

# STATE OF FLORIDA AUDITOR GENERAL

## Operational Audit

Report No. 2019-221  
June 2019

### CITY OF OPA-LOCKA AND OPA-LOCKA COMMUNITY REDEVELOPMENT AGENCY



Sherrill F. Norman, CPA  
Auditor General

### **Mayor, Commissioners, and City Manager**

During the period October 2015 through April 2017, the following individuals served as City of Opa-locka Mayor, Vice-Mayor, Commissioner, or City Manager:

Myra L. Taylor, Mayor  
Joseph L. Kelley, Vice Mayor from 11-21-16  
Timothy Holmes, Vice Mayor to 11-20-16  
John B. Riley, Commissioner from 6-20-16  
Terrance Pinder, Commissioner to 5-24-16  
Luis Santiago, Commissioner to 11-20-16  
Matthew Pigatt, Commissioner from 11-21-16  
Roy S. Shriver, City Manager to 11-24-15  
David S. Chiverton, City Manager 11-25-15, to 8-1-16<sup>a</sup>  
Yvette Harrell, City Manager from 5-18-16<sup>a</sup>

<sup>a</sup> Both individuals were employed as City Manager 5-18-16, through 8-1-16, while David S. Chiverton was on a leave of absence.

### **Opa-locka Community Redevelopment Agency Executive Directors and Board of Commissioners**

The Opa-locka Community Redevelopment Agency's initial meeting was held on February 8, 2012. Two Executive Directors served during the period February 2012 through April 2017:

Newall Daughtrey 3-5-12, through 4-15-15  
Eddie Brown 4-22-15, through 10-6-15

During the period February 2012 through April 2017, the following individuals served as a member of the Opa-locka Community Redevelopment Agency Board:

Jannie Russell from 4-14-14, Chair from 5-25-16, Vice Chair 3-25-15 to 5-24-16<sup>a</sup>  
Terrence Pinder 11-12-14 to 5-24-16, Chair 3-25-15 to 5-24-16  
Joseph L. Kelly from 11-13-12, Chair 1-9-13 to 3-24-15  
Dorothy Johnson to 11-11-14, Chair 11-13-12 to 1-8-13, Vice Chair to 11-12-12<sup>b</sup>  
Gail Miller to 11-12-12, Chair to 11-12-12  
Luis Santiago 11-13-12 to 11-20-16, Vice Chair 1-9-13<sup>b</sup> to 3-24-15  
Timothy Holmes  
Matthew Pigatt from 11-21-16  
John B. Riley from 6-20-16  
Myra L. Taylor  
Rose Tydus to 11-12-12 and from 8-11-14

<sup>a</sup> Vice Chair position vacant from 5-25-16.

<sup>b</sup> Vice Chair position vacant 11-13-12, to 1-8-13.

The team leader was Clare Waters, CPA, and the audit was supervised by Derek H. Noonan, CPA.

Please address inquiries regarding this report to Michael J. Gomez, CPA, Audit Manager, by e-mail at [mikegomez@aud.state.fl.us](mailto:mikegomez@aud.state.fl.us) or by telephone at (850) 412-2881.

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# **CITY OF OPA-LOCKA AND OPA-LOCKA COMMUNITY REDEVELOPMENT AGENCY**

## ***SUMMARY***

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This operational audit of the City of Opa-locka (City) and the Opa-locka Community Redevelopment Agency (CRA) focused on selected City and CRA processes and administrative activities. Our operational audit disclosed a pervasive lack of adequate controls necessary to promote and encourage compliance with applicable State laws, City ordinances and regulations, contracts, grant agreements, and other applicable guidelines; economic and efficient operations; reliability of records and reports; and the safeguarding of assets. Our audit also disclosed numerous instances of potential fraud, waste, and abuse. For some of our findings, the amount of resources lost due to noncompliance or inadequate accountability was not quantifiable; however, we identified questioned costs or potential avoidable losses totaling nearly \$5 million, collectively, for the City and the CRA.

### **CITY OF OPA-LOCKA**

#### **Financial Condition**

**Finding 1:** Although the City generally complied with the provisions of the State and Local Agreement of Cooperation executed pursuant to the Office of the Governor Executive Order No. 16-135 and the Financial Emergency Board recommendations, the City did not comply with the Agreement provisions pertaining to the 5-year financial recovery plan and budget or the Board recommendations pertaining to motor vehicle use and tangible personal property accountability.

**Finding 2:** Our financial condition assessment procedures disclosed deteriorating City financial conditions. Of 16 key financial indicators, 13 indicated an unfavorable rating.

**Finding 3:** The City did not comply with its General Fund reserve policy and did not establish reserve requirements consistent with Government Finance Officers Association (GFOA) recommendations.

**Finding 4:** The City Commission had not established target amounts of working capital that should be maintained for the City's three enterprise funds.

#### **Administration and Management**

**Finding 5:** The City did not timely provide for and submit required annual financial audits and annual financial reports. Consequently, through July 2018, State agencies had withheld from the City approximately \$1.2 million.

**Finding 6:** As of February 2019, the City's strategic plan had not been updated since September 2014 to reflect changing circumstances, impacting management's ability to implement the plan and effectively prioritize the use of City resources.

**Finding 7:** During the period September 2014 through April 2018, the City experienced significant turnover in certain key management positions, which may have contributed to the numerous control deficiencies and instances of noncompliance disclosed in this report.

**Finding 8:** The City had not established an internal audit function or otherwise provided for internal audit activities to assist management in maintaining a comprehensive framework of internal controls.

**Finding 9:** The City needs to establish policies and procedures for communicating, investigating, and reporting known or suspected fraud. In addition, the City Honor Code needs revising to ensure the provisions specifically pertain to City employees and officials.

**Finding 10:** The City did not perform documented periodic risk assessments to help ensure that adequate internal controls were in place to minimize fraud risks and control deficiencies that could adversely affect City operations.

**Finding 11:** City controls over the budgetary process need enhancement.

**Finding 12:** City records did not support the equitable allocation of General Fund administrative costs to City enterprise funds.

### **Accountability for Resources**

**Finding 13:** Accountability over resources received by the City for participation in a law enforcement revenue sharing program needs enhancement.

**Finding 14:** The City's management of State grants was ineffective as the City did not always ensure that grant expenditures were allowable, records were retained to support the allowability of grant expenditures, reimbursement requests were filed for allowable grant expenditures as soon as practicable, grant moneys were expended during the grant award period, or required grant reports were prepared and timely filed with the grantor.

**Finding 15:** The City did not always provide the accountability required by Department of Environmental Protection grant award and loan agreements. In addition, the City did not always promptly record grant and loan receipts in the City accounting records. During the period October 2015 through April 2017, the City received grant and loan proceeds of \$2.1 million from the Department of Environmental Protection.

**Finding 16:** Contrary to Department of Financial Services guidance, the City had not established special revenue funds to maintain separate accountability for fuel tax revenues.

**Finding 17:** The City did not comply with the requirements included in an interlocal agreement between the City and Miami-Dade County regarding administration and use of discretionary sales surtax proceeds. As a result, the County suspended surtax distributions to the City effective November 2015 and, as of February 2019, the surtax distributions remained suspended due to the City's continued noncompliance.

**Finding 18:** City procedures need enhancement to ensure that interfund borrowings and transfers are properly accounted for and comply with City ordinances.

**Finding 19:** The City had not established controls to provide adequate accountability for special events, including the donations and expenditures for such events.

**Finding 20:** City procedures were not effective to ensure that payments were made from the appropriate bank accounts or that financial transactions were properly accounted for in the City accounting records.

**Finding 21:** Journal entries to adjust account balances and transactions in the City accounting records were not always adequately supported or reviewed and approved.

## Cash Controls

**Finding 22:** City controls over bank account reconciliations need improvement to ensure documented timely performance and review by individuals not assigned cash handling and journal entry duties; reconciling items are accurately identified, promptly and thoroughly investigated, explained, and documented; required adjustments to the general ledger cash account balances, as a result of the reconciliations, are timely made; and online access to electronic bank account statements is granted to appropriate employees.

**Finding 23:** Contrary to State law, the City had not established policies and procedures to ensure adequate integrity, security, confidentiality, and auditability of business transactions conducted using electronic funds transfers (EFTs). In addition, City controls need enhancement to ensure and document that EFTs are only made by authorized personnel and for authorized purposes.

**Finding 24:** The City did not timely notify apparent owners of unclaimed property or annually report and remit unclaimed property to the Department of Financial Services, contrary to State law.

**Finding 25:** The City did not timely submit to the State's Chief Financial Officer the statutorily required annual reports of the City's public deposit accounts.

**Finding 26:** City controls over petty cash funds need enhancement to ensure that petty cash disbursements are supported by dated receipts and documentation evidencing the authorized public purpose and that petty cash funds are timely counted and reconciled to receipts.

## Capital Assets

**Finding 27:** City records did not evidence that the City exercised due diligence in determining the fiscal viability of purchasing a \$7.9 million building to house its administrative offices and other tenants. Specifically, the City did not ensure the accuracy of reported renter lease information and building operating costs prior to purchasing the building and did not maintain records to support significant assumptions regarding the rental income anticipated to be generated from other tenants.

**Finding 28:** The City needs to enhance construction administrative policies and procedures to ensure that construction contractors are competitively selected in accordance with State law and City ordinances, construction services and related costs are not duplicated, contract addenda do not provide compensation for work already performed, City Commission approval is obtained for change orders exceeding \$25,000, contractors are timely paid to avoid work stoppages, and contractors obtain payment bonds.

**Finding 29:** The City had not established surplus land disposal procedures. Absent such procedures, the City did not always timely collect and deposit land sale proceeds, timely record land sales in City accounting records, or timely correct deed errors.

**Finding 30:** The City had not established appropriate accountability for its tangible personal property with acquisition values totaling \$11.5 million.

**Finding 31:** The City had not established policies and procedures to ensure that City property was adequately insured and had not developed a formal contingency plan in the event that uninsured losses are incurred in a catastrophic event.

## Motor Vehicles

**Finding 32:** City records did not evidence City Manager approval and justification for employee take-home motor vehicle assignments. In addition, neither the City *Employee Handbook* nor any other City-established policies or manuals addressed elected official's use of City motor vehicles or the preparation and maintenance of motor vehicle usage logs.

**Finding 33:** The City did not include the value of personal use of City motor vehicles in the gross income reported to the Internal Revenue Service (IRS) for applicable City officials and employees.

**Finding 34:** The City had not established policies and procedures regarding the use of its fuel pumping station. In addition, the City's fuel management system did not provide for adequate accountability of fuel pumping station inventory and fuel distributions to City officials and employees.

**Finding 35:** The City had not established policies and procedures for motor vehicle repairs and maintenance. In addition, the City had not implemented a comprehensive motor vehicle preventative maintenance plan or a system for tracking each motor vehicle's repair and maintenance costs and documenting periodic motor vehicle cost-benefit analyses for vehicle disposition and replacement decisions.

**Finding 36:** City controls and records did not provide for adequate accountability over the purchase and use of the City's motor vehicle parts inventory.

## Long-Term Debt

**Finding 37:** Contrary to City ordinances, the City had not established debt management policies and procedures.

**Finding 38:** Contrary to GFOA best practices, the City contracted with its bond counsel in April 2015 without using a competitive selection process and paid the bond counsel \$40,000 for services associated with issuance of the Series 2015A Tax-Exempt Capital Improvement Revenue and Refunding Note and Series 2015B Taxable Capital Improvement Revenue Note.

## Revenues and Cash Collections

**Finding 39:** The City did not always timely record and deposit cash collections or consecutively use prenumbered receipts for non-utility cash collections.

**Finding 40:** The City had not established policies and procedures for properly and consistently calculating, approving, and recording permit fees or for maintaining permit applications and other documentation supporting the permits issued.

**Finding 41:** Contrary to State law, as of August 2018, the City had failed to remit to the Department of Revenue approximately \$3 million in collected traffic signal penalties for red-light violations.

**Finding 42:** The City needs to revise City ordinances to specify how to account for utility services customer deposits and the time frame for refunding deposits to customers. In addition, City controls need enhancement to require that the customer deposits payable account balance be periodically reconciled to the customer deposits subsidiary ledger balance and to ensure that customer deposits are timely refunded.

**Finding 43:** The City needs to establish policies and procedures to provide for the prompt billing of utility services customers, progressive strengthening of collection efforts for delinquent accounts, and reconciliation of the amount of water purchased from Miami-Dade County to the amount of water billed to City utility service customers to identify water loss so that timely actions can be taken to prevent such loss.

**Finding 44:** The City needs to establish policies and procedures for the calculation, review, and approval of utility account adjustments.

**Finding 45:** During the period October 2015 through April 2017, water and sewer service charges were not always assessed in accordance with rates prescribed by City ordinances and, consequently, the City underassessed a significant amount of water and sewer service charges.

### **Payroll and Personnel Administration**

**Finding 46:** City personnel administrative regulations and procedures were not always followed when hiring City employees and City hiring practices need improvement.

**Finding 47:** City controls over background screenings for employees and certain volunteers and vendor employees need enhancement.

**Finding 48:** Contrary to City ordinances, the City did not establish a search committee to conduct a local and nationwide search for candidates for the City Manager position. In addition, the City provided a City Manager with a rental car without documented City Commission approval.

**Finding 49:** Severance pay provisions in City employment agreements were not consistent with State law, and the City paid post-employment extra compensation to a City Manager contrary to State law.

**Finding 50:** The City, with no apparent legal authority, provided automobiles for the Mayor and City Commissioners' use. Also, contrary to City ordinances, which provide that the Mayor and City Commissioners may be reimbursed up to \$200 per month for documented expenses associated with their official duties, the City made monthly \$200 payments to the Mayor and City Commissioners without documentation of any expenses incurred. In addition, although the City treated the payments like expense allowances, the City did not include the payments in the Mayor and City Commissioners' earnings reported to the IRS and did not document a determination that the payments were exempt from such reporting.

**Finding 51:** The City had not established policies and procedures for determining whether workers should be classified as employees or independent contractors and we noted instances in which the City did not consistently classify workers.

**Finding 52:** The City pay plan had not been updated to include certain employee positions. In addition, our examination of selected pay increases disclosed several increases that resulted in annual salaries that were not consistent with the pay plan.

**Finding 53:** The City had not established policies and procedures requiring all employee timecards to be reviewed and approved by supervisory personnel and did not always pay employees in accordance with its pay plan.



**Finding 54:** The City's personnel action form used to document personnel actions, such as appointments, salary changes, and promotions, were not always retained or signed by the required individuals prior to the effective date of the personnel action.

**Finding 55:** The City did not always timely perform employee performance reviews required by City regulations.

**Finding 56:** The City needs to enhance its policies and procedures to ensure that all pay increases are appropriately supported.

**Finding 57:** The City incurred penalties totaling \$12,887 for incorrectly reporting and not timely remitting employee and employer Florida Retirement System contributions to the Department of Management Services, Division of Retirement.

**Finding 58:** Contrary to City regulations, overtime was not always authorized in advance. In addition, the City paid \$1,177 for overtime to employees not entitled to overtime pay.

**Finding 59:** The City had not established policies and procedures requiring, at the time of enrollment, verification of dependent eligibility to participate in the City's health insurance plan or periodic verifications that participating dependents continued to be eligible for plan services.

**Finding 60:** Contrary to State law, the City did not always timely pay group insurance premiums. As a result, coverage was temporarily suspended for certain individuals.

**Finding 61:** City employees accumulated annual leave balances in excess of limits established in City regulations and the collective bargaining agreement.

**Finding 62:** City leave payments to six City employees exceeded by \$42,261 the amounts allowed by City regulations and leave payments were not always supported by City records evidencing authorization for the payments.

**Finding 63:** City terminal leave payouts made to City employees upon separation from City employment exceeded by \$72,466 the amounts provided by City regulations or the applicable union contracts.

**Finding 64:** Contrary to City ordinances, the City contracted with two former employees within 2 years of their separation from City employment.

**Finding 65:** Contrary to a City Commission resolution in January 2016, the City Manager did not perform an employee necessity study and report the study results to the City Commission. Absent a completed necessity study, the City Commission had limited assurance that staff reductions and position revisions promoted better functionality of the City.

## **Travel**

**Finding 66:** City controls did not ensure that City records evidenced that all travel served a public purpose, travelers were reimbursed in accordance with City ordinances and State law, and travel advances did not exceed actual expenses.



## **Procurement – General**

**Finding 67:** Requirements established in City ordinances regarding the procurement of commodities and contractual services need improvement to clarify the City Commission intent for and promote compliance with the requirements.

**Finding 68:** City disbursement processing procedures were not up-to-date or sufficient to ensure the validity and completeness of vendor file information, preapproval of all purchases by appropriate City personnel, adequate supporting documentation for all expenditures, or proper distribution of checks to vendors. In addition, City procedures did not prevent the use of duplicate check numbers.

**Finding 69:** The City had not established procedures to promote compliance with the Local Government Prompt Payment Act and did not always timely pay vendors, resulting in late fees of \$5,007. In addition, as of March 15, 2017, the City owed Miami-Dade County approximately \$7 million for delinquent fees and charges.

**Finding 70:** City records did not clearly evidence the authorized public purpose served for expenditures totaling \$51,405. These expenditures included, for example, the purchase of items for giveaway events, food and beverage items, bowling, movies, and gift cards.

**Finding 71:** Controls over City-assigned credit cards need improving to ensure that credit card assignments are properly approved, user agreements are signed and maintained, credit limits do not exceed those established in City policies, all credit card charges are verified and approved, the City's sales tax exemption is properly utilized, credit card receipts are retained as required by the State records retention policy, and evidence of canceled credit cards is maintained.

**Finding 72:** When purchasing commodities, the City did not always competitively select vendors in accordance with City ordinances.

## **Procurement – Contractual Services**

**Finding 73:** Contrary to City ordinances, the City did not always use a competitive selection process to procure vendor services and City controls over the competitive procurement of services need enhancement. In addition, City records did not always demonstrate that the City Commission selected the vendor whose proposal was most advantageous to the City or that the City Commission approved purchased services costing over \$25,000.

**Finding 74:** City contractual services procurements were not always supported by a written contract that included the provisions and conditions required by City ordinances.

**Finding 75:** City controls for monitoring purchased services and franchise fee collections need enhancement.

**Finding 76:** The City did not follow City ordinances when selecting four consultants to assist with preparing a 5-year financial recovery plan and did not execute contracts with two of the consultants prior to payment for services. In addition, the City executed a contract with one consultant that included compensation terms differing from those approved by the City Commission and, based on the contract and submitted invoices, the City overpaid the consultant \$14,500.

**Finding 77:** Contrary to State law, the City did not establish an audit committee to select auditors to conduct its 2014-15 and 2015-16 fiscal year financial audits. In addition, although the City utilized an evaluation committee to score proposals received pursuant to a request for proposals for the 2014-15 fiscal year financial audit and rank the respondents, the City Commission did not select, and did not document justification for not selecting, the highest-ranked respondent.

**Finding 78:** The City did not follow City ordinances when selecting a law firm to act as City Attorney and the contract executed with the selected firm contained several deficiencies. In addition, City controls for monitoring payments to the City Attorney were inadequate.

**Finding 79:** Contrary to City ordinances, the City did not use a competitive process to procure insurance.

**Finding 80:** The City did not procure wireless communication devices and related services in accordance with City ordinances. In addition, the City needed to enhance controls over the acquisition, assignment, and use of wireless communication devices.

## **Public Records**

**Finding 81:** The City had not established policies and procedures regarding the retention of public records, including records created or maintained in electronic format such as e-mails and text messages. In addition, the City did not always comply with State records retention requirements and did not archive text messages sent or received using wireless communication devices.

**Finding 82:** City Commission meeting minutes were not always timely recorded, approved, and maintained on the City Web site, contrary to State law and the City Charter.

**Finding 83:** The City had not established policies and procedures to ensure compliance with financial disclosure filings required by State law, Miami-Dade County ordinances, and the City Charter. In addition, neither Finance Department personnel nor other City employees responsible for approving purchases routinely reviewed and considered those disclosures.

**Finding 84:** Contrary to City ordinances, the City did not separately account for lobbyist registration fees or ensure that required annual statements of lobbying expenditures were filed with the City Clerk and required logs of filed lobbyist registrations were provided to the City Commission.

## **OPA-LOCKA COMMUNITY REDEVELOPMENT AGENCY**

### **Compliance with the Community Redevelopment Act and Interlocal Agreement**

**Finding 85:** Contrary to State law, the City Commission adopted a resolution creating the Opa-locka Community Redevelopment Agency (CRA) nearly 18 months before the Miami-Dade County Board of County Commissioners (BOCC) granted the City Commission authority to create the CRA. In addition, City records did not evidence the necessity for creating the CRA and incurring CRA expenditures of approximately \$86,000 before the Miami-Dade County BOCC authorized creation of the CRA.

**Finding 86:** City records did not evidence that the City Commission published the State-required notice of intent to consider adopting a CRA Plan and the adopted CRA Plan did not always comply with State law or include accurate information.

**Finding 87:** The CRA did not prepare annual reports of activities for the City and Miami-Dade County for the 2011-12, 2013-14, and 2014-15 fiscal years, contrary to State law and the City and CRA interlocal agreement with the County.

**Finding 88:** The City and the CRA did not always provide for audits required by State law and the interlocal agreement.

**Finding 89:** As of July 1, 2018, the City had not made required annual contributions of tax increment revenues to the CRA totaling \$484,000, including late fees and interest.

**Finding 90:** City accounting records did not always provide for adequate accountability of CRA financial transactions.

**Finding 91:** Through September 2017, the CRA exceeded the interlocal agreement administrative expense limitation of \$200,000 by at least \$311,754 and had not paid the administrative fees to Miami-Dade County required by the interlocal agreement.

### **Compliance with the Uniform Special District Accountability Act**

**Finding 92:** The CRA did not timely provide to the Department of Economic Opportunity (DEO) a copy of the document that created the CRA and had not paid the DEO the annual fee required by State law.

**Finding 93:** Contrary to State law, the CRA did not adopt budgets for the 2012-13 or 2013-14 fiscal years; CRA Board-adopted budgets for the 2011-12, 2014-15, 2015-16, and 2016-17 fiscal years did not include budgeted revenues and transfers or prior fiscal year ending fund equity balances; and the CRA did not limit actual CRA expenditures to budgeted amounts for the 2014-15 fiscal year. Also, CRA Board-approved budgeted expenditures were not properly recorded in the accounting records for the 2016-17 fiscal year.

**Finding 94:** The City Web site did not prominently display the CRA and include certain CRA information required to be included on the Web site, contrary to State law.

### **CRA Board of Commissioners**

**Finding 95:** The CRA had not clearly established the terms of Miami-Dade County BOCC-appointed CRA Board members.

**Finding 96:** CRA records did not evidence that decisions made in adopting the CRA bylaws were made in accordance with State law requirements that official decisions be made in public only after full and open discussion by board members. In addition, CRA Board meeting minutes were not always timely recorded, approved, and maintained on the City Web site, contrary to State law.

### **CRA Employment Activities – Executive Director**

**Finding 97:** The CRA had not established a position description for the Executive Director position, did not advertise an Executive Director position vacancy, and did not document consideration of applicant qualifications prior to hiring an Executive Director.

**Finding 98:** The CRA did not always comply with requirements applicable to severance pay for two former CRA Executive Directors. Consequently, these former Executive Directors received excess compensation of \$25,754 and \$3,610, respectively, after their last day of employment.

## Legal Services

**Finding 99:** CRA policies and procedures for selecting firms to provide legal services and developing and monitoring legal services contracts could be improved.

## **CITY OF OPA-LOCKA BACKGROUND**

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In 1926, the City of Opa-locka (City) was incorporated as a municipality. The City is located in the northern portion of Miami-Dade County, comprises 4.2 square miles of land, and has a population of approximately 18,000 residents.<sup>1</sup> The City is governed by the City Commission composed of four elected Commissioners and an elected Mayor and operates under a Commission-Manager form of government. The City Commission is responsible for enacting ordinances, resolutions, and policies governing the City, as well as appointing the City Manager, City Attorney, and City Clerk. The City Manager is the Chief Administrative Officer and, as such, is responsible for the administration of all City affairs and carrying out policies adopted by the Commission, and the appointment and supervision of the City's department heads.

The City provides citizens with a full range of services, including police, construction and maintenance of highways and other infrastructure, recreational and cultural activities, water and wastewater sanitation, planning and zoning, and general administrative services.

## **CITY OF OPA-LOCKA FINDINGS AND RECOMMENDATIONS**

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This operational audit of the City of Opa-locka focused on selected City processes and administrative activities. Our audit disclosed a pervasive lack of adequate controls necessary to promote and encourage compliance with applicable State laws, City ordinances, City regulations, contracts, grant agreements, and other guidelines; economic and efficient City operations; reliability of records and reports; and the safeguarding of assets. For example, we noted instances of noncompliance relative to budget adoption and implementation; financial reporting and annual audits; accountability for Federal, State, and local revenues; interfund borrowings and transfers; construction administration; remittance of amounts due to other governmental entities; asset accountability; payroll and personnel administration; procurement of goods and services; public records retention; maintenance of City Commission meeting minutes; and officer and employee financial disclosures.

Our audit also disclosed numerous instances of potential fraud, waste, and abuse.<sup>2</sup> For some of our findings, the amount of City resources lost due to noncompliance or inadequate accountability was not quantifiable (e.g., excess expenditures incurred due to failure to competitively procure goods and services and lost revenues due to failure to properly assess water and sewer service charges); however, as shown in **EXHIBIT A** to this report, we identified questioned costs or potential avoidable losses<sup>3</sup> totaling

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<sup>1</sup> *Florida Population Estimates for Counties and Municipalities, April 2016*; Florida Office of Economics and Demographic Research.

