Metro

Regional Parks and Greenspaces

Open Spaces Acquisitions

June 2000

A Report by the Office of the Auditor

METRO

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METRO

Office of the Auditor

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To the Metro Council and Executive Officer:

We examined the acquisition processes and progress of the Open Spaces Program, approved by voters in 1995 giving Metro authority to issue more than $135 million in bonds primarily for acquiring land. Program goals include acquiring nearly 6,000 acres of open space in 14 target areas in the three-county area, and establishing about 45 miles of greenways and trail corridors.

Recently Metro achieved its 6,000-acre goal. Beneath this overall result the issue of regional balance may merit attention as land acquisitions and trail and greenway development exceed Program goals in some target areas but lag in others.

To help Metro and the public better chart the Program's remaining course we recommend:

- establishing a system to help maintain the regional balance envisioned in the bond measure and likewise include a plan to establish spending priorities for $24 million in funds made available primarily through interest earnings
- expanding information in reports provided to the Metro Council and the public to enable readers to evaluate whether goals are being met and whether expenditure patterns are consistent with expectations as described in the bond measure.

In addition, we recommend some procedural changes for strengthening the appraisal process, improving documentation of due diligence work and clarifying policies for bringing purchases to the Metro Council for approval.

We reviewed this report with the Executive Officer. The last section of this report presents his written response.

Very truly yours,

Alexis Dow, CPA
Metro Auditor

Auditor: Doug U'Ren, CIA

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Executive Summary

The Open Spaces Program approved by voters in 1995 gave Metro authority to issue approximately $135 million in bonds for acquiring land. The Program's goals include acquiring nearly 6,000 acres of open space in 14 target areas in the three-county area, as well as establishing about 45 miles of greenways and trail corridors. This audit examined the progress made to date and the processes Metro is using to acquire the land and manage the expenditure of bond funds.

Progress is most apparent on the 6,000-acre goal for open space acquisitions, as Metro has effectively achieved its goal. Beneath this overall result is an issue that may merit attention: regional balance. Acquisition goals have already been met or exceeded in 7 of the 14 target areas, but are at less than 40 percent in 3 others.

Metro has had mixed success in achieving its objectives for trail and greenway projects. It has made significant headway toward establishing two trails and one greenway. However, progress on one other trail and two other greenways has been limited.

Several improvements could help Metro and the public better chart the Program's remaining course. Management controls are needed to better assure regional balance envisioned by the bond measure. Such action is particularly important because no specific plan has yet been developed for how to spend the additional $24 million available from interest earned on unspent bond proceeds. In addition, information in reports provided to the Metro Council and the public should be expanded, so that readers can evaluate whether goals are being met and whether acquisition patterns are in keeping with expectations for regional balance.

Most land acquisitions are carried out under Council-approved procedures that allow acquisitions to be made without Council involvement. We identified several areas in which these procedures or the way in which they are carried out could be strengthened. They include changes for strengthening the appraisal process, improving documentation of steps taken to resolve problems identified during due diligence work, and clarifying policies about bringing proposed purchases to the Metro Council for approval.

Summary of Recommendations

We make the following recommendations, in summary form, to address the issues we identified:

Accomplish Program objectives The Open Spaces Manager should continue to focus future acquisition efforts on, and develop strategies for: acquiring lands in target areas where purchases to date are far below acquisition goals, purchasing properties that will close gaps between Metro's existing landholdings, and establishing greenway corridors.

Obtain Metro Council guidance on regional balance and establish a system to ensure balance is maintained Staff should obtain a clear definition of regional balance from the Metro Council and establish systems to ensure acquisition efforts and spending priorities better focus on achieving regional balance. Spending priorities should also incorporate the $24 million made available through interest earnings on unspent bond proceeds.

Improve reports to the Metro Council and the public Parks Department staff should revise the format of existing quarterly reports that are provided to the Council. Revisions (explained in more detail in the body of the report) should be directed at allowing more meaningful comparisons between goals and expenditures.

Improve operating procedures Actions to be taken include the following:

- assigning all appraisal work through the General Counsel's Office as directed in the Council-approved Program Work Plan
- making all relevant information available to appraisers and reviewers to ensure reliable appraisals
- eliminating, by Council action, a provision in the Program Work Plan that allows staff to direct appraisal assumptions because appraisers already consider the highest and best potential use for a property
- obtaining clarification from the Council regarding Program Work Plan directives requiring Council approval to purchase properties with unusual circumstances.

Document due diligence problems and their resolution The Metro General Counsel or his designee should ensure that all significant property-related problems discovered and resolved during due diligence work are clearly documented to help ensure management awareness of encroachments, environmental problems and other issues.

Introduction and Background

The Open Spaces Program

In May 1995, Portland-area voters approved the Open Spaces bond measure, which at the time was the largest investment in parks and open spaces in Oregon's history. The general obligation bonds funded a $135.6 million Program that had three major elements:

- acquiring about 6,000 acres of land in 14 target areas
- establishing about 45 miles of greenway and trail corridors
- funding about 90 land acquisition and capital improvement projects managed by other local governments within Metro's boundaries.

The target areas, greenways, and trail corridors are shown in Table 1, together with the acquisition estimates as laid out in the bond proposal approved by the voters. The map at Appendix A shows the approximate location of each target area.

Table 1 Open Spaces Program Goals

Open Spaces Focus	
Land Acquisition Target Areas	***Number of acres***
Clear Creek Canyon	342
Columbia River Shoreline	95
Cooper Mountain	428
East Buttes / Boring Lava Domes	545
Forest Park Expansion	320
Gales Creek	775
Jackson Bottom (McKay / Dairy Creeks)	333
Newell Creek Canyon	370
Rock Creek	300
Sandy River Gorge	808
Tonquin Geologic Area	277
Tryon Creek Linkages	20
Tualatin River Access Points	266
Willamette River Greenway	1,103
Total	**5,982**
Trail or Greenway	***Length in miles***
Beaver Creek Canyon Greenway	8
Clackamas River Greenway	8
Fanno Creek Greenway	12
OMSI to Springwater Corridor Trail*	7
Peninsula Crossing Trail	3
Sauvie Island to Beaverton / Hillsboro Trail (Burlington Northern Rails-to-Trails)	7
Total	**45**

* In the Bond Measure, this trail was included in the Willamette River Greenway target area.

The Metro Council approved an overall plan for using the $135.6 million from bond proceeds. Table 2 shows an overview of how the funds were to be allocated based on figures contained in bond fact sheets approved for public distribution by Metro Council resolution. Twenty-five million dollars of the total was for "local share" projects—an estimated 90 land acquisition and capital improvement projects managed by local governments and park districts inside Metro's service area.[1] The remaining $110.6 million was for land acquisitions, capital improvements of regional significance and program administration, and is called the "regional share."

Table 2 Overview of Program Spending Plan

Activity	Amount (millions)
Acquire land in 14 target areas	$ 76
Establish trails and greenways	16
Fund "local share" projects	25
Acquisition / administration, bond issuance and other costs	18
Total	**$135**

Process for Acquiring Properties

The Program is a "willing seller" program, meaning that Metro intends to avoid using its power of eminent domain to acquire property. Major components of the acquisition process are specified in a Work Plan developed by the Parks Department and approved by the Metro Council. Table 3 describes the main elements of the acquisition process.

[1] The amount each jurisdiction will receive under this grant program was determined by a complex formula developed before voters approved the Open Spaces bond measure. As of May 31, 2000, Metro had disbursed about $17.9 million in local share funds to 23 jurisdictions undertaking 55 different projects.

Table 3 Overview of the Property Acquisition Process

Step	Description
Identifying the properties to be acquired	This step involves the development of "refinement plans" that help establish the geographical boundaries for acquisitions to be pursued in each target area, as well as the goals to be achieved. These plans can be amended as needed by the Metro Council.
Negotiating with property owners	This is the process of contacting property owners of lands targeted for acquisition and convincing them to sell to Metro. If a deal is struck, Metro's Executive Officer and the seller sign an option agreement or an agreement of purchase and sale.
Determining a property's physical and legal conditions and market value ("due diligence")	Due diligence generally includes inspecting the property, reviewing preliminary title reports for unusual or significant encumbrances, commissioning an appraisal, and performing an environmental assessment.
Applying acquisition criteria and determining need for Council approval	Among these criteria are requirements that no unusual circumstances exist and that the purchase price is at or below appraised value. Under certain circumstances, Metro's Executive Officer can approve purchases when the price is above appraised value by no more than 10 percent or $50,000. If the price exceeds these parameters, the Metro Council must review and approve the acquisition.
Managing and monitoring the closing process	In the closing process, the buyer pays for the property and the seller delivers the deed. Escrow agents employed by title insurance companies coordinate Metro's property closings. Metro's Executive Officer signs escrow instructions and other documents required for closing.
Stabilizing properties	These are initial actions taken to prevent property degradation or eliminate hazardous conditions, such as installing fences or demolishing old structures.
Land banking	These are ongoing management actions, such as maintaining structures, fences and signs. Metro cannot use Open Spaces bond funds to pay for land-banking costs.

Program Staffing

Metro had 16 persons dedicated to the Open Spaces Program at the time we performed our work. Eleven, including five real estate negotiators, three regional planners, and other support staff, report to the Open Spaces Manager. The remaining four (two attorneys and two paralegals) perform due diligence work and are part of the General Counsel's Office. Outside contractors provide specialized services, such as appraisals, land surveys, environmental site assessments and property information.

Audit Objectives, Scope and Methodology

Our three objectives for this review were to:

- determine if Program goals are being achieved
- evaluate the adequacy of management controls over key areas of the Program
- assess the appropriateness of due diligence procedures and determine whether Metro staff is following the procedures.

