do Not Agree	Implementation Plan	Expected Implementation Date	Status of Outstanding Audit Recommendations and Implementation Progress Summary
	<p>reminding businesses that the City may verify that claimed deductions are allowed.</p> <p><i>NOTE: If any of the above amendments might increase any individual's tax liability, that amendment would require voter approval.</i></p>					
1.2	<p>Submit a request to the Department of Information Technology to reconfigure the FUND\$ Occupational License module so it calculates taxes, penalties, and interest in accordance with BMC requirements. Once that is done, discontinue use of the spreadsheet.</p>	Finance	Agree	<p>A request will be submitted to the Department of Information Technology to reconfigure the FUND\$ Occupational License module as it currently exists. Use of the spreadsheet will be eliminated when this is accomplished. Accela will be configured to calculate taxes, penalties, and interest in accordance with BMC requirements.</p>	February 28, 2013	
1.3	<p>Develop a single set of Finance Department written procedures to provide complete guidance on how to process business licenses and calculate the amount of taxes, penalties, and interest due. Provide copies of the updated procedures and training to staff to ensure all staff involved in the business license process follow the same procedures and provide</p>	Finance	Partially Agree	<p>A single set of written policies, procedures and frequently asked questions will be developed by the Finance Dept. and will be reviewed and approved by the Director of Finance.</p> <p>Finance will work on changing the current procedures to ensure timeliness of the reconciliation process. As part of the</p>	December 31, 2013	

Audit Title: Business License Taxes: Providing Better Guidance and Customer Service Will Increase Revenues						
Findings and Recommendations		Lead Dept.	Agree, Partially Agree, or Do Not Agree	Implementation Plan	Expected Implementation Date	Status of Outstanding Audit Recommendations and Implementation Progress Summary
	<p>consistent guidance to businesses. The procedures should:</p> <ul style="list-style-type: none"> • Provide guidance and examples on the date to use as the basis for calculating penalties and interest due for both renewing and closed businesses. • Provide guidance and examples for the types of subcontractor deductions allowed, how to determine that claimed deductions are appropriate, and the business types allowed to take the deduction. The determination of whether a deduction is appropriate should be based on the definition of “subcontractor” developed under Recommendation 1.1 above. • Include sample answers to questions that businesses frequently ask regarding business licenses. • As recommended in previous audits, require written support, including guidance on what constitutes sufficient support, for adjustments related to business license taxes. Revenue 			<p>implementation of the new business license software, the cash receipts will be posted directly to the business license accounts, which will rectify the reconciliation issue.</p>		

Audit Title: Business License Taxes: Providing Better Guidance and Customer Service Will Increase Revenues						
Findings and Recommendations		Lead Dept.	Agree, Partially Agree, or Do Not Agree	Implementation Plan	Expected Implementation Date	Status of Outstanding Audit Recommendations and Implementation Progress Summary
	<p>Collection staff should return to the initiating staff any adjustments received for input that do not include sufficient support.</p> <ul style="list-style-type: none"> • As recommended in previous audits, require evidence of supervisory review of business license tax, penalty, and/or interest adjustments. Revenue Collection staff should return to the initiating staff any adjustments received for input that have not had supervisory review. Supervisory review should include: <ul style="list-style-type: none"> ○ Written evidence of the review. ○ Manager review of large dollar transactions. The Director should establish criteria as to what constitutes a large-dollar transaction. ○ Documented review of the monthly list of adjustments from the FUND\$ Occupational License module and evidence that the list is used to identify and review all adjustments for necessity and accuracy. 					

Audit Title: Business License Taxes: Providing Better Guidance and Customer Service Will Increase Revenues						
Findings and Recommendations		Lead Dept.	Agree, Partially Agree, or Do Not Agree	Implementation Plan	Expected Implementation Date	Status of Outstanding Audit Recommendations and Implementation Progress Summary
	<ul style="list-style-type: none"> Require a supervisor to reconcile, at least monthly, revenue recorded in the general ledger holding account with the payments recorded in the Occupational License module and for management to verify that reconciliations are performed as required. Run the completed policies and procedures manual through a rigorous review process to ensure it adequately addresses questions and issues staff encounter while performing business license activities and that staff are clear on how to apply the procedures. 					
1.4	<p>Explore the feasibility of consolidating Finance’s business license tax activities into a single unit to minimize the potential for inconsistency in applying business license tax requirements. As part of that process:</p> <ul style="list-style-type: none"> clarify staff roles and responsibilities by job title, and review and update position descriptions to ensure they 	Finance	Agree	The auditing and collection of unreported, underreported and delinquent business license taxes will be the sole responsibility of one division in the Finance Dept.	February 28, 2013	