<sup>2</sup> Chapter 2019-15, Laws of Florida, amended Section 11.45(1), Florida Statutes, to define fraud, waste, and abuse. Fraud includes theft of an entity's assets, bribery, or the use of one's position for personal enrichment through the deliberate misuse or misapplication of an organization's resources. Waste includes the act of using or expending resources unreasonably, carelessly, extravagantly, or for no useful purpose. Abuse includes behavior that is deficient or improper when compared with behavior that a prudent person would consider a reasonable and necessary operational practice given the facts and circumstances, and the misuse of authority or position for personal gain.

<sup>3</sup> Potential avoidable losses include, for example, unrealized revenue, missing tangible personal property, and avoidable costs.

\$4,544,438 for the City. For example, we noted electronic funds transfers (EFTs) for which City records did not identify the individuals who initiated the EFTs or the nature and purpose of the EFTs; lack of documented due diligence in determining the fiscal viability of purchasing a \$7.9 million building; significant underassessment of water and sewer service charges; improper payment of excess compensation to City Managers; unexplained or inadequately supported employee pay increases; unauthorized leave payments and improper terminal leave payouts; procurement of construction and other contractual services without benefit of competitive selection; and numerous expenditures for which City records did not clearly evidence the authorized public purpose, including purchases of gift cards and other miscellaneous items for giveaway events.

## FINANCIAL CONDITION

The Legislature has recognized the importance for a local governmental entity, such as the City, to maintain a sound financial condition, which affects the entity's ability to provide services on a continuing basis at the level and quality required and expected by City residents. For example, the Legislature enacted the *Local Governmental Entity, Charter School, Charter Technical Career Center, and District School Board Financial Emergencies Act*<sup>4</sup> to promote the fiscal responsibility of local governments and other applicable entities and assist these entities:

- In providing essential services without interruption and in meeting their financial obligations.
- Through the improvement of local financial management procedures.

In addition, State law<sup>5</sup> requires independent auditors to notify local governmental entities of deteriorating financial conditions that may cause a financial emergency to occur if actions are not taken to address such conditions.

Pursuant to State law,<sup>6</sup> municipalities are subject to review and oversight by the Governor when any one of the following conditions occurs:

- Failure within the same fiscal year in which due to pay short-term loans or failure to make bond debt service or other long-term debt payments when due, as a result of a lack of funds.
- Failure to pay uncontested claims from creditors within 90 days after the claim is presented, as a result of a lack of funds.
- Failure to transfer at the appropriate time, due to a lack of funds, taxes withheld on the income of employees; or employer and employee contributions for Federal social security or any pension, retirement, or benefit plan of an employee.
- Failure for one pay period to pay, due to a lack of funds, wages and salaries owed to employees or retirement benefits owed to former employees.

On June 1, 2016, based on the conditions reported to the Governor by City officials, the Governor signed an executive order<sup>7</sup> declaring that the City was in a state of financial emergency and that the City needed State assistance to resolve the state of financial emergency. To resolve the financial emergency and provide assistance to the City, the executive order provided that the City execute and fully comply with a

<sup>4</sup> Chapter 218, Part V, Florida Statutes.

<sup>5</sup> Section 218.39(5)(a), Florida Statutes.

<sup>6</sup> Section 218.503(1), Florida Statutes.

<sup>7</sup> Office of the Governor Executive Order No. 16-135.



State and Local Agreement of Cooperation (Agreement), which was executed on June 8, 2016. The executive order also provided that the Chief Inspector General (CIG) of the State of Florida would be the Governor's designee for purposes of the executive order and the Agreement.

Pursuant to State law,<sup>8</sup> the Governor established a Financial Emergency Board to oversee City activities and to recommend actions to assist the City in resolving the financial emergency. The Financial Emergency Board has held numerous meetings since its initial meeting on June 22, 2016, and at several of these meetings, the Board recommended that the City take certain actions to improve the City's financial condition and help resolve the financial emergency.

### **Finding 1: State of Financial Emergency**

Timely compliance with the Agreement provisions and Financial Emergency Board recommendations is essential to facilitate the City's ability to take appropriate actions to improve the City's financial condition and resolve the financial emergency. Our examination of City records and discussions with City personnel disclosed that, although the City generally complied with the Agreement provisions and Financial Emergency Board recommendations, the City did not comply with the Agreement provisions pertaining to the 5-year financial recovery plan and budget or with the Board recommendations regarding motor vehicle use and tangible personal property accountability.

**Recovery Plan.** Section 1 of the Agreement provided that on or before August 1, 2016, the City had to prepare and submit a recovery plan, approved by the Mayor and City Commissioners, to the Governor for the 2016-17 through 2020-21 fiscal years. However, the City did not submit the recovery plan to the Governor until August 1, 2018, 2 years after the August 1, 2016, due date. Specifically, we noted that:

- In a memorandum dated July 11, 2016, to the CIG, the City Manager explained that additional staffing, accurate financial information, and audit information were needed to develop a recovery plan and budget. While the memorandum illustrates that City personnel were aware in July 2016 of the challenges faced in preparing the recovery plan, the City did not execute a contract with a consultant to assist in preparing the recovery plan until March 10, 2017 (8 months later). The minutes for the November 2016 Financial Emergency Board meeting indicated that efforts were being made to contact potential consultants; however, although we requested, City personnel did not provide us an explanation for the delay in engaging a consultant.
- The City contracted with a consultant on March 10, 2017, to assist in preparing the recovery plan. However, in a letter dated July 28, 2017, the consultant resigned from the engagement indicating, among other things, that "the organizational structure needed to support the preparation of a credible Plan is somewhat deficient." Subsequently, the City contracted with three additional consultants to assist in preparing the recovery plan. As discussed in Finding 76, our audit disclosed deficiencies in City procedures for procuring these consultants, which impacted the City's ability to timely obtain a qualified consultant to assist with preparing the recovery plan.
- A consultant provided the City Commission a draft recovery plan on March 28, 2018, and the recovery plan was discussed at the City Commission's April 10, 2018, workshop. There was no further discussion about the recovery plan at City Commission meetings or workshops held subsequent to the April 10, 2018, workshop and the recovery plan was not finalized and submitted to the Governor until August 1, 2018, almost 4 months later.

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<sup>8</sup> Section 218.503(3)(g)1., Florida Statutes.



Section 1 of the Agreement also required that the recovery plan meet the requirements of State law<sup>9</sup> and contain the underlying assumptions for all revenue and expenditure estimates. In a letter dated September 5, 2018, to the City Manager, the CIG indicated that the City's recovery plan did not conform with these requirements. For example, the CIG noted that the recovery plan did not:

- Address savings realized through consolidation, sourcing, or discontinuance of all administrative direction and support services, including, but not limited to, services for asset sales, economic and community development, building inspections, parks and recreation, facilities management, engineering and construction, insurance coverage, risk management, planning and zoning, information systems, fleet management, and purchasing.<sup>10</sup>
- Conspicuously address assumptions on rising expenditures in the narrative of the recovery plan, including potential increases in public employee insurance costs, increases in labor costs mandated through collective bargaining, and infrastructure replacement costs.
- Define projected increases in stormwater billings or inform the residents of specific increases projected through the plan's implementation.

Although some delay in completing and submitting a recovery plan may have been expected due to the circumstances, a 2-year delay was excessive and could have been avoided with better management and oversight. That excessive delay, along with submittal of a recovery plan that did not conform with the Agreement requirements and State law, contributed to delays in resolving the City's state of financial emergency.

**Budget.** Section 2 of the Agreement required that the City, on or before August 1st of each year, submit to the Governor the City's proposed annual budget as preliminarily approved by the Mayor and City Commissioners. However, the City did not comply with this requirement as it submitted the 2016-17 fiscal year preliminarily approved budget to the Governor on December 20, 2016, 140 days after the August 1, 2016, due date and 81 days after the beginning of that fiscal year. The delay was likely attributable, at least in part, to lack of adequate staffing, accurate financial information, and audit information needed to prepare a budget, as noted in the City Manager's July 11, 2016, memorandum to the CIG. In addition to contributing to delays in resolving the City's state of financial emergency, operating without an approved budget further reduces the City's ability to ensure that expenditures are kept within available resources.

**Motor Vehicles.** At its August 11, 2016, meeting, the Financial Emergency Board approved a motion requiring that motor vehicles assigned to City officials on a take-home basis be returned to the City fleet, except for one vehicle that had been modified to accommodate a City Commissioner and another vehicle that had been irreparably damaged in an accident. The vehicles were initially returned as recommended; however, according to City personnel, the vehicles were again assigned to the Mayor and City Commissioners on a take-home basis in September 2017.

In a letter to the City Manager dated May 17, 2018, the CIG indicated that it had come to his attention that the Mayor and City Commissioners had not returned their motor vehicles to the City fleet and affirmed the Financial Emergency Board recommendation that they return the vehicles. The CIG also indicated that the Mayor and City Commissioners have a duty to comply with Financial Emergency Board guidance

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<sup>9</sup> Section 218.503(3)(h), Florida Statutes.

<sup>10</sup> Section 218.503(3)(h)4., Florida Statutes.

and that any affirmative act or failure to act by the City that jeopardizes the City's financial recovery shall constitute a failure to resolve the state of financial emergency.

At its June 13, 2018, meeting, the City Commission discussed the CIG's letter. We listened to a recording of the meeting and noted that one Commissioner stated that he had not been assigned a City vehicle and another Commissioner stated that he returned his assigned vehicle to comply with the CIG's letter. While there was no discussion indicating that the Mayor and City Commissioners intended to return their vehicles, there was discussion in which Commission members stated their belief that they needed City vehicles to carry out their official duties. However, as discussed in Finding 50, there is no apparent legal authority for the City to provide automobiles for the Mayor and City Commissioners' use.

**Tangible Personal Property.** At its October 27, 2016, meeting, the Financial Emergency Board approved a motion recommending that the City Manager instruct Public Works Department personnel to conduct a physical inventory of all City tangible personal property<sup>11</sup> and develop an inventory control system with security provisions. However, as of February 2019, City records did not evidence that a complete physical inventory of all City tangible personal property had been conducted (tangible personal property accountability is further discussed in Finding 30).<sup>12</sup>

Noncompliance with the Financial Emergency Board recommendations regarding motor vehicle use and tangible personal property accountability contributed to delays in improving the City's financial condition and resolving the state of financial emergency.

**Recommendation: To improve the City's financial condition, the City should ensure timely compliance with Agreement provisions and Financial Emergency Board recommendations.**

## **Finding 2: Financial Condition Assessment**

We assessed the City's financial condition using financial information obtained from the City's audited financial statements for the 2011-12 through 2015-16 fiscal years, the most recent audited financial statements available. Our financial condition assessment procedures evaluated 16 key financial indicators based on certain financial trends over the 5-year period and compared financial indicator benchmarks for the City to those of other municipalities with similar fund compositions, populations, and taxable property values.

Our financial condition assessment procedures disclosed various deteriorating financial conditions for the City as 13 of the 16 key financial indicators indicated an unfavorable rating. For example:

- The City's total unassigned fund balance, assigned fund balance, and unrestricted net position declined from \$.7 million at September 30, 2012, to a deficit \$7.9 million at September 30, 2016. In comparison, the other municipalities had an average total unassigned fund balance, assigned fund balance, and unrestricted net position of \$14.3 million at September 30, 2016. Low or declining balances may indicate difficulties in maintaining a stable tax and revenue structure.
- The City's total current liabilities expressed as a percentage of total operating revenues for the proprietary funds increased from 51 percent at September 30, 2012, to 88 percent at September 30, 2016. In comparison, the other municipalities had an average ratio of 28 percent

<sup>11</sup> Tangible personal property includes furniture and equipment.

<sup>12</sup> In response to our inquiries, the City's Information Technology Director indicated that a physical inventory had been conducted in November 2016 for Management Information Systems Department property.

at September 30, 2016. High or increasing percentages may indicate liquidity problems, deficit spending, or both.

- The City's total unrestricted net position expressed as a percentage of total operating revenues for the proprietary funds decreased from a negative 1 percent at September 30, 2012, to a negative 43 percent at September 30, 2016. In comparison, the other municipalities had an average ratio of 65 percent at September 30, 2016. Low or decreasing percentages may indicate a diminished ability to withstand financial emergencies or to fund capital purchases without having to borrow.

The deteriorating financial conditions diminished the City's ability to provide services on a continuing basis at the level and quality required and expected by City residents and contributed to the City's state of financial emergency discussed in Finding 1.

During a discussion at the City Commission's April 10, 2018, workshop, the City Manager attributed the City's deteriorating financial conditions to instability within the administration, improper financial management, lack of controls, inconsistent and improper personnel practices, less than aggressive economic development plans, lack of substantial economic growth, declining property values, and declining home ownership. Our audit disclosed other factors that may have contributed to the City's deteriorating financial conditions. For example:

- The City had not developed an adequate 5-year financial recovery plan (as discussed in Finding 1) to guide the financial activities of the City in a manner that would ensure financial stability.
- The City did not comply with its General Fund reserve amount policy and did not establish reserve requirements consistent with Government Finance Officers Association recommendations (as discussed in Finding 3), and the City Commission had not established a policy adopting minimum target amounts of working capital that should be maintained for the City's three enterprise funds (as discussed in Finding 4).
- The City did not timely provide for required annual financial audits (as discussed in Finding 5).
- The City generally had not implemented adequate controls to ensure City assets were appropriately safeguarded and City functions operated economically and efficiently. As discussed throughout this audit report, our procedures disclosed numerous control deficiencies that contributed to the City's deteriorating financial condition, including, for example, deficiencies relating to budget preparation and monitoring controls (Finding 11), bank account reconciliations (Finding 22), controls over the purchase of an administrative building (Finding 27), utility service billing and collection procedures (Finding 43), and procedures for the competitive procurement of goods or services (Findings 28, 72, 73, 78, and 79).

In addition, the City was delinquent in paying approximately \$7 million of fees and charges owed to Miami-Dade County (as discussed in Finding 69) and our audit disclosed that the City had not made required transfers of traffic signal penalty collections totaling approximately \$3 million to the Department of Revenue (DOR) and required contributions totaling \$413,539 to the Opa-locka Community Redevelopment Agency (as discussed in Findings 41 and 89). Resolution of these matters may further adversely affect the City's overall financial condition.

**Recommendation: The City should take appropriate and timely actions to address the various control deficiencies discussed in this audit report that affect the City's financial condition and implement the 5-year financial recovery plan as required by the State and Local Agreement of Cooperation.**

### Finding 3: General Fund Reserve Requirement

Government Finance Officers Association (GFOA) best practices recommend that governments establish a formal policy on the level of unrestricted fund balance that should be maintained in the general fund for generally accepted accounting principles (GAAP) and budgetary purposes. According to the GFOA, a guideline should be set by the appropriate policy body and articulate a framework and process for how the government would increase or decrease the level of unrestricted fund balance over a specific time period. In particular, governments should provide broad guidance in the policy for how resources will be directed to replenish fund balance should the balance fall below the level prescribed. The GFOA recommends at a minimum, that general-purpose governments, regardless of size, maintain unrestricted budgetary fund balance in their general fund of no less than 2 months of the regular general fund operating revenues or regular general fund operating expenditures.<sup>13</sup>

Our review of City records and discussion with City personnel disclosed that City policies provide for:

- A \$1 million General Fund reserve in addition to all other contingency funds, reserves, or designations of fund balance. If in any year the City is unable to maintain the \$1 million reserve, the City is prohibited from appropriating in the next fiscal year any portion of the remaining reserve funds until the reserve fund is replenished to the \$1 million goal. If during any fiscal year the \$1 million reserve fund is not met, all unallocated funds are to be placed into the reserve fund until the goal is reached.<sup>14</sup>
- A contingency reserve of \$500,000 be budgeted annually, with \$300,000 of the contingency reserve available for use, with City Commission approval, during the budget year for unanticipated budget issues, emergencies, or natural disasters that may arise. However, \$200,000 is required to remain unspent to provide for a year-end reserve.<sup>15</sup>

According to the City Attorney, the \$200,000 reserve is in addition to the \$1 million reserve, making the required total fiscal year-end General Fund reserve to be at least \$1.2 million.

To determine the City's compliance with the \$1.2 million General Fund reserve requirement, we reviewed the City's audited financial statements for the 2012-13, 2013-14, 2014-15, and 2015-16 fiscal years. As shown in Table 1, the financial statements indicated that the City did not maintain the \$1.2 million General Fund reserve for the 2012-13, 2014-15, and 2015-16 fiscal years and the General Fund had deficit unrestricted fund balances for the 2014-15 and 2015-16 fiscal years.

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<sup>13</sup> GFOA Best Practice: *Fund Balance Guidelines for the General Fund*, September 2015.

<sup>14</sup> Sections 19.6-1 and 19.6-3, City of Opa-locka Code of Ordinances.

<sup>15</sup> Section 2-651, City of Opa-locka Code of Ordinances.

**Table 1**  
**General Fund Revenues, Expenditures, and**  
**Unrestricted Fund Balance**  
**For the 2012-13, 2013-14, 2014-15, and 2015-16 Fiscal Years**  
**(in Thousands)**

General Fund	2012-13	2013-14	2014-15	2015-16
Revenues	\$12,057	\$13,028	\$11,761	\$12,120
Expenditures	17,026	16,344	24,239	13,636
Unrestricted Fund Balance – Reserve	1,169	1,925	(2,968)	(3,055)
60 days of Revenues	1,982	2,142	1,933	1,992
60 days of Expenditures	2,799	2,687	3,985	2,242

Source: City's audited financial statements

In addition, we calculated 60 days of revenues and expenditures based on total revenues and expenditures reported in the City's audited financial statements for the 2012-13, 2013-14, 2014-15, and 2015-16 fiscal years to determine whether the City's unrestricted fund balance in their General Fund was no less than 2 months (i.e., 60 days) of the regular General Fund operating revenues or regular General Fund operating expenditures as recommended by the GFOA. As shown in Table 1, our comparison indicated that the City did not maintain an unrestricted fund balance composed of a minimum of 60 days of either revenues or expenditures for the 2012-13, 2013-14, 2014-15, or 2015-16 fiscal years, contrary to GFOA best practices.

Although we inquired, City personnel did not explain why the City did not comply with the City's General Fund reserve policy or establish reserve requirements consistent with GFOA recommendations. Without maintaining adequate reserves in the General Fund, the City may not have the funds necessary to protect residents against service disruptions in the event of unexpected revenue shortfalls or unforeseen expenditures.

**Recommendation: The City should ensure that the General Fund reserve amount is maintained in accordance with the City's General Fund reserve policy and document consideration as to whether the policy should be revised to be consistent with GFOA best practices.**

#### **Finding 4: Enterprise Fund Working Capital Reserve Requirement**

Enterprise funds may be established to report any activity for which a fee is charged to external users for goods or services. The City established three enterprise funds:

- Water and Sewer Fund - to account for delivery of water and sewer services.
- Stormwater Utility Management Fund – to account for fees collected for stormwater operations and capital costs.
- Solid Waste Management Fund – to account for solid waste collection services.

GFOA best practices recommend that governments develop a target amount of working capital<sup>16</sup> to maintain in each enterprise fund and include such targets in a formal financial policy or plan. The GFOA

<sup>16</sup> The GFOA defines working capital as current assets less current liabilities.

further recommends that, to arrive at the target amount, local governments should start with a baseline of 90 days' worth of working capital and then adjust the target based on the particular characteristics of the enterprise fund in question (using 45 days as the minimum acceptable level). In its best practice advisory, the GFOA presents various characteristics that should be considered.<sup>17</sup>

City ordinances<sup>18</sup> require that the Water and Sewer Fund and the Solid Waste Management Fund maintain a fund balance reserve between 2 and 5 percent and, according to the Budget Administrator, the percentages are of annual fund expenses. However, notwithstanding the minimum fund balance reserve requirement established by ordinance, the City had not adopted target amounts of working capital for its enterprise funds and a minimum net position balance of 2 to 5 percent of expenses is below the working capital targets recommended by the GFOA. For example, the Water and Sewer Fund's audited working capital at September 30, 2016, the most recent audited amount available, was a deficit \$4.9 million or \$7.8 million less than \$2.9 million representing 90 days' worth of the Fund's 2015-16 fiscal year expenditures and \$6.4 million less than \$1.5 million representing 45 days' worth of the Fund's 2015-16 fiscal year expenditures.

Additionally, City ordinances did not apply to the Stormwater Utility Management Fund. Although we inquired, City personnel did not explain why City ordinances did not provide for a minimum fund balance reserve for that fund.

Establishing targeted working capital amounts for enterprise funds would help ensure that the City has sufficient funds necessary to operate the water and sewer, stormwater, and solid waste utilities, and provide a basis for determining available funds that may be used for other lawful City purposes.

**Recommendation: The City Commission should adopt a policy establishing minimum target amounts of working capital funds that should be maintained for the City's three enterprise funds.**

#### ADMINISTRATION AND MANAGEMENT

Effective administration and management require the establishment of policies and procedures for strategic planning, a comprehensive framework of internal controls, budgetary planning and oversight, and financial reporting. Established administration and management policies and procedures are essential to ensure City officials and employees administer their assigned responsibilities in accordance with applicable statutory<sup>19</sup> and ordinance requirements. Such policies and procedures should be designed to effectively promote and monitor compliance with the statutory and ordinance requirements and to demonstrate accountability for the use of public resources.

#### **Finding 5: Untimely Financial Reports and Annual Audits**

State law<sup>20</sup> requires the City to obtain an annual financial audit of its accounts and records by an independent certified public accountant (CPA) and file the audit report with the Auditor General within

<sup>17</sup> GFOA Best Practice: *Working Capital Targets for Enterprise Funds*, February 2011.

<sup>18</sup> Section 2-651, City of Opa-locka Code of Ordinances.

<sup>19</sup> For example, Chapter 166, Florida Statutes, *Municipal Home Rule Powers Act*.

<sup>20</sup> Section 218.39, Florida Statutes.

45 days after delivery of the audit report to the City Commission, but no later than 9 months after the end of the City's fiscal year. City ordinances<sup>21</sup> require the annual audit to be presented to the Mayor and City Commission within 180 days after the close of the fiscal year.

Our examination of City records and discussions with City personnel disclosed that:

- The 2014-15 fiscal year audit report, due to be filed with the Auditor General by June 30, 2016, was filed in March 2018 upon completion of the audit, approximately 21 months late.
- The 2015-16 fiscal year audit report, due to be filed with the Auditor General by June 30, 2017, was filed in March 2019 upon completion of the audit, approximately 21 months late.
- Since the 2014-15 and 2015-16 audit reports were not timely completed, the reports could not be presented to the Mayor and City Commission within 180 days of fiscal year end (i.e., March 31, 2016, and 2017, respectively).

State law<sup>22</sup> also requires the City to submit a copy of its audit report and annual financial report (AFR) to the Department of Financial Services (DFS) within 45 days of the completion of the audit report but no later than 9 months after the end of the fiscal year. The 2014-15 fiscal year AFR, due to the DFS by June 30, 2016, was provided on December 21, 2018, approximately 30 months late. The 2015-16 fiscal year AFR, due to the DFS by June 30, 2017, had not been provided to the DFS as of February 2019.

Failure to timely file financial reports has subjected the City to significant monetary sanctions. For example, in August 2017, the Joint Legislative Audit Committee directed the DOR and DFS to withhold any State funds due to the City until the City filed its 2014-15 fiscal year audit report. Through July 2018, the DOR and DFS had withheld approximately \$1.2 million, consisting of half-cent sales tax revenues totaling \$823,630 and State revenue sharing totaling \$397,720.

According to City personnel, the following difficulties impacted the City's ability to timely complete the City financial reports and obtain the 2014-15 and 2015-16 fiscal year audits:

- The Finance Department experienced extensive employee turnover.
- Due to the City's financial emergency status, the City reduced the number of Finance Department positions.
- The Financial Emergency Board and Miami-Dade County made extensive documentation requests that Finance Department personnel were required to fulfill.
- The City's previous auditor resigned from the 2014-15 audit engagement because, according to the August 31, 2016, resignation letter, the City failed to pay invoices for audit services totaling \$6,701.

Notwithstanding these difficulties, timely audits are necessary to ensure that management and those charged with governance are promptly informed of control deficiencies and financial-related noncompliance, and provide for timely review by appropriate Federal, State, and County oversight agencies. Additionally, the DFS uses the information provided on AFRs to prepare a verified report pursuant to State law,<sup>23</sup> and failure to timely file AFRs with the DFS may result in financial data not being

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<sup>21</sup> Section 2-651, City of Opa-locka Code of Ordinances.

<sup>22</sup> Section 218.32(1)(d), Florida Statutes.

<sup>23</sup> Section 218.32(2), Florida Statutes.



available to users of DFS online data. As of May 2019, an annual financial audit of City accounts and records had not been performed for the 2016-17 and 2017-18 fiscal years.

**Recommendation: The City should enhance efforts to ensure, in accordance with applicable State law and City ordinances, that annual financial audits are completed and timely presented to the City Commission and timely filed with the Auditor General and that audit reports and AFRs are timely submitted to the DFS.**

## **Finding 6: Strategic Planning**

A strategic plan is used to communicate organizational goals and objectives, including the specific implementation steps and completion dates for those steps. An effective strategic plan:

- Identifies measurable short- and long-term objectives and when those objectives should be met.
- Provides a basis, such as benchmarks and performance measures, for evaluating performance data before the commitment of significant resources so that the most cost-effective and efficient processes can be identified.
- Establishes a basis to ensure continuity of organizational goals and objectives in the event that administrative changes occur.