We audited only the regional share portion of the Program and did not cover issues related to the $25 million in bond funds allocated to local share projects. We focused on the process being used to acquire properties for the Program and did not review the procedures used to develop refinement plans identifying properties to be purchased. Likewise, we did not evaluate whether Metro is properly stabilizing and managing properties after they have been purchased. Finally, we did not review the appropriateness of Program staffing levels or Metro's decision to hire employees rather than rely primarily on outside realtors and other consultants to acquire properties.

To accomplish our objectives, we held numerous meetings with Program staff, including those assigned to the Metro General Counsel's Office. We reviewed a wide range of reports and documents, including the Council-adopted Work Plan, status reports prepared and distributed by Program staff, Metro Council resolutions and ordinances affecting the Program, and a 1996 review of the Program. We also analyzed financial reports prepared by Metro's Accounting Services Division, land acquisition records and reports prepared by Program staff, and maps showing both targeted properties and acquired properties. In addition, we performed detailed testing on 12 properties acquired during 1997 and 1998.

Since one aspect of this testing was to evaluate the reliability of appraisal reports prepared for Program staff, we hired an appraiser to review appraisals that were performed on 7 of these 12 properties. This appraiser has more than 20 years of experience in property appraisal and is a Member of the Appraisal Institute (MAI), a designation which requires extensive education and experience. All appraisal reviews commissioned by the Auditor's Office were conducted in conformity with the Uniform Standards of Professional Appraisal Practice (USPAP).

Metro's Regional Parks and Greenspaces Department and its Office of General Counsel were the source for most records, reports and other information pertaining to the Open Spaces Program. Report conclusions are based on the information they provided.

This review was conducted in accordance with generally accepted auditing standards as part of the Office of the Auditor's annual audit plan.

Program Results

Overview

Metro has essentially achieved its target of acquiring nearly 6,000 acres of open space lands in the 14 target areas. Land acquisitions are unevenly dispersed across the target areas, with acquisitions already at or over the goal in some target areas but less than halfway to the goal in others. Metro has had mixed success in achieving its objectives for trail and greenway projects. It has made significant headway toward establishing two trails and one greenway. However, progress on one other trail and two other greenways has been limited.

Much Has Been Achieved Since the Open Spaces Program Started in 1995

Much has been accomplished since area voters passed the Open Spaces bond measure in 1995. Metro developed a Work Plan that established policies and some procedures to guide the Program. It developed more than 20 refinement plans, which identify detailed objectives for each target area and the lands to be pursued. Metro assembled a highly qualified team of employees to operate the Program, along with a network of appraisers, surveyors, environmental consultants and other contractors to provide specialized assistance to Program staff. Metro also issued general obligation bonds to finance the Program and has already completed a sizeable portion of the acquisitions. These tasks require skill, hard work and dedication.

Table 4 summarizes the Open Spaces Program's funding sources and expenditures. With the interest earned on the unspent portion of bond proceeds, funds for the Program totaled about $160.4 million. About $112 million has been spent, leaving about $48.4 million remaining. These totals include local-share as well as regional projects.

Table 4 Program Resources and Expenditures

Program Funding:	
Proceeds of Bonds Issued in 1995	$135,600,000
Interest Earned on Unspent Bond Proceeds	23,900,000
Other Resources	900,000
Total Funds Available	$160,400,000
Program Expenditures:	
Target Area Land Acquisitions	$ 77,600,000
Trail and Greenway Projects	5,800,000
Local Share Projects	17,900,000
Acquisition and Administration	8,500,000
Other Costs	2,200,000
Total Expenditures	$ 112,000,000
Remaining Balance of Open Spaces Fund at May 31, 2000	**$ 48,400,000**

Open Space Acquisitions in Target Areas at Goal

Within the regional Program, Metro had acquired 5,787 acres of land inside the 14 target areas as of June 15, 2000—essentially achieving the 5,982-acre goal. In making these acquisitions, Metro spent about $81 million. Remaining funds available for regional share projects and administration approximated $41 million, including bond proceeds and interest earnings, and are sufficient to allow Metro to exceed the overall 5,982-acre goal of the bond measure.

Acquisition Goals Met to Varying Degrees in Target Areas

Before placing the Open Spaces bond measure before area voters in 1995, the Metro Council carefully considered which target areas to include in the bond measure and how many acres of land Metro should purchase in each target area. Metro's land acquisitions have not occurred evenly across all target areas. Table 5 shows the area-by-area results.

Table 5 Extent of Acquisitions by Target Area (as of June 15, 2000)

Target Area	Minimum Acreage Goal	Acres Acquired	% Goal Achieved
Jackson Bottom	333	0	0%
Rock Creek	300	100	33%
Newell Creek Canyon	370	138	37%
Cooper Mountain	428	256	60%
Tonquin Geologic Area	277	206	74%
Gales Creek	775	606	78%
Willamette River Greenway	1,103	898*	81%
East Buttes/Boring Lava Domes	545	565	104%
Sandy River Gorge	808	1,018	126%
Clear Creek Canyon	342	448	131%
Tualatin River Access Points	266	384	144%
Tryon Creek Linkages	20	43	215%
Forest Park Expansion	320	830	259%
Columbia River Shoreline	95	271	285%
Other	-	24	-
Total	**5,982**	**5,787**	**97%**

* Includes 44 acres purchased to establish the OMSI to Springwater Corridor Trail.

Among the 14 target areas, Metro has met or is close to achieving its minimum acquisition goals in eight. In six of these eight target areas, acquisitions significantly exceed minimum goals. In the remaining six areas, Metro has acquired less than 80 percent of its minimum goal. In three of the six areas, it is less than 40% to the goal.

This divergence from some target area goals may have been expected given the “willing seller” nature of the Program. However, the bond measure itself refers to “…a regional balance of sites acquired…” This disparity raises an important concern that, if trends continue, voters may be displeased with results that are significantly different from the target area goals.

After the bond measure was approved, the Metro Council approved about 20 refinement plans which more specifically defined its objectives for each target area, trail and greenway. The acreage goals included in refinement plans often exceed those of the bond measure, although in a few instances the refinement plans do not establish any acreage goals at all. Since all status reports issued by Program staff compare actual acquisitions to the original bond measure goals, Table 5 uses the original bond measure goals for comparison.

Acquiring Adjacent Properties Has Sometimes Been Difficult

In most cases, acquiring lands that are contiguous is important. It provides better protection of the natural resources in an area. In addition, connected properties likely would be less costly to manage and would offer easier public access. Acquiring contiguous properties is a challenge in any land acquisition program. Given Metro's policy of buying land only from willing sellers, it is to be expected that Metro would experience uneven success in purchasing properties adjacent to existing public lands or to each other.

In mid-1999 we reviewed land acquisition patterns in 6 of the 14 target areas. In two of the six areas, Metro has been successful in buying properties that are adjacent to each other or to land owned by another public agency. In the Cooper Mountain target area, all but one of Metro's acquisitions are in a single area, and all the properties acquired in that area are contiguous. Similarly, nearly all properties purchased in the Forest Park target area either border the park or are very close to it. However, in four other target area some gaps exist between Metro and other public landholdings. It is difficult to determine whether the owners of the privately held properties that are creating those gaps will be willing to sell them to Metro within a reasonable time frame.

Success in Creating Greenways Appears Limited

The Open Spaces bond measure indicated that Metro would work to establish greenways along three waterways – the Clackamas River, Beaver Creek and Fanno Creek. As of May 31, 2000, Metro had spent about $3.6 million to establish these greenways. Spending plans connected with council resolutions preceding the bond measure allocated about $13.7 million for greenway acquisitions.

The combined length of the three planned greenways is 24 miles (the Beaver Creek Greenway is 4 miles and the Clackamas River Greenway is about 8 miles, while the Fanno Creek Greenway is 12 miles). Reports made available to us indicated that Metro had acquired about 411 acres of greenway land as of May 31, 2000. These reports generally did not indicate how many lineal miles of greenway had been purchased or the extent to which acquired properties are achieving Program goals, with or without other government involvement.

Metro's efforts have been reasonably successful in the Clackamas River Greenway, as it has acquired about half of the properties targeted there. However, Metro has made less significant progress in the Fanno Creek and Beaver Creek Greenways. Along Fanno Creek, Metro has acquired about 2,700 linear feet of creek land out of about 21,800 linear feet currently deemed essential by Program staff. Along Fanno tributaries, Metro has acquired about 10 of 16 acres designated as essential by staff. In the Beaver Creek area, Metro has been given a 30-acre conservation easement on a property and purchased a 16-acre property. This compares to the 114 acres targeted for the program.

Substantial Progress Establishing Two of Three Trails

The Open Spaces bond measure indicated that Metro would work toward establishing three trails: the Burlington Northern Trail, which would run from Sauvie Island to the Beaverton area; the Peninsula Crossing Trail in North Portland; and the OMSI to Springwater Corridor Trail, in the Willamette River Greenway target area.

Metro has achieved the most progress on the Peninsula Crossing Trail. The goal for this trail is to "develop 3-mile trail/bikeway connecting the Columbia River to the Willamette River." About 1.5 miles of the trail has been constructed in partnership with other governments. Construction of a .75 mile segment located on City of Portland property is under way and is being funded by the City. Approved intergovernmental agreements will make construction of the last .75 mile segment possible.