Audit Title: Business License Taxes: Providing Better Guidance and Customer Service Will Increase Revenues						
Findings and Recommendations		Lead Dept.	Agree, Partially Agree, or Do Not Agree	Implementation Plan	Expected Implementation Date	Status of Outstanding Audit Recommendations and Implementation Progress Summary
	include language that appropriately reflects the knowledge, skills, and abilities required to perform the assigned responsibilities, including knowledge of methods of fraud prevention and detection.					
1.5	<p>Revise the business license renewal forms and instructions to make them more user-friendly and minimize the potential for errors. For example:</p> <ul style="list-style-type: none"> • Have only one section for businesses to calculate taxes based on gross receipts. Include a separate line for allowable deductions and a statement that contractors, professional, and semiprofessional businesses may deduct subcontractor payments and that manufacturers may deduct the value of raw materials and energy costs. Revise the instruction sheet to provide clear guidance regarding allowable deductions for these business types. 	Finance	Agree.	This will be implemented with Accela. New license renewal forms, including specific information such as subcontractor deductions, penalty and interest calculations and other required data that relate to the business classification will be included.	October 31, 2012	

Audit Title: Business License Taxes: Providing Better Guidance and Customer Service Will Increase Revenues						
Findings and Recommendations		Lead Dept.	Agree, Partially Agree, or Do Not Agree	Implementation Plan	Expected Implementation Date	Status of Outstanding Audit Recommendations and Implementation Progress Summary
	<ul style="list-style-type: none"> In the late renewal section, provide subtotal lines and language to clarify that interest is to be calculated on the renewal fee plus penalties. 					
1.6	After clarifying the BMC requirements for closing businesses, revise the Amended Business License Declaration form to accurately reflect those BMC requirements and to include the “under penalty of perjury” statement. Ensure the form is clear as to how to calculate penalties and interest for businesses that do not file it within the timeline specified in the BMC. Post the revised form on the City’s website.	Finance	Agree	Finance will work with the City Attorney to revise the BMC and will work with Accela to implement the required forms and penalty and interest calculations.	October 31, 2012	
1.7	Revise the standard Business License Renewal form to include: <ul style="list-style-type: none"> a reminder that if the business has or will cease operations in Berkeley during the current year, it needs to complete the renewal as usual and then file an amended business license declaration within the timeline specified in the BMC and pay business license taxes due 	Finance	Agree	This will be implemented with the Accela Occupational License software implementation. Finance will work with the City Attorney to revise the related BMC as needed.	October 31, 2012	

Audit Title: Business License Taxes: Providing Better Guidance and Customer Service Will Increase Revenues						
Findings and Recommendations		Lead Dept.	Agree, Partially Agree, or Do Not Agree	Implementation Plan	Expected Implementation Date	Status of Outstanding Audit Recommendations and Implementation Progress Summary
	through the date of business closure, and <ul style="list-style-type: none"> • a specific section for closing businesses to use to file their final business license declaration. 					
1.8	Prior to converting to the new Occupational License software, investigate the large number of unapplied balances and ensure they are applied to the appropriate license and tax year and/or account. In the future, Finance staff should: <ul style="list-style-type: none"> • review the cash post listing to identify and resolve any unapplied balances (shown as an “overpayment” on the cash post listing). • review the unapplied balances list at least monthly and promptly investigate to ensure business license account balances are accurate. 	Finance	Agree	This will be part of the pre-Accela Occupational License software implementation clean-up.	December 31, 2012	
1.9	Deactivate the feature in the FUND\$ Occupational License module that allows records to be deleted. When the new Occupational License module is	Information Technology	Agree, this feature was meant to be temporary.	At the request of the Director of Finance, the Department of Information Technology has already deactivated the feature in the FUND\$ Occupational License module	January 31, 2013	

Audit Title: Business License Taxes: Providing Better Guidance and Customer Service Will Increase Revenues						
Findings and Recommendations		Lead Dept.	Agree, Partially Agree, or Do Not Agree	Implementation Plan	Expected Implementation Date	Status of Outstanding Audit Recommendations and Implementation Progress Summary
	implemented, configure it so no individual can access functions that, when used together, could allow the employee to commit fraud and not be detected.			that allowed licenses to be deleted. During business analysis and testing for the new business license system, the Department of Finance will ensure that incompatible duties are disallowed and verify that the new software is configured accordingly.		
Finding 2: Efforts to Collect Delinquent Business License Taxes, Penalties, and Interest and to Write-off Uncollectable Accounts are Ineffective and Insufficient						
2.1	Provide training to Revenue Collection staff and other City staff on effective collection strategies, including how to identify and prioritize high-risk accounts, and on the requirements of A.R. 3.15 for writing off uncollectable business license accounts.	Finance, in collaboration with other City departments	Agree	We will provide the necessary training to all affected staff, after we have reviewed and evaluated the recommendations of the City Auditor and Management Partners.	October 31, 2012	
2.2	Enter into a contract with an outside collection agency to pursue collection of citywide delinquent accounts. Identify criteria for when to transfer accounts to the collection agency rather than pursuing collection in-house.	Finance, in collaboration with other City departments	Agree	We will evaluate this recommendation in conjunction with the review and evaluation of all of the recommendations made by the City Auditor and Management Partners.	October 31, 2012	
2.3	Immediately pursue collection efforts on all delinquent accounts that are within the statute of	Finance, in collaboration with other	Agree	An analysis of all the unapplied balances will be part of the pre-Accela Occupational License	October 31, 2012	