GFOA best practices<sup>24</sup> recommend that all governmental entities use some form of strategic planning to provide a long-term perspective for service delivery and budgeting, thus establishing logical links between authorized spending and broad organizational goals. Strategic planning is a comprehensive and systematic management tool designed to help organizations assess the current environment, anticipate and respond appropriately to changes in the environment, envision the future, increase effectiveness, develop commitment to the organization's mission, and achieve consensus on strategies and objectives for achieving that mission. The focus is on aligning organizational resources to bridge the gap between present conditions and the future.

The City Commission approved a strategic plan, which contained the GFOA best practice elements, in May 2013 and approved an update to the plan in September 2014. Although the City experienced various changes in circumstances including, among other things, population and taxable property value increases,<sup>25</sup> significant turnover in key City management positions, deteriorating financial conditions, and a financial emergency situation, the strategic plan had not been updated since September 2014. In February 2019, the City Manager indicated that the City Commission recently held a workshop to discuss needed strategic plan updates and that changes to the strategic plan would be made in the near future.

The lack of periodic reassessments and strategic plan updates to address changing circumstances impacts management's ability to implement the plan and effectively use City resources for the City's most important priorities. Also, absent effective monitoring to evaluate whether plan goals and performance measures should be reassessed and updated, there is an increased risk that the plan will not be effectively implemented.

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<sup>24</sup> GFOA Best Practice: *Establishment of Strategic Plans*, March 2005.

<sup>25</sup> From 2014 to 2018, according to the University of Florida, Bureau of Economic and Business Research, the City experienced a 7-percent population increase. During that same period, according to the Department of Revenue's *2018 Municipal Report*, the City experienced a 34-percent increase in taxable property values.

**Recommendation:** To enhance the efficiency and effectiveness of City operations, the City strategic plan should be monitored and periodically reassessed and updated to address changes in City circumstances.

#### **Finding 7: Management Turnover**

The City Manager, department heads, and other key management positions in the City are responsible for designing and implementing effective internal controls and ensuring consistent application of City policies and procedures. The implementation and consistent application of policies and procedures can be particularly challenging when significant turnover in key management positions is experienced.

Our examination of City records and discussions with City personnel disclosed that, as shown in Table 2, the City experienced significant turnover in certain key management positions during the period September 2014 through April 2018. For example, an Assistant Public Works Director, a Budget Administrator, three Assistant City Managers, two City Managers, and an interim City Manager were each employed in those positions for less than 10 months. Additionally, during the period September 2014 through April 2018, key management positions were vacant from 1 to 15 months, including:

- The Assistant City Manager position, which was vacant for two 7-month periods and one 11-month period.
- The Budget Administrator position, which was vacant for a 1-month period and an 11-month period.
- The Public Works Director position, which was vacant for almost 10 months.
- The Assistant Public Works Director position, which was defunded for almost 5 years, from April 2011 through February 2016, and was subsequently vacant for a 7-month period.

Additionally, while a Purchasing Officer was employed in January 2007 and a Risk Manager was employed in August 2014, the City defunded those positions in May 2016 and the positions remained vacant since that time.

**Table 2**  
**Summary of Turnover in Certain Key Management Positions**  
**During the Period September 2014 through April 2018**

Position	Start Date	End Date
<b>City Manager</b>		
City Manager – 1	4/11/2018	Not Applicable
City Manager – 2 (Interim for a portion)	7/17/2017	4/11/2018
City Manager <sup>a</sup> – 3	5/18/2016	7/17/2017
City Manager <sup>a</sup> – 4 (Interim for a portion)	11/24/2015	8/01/2016
City Manager – 5	9/02/2015	11/24/2015
City Manager – 6 (Interim)	7/24/2015	9/01/2015
Vacant	7/23/2015	7/23/2015
City Manager – 7	7/09/2012	7/22/2015
<b>Assistant City Manager</b>		
Vacant	4/20/2018	Not Applicable
Assistant City Manager – 1	8/14/2017	4/19/2018
Vacant	1/24/2017	8/13/2017
Assistant City Manager – 2	1/17/2017	1/23/2017
Vacant	5/18/2016	1/16/2017
Assistant City Manager – 3	4/06/2016	5/17/2016
Vacant	11/25/2015	4/05/2016
Assistant City Manager – 4	8/06/2012	11/24/2015
<b>Finance Director</b>		
Finance Director – 1	8/28/2017	Not Applicable
Vacant	8/23/2017	8/27/2017
Finance Director – 2	8/24/2015	8/22/2017
Vacant	8/14/2015	8/23/2015
Finance Director – 3	9/19/2013	8/13/2015
<b>Assistant Finance Director</b>		
Vacant	8/25/2015	Not Applicable
Assistant Finance Director – 1	10/04/2014	8/24/2015
Vacant	9/26/2014	10/03/2014
Assistant Finance Director – 2	6/03/2013	9/25/2014
<b>Budget Administrator</b>		
Budget Administrator – 1	5/02/2017	Not Applicable
Vacant	6/09/2016	5/01/2017
Budget Administrator – 2	12/11/2015	6/08/2016
Vacant	11/21/2015	12/10/2015
Budget Administrator – 3	3/03/1997	11/20/2015
<b>Public Works Director</b>		
Public Works Director – 1 (Interim)	8/16/2016	Not Applicable
Vacant	9/21/2015	8/15/2016
Public Works Director – 2	11/09/2012	9/20/2015
<b>Assistant Public Works Director</b>		
Assistant Public Works Director – 1	3/25/2017	Not Applicable
Vacant	8/03/2016	3/24/2017
Assistant Public Works Director – 2	2/22/2016	8/02/2016
Defunded	4/01/2011	2/21/2016

<sup>a</sup> City Manager – 4 took a leave of absence from May 18, 2016, to August 1, 2016. Consequently, the employment of City Manager – 3 overlapped with the employment of City Manager – 4 during that time.

Source: City records

Significant turnover in key management positions results in the loss of institutional knowledge and impacts the oversight and consistent application of established policies and procedures and may lead to inefficient operations and reduced service quality. Accordingly, any actions that may increase

management turnover require careful consideration, including documented assessments of the effects of such actions and strategies to limit any negative effects.

The significant turnover in key management positions may have contributed to the numerous control deficiencies and instances of noncompliance disclosed in this report. Although we inquired, City personnel did not explain why the turnover occurred but indicated that, since employees in many of the management positions are appointed by and report to the City Manager, the turnover in the City Manager position may have contributed to the turnover in other management positions.

**Recommendation:** To promote efficient operations, high quality services, and the consistent application of City policies and procedures, the City should strive to provide stability in key management positions. Such efforts should include documented consideration of any City actions that may increase turnover in key management positions and strategies to limit the negative effects of such actions.

#### **Finding 8: Internal Audit Function**

The GFOA recommends that governments consider the feasibility of establishing a formal internal audit function because such a function can play an important role in helping management to maintain a comprehensive framework of internal controls.<sup>26</sup> A formal internal audit function is particularly valuable for those activities involving a high degree of risk (e.g., complex accounting systems, contracts with outside parties, and a rapidly changing control environment). The GFOA also recommends that, if it is not feasible to establish a separate internal audit function, a government consider either assigning internal audit responsibilities to regular employees or obtaining the services of an accounting firm (other than the independent auditor engaged to audit the financial statements) for this purpose.

Our examination of City organization charts and other records and discussions with City personnel disclosed that the City had not, as of February 2019, established an internal audit function, assigned internal audit responsibilities to City employees, or obtained the services of an accounting firm for this purpose.

The number and significance of the findings disclosed in this report illustrates the City's need for an internal audit function. An established internal audit function would assist City management in the maintenance of a comprehensive framework of internal controls by providing additional assurance that controls are designed properly, operating effectively, and promoting compliance with applicable laws, contracts, grant agreements, and City ordinances, policies, and procedures.

**Recommendation:** The City should establish an internal audit function to assist management in maintaining a comprehensive framework of internal controls. If it is not feasible to establish a separate internal audit function, the City should consider either assigning internal audit responsibilities to City employees or obtaining the services of an accounting firm.

#### **Finding 9: Anti-Fraud Policies and Procedures**

Effective policies and procedures for communicating, investigating, and reporting known or suspected fraud are essential to aid in the mitigation, detection, and prevention of fraud. Such policies and

<sup>26</sup> GFOA Best Practice: *Internal Audit Function*, February 2006.

procedures serve to establish the responsibilities for investigating potential incidents of fraud and taking appropriate action, reporting evidence of such investigations and actions to the appropriate authorities, and protecting the reputation of persons suspected but determined not guilty of fraud.

City ordinances<sup>27</sup> establish the Employee Protection Whistle Blower Act (Whistle Blower Act) to encourage employees who have knowledge of unlawful activity, misfeasance, or malfeasance to report such knowledge to the appropriate authorities for investigation and corrective action. In addition, the City Commission adopted a Public Service Honor Code (Honor Code) policy.<sup>28</sup> Other than the Whistle Blower Act and Honor Code, the City had not established anti-fraud policies or procedures.

Our audit procedures found that, while the Whistle Blower Act and Honor Code have some positive features essential to aid in the mitigation, detection, and prevention of fraud, they do not:

- Define fraud or provide examples of acts constituting fraud.
- Require individuals to communicate and report known or suspected fraud. Although the Honor Code indicates that supervisors should encourage their employees to report violations of the Honor Code and instances of fraud, waste, or abuse, it does not require such reporting.
- Provide for anonymous reporting of Whistle Blower Act or Honor Code violations or known or suspected fraud.
- Require officials to keep accurate records of reported known or suspected fraud.
- Assign responsibility for investigating potential incidents of fraud and taking appropriate action.
- Provide guidance for investigating potential and actual incidents of fraud; reporting evidence obtained by the investigation to the appropriate authorities, which may be City Commissioners or the City legal counsel if an incident involves City management; or protecting the reputations of persons suspected but determined not guilty of fraud.

In addition, the adopted Honor Code includes language that does not clearly apply certain Honor Code provisions to City employees or officials. Specifically:

- The Honor Code provides that each elected and appointed public official and employee of the City shall, when acting in his or her official capacity, comply with the mandatory standards specified. However, the Honor Code refers to “laws, ordinances, resolutions, rules, and regulations that protect the public against abuses in county government.” According to the City Manager, the Honor Code should refer to City government and not County government.
- The Honor Code prescribes how it is to be enforced as “The City Manager on [sic] its designee may use the administrative process of the Miami-Dade County for violation of the Honor Code committed by all appointed officials or employees subject to the authority of the Mayor.” Notwithstanding, any violations by the City Clerk, the City Attorney, or the City Manager would more appropriately be resolved by the Mayor and City Commission, rather than the City Manager or his or her designee.
- The Honor Code provides that the Ethics Commission shall have authority over violations of the Honor Code committed by “elected County officials and by all other County officials and employees not subject to the administrative authority of the Mayor.” According to the City Manager, the Ethics Commission referred to in the Honor Code is the Miami-Dade County Commission on Ethics and Public Trust, and that both elected City and County officials are subject

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<sup>27</sup> Chapter 23, City of Opa-locka Code of Ordinances.

<sup>28</sup> City of Opa-locka Resolution No. 16-9209 adopted June 22, 2016.

to the jurisdiction of the Ethics Commission. Notwithstanding the City Manager's response, it was not apparent in the Honor Code that City officials were included.

The Honor Code's repeated references to County officials and employees occurred because the City modeled its policy after Miami-Dade County's policy but, in doing so, the City did not properly adapt the County's Honor Code to reflect differences between the County's and the City's administrative and governance structures.

Absent adequately designed, comprehensive anti-fraud policies and procedures, there is an increased risk that a known or suspected fraud may be identified but not communicated, investigated, or reported to the appropriate authority for resolution.

**Recommendation: The City should establish policies and procedures for communicating, investigating, and reporting known or suspected fraud. Such anti-fraud policies and procedures should:**

- **Define fraud and provide examples of acts constituting fraud.**
- **Require individuals to communicate and report known or suspected fraud.**
- **Provide for anonymous reporting of Whistle Blower Act or Honor Code violations or known or suspected fraud.**
- **Require officials to keep accurate records of known or suspected fraud reported.**
- **Assign responsibility for investigating potential incidents of fraud and for taking appropriate action.**
- **Provide guidance for investigating potential and actual incidents of fraud, reporting evidence obtained by the investigation to the appropriate authorities, and protecting the reputations of persons suspected but determined not guilty of fraud.**

**The City should also revise the Honor Code to ensure the provisions specifically pertain to City employees and officials.**

## **Finding 10: Risk Assessment**

The GFOA recommends that local governments establish a comprehensive framework for internal control.<sup>29</sup> Both the Committee of Sponsoring Organizations of the Treadway Commission (COSO)<sup>30</sup> and the United States Government Accountability Office (GAO)<sup>31</sup> have established a comprehensive internal control framework that identifies risk assessment<sup>32</sup> as one of the five essential components of the framework. Performing periodic risk assessments can help identify and analyze fraud risks and control deficiencies, such as those noted throughout this report, and help ensure that adequate internal controls are in place to minimize fraud risks and control deficiencies that could adversely affect City operations.

<sup>29</sup> GFOA Best Practices: *Internal Control Framework*, September 2015.

<sup>30</sup> COSO *Internal Control—Integrated Framework*, May 2013.

<sup>31</sup> GAO *Standards for Internal Control in the Federal Government*, September 2014.

<sup>32</sup> A risk assessment assesses risks an entity faces as it seeks to achieve its objectives. These objectives and related risks can be classified into one or more of the following categories: operations (effectiveness and efficiency of operations), reporting (reliability of reporting for internal and external use), and compliance (compliance with applicable laws and regulations).

Both the COSO and the GAO indicate that risk assessment includes considering the potential for fraud. To assist organizations in assessing fraud risk, the Institute of Internal Auditors, the American Institute of Certified Public Accountants, and the Association of Certified Fraud Examiners jointly developed guidance for periodic fraud risk assessments.<sup>33</sup> The guidance indicates that fraud risk management is one of the key principles for proactively establishing an environment to effectively manage an organization's fraud risk. The guidance also states, "To protect itself and its stakeholders effectively and efficiently from fraud, an organization should understand fraud risk and the specific risks that directly or indirectly apply to the organization. A structured fraud risk assessment, tailored to the organization's size, complexity, industry, and goals, should be performed and updated periodically. The assessment may be integrated with an overall organizational risk assessment or performed as a stand-alone exercise, but should, at a minimum, include risk identification, risk likelihood and significance assessment, and risk response."

Contrary to the above-noted guidance, the City did not periodically perform a risk assessment. According to City management, although a risk assessment was not performed, the risk of fraud was informally considered through the City Manager's review of City procurements and by department directors while managing their departments. Absent periodic documented risk assessments, fraud risks and control deficiencies may exist and not be identified, assessed as to the likelihood and significance, and mitigated by an appropriate response, such as the design and implementation of effective internal controls.

**Recommendation: The City should document the performance of periodic risk assessments that identify and analyze fraud risks and control deficiencies and prescribe appropriate responses.**

#### **Finding 11: Budgetary Process**

Pursuant to State law<sup>34</sup> and City ordinances,<sup>35</sup> the City Commission must adopt a budget by ordinance each fiscal year and the total amount available from taxation and other sources, including balances brought forward from prior fiscal years, must equal the total appropriations for expenditures and reserves. The City Commission's adopted budget must regulate the City's expenditures, and it is unlawful to expend or contract for expenditures in any fiscal year except pursuant to the adopted budget. The City Commission may, at any time within a fiscal year or within 60 days following the end of the fiscal year amend a budget for that year.<sup>36</sup>

Our examination of City records and discussions with City personnel regarding the budgetary process disclosed that controls over City budget hearings, records, reporting, and monitoring could be improved.

**Budget Hearings.** Pursuant to State law,<sup>37</sup> a municipality may levy ad valorem taxes on real and tangible personal property within the municipality in an amount not to exceed 10 mills. State law<sup>38</sup> imposes

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<sup>33</sup> *Managing the Business Risk of Fraud: A Practical Guide.*

<sup>34</sup> Section 166.241(2), Florida Statutes.

<sup>35</sup> Section 4.5, City of Opa-locka Code of Ordinances.

<sup>36</sup> Section 166.241(4), Florida Statutes.

<sup>37</sup> Section 166.211(1), Florida Statutes.

<sup>38</sup> Section 200.065, Florida Statutes.



requirements on taxing authorities (such as municipalities) to advertise, in advance of the adoption of a budget authorizing the expenditure of such tax levy proceeds, certain information regarding the tax levy and the taxing authority's budget.

Pursuant to State law,<sup>39</sup> each taxing authority, no later than 30 days following adoption of an ordinance or resolution establishing the property tax levy, must certify compliance with applicable provisions of State law and provide to the Department of Revenue (DOR) the certification, specified documents (including a copy of the ordinance or resolution establishing the tax levy and a copy of the certified advertisement published pursuant to State law<sup>40</sup>), and other related information. The DOR notifies taxing authorities that are in violation of State law,<sup>41</sup> and any such taxing authority may be subject to forfeiture of State funds it is otherwise entitled to or be required to repeat the hearing and notice process pursuant to State law.<sup>42</sup>

On September 27, 2016, the City Commission held the initial hearing on the proposed 2016-17 fiscal year budget and ad valorem tax levy millage rate. On October 3, 2016, the City Commission held a second hearing and adopted by City ordinances<sup>43</sup> the 2016-17 fiscal year budget and ad valorem tax levy millage rate. In November 2016, the DOR notified the City of noncompliance with the requirements of State law regarding the 2016-17 fiscal year millage and budget as:

- Only three Commissioners attended the September 27, 2016, budget hearing when a millage rate of 10.00 was adopted. As that rate exceeded 110 percent of the rolled-back rate based on the previous year's maximum millage rate, State law<sup>44</sup> requires a unanimous vote by all members of the City Commission. DOR correspondence indicated that the City did not meet the unanimous vote requirement because the Mayor and a City Commissioner were not present at the hearing.
- Contrary to State law:<sup>45</sup>
  - The notice of proposed tax increase for the 2016-17 fiscal year budget was smaller than one-quarter page in a standard size or tabloid size newspaper.
  - The City's notice of proposed tax increase overstated the prior fiscal year's tax levy revenues by \$797,768.
  - The City failed to publish a notice of continuation advertisement stating the time and place of the continuation of the hearing.

To remedy the noncompliance, the City re-advertised the notice of proposed tax increase and millage rate in a newspaper on December 4, 2016; held a hearing on December 9, 2016; and held a final hearing on December 19, 2016, at which the City Commission affirmed the 10.00 millage rate by unanimous vote.

Additionally, our audit disclosed that the City had not documented compliance with State law,<sup>46</sup> which requires that the first substantive issue discussed at a budget hearing be the percentage increase in millage over the rolled-back rate necessary to fund the budget and the specific purposes for which ad

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<sup>39</sup> Section 200.068, Florida Statutes.

<sup>40</sup> Section 200.065(3), Florida Statutes.

<sup>41</sup> Section 200.065, Florida Statutes, except for Section 200.065(5), Florida Statutes.

<sup>42</sup> Section 200.065(13)(c), Florida Statutes.

<sup>43</sup> City of Opa-locka Ordinance Nos. 16-16 and 16-17.

<sup>44</sup> Section 200.065(5)(a)2., Florida Statutes.

<sup>45</sup> Section 200.065(3), Florida Statutes.

<sup>46</sup> Section 200.065(2)(e)1., Florida Statutes.

valorem tax revenues are being increased. We reviewed the minutes and listened to the recordings of the City Commission budget hearings for September, October, and December 2016 and did not note any discussion of the specific purposes for which the tax revenues were being increased. Although the City's financial difficulties and need for additional revenues could be inferred by the Commission's discussion at the October 3, 2016, hearing about a State-recommended 10.00 millage rate and salary cuts and other cost-cutting measures, such discussion did not clearly establish the specific purposes for which increased ad valorem taxes were needed.

Absent adequate controls to ensure required budget hearings are advertised and held in accordance with State law, there is an increased risk that the City will be subject to forfeiture of State funds it is otherwise entitled to or may incur additional expense to repeat the budget hearing and notice process.

**Budget Records.** City ordinances<sup>47</sup> established the legal level of budgetary control at the fund level, and budgeted revenues and expenditure amounts are recorded in the City's accounting records at the department level. We compared the City Commission-adopted 2015-16 and 2016-17 fiscal year budgeted expenditure amounts to budgeted expenditure amounts recorded in City accounting records.<sup>48</sup> Our comparison disclosed no differences for the 2015-16 fiscal year budget; however, we noted differences for the 2016-17 fiscal year budget as shown in Table 3.

**Table 3**  
**Differences Between Budgeted Expenditure Amounts Adopted by the City Commission**  
**and Budgeted Expenditure Amounts in City Accounting Records**  
**2016-17 Fiscal Year**

Fund - Department	Budgeted Expenditure Amounts		Difference Accounting Records Over/(Under)
	Adopted by City Commission	City Accounting Records	
General Fund – Community Development	\$ 220,671	\$ 420,671	\$ 200,000
General Fund – Public Works	365,263	375,263	10,000
General Fund – City Clerk	302,687	299,387	(3,300)
Special Revenue Fund – Peoples Transportation – Public Works	555,000	745,000	190,000
Proprietary Fund – Solid Waste Management – Public Works	1,187,730	1,205,230	17,500
Proprietary Fund – Water and Sewer – Public Works	4,554,936	4,504,936	(50,000)

Although we inquired, City personnel did not explain the differences. Absent controls to ensure that City Commission-approved budgeted expenditures are properly recorded in the accounting records, there is an increased risk that actual expenditures will not be consistent with, or will exceed, approved budgeted expenditures.

We also compared the City Commission-adopted budgeted expenditure amounts to actual expenditure amounts recorded in City accounting records, as of February 2018, for the 2015-16 and 2016-17 fiscal

<sup>47</sup> City of Opa-locka Ordinance Nos. 15-28, 16-16, and 16-17.

<sup>48</sup> At the time of our comparison in February 2018, the City's 2015-16 and 2016-17 financial audits were not complete.

years and found that, contrary to State law,<sup>49</sup> total actual expenditures exceeded the City Commission-adopted budgeted expenditures for certain funds. Specifically:

- For the Proprietary Fund – Town Center One, actual 2015-16 fiscal year expenditures of \$1,073,219 exceeded budgeted expenditures of \$500,000 by \$573,219. Also, for financial reporting purposes, the City combined the activity of the Proprietary Fund – Town Center One with the General Fund, but the City Commission-adopted budget was not amended to reflect the budgeted expenditures in the General Fund.
- Although no expenditures were budgeted for the Safe Neighborhood Capital Improvement Fund, actual 2016-17 fiscal year expenditures were \$605,774. Also, for the Solid Waste Management Fund, actual expenditures of \$1,290,306 exceeded budgeted expenditures of \$1,187,730 by \$102,576.

Although we requested, City personnel did not provide explanations for why the overexpenditures occurred or why the City Commission did not make budget amendments to prevent the overexpenditures.

**Budget Reporting and Monitoring.** The City Charter<sup>50</sup> requires the City Manager to make public a quarterly report comparing actual to budgeted expenditures. Such report must reflect the same cumulative information for whatever portion of the fiscal year that has elapsed. City ordinances<sup>51</sup> require the ongoing generation and use of financial reports comparing, for all funds, actual revenues and expenditures to budgeted revenues and expenditures on a monthly and year-to-date basis. The Finance Department is responsible for issuing the monthly reports, within 30 days after the close of each month, to the Mayor, City Commissioners, and department heads, and for providing any information regarding potentially adverse trends or conditions.

According to GFOA recommendations,<sup>52</sup> regular and frequent reporting is necessary to provide accountability, educate and inform stakeholders, and improve confidence in the government; communication and involvement is an essential component of every aspect of the budget process; and regular monitoring of budgetary performance provides an early warning of potential problems and gives decision makers time to consider actions that may be needed if major deviations in budget-to-actual comparison results become evident.

Our examination of City records and discussions with City personnel disclosed that, during the period October 2015 through April 2017, the City did not comply with its budgetary reporting requirements or the GFOA recommendations as:

- Contrary to the City Charter, City records did not evidence that City Managers prepared and made public any quarterly reports. Although we inquired, City personnel did not explain why required quarterly reports were not made.
- Contrary to City ordinances, the required monthly budget-to-actual comparison reports were not always prepared and provided to the Mayor, Commissioners, and department heads. Specifically, although we requested, City records were not provided to evidence that monthly budget-to-actual

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<sup>49</sup> Section 189.016(3), Florida Statutes, and Section 189.418(3), Florida Statutes (2013).

<sup>50</sup> Section (A)(12) of the Citizens' Bill of Rights, City of Opa-locka Charter.

<sup>51</sup> Section 2-651, City of Opa-locka Code of Ordinances.

<sup>52</sup> *Recommended Budget Practices of the National Advisory Council on State and Local Budgeting* (1998).

comparison reports were prepared and provided to department heads or to the Mayor and City Commissioners for 13 of the 19 months<sup>53</sup> during that period.

Although we inquired, City personnel did not explain why 6 monthly budget-to-actual comparison reports for the 2015-16 fiscal year were not provided to department heads or to the Mayor and City Commissioners. However, City personnel did indicate that the 7 monthly budget-to-actual reports for the 2016-17 fiscal year were not provided because they did not want to enter the 2016-17 fiscal year budget information into the accounting system until after the City Commission adopted, on March 22, 2017, the Governor designee's changes to the budget.