Metro has also progressed on the OMSI to Springwater Corridor Trail. The goal for this trail is to "Acquire 7-mile trail corridor, trail heads and trail improvements on [the] east bank of [the] Willamette River." Using bond funds, Metro has acquired land and easements along a three-mile railroad corridor. The rail operator has moved the tracks to the eastern side of the corridor and trail construction will begin after the City of Portland receives federal transportation funds, which could occur as soon as October 2000. The outlook for completion of the short northern segment and the three-mile southern segment is less certain. As planned, other governments would bear most of the responsibility for completing these segments. Preliminary agreements for the City of Portland and Oregon Department of Transportation to manage and fund construction of the north and south trail segments remain to be finalized.

Little progress has been made toward establishing the Burlington Northern Trail. The railroad's plan to abandon the rail line to be used for this trail never occurred, thereby eliminating the opportunity to turn the right-of-way into a trail. Other alternatives – such as a rail with trail – may be much more costly and difficult to construct than the original route plan. A final decision on the feasibility of this trail is pending.

Other Observations

The bond measure addresses the issue of regional balance. Areas targeted for land acquisition appear to be spread somewhat evenly across Metro's three counties and include land both inside and outside the urban growth boundary and Metro's own boundary. While the bond measure did not set specific goals using these criteria, distribution among these various boundaries may be important in maintaining public support for this Program. Appendix C shows analyses of the acquisitions by county and in relation to the urban growth boundary and Metro's boundary as of June 15, 2000.

Conclusions and Recommendations

If current land acquisition trends continue, Metro may end up owning lands that form a different pattern than that suggested by the bond measure. While Metro is not legally required to reach its acquisition goal in each target area, acquire properties that are contiguous, or necessarily balance its acquisitions across the region, reasonable efforts to do so make sense. To help ensure that Program objectives are attained, we recommend that Metro's Open Spaces Manager take the following actions:

- concentrate future acquisition efforts on acquiring lands in target areas where purchases to date are far below acquisition goals
- continue to focus efforts on purchasing those properties that will close gaps between Metro's existing landholdings
- develop strategies for acquiring more land in greenways
- develop, for the Council's consideration, a supplemental plan to ensure that Open Spaces purchases in the tri-county area will represent, to the degree attainable, a sound regional balance.

Management Processes and Program Reporting

Overview

While most management controls assessed appear adequate, attention is recommended in two key areas: regional balance and Program progress reports. To help ensure that remaining spending matches bond measure priorities for regional balance, the Council should take formal action to establish a system to help maintain the regional balance envisioned by the bond measure. Such action is particularly important because no specific plan has yet been developed for how to spend the additional $24 million available from interest earned on unspent bond proceeds. Also, reports distributed by the Program should provide more information so that the Council and the public can better evaluate whether the Program's goals are being achieved and whether resources are being used as intended.

Management Controls Help Ensure That Program Goals Are Met

The Open Spaces Program is complex and accordingly has a large number of areas where adequate and effective management controls are needed. Instead of evaluating controls in all areas, we focused our attention where the need for controls is most critical to assuring that Program resources are safeguarded and Program goals and objectives are achieved.

Those controls we examined that relate to safeguarding of Program resources were in place and, in general, appeared to be adequate. More specifically, we found adequate procedures are in place to ensure:

- all land purchases are properly authorized
- due diligence work is completed before property purchases are finalized
- Metro receives a deed for each property purchase and its ownership interest in the property is promptly recorded after closing
- adequate title insurance coverage is obtained on all properties
- key property acquisition documents (the original agreement of purchase and sale, the deed and the title insurance policy) are adequately safeguarded.

Regional Balance Could Be Better Defined And Maintained

Maintaining regional balance is considered an important element of the Open Spaces Program. The bond measure refers to retaining a regional balance of sites acquired and the Metropolitan Greenspaces Master Plan, on which the measure is based, lists geographic distribution as one of the criteria to be used in prioritizing site selections. In addition, extensive public effort went into identifying target areas and establishing acreage goals for each. However, the concept of regional balance does not appear to be similarly defined or emphasized by Open Spaces management.

To evaluate the extent to which regional balance is being achieved, we looked at acres acquired and expenditures made by target areas identified in the bond measure. Using either indicator, acquisitions do not appear to have been made in a balanced way. Table 5 on page 10 illustrates progress based on acreage acquired and Table 6 below illustrates expenditure data. These analyses show that Metro acquisitions far exceed target area goals in some areas, while lagging behind in others.

Table 6 Direct Land Acquisition Expenditures by Target Area*

(as of June 15, 2000)

Target Area	**Resolution -Related Plan** ($ millions)	**Actual Spent** ($ millions)	**$ Over/ (Under) Plan** ($ millions)	**% of Plan Spent**
Jackson Bottom	$ 1.7	$ 0	$ (1.7)	0%
Tonquin Geologic Area	3.3	2.0	(1.3)	61%
Newell Creek Canyon	6.7	4.1	(2.6)	61%
Columbia River Shoreline	1.7	1.1	(0.6)	65%
Willamette River Greenway**	17.0	13.5	(3.5)	79%
Clear Creek Canyon	4.1	3.6	(0.5)	88%
Gales Creek	3.1	2.8	(0.3)	90%
Future Options	4.0	3.7	(0.3)	93%
Tualatin River Access Points	4.0	4.3	0.3	108%
Sandy River Gorge	5.7	6.2	0.5	109%
Rock Creek	4.5	5.6	1.1	124%
Forest Park Expansion	4.7	6.3	1.6	134%
East Buttes / Boring Lava Domes	10.5	17.5	7.0	167%
Cooper Mountain	4.2	7.4	3.2	176%
Tryon Creek Linkages	1.0	2.6	1.6	260%
All Target Areas Combined	$ 76.2	$ 80.7	$ 4.5	106%

* Totals may vary due to rounding.
** Includes land purchased to establish the OMSI to Springwater Corridor Trail.

To better achieve regional balance in terms of acreage, Metro could have used the acreage goals for each target area as limits, which when reached would refocus acquisition efforts to target areas where acquisitions are lagging. With respect to expenditures, it is unclear whether the Metro Council established target area-specific spending levels and spending priorities across target areas.

The Program Work Plan, which the Council approved in 1995 and again in early 1997, authorized the Executive Officer to approve Open Spaces land purchases if “the purchase price is within the established budget for the specific target area.” However, annual budgets developed and approved for the Open Spaces Fund do not allocate funds to individual target areas, greenways or trail projects. Authorized funds for land acquisition is budgeted as a single lump sum amount.

The most recent target area spending plan (Appendix B) was developed in conjunction with resolution 94-2011A and amended by resolution 94-2049B. The Metro Council approved these resolutions in 1994. In conjunction with these resolutions, Metro staff developed a Program spending plan that established expenditure levels for each target area. However, the significance of this plan is unclear. On one hand, the Council never explicitly adopted this plan. On the other hand, no other Council-reviewed plan exists. Accordingly, the Council may have intended the spending plan associated with these resolutions to serve as a budget. This matter requires Council clarification. Tables 7 and 8 summarize the evidence that exists on both sides of the issue.

Table 7 Evidence Supporting View That Target Area Budgets Were Intended and Established

Issue	Explanation
Establishment of targets before the bond election	Prior to placing the Open Spaces bond measure before the region's voters in May 1995, the Metro Council devoted considerable effort to deciding how bond funds should be allocated to individual target areas, trails and greenways. This is evidenced by Council resolutions 94-2011A and 94-2049B.
References in interim plans to need for an established budget	The 1995 and 1997 Program Work Plans, approved by the Metro Council, contain the following requirement: "The purchase price is within the *established budget* for the *specific target area*." … (Italics added)
Correlation between initial proposal and overall spending plan in Council resolution	A fact sheet approved for public distribution by the Metro Council prior to the public vote indicated that bond funds would be used as follows: land purchases in 14 target areas, $76 million; trail and greenway projects, $16 million; local share projects, $25 million; and land purchase expenses, bond issuance costs, administrative expenses and contingency, $18.1 million. Each of these amounts matches the spending plan included with Resolution 94-2011A, as modified by Resolution 94-2049B.
References to "budgets" or "allocated dollars" in other Metro documents	Documents with such references include the following: • The May 1997 "Report to Citizens" contains a chart showing "Percent of Bond Funds Spent." The percentages are computed based on the spending plan included with Resolution 94-2011A, as modified. • At the end of every quarter, Metro staff distributes a status report on the Open Spaces Program. Until early 1999, quarterly reports disclosed the percentage of allocated dollars spent in each target area. The percentages were based on the spending plan included with Resolution 94-2011A, as modified. • Staff reports associated with several Council resolutions make such references. • Metro Resolution 97-2466 stated that $1.6 million in bond funds had been allocated to construct the Peninsula Crossing Trail. This amount matches the spending plan linked to Resolution 94-2011A, as modified.

Table 8 Evidence Supporting View That Target Area Budgets Were Not Intended and Established

Issue	Explanation
Lack of reference to target area budgets in certain key documents	None of the following documents refer to target area budgets: • 1995 Open Spaces Bond Measure • Target area refinement plans approved by the Metro Council • The four Council-approved fact sheets distributed by Metro prior to the bond measure (as interpreted by the Open Spaces Manager) • Metro's annual budgets • Metro's Capital Improvement Plans.
Lack of final adoption of a target area-specific budget	The Metro Council never explicitly adopted a target area-specific budget for the Program. A Program budget was included with Resolution 94-2011A and subsequently modified by Resolution 94-2049B, but the resolution did not directly cite this budget.

Management stated that Council adoption of formal target area budgets would reveal to potential sellers information that would be disadvantageous to Metro in purchase negotiations. We disagree with this position. Metro's offer prices are to be based on market values of properties, rather than on the amounts remaining in target area budgets. In fact, having target area budgets might benefit Metro by motivating some landowners to sell to Metro before earmarked funds dry up.

