



BROWARD OFFICE OF THE INSPECTOR GENERAL

MEMORANDUM

To: Bertha Henry, County Administrator

From: John W. Scott, Inspector General 

Date: December 23, 2014

Subject: **OIG Revised Closing Memorandum Re: *Allegations of Misconduct by Water and Wastewater Services, Fiscal Operations Division, Ref. OIG 13-035***

The purpose of this memorandum is to inform you that the Broward Office of the Inspector General (OIG) has concluded an investigation based on allegations that poor internal controls over bond proceeds may have led to violations of the bond agreement at Water and Wastewater Services' (WWS) Fiscal Operations Division (FOD).

The OIG investigation found that WWS has been plagued by a lack of qualified leadership and reduced accountability due to key positions not being filled. Specifically, in the past six years WWS has not replaced the FOD Director after she was “stripped of organizational responsibilities” due to “management issues” even though an FOD Director is required by the Broward County Administrative Code. Instead, FOD cycled through a group of unqualified “acting” individuals who generally worked under two different job titles and avoided responsibility or accountability for the Division’s internal controls.

As such, the OIG partially substantiated the complaint, finding that FOD is suffering from poor internal controls in day-to-day operations.¹ Our investigation found that the FOD did not properly review bond draws to ensure they were allowable, did not periodically reconcile bond proceed usage, and did not—until the receipt of the allegations—formalize a listing of allowable projects for use of the bond proceeds. Staff at the FOD and Water and Wastewater Engineering Division (WWED) told the OIG that they do not presently have any official documentation of their policies, procedures or internal controls. We found that 11 out of the necessary 122 FOD procedures have been drafted, but none had been reviewed or approved as of June 2014.

However, FOD did independently take immediate action to address the allegations, initiating a reconciliation of all bond draws to date and finalizing a specific list of allowable projects for use of bond funds. FOD staff has informed the OIG that bond proceeds were used to fund disallowed

¹ The OIG has not issued a report in this matter because we have not determined, pursuant to Section 12.01(D)(1)(b) of the Charter of Broward County, that a report will assist the County in preventing similar future misconduct.

projects and advised that a preliminary analysis shows that approximately \$3.1 million were improperly drawn, and \$10.3 million in allowable projects were not drawn. They advised that these errors and any additional ones would be corrected by subtracting them from the totals of future draws. According to multiple FOD personnel, the bond agreement is vague with regards to the allowable use of funds. The WWS Director indicated the bond was intentionally vague to allow flexibility. The OIG's review of the bond documents did not find the descriptions were vague, but our investigation revealed that the policy at FOD for application of the funds was shifting, likely causing confusion. Further, even though the WWS Director indicated that the bond errors were due to a lack of standard procedures, there was no planned timeframe for the completion of policies, procedures or documentation of necessary internal controls that, as of June 2014, weren't expected to be completed in the foreseeable future.

Background

The FOD is tasked with providing sound fiscal management for both the operating budget and the CIP. The County's FY 2014 budget states that the FOD's goal is to provide financial management through safeguarding resources, billing and collecting for services, promoting efficiency, providing accurate and timely financial and management reports, and insuring the practice of sound fiscal policy. To efficiently provide these goals, the FOD is organizationally split into a financial section (accounting) and customer service section (business). The accounting section includes functions such as accounts payable, accounts receivable and financial reporting, while the business section includes a call center, a billing center and cashiers to collect utility fees. The FOD's key positions are: FOD Director, Business Operations Director, Utilities Fiscal Manager (Fiscal Manager), Reporting Accountant IV, Revenue Accountant IV² and Special Projects Accountant IV.

WWS generally relies on user charges and bond proceeds to fund its CIP. On April 10, 2012 WWS entered into a revenue bond agreement for a purchase price of approximately \$158 million.³ The purpose of this revenue bond was to fund a portion of the CIP and to reimburse interagency loans of approximately \$14.9 million that were previously used for capital projects. After repaying the loans and funding reserve and issuance accounts in the amount of approximately \$8 million, WWS retained approximately \$135 million to be used for future capital projects. The agreement states that WWS reasonably estimates to use all bond proceeds within three years of issuance.