- Our comparison of the City Commission-adopted 2015-16 and 2016-17 fiscal year budgeted revenue and expenditure amounts to actual revenue and expenditure amounts recorded in the City accounting records disclosed significant differences. Specifically:
  - For the 2015-16 fiscal year, total budgeted revenues exceeded actual revenues by \$22.7 million and total budgeted expenditures exceeded actual expenditures by \$29.5 million.
  - For the 2016-17 fiscal year, total budgeted revenues exceeded actual revenues by \$9.1 million and total budgeted expenditures exceeded actual expenditures by \$9.7 million.

Despite the significant differences between the budget and actual amounts, and contrary to GFOA recommendations, the City did not periodically amend the budget to reflect changes in City expectations for revenues and expenditures. The City Commission did not approve any 2015-16 fiscal year budget amendments. The City Commission approved three amendments to the 2016-17 fiscal year budget, two of which were to incorporate changes required by the Governor designee to reflect cost-cutting measures. The other amendment, to re-appropriate unused moneys among several funds, was never made because the Governor designee rejected the budget amendment because the City Commission did not adopt the amendment within 60 days after the fiscal-year end. Although we requested, City personnel did not provide an explanation for why periodic budget amendments were not made to reflect changes in the City's expectations for revenues and expenditures.

Absent periodic budget-to-actual comparison reports, City Commissioners and the public lack the information necessary to gain an appropriate understanding of the City's financial status. Such information is essential to identifying and timely remedying critical budget shortfalls and verifying funds are available before authorizing purchases and expenditures. Additionally, absent periodic budget amendments, the budget may not accurately reflect anticipated revenues and expenditures and there is an increased risk that City expenditures may exceed available resources.

**Recommendation: The City should enhance controls over the budgetary process to ensure that:**

- **Budget hearings are advertised and held in accordance with State law.**
- **Commission-approved budgeted expenditures are properly recorded in City accounting records.**
- **Actual expenditures are limited to budgeted amounts as required by State law.**
- **City Managers prepare and make public quarterly reports comparing actual to budgeted expenditures.**
- **The Finance Department prepares and distributes monthly budget-to-actual reports as required by City ordinances.**

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<sup>53</sup> Reports were not provided for December 2015, April through August 2016, October 2016 through December 2016, and January through April 2017.

- **Budgets are periodically amended to reflect changes in City expectations for revenues and expenditures.**

## **Finding 12: Administrative Costs**

The City utilized three enterprise funds<sup>54</sup> (Solid Waste Management, Water and Sewer, and Stormwater Utility Management Funds) to account for various utility functions. The enterprise funds incur not only direct costs of providing services, but also indirect costs. Such indirect costs include shared administrative expenses, such as Human Resources and Finance Department costs. In accordance with GFOA Best Practices,<sup>55</sup> a systematic and rational methodology for the allocation of these costs should be utilized.

Our examination of City records disclosed that the City prepared 33 monthly journal entries charging \$1.4 million of 2015-16 fiscal year General Fund administrative costs to various utility functions (solid waste, water and sewer, and stormwater). We examined City records for 3 of the journal entries, totaling \$127,745, and found that documentation supporting the amount charged was not available for the 3 entries. According to City personnel, administrative costs during the 2015-16 fiscal year were based on budgeted amounts, not actual expenses. Although we requested, we were not provided a cost allocation plan or other documentation to demonstrate how the 2015-16 fiscal year budgeted administrative costs for the enterprise funds were calculated.

Absent a clear, documented basis for allocating administrative costs to the enterprise funds, the City cannot demonstrate that the costs charged were reasonable and necessary.

**Recommendation: The City should utilize a documented cost allocation methodology to equitably allocate administrative costs to City enterprise funds.**

## ACCOUNTABILITY FOR RESOURCES

The City receives various Federal, State, and local resources and is responsible for implementing control procedures and processes to ensure compliance with requirements to receive and use the resources. Additionally, the City must properly account for financial transactions to provide for accurate internal and external financial reporting and ensure compliance with requirements related to that reporting.

## **Finding 13: Law Enforcement Revenue Sharing**

The City accounts for various Police Department financial activities, including activities related to the United States Department of Justice (USDOJ) Federal Equitable Sharing Program (Federal Sharing Program),<sup>56</sup> in the Special Law Enforcement Fund. The City periodically applies for and receives Federal Sharing Program funds and, for the period October 2015 through September 2017, the City received Federal Sharing Program funds totaling \$234,607. Our examination of City records and discussions with

<sup>54</sup> An enterprise fund provides goods and services to the public and should be self-supporting through user rates and fees.

<sup>55</sup> GFOA Best Practice: *Indirect Cost Allocation*, February 2014.

<sup>56</sup> Title 21, Section 881(e)(3)(A), United States Code, provides that property civilly or criminally forfeited may be transferred by the USDOJ to any state or local law enforcement agency that participated directly in the seizure or forfeiture of the property. The USDOJ shares proceeds from Federally forfeited property with participating state and local law enforcement agencies through the Federal Equitable Sharing Program.

City personnel regarding the Program disclosed that accountability over resources provided to the City through the Program needs enhancement.

The City entered into an agreement with the USDOJ that includes requirements for participation in, and restrictions on, the use of Federal Sharing Program proceeds, and any interest earned thereon. The agreement provided that any shared assets be used for law enforcement purposes in accordance with the statutes and guidelines that govern the USDOJ Sharing Program as set forth in the *Guide to Equitable Sharing for State and Local Law Enforcement Agencies (Guide)*. The *Guide* requires that:

- An Application for Transfer of Federally Forfeited Property (DAG-71 Form) be submitted to the USDOJ within 60 days after the seizure of property or within 60 days after the Federal adoption of a state or local seizure of property.<sup>57</sup>
- Participating state and local law enforcement agencies implement standard accounting procedures and internal controls to track Program moneys and tangible property.
- Separate special revenue account or account codes be established to account for all Program proceeds.
- Program funds not be commingled with funds from any other source.
- A log and copies of all DAG-71 Forms be maintained and the log be updated for payments received. The DAG-71 Forms consist of a list of seized assets for which final adjudication has not yet been completed.
- An Annual Agreement and Certification Form (Annual Form) be electronically filed with the USDOJ within 60 days after the agency's fiscal year end.
- Internal control procedures be established to recommend expenditures from the revenue account.
- Participating agencies provide for an audit consistent with the Federal Single Audit requirements.<sup>58</sup>

Our examination of City records related to the Federal Sharing Program and discussions with City personnel disclosed that:

- Contrary to the *Guide*, Program moneys were not properly recorded in the City accounting records. Specifically:
  - The City received and recorded Federal Sharing Program moneys totaling \$133,541 in the 2014-15 fiscal year. However, City personnel recorded the Federal Sharing Program moneys as other moneys<sup>59</sup> in the City accounting records, resulting in the commingling of Program funds with other City resources.
  - On November 10, 2015, four Federal Sharing Program receipts totaling \$128,711 were deposited in one of the bank accounts; however, as of May 2018 (approximately 30 months later) the receipts had not been recorded in the City accounting records.
  - In the 2016-17 fiscal year, the City received and recorded Federal Sharing Program moneys totaling \$105,896 as other miscellaneous revenues in the City accounting records.

Although we inquired, City personnel did not explain why the Federal Sharing Program receipts were either not recorded or incorrectly recorded in the City accounting records. The lack of timely

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<sup>57</sup> Effective July 2018, the DAG-71 Form is required to be submitted within 45 days after the seizure.

<sup>58</sup> Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

<sup>59</sup> Moneys received from Miami-Dade County pursuant to Section 318.21(8), Florida Statutes.

bank account reconciliations (as discussed in Finding 22) may have contributed to City personnel not detecting the unrecorded and improperly recorded receipts.

- Bank statements supporting Federal Sharing Program wire transfers during the period October 2015 through April 2017 were not provided for the months of February through May 2016 and July 2016 through April 2017 for one of the two bank accounts that received the wire transfers. According to Finance Department personnel, due to personnel turnover, they lacked the credentials required to sign into the bank's Web site to obtain electronic bank statements.

Miscoding Federal Sharing Program receipts and commingling the receipts with other miscellaneous police resources increases the risk that restricted program revenues could be used for unauthorized purposes. In addition, City-maintained bank statements, properly reconciled to City accounting records, are necessary to support the accuracy of Federal Shared Program moneys recorded in the City accounting records.

To determine whether the City timely filed DAG-71 Forms, and timely and accurately filed the Annual Form, we compared Federal Sharing Program receipt activity listed on the City's forfeiture log and bank deposits with the City accounting records for the period October 2015 through September 2017. Our comparison of these records for the ten receipts totaling \$234,607 during that period disclosed that:

- Seven property seizures were not reported on DAG-71 Forms within 60 days of seizure, contrary to the *Guide*.<sup>60</sup> As shown in Table 4, based on the certification dates, the seven DAG-71 Forms were filed from 120 to 426 days, or an average of 257 days after the respective seizure dates. In response to our inquiry about the filing delays, City personnel indicated that completing the DAG-71 Form requires a collaborative effort with other law enforcement agencies participating in a seizure to ensure that each agency requests its correct share based on individual agency effort and that the agencies do not collectively request more than 100 percent of the seizure from the USDOJ. According to DAG-71 Form instructions, the Form must be completed before the participating agencies can receive their final shared payments; consequently, untimely filing delays the cash receipts to which the City is entitled.

**Table 4**  
**Federal Shared Revenue Seizures**  
**For the Period October 2015 Through September 2017**

Forfeiture Log Entry	Amount Received	Seizure Date	DAG-71 Form Certification Date	Number of Days After Seizure DAG-71 Form Filed	Days Late
1	\$30,949	6/16/14	10/14/14	120	60
2	37,047	6/24/14	12/10/14	169	109
3	2,057	3/13/15	10/08/15	209	149
4	325	3/07/14	12/10/14	278	218
5	8,749	3/07/14	12/10/14	278	218
6	97,761	8/09/13	6/27/14	322	262
7	34,529	10/10/13	12/10/14	426	366
<b>Total</b>	<b><u>\$211,417</u></b>				

Source: City Records

<sup>60</sup> *Guide to Equitable Sharing for State and Local Law Enforcement Agencies*, Section VI.



- Contrary to the *Guide*,<sup>61</sup> the 2015, 2016, and 2017 Annual Forms were not electronically submitted within 60 days after the City's September 30 fiscal year end (i.e., by November 29). The 2015 and 2016 Annual Forms were filed 205 and 262 days, respectively, after the November 29 due dates. As of June 2018, the 2017 Annual Form due November 29, 2017, had not been filed. In response to our inquiries in June 2018, City personnel indicated that the 2017 Annual Form had not been completed because the Finance Director was unaware of the Annual Form requirement. We were not provided an explanation for why the 2015 and 2016 Annual Forms were not timely completed. According to the Annual Form instructions, receipt of the signed form is a prerequisite to receiving any equitably shared cash, property, or proceeds.
- The City-prepared Annual Forms contained numerous errors. For example, the City reported a beginning balance of \$56,938 on the 2015 Annual Form, which was \$10,494 less than the 2014 Annual Form ending balance of \$67,432. In addition, the 2016 Annual Form reported no Federal Sharing Program moneys received; however, our review of City bank statements disclosed four deposits totaling \$128,711 received on November 10, 2015, with case numbers that corresponded to entries on the forfeiture log.
- Contrary to the *Guide* and Federal Single Audit requirements,<sup>62</sup> the City's 2014-15 and 2015-16 Federal Single Audits, included as part of the City's 2014-15 and 2015-16 fiscal year financial statement audits, were each completed approximately 21 months late as discussed in Finding 5.

Employee turnover in the Finance Department may have contributed to the Federal Sharing Program deficiencies. Noncompliance with the Federal Sharing Program *Guide* and Federal single audit requirements could jeopardize future opportunities for the City to participate in the Federal Sharing Program.

**Recommendation: The City should:**

- **Provide separate accountability in the City accounting records for the Federal Sharing Program proceeds.**
- **Timely record Federal Sharing Program activity in the City accounting records.**
- **Obtain missing bank statements for the accounts that receive Federal Sharing Program wire transfers and document the reconciliation of those statements to the City accounting records.**
- **Establish procedures to periodically reconcile the forfeiture logs, DAG-71 Forms, Annual Form, and City accounting records to each other and make necessary adjustments to the applicable records based on the results of the reconciliations.**
- **After a seizure, or the Federal adoption of a State or local seizure, timely submit a DAG-71 Form to the USDOJ.**
- **Timely file Annual Forms with the USDOJ within 60 days after the City's fiscal year end.**
- **Investigate and resolve the differences in amounts reported on 2015 and 2016 Annual Forms and complete and file corrected Annual Forms.**
- **Ensure completion of annual Federal single audits within 9 months after the City's fiscal year end.**

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<sup>61</sup> *Guide to Equitable Sharing for State and Local Law Enforcement Agencies*, Section X.

<sup>62</sup> Title 2, Section 200.512(a), Code of Federal Regulations, Report Submission, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance).

## Finding 14: State Grant Compliance

According to State law,<sup>63</sup> non-state entities, including the City, are required to implement adequate controls to provide reasonable assurance of compliance with the provisions of laws, regulations, and other rules pertaining to State awards. In addition, grant award agreements may include specific terms and conditions that must be followed, and grant fund expenditures are subject to the Local Government Prompt Payment Act<sup>64</sup> (as discussed in Finding 69).

During the period October 2015 through April 2017, the City participated in five State grants from the Department of State (DOS) and Department of Environmental Protection (DEP). As of February 2019, the City had not established grants management policies and procedures.

To determine whether the City complied with State grant requirements and properly accounted for the grants, we examined City records for four grants, as shown in Table 5, with receipts and expenditures during the period October 2015 through April 2017. The two DOS grants were for the rehabilitation of the Historic City Hall to preserve its historic qualities and the two DEP grants were for construction of new drainage systems to alleviate flooding.

**Table 5**  
**Schedule of DOS and DEP State Grants**  
**October 2015 through April 2017**

Grant	Grantor	Grant Project	Grant Amount	Funding Basis	Receipts	Expenditures
1	DOS	Historic City Hall Renovation	\$ 50,000	25 percent funding advance 75 percent reimbursement	\$ 14,228	\$ 13,223
2	DOS	Historic City Hall Renovation	350,000	25 percent funding advance 75 percent reimbursement	87,500	87,500
3	DEP	Cairo Lane Construction Roadway, Stormwater Drainage, Sidewalks, & Traffic Signs	600,000	Reimbursement	257,603	257,603
4	DEP	NW 127 <sup>th</sup> Street Construction of Drainage System to Alleviate Flooding Problems	400,000	Reimbursement	92,058	92,058
<b>Totals</b>					<b><u>\$451,389</u></b>	<b><u>\$450,384</u></b>

Source: City records.

Our examination disclosed that:

- City records did not always demonstrate that expenditures charged to State grants were allowable grant expenditures. According to City records, for Grant 1, the City received 2 receipts totaling \$14,228, which consisted of the 25 percent funding advance of \$12,500 and a \$1,728 reimbursement. Pursuant to our request, the City provided an expenditure log<sup>65</sup> dated April 18, 2018, that listed expenditures of \$13,223. According to City records, the \$13,223 was part of the \$100,723 paid to vendors and the remaining \$87,500 was for Grant 2, which was also for a Historic City Hall Renovation project. Although we requested, we were not provided records

<sup>63</sup> Section 215.97, Florida Statutes, *Florida Single Audit Act*.

<sup>64</sup> Chapter 218, Part VII, Florida Statutes.

<sup>65</sup> The City used expenditure logs to assign expenditures to various grants and to prepare grantor reimbursement requests that evidence that grant moneys were expended for allowable activities.

evidencing \$1,005 in additional allowable expenditures. In a letter dated June 25, 2018, the DOS requested the City to refund the \$1,005 of grant funds received in excess of allowable expenditures. On January 18, 2019, the City prepared and sent the refund payment to the DOS, 207 days after the request.

- The City did not always fully expend grant moneys during the grant award periods. Specifically, for Grant 1, the City did not use \$36,777 of the \$50,000 grant amount prior to the grant expiring on July 30, 2015. The City was unable to expend the \$36,777 because, the contractor stopped work on the grant project due to the City not timely paying for work the contractor performed (as discussed in Finding 28). As of February 2019, the Historic City Hall Renovation project had not yet been completed and, since the grant period expired, alternate funding sources will be required to complete the project.
- Although City records demonstrated that Grant 2 expenditures of \$87,500 were allowable, City personnel did not file a request for reimbursement with the DOS for the remaining \$262,500 of available Grant 2 funding because the City was unable, due to lack of funds, to timely pay the project contractor as required before the City can request reimbursement. The grant period expired on July 30, 2016, therefore, the remaining \$262,500 of unreimbursed grant moneys lapsed and the City will need to use alternate funding sources to complete the Historic City Hall Renovation project.
- Grants 3 and 4 required the City to pay vendors before submitting a reimbursement request, along with supporting records, to the DEP. Although the grant agreements did not require reimbursement requests be filed within specified time frames, it is important for the City to file such requests as soon as practical so that operational funds can be replenished in a timely manner. Our examination of all 11 reimbursement requests for Grants 3 and 4 disclosed that requests were not promptly submitted to the DEP. As shown in Table 6, the 11 reimbursement requests were submitted 42 to 237 days, or an average of 117 days, after the City paid its vendors.

**Table 6**  
**DEP State Grants Reimbursement Requests**  
**October 2015 through April 2017**

Grant	Vendor Payment Amount	Vendor Payment Date	Reimbursement Request Date	Days to File Request
3	\$ 4,000	3/20/15	11/12/15	237
3	1,500	4/03/15	11/12/15	203
3	55,287	2/27/17	4/20/17	52
3	113,265	3/09/17	4/20/17	42
3	40,716	5/02/17	7/27/17	86
3	4,500	6/06/17	7/27/17	51
4	1,500	4/23/15	12/01/15	222
4	4,950	5/07/15	12/01/15	208
4	34,138	2/27/17	4/20/17	52
4	9,450	5/02/17	7/27/17	86
4	7,200	6/06/17	7/27/17	51

Source: City records.

According to City personnel, employee turnover caused the delays in filing reimbursement requests for Grants 3 and 4. Failure to timely file reimbursement requests can contribute to cash flow problems for the City.

- Although we requested, we were not provided records evidencing that progress reports required by the grant terms for the four State grants were timely prepared and filed with the grantor. The four State grants had the following reporting requirements:
  - Grant 1 required a progress report due January 31, 2015, for the period September through December 2014 and another progress report due April 30, 2015, for the period January through March 2015. A third (final) progress report was initially due June 30, 2015, for the period April through June 2015, but the due date was extended to August 14, 2015. The Grant 1 progress reports were to describe the progress of the project since the last reporting period, including the status of scope of work activities and deliverables, and the reasons for any variations from project timeline, budget, and deliverables.
  - Grant 2 required semi-annual progress reports due January 31, 2015, July 31, 2015, and January 31, 2016, for the periods ended December 31, 2014, June 30, 2015, and December 31, 2015, respectively. A fourth (final) progress report was initially due June 1, 2016, but the due date was extended to July 31, 2016, for grant closeout. The Grant 2 progress reports were to describe the progress of the project since the last reporting period, including the status of scope of work activities and deliverables, and the reasons for any variations from the project timeline, budget, and deliverables.
  - Grants 3 and 4 required quarterly progress reports be filed no later than 20 days following the completion of the reporting periods ending March 31, June 30, September 30, and December 31. The reports were to describe the work performed, problems encountered, problem resolution, schedule updates and proposed work for the next reporting period.

The reporting deficiencies we noted for each grant are shown in Table 7.

**Table 7**  
**DOS and DEP State Grants Progress Reporting Deficiencies**  
**October 2015 through April 2017**

Grant Report		Report Period	Due Date	Report Date	Days Late
Grant	Sequence				
1	1	9/01/14 to 12/31/14	1/31/15	2/11/15	11
1	Final	4/01/15 to 6/30/15	8/14/15	Not Available	<sup>a</sup>
2	1	7/01/14 to 12/31/14	1/31/15	Not Available	<sup>a</sup>
2	2	1/01/15 to 6/30/15	7/31/15	6/24/16	329
2	3	7/01/15 to 12/31/15	1/31/16	6/24/16	145
3	1	1/01/16 to 3/31/16	4/20/16	Not Available	<sup>a</sup>
3	2	4/01/16 to 6/30/16	7/20/16	4/19/17	273
3	3	7/01/16 to 9/30/16	10/20/16	4/19/17	181
3	4	10/01/16 to 12/31/16	1/20/17	4/19/17	89
3	8	10/01/17 to 12/31/17	1/20/18	3/08/18	47
4	1	1/01/16 to 3/31/16	4/20/16	Not Available	<sup>a</sup>
4	2	4/01/16 to 6/30/16	7/20/16	4/19/17	273
4	3	7/01/16 to 9/30/16	10/20/16	4/19/17	181
4	4	10/01/16 to 12/31/16	1/20/17	4/19/17	89
4	8	10/01/17 to 12/31/17	1/20/18	3/08/18	47

<sup>a</sup> The number of days late could not be calculated as the report date was not available.

Source: City records

- The lack of established grant management policies and procedures may have contributed to the untimely and unavailable progress reports. Failure to prepare and timely file required progress reports limits the availability of information necessary for effective grant oversight, reduces the grantor's and City's ability to compare project status to grant funding timelines, and reduces the City's assurance that all available funds will be used during the grants' periods of availability.

**Recommendation: The City should establish grant management policies and procedures to ensure that:**

- **Grant expenditures are allowable, and records are retained to support the allowability of all expenditures for which reimbursement is requested.**
- **Reimbursement requests are filed for allowable grant expenditures as soon as practicable.**
- **Grant moneys are expended during the grant award period.**
- **Required grant reports are prepared and timely filed with the grantor.**

#### **Finding 15: Department of Environmental Protection Grants and Loans**

During the period October 2015 through April 2017, the City received from the DEP grant and loan proceeds totaling \$2.1 million. Our review of City records related to the DEP grants and loans and discussions with City personnel disclosed that:

- DEP grant agreements<sup>66</sup> provided that the accounting systems for all grantees must ensure that grant funds are not commingled with funds from other agencies and that the grantee must separately account for funds for each project in the grantee's accounting system or otherwise establish accountability for each awarded project. Accordingly, to maintain separate accountability, the City established the Water and Sewer Fund and the Stormwater Utility Management Fund in the City accounting records. Similarly, DEP loan agreements<sup>67</sup> required the City to keep accounts of the water and sewer systems separate from all other accounts and to provide separate accountability for loan-funded capital outlay projects and for debt service of the loans.

Contrary to these requirements, during the period December 2015 through July 2016, City personnel recorded seven grant and loan receipts totaling \$351,624 in the General Fund instead of the Water and Sewer Fund. Although we requested, City personnel did not provide an explanation for the City's noncompliance with the accountability requirement in the DEP grant and loan agreements.

- Grant and loan receipts totaling \$638,594 deposited in the General Operating bank account had not, as of February 2019, been transferred to the Water and Sewer Fund Operating bank account where they ultimately belonged. In addition, these receipts were not posted to the City accounting records as of May 2018. As discussed in Finding 22, the City did not periodically reconcile its bank statements to its accounting records; consequently, City personnel did not detect these unrecorded receipts.

Properly separating accountability for DEP grant and loan funds would facilitate the City's ability to control the use of restricted moneys and demonstrate in its public records that such moneys were used for authorized purposes. In addition, improper accounting for grant and loan activity results in incorrect reporting of account balances and activity in financial reports, which diminishes the City Commission's and City management's ability to make informed financial decisions and to ensure compliance with applicable State and local laws and grant agreement requirements.

In June 2017, the DEP Office of Inspector General issued a report<sup>68</sup> describing similar recordkeeping deficiencies and identified several other deficiencies related to grants and loans, including improper contract awards, untimely contract services payments, and contract scope descriptions inconsistent with grant requirements.

**Recommendation: The City should enhance procedures to provide separate accountability for grants and loans in accordance with the respective agreements and to ensure and document that all restricted moneys were used for authorized purposes. Additionally, the City should ensure that all grant and loan receipts are promptly posted to the accounting records.**

## Finding 16: Fuel Taxes

Pursuant to State law,<sup>69</sup> the City receives local option fuel taxes and municipal taxes on motor fuel that may be used only for specific transportation expenditures as defined in law. In addition, State law<sup>70</sup> provides that local governmental entities must follow uniform accounting practices and procedures

<sup>66</sup> Section 3(f), State Financial Assistance Agreements, State of Florida Department of Environmental Protection.

<sup>67</sup> Article 2.01(8), Loan Agreements, State of Florida Department of Environmental Protection.

<sup>68</sup> DEP Office of Inspector General *Review of State Revolving Fund Loan and Grant Agreements with the City of Opa-locka*, dated June 21, 2017.

<sup>69</sup> Sections 206.605 and 336.025, Florida Statutes.

<sup>70</sup> Section 218.33(2), Florida Statutes.



promulgated by the Department of Financial Services (DFS). The DFS has developed a *Uniform Accounting System Manual (DFS Manual)*, which establishes financial accounting and reporting requirements for all local governmental entities. The *DFS Manual* requires that local governmental entities use the classification of funds prescribed in the *DFS Manual* and provides that a special revenue fund is the fund type to use “To account for the proceeds of specific revenue sources (other than expendable trusts or for major capital projects) that are legally restricted to expenditure for specified purposes.” Accordingly, to maintain separate accountability for restricted revenue sources, the City should establish a special revenue fund for each type of restricted revenue source.