A target area budget is simply a management tool by which Council can better ensure expenditures comply with policy directives. Further, any Council adopted budget can be revised by Council action if necessary.

Reports to the Council and the Public Need More Information

Program staff prepares quarterly reports that are distributed to the Metro Council. These reports highlight such information as the number of acres of land acquired, expenditures incurred and recent property acquisitions. They also contain schedules summarizing acquisitions made to date and local share projects underway and completed. In 1997 and 1999, staff also prepared reports that were primarily aimed at providing Program status information to the public. These biennial reports discussed accomplishments in each target area and trail/greenway corridor, total Program expenditures, and regional share expenditures. They also included local share project status information similar in format to the local share data presented in the quarterly reports to the Council. The quarterly and biennial reports are the primary means by which staff has provided the Council and public with an overview of the Open Spaces Program's status.

Although these reports are informative and relatively easy to understand, they need certain information to better enable readers to assess whether results in all significant Program areas are in line with planned objectives. Specifically, the reports should:

- discuss the degree to which greenway goals are being achieved. For example, they should address how successful Metro has been in acquiring lands adjacent to each other or to other publicly held lands to create the linear vegetated corridors that characterize greenways. Typically, narratives in each report cover one or two of the three greenways rather than all of them. The reports also should disclose greenway expenditures.
- indicate how much has been spent to establish each trail, how much has been budgeted and estimates of how much more bond money needs to be spent in order to achieve Metro's objectives.
- address the degree to which lands acquired in target areas are adjacent to existing public lands or to each other. Contiguous landholdings can provide better protection to an area's natural resources, and are generally easier to manage and to make available to the public.
- disclose whether target area objectives, contained in Council-approved refinement plans, are being met. Passed in 1996 and in some cases amended since then, these refinement plans state more specifically the goals and objectives Metro is trying to accomplish through its acquisitions in each target area.

Conclusions and Recommendations

The Program's management controls are generally adequate for safeguarding resources. Improvements, however, are needed to ensure better regional balance in acquisitions and to ensure that the Metro Council and the public are fully informed as to the extent that Program expenditures are meeting the goals set forth when the Open Spaces Program was established. We think that improved reports and updated and more specific budgets will help ensure that all parties have adequate knowledge about what the expenditure of

Open Spaces bond money is accomplishing. These improvements would also give the Metro Council greater ability to ensure that Program expenditures are in line with overall regional priorities.

Accordingly, we make the following recommendations:

<u>Develop a working definition of regional balance and establish a system to help maintain such balance.</u> Program balance can be defined in many ways, such as using acres and dollars. The latter requires an update of Program spending priorities, in which case Open Spaces staff should prepare a new budget for the Council's consideration, similar to the allocations set in Resolution 94-2011A and amended by Resolution 94-2049B. The new budget should establish spending priorities for the $24 million in available funds that resulted from interest earnings and are unaddressed in the current spending allocations.

<u>Revise quarterly reports</u> Regional Parks and Greenspaces Department staff should add the following information to quarterly reports provided to the Council:

- a comparison of Program expenditures to the expenditure allocations established in conjunction with Council resolutions or by future Council action
- a comparison of actual expenditures and the budget for each target area
- the budget and goals for each greenway, expenditures to date, an assessment of whether objectives are being achieved, and the extent to which acquired landholdings are contiguous
- the budget for each trail project, the amount that has been spent to date, an estimate of remaining bond measure funds needed to complete the project, the projected completion date, and any major differences between goals being pursued and bond measure goals
- staff's assessment as to whether Metro has been successful in acquiring contiguous properties in target areas and greenway/trail corridors. This could be done using maps or by including narratives that describe purchase patterns in each target area and corridor.

<u>On an annual basis, provide an assessment as to whether refinement plan objectives are being achieved</u> At least annually, Open Spaces staff should develop and distribute a report that discusses whether

the goals and objectives of each target area, as established in refinement plans, are being achieved. This information could also be provided in a supplement to the regular quarterly report.

Compliance with Program Work Plan

Overview

Metro's due diligence procedures and land acquisition criteria appear sound. However, some problems exist in how these Work Plan requirements are being carried out. Due diligence covers the identification and evaluation of a property's physical, legal and market value conditions. Land acquisition criteria are the conditions under which the Metro Executive Officer or his designees are authorized to complete land acquisition transactions without Council involvement. Problems were found with elements of some property appraisals and how appraisal work was controlled, as well as with referring purchases to the Metro Council in "unusual circumstances." In addition, staff's efforts to resolve problems identified during due diligence work need to be better documented.

Due Diligence Procedures Are Comprehensive

The due diligence procedures for the Open Spaces Program are reasonably complete, and if carried out properly would enable Metro to identify all significant conditions and problems affecting properties targeted for acquisition. The Program's due diligence procedures include the following:

- obtaining an appraisal to help determine a property's fair market value
- examining title reports to determine if property has easements, encumbrances, unpaid property taxes, other liens or problems
- reviewing any boundary surveys that may have been done
- inspecting the property for encroachments or unrecorded easements [2]
- determining if there is physical and legal access to the property
- determining if environmental problems exist, such as or leaking underground storage tanks or asbestos
- evaluating the condition of houses, barns or other improvements that might have been made to the property.

Appraisal Procedures Need Strengthening

Appraisal is an important acquisition procedure. It provides market value and other information that can be used to determine whether to proceed with an acquisition, and it often determines the amount Metro will pay. It can also set the process for completing the

[2] An encroachment is the unauthorized intrusion of a building, fence or other improvement on another person's land. An unrecorded easement is a property right belonging to someone other than the landowner that has not been recorded with the county where the property is located (for example, an agreement allowing a neighboring property owner the right to use a private road).

transaction, as the Metro Council must approve the purchase of any property that is priced more than 10 percent or $50,000 above appraised value.

We reviewed appraisal reports associated with 12 Open Spaces properties Metro acquired during 1997 and 1998. The purchase prices of these properties ranged from $120,000 to $3,700,000. The total value of these purchases was about $16.1 million, which represented about 29 percent of the dollar value of Open Spaces Program properties acquired with regional share funds as of the sample selection date.

We identified several problems with the appraisals we reviewed, ranging from who assigned or reviewed appraisals to assumptions underlying the appraisals themselves. Each of these problems is discussed below.

Appraisals Should Be Assigned in Accordance With Work Plan Directives

The Open Spaces Program has a separation of work between the Open Spaces Acquisition Division, a unit of the Regional Parks and Greenspaces Department which is responsible for negotiating with landowners, and the General Counsel's Office, which oversees the due diligence process, including appraisals. This separation of duties is desirable, as it provides some assurance that the quality of appraisals and other due diligence work will not be compromised if negotiating staff are under pressure to achieve acquisition goals or purchase particular properties.

In 4 of the 12 appraisals we tested, however, the Open Spaces Manager or one of his negotiators rather than the due diligence team in the General Counsel's Office awarded independent appraisals. Similarly, negotiator staff assigned 6 of 12 appraisal reviews. To maintain the separation of duties, these awards should be made by the General Counsel's Office.

Reasons for Changing Review Appraisers Should Be Documented

Metro staff obtained review appraisals on all 12 of the property appraisals we examined; however, its regular review appraiser did not perform two of the 12 reviews, including one cited in Table 10. No explanation was given in the property acquisition records for changing review appraisers. Keeping the same review appraiser in all instances would help ensure continuity in the appraisal process. If a change is needed, reasons for it should be documented.

All Recent Appraisal Work Should be Furnished to Review Appraisers

At least two of the 12 property acquisitions we examined were appraised more than once. Metro staff provided the review appraiser for one of these acquisitions with all recent appraisals performed on the property, but gave the review appraiser of the other property only the most recent appraisal. Each appraisal report contains information that could help the reviewer evaluate a property's market value. Providing review appraisers with all appraisal reports that have been performed on a property during the past three years would help ensure a more thorough review process.

Table 9 Appraised Values vs. Purchase Prices

Sample	**Independent Appraiser's Market Value Estimate** (in thousands)	**Review Appraiser's Market Value Estimate** (in thousands)	**Metro's Purchase Price** (in thousands)
1	$ 3,415	$ 3,700	$ 3,700**
2	825	825	975*
3	630	630	630
4	3,150	3,150	3,150
5	3,889	3,633	2,800
6	116	120	120
7	3,000	3,000	2,850
8	650	650	750*
9	420	420	440
10	420	420	375
11	138	161	168
12	128	128	127.5

* Approved by Council due to purchase price exceeding appraised value by more than 10%.

** Approved by Council after unusual circumstances (mineral and oil rights) discovered during due diligence work.

Other Appraisal-Related Observations

Openspace land can be challenging to appraise. Lack of comparables, unknown development potential and conflicting data are some complicating factors. We reviewed appraisal values for all 12 properties and found no significant issues with eight of them. For these eight, the appraisal reports appeared to be based on reasonable and validated assumptions, and appraisers apparently had access to all relevant information they needed to gain an accurate and complete understanding of conditions surrounding the subject properties. The remaining four appraisals, however, contained elements of concern. Information about these four appraisals is summarized in Table 10.