WWS uses a reimbursement method to obtain (draw) bond proceeds and fund its capital projects. Essentially, this means that WWS pays for all capital projects through its operating bank account and later requests reimbursement of those invoices from a trustee.⁴ The general process to request the reimbursement includes the FOD doing the following: (1) running monthly reports of all the WWED capital projects and determining which projects are allowable for bond reimbursement; (2) obtaining the supporting invoices for all projects determined to be allowable; (3) listing each invoice in a bond agreement approved template; (4) reviewing the listing for

² The Revenue Accountant IV is presently also acting as the Utilities Fiscal Manager.

³ The agreement named Citigroup Global Markets, Inc. as the underwriters and included refunding bonds for a purchase price of approximately \$180 million.

⁴ The trustee is the custodian of the bond proceeds and disburses them upon receipt of a WWS request.

accuracy and appropriateness; (5) forwarding the listing to County Finance for signatures and submission to the trustee; and (6) periodically reconciling funds drawn to correct errors.

As of April 22, 2014, the FOD submitted 19 requests for reimbursement of project invoices totaling approximately \$62 million dollars. At that time the FOD had approximately \$73 million in bond proceeds still available to be drawn but does not expect to draw all bond funds within the three year estimate because of various procurement and regulatory delays that have occurred.

Investigation

This investigation was predicated on information alleging that FOD's poor internal controls have led to violations of terms in WWS' bond agreement. The OIG substantiated that the FOD's internal controls were lacking. Regarding the violations of the bond agreement, FOD initiated a reconciliation of bond draws and informed the OIG that approximately \$3.1 million were drawn for disallowed projects and \$10.3 million in allowable projects were not drawn.

Further, the OIG's investigation found that WWS management violated section 6.72 of the Administrative Code by failing to fill the position of FOD Director within a reasonable amount of time. As a result, FOD has suffered from poor leadership and a lack of accountability, which has led to inadequate financial oversight, undocumented processes and questionable internal controls.

Unfilled Key Positions, Lack of Qualified Leadership and Poor Accountability Led to Reduced Financial Oversight, Undocumented Processes and Questionable Internal Controls

The OIG's evaluation of the FOD's internal control system primarily focused on its organizational structure and its documented system of internal controls. We reviewed the organizational chart of the FOD, conducted interviews with current and former FOD staff and with WWS senior management, assessed the impact of vacancies in key accounting roles, reviewed job descriptions, reviewed recruitments for key positions in the FOD, and requested FOD policies and procedures or a description of its internal control system. We found that there is considerable room for improvement over the FOD's system of internal controls and that its organizational structure is not conducive to long term success. Specifically, we found that the FOD has lacked:

- Qualified leadership since the removal of its Former Director in FY 2008, leading to numerous instances of problematic oversight.
- Accountable leadership, as no one appears to accept accountability and responsibility for developing and administering internal controls or managing problems that arise.
- Any official documentation of policies, procedures or descriptions of its internal control system.

1. Lack of Key Positions and Qualified Leadership

Section 6.72 of the Administrative Code requires that the FOD be led by a Director who has a degree from an accredited four year-college or university in accounting, business or public administration or a related field. Furthermore, the official job description for the position states that the Director must be a Certified Public Accountant (CPA) in the State of Florida.

The OIG determined that the FOD has not properly filled the position of Director since FY 2008, after it reassigned the former Director (Former Director) from direct management of the division due to recommendations made as a result of an Office of Equal Opportunity (OEO) investigation. The Former Director admitted to OIG staff that the OEO found that she had “management issues” and thus she was “stripped of organizational responsibilities.” However, the Former Director was allowed to keep her title and pay, even though she was assigned to other—non-management—responsibilities. Moreover, approximately eight months after she was reassigned from the direct management of the division and transferred out of the FOD office space, the WWS Director recommended, and Human Resources (HR) approved, that she receive a five-percent merit pay increase.