Our review of City records disclosed that during the period October 2015 through April 2017, the City received local option and municipal fuel taxes of \$336,927 and \$130,595, respectively. However, contrary to the *DFS Manual*, the City recorded \$160,052 and \$61,946 of the local option and municipal fuel taxes, respectively, in the General Fund. Additionally, the City initially recorded the remaining \$176,875 and \$68,649 of local option and municipal fuel tax receipts, respectively, in the General Fund, but subsequently transferred those receipts to the Special Revenue - Peoples Transportation Tax (PTT) Fund.

According to the City’s 2015-16 audited financial statements, the most recent audited financial statements available as of March 2019, the PTT Fund is used to account for the City’s prorated share of the charter county transit system surtax (surtax) proceeds received from Miami-Dade County. In response to our inquiries, City personnel indicated that the City has historically accounted for fuel tax revenue in the General Fund but started accounting for the money in the PTT Fund to fund transportation needs once the County stopped providing surtax revenues to the City in November 2015.<sup>71</sup> However, although the PTT Fund resources are only used for transportation expenditures, insofar as the local option and municipal fuel taxes and surtax moneys are each restricted to specific types of transportation expenditures, the commingling of these moneys in the PTT Fund increases the risk that restricted transportation revenues could be expended for unallowable purposes.

Separate accounting for restricted revenues and other financing sources through use of separate special revenue funds would facilitate the City’s ability to control the use of restricted moneys and demonstrate in its public records that such moneys are used only for authorized purposes.

**Recommendation:** The City should establish separate accountability for fuel tax revenues and expenditures by using separate special revenue funds in accordance with the *DFS Manual*.

#### **Finding 17: Discretionary Sales Surtax Proceeds**

As provided in State law,<sup>72</sup> Miami-Dade County enacted an ordinance<sup>73</sup> on July 9, 2002, imposing a .5 percent surtax on eligible sales transactions for transportation-related projects. The ordinance provides that at least 20 percent of County surtax collections are required to be distributed to municipalities incorporated as of November 5, 2002, on a pro rata basis using population statistics. The

<sup>71</sup> A letter from Miami-Dade County to the City dated December 9, 2016, indicated that the County suspended the City’s surtax distributions in November 2015 because the City did not furnish documentation requested in April 2015 to support use of surtax distributions for the 3 fiscal years ended September 30, 2010.

<sup>72</sup> Section 212.055(1)(a), Florida Statutes.

<sup>73</sup> Section 02-116, Miami-Dade County Code of Ordinances.



surtax program is administered by the Citizen's Independent Transportation Trust (CITT), a group composed of 15 members: 13 appointed by the Miami-Dade County Board of County Commissioners, 1 appointed by the County Mayor, and 1 appointed by the Miami-Dade League of Cities. An interlocal agreement<sup>74</sup> between the City and Miami-Dade County provides for the distribution of the surtax proceeds.

During the period October 2015 through April 2017, the City received \$171,207 of discretionary sales surtax proceeds from Miami-Dade County pursuant to the interlocal agreement. The interlocal agreement requires the City to periodically submit to the CITT the following:

- Quarterly reports due on February 1, May 1, August 1, and November 1.
- Annual audited financial statements due on May 1.
- Yearly Maintenance of Effort (MOE) certification letters due on November 1.
- Yearly 5-year municipal transportation plans due on November 1.
- Yearly adopted budgets due on November 1.
- Fiscal year-end transportation expenditure reports due on November 1.

Our examination of City records and discussions with City personnel disclosed that the City did not timely submit the required documentation. Specifically, the City submitted to the CITT:

- Reports for the quarters ended September 2015 through December 2017 on February 26, 2018; 25 to 848 days late.
- The 2014-15 fiscal year audited financial statements on April 6, 2018; 705 days late. As discussed in Finding 5, the 2015-16 fiscal year audit was not completed until March 2019 and, therefore, could not have been submitted to the CITT by the May 1, 2017, due date.
- MOE certification letters for the 2015-16, 2016-17, and 2017-18 fiscal years on February 7, 2018; 98 to 829 days late.
- The 2016-17 fiscal year 5-year municipal transportation plan on February 26, 2018; 482 days late.
- The 2014-15 through 2017-18 fiscal year adopted budgets on February 26, 2018; 117 to 1,213 days after the due dates.

In response to our inquiries, City personnel indicated that the required documentation was not timely submitted due to personnel turnover. According to the CITT Municipal Guidelines, if a required report is not submitted, the City will receive a notice of non-compliance 30, 45, and 60 days after the report's due date, and surtax proceeds will be withheld if the report is not received within 15 days of the third notice. In December 2016, Miami-Dade County's Audit and Management Services Division (County Audit Division) issued a report on the results of its review<sup>75</sup> of the City's use of surtax proceeds for the 7 fiscal years ended September 30, 2014, and noted City noncompliance with the interlocal agreement. Miami-Dade County suspended surtax distributions to the City in November 2015 pending resolution of the issues noted in the surtax review.

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<sup>74</sup> Interlocal Agreement for Distribution, Use, and Reporting of Charter County Transit System Surtax Proceeds Levied by Miami-Dade County, July 2003, as amended July 10, 2007.

<sup>75</sup> Miami-Dade County Audit and Management Services Division *Charter County Transportation System Surtax Review*.

Our examination of City records and discussions with City personnel disclosed that the City did not comply with some recommendations in the County Audit Division's surtax review report. For example:

- Although the County Audit Division requested the City to respond to the report findings within 30 days (i.e., by January 8, 2017), as of February 2019, the City had not provided a formal response to the report. In February 2018, City personnel began providing documents to the CITT in an effort to resolve the report findings; however, as of February 2019, the surtax distributions remained suspended. Although we requested, we were not provided records evidencing the amount of surtax proceeds suspended by the County since November 2015.
- According to the report, although the City should have had \$1.7 million in unexpended surtax proceeds on-hand in the City PTT Fund as of September 30, 2014, City officials admitted that the restricted moneys were used for non-surtax obligations and none of the \$1.7 million was on-hand as of September 30, 2014. Although we requested, we were not provided records evidencing City efforts to resolve this report finding.
- The review disclosed that the City incorrectly reported non-surtax transportation-related grant revenues and expenditures in the Safe Neighborhood Capital Project Fund, a Fund used to record revenues and expenditures of the Community Development Block Grant and general obligation bonds. Similarly, we noted that non-surtax transportation grant revenues totaling \$166,374 were accounted for in this Fund rather than in the PTT Fund during our audit period.

In response to our inquiries in March 2018, City personnel cited personnel turnover for the delays in complying with the County Audit Division's recommendations and indicated that they were working with County staff to resolve the issues. Failure to implement recommendations in the County Audit Division's surtax review report and lack of appropriate City actions to comply with the interlocal agreement will postpone the resumption of County surtax distributions and may further delay the City's resolution of its financial emergency.

**Recommendation:** The City should implement policies and procedures to ensure compliance with the interlocal agreement surtax requirements and take prompt action to fully resolve the issues noted in the County Audit Division's surtax review report.

#### **Finding 18: Interfund Borrowing and Transfers**

Pursuant to State law,<sup>76</sup> the City is required to follow uniform accounting practices and procedures as promulgated by the DFS. As such, the City must maintain accountability for its financial transactions through use of funds and fund types as prescribed in the *DFS Manual*. As previously discussed, the City established the Water and Sewer Fund to account for water and sewer system activity. To ensure proper accountability for each fund's financial transactions, including Water and Sewer Fund transactions, City ordinances require the City Commission's approval to borrow or use internal fund transfers to obtain cash from one fund type to fund the activities of another fund type.<sup>77</sup> In addition, the Finance Director is to make a determination that any funds to be borrowed will not be needed during the lending period and the funds for repayment will be available within a 2-year period.

**Water and Sewer Fund Transfers to the General Fund.** The City's two main bank accounts recorded in the City's General Fund accounting records are the Operating and Payroll bank accounts. According

<sup>76</sup> Section 218.33, Florida Statutes.

<sup>77</sup> Section 2-651, City of Opa-locka Code of Ordinances.

to bank statements for the period November 2015 through April 2017, City personnel made five transfers totaling \$902,868 from the Water and Sewer Fund Operating bank account to the General Fund Operating and Payroll bank accounts as shown in Table 8.

**Table 8**  
**Transfers from the Water and Sewer Fund Operating Bank Account**

Transfer	Date	Amount	Transfer To
1	November 3, 2015	\$100,000	General Fund Operating Bank Account
2	November 4, 2015	100,000	General Fund Operating Bank Account
3	November 5, 2015	66	General Fund Payroll Bank Account
4	November 17, 2015	202,802	General Fund Payroll Bank Account
5	September 21, 2016	500,000	General Fund Operating Bank Account
<b>Total</b>		<b><u>\$902,868</u></b>	

Source: City records

Our examination of bank statements and City accounting records and discussions with City personnel disclosed that:

- As of February 2019, none of the five bank transfers were recorded in the City's accounting records. The funds were transferred from the Water and Sewer Fund Operating bank account to the General Fund Operating and Payroll bank accounts, without corresponding accounting entries to record the transfers from the Water and Sewer Fund to the General Fund in the accounting records. Although we inquired, City personnel did not explain these transfers. When transfers are not recorded in City accounting records, City personnel and the City Commission may draw incorrect conclusions about the financial resources available to fund City operations and comply with City Commission directives.
- Contrary to City ordinances, the City Commission did not approve transfers 1, 2, 3, and 4 totaling \$402,868. During our discussions in October 2017 with the Finance Director, he indicated that he was not aware of any documentation supporting the initiation or approval of these transfers, which were made prior to his employment as Finance Director. Absent such documentation, City records did not demonstrate that the transfers were made pursuant to City Commission intent.
- At its August 2, 2016, meeting, the City Commission approved transfer 5 from the Water and Sewer Operating bank account to pay salaries, salary-related expenses, and other operating expenses.<sup>78</sup> Although the City Commission approved the transfer, the authorizing resolution did not include the specific amount to be transferred. In addition, the resolution required the City Manager to present to the City Commission a plan for repayment of the transfer within 30 days. Although we inquired, City personnel did not explain why the transfer amount was not included in the resolution or why the repayment plan was not provided to the City Commission. As a result, it is not apparent, of record, that the transfer amount of \$500,000 or the time period for the loan from the Water and Sewer Fund to the General Fund was consistent with City Commission intent.
- Contrary to City ordinances,<sup>79</sup> the Finance Director did not make a documented determination as to whether the funds transferred would not be needed during the current or subsequent fiscal year and that funds would be available for repayment within a 2-year period. Although we inquired, City personnel did not explain why such a determination was not made. Without such documented determinations, there is an increased risk that the borrowed moneys will be needed

<sup>78</sup> City of Opa-locka Resolution No. 16-9226.

<sup>79</sup> Section 2-651, City of Opa-locka Code of Ordinances.

for emergencies or unforeseen events and that funds will not be available for repayment within a 2-year period.

**Water and Sewer Fund Transfers for the Opa-locka Community Redevelopment Agency.** As further discussed in the Opa-locka Community Redevelopment Agency section of this report, the City created the Opa-locka Community Redevelopment Agency (CRA)<sup>80</sup> in June 2011. The City accounts for CRA activities in the CRA Fund and, according to City accounting records as of September 30, 2017, the CRA Fund reported \$344,973 as due from the Water and Sewer Fund, representing the cumulative amount of eight transfers in amounts ranging from \$20,833 to \$83,333 made during the 2012-13 through 2014-15 fiscal years from the Water and Sewer Fund to the General Fund for CRA expenditures. Our audit procedures disclosed that:

- Contrary to City ordinances,<sup>81</sup> the City Commission did not authorize transfers from the Water and Sewer Fund to the General Fund to be used on behalf of the CRA Fund. Additionally, City records did not include the Finance Director's determination that the funds would not be needed during the lending period and that funds would be available for repayment within a 2-year period. Although we inquired, City personnel did not explain why these transfers were made without City Commission approval or why the Finance Director employed at the time of the transfers did not make the required determination. Absent documented City Commission approval and Finance Director determination, City records did not demonstrate that the transfers were consistent with City Commission intent or whether the transfers were intended to be repaid and, if so, when they would be repaid.
- At its October 14, 2016, meeting, the Financial Emergency Board requested a legal opinion from the City Attorney regarding the legality of transferring moneys from the Water and Sewer Fund to the CRA. The City Attorney indicated that the transfers were legal pursuant to City ordinances.<sup>82</sup> However, the ordinances require that moneys in the Water and Sewer Fund be used for the payment of expenses related to the operation, maintenance and repair, and management of the City sewer system, and that the use of any surplus funds are to be determined by the City Commission. Insofar as there was no documentation that the Water and Sewer Fund's outstanding needs were met, and the City Commission did not authorize the transfers, the legal authority for the transfers is not apparent.

**Recommendation: City procedures should be enhanced to ensure that future interfund borrowings and transfers are properly accounted for and comply with City ordinances. Specifically, the procedures should require:**

- **The Finance Director to document a determination that any borrowed funds will not be needed during the lending period and that the funds for repayment will be available within a 2-year period.**
- **Only surplus moneys be transferred from the Water and Sewer Fund.**
- **The City Commission to take official action to approve all interfund borrowings and transfers.**

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<sup>80</sup> City of Opa-locka Resolution No. 11-8238.

<sup>81</sup> Sections 2-651 and 21-174, City of Opa-locka Code of Ordinances.

<sup>82</sup> Section 21-174, City of Opa-locka Code of Ordinances.

## Finding 19: Special Events

As discussed in Finding 70, our examination of City records identified expenditures associated with certain special events the City typically sponsors on an annual basis, including turkey, bicycle, and toy giveaway events. Other special events include, for example, the State of the City Address, Fourth of July celebration, and Hispanic Heritage celebration.

Our examination of City records and discussions with City personnel disclosed that the City had not established controls to provide adequate accountability for special events. Specifically:

- As of February 2019, the City had not established policies and procedures regarding special events. Effective policies and procedures should, for example, prescribe methods for determining the feasibility of such events; require City Commission approval of each event; provide guidelines for soliciting donations to defray the costs of the events and providing receipts to donors; and require separate accounting for donations received and expenditures made for each event.
- The City had established five specific revenue accounts in the City accounting records to record donations received for special events and, according to City records, the City received 39 special event donations totaling \$52,553 during the 2015-16 fiscal year. However, City records did not provide separate accountability of donations for each special event. Although the descriptions for three revenue accounts totaling \$26,785 were readily identifiable to specific events (e.g., for the 2015-16 fiscal year, accounts were established for the State of the City Address and Fourth of July events), the other two revenue accounts, totaling \$25,768, were titled “Donations & Contributions” and “Other Cont & Donations” and were not readily identifiable to specific events.
- For 14 recorded special event donations totaling \$40,035 (representing 76 percent of total recorded donations), we requested records (e.g., receipts provided to donors, correspondence from donors) evidencing the moneys were actually received from donors specifically for special events; however, City personnel only provided documentation supporting \$35,035. Accordingly, City records did not demonstrate that the remaining \$5,000 had been designated by donors for special events.
- The City established certain accounts in the City accounting records for expenditures associated with specific events (e.g., for the 2015-16 fiscal year, separate expenditure accounts were established for the State of the City Address and Fourth of July events). However, expenditures for some events were recorded in accounts titled “Promotional Activities.” Those expenditures were not readily identifiable to a specific event and, as such, City records did not identify all expenditures associated with each specific special event.

Additionally, our comparison of total donation revenue to total expenditures attributable to special events for the 2015-16 fiscal year disclosed that the expenditures totaling \$78,277 exceeded donation revenues totaling \$52,553 by \$25,724,<sup>83</sup> with the difference being paid from other City resources. Although we requested, we were not provided records evidencing whether the City determined the financial economic viability of the special events or whether related donations were intended to cover the entirety, a portion, or none of the special events’ costs.

Further, although we inquired, City personnel did not provide an explanation for the lack of established policies and procedures and adequate accountability for special event donation revenues and expenditures. Establishing effective policies and procedures regarding special events, and proper

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<sup>83</sup> Expenditures would have exceeded recorded donation revenues by a greater amount had City records readily identified the expenditures recorded to the “promotional activities” expenditure accounts associated with specific special events.

accountability for donations and expenditures for such events, would provide transparency as to the extent to which other City resources are being used to subsidize such events and provide the City Commission information needed to determine the economic viability of continuing to hold special events, especially given the City's current state of financial emergency.

**Recommendation:** The City should establish policies and procedures to require, for each special event, City Commission approval; periodic evaluations of the economic viability of the event, including determinations of the amount of public funds needed to subsidize the event; specific guidelines for soliciting donations and providing receipts to donors; and separate accountability for donations and expenditures.

## **Finding 20: Fund Accounting and Expenditure Coding**

As previously discussed, the City must follow uniform accounting practices and procedures established by the *DFS Manual*, which requires the use of funds, fund types, and revenue and expenditures account codes. We found that, while City personnel established various funds and account codes to account for financial transactions in the City accounting records, the financial transactions were not always properly recorded.

**Fund Accounting.** Proper accountability for each fund's financial transactions is important to ensure accurate internal and external financial reporting and compliance with the provisions of applicable Federal, State, and local laws, including provisions specifying authorized uses of each fund's resources.

Our examination of City records supporting 47 selected motor vehicle lease payments totaling \$148,132 for 26 of the 39 leased City vehicles during the period October 2016 through June 2017 disclosed that lease payments totaling \$11,926 were sometimes paid from the incorrect bank account or incorrectly recorded in City accounting records. Specifically:

- Two lease payments totaling \$8,807 for leased Public Works Department vehicles were incorrectly paid from the General Fund Operating bank account instead of the Water and Sewer Fund Operating bank account. One payment for \$1,559 was correctly recorded as a General Fund expenditure, while the other payment for \$7,248 was incorrectly recorded as a Water and Sewer Fund expenditure.
- Lease payments totaling \$3,119 for leased Police Department vehicles were incorrectly paid from the Water and Sewer Fund Operating bank account instead of the General Fund Operating bank account. Consequently, these lease payments were recorded as Water and Sewer Fund expenditures when they should have been recorded as General Fund expenditures.

In addition, our examination of construction services payments for the Historic City Hall Renovation project disclosed a \$127,153 payment was incorrectly recorded in the Water and Sewer Fund instead of the Safe Neighborhood Capital Improvement Fund.

Although we requested, City personnel did not provide an explanation regarding the motor vehicle lease payments and payment accounting errors; however, City personnel indicated that the \$127,153 construction services payment accounting error was due to an oversight. Deficiencies in the City's bank account reconciliation procedures, as discussed in Finding 22, may have contributed to City personnel not detecting these accounting errors.



**Expenditure Coding.** For expenditure account codes, the *DFS Manual* provides that each expenditure should be analyzed and classified by transaction code and object code and the City used codes to classify expenditures in the City accounting records. According to City Finance Department personnel, applicable department personnel were responsible for recording expenditures in the accounting records, and Finance Department personnel review expenditure coding for appropriateness.

We examined City records supporting 431 selected expenditure transactions totaling \$481,457 for the period October 2015 through March 2017 to determine whether the expenditures were properly coded in the City accounting records. Specifically, we examined:

- 70 expenditure transactions totaling \$409,443 selected from the population of 2,084 general expenditure transactions<sup>84</sup> totaling \$18.9 million.
- 259 credit card expenditure transactions totaling \$51,552 selected from the population of 393 credit card charge expenditures (excluding travel-related credit card charges) totaling \$80,834.
- 102 travel expenditure transactions totaling \$20,462 selected from the population of 127 travel expenditures totaling \$42,684.

We found that 89 (21 percent) of the 431 expenditure transactions were not recorded to the appropriate account code. Specifically, we found that:

- 26 general expenditure transactions totaling \$183,459 were not properly coded. For example, a \$71,053 expenditure for feeder bus services was incorrectly recorded as road and street facilities instead of mass transit systems, and a \$24,500 expenditure for emergency sewer repairs was incorrectly recorded as capitalized machinery and equipment instead of repairs and maintenance.
- 43 credit card expenditure transactions totaling \$8,862 were not properly coded. For example, 3 expenditures totaling \$291 for Christmas decorations were incorrectly recorded as capitalized building improvements, and a \$1,599 expenditure for a purchasing certification course was incorrectly recorded as promotional activities.
- 20 expenditure transactions totaling \$1,824 were incorrectly coded as travel. For example, 10 transactions totaling \$957 for grocery and restaurant purchases, 2 transactions totaling \$232 for edible arrangements, and a \$295 transaction for a funeral wreath and floral basket were not associated with authorized travel but were recorded as travel.

In addition, our examination of selected capital outlay expenditure transactions for the period October 2015 through March 2017 disclosed that most of the expenditure transactions examined were not properly recorded to the appropriate account code. Specifically:

- From the population of 9 capital outlay expenditure transactions totaling \$732,503 recorded in a capital projects fund, we selected 3 expenditure transactions totaling \$402,561, examined City records, and determined that all 3 transactions were incorrectly recorded as street facilities for grants and aids instead of capital outlay construction in progress. Our examination of the other 6 expenditure transactions totaling \$329,942 disclosed that they were also incorrectly recorded.
- From the population of 75 capital outlay expenditure transactions totaling \$1,854,134 recorded in the General, Water and Sewer, Stormwater Utility Management, and Town Center One Funds, we examined City records supporting 8 selected expenditure transactions totaling \$708,832 and determined that 7 transactions totaling \$698,465 were incorrectly recorded as:

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<sup>84</sup> General expenditure transactions include all non-payroll check disbursements excluding travel expenditures and payments to the credit card vendor for City credit card charges.



- 2 expenditure transactions totaling \$26,248 were incorrectly coded as capital outlay instead of non-capitalizable charges. One expenditure for \$10,248 included \$10,158 for vehicle repairs and maintenance and \$90 for related freight charges, and the other expenditure for \$16,000 was for emergency repairs of a sewer main.
- 5 capital outlay expenditures totaling \$672,217 were incorrectly coded as infrastructure but included payments for ongoing capital projects and should have been coded as construction in progress until project completion when the total project costs would be reclassified to infrastructure.

Although we requested, City personnel did not provide explanations for these expenditure coding errors. However, the errors may be attributable to the lack of adequate Finance Department policies and procedures (as discussed in Finding 68) and employee turnover in the Finance Department.

Improper accounting for financial transactions results in incorrect reporting of account balances and activity in financial records and reports, which diminishes the City Commission's and City management's ability to make informed financial decisions and ensure compliance with applicable State and local laws.

**Recommendation:** The City should enhance procedures to ensure that payments are made from the appropriate bank account and financial transactions are properly accounted for in City accounting records. The enhanced procedures should address training for applicable City employees regarding the use of funds and account codes as prescribed in the *DFS Manual*.

## Finding 21: Journal Entries

The Finance Department is responsible for maintaining the City accounting system, including recording journal entries of adjustments to account balances and transactions, and related financial reporting. To determine whether journal entries were appropriately prepared, approved, and supported by adequate documentation, we examined City records supporting 30 selected journal entries totaling \$3.1 million from the population of 12,347 journal entries totaling \$204 million for the period October 2015 through March 2017. Our examination disclosed that:

- For 18 of the 30 selected journal entries, which were for various purposes such as cost allocations, fund transfers, and automobile allowance or leave payments, we were provided with adequate supporting documentation. However, for 12 journal entries totaling \$581,179 there was either no documentation or inadequate documentation to support the purposes for and amounts of the entries. Specifically:
  - Although we requested documentation, including the journal entry form showing the original entry and signature of the initiator, supporting 7 journal entries totaling \$373,322, no such documentation was provided. Consequently, City personnel were unable to document the purpose for or support the amount of the journal entries.
  - The journal entry form was available for 5 journal entries totaling \$207,857; however, the entries were inadequately supported and explained. The journal entry forms indicated that the purposes for the entries were to charge administrative costs to various City utility funds (3 entries), establish an interfund receivable between utility funds (1 entry), and recognize the receipt of State moneys (1 entry). However, although we requested, we were not provided records to fully explain the reasons for or support the amounts of the journal entries.
- All 30 journal entries lacked documented supervisory review and approval. In response to our inquiry, the City Finance Director indicated that she occasionally reviewed journal entries but

did not maintain evidence of such review. Additionally, although we inquired as to whether the City accounting system provided for online review and approval of journal entries, City personnel did not respond to our inquiry. Documented supervisory review and approval of journal entries is necessary to ensure the accuracy of data in the accounting system and to reduce the risk of, and timely detect, errors or fraud.

**Recommendation:** The City should ensure that journal entries are properly supported by journal entry forms and additional documentation as necessary to support the purpose for and propriety of the amount of the journal entries and that evidence of supervisory review and approval of all journal entries is documented.

## CASH CONTROLS

Effective cash controls include the performance of timely, routine reconciliations of bank account balances to the accounting records. Such reconciliations are necessary to provide reasonable assurance that cash assets agree with recorded amounts, promptly detect and correct unrecorded and improperly recorded cash transactions or bank errors, and facilitate the efficient and economic management of cash resources. In addition, State law<sup>85</sup> requires the City to adopt and implement control processes and procedures to ensure adequate integrity, security, confidentiality, and auditability of business transactions conducted using electronic commerce, including electronic funds transfers.