Table 10 Summary of Four Appraisals With Elements of Concern

Description of property	Sale price	Auditor Concerns
40 acres in East Buttes target area	$3,150,000 (Metro paid $2,362,500, another jurisdiction paid $787,500)	• Appraisal assumed 175 lots could be created on the property. This assumption was inadequately supported, according to the appraiser hired by the Metro Auditor. It exceeds the base zone limit of 85 units and prior development approval for 131 units. • The risk, expense and time to achieve development approval for the property were not adequately reflected in the appraised value, according to the Metro Auditor hired appraiser.
152 acres on Multnomah Channel	$750,000*	• Appraisal value 17 months before the sale was $450,000. An additional appraisal conducted at time of sale moved appraised value to $600,000. • Appraised value was adjusted from $600,000 to $650,000 based on two $800,000 offers. Both contemplated a high level of development which Metro's appraisers found likely infeasible. Property is below flood stage and about 60% is wetlands. • Metro's final appraised value of $650,000 was much higher than the per-acre sale price of comparable properties cited in the $600,000 appraisal report.
3.2 acres near Forest Park	$168,000	• The appraisal report on this property stated, "Metro has requested this update appraisal be based on the assumption that the subject legally could be developed as three buildable lots, rather than as only one buildable lot, which was the highest and best use conclusion in the original appraisal." Evidence was not clear that more than one house could be built, according to the Auditor hired appraiser. • Appraised value of this property assuming one house could be built on it was $37,000. Appraised value assuming three houses was originally $138,000 and increased to $161,000 by the review appraiser. • The three-lot assumption was based on a memo from a City of Portland Planning Bureau employee summarizing a meeting with Metro staff to discuss development possibilities and limitations for this property. The Metro Auditor hired appraiser stated this memo does not indicate an outright potential for any development and stated that the Metro appraiser conferred with the same Planning Bureau planner, and originally determined the highest and best use was a one-house site.
.71 acres near Forest Park	$127,500	• The seller experienced a foundation failure on the property due to unstable soils. This factor does not appear to have been considered in the appraisals. • Separate appraisals were done for two components of a single transaction purchase, which may have raised appraised value.

* This purchase was specifically approved by the Metro Council, as purchase price exceeded appraised value by more than 10%.

After each appraisal report is completed and delivered to Metro, another appraiser, called the review appraiser, reviews it. The review appraiser's role is important, as he or she decides the final appraised value that Metro will rely on. While the purchase price is not always the same as the final appraised value, it is an important figure. Table 9 shows that for the 12 properties we reviewed, Metro paid the same or nearly the same as the review appraisal in 5 instances, more in four instances, and less in three.

The results of our audit testing suggest that review appraisals may not always provide reasonable assurance that Metro's appraised values accurately indicate the market value of properties. The Auditor's Office hired a certified appraiser to review the appraised values of seven of the 12 properties we reviewed. This appraiser 1) confirmed three appraised values without qualification; 2) lowered the appraised value of a fourth property from $650,000 to $545,000 by reconciling estimated values from two separate appraisals; and 3) confirmed the appraised value of three other properties but raised issues that create some doubt as to whether a prudent buyer would actually pay as much for the properties as Metro's appraisals indicated they were worth.

A reason why the review appraisals may not result in greater assurance of the reliability of estimates is that Metro is contracting for limited scope desk reviews. Typically in such reviews the appraisal report has been

> "… read and reviewed for substantive and reporting content. All mathematical calculations within the report have been checked for accuracy, and a conclusion as to fulfillment of both analysis and reporting requirements has been made. No physical inspection of the property has been performed. The review appraiser has made no attempt to separately verify any of the factual or comparable data utilized in the appraisal."[3]

[3] Source: Review appraisal report for 3.2 acre acquisition listed in Table 10.

Thus, limited scope reviews do not independently verify facts and assumptions contained in the appraisal reports they are reviewing unless they are certain that the assumptions and / or facts presented in the appraisal are unreasonable. Here are two examples of how this approach affected the reviews in the appraisals we questioned:

- The review appraiser confirmed the appraisal value for the third property shown in Table 9 by assuming, as the original appraisal did, that three home sites could be developed on the property, even though the property's zoning did not allow any development.
- The review appraiser confirmed Metro's appraised value for the last property shown in Table 9 by following the original appraiser's approach of not taking into account a foundation failure that occurred when the owner tried to build on part of it.

Criteria for Land Purchases Need Clarification

Acquisition parameters are the approved set of conditions under which the Metro Executive Officer or his designees are authorized to complete land acquisition transactions without Council involvement. Acquisition parameters are established in the Open Spaces Program Work Plan. Some key acquisition parameters in effect during our audit were as follows:

- The landowner must be a willing seller.
- The property must be designated for acquisition on a "confidential refinement map" approved by the Metro Council.
- The proposed purchase price must be at or below market value as estimated by a qualified appraiser. If the purchase price is above market value by no more than 10 percent or $50,000, the Executive Officer can acquire the property after determining that certain "public interest" factors have been met. Public interest factors include the importance of the site based on the adopted Refinement Plan and the impact on Metro's ability to achieve Refinement Plan goals if the property is not purchased. If the purchase price is more than $50,000 or 10 percent above appraised value, the Council must review the deal.
- The purchase price must be within the established budget for the target area.
- Due diligence work has been completed and no "unusual circumstances" have been discovered. Unusual circumstances include hazardous waste concerns, unusual deed or title

restrictions that may affect Metro's ability to use the property, inability to complete due diligence procedures because of seller-imposed time restrictions, or special indemnification Metro is being asked to provide or believes it should require.

If these acquisition parameters are not met and the Executive Officer still wishes to move ahead on the purchase of a particular property, the transaction must be taken to the Metro Council for review and approval.

Our testing of the 12 purchases indicated that staff is complying with these requirements. For example, all 12 properties were acquired from willing sellers; the properties were located in areas the Council had approved for acquisition; and any properties purchased for an amount that was more than 10 percent above appraised value were taken to the Council. However, we did note problems in two areas, as follows:

- The Work Plan authorizes Metro's Executive Officer to approve Open Spaces land purchases under certain conditions. One of the conditions is that "[t]he purchase price is within the established budget for the specific target area." Program managers, however, assert there are no binding target area budgets or allocations. They believe that the only dollar limitation is the annual budget appropriation for land acquisition, which is a lump sum and is not allocated by target area, trail and greenway project. On the other hand, the allocations included with resolutions approved by the Metro Council prior to the bond measure appear to provide budget guidance by target area, trail and greenway project. Staff should seek Council clarification on this issue, as two purchases caused expenditures to exceed the budget for that target area. Neither purchase was taken to the Council for review on this issue.
- Staff did not always ask the Council for purchase approval when "unusual circumstances" affected properties. Metro staff did not seek the Council's approval before acquiring three such properties in our audit sample of twelve. The "unusual circumstances" concerning these three properties included mineral rights belonging to someone other than the seller and the presence of asbestos in structures. Although exercise of the mineral rights appeared unlikely, and the cost of addressing the environmental issues was likely low in comparison to the

purchase price, we believe Program staff are currently required under the Work Plan to take these issues to the Council. Alternatively, staff could prepare a revised definition of ”unusual circumstances“ that will provide clearer guidelines and ask the Council to approve this change.

Better Documentation of Due Diligence Issues Needed in Acquisition Files

During audit testing we encountered instances where due diligence issues and their resolution were not clearly documented in the property acquisition files. This can lead to misunderstandings and an incomplete record of questionable issues should they surface in the future. Clearer and complete documentation of issues that arise and their resolution is needed to ensure management awareness and to avoid unnecessary efforts to again address these issues at a future date.

Conclusions and Recommendations

The due diligence requirements and acquisition criteria in place appear generally sound enough that, if fully carried out, would provide assurance that acquisitions are being carried out in line with Metro policies. However, the implementation of these requirements and criteria needs strengthening in several ways. Accordingly, we recommend action in the following areas:

<u>Assign appraisals only through the General Counsel’s Office</u> All appraisal work should be assigned and managed by the General Counsel’s Office and not by the Open Spaces Manager or anyone on his staff.

<u>Make information available to independent appraisers</u> The Open Spaces Manager and the General Counsel should instruct their employees to provide appraisers with any information in their possession that could bear positively or negatively on a property’s market value.

<u>Ensure independent appraisers are free to form their own appraisal assumptions</u> The Program Work Plan should be revised to prohibit the Open Spaces Manager or any other Metro employees from directing appraisal assumptions, as the appraiser already considers the highest and best potential use for a property.

<u>Document review appraiser changes</u> The General Counsel’s Office should use its regular review appraiser for all appraisal reviews. If there is a need to deviate from this practice, staff should document their reasons for using a different appraiser and retain their written explanation in the due diligence file.

<u>Provide additional information for appraisal reviews</u> The General Counsel's Office should provide the review appraiser with copies of all appraisal reports that have been performed on a property during the last three years, not just the most recent appraisal report. This would include appraisal reports provided to Metro by outside parties, such as property owners or agencies that Metro may be working with, such as The Trust for Public Land. In addition, consideration should be given to requiring review appraisers to perform more than limited scope desk reviews. Expanded scope could include verifying factual and comparable data used in the appraisal, as well as physical inspection.

<u>Clarify policies with regard to bringing purchases to the Council for review</u> The General Counsel's Office should develop a clearer definition of "unusual circumstances" so that there is less confusion as to whether the existence of unresolved mineral rights, limited environmental contamination, and other such conditions require Council approval before purchases are made. As part of this effort, we suggest defining "unusual circumstances" partly in financial terms. For example, unusual circumstances might be any problem that would cost more than $20,000 or 10 percent of the property purchase price to correct. The updated definition should be submitted to the Council for its consideration.

<u>Take steps to ensure due diligence issues are clearly documented</u> The Metro General Counsel or his designee should ensure that all significant property-related problems discovered and resolved during due diligence work are clearly documented to ensure management awareness of the status of these problems. Also documentation will help preclude misunderstandings and unnecessary efforts to again address these issues at a future date.