Audit Title: Business License Taxes: Providing Better Guidance and Customer Service Will Increase Revenues						
Findings and Recommendations		Lead Dept.	Agree, Partially Agree, or Do Not Agree	Implementation Plan	Expected Implementation Date	Status of Outstanding Audit Recommendations and Implementation Progress Summary
	limitations for pursuing collection. Follow proven best practices for seeking payment, based on the age and amount of each account. Before initiating collection action, verify whether each account is on the unapplied balances list, and if so, adjust the account to determine whether there is a remaining delinquent balance to pursue for collection.	City departments		software implementation clean-up. After a review and evaluation of that analysis, we will immediately pursue collection efforts on all accounts we believe are collectible.		
2.4	Develop reports to monitor collection activity on a monthly and quarterly basis, including an aging report of past-due accounts and a report identifying collection strategies pursued on each delinquent account and the results. Use the results as a long-term planning tool for developing effective collection strategies and criteria for when to use them.	Finance, in collaboration with other City departments	Agree	We will develop appropriate strategies and reporting and tracking mechanisms, including the use of periodic activity reports and aging reports.	June 30, 2013	
2.5	Develop performance measures to evaluate the effectiveness of collection efforts. Establish a performance goal for each measure and monitor performance toward achieving the goals. Examples include:	Finance, in collaboration with other City departments	Agree	We will develop appropriate performance measures for collection of delinquent accounts.	December 31, 2012	

Audit Title: Business License Taxes: Providing Better Guidance and Customer Service Will Increase Revenues						
Findings and Recommendations		Lead Dept.	Agree, Partially Agree, or Do Not Agree	Implementation Plan	Expected Implementation Date	Status of Outstanding Audit Recommendations and Implementation Progress Summary
	<ul style="list-style-type: none"> • Percentage of delinquent accounts collected • Percentage of delinquent dollars collected • Average time to collect a delinquent account 					
2.6	<p>Amend A.R. 3.15, Write-Offs of Uncollectable Receivables, to:</p> <ul style="list-style-type: none"> • Change the language in the basic steps and authorities section from, “Departments <i>are encouraged to recommend write-off actions...</i>” to “Departments <i>shall review their accounts receivable annually and recommend write off actions...</i>” • Include examples of recognized best practices for pursuing collection of delinquent debts and provide criteria, including timelines, for when each should be pursued. • Include examples of progressively firmer collection letters, including one that threatens legal action if payment is not made. 	Finance, in collaboration with other City departments	Agree	We will make A.R. 3.15 more comprehensive by providing more specific collections and write off guidance to all City Departments.	June 30, 2013	

Audit Title: Business License Taxes: Providing Better Guidance and Customer Service Will Increase Revenues						
Findings and Recommendations	Lead Dept.	Agree, Partially Agree, or Do Not Agree	Implementation Plan	Expected Implementation Date	Status of Outstanding Audit Recommendations and Implementation Progress Summary	
<ul style="list-style-type: none"> Establish criteria, including timing, for ceasing collection activity on a delinquent account and, instead, recommending the account for write off. Emphasize the importance of timely collections and the need to follow through in pursuing the actions cited in letters sent. 						
2.7	Revise the business license application and renewal forms to add language to the applicant's declaration alerting businesses that the City may pursue multiple remedies when a business underpays its business license taxes. For example, "I understand that providing false information on this form may result in the City of Berkeley pursuing civil and/or criminal penalties, in addition to penalties and interest that may be imposed for underpayment of business license taxes under the provisions of BMC 9.04.110, 9.04.115, and 9.04.120."	Finance	Agree	This recommendation will be implemented with the Accela Occupational License software implementation. Finance will work with the City Attorney to revise the BMC.	October 31, 2012	
2.8	Explore the feasibility of having staggered timelines for businesses to renew their licenses to ease the	Finance	Agree. We agree that this is an option that will	Accela's online system may take care of a lot of the backlog.	February 28, 2013	