### Finding 22: Bank Account Reconciliations

As of April 30, 2017, the City had 34 bank accounts and primarily conducted business using the General Fund Operating and the Water and Sewer Fund Operating bank accounts. To determine the amount of cash on deposit on that date, in August 2017 we requested bank account statements for all 34 accounts for the month of April 2017. City personnel provided April 2017 statements for 15 bank accounts showing cash on deposit totaling \$11 million, including \$4.8 million in the General Fund Operating bank account and \$2.4 million in the Water and Sewer Fund Operating bank account. However, City personnel did not provide us with April 2017 statements for the other 19 accounts; consequently, the City was unable to evidence the amount of cash on deposit in these 19 accounts at April 30, 2017. In response to our inquiry, Finance Department personnel indicated that, due to personnel turnover, they lacked the credentials required to sign into the bank's Web site to electronically obtain the bank statements.

While examining the provided bank statements, we noted that the City incurred overdraft fees totaling \$462 because of insufficient funds in the General Fund Operating and General Fund Payroll bank accounts. We also noted that, in November 2015, four deposits totaling \$128,711 were made to the City's Special Law Enforcement bank account but had not been recorded in the accounting records as of June 2018. Timely and appropriately prepared bank account reconciliations reduce the risk of overdrafts, ensure that the amount of cash recorded in the City accounting records is correct, and help detect dishonest acts involving the City's cash.

Established bank account reconciliation procedures promote the accurate and timely preparation of bank account reconciliations and are essential to consistently communicate reconciliation guidelines and

<sup>85</sup> Section 668.006, Florida Statutes.

requirements, especially during periods of employee turnover. Effective bank account reconciliation procedures should require and ensure that:

- Responsibility for the performance and review of the reconciliations is appropriately separated from the cash handling and journal entry responsibilities.
- The identities of the employees who perform the reconciliations and the employees who review and approve the reconciliations are documented to properly affix responsibility for these functions.
- Reconciling items are promptly and thoroughly investigated, explained, and documented.
- The time frames for completing reconciliations and for recording any necessary adjustments to the general ledger cash account balances are properly established.

To determine whether bank account reconciliations were timely and appropriately prepared during the 19-month period October 2015 through April 2017, we requested for examination City records supporting the performance of the 561 bank accounts reconciliations<sup>86</sup> that should have been prepared for the 34 bank accounts open as of April 30, 2017. Our examination of the records provided and discussions with City personnel disclosed that:

- A total of 38 monthly bank account reconciliations should have been performed for the General Fund Operating and Water and Sewer Fund Operating bank accounts. However, the City records provided only supported the preparation of 16 General Fund Operating bank account reconciliations and 11 Water and Sewer Fund Operating bank account reconciliations. Consequently, as of the time of our inquiry in August 2017, 3 General Fund Operating Bank account reconciliations (for the months of February through April 2017) and 8 Water and Sewer Fund operating bank account reconciliations (for the months of September 2016 through April 2017) had not been prepared. In addition, although we requested, we were not provided records evidencing that the 523 bank account reconciliations for the other 30 bank accounts had been prepared.
- City personnel indicated that the Junior Accountant, who could also prepare and record journal entries, prepared all bank account reconciliations. However, none of 27 monthly bank account reconciliations provided identified the individual who prepared the reconciliation or the date of preparation.
- According to City personnel, the Finance Director reviewed and approved the reconciliations. However, there was no evidence of supervisory review and approval for any of the 27 monthly bank account reconciliations provided.
- The 27 monthly bank account reconciliations provided had unreconciled differences ranging from \$6,129 to \$883,736 for the General Fund Operating bank account and \$2,162 to \$122,582 for the Water and Sewer Fund Operating bank account. Some factors contributing to the unreconciled differences were:
  - The bank balances used for General Fund Operating bank account reconciliations were incorrect for the months of October 2015 through June 2016, November 2016, and December 2016. For example, for May 2016, the average general ledger cash balance was used in the reconciliation instead of the ending monthly general ledger balance and, for November 2016, the preparer used the beginning bank account statement balance instead of the ending statement balance in the reconciliation. On average, the bank balances used for the General Fund Operating bank account reconciliations were understated by \$212,288, ranging from a \$31,625 overstatement in May 2016 to a \$1,042,563 understatement in November 2016.

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<sup>86</sup> Not all 34 accounts were open the entire 19-month period.

- The general ledger account balances used for the Water and Sewer Fund Operating bank account reconciliations were overstated by \$233 and \$516, for the months of June and July 2016, respectively.
- The 27 monthly bank account reconciliations listed certain reconciling items that were not supported by City records. For example:
  - Amounts reported as deposits in transit and as outstanding checks were not always accurate. For example, the January 2017 General Fund Operating bank account reconciliation reported \$11,178 for a “deposit in transit” that did not appear on the subsequent month’s bank statement and \$184,857 for 23 “outstanding checks” that were paid and not outstanding as of January 31, 2017.
  - Certain reconciling items had not been thoroughly investigated and explained. As a result, Finance Department personnel waited to adjust the general ledger until explanations for reconciling items could be researched and identified, causing the total amount of the items to accumulate each month. The cumulative effect of these reconciling items ranged from a general ledger net cash balance increase of \$4,036,876 in April 2016 to a general ledger net cash balance decrease of \$842,962 in January 2017 and resulted in an average monthly net increase of \$1,139,050 for the period October 2015 through January 2017.
- All credit and debit card payments received by the City were deposited in the Water and Sewer Fund Operating bank account, even though some payments did not relate to utility services. For example, during the period October 2015 through April 2017, the City collected \$363,018 in permit and other fines and fees paid by debit and credit cards; however, since some of the payments belonged in the General Fund Operating bank account, reconciling items identifying amounts due to the General Fund Operating bank account from the Water and Sewer Fund Operating bank account should have been identified on the bank account reconciliations.

The lack of established bank account reconciliation procedures contributed to bank account reconciliation deficiencies and delays in the preparation of bank account reconciliations were attributable, in part, to personnel turnover and the lack of personnel available to timely perform the reconciliations and able to access bank account statements online.

Unrecorded cash transactions for extended periods and untimely bank account reconciliation adjustments to the general ledger reduce the reliability of cash account balances in the City accounting records. Absent effective procedures for the proper and timely preparation, review, and approval of bank account reconciliations and adjustments to the general ledger cash account balances as a result of the reconciliations, there is an elevated risk that the reconciliations may contain errors or intentionally misrepresent facts to conceal theft.

**Recommendation: The City should establish effective bank account reconciliation policies and procedures to require and ensure that:**

- **Timely bank account reconciliations are accurately performed, appropriately documented, and reviewed and approved by individuals not assigned cash handling and journal entry responsibilities.**
- **Reconciling items are accurately identified, promptly and thoroughly investigated, explained, and documented.**
- **Required adjustments to the general ledger cash account balances, as a result of the bank account reconciliations, are timely made to avoid overdraft fees.**
- **Online access to bank account statements is granted to appropriate employees.**

## Finding 23: Electronic Funds Transfers

State law<sup>87</sup> requires the City to adopt and implement control processes and procedures to ensure adequate integrity, security, confidentiality, and auditability of business transactions conducted using electronic commerce. The City uses electronic funds transfers (EFTs) to, for example, transfer money between City bank accounts, pay vendors, and transfer money associated with payroll-related activity such as insurance premium deductions. Effective controls over EFTs typically require and ensure:

- An appropriate separation of duties for initiating, reviewing, and approving EFTs.
- Banking agreements identifying, by name, the employees authorized to initiate, authorize, review, and approve EFTs, and established employee EFT dollar limits.
- Timely updating of banking agreements for personnel changes and prompt revoking of EFT authorization privileges for employees who separate from City employment.

Our examination of City records and discussions with City personnel disclosed that, contrary to State law, the City had not established policies and procedures to ensure adequate integrity, security, confidentiality, and auditability of business transactions conducted using EFTs. Although we requested, City personnel did not provide the banking agreements for two financial institutions at which the City maintained 19 bank accounts during the period October 2015 through April 2017. The City's other 15 bank accounts, 6 of which were used to make EFTs, were maintained at another financial institution during that period and our examination of the banking agreement provided to us in June 2017 for that financial institution disclosed that:

- The agreement listed a former Finance Director and a former Assistant Finance Director as the employees designated to receive e-mail notification of EFTs. Also, the former Assistant Finance Director was listed as a contact person in the event of technical failure. These individuals separated from City employment in July 2014 and August 2015, respectively.
- Although we requested, we were not provided records evidencing that online banking privileges were revoked for a former Assistant Finance Director and two former Finance Directors who separated from City employment in September 2014, August 2015, and August 2017, respectively.

Failure to maintain appropriate banking agreements and update the agreements for changes in personnel increases the risk for funds to be misappropriated without timely detection and resolution.

According to the available bank account statements for the period October 2015 through April 2017, the City made a total of 362 EFT disbursements ranging from \$10 to \$256,590 and totaling \$14.7 million. To determine whether EFT disbursements were appropriately documented in City records, we requested for examination City records supporting 24 selected EFT disbursements totaling \$851,469. For 23 of the EFT disbursements totaling \$781,849, City records were not provided to identify the individuals who initiated, reviewed, and approved the EFTs; whether EFT dollar limits had been established for the individuals; or the nature and purpose of the EFTs.

Absent policies and procedures that require documentation supporting EFT transactions, including evidence of supervisory review and approval of EFTs; established EFT dollar limits; and timely bank

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<sup>87</sup> Section 668.006, Florida Statutes.

reconciliations prepared by an employee independent of the EFT initiation and review and approval functions, the risk of errors or fraud without timely detection and resolution is increased.

**Recommendation:** The City should establish EFT policies and procedures and enhance controls to ensure:

- The duties of initiating, reviewing, and approving EFTs are appropriately separated from the duties of preparing bank reconciliations and journal entries.
- The identities of persons initiating, reviewing, and approving EFTs and the authorized purpose for the EFTs are documented in City records.
- Banking agreements for all financial institutions conducting business with the City identify, by name, the employees authorized to initiate EFTs and those authorized to review and approve EFTs, and establish employee EFT dollar limits.
- Banking agreements are timely updated for City personnel changes and EFT authorization privileges of employees who separate from City employment are promptly revoked.

#### **Finding 24: Stale-Dated Checks**

State law<sup>88</sup> provides that all intangible property that has not been claimed by the owner for more than 1 year after becoming payable, including utility deposits that remain unclaimed by the owner for more than 1 year after termination of the services, are presumed unclaimed.<sup>89</sup> State law<sup>90</sup> requires that any person holding unclaimed property shall report such property to the Department of Financial Services (DFS) by May 1 of each year for the previous calendar year and simultaneously deliver such property to the DFS. To that end, not more than 120 days and not less than 60 days prior to filing the report, the holder in possession of unclaimed property in excess of \$50, is to send written notice to the apparent owner's last known address to inform the apparent owner that the holder is in possession of unclaimed property.<sup>91</sup>

Our examination of City accounting records and discussions with Finance Department personnel disclosed 19 vendor checks and 98 utility deposit refund checks totaling \$8,549 and \$19,029, respectively, that had been outstanding 12 or more months as of December 31, 2015. Accordingly, the City was required to notify the apparent owners of the outstanding 117 checks totaling \$27,577 and subsequently report and deliver the amounts outstanding to the DFS by May 1, 2016. However, contrary to State law, the City did not notify the apparent owners or report the unclaimed outstanding checks to the DFS. Instead, in September 2016, Finance Department personnel voided 2 of the vendor checks totaling \$996 and 97 of the utility deposit refund checks totaling \$18,933. In response to our inquiry, Finance Department personnel stated that they planned to review the 99 voided checks to determine whether a replacement check was issued and, if not, the funds would be sent to the DFS as unclaimed property.

<sup>88</sup> Section 717.113, Florida Statutes.

<sup>89</sup> Section 717.117(1)(h), Florida Statutes, provides that credit balances, customer overpayments, security deposits, and refunds having a value of less than \$10 are not presumed unclaimed.

<sup>90</sup> Sections 717.117 and 717.119, Florida Statutes.

<sup>91</sup> Section 717.117(4), Florida Statutes.



As of December 31, 2016, 20 vendor checks totaling \$9,517 and 1 utility deposit refund check for \$96 had been outstanding 12 or more months. However, as of February 2019, the City had not sent written notice to the apparent owners of the unclaimed outstanding checks and had not reported or remitted the amounts to the DFS. According to the Finance Director, the City had not established policies and procedures for identifying unclaimed property and reporting such property to the DFS and he was unaware of the reason the City did not comply with State law regarding unclaimed property.

Pursuant to State law,<sup>92</sup> the City may be subject to penalties for failing to timely report unclaimed property to the DFS.

**Recommendation: The City should establish policies and procedures to require and ensure timely notification to owners of unclaimed property and that unclaimed property is annually reported and remitted to the DFS. Such policies and procedures should assign responsibility to a specific position for such notification and reporting. Additionally, the City should file all past due reports and deliver the applicable unclaimed property to the DFS as soon as possible.**

#### **Finding 25: Public Deposit Accounts**

As part of the State's Public Deposits Program,<sup>93</sup> State law<sup>94</sup> requires each public depositor<sup>95</sup> to submit to the State Chief Financial Officer (CFO) by November 30, an annual report identifying the name, address, and Federal employer identification number of the public depositor and verifying confirmation of the public deposit information as of September 30. According to City records, as of September 30, 2016, the City had 34 bank accounts at three banks.

Although we requested, we were not provided the last report filed with the CFO. We contacted the DFS and obtained the last report filed by the City, which was filed in November 2009 for the 2008-09 fiscal year. DFS personnel indicated that the DFS annually e-mailed the annual report package to the City and, according to City personnel, the e-mail used by the DFS is a group e-mail account accessible by various Finance Department personnel. However, as of February 2019, the City had not established policies and procedures designating to an employee responsibility for preparing and submitting the required report to the CFO for the three banks used by the City or requiring supervisory personnel to ensure the accuracy and timely submittal of the report.

If a public depositor does not comply with State law by annually submitting the required report for each public deposit account, the protection from loss provided by the State's Public Deposits Program is not effective as to that public deposit account. Subsequent to our inquiry, in August and October 2017, the City submitted to the CFO the required reports for November 30, 2016, and November 30, 2017, respectively.

**Recommendation: The City should establish policies and procedures designating to an employee responsibility for annually preparing and submitting the required report of public**

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<sup>92</sup> Section 717.117(3), Florida Statutes.

<sup>93</sup> Section 280.02(25), Florida Statutes, defines the Public Deposits Program as the Florida Security for Public Deposits Act contained in Chapter 280, Florida Statutes, and any rule adopted under that chapter.

<sup>94</sup> Section 280.17, Florida Statutes.

<sup>95</sup> Section 280.02(24), Florida Statutes, defines a public depositor as the official custodian of funds for a governmental unit who is responsible for handling public deposits. Pursuant to Section 280.02(23), Florida Statutes, public deposits include City moneys placed on deposit in a bank, savings bank, or savings association.



deposit accounts to the CFO. Additionally, the City should establish procedures to require supervisory personnel to ensure that the report is accurate and timely submitted pursuant to State law.

## **Finding 26: Petty Cash Fund**

The purpose of a petty cash fund is to have a small amount of cash available for reimbursing employees and contractors for items such as delivery charges, fuel, postage stamps, or inexpensive office supplies when the formal requisition or purchase order process is not practical. City records indicated that, during the period October 2015 through April 2017, the City had three petty cash funds totaling \$1,200 and made 74 disbursements totaling \$2,212 from the funds.<sup>96</sup>

City petty cash policies<sup>97</sup> authorize petty cash fund use for emergency, incidental, and non-repetitive expenses not to exceed \$50. City policies require that petty cash funds be counted and reconciled to receipts weekly.<sup>98</sup> According to City personnel, the petty cash custodians secured petty cash disbursement receipts with the petty cash in locked cash boxes and, when a petty cash fund balance needed to be replenished, the custodian submitted the receipts to the Finance Department. The Finance Department issued a reimbursement check to the petty cash custodian, who cashed the check to replenish the fund.

According to City personnel, petty cash fund disbursements are subject to the same public purpose requirements as other City disbursements. Notwithstanding, City petty cash policies did not prescribe the specific purposes for which the petty cash fund could be used, and the City had not established adequate procedures for documenting the authorized public purpose for petty cash fund disbursements.

Our examination of City records supporting the 74 petty cash fund disbursements totaling \$2,212 disclosed that 22 of the 74 disbursements were inadequately supported. Specifically:

- City records did not evidence the authorized public purpose for 15 disbursements totaling \$893. These disbursements included \$189 for food purchases for City meetings, reimbursements totaling \$422 to City Commissioners for car washes, and \$282 for food purchases for Police Department meetings or events. However, City records did not document who attended the meetings and events, why the City needed to provide food at the meetings and events, or that the car washes were for City-assigned vehicles or had not already been paid for by other means.<sup>99</sup> Since cash is highly susceptible to misappropriation, it is essential that controls be established to document the authorized public purpose for all petty cash fund disbursements.
- 14 disbursements totaling \$1,195 each exceeded the \$50 maximum disbursement amount established by City policies. Using petty cash for expenses exceeding the policy limit lessens management's ability to monitor the appropriateness and necessity of the expenses.

<sup>96</sup> The City closed the Police Department's \$500 petty cash fund in August 2016 and closed the Public Works Department's \$200 petty cash fund in February 2016. Therefore, after February 2016, the City only maintained one petty cash fund.

<sup>97</sup> City of Opa-locka Petty Cash Policy (Revised 11-19-07).

<sup>98</sup> City of Opa-locka Petty Cash Policy (Revised 11-19-07), *General Information*.

<sup>99</sup> Expense receipts totaling \$278 did not indicate whether the car wash was for a City-assigned vehicle. Although expense receipts totaling \$144 indicated the car wash was for a City-assigned vehicle, as discussed in Finding 50, City Commissioners were reimbursed for out-of-pocket expenses incurred while performing City business.

- A \$20 disbursement was to reimburse a City employee for a City-assigned vehicle car wash. However, although we requested, a supporting expense receipt was not provided. Without the receipt, City records did not document the propriety of the reimbursement.

In response to our inquiries, City personnel indicated that petty cash funds were not counted weekly and reconciled to receipts, contrary to City policies. Rather, the funds were reconciled only when a replenishment check was requested. Absent petty cash policies that prescribe the specific purposes for which the petty cash fund can be used, procedures for documenting the authorized public purpose for petty cash fund disbursements, and routine petty cash counts and reconciliations, there is limited assurance that petty cash expenditures are effectively monitored and that any improper petty cash usage will be timely detected and remedied.

**Recommendation: The City should revise petty cash policies to prescribe specific purposes for using the petty cash fund. The City should also enhance controls over petty cash to ensure that:**

- **City records are maintained in sufficient detail to document the authorized public purpose for all petty cash disbursements.**
- **All petty cash fund disbursements are supported by dated receipts and receipts do not exceed \$50.**
- **Petty cash funds are counted and reconciled to receipts weekly.**

## CAPITAL ASSETS

The City is responsible for establishing adequate controls relating to the acquisition, disposition, accountability, and safeguarding of capital assets. According to the City's 2015-16 fiscal year financial audit report,<sup>100</sup> the City's capital assets totaled \$39.5 million (net of depreciation) as of September 30, 2016.<sup>101</sup>

### **Finding 27: Administrative Building Purchase**

On March 30, 2015, the City Commission approved a resolution<sup>102</sup> authorizing the purchase of a commercial office building referred to as "Town Center I." In May 2015, the City issued 2015A and 2015B revenue notes in the amount of \$8.6 million to finance the building purchase price of \$7.9 million and related costs. The City's administrative offices were relocated to the building later that year.

As part of our audit, we requested for examination City records related to the building acquisition and building tenant leases. Our examination of the City records and discussions with City personnel disclosed that:

- Evidence of an independent appraisal and building inspections were not available upon our request. Absent one or more independent appraisals of the building, it is not apparent how the City determined that the price paid for the building was consistent with the building's fair market value. In addition, City personnel did not provide documentation evidencing that the City had

<sup>100</sup> The 2015-16 fiscal year financial audit report was the most recent report available as of March 2019.

<sup>101</sup> In the Independent Auditors' Report included in the 2015-16 fiscal year financial audit report, the auditors did not express an opinion on the City's 2015-16 fiscal year financial statements, and the notes to the financial statements indicate that the auditor was unable to obtain evidence that a physical inventory of capital assets had occurred during the 2015-16 fiscal year and the auditors were unable to obtain sufficient audit evidence to determine the existence of significant capital assets.

<sup>102</sup> City of Opa-locka Resolution No. 15-8951.

obtained inspections of the building's structure, mechanical systems, and electrical systems. Such inspections would have provided the City assurance that the building and its systems were in good operating condition and would not require significant repairs after the purchase.

- According to the agenda item prepared for the resolution authorizing the purchase, the City intended to “make a profit” from the building purchase. In its draft financial recovery plan, the City indicated that “make a profit” meant using rent payments from the building's tenants to assist the City in making debt service payments on the revenue notes used to purchase the building and to defray the building operating costs, such as utilities costs. The building purchase agreement<sup>103</sup> required the seller to provide the City with copies of all leases and a tenant rent roll that included, among other things, the:
  - Tenant's name, suite number, and size of premises.
  - Current rental dollar amount and scheduled rent increases.
  - Lease term commencement and expiration dates.

The seller provided the City a tenant rent roll for March 2015, which indicated that the building's space totaled 82,000 square feet, of which, as shown in Table 9, 79,217 square feet was rentable space.<sup>104</sup>

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<sup>103</sup> Purchase agreement for Town Center I, Exhibit C-1, *Due Diligence Request*.

<sup>104</sup> Although the revenue notes issuance documents did not define the term “rentable space,” rentable space normally excludes areas such as stairwells, elevators, and mechanical duct space.

**Table 9**  
**Seller-Provided Tenant Rent Roll Information**  
**March 2015**

Tenant Number	Suite Number	Square Feet	Price per Square Foot	Lease Expiration Date
1	110	3,659	\$20.00	April 1, 2017
2	110	578	Vacant	-
3	140	3,376	\$24.00	May 1, 2012
4	120	1,500	\$24.00	November 1, 2016
5	130	3,131	\$20.00	December 1, 2017
6	105	5,825	\$17.00	November 1, 2018
7	150	704	Vacant	-
8	209 and 250	16,012	\$17.00	August 1, 2015
9	220	4,500	Vacant	-
10	300	2,660	\$18.00	June 1, 2014
11	310	2,678	\$17.69	May 1, 2012
12	316	1,000	\$17.00	No date listed
13	316	2,656	Vacant	-
14	328	1,800	\$16.50	No date listed
15	334	4,322	\$16.50	No date listed
16	335	4,304	\$17.00	No date listed
17	400	20,512	Vacant	-
<b>Total Square Feet</b>		<b><u>79,217</u></b>		

Source: Seller-provided tenant rent roll for March 2015 included in the City revenue notes issuance documents.

The seller-provided tenant rent roll was included in the revenue notes<sup>105</sup> issuance documents and, according to those documents,<sup>106</sup> the City intended to use 30,592 square feet<sup>107</sup> (38.6 percent of the building's total 79,217 square feet of rentable space) for City administrative or related functions.<sup>108</sup> According to the tenant rent roll, of the remaining 48,625 square feet (61.4 percent) of rentable space, 45,391 square feet<sup>109</sup> was occupied by tenants prior to the building acquisition. However, although we requested, we were not provided records evidencing that the City performed due diligence<sup>110</sup> by independently verifying the tenant rent roll information to ensure anticipated rent payments would significantly assist in making debt service payments on the revenue notes and paying operating costs of the building.

- City records did not support the accuracy of the lease information listed on the March 2015 tenant rent roll. Specifically, we examined City records in October 2017 and found that:

<sup>105</sup> City of Opa-locka, Florida, tax-exempt capital improvement revenue and refunding note, series 2015A, and taxable capital improvement revenue note, series 2015B, closing documents, and Federal tax certificate.

<sup>106</sup> Page 1 of the Federal Tax Certificate.

<sup>107</sup> Composed of 20,512 square feet of Tenant 17 space for administrative offices; 3,376 square feet of Tenant 3 space for a library; 1,500 square feet of Tenant 4 space for the City's Utility Department; and 5,204 square feet of Tenants 7 and 9 space for other unspecified City functions.

<sup>108</sup> Although the tenant rent roll indicated that Tenants 7 and 9 space was vacant, the revenue notes issuance documents indicated that the City would occupy this space.

<sup>109</sup> Composed of space associated with Tenants 1, 5, 6, 8, 10, 11, 12, 14, 15, and 16.

<sup>110</sup> Purchase agreement for Town Center I, clause 11, *Due Diligence*, allowed the City to terminate the agreement within 20 days if the seller did not provide requested information for the City to perform due diligence.