The important position of FOD Director has effectively remained vacant since that time, and no attempts have been made to fill it. The WWS Director told OIG staff that the FOD Director position has not been filled in the ensuing six years because budgeted funds were linked to the FOD Director “title” and HR did not remove the title from the Former Director. However, the WWS Director admitted that he has never spoken to HR about the situation or asked how to fill the position without an available title. In effect, the WWS Director noted, the Former Director is a “division Director with no division.”

The WWS Director advised that another reason the job of FOD Director had not been filled is because he believed the Fiscal Manager could run the division in the absence of a Director because he was a CPA. However, the OIG found that the Fiscal Manager position has also been vacant since FY 2011, and instead leadership of the FOD has cycled through a group of unqualified “acting managers.” Specifically, the OIG found that:

- In FY 2011, the Fiscal Manager resigned and was replaced by the Revenue Accountant IV in an acting role. The Revenue Accountant IV officially began filling these dual roles on September 19, 2011 and was expected to perform her normal accounting functions and to provide oversight as the highest ranking managerial position in the FOD. The WWS Director advised that WWS attempted to recruit a Fiscal Manager in April 2012—approximately seven months later—and again in November 2013—approximately 16 months later—but could not find a suitable candidate from both an accounting and business standpoint. He advised OIG staff that a total of three interviews were performed during the recruitments and the Revenue Accountant IV was included in one of those interviews, but she was found to be unqualified from a business standpoint. Nevertheless, she has remained the acting Fiscal Manager and has continued in that role to the present.
- WWS created a Director of Business Operations position in October 2012 to oversee the FOD, but did not fill the position for approximately 15 months. During that time, WWS

became aware that an employee had filed a complaint with the OIG.⁵ The purpose of the position, as documented in the FOD's organizational chart, is to oversee the FOD in lieu of a Director. WWS filled the Business Operations Director position in an acting capacity on January 6, 2014, approximately 15 months after its creation, with an employee from the Public Works Department.⁶ The Acting Business Operations Director informed the OIG that no official job description for his title existed, but upon accepting the title he was advised to look into the allegations reported to the OIG and correct any operational problems in the FOD. Although the Administrative Code requires that the FOD have a Director as head and the job description requires a CPA, the Acting Business Operations Director is not a CPA, and admitted that he has minimal accounting experience. The WWS Director stated that a job description was drafted with a CPA requirement in FY 2013 and was redrafted without the CPA requirement in March 2014, two months after the Acting Business Director was assigned to lead the FOD. He advised that the reason for scrapping the CPA requirement was because all current Accountant IVs have CPAs and in the future, WWS intends to establish a CFO position to help oversee the FOD's accounting functions. The WWS Director acknowledged that he is aware of the Administrative Code's requirements and agreed that WWS is not in compliance with it.

- In October 2012 and until the acting Business Operations Director was hired in January 2014, the WWS Director undertook a dual role as both WWS Director and FOD Business Operations Director. However, he is an engineer by profession and admitted to OIG staff that he had insufficient knowledge of accounting to lead the financial section of the FOD. He also admitted that he "heavily" relied on the Former Director for financial and accounting guidance.

Qualified management of key positions in the FOD is vitally important as the division provides fiscal oversight of all five WWS sections. The OIG investigation uncovered the following examples of how unqualified management has affected WWS operations:

- As described on page 9 below, periodic reconciliations and reviews to ensure the proper use of bond proceeds were not performed.
- Periodic meetings between FOD and WWED staff to facilitate the recording of capital assets and identify projects stopped after the Former Director was removed from her position. Instead, the FOD is, according to staff, "bombarded" with capital asset or expense memos at year end during their closing process. For example, in FY 2013 approximately 64% of all memos processed were received at year end.
- Guidance from the State of Florida's Public Service Commission regarding the useful life of utility assets was updated in 2008, but until December 2013, the FOD continued to guidance issued in 1986 when capitalizing assets.