Audit Title: Business License Taxes: Providing Better Guidance and Customer Service Will Increase Revenues						
Findings and Recommendations		Lead Dept.	Agree, Partially Agree, or Do Not Agree	Implementation Plan	Expected Implementation Date	Status of Outstanding Audit Recommendations and Implementation Progress Summary
	<p>volume of work Finance staff have during the current annual renewal period. Report the results to Council. If determined to be feasible, draft recommended language and request the City Council to amend BMC 9.04.065, <i>Annual license</i>, and 9.04.110, <i>Penalty for nonpayment or underpayment of annual license—Accrual of cause of action</i>, to implement a system of staggered renewal dates. If the Council approves the change, develop a plan to transition businesses to their new renewal dates. <i>(Note: This recommendation may not be needed if Recommendation 4.1, online business license processing and payment, is implemented.)</i></p>		<p>smooth out the workload of staff, and we will explore it, but there are other options that will be considered that can also help accomplish that. Other options include, but are not limited to: online processing and payment of business licenses; and reorganizing staff resources.</p>	<p>Finance management will evaluate this and other available options.</p>		
Finding 3: Amend the BMC to Clarify the Requirement for Recording Liens and to Allow for Recovery of the County’s Collection Fee, and to Align Requirements with the County’s Processes						
3.1	<p>Draft recommended language and request the City Council to amend BMC 9.04 to:</p> <ul style="list-style-type: none"> Clarify that because Finance can only transfer delinquent business license accounts to 	Finance	Agree	<p>Finance will work with the City Attorney on the requirements for recording liens and allowing recovery of the County’s collection fee and report to Council recommended changes in the BMC.</p>	October 31, 2012	

Audit Title: Business License Taxes: Providing Better Guidance and Customer Service Will Increase Revenues					
Findings and Recommendations	Lead Dept.	Agree, Partially Agree, or Do Not Agree	Implementation Plan	Expected Implementation Date	Status of Outstanding Audit Recommendations and Implementation Progress Summary
<p>Alameda County once a year, in August, Finance should actively pursue collection in the interim.</p> <ul style="list-style-type: none"> • Delete the requirement for delinquent business license tax accounts to be sent to the county assessor and add a requirement for the accounts to be sent to the county Auditor-Controller’s Office. • Clarify whether Finance should officially “record” liens against a business property when transferring delinquent business license accounts to Alameda County for collection. If that is not the intent, delete the language requiring Finance to record the lien and to add the “release of lien filing fee” to transferred accounts. • Change the requirement for Finance to assess “an administrative charge of fifty dollars” on transferred business license accounts to “a fee equal to the cost of transferring the account to Alameda County for collection” or to a specified percentage of that cost. 					

Audit Title: Business License Taxes: Providing Better Guidance and Customer Service Will Increase Revenues						
Findings and Recommendations		Lead Dept.	Agree, Partially Agree, or Do Not Agree	Implementation Plan	Expected Implementation Date	Status of Outstanding Audit Recommendations and Implementation Progress Summary
<ul style="list-style-type: none"> Clarify if/how interest accrues on delinquent accounts transferred to Alameda County for collection. Add a provision allowing the City to add a fee to transferred business license accounts to recover the County's administrative collection fee. Because the County would retain 1.7 percent of the delinquent account balance plus the City's recovery fee, the City would have to add approximately 1.73 percent to the delinquent balance to recover the full amount of the County's fee. 						
Finding 4: Establish Online Capability for Filing Business License Applications, Renewals, and Payment						
4.1	When implementing the new occupational license software for processing business licenses, ensure that it can accurately calculate the taxes, penalties, and interest due, based on whether it is a new license or a renewal, or a closing statement, and the renewal date and/or business start/end date.	Finance and Information Technology	Agree	Business analysis/configuration for new Business License software will include ensuring accurate calculations for the taxes, penalties, and interest due, based on whether it is a new license or a renewal, or a closing statement, and the renewal date and/or business start/end date.	December 31, 2013	

Audit Title: Business License Taxes: Providing Better Guidance and Customer Service Will Increase Revenues						
Findings and Recommendations		Lead Dept.	Agree, Partially Agree, or Do Not Agree	Implementation Plan	Expected Implementation Date	Status of Outstanding Audit Recommendations and Implementation Progress Summary
				During the business analysis portion of implementation for the new software Finance and Information Technology will work together to ensure the software is configured to correctly make the needed calculation. Finance will verify calculations are in compliance with all applicable business rules.		
4.2	When implementing the online payment software for business license taxes, develop written procedures and security measures to protect sensitive cardholder information in accordance with industry standards.	Finance and Information Technology	This recommendation is being covered by the Payment Card Procedures within Finance.	The proposed online payment strategy will be to use a third-party vendor for credit card payments. In this way, credit card data is not stored anywhere with the City and also not in the Accela database. Responsibility for protecting sensitive cardholder information will be with the third-party online payment vendor. The latter is obligated to annually report their PCI compliance status to the City.	June 30, 2012	