- For Tenants 5, 8, 10, 11, 12, 14, 15, and 16, City records, such as copies of leases or tenant confirmations, were not available to support the accuracy of the information reported on the tenant rent roll, including the number of square feet leased, the price per square foot, and the lease expiration date. Without verification of existing tenant information and related lease documents, the City could not reasonably substantiate the immediate and ongoing anticipated rental income.
- According to the March 2015 tenant rent roll, Tenant 8's lease provided for rent payments of \$17 per square foot for 16,012 square feet. However, City records indicated that the City renewed the lease with Tenant 8 in July 2015 at a lease price of \$7.50 per square foot. City records were not provided to evidence whether Tenant 8 was paying \$17 per square foot prior to the lease renewal in July 2015, as indicated by the tenant rent roll, or to show why the rent was reduced from \$17 to \$7.50 per square foot. Accordingly, we question the accuracy of the rental rate shown on the tenant rent roll for Tenant 8.
- The tenant rent roll listed Tenant 11 as having an active lease; however, the listed lease expiration date was May 1, 2012. City personnel did not provide an explanation as to why the building space for Tenant 11 was not listed as vacant since the lease expiration date predated the March 2015 tenant rent roll by approximately 3 years. Similarly, Tenant 10 is listed on the tenant rent roll as having an active lease but with a lease expiration date of June 1, 2014. Although no lease was provided for Tenant 10, we determined that Tenant 10 entered into a new lease in January 2016, which suggests that there was an active lease at the time of the building purchase and the lease expiration date on the tenant rent roll was in error.
- Although listed on the March 2015 tenant rent roll as active tenants, according to City records and discussions with City personnel, no rent payments were received from Tenants 5, 12, 14, 15, and 16 from October 2015 through April 2017. In response to our inquiries, City personnel indicated that these tenants were no longer utilizing space in the building. City records did not document whether these tenants had active leases in effect as of March 2015 or whether the tenants' leases were terminated after March 2015 but before the closing on the City's purchase of the building.
- The City's expectation that rentable space would provide enough revenue from tenant rent payments to substantially assist the City in making debt service payments was not reasonable or founded. Specifically:
  - Although we requested, we were not provided records evidencing City personnel's calculations of how much, either in dollar or percentage terms, of the debt service and building operating expenses were expected to be financed by tenant rent payments.
  - As previously discussed, our examination disclosed inaccuracies regarding the March 2015 tenant rent roll information for the 45,391 square feet of space purportedly occupied by tenants prior to the building acquisition.
  - The 3,234 square feet of space associated with Tenants 2 and 13 was vacant when the building was acquired, and City records did not evidence City personnel's evaluation of the probability of leasing this space, or how long it would take to find tenants, after the building acquisition.
- The building purchase agreement<sup>111</sup> indicated that the seller was to provide the City with:
  - Operating statements for the past 3 calendar years and year-to-date information for the 2015 calendar year.
  - Current operating and capital expense budgets for the property.

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<sup>111</sup> Purchase agreement for Town Center I, Exhibit C-1, *Due Diligence Request*.

- Schedules of capital expenditures for the prior 2 calendar years.
- Copies of all service, maintenance, leasing, management, or other contracts relating to building operation and use.
- Copies of all utility bills for the prior 2 calendar years.
- Aged receivables reports for the prior 2 calendar years.
- Schedules of building employees' names, positions, wages, and benefits.

Subsequent to our request in April 2018, the City Attorney requested the above-listed documents from the closing attorney for the building acquisition. On June 13, 2018, City personnel provided us with operating statements obtained from the closing attorney for the 2011 through the 2014 calendar years; however, no records were provided to indicate that City personnel had evaluated or considered the information included in those statements prior to the building's purchase in May 2015. Additionally, City personnel did not provide any of the other documents listed above nor were records provided to evidence that City personnel researched or considered the building's operating information. As such, the City had limited assurance that the rental revenue and building expenses were consistent with expectations at the time of purchase.

- The City's administration of available space was not sufficient to maximize rental revenue. Specifically:
  - According to the March 2015 tenant rent roll, Tenant 10 leased 2,660 square feet for \$18 per square foot. In January 2016, the City entered into a lease with Tenant 10 for 4,322 square feet at \$5.27 per square foot. On May 15, 2017, the City issued Tenant 10 a 3-day notice for failing to make rent payments totaling \$17,654. The 3-day notice provided that, if payment was not made or the leased premises surrendered by May 19, 2017, the City would take legal action to evict the tenant and recover rent and damages. City personnel indicated that Tenant 10 vacated the premises in early July 2017 without notifying the City.
  - Tenant 6 made monthly rent payments as required by the lease. However, in July 2017, the 5,825 square feet of rental space occupied by Tenant 6 was rendered unusable by a sewage back up, and the tenant vacated the space. As of October 2018, the space formerly occupied by Tenant 6 remained vacant.

As of January 2018, the City only had two active rent-paying tenants leasing 15,968 square feet and paying approximately \$290,000 per year in rent. In comparison, the annual debt service costs on the related revenue notes totaled \$523,213. The remaining 32,657 square feet of rentable space was not leased as of January 2018 and City records were not provided to evidence, nor could City personnel explain, the steps being taken to market the available space.

The City's lack of established policies and procedures for analyzing real estate purchases contributed to the deficiencies we noted and the City's failure to fully document due diligence regarding the building purchase. The lack of policies and procedures to guide employees involved in the research, building purchase, and subsequent leasing of building space, may also have resulted in:

- The City overpaying for the building because appraisals and inspections were not obtained.
- Higher than expected building operating expenses because the seller's operating statements were not evaluated or considered.
- Lower than expected rental income because occupancy and tenant rent roll information was not verified and efforts to market available space were inadequate.

#### **Recommendation: The City should:**

- **Establish policies and procedures that set forth guidelines and procedures to require, prior to the purchase of real property, that due diligence is performed in researching the**

property by obtaining one or more independent appraisals and inspections, verifying occupancy, obtaining copies of active lease agreements, and evaluating and considering the seller's operating information for the property. Such policies and procedures should clearly assign responsibility for obtaining and retaining records to support the performance of such procedures.

- **Maintain records to support significant assumptions regarding the rental income anticipated to be generated by any City-owned real properties.**
- **Take prompt and appropriate action to lease vacant Town Center I office space to maximize rental revenue.**

## **Finding 28: Construction Administration**

During the period October 2015 through April 2017, the City expended \$2.5 million for 14 construction projects with contract amounts totaling \$14.8 million. The two construction projects with the most expenditures during that period were:

- The Historic City Hall Phase 2 Project (HCH 2 Project) for construction services to restore the Historic City Hall's interior and exterior, and to improve the mechanical, electrical, plumbing, and fire protection systems. The original contract amount was \$1.9 million.
- The Cairo Lane/NW 127th Street Project (Cairo Project) for a new sewer system and related roadway and drainage improvements on Cairo Lane and NW 127th Street. The original contract amount was \$5.1 million.

As part of our audit, we requested for examination City records related to the HCH 2 and Cairo Projects. In addition, due to allegations of certain contractual improprieties, we examined City records supporting expenditures for the:

- Pump Station 5 Project,<sup>112</sup> which was for construction of a replacement sewage pump station. The construction contract awarded in February 2012 for the Pump Station 5 Project totaled \$450,000.
- Construction of the Sherbondy Village Community Center (Sherbondy Project). The construction contract awarded in March 2010 for the Sherbondy Project totaled \$3.8 million.

Our examination of City records and discussions with City personnel regarding the four construction projects disclosed that City construction administration controls could be enhanced. Specifically:

- State law<sup>113</sup> requires the solicitation of competitive bids or proposals for any municipality construction project projected to cost more than \$500,000 to be publicly advertised at least once in a newspaper of general circulation where the project is located at least 30 days prior to the established bid opening and at least 5 days prior to any scheduled pre-bid conference. Pursuant to City ordinances,<sup>114</sup> the City is required to award contracts for services (including construction services) exceeding \$3,499 using a competitive bid or request for proposal (RFP) process unless

<sup>112</sup> The City Commission approved Resolution No. 12-8329 to execute a public-private partnership with a developer who sought additional capacity from a new pump station that would allow the developer to obtain a certificate of occupancy and meet planned timelines for new tenants.

<sup>113</sup> Section 255.0525(2), Florida Statutes.

<sup>114</sup> Section 2-320, City of Opa-locka Code of Ordinances.



City ordinances<sup>115</sup> exempt the purchase from competitive selection requirements or the City Commission, pursuant to the City Charter,<sup>116</sup> determines by an affirmative vote of at least three Commission members that it is impracticable or not advantageous for the City to do so.

The City did not demonstrate compliance with State law or City ordinances in selecting contractors for the Cairo, Pump Station 5, and Sherbondy Projects as:

- City personnel did not provide records demonstrating that an RFP was advertised in a newspaper for the Cairo Project. While City personnel provided evidence that an RFP for the Cairo Project was posted online, the RFP was posted online only 3 days before the pre-bid conference rather than the 5 days prescribed by State law. Although we inquired, City personnel did not explain why the RFP was not advertised in a local newspaper and was not posted online at least 5 days prior to the pre-bid conference. Without providing interested contractors sufficient notice and time to respond to an RFP, the City's ability to find the most qualified construction contractor at the best price is limited.
- City records were not provided to evidence that the City awarded the Pump Station 5 Project construction contract pursuant to competitive bid or that the Project was exempt from competitive bidding. In addition, the Pump Station 5 Project contract specified that the contractor would obtain bids for the replacement sewage pump station prior to proceeding with construction services and that both the City and contractor must accept the bid prior to the contractor proceeding with the construction services portion of the project. However, City records were not provided to evidence the receipt or approval of such bids or an assessment of the reasonableness of the budgeted amounts.
- City ordinances<sup>117</sup> require that when an RFP process is used, the contract be awarded to the respondent whose proposal is determined in writing to be the most advantageous to the City, considering the price and the other criteria set forth in the RFP. In response to our request for City records evidencing that the Sherbondy Project construction contract was awarded pursuant to a competitive selection process, we were provided a "Certification of Proposals Received" document, which indicated that six companies submitted proposals with proposed fees ranging from \$2.9 to \$4.4 million in response to an RFP. However, other documentation, such as a copy of the RFP, copies of the six respondents' proposals, and records evidencing evaluation and ranking of the proposals based on RFP-specified evaluation criteria, were not provided.
- According to the minutes of the March 1, 2010, City Commission meeting, the City Commission awarded the construction contract to a respondent whose proposed fee of \$3.8 million was higher than two other respondents' proposed fees of \$2.9 and \$3.6 million, respectively. In addition, the meeting minutes did not indicate the rankings, based on RFP-specified evaluation criteria, for any of the six respondents' proposals and, as such, City records did not evidence that the contract was awarded to the highest-ranked respondent.
- Subsequent to awarding the Sherbondy Project construction contract in March 2010, at its April 14, 2010, meeting the City Commission directed the issuance of a request for qualifications (RFQ) for "professional contract management services" for the Sherbondy Project.<sup>118</sup> On July 28, 2010, the City Commission approved a resolution<sup>119</sup> awarding the contract to one of two respondents to the RFQ. The resolution indicated that there were two responses to the RFQ and the contract was awarded to the highest-ranked respondent, who

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<sup>115</sup> Pursuant to Sections 2-320(e), (f), and (i), City of Opa-locka Code of Ordinances, some contractual services are exempt from the competitive selection requirements, such as emergency purchases and sole source services.

<sup>116</sup> Section 3.10(a), City of Opa-locka Charter.

<sup>117</sup> Section 2-320(c), City of Opa-locka Code of Ordinances.

<sup>118</sup> City of Opa-locka Resolution Nos. 10-8037 and 10-8040.

<sup>119</sup> City of Opa-locka Resolution No. 10-8101.

was also one of the original respondents to the Sherbondy Project RFP. However, although we requested, a copy of the RFQ, copies of the two RFQ responses, and records evidencing the evaluation and ranking of the responses based on RFQ-specified evaluation criteria were not provided. In addition, the meeting minutes did not indicate the rankings, based on RFQ-specified evaluation criteria, for the information provided by the two respondents and, as such, City records did not evidence that the contract was awarded to the highest-ranked respondent.

- The City executed a project management services contract with the selected respondent in November 2010. The contract provided that the contractor would utilize a Total Development Management (TDM) system to “manage and coordinate the work on the Project” and “provide management services as contained herein.” A contract addendum further provided that the scope of work would include on-site project management of all field operations and field supervision and coordination of trades, and established total compensation of \$150,000, which was paid during the period December 2010 through December 2011. The project management services to be provided per the contract appear to be duplicative of the project management services that the Sherbondy Project construction contractor was to provide. Although we inquired, City personnel did not explain why the City contracted for project management services when the City had already contracted with the construction contractor to provide such services.
- The Miami-Dade County Commission on Ethics and Public Trust’s report on an investigation from August 26, 2010, through February 21, 2012, based on allegations regarding the Sherbondy Project stated that “virtually every phase of the Sherbondy Project was tainted by questionable dealings” and was “targeted by unscrupulous firms and individuals as an opportunity to enrich themselves at the expense of the City’s taxpayers.”

A documented competitive procurement process, as required by State law and City ordinances, provides additional assurance that services are obtained at the lowest cost consistent with desired quality. In addition, documenting the necessity for procuring additional project management services would enhance the transparency of the procurement process.

- City ordinances provide that the City Manager may approve expenditures of \$25,000 or less,<sup>120</sup> and the City Commission must approve expenditures in excess of \$25,000. According to City personnel, the ordinances apply to changes made to existing contract amounts as a result of changes in scope of work (change orders) of \$25,000 or less. In addition, City personnel indicated that the City, in practice, allows department directors to approve expenditures up to \$5,000.

Contracts for the HCH 2 and Cairo Projects provided that the contractor would not be compensated for any work which was not described in a separate written agreement executed by both parties and that the City or the contractor may request changes that would increase, decrease, or otherwise modify the scope of services to be provided and that such changes or additional services would:

- Comply with City ordinances.
- Be contained in a written amendment executed by both parties before the initiation of any additional work.
- Include the project name, project description, estimated total project cost, estimated cost for addition or change to the project contract, and estimated project completion date.

As shown in Table 10, there were 11 change orders for the HCH 2 Project, 10 change orders for the Cairo Project, and 1 change order for the Pump Station 5 Project.

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<sup>120</sup> Section 2-316, City of Opa-locka Code of Ordinances.

**Table 10**  
**Project Change Orders**  
**For the Period July 2014 Through April 2017**

	HCH 2	Cairo	Pump Station 5
<b>Original Contract Amount</b>	<b>\$1,947,490</b>	<b>\$5,110,452</b>	<b>\$450,000</b>
Change Order 1 Amount	-	12,286	5,000
Change Order 2 Amount	24,378	8,190	NA
Change Order 3 Amount	24,985	25,119	NA
Change Order 4 Amount	17,874	13,880	NA
Change Order 5 Amount	4,024	120,897	NA
Change Order 6 Amount	290	10,626	NA
Change Order 7 Amount	178,871	5,658	NA
Change Order 8 Amount	14,484	5,304	NA
Change Order 9 Amount	(26,790)	190,101	NA
Change Order 10 Amount	8,787	9,610	NA
Change Order 11 Amount	4,770	NA	NA
<b>Total Amount of Change Orders</b>	<b><u>\$251,673</u></b>	<b><u>\$401,671</u></b>	<b><u>\$5,000</u></b>
<b>Revised Contract Amount</b>	<b><u>\$2,199,163</u></b>	<b><u>\$5,512,123</u></b>	<b><u>\$455,000</u></b>

NA – No applicable change order for this Project.

Source: City Records

Our examination of City records supporting the 22 change orders and discussions with City personnel disclosed that:

- Change orders did not always evidence approval by City personnel or the City Commission, as applicable, in accordance with City ordinances, contract terms, and procedures. Specifically:
  - Contrary to City ordinances, HCH 2 Project change order 7 for \$178,871 was not presented to the City Commission for approval although the amount exceeded \$25,000.
  - Contrary to City ordinances, City Manager approval was not documented for HCH 2 Project change orders 3, 4, and 8 for \$24,985, \$17,874, and \$14,484, respectively, although each change order amount exceeded \$5,000.
  - Contrary to City procedures, approval by a department director was not documented for HCH 2 Project change orders 5 and 11 for \$4,024 and \$4,770, respectively.
  - Contrary to the HCH Phase 2 and Cairo Project contract terms, approval of City personnel was not documented for any of the change orders prior to execution.
- Although we inquired, City personnel did not explain why payments were made for change orders without documented approval by City personnel or the City Commission, as applicable.
- The HCH 2 Project contractor presented change orders 2 and 3 with original proposed amounts of \$32,180 and \$16,365, respectively, to City personnel at a construction progress meeting on March 31, 2016. According to the progress meeting notes, meeting attendees included the Public Works Director, construction contractor, Capital Improvement Projects

(CIP) Coordinator, a Building and Licenses Department engineer, and the Project architect. In his meeting notes, the Project architect indicated that the contractor would revise the change orders to keep the amounts individually below \$25,000, which was the threshold for requiring City Commission approval. Subsequent to the meeting, the amounts for change orders 2 and 3 were revised to \$24,378 and \$24,985, respectively, eliminating the need for City Commission approval. Consequently, it appears that the amount for change order 3 was increased so that the amount of change order 2 would not require City Commission approval. Revisions to change order amounts to avoid City Commission approval circumvents City ordinances and may result in change orders that are contrary to City Commission intent.

- In response to our inquiry, City personnel stated that change order amounts were renegotiated and approved by the City Manager to move the HCH 2 Project forward while receiving a savings. However, while City records evidenced renegotiated amounts with savings for change orders 4, 7, and 8, City records did not support the revisions to change orders 2 and 3. Insofar as the total amount for change orders 2 and 3 was \$48,545 before and \$49,363 after the revisions, City records did not demonstrate that any savings were achieved by renegotiating those change orders.
- In addition to the approved \$5,000 change order for the Pump Station 5 Project, the Project contractor submitted a proposed change order dated May 22, 2014, totaling \$272,602, to the City. The proposed change order included, but was not limited to, a plumbing subcontractor change, temporary shoring expenses, costs associated with re-routing manholes, installation of well points, and down time. To support proceeding with the proposed change order, the Mayor sponsored a resolution at the September 29, 2015, City Commission meeting “to consider the request for payment.”

According to the City audio recording of the meeting, the City Manager did not recommend approval of the change order based on the information and documentation provided to date. The City Commission voted to defer approval of the resolution sponsored by the Mayor until additional supporting information and documentation could be requested. However, both the City’s Engineer and Building Official signed the change order on October 8, 2015, approximately 17 months after the May 22, 2014, proposed change order date. The City Manager did not sign the change order and, while the minutes for the October 14, 2015, Commission regular meeting indicated that the City Manager was provided additional information, there was no indication that he decided to recommend approving the change order.

Although we requested, City personnel did not provide the “additional information” referenced by the City Manager or alternate documentation to support the necessity of the proposed change order items and associated costs. Since the City Commission did not approve the resolution, the change order was not approved and is presently involved in litigation filed by the contractor. City officials who sign change orders without City Commission authorization place the City at risk of incurring unnecessary costs.

- In addition to the change orders noted above, in June 2012 the City executed an addendum to the original contract for professional management services associated with the Sherbondy Project, which provided for additional compensation of \$62,500 composed of:
  - \$50,000 for “services already rendered.” Although we inquired, City personnel did not explain why the City paid the contractor an additional \$50,000 for services the contractor had already performed and been compensated for pursuant to the original contract.
  - \$12,500 to “cover all remaining project management services, including the installation of low voltage wiring, kitchen acquisition and installation, installation of pool cover, acquisition of furniture, fixtures, & equipment (FFE) and management of the final punch list process, along with any other required project management tasks necessary to close

out the project.” However, insofar as the original contract did not provide for the company to perform such services, and the Sherbondy Project construction contractor was responsible for completing all Sherbondy Project work, the public purpose served by paying \$12,500 for these services was not apparent. In addition, although we requested, we were not provided records evidencing the additional services were actually performed.

- The Pump Station 5 Project contract, dated February 2012, provided for the contractor, at its own expense, to design, construct, and install a sewage pump station to replace the existing sewage pump station 5 and, upon completion, the City would reimburse the contractor for the cost of the Project, not to exceed \$450,000.
- The Pump Station 5 contract provided that the first payment was to be the maximum of one-half the contract amount and occur upon conveyance of the sewage pump station to the City. The second payment representing the remaining balance would occur within 12 months of conveyance of the sewage pump station. On May 22, 2014, the City Manager approved a contract amendment to revise the payment terms so that, upon completion of the sewage pump station, the City would pay the contract amount in up to six payments. The amended contract referenced the City’s first payment of \$225,000, which had already been remitted, and a second anticipated payment for \$65,000, which the City paid to the contractor on May 29, 2014. The amended terms also provided that the sewage pump station would be conveyed to the City upon request and that the remaining payments for the balance due would be paid to the contractor within 12 months of completion of the sewage pump station. Table 11 shows the six payments made to the contractor for the Pump Station 5 project.

**Table 11**  
**Payments to Pump Station 5 Project Contractor**  
**For the Period April Through August 2014**

Payment	Date	Amount
1	4/21/2014	\$225,000
2	5/29/2014	65,000
3	6/09/2014	62,000
4	6/09/2014	40,000
5	6/09/2014	13,000
6	8/05/2014	4,950
<b>Total</b>		<b><u>\$409,950</u></b>

Source: City Records

- Our examination of City records and discussions with City personnel regarding the Pump Station 5 Project payments disclosed that:
  - The City made the first payment approximately 1 month prior to the May 22, 2014, contract amendment and contrary to the contract provision that the payment for one-half the contract amount would occur upon conveyance of the pump station to the City. City records did not indicate a Project completion date or a date of conveyance of the pump station by the contractor and, given that payments had already been requested by the contractor and remitted by the City when the contract was amended in May 2014, it is unclear how City personnel determined that the terms of the original agreement or amendment were satisfied prior to payment. To determine the project completion date, we contacted Miami-Dade County and were provided a certificate of completion dated May 5, 2015, which was approximately 12 months after the first payment and 8 months after the last payment. In addition, although

we requested, City records were not provided to demonstrate that the contractor had conveyed the completed pump station to the City.

- City records did not evidence the actual costs incurred by the contractor for the Project, such as certified payments to subcontractors or vendor invoices paid by the contractor. Rather, lump sum invoices were provided to the City Engineer along with a letter from the contractor requesting payment. Notwithstanding City Engineer approval of the invoices for payment, failure to obtain documentation evidencing that the invoices represent costs incurred by the contractor increases the risk that the City could pay the contractor more than the contractor's actual cost, contrary to the agreement.
- The last payment, payment 6, represented a change order approved by the Director of CIP for removal of a fence and concrete, increasing the elevation of a manhole cover, and raising the drain elevation to accommodate the base for asphalt. Payment 6 identified a remaining balance of \$45,050 as retainage withheld. Although we inquired, City personnel did not explain why the withheld retainage had not been paid to the contractor as of December 2018 or confirm whether the payment had been withheld in response to the legal action discussed below.
- In February 2017, the City paid an additional \$42,750 to settle a legal action brought by a subcontractor that provided plumbing and related water and sewer materials as part of the Project but was not paid by the Project contractor. When the \$42,750 settlement amount is added to the \$409,950 paid to the Project contractor, the payments made by the City totaled \$452,700. Although the City's contract required the Project contractor to obtain a payment bond worth 100 percent of the total project budget of \$450,000, City personnel did not verify that the contractor obtained the bond. Consequently, when the Project contractor defaulted on its payment obligations to the subcontractor, the subcontractor brought legal action against the City, and the City incurred \$42,750 in additional Project expenditures. According to the City Attorney, as of November 2018, the contractor and City were involved in ongoing litigation.
- Due to the City's deteriorating financial condition (as discussed in Finding 2) and untimely progress payments (as discussed in Finding 69), the contractors for the HCH 2 and Cairo Projects stopped working on these Projects in April 2016 and June 2016, respectively, prior to completion. Our examination of contractor payment application schedules and related documents disclosed that:
  - In January 2017, the City paid the Cairo Project contractor for all prior work completed as of June 2016, less retainage withheld. The Cairo Project contractor restarted work in December 2016, and the City resumed payments in January 2017 for prior and current work completed. The Project was in progress as of November 2018.
  - In May and August 2017, the City paid the HCH 2 Project contractor for all prior work completed as of June 2016, less retainage withheld. As of June 2018, the HCH 2 project contractor had not resumed work on the project. Based on the last payment application for work through June 2016, the project was 80 percent complete; however, exposure to the elements (e.g., rain, wind) during the 2 years of partial completion may have resulted in deterioration of the existing structure and property.

Delays in completing construction projects result in inconvenience to residents, increases in project costs, and may impact the ability to obtain expected future grant funds for construction projects.

**Recommendation:** The City should enhance policies and procedures for construction administration to ensure compliance with applicable laws and City ordinances and that adequate documentation is obtained and maintained to support all phases of construction projects. Specifically, the City should ensure that:

- Construction contractors are competitively selected in accordance with State law and City ordinances.
- Construction services and related costs are not duplicated, and contract addenda do not provide compensation for work already performed pursuant to original contracts.
- Change orders exceeding \$25,000 are not processed without City Commission approval.
- Contractors are timely paid to avoid work stoppages.
- Contractors obtain payment bonds to provide assurance that subcontractors and materials suppliers will be paid for construction projects.

#### **Finding 29: Land Disposals**

At its July 23, 2008, meeting, the City Commission approved a resolution<sup>121</sup> establishing the policy for disposal of City-owned surplus property. The policy specifies that:

- The City Manager, after an evaluation and good faith analysis, is to advise the City Commission in a written memorandum of the reasons why certain property should be declared surplus property.
- Once the City Manager prepares a written memorandum addressed to the Commission, the City Attorney is to prepare a surplus resolution to be placed on the next available City Commission meeting agenda.
- Under no circumstances may the City Manager dispose of City-owned property in the absence of a formal resolution of the City Commission deeming the subject property as surplus property.
- The City Manager is to determine the most appropriate method to dispose of surplus items including, for example, an annual surplus equipment sale, trading, or donating items.
- The City Manager may require a surety bond for certain property, as deemed appropriate.
- The City Manager is to advertise in a newspaper of general circulation the disposal of all real property contemplated by sealed bid or auction to be awarded to the highest bidder. The City Manager may reject any and all bids deemed inappropriate.
- Proceeds from the sale of property are to be deposited in the City's General Fund.