⁵ The Business Operations Director position was created through reclassifying the position of Director of Project and Community Coordination.

⁶ WWS employees were sent an e-mail officially naming the Public Works employee acting Director of the FOD on December 12, 2013. The title was corrected to Acting Director of Business Operations on December 16, 2013.

- In FY 2012, FOD staff accepted verbal estimates of accounting accruals from the WWED without determining if the estimates were reasonable and accurate. Some of the estimates were incorrect and overstated the Construction in Progress and Accrual accounts by approximately \$562K on the financial statements. Although these errors netted out on the balance sheet and were corrected in FY 2013, they illustrate that larger, more serious errors can occur absent the provision of qualified leadership and the implementation of clearly established internal controls designed to detect and prevent them.

2. Lack of Accountability

Accountable leadership is vital to the success of organizations and full ownership should be expected of those assigned responsibilities for internal controls. The U.S. Government Accountability Office (GAO) has noted that accountability for the performance of internal control responsibility supports day-to-day decision making, attitudes, behaviors, commitment to integrity and ethical values.⁷

As described above, the FOD has cycled through a group of acting managers and it is difficult, if not impossible, to identify any individual directly responsible for the division's internal controls, or accountable for problems that may arise. The OIG determined that FOD staff generally relied on the advice or direction from someone other than an acting manager, and accountability appeared to be dispersed among everyone, but existing with no one. For example:

- The Revenue Accountant IV advised that she was the acting Fiscal Manager but generally continued her role of overseeing revenue. She stated that she relied on the former Reporting Accountant IV to oversee Accounts Payable, Financial Reporting, and Fixed Assets staff, and bond reimbursement operations. As such, she was not explicitly familiar with the accounting processes for those areas. She also stated that she relied on guidance from the Former Director and direction from the WWS Director when he filled in as the Business Operations Division Director.
- The Reporting Accountant IV, who resigned in March 2014, stated that it was “freaking insane how this worked” when describing the leadership and organizational structure of the FOD. She advised that there was a rotation of acting leaders in the FOD, but the Revenue Accountant IV was the only one with any accounting experience. She further advised that the Former Director was “supposedly not allowed to manage,” but continued to do so through the directives she gave to the Revenue Accountant IV. After she resigned, the Reporting Accountant IV was replaced by the Special Projects Accountant IV in an acting capacity.
- The Acting Business Operations Director stated that he has heavily relied on the Former Director to provide financial management and oversight of the FOD since he does not have a financial background. He acknowledged that there is a lack of leadership in the FOD with the Former Director “sitting in the other building” and that the “politics bothers

⁷ GAO, Standards for Internal Control in the Federal Government (Green Book), 2013 Exposure Draft, Section 5.04.

people.” He further stated that the Former Director avoids accountability for her input with regards to any FOD functions. Specifically, he explained that she claims responsibility when things are going well, but claims to have little or no involvement when things are going poorly.

- The WWS Director stated that he oversaw the FOD for approximately 1.5 years, but heavily relied on the Revenue Accountant IV, the Reporting Accountant IV and the Former Director for guidance in that role. Specifically, he stated that he heavily relied on the Former Director and that staff would have to follow her direction if she led with “[the WWS Director] said to do this.” He further stated that “I know that a lot of people are not fond of [the Former Director]; she is good, but rubs people the wrong way.”
- The Former Director stated that her “working title” is Director of Fiscal Planning—a title and job description that does not exist in the HR database—and that she advises the FOD when necessary, but does not manage its staff. She also stated that she does not know if the FOD leadership is aware that they have problems and that she does not know how things got “so mucked up.” When asked by OIG staff to explain what she meant by “mucked up,” she claimed to not know what problems existed or what was “mucked up” in the FOD. The Former Director also stated that the FOD has had “turnover like you would not believe since I left” and that “WWS is not where best practices are; absolutely not.”