Appendix A

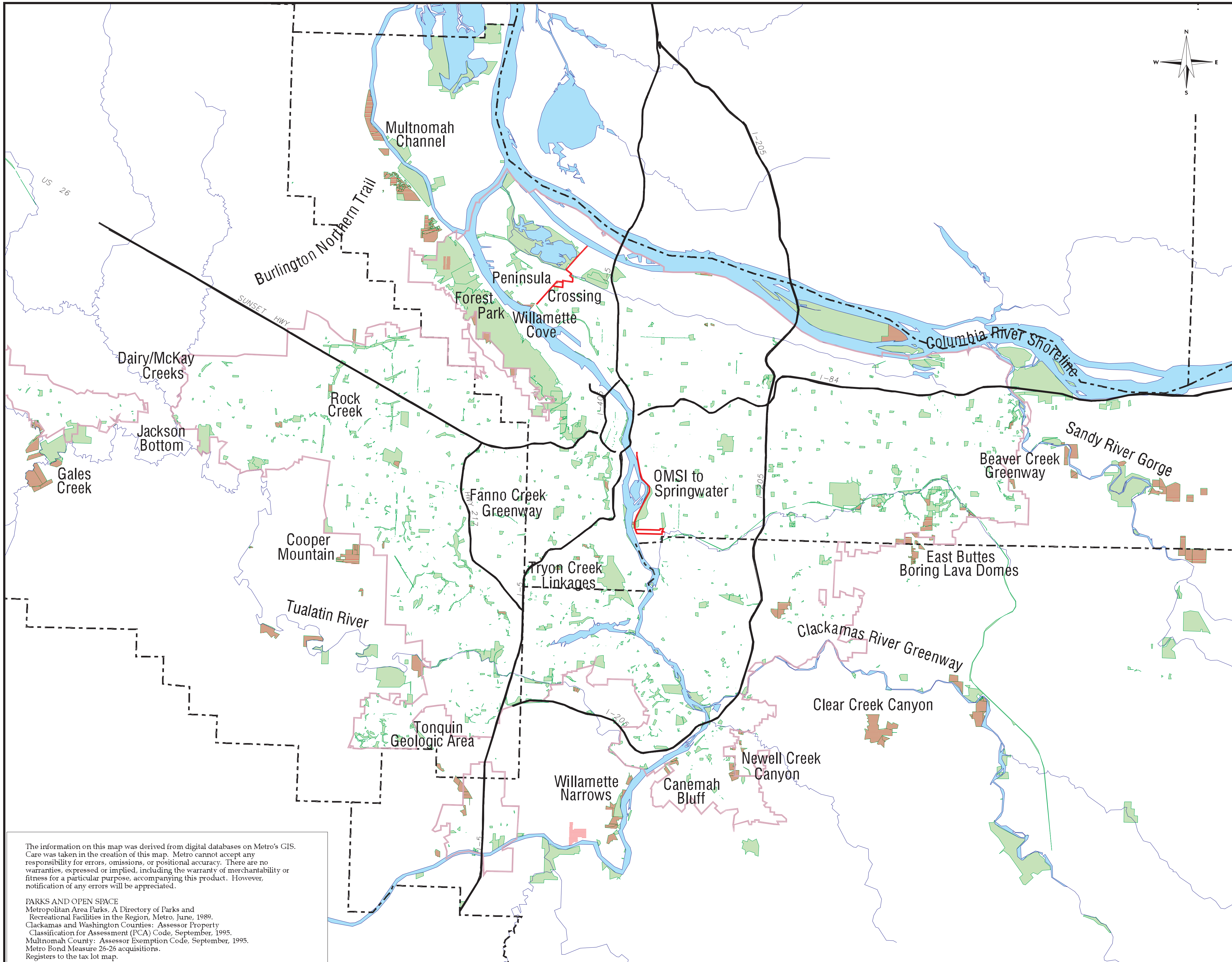
Map of Open Spaces Acquisitions

Metro's Open Spaces, Parks and Streams Bond Measure

R L I S

REGIONAL LAND INFORMATION SYSTEM

6,168 Acres, 188 Properties Acquired As of June 6, 2000



- Bond Measure Acquisitions
- Parks and Open Spaces
- Regional Improvement (Trail)
- Urban Growth Boundary
- County Line

Scale in Miles

0 1.5 3

METRO
Regional Parks and Greenspaces
600 NE Grand Ave, Portland, OR 97232-2736
Voice 503 797-1742 FAX 503 797-1909
Email drc@metro.dst.or.us

Location map

PARKS AND OPEN SPACE
Metropolitan Area Parks, A Directory of Parks and Recreational Facilities in the Region, Metro, June, 1989.
Clackamas and Washington Counties: Assessor Property Classification for Assessment (PCA) Code, September, 1995.
Multnomah County: Assessor Exemption Code, September, 1995.
Metro Bond Measure 26-26 acquisitions.
Registers to the tax lot map.

95212/pltregproj.aml, plot date: June 08, 2000

Appendix B

Source of Open Spaces Program Spending Plan

Source of Open Spaces Program Spending Plan

Target Area	Staff Recommendation in Resolution 94-2011A: Acreage Goal	Staff Recommendation in Resolution 94-2011A: Estimated Cost $ millions	Changes: Acreage Goal	Changes: Estimated Cost $ millions	Bond Measure Acreage Goal	Final Cost Allocations * $ millions
Clear Creek Canyon	366	$ 4.4	(24)	$ -0.3 (a)	342	$ 4.1
Columbia River Shoreline	95	1.7	-		95	1.7
Cooper Mountain	459	4.5	(31)	-0.3 (a)	428	4.2
East Buttes/Boring Lava Domes	545	10.5	-		545	10.5
Fairview Creek/Lake	143	2.8	(143)	-2.8 (b)	-	-
Forest Park Expansion	380	5.7	(60)	-1.0 (d)	320	4.7
Gales Creek	855	3.4	(80)	-0.3 (a)	775	3.1
Jackson Bottom	333	1.7	-		333	1.7
Newell Creek Canyon	370	6.7	-		370	6.7
Rock Creek	316	4.8	(16)	-0.3 (a)	300	4.5
Sandy River Gorge	808	5.7	-		808	5.7
Tonquin Geologic Area	277	3.3	-		277	3.3
Tryon Creek Linkages	-	-	20	1.0 (d)	20	1.0
Tualatin River Access Points	190	2.8	76	1.2 (a)	266	4.0
Willamette River Greenway	1,103	17.0	-		1,103	17.0
Target Area Subtotal	6,240	**$ 75.0**	(258)	**$ (2.5)**	5,982	**$ 72.2**
Peninsula Crossing Trail						1.6
Sauvie Island to Beaverton Trail						1.0
Beaver Creek Canyon Greenway						3.0
Clackamas River Greenway						7.2
Fanno Creek Greenway						3.5
Trail & Greenway Subtotal						**$ 16.3**
		$ 16.3		**-**		
Local Share Fund		**$ 25.0**		**-**		**$ 25.0**
Future Options		4.00		0		4.0
Acquisition/Administrative Costs		14.44		-0.34 (c)		14.1
1.5% Bond Issuance Costs		2.02		-0.02 (c)		2.0
Contingency & Reimbursable Expenses		2.04		-0.04 (c)		2.0
Grand Total		**$ 138.8**		**$ (2.90)**		**$ 135.6**

* The source of the dollar amounts in this column is a program spending plan provided to the Auditor's Office by the Open Spaces Manager in March 1996.

Explanation of Budget Changes

(a) A Regional Facilities Committee Report that was part of Resolution 94-2011A indicated that $1.2 million was added to the Tualatin River target area by deleting $300,000 from each of four other target areas.

(b) The Metro Council deleted the Fairview Creek target area in Resolution 94-2049B.

(c) A Regional Facilities Committee Report prepared for Resolution 94-2049B stated that bond issuance and other costs were reduced to reflect the elimination of the Fairview Creek target area from the bond measure.

(d) As part of Resolution 94-2011A, the Council transferred $1 million from the Forest Park target area to the Tryon Creek target area.

Appendix C

Geographic Analysis of Acquisitions

Geographic Analysis of Acquisitions

The following table and charts show the distribution of land acquired and acquisition dollars spent as of June 15, 2000, in terms of counties, the urban growth boundary and Metro's boundary. This analysis includes only those acquisitions made with "regional share" bond measure dollars and includes target area, trail and greenway acquisitions.

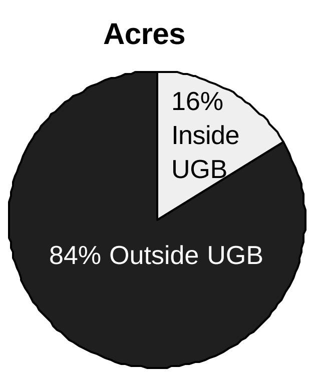
- In terms of county-by-county acquisitions, about 42% of Metro's land acquisitions were located in Multnomah County, 32% in Clackamas County and 22% in Washington County. Metro spent about 37% of land acquisition dollars in Multnomah county, 37% in Clackamas County and 23% in Washington County. All figures represent activity through June 15, 2000.