Notwithstanding the policy established by City resolution in 2008, City personnel indicated that the City had not established property disposal policies and procedures that identified the employees responsible for preparing invitation to bid (ITB) or other solicitation documents, evaluating bids submitted, updating capital asset records, and promptly recording and depositing any proceeds from property disposals.

As shown in Table 12, during the period June 2015 through April 2017, the City sold six parcels of land for a total of \$546,800.

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<sup>121</sup> City of Opa-locka Resolution No. 08-7317.



**Table 12**  
**Schedule of Land Disposals**  
**For the Period June 2015 through April 2017**

Parcel	Date Land Declared Surplus	Date City Commission Accepted Successful Bid	Sale Price
1	April 13, 2015	May 27, 2015	\$ 26,200
2	April 13, 2015	May 27, 2015	120,600
3	April 13, 2015	May 27, 2015	5,000
4	April 13, 2015	May 27, 2015	305,000
5	April 13, 2015	January 11, 2017	25,000
6	Not applicable	January 11, 2017	65,000
<b>Total</b>			<b><u>\$546,800</u></b>

Source: City records

The land sales were initiated by an ITB (or other solicitation document) that described the sale conditions. Those conditions provided that each bid be accompanied by a deposit payable to the City for 10 percent of the bid amount. The ITB also provided that, if the successful bidder failed to complete the purchase by the closing deadline (within 45 days of the bid award), the deposit would be forfeited to the City as liquidated damages.

Our examination of City records and discussions with City personnel related to the six land sales disclosed that:

- At its January 11, 2017, meeting, the City Commission approved two resolutions<sup>122</sup> accepting bids for surplus land Parcels 5 and 6. Parcels 5 and 6 were sold for \$25,000 and \$65,000, respectively, and the successful bidders provided to the City the appropriate deposits of \$2,500 and \$6,500. However, the moneys were not recorded in the City's accounting records until July 13, 2017, and not deposited in the City's bank accounts until July 17, 2017, 183 and 187 days, respectively, after the bids were accepted.
- Additionally, the \$22,500 payment for the balance of the Parcel 5 sale price was not recorded in the City's accounting records until July 13, 2017, and not deposited in the City's bank account until July 17, 2017, 57 and 61 days, respectively after the deed was transferred from the City to the purchaser. City personnel indicated that the City Manager did not forward the checks to the Finance Department until July 12, 2017, which was subsequent to our inquiries questioning whether the City had received payment for the land sales. Insofar as that City Manager was no longer employed by the City, City personnel were unable to explain why the checks were not promptly provided to the Finance Department for deposit in the bank or timely recorded in the City's accounting records.
- Parcel 4 was sold in June 2015 for \$305,000; however, according to the Miami-Dade County Property Appraiser's records, the City still owned the property. According to the Deputy Property Appraiser, the property description on the recorded deed was incorrect because the deed described a portion of an abutting street that was not included in the sold land parcel and, until the Property Appraiser and City resolve the deed errors, the City is unable to collect ad valorem property tax on the parcel. City personnel indicated, as of February 2019, no property taxes had been assessed or collected on this parcel since the sale date. Although we inquired, City

<sup>122</sup> City of Opa-locka Resolution Nos. 17-9295 (Parcel 5) and 17-9296 (Parcel 6).

personnel did not explain why the deed error was not discovered prior to the land sale and did not provide records evidencing City efforts to resolve the deed error.

- In June 2015, the purchaser of Parcels 1, 2, 3, and 4 paid \$401,720 to the City by wire transfer, net of the previously paid deposits and closing costs. However, Finance Department personnel indicated that they were unaware that the payments were for land sales and recorded the wire transfer as miscellaneous revenue rather than surplus land sales. Consequently, the capital asset records did not correctly account for the land sales, and the City's 2014-15 fiscal year audited financial statements similarly did not disclose the land sales.
- The closing dates for Parcels 5 and 6 were 78 and 196 days, respectively, after the bid award dates, even though the ITB provided that closing was to occur within 45 days of the bid award. City personnel indicated that the late closing dates occurred because the title company requested additional information, and for Parcel 6, the buyer was not readily available for closing.

We also noted that, at its January 11, 2017, meeting, the City Commission approved a resolution<sup>123</sup> accepting a bid for two other surplus land parcels. Although the bidder gave the City a \$1,600 check as a deposit, City personnel indicated that the check had not been deposited in the bank. According to City personnel, the successful bidder decided not to proceed with the purchase of the parcels and, contrary to the ITB, which provided that deposits are forfeited to the City as liquidated damages if the successful bidder does not complete the purchase within 45 days of the bid award, the \$1,600 check was returned to the bidder. In response to our inquiries, the City Attorney indicated that there was no legal authority for the City to return the deposit as the bidder did not complete the purchase.

Effective property disposal policies and procedures establish employee responsibilities for preparing ITB and other solicitation documents, evaluating bids submitted, updating capital asset records, and promptly recording and depositing proceeds relating to property disposals. The lack of effective policies and procedures could result in loss of land sale proceeds or delayed collection of the proceeds, further contributing to the deterioration of the City's financial condition.

**Recommendation: The City should establish and implement policies and procedures that delineate the responsibilities of employees involved in surplus land declarations and the related collection of land sale proceeds. Such policies and procedures should also ensure that land sale proceeds are promptly collected and deposited in the bank and timely recorded in City accounting records. In addition, the City should also take appropriate action to address the deed error related to the Parcel 4 sale.**

### **Finding 30: Property Records**

To ensure proper accountability and safeguarding of tangible personal property (TPP), the City should maintain an adequate record of each TPP item. City ordinances<sup>124</sup> provide that the Purchasing Officer<sup>125</sup> shall cause to keep an inventory record of all City property and it shall be the duty of each officer or employee of the City having City property in their custody or control to keep or provide inventory information relating to such property to the Purchasing Officer on request.

<sup>123</sup> City of Opa-locka Resolution No. 17-9298.

<sup>124</sup> Section 2-349, City of Opa-locka Code of Ordinances.

<sup>125</sup> The purchasing officer position was defunded in May 2016 (see Finding 7).

For the fiscal year ended September 30, 2015,<sup>126</sup> City property records included approximately 2,000 TPP items with acquisition values totaling \$11.5 million. Our examination of TPP records and discussions with City personnel disclosed that controls over City TPP could be enhanced. Specifically:

- In response to our inquiries, the Junior Accountant provided to us the City *Finance Department Policies and Procedures Manual (Manual)*, last updated in September 1999. While the *Manual* requires an annual physical inventory of TPP be conducted as part of the annual fiscal year closing process, the *Manual* did not include procedures for acquiring, recording, marking, tracking, and disposing of TPP items. For example:
  - The *Manual* did not establish an accountability threshold for determining which purchased TPP items must be recorded in City property records and routinely inventoried. Pursuant to Department of Financial Services (DFS) rules,<sup>127</sup> the City is required to record all TPP with a value or cost of \$1,000 or more and a projected useful life of 1 year or more for inventory purposes. However, the City may establish a lower threshold.
  - The *Manual* did not establish a capitalization threshold for determining which purchased TPP items must be reported as capital assets on the City's financial statements. According to the City's 2014-15 fiscal year audited financial statements, the City capitalizes TPP items individually costing more than \$500; however, although we requested, City personnel did not provide records evidencing the source of that threshold.
  - The *Manual* did not address procedures for maintaining control over attractive and sensitive items.<sup>128</sup> Control over such items should be maintained regardless of cost. Our examination of the City's TPP records for the 2014-15 fiscal year identified 1,311 items, totaling \$234,074, with acquisition costs of \$500 or less, including computer monitors, photocopiers, backpack leaf blowers, and televisions.

Without detailed and fully implemented TPP policies and procedures for acquiring, recording, marking, tracking, and disposing of TPP items, there is an increased risk that the City will lack appropriate accountability for TPP and that City records will not accurately reflect the value of TPP. Additionally, maintaining property records and providing for adequate internal controls over attractive and sensitive items would decrease the risk of such property items being lost, stolen, or inappropriately used.

- Our examination of City TPP records disclosed that the City is not fully utilizing all fields in its property management system. Although the City's property management software had several fields to assist the City in maintaining accountability over property items, City personnel did not consistently complete fields that identified the:
  - Item's physical location (building name and room number).
  - Name of custodian with assigned responsibility for the items, although the property record did include the Department to which the item was assigned.
  - Name, make, or manufacturer for property items other than vehicles.
  - Manufacturer's serial number, and for vehicles, the vehicle identification number and title certificate number.
  - Method of acquisition, including check number and purchase order number if purchased.

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<sup>126</sup> At the time of our review of City TPP records, the 2014-15 fiscal year was the most recent fiscal year for which audited financial statements were available.

<sup>127</sup> DFS Rule 69I-73.002, Florida Administrative Code.

<sup>128</sup> Attractive and sensitive items are items that, by nature of their portability and adaptability for personal use, are more susceptible to loss or theft. Such items include electronic or motorized equipment, technology equipment, handguns, and tools.

- Date the item was last inventoried and condition of the item at that date.
- Status of the item (e.g., whether the item was in service, surplus, or disposed of).

Without properly detailed TPP records, accountability over City TPP is diminished and there is an increased risk that errors or fraud associated with TPP may not be timely detected and resolved.

- Our examination of City TPP records in June 2017 disclosed that the records were not timely updated as the most recent property additions were recorded in April 2015. Failure to timely update property records limits the City's assurances regarding accountability for City TPP.
- In response to our inquiry in February 2019, City personnel indicated that the last physical inventory of TPP was conducted prior to the 2013-14 fiscal year. An annual physical inventory of TPP, comparison of the inventory to the TPP records, and reconciliation of any noted discrepancies would help evidence compliance with the *Manual* and enhance accountability and safeguarding of City TPP.
- While capitalized TPP items are assigned a unique number in the property management system, City personnel did not affix a physical tag to, or identification mark on, the property item. As part of our evaluation of City controls over TPP, we requested for examination 15 TPP items selected from the City property records as of June 2017 with acquisition costs totaling \$42,864.
- Using the serial numbers recorded in the property records for the selected TPP items, we were able to physically observe 7 of the 15 items; however, although we requested, City personnel were unable to locate the other 8 items with acquisition costs totaling \$13,630. Three of the unlocated items with costs totaling \$10,298 were installed water meters. The location and existence of these 3 water meters could not be verified as, after installation, the serial numbers were not observable. The other 5 unlocated items were computers, printers, and monitors. Without physically tagging or otherwise marking TPP items as City property, the City could experience increased difficulty in locating TPP during physical inventory procedures and the potential for claiming and recovering lost or stolen property is reduced.
- To evaluate the propriety of TPP items coded as capitalized TPP expenditures, we examined City records supporting 5 selected TPP items purchased during the period October 2015 through April 2017 with acquisition costs totaling \$32,612 that were coded as capitalized TPP expenditures but not yet entered into the TPP records as of November 2017. We physically located 1 item and, according to City personnel, 2 other items were unavailable as they had been returned to the vendor. However, another item coded as safety equipment in the City's expenditure records and costing \$730 was actually ten rechargeable batteries, each with a useful life of less than 1 year; consequently, the expenditure should not have been coded as a capitalized expenditure. In addition, an item costing \$600 was coded as computer equipment; however, the expenditure was for concrete scanning services to locate pipes and water lines rather than computer equipment. Proper coding of expenditures is essential to ensure the accuracy of City accounting records.

Although we requested, City personnel did not provide explanations for the deficiencies we noted.

**Recommendation:** To establish and maintain appropriate accountability for City TPP, the City should:

- **Update the *Manual* to establish TPP accountability and capitalization thresholds and include comprehensive policies and procedures for the acquisition, management, and disposal of TPP items and for maintaining control over attractive and sensitive items with costs below the TPP capitalization threshold. The *Manual* should also require that employees receive the training necessary to understand and correctly record purchased capital assets consistent with the capitalization threshold.**

- Ensure that all applicable fields for each property item are properly completed in the City's property management system.
- Affix property tags, or otherwise mark, each TPP item with a unique property number.
- Document compliance with the *Manual* by physically inventorying all TPP on an annual basis, comparing the inventory to the TPP records, and reconciling any noted discrepancies. Any property items located during the inventory process that meet the established capitalization threshold should be included in the inventory records, and items not located should be promptly reported to the property custodian to cause a thorough investigation to be made. In addition, based on the results of the investigation, the City should file a report with the appropriate law enforcement agency for items not located.

### **Finding 31: Property Insurance**

The City obtains insurance for its buildings and other property through the Florida Municipal Insurance Trust (FMIT).<sup>129</sup> Our examination of City records and discussions with City personnel disclosed that City procedures for insuring buildings and other property could be improved. Specifically:

- In response to our inquiry, City personnel indicated that they annually determine from the department heads whether insurance coverage is appropriate or needs to be adjusted. However, although we requested, we were not provided documentation evidencing an analysis of the adequacy of property insurance coverages. Such an analysis should include a comparison of the estimated replacement values for City-owned property with the insured values for the property.

According to City personnel, the City had not established policies and procedures addressing the level of insurance coverage to be maintained or the method to be used to determine insurable values. Although we requested, City personnel did not provide an explanation for why the policies and procedures had not been developed or why any documented analyses by the department heads was not maintained. Without such policies and procedures and documented analyses of the sufficiency of insurance coverage, there is an increased risk that any potential losses will not be sufficiently mitigated.

- As shown in Table 13, our comparison of amounts reported on the City's 2014-15 fiscal year audited financial statements<sup>130</sup> based on the historical cost for buildings and improvements and furniture and equipment (including motor vehicles), to the insured value amounts effective October 1, 2015, disclosed that the insured amounts were significantly less than the reported cost amounts.

<sup>129</sup> FMIT is a nonprofit, tax-exempt risk-sharing pool that provides coverage for public entities within the State of Florida.

<sup>130</sup> At the time of our comparison, the 2014-15 fiscal year was the most recent fiscal year for which audited financial statements were available.

**Table 13**  
**Comparison of Reported Property Values to Insured Values**

Description	Cost Per 2014-15 Fiscal Year Audited Financial Statements	Insured Replacement or New Cost Value Per 2015-16 Fiscal Year FMIT Insurance Policy	Difference
Buildings and Improvements <sup>a</sup>	\$19,498,959	\$13,143,452	\$6,355,507
Furniture and Equipment <sup>b</sup>	11,549,245	6,172,587	5,376,658

<sup>a</sup> Described as "Real Property" in the FMIT insurance policy.

<sup>b</sup> Described as "Personal Property" in the FMIT insurance policy.

As the City's capital assets are reported on the financial statements at historical cost, the replacement value of such assets could be significantly more. Accordingly, differences between the total replacement value of City capital assets and the insured replacement values could be significantly greater than the differences shown in Table 13. Although we inquired, City personnel did not explain why the insured replacement values were significantly less than the reported capital asset cost amounts.

- Our comparison of the City's April 2017 list of City-owned vehicles to the City's 2016-17 fiscal year FMIT insurance policy schedule of insured vehicles disclosed that:
  - The insurance schedule, which included a total of 151 vehicles, included 29 vehicles that were not on the City's vehicle list and did not include 17 vehicles that were on the City's vehicle list.
    - 1 vehicle on the insurance schedule that was not on the City vehicle list had been repossessed during the 2014-15 fiscal year by the dealership for non-payment and should have been removed from the insurance schedule. Another was a duplicate vehicle reported on the insurance schedule twice. Although we inquired, City personnel did not provide us an explanation for the other 27 vehicles.
    - 7 vehicles on the City list that were not included on the insurance schedule were long-term rentals that were separately insured with another insurance company and appropriately excluded from the schedule. Although we inquired, City personnel did not provide us an explanation for the other 10 vehicles. Consequently, City records did not evidence that the 10 vehicles were insured.
  - Consequently, the City may have paid for insurance on vehicles that it did not own and may have operated vehicles that were uninsured.
  - 54 of the 122 vehicles included on both the insurance schedule and the City vehicle list were inoperable. According to the insurance schedule, the same types and levels of insurance coverage (including liability, collision, and comprehensive coverage) were provided for the 54 vehicles as were provided for the insured operable vehicles. Consequently, the coverage provided on the 54 vehicles may be excessive. In response to our inquiry, City personnel indicated that the City had not considered the need to modify the types and levels of insurance based on the current working status of vehicles. Subsequent to our initial examination of City records and inquiries, City personnel indicated during the August 21, 2018, Commission meeting that efforts had been made to remove improperly covered motor vehicles, including some inoperable vehicles, from the insurance policy schedule.

Absent periodic analyses of the adequacy of property insurance coverages, including a comparison of City-owned property and estimated replacement values to insured property and coverage amounts, there is an increased risk that the City may carry excessive or insufficient insurance.



- Although the City would likely receive Federal or State assistance in the event of a catastrophic event (e.g., a hurricane), City personnel indicated that the City did not have a contingency plan to expedite the replacement or repair of property losses exceeding FMIT insurance coverage while awaiting such assistance. City personnel also indicated that General Fund resources would be used to cover uninsured losses in such an event and that no other resources had been earmarked for such purposes. However, due to the City's current state of financial emergency (as discussed in Finding 1), the General Fund has limited resources available. Without a contingency plan that identifies financing resources for property loss replacement or repairs, should the City experience such a loss, the City could potentially experience an additional financial strain while trying to meet current obligations and providing essential services to its residents.

**Recommendation: The City should:**

- **Establish policies and procedures that address the level of insurance coverage to be maintained and the method to be used to determine insurable values.**
- **Enhance procedures to require periodic analyses of the adequacy of property insurance coverages, including a comparison of City-owned property and estimated replacement values to insured property and coverage amounts.**
- **Develop a formal contingency plan that identifies financing resources that can be used to cover uninsured losses resulting from a catastrophic event.**

**MOTOR VEHICLES**

As of April 2017,<sup>131</sup> the City motor vehicle fleet was composed of 137 owned or leased motor vehicles (70 police vehicles and 67 other vehicles) for use by City employees while conducting official business. The Police Department is responsible for motor vehicles used for law enforcement and the Public Works Department is responsible for all other motor vehicles.

To appropriately safeguard City motor vehicles and related fuel and parts inventories, it is important to establish procedures that require effective monitoring and evaluations of vehicle and inventory use. Notwithstanding, our audit procedures disclosed several control deficiencies in the assignment, use, and maintenance of motor vehicles and related fuel and parts inventories.

**Finding 32: Motor Vehicle Use**

Proper accountability for motor vehicle use includes, but is not limited to, documentation for vehicle assignments and motor vehicle usage logs to support the use of public resources by documenting, among other things, the vehicle driver, vehicle usage mileage (beginning and ending odometer readings), and the purpose for each use. The City *Employee Handbook*<sup>132</sup> establishes certain requirements governing the assignment and use of City motor vehicles for all employees. For example, the *Employee Handbook* requires the City Manager to provide written approval for motor vehicle take-home assignments for employees.

Our examination of City records and discussions with City personnel disclosed that:

<sup>131</sup> According to City personnel, April 2017 was the date of the City's most recent list of operable and nonoperable motor vehicles when we requested the list in September 2018.

<sup>132</sup> *Personnel Administrative Regulations, Procedures and Benefits Employee Handbook*, October 2007.



- According to City personnel, as of February 2018, 13 Police Department employees and 9 other City employees were assigned motor vehicles on a take-home basis. Although we requested, City records were not provided to evidence City Manager approval or justification for the take-home assignments.
- Neither the *Employee Handbook* nor any other City-established policies or manuals addressed elected officials' use of City motor vehicles. During the periods October 2015 through August 2016 and September 2017 through November 2018, the Mayor and City Commissioners were assigned motor vehicles on a take-home basis. However, explicit documented approval was not required nor obtained for City motor vehicle use by elected officials, such as the Mayor and City Commissioners, and there was no apparent legal authority for the City to provide motor vehicles for the Mayor and City Commissioners' use as discussed in Finding 50.
- Neither the *Employee Handbook* nor any other City-established policies or manuals required vehicle usage logs to be prepared and maintained. Except for certain motor vehicles used by police officers but not assigned for take-home use, vehicle usage logs were not prepared and maintained.

Absent documentation evidencing City Manager approval and justification of take-home vehicle assignments, explicit requirements for assigning vehicles to elected officials, and required vehicle usage logs, there is an increased risk that City motor vehicles will be used for unauthorized purposes.

**Recommendation: The City should enhance controls governing the assignment, use, and maintenance of motor vehicles by:**

- **Ensuring that the City Manager documents approval and justification for each employee take-home motor vehicle assignment.**
- **Addressing the legal authority for elected officials' use of City motor vehicles in City policies and procedures and specifying the authorization documentation and monitoring requirements for such use.**
- **Enhancing City policies and procedures to require motor vehicle usage logs that document, for example, the vehicle driver, vehicle usage mileage (beginning and ending odometer readings), and purpose for each use. To evidence the reasonableness and propriety of City motor vehicle use, the vehicle usage logs should be reviewed and approved by appropriate supervisory personnel, and retained.**

### **Finding 33: Vehicle Taxable Fringe Benefits**

Pursuant to United States Treasury regulations,<sup>133</sup> gross income includes the fair market value of any fringe benefit not specifically excluded from gross income by another provision of the Internal Revenue Code (IRC). The IRC<sup>134</sup> provides that gross income will not include the value of any fringe benefit that qualifies as a working condition fringe benefit. United States Treasury regulations<sup>135</sup> further provide that the use of a qualified nonpersonal use motor vehicle is a working condition fringe benefit provided the use of the vehicle conforms to the requirements of Treasury regulations<sup>136</sup> and that unmarked law enforcement vehicles are qualified nonpersonal use vehicles only if:<sup>137</sup>

<sup>133</sup> Title 26, Section 1.61-21(a), Code of Federal Regulations.

<sup>134</sup> Title 26, Section 132(a)(3), United States Code.

<sup>135</sup> Title 26, Section 1.132-5(h)(1), Code of Federal Regulations.

<sup>136</sup> Title 26, Section 1.274-5(k), Code of Federal Regulations.

<sup>137</sup> Title 26, Section 1.274-5(k)(6), Code of Federal Regulations.

- The employer officially authorizes the personal use.
- The employer is a governmental unit responsible for the prevention or investigation of crime and the vehicle is used by a law enforcement officer who is employed on a full-time basis.
- The personal use is incidental to law-enforcement functions, such as being able to report directly from home to a stakeout or surveillance site, or to an emergency situation.

Our inquiry of City personnel and examination of City payroll records disclosed that the gross income reported to the (Internal Revenue Service) IRS during the period October 2015 through August 2017 for City officials and employees did not include any amounts for the value of the personal use of City-provided motor vehicles. Notwithstanding this lack of reporting, we noted that:

- The City provided a City Manager with full-time use of a rental car as part of his compensation. City payments for rental car usage and related costs (e.g., insurance and tolls) totaled \$2,915 during the City Manager's employment period of September 2, 2015, through November 24, 2015.
- The City provided an Interim City Manager with full-time use of a rental car as part of his compensation. City payments for the rental car usage and related costs totaled \$10,759 during the Interim City Manager's employment period of November 25, 2015, through August 1, 2016.
- As of February 2018, there were 13 Police Department employees, including 7 who were assigned unmarked motor vehicles, and 9 other City employees who were assigned vehicles on a take-home basis. As discussed in Finding 32, the Mayor and City Commissioners were also assigned motor vehicles on a take-home basis.

The City's marked police motor vehicle assignments appeared to meet the criteria to qualify as a working condition fringe benefit. However, the *Employee Handbook* did not restrict personal use of unmarked vehicles to ensure such use would be incidental to law-enforcement functions.

The lack of motor vehicle usage logs as discussed in Finding 32 precluded a determination of the extent to which the motor vehicles were used for the personal benefit of City officials and employees and the value of personal usage, if any, that should have been included in the gross income reported to the IRS for the City officials and employees.

**Recommendation:** City policies and procedures should be enhanced to ensure that the value of personal usage of City-provided motor vehicles is included in the applicable individuals' gross income reported to the IRS.

#### **Finding 34: Motor Vehicle Fuel Inventory**

The City maintained a fuel pumping station for dispensing fuel for fleet motor vehicles used by City officials and employees. During the period October 2015 through March 2017, the City purchased approximately \$321,000 of fuel for the pumping station. Our examination of City records and discussion with City personnel disclosed that:

- The City had not established policies and procedures regarding the use of the fuel pumping station.
- The City maintained a fuel management system to govern and record fuel distributions through user-specific (i.e., individually assigned) electronic key fobs, which were assigned to various City officials and employees. The key-fob user was required to enter a personal identification number at the time the fuel was dispensed. The system also prompted the key-fob user to input the motor vehicle tag number and odometer (mileage) reading at the time of pumping. However, because the tag number and odometer reading did not have to be input to obtain fuel, the system did not

provide an effective means for ensuring that fuel was only pumped into City motor vehicles and that accurate records of fuel pumped for each City motor vehicle were maintained. Also, while the system provided a record of all individual fuel disbursements, which was periodically reviewed by designated City personnel, such records could not effectively be used to compare for reasonableness with actual vehicle mileage because the City did not maintain vehicle usage logs as discussed in Finding 32.

- City personnel indicated that, during the 2014-15 fiscal year, restrictions were temporarily implemented (for less than a year) whereby key-fob users could pump no more than 30 gallons of fuel a week per fob. Additionally, there had to be a minimum of 350 miles of usage before a vehicle could be refilled at the fuel pump. However, these restrictions were of limited effectiveness because the system did not prevent key-fob users from pumping fuel when they did not adhere to these restrictions. Also, there were no assurances that fuel was only pumped into City motor vehicles and accurate records of fuel pumped for each City vehicle were not maintained. In addition, although we requested, City personnel did not provide us documentation evidencing communication of these restrictions to City