3. Undocumented Policies, Procedures and Internal Controls

The OIG investigation also revealed that the FOD and the WWED do not presently have any official documentation of policies, procedures or internal controls. This includes no official policies or procedures over crucial areas such as bond draws, invoice processing and pay application review.

The WWS Director advised that the Special Projects Accountant IV and an employee in the WWED were tasked with developing policies and procedures and identifying control points. However, the Special Projects Accountant IV told the OIG that he is currently shadowing staff and documenting their process, but not necessarily identifying control points in the process. He further advised that no policies and procedures have been finalized and provided the OIG with documentation showing that only 11 of the necessary 122 procedures have made it to draft form. The WWS Director advised that policies and procedures are not expected to be completed in the foreseeable future because the Special Projects Accountant IV assigned to complete this task is “spread thin” with various FOD work assignments, including acting as the Reporting Accountant IV.

Documentation of policies, procedures and an organization’s internal control system is important in enhancing accountability, establishing consistency and mitigating the risk of losing organizational knowledge when staff resign or retire. Accordingly, both the GAO and the Government Finance Officers Association (GFOA) recommend that management

officially document policies, procedures and internal controls.⁸ Without standard and controlled procedures, employees may perform the same function differently and obtain different results. For example, we found that engineers allocate specific fixed assets inconsistently across projects because they lack a standard WWED criteria or process to follow. Further, we found that both the Director of Engineering and FOD staff review asset allocations once completed, but rely on what is submitted because they lack knowledge of the process.

The WWS Director advised that the FOD has never had documented procedures to the detailed level he would like. He admitted that he is aware of the importance of policies and procedures and stated that business knowledge needs to be passed on to new employees and control points need to be identified. However, he stated that no time frame has been established for the completion of policies and procedures and that he thinks the employee assigned to this task would need at least another year to complete it. Further, he advised that the Former Director is retiring in January 2015 and that it would be important to document her “institutional knowledge” before she leaves. The OIG found that the FOD never undertook a concerted effort to develop, adopt and implement adequate policies and procedures during the 23 years the Former Director led the division. It also appears that her institutional knowledge has not been passed on to other employees within the division, and that it is unlikely that it will be before she retires in January 2015.

A Lack of Internal Controls over Bond Proceeds⁹

In evaluating the FOD’s accounting practices and internal controls over bond proceeds, OIG staff reviewed the bond agreement entered into by the County, interviewed FOD staff involved in the process of drawing bond proceeds, and reviewed the Fixed Asset Schedule where bond financed projects were capitalized. Based upon our evaluation, we found that FOD lacked controls over bond proceeds to prevent or detect unallowable use of the bonds. Specifically, we found that:

- The FOD did not formalize a listing of projects allowed to be reimbursed from bond proceeds until February 2014, even though it was drawing bond proceeds for projects dating back to February 2012. The former Reporting Accountant IV advised that prior to an official listing being developed, internal controls over bond draws were based on whatever directives were given by the Former Director. She also advised that the directives changed so often that it was “driving poor [Accountant II] crazy.”
- Bond draws were not reviewed by the FOD or WWED management to ensure that they were allowable. The former Reporting Accountant IV advised that she was the only individual at WWS who reviewed the bond draws, and that her review focused only on the general reasonableness and clerical accuracy of the request.

⁸ GAO Green Book, 2013 Exposure Draft, Section 3.12, and GFOA, Documenting Accounting Policies and Procedures, March 2007.

⁹ In response to additional information provided by the County, this section has been revised from an earlier version of this memorandum. The revisions reiterate that the finding of \$3.1 million in errors was a finding by the FOD and not examined by the OIG, clarify that FOD staff—rather than the OIG—felt they lacked guidance regarding allowable uses for the bond, and remove the concerns about the useful life of projects paid for with bond proceeds.

- Reconciliations of bond draws were not performed throughout FY 2012 and 2013.