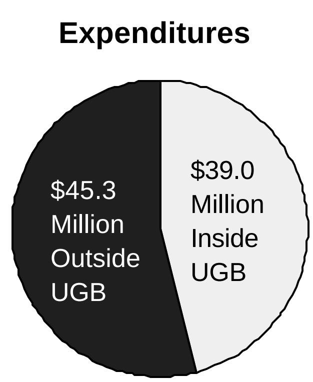
Regional Share Acquisitions by County

	County				
Description	**Clackamas**	**Multnomah**	**Washington**	**Mixed Counties**	**Total**
Acres					
Actual Acquired	1,997	2,631	1,366	207	6,201
%	32%	42%	22%	3%	100%**
Expenditures					
Actual Spent ($ Millions)	$ 31.5	$ 31.0	$ 19.6	$2.3	$ 84.3**
%	37%	37%	23%	3%	100%

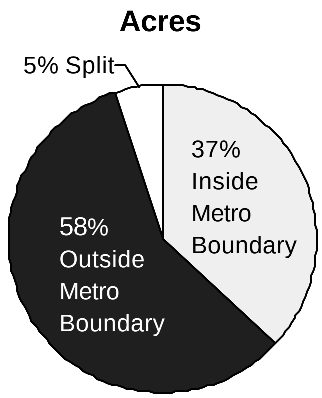
* Dollars are approximate.
** Does not add due to rounding.

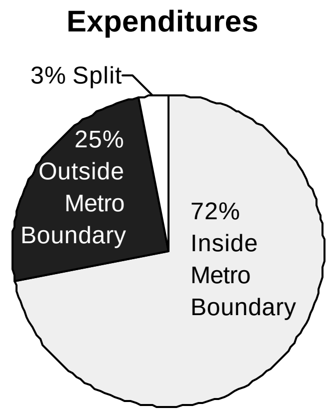
- In terms of inside and outside the urban growth boundary, about 84 percent (5,208 acres) of the land Metro acquired as of June 15, 2000, lay outside the urban growth boundary. Of $84.3 million spent for land acquisitions, $39.0 million (46%) was spent inside the urban growth boundary and $45.3 million (54%) was spent outside the urban growth boundary.





- In terms of inside and outside Metro's own boundary, about 58% of the land Metro acquired as of June 15, 2000, lay outside the boundary. Purchases outside Metro's boundary cost $21.2 million and constituted about 25% of the regional share dollars spent on land acquisitions.





Response to the Report

June 30, 2000

The Honorable Alexis Dow, CPA
Office of the Auditor
Metro
600 NE Grand
Portland, OR 97232

Dear Ms. Dow:

In accordance with Metro Code 2.15.070, the following is my response to the draft of the *Open Spaces Acquisition Audit, June 2000.* As always, audits are a good way to take a look at what we are doing and, when appropriate, make necessary changes. As you requested, my response addresses each recommendation; including plans, where appropriate, for implementing recommendations along with a timetable for associated activities. This detailed response is attached.

I am pleased that the report confirms the Open Spaces program is doing exactly what the voters want it to do -- buy property from willing sellers in a very competitive market to protect it against development. To date, the program has acquired 6,242 acres with about $41 million total dollars remaining. Voters certainly are getting their dollars' worth!

I also am pleased the report confirms or acknowledges the following points:

a) Metro has effectively achieved its minimum 6,000-acre acquisition goal.

b) The "willing seller" nature of the program impacts Metro's ability to complete transactions evenly across all target areas.

c) Substantial progress has been achieved in developing the Peninsula Crossing Trail in North Portland and the purchase and preparation of the OMSI to Springwater Trail corridor along the east bank of the Willamette River.

d) The management controls for safeguarding assets and compliance with those controls are "adequate."

e) Metro's "due diligence procedures and land acquisition criteria appear sound."

f) Much has been accomplished beyond the purchase of land, including:

- the development and Council adoption of a work plan to guide the program.
- the assemblage of a "highly qualified team of employees" to implement the program.
- the development and Council adoption of "more than 20 refinement plans" that provide detailed policy guidance on acquisition goals and objectives, acreage targets and specific properties approved for negotiation and acquisition.
- the issuance of the general obligation bonds –for substantially less than the estimated issuance cost.
- the "skill, hard work and dedication" required to move bond measure implementation to its current position.

As you may recall, in early 1995 before the bond measure election, I convened a group of real estate experts from private and non-profit organizations. This group was requested to recommend strategies and procedures that would represent a new approach to government land acquisition. Given the highly competitive nature of the local real estate market, I wanted to be sure Metro was positioned to move quickly, efficiently and effectively to preserve desirable properties before they were lost to other buyers or developers for other uses.

The work plan, refinement plan, due diligence procedures and staffing composition represent the recommendations of this group of experts. Your report confirms my belief that the implementation of their recommendations is fundamental to the program's success.

I agree with all but one of your recommendations. In many cases, your recommendations reflect current practice or processes already underway. For example, we have already initiated an in-depth dialogue with the Metro Council to address the "spend down" of remaining funds. This process was initiated at the formal request of the Council and included with the adopted budget for FY 99-00. We are already assigning all appraisal work through the Office of General Counsel (OGC) and making all relevant information available to appraisers, consistent with your early recommendations.

Any disagreement I have with the audit stems from its emphasis on the concept of "regional balance." My concern is the audit's suggestion that the program's success in achieving regional balance be judged only against the minimum acreage goals for each target area. I believe this view does not recognize that:

- Target areas were identified in the bond measure and we have been aggressively pursuing acquisitions in all target areas. Comparing the amount of purchases by county or other jurisdictional boundary is not the ultimate measuring stick for determining regional balance.
- By contrast, and in part to achieve regional balance, the $25 Million local share component of the bond measure was distributed to counties, cities and local parks providers in strict accordance with their relative populations. The same restrictions and distribution were not made with the regional funds reviewed by the audit; and
- Exceeding minimum acquisition goals in any specific target area should be viewed positively and as a consequence of the "willing seller" program directive.

However, I agree that regional balance is important to maintaining support for the current and any similar future program. I will engage the Council in a discussion of how to spend the remaining bond proceeds in a manner that is consistent with the policies and goals established in the bond measure and the Council adopted refinement plans.

The Executive Office, Regional Parks and Greenspaces staff, OGC staff, and the Council and its staff have had an effective and productive working relationship to implement this complex program. The Audit's recognition of our substantial compliance with the Work Plan shows that this program is operating as it was designed. It is especially rewarding that we have met our minimum acreage goals through over 175 "willing seller" purchases.

We all know this program is the region's best opportunity to protect land from rapid development. It is clearly accomplishing what the voters want it to do. Again, my specific response is attached.

Sincerely,

Mike Burton

Mike Burton
Executive Officer

Attachment

RESPONSE FROM METRO EXECUTIVE OFFICER MIKE BURTON
TO THE AUDITOR ON THE JUNE 2000 AUDIT DRAFT REPORT
ON OPEN SPACES ACQUISITIONS

Chapter 2: Program Results

Recommendation: ***"To help ensure that Program objectives are attained, we recommend that Metro's Open Spaces Manager take the following actions: concentrate future acquisition efforts in target areas where purchases to date are far below acquisition goals."***

Response: I agree with this recommendation.

Proposed plan for implementing this recommendation:
To meet this recommendation, staff will continue to:

1. Hold weekly meetings among the Open Spaces Manager, all the negotiators and attorneys from the Office of General Counsel (OGC) to strategize on which properties to buy, how to develop willing sellers and to solve problems that are holding up deals.

2. Maintain landowner contact on essential parcels even where willing sellers do not currently exist.

3. Request help from non-profits or other third parties who may be able to assist. For example, staff has recently requested the assistance of the Three Rivers Land Conservancy on transactions in the Fanno Creek Greenway target area and they have agreed to help Metro.

Over the past two years staff has concentrated and will continue to concentrate efforts in those target areas where goals have not been met. As this is a willing seller program, acquisition success is not completely within staff's control.

Proposed timetable to complete such activities:
These activities commenced before the release of the audit, are ongoing, and will continue for the duration of the acquisition program.

Recommendation: ***"Continue to focus efforts on purchasing those properties that will close gaps between Metro's existing landholdings."***

Response: I agree with this recommendation.

Proposed plan for implementing this recommendation:
Staff has and will continue to use this common sense approach wherever appropriate. There are some target areas, however, where contiguous ownership is neither desirable nor anticipated by the refinement plan adopted by Council. In response to a fiscal year 99-00 budget note, staff and Council have initiated a process which is intended to identify critical parcels, particularly those which would "close gaps," and hold funds for their potential acquisition.

Proposed timetable to complete such activities:
These activities are ongoing, and will continue for the duration of the acquisition program.

Recommendation: ***"Develop strategies for acquiring more land in greenways."***

Response: I agree with this recommendation.

Proposed plan for implementing this recommendation:
The adopted refinement plans for the greenways provide and continue to provide solid policy guidance for Metro's acquisition in the greenway areas. The greenways are approached with the same strategies as the other target areas, and therefore the specific implementation plan set forth two recommendations above (the recommendation regarding the concentration of future acquisition efforts in areas where purchases to date are below acquisition goals) would apply here as well.

Proposed timetable to complete such activities:
These activities commenced before the release of the audit, are ongoing, and will continue for the duration of the acquisition program.

Further discussion:
I agree that greenway land acquisition is an important aspect of the Open Spaces program. However, while we have not yet met all of the acquisition goals established for the greenways, I believe we have made substantial progress. There are three such "greenways" -- Clackamas River, Beaver Creek and Fanno Creek. At the Clackamas River, Metro has acquired more than 335 acres of land, including 9,650 feet, or 1.8 miles, of river frontage, which is, as your report recognized, significant. Seven properties have been acquired in the Fanno Creek Greenway and two in the Beaver Creek Greenway. Much of the protection work needed in these latter two greenways is being accomplished by local jurisdictions through acquisition, developer set-asides or regulatory restrictions such as Title 3. That said, staff will continue to work in these areas, and I anticipate additional success.

Recommendation: ***"Develop, for the Council's consideration, a supplemental plan to ensure that Open Spaces purchases in the tri-county area will represent, to the degree attainable, a sound regional balance."***

Response: I agree with this recommendation.