In February 2014, approximately 22 months after the finalized bond agreement, the FOD preliminarily completed its first bond reconciliation for all funds ever drawn and found that approximately \$3.1 million in disallowed projects were drawn and approximately \$10.5 million were not drawn that could have been. Revenue Accountant IV advised that the reconciliation is still preliminary and had been assigned to the FOD's accounting staff to review before any actions are taken.

Revenue Accountant IV further advised that the \$3.1 million in errors were related to projects that were expensed because they are ordinary maintenance, in violation of the bond agreement. The OIG verified that the bond agreement allows proceeds to be drawn for capital expenditures and defines capital expenditures as expenditures "other than ordinary maintenance and repairs." Nonetheless, the FOD's preliminary reconciliation found that, in one example, approximately \$33,000 was incorrectly drawn from the bonds for a routine roof repair contained in the FY 2013 CIP. The Revenue Accountant IV explained that any amounts deemed to be incorrectly drawn could—and will—be corrected by subtracting the total errors from future bond draws.

FOD staff also expressed that a vague description in the bond regarding allowable uses contributed to the errors. Revenue Accountant IV advised that it is difficult to determine what is allowable based on language in the bond agreement.¹⁰ She also stated that she used to work for the Aviation Division and was accustomed to bond agreements with much more clearly defined projects listed. The Former Director also advised that the bond agreement is not clear as to how bond proceeds should be used. She stated that "other agencies have a discrete scope and don't face the [management] challenges that we do under our bonds."

The WWS Director agreed that the bond agreement contained vague project descriptions and stated that this was done so that WWS would have flexibility to use bond proceeds for any "intended" project. He also stated that the use of the bond proceeds would need to be subject to extensive internal controls since maintenance projects are included in the CIP. Furthermore, the WWS Director advised that the WWED "bombards" the FOD with capitalization/expense memos at year end, which limits the FOD's ability to perform useful review and oversight of assets capitalized or expensed. He acknowledged, nevertheless, that it is up to the FOD to identify maintenance projects and exclude them from bond reimbursement.

The WWS Director admitted to OIG staff that the \$3.1 million in errors were associated with a lack of standard procedures, a general lack of communication between the WWED and the FOD regarding the asset capitalization/expense process, and the FOD's lack of knowledge of capital projects within the CIP. He acknowledged that there is room for improvement in the management and oversight provided by the FOD and that greater internal controls would be required.

¹⁰ The OIG makes no determination regarding the vagueness of the terms of the bond agreement. The Official Statement states, "The 2012A project will consist of improvements to the County's Water Treatment Plant 1A and Water Treatment Plant 2A, the construction and reconstruction of water mains and wastewater mains and lift stations, the construction of water storage and re-pumping facilities, the expansion and improvement of the North Regional Wastewater Treatment Plant and associated pump stations, all as set forth in the Utility's Capital Improvement Program (CIP)."

Conclusion and Recommendations

The OIG investigation revealed that for the past six years, the FOD has failed to fill its position of Director, and has also failed to fill other key management positions with qualified personnel. These failures have led to a lack of accountability in FOD management and poor internal control over the use of bond proceeds.

By way of this memorandum, the OIG makes the following recommendations:

1. WWS should thoroughly evaluate the FOD's organizational structure and at a minimum:
 - Fill key positions, particularly that of Director, with qualified, permanent leaders;
 - Identify personnel responsible for internal controls and hold them accountable for errors; and
 - Impose deadlines for the implementation of written policies, procedures and control points for both the FOD and the WWED.

2. WWS should develop, establish and enforce essential internal controls over bond proceeds, including:
 - Completing the review of bond reconciliation, determining the magnitude of any errors, and correcting them;
 - Establishing procedures to timely review and reconcile bond draws for errors; and;
 - Requiring periodic meetings between FOD and WWED staff ensure that the FOD clearly understands the scope of WWED capital projects and can provide sufficient oversight of them.