Proposed plan and timetable for implementing this recommendation:
Council has adopted 22 detailed refinement plans for each of the target areas, and in some cases, sub-target areas. These refinement plans reflect the input of outside biologists, important stakeholders and thousands of citizens. More than 100 public meetings were held prior to finalizing the refinement plans. The plans remain viable and offer clear and compelling policy guidance to staff.

As part of a budget note adopted with the fiscal year 99-00 budget, staff has initiated a process with Council to clearly articulate Metro's current status, identify key parcels and informally reserve funds for their acquisition. I will direct staff to ensure that achieving regional balance is considered in this process and will engage the Council in a discussion about "regional balance" and use of the remaining funds. On December 14, 1999, staff made a presentation to Council, which included the exhibit of confidential maps for every target area, showing remaining "essential" and "desirable" sites. Acquisition of these remaining sites is intended, in part, to achieve "regional balance" as contemplated by the bond measure. Since there are insufficient funds to acquire all of these key parcels, we will continue that discussion with the Council in response to your audit and the budget note.

Further Discussion:
This portion of the audit presents data that correctly shows that we have made significant progress in acquiring properties in most of the target areas. Page 10 of the audit presents an analysis of acquisitions in each target area and states that "in six … target areas, acquisitions significantly exceed minimum acquisition goals." This section of the audit goes on to state that "in three areas of the six areas, it is less that 40% of the goal" and that the bond issue refers to"… a regional balance of sites acquired." While

the audit recognizes that these acquisition targets are minimum goals for area, the report does not indicate that the phrase “regional balance” is used in the bond measure solely in reference to selecting new or additional target areas at some later date. Resolution 95-2047A states that “New target areas shall be selected to retain a regional balance of sites acquired.”

In the three target areas listed on page 10 and Table 5 of the audit where Metro “is less that 40% of the goal”, we have made some noticeable progress. At Newell Creek, Metro has acquired a very large number of properties, 17 in total, and enjoys strong support for our efforts from the City of Oregon City, local advocacy and friends groups, and neighborhood associations. Similarly, the nine sites acquired in the Rock Creek target area represent the best of the remaining undeveloped sites in the target area. Our success enjoys the strong support of the City of Hillsboro and other interested parties. At Jackson Bottom/Dairy and McKay Creeks, Metro has not yet acquired any sites. The minimum acreage goal for that target area was derived from essentially one large site that Metro has been in active negotiation to purchase for more than three years. Thus, lack of success in one area is to be expected from time to time in a willing seller program.

It is also important to again note that the $25 million local share component of the bond measure was distributed to counties, cities and local parks providers in strict accordance with their relative populations. This was done in part to guarantee “regional balance” on a precise jurisdiction by jurisdiction basis. The same restrictions and strict distribution were not made with the regional funds.

As I stated previously, I concur that regional balance is very important to the current and any future land acquisition program. I do, however, believe that we are keeping our promises to the voters and buying high quality open space land from willing sellers in the specific target areas identified in the measure.

Chapter 3: Management Processes and Program Reporting

Recommendation: ***“Develop a working definition of regional balance and establish a system to help maintain such balance…”***

Response: I agree with this recommendation with exceptions.

Discussion:
I agree that regional balance is important and I will engage the Council in a discussion of your recommendation. It will be presented for their consideration and potential action. However, I will recommend against the adoption of formal target area budgets as a way to achieve regional balance. I believe the record shows that the Council has so far not adopted “target area budgets,” even though they have the authority. However, in my opinion, to adopt such budgets now would be detrimental to the success of the program.

I also do not agree your recommendation that a new budget should be established to set “spending priorities for the $24 million in available funds that resulted from interest earnings and are unaddressed in current spending allocations. Interest has been allocated in the annual budget for the Regional Parks and Greenspaces Department adopted by Council during each fiscal year. Interest funds thus are not segregated from other acquisition funds. These interest earnings and other bond proceeds will be utilized to meet the priority acreage and other acquisition goals established in adopted refinement plans for various regional target areas that continue to be Council priorities for spending.

Recommendation: ***"Revise quarterly reports."***

Response: I agree with this recommendation with exceptions.

Proposed plan and timetable for implementing this recommendation:
Four of the audit's five specific suggestions regarding quarterly reports are based on the premise that target area budgets exist or should be established. For the reasons set forth above, I will not recommend that the reports be revised accordingly. The remaining recommendations address contiguity and achievement of goals. I generally agree with these recommendations. I believe that these reports need to be easily read and concise and reflect our primary objective of land acquisition. I will direct staff to consult with Council to determine a reasonable balance in this particular area.

Recommendation: ***"On an annual basis, provide an assessment as to whether refinement plan objectives are being achieved."***

Response: I agree with this recommendation.

Proposed plan and timetable for implementing this recommendation:
I will direct staff to include this analysis in its next biannual report to Council due in May 2001. Staff will discuss with Council at that time whether such information would be useful to Council on an annual basis thereafter.

<u>Chapter 4: Compliance with Program Work Plan</u>

Recommendation: ***"Assign appraisals only through the General Counsel's Office."***

Response: I agree with this recommendation.

Proposed plan and timetable for implementing this recommendation:
This has already been implemented and has been standard practice for some time, and will continue for the duration of the acquisition program.

Recommendation: ***"Make information available to independent appraisers."***

Response: I agree with this recommendation.

Proposed plan and timetable to complete this recommendation:
This activity commenced before the release of the audit, is ongoing, and will continue for the duration of the acquisition program.

Recommendation: ***"Ensure independent appraisers are free to form their own appraisal assumptions."***

Response: I agree with this recommendation.

Proposed plan for implementing this recommendation:
I will direct staff to prepare the necessary documents for Council action to amend the Work Plan to reflect this.

Proposed timetable to complete such activities:
I will take this to Council by September 30, 2000.

Recommendation: ***"Document review appraiser changes."***

Response: I agree with this recommendation.

Proposed plan and timetable for implementing this recommendation:
I have directed staff to implement this recommendation immediately in the form of a memo to the file or notation on the closing checklist in any future transaction where the review appraiser is not used either because of unavailability, conflict of interest, vacation or other reason.

Recommendation: ***"Provide additional information for appraisal reviews."***

Response: I agree with this recommendation.

Proposed plan and timetable for implementing this recommendation:
Effective immediately, I am directing staff to provide the review appraiser with copies of any appraisals that may be in Metro's possession.

Further Discussion:
The Auditor makes the observation that "review appraisals may not always provide reasonable assurance that Metro's appraised values accurately indicate the market value of properties" (page 27). This conclusion was made after "audit testing" of seven files where the Auditor hired an appraiser to review the values.

While I agree that a review appraisal that encompasses a review of the previous appraisal, the files and a site inspection could provide a better review appraisal, our practice of requesting our review appraisers to review the previous appraisals only has been very efficient and effective. Further, this practice is in accordance with appraisal industry standards for appraisal reviews. Based on your suggestion, I will also recommend that our OGC staff instruct the review appraiser that we will pay additional reasonable expenses to expand the appraisal review to include a review of all file materials and a physical inspection of the property if the review appraiser feels that the issues in the appraisal report warrant further analysis.

Regarding the 3.2 acres near Forest Park referenced in the audit, the audit states that "evidence was not clear that more than one house could be built, according to the Auditor hired appraiser." In fact, an employee of the Portland Planning Bureau issued a memo that the property could have the development potential for three to twelve homesites. In analyzing the property's value, both the appraiser and the review appraiser used this memo.

Regarding the 0.71-acre site near Forest Park, the audit states that "the seller experienced a foundation failure on the property due to unstable soils. This factor does not appear to have been considered in the appraisals." In conducting the appraisal, the appraiser walked the property and the foundation for the building site is in the ground. The appraiser and review appraiser both concluded that this 0.71-acre site could support one homesite somewhere on the property.

I do recognize that different appraisers will often differ in their opinions on the market value of any property. Metro's appraisal procedures are thorough and extensive. We are hiring some of the best appraisers in the region to give us quality reports. Our review appraiser, Craig Zell, is highly respected. Metro's team of excellent staff and private-sector appraisers has assisted us in acquiring property with a minimum of conflicts or problems.

Recommendation: ***"Clarify policies with regard to bringing purchases to the Council for review."***

Response: I do not agree with this recommendation.

Discussion:
I will direct staff to bring this issue up for Council consideration. But, the current definition of "unusual circumstances" contained in the Work Plan is a good one and not in need of revision or expansion, in my opinion.

I do not believe that any confusion exists as to what constitutes "unusual circumstances." The final decision in these cases is made by the Office of General Counsel. OGC errs on the side of bringing close calls to Council and will continue to do so. I feel that this system has worked well and is not in need of revision.

The two specific instances referenced by the Auditor concerning mineral rights and limited environmental contamination by asbestos and lead paint have been discussed between the Auditor and the OGC staff. In both cases staff felt that no demonstrable risk existed when Metro bought the property. Therefore the conditions did not constitute "unusual circumstances" and did not merit Council attention. I agree with this view.

Recommendation: ***"Take steps to ensure due diligence issues are clearly documented."***

Response: I agree with this recommendation.

Proposed plan and timetable for implementing this recommendation:
The Metro Council has authorized and OGC staff has been using for many years, a closing checklist that identifies due diligence issues and their resolution. I have directed staff to endeavor to keep these records in a more orderly, legible, complete and reviewable fashion, effective immediately.

Metro Auditor
Report Evaluation Form

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	Too Little	Just Right	Too Much
Background Information	❑	❑	❑
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Clarity of Writing	❑	❑	❑
Potential Impact	❑	❑	❑

Suggestions for our report format:____
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Thanks for taking the time to help us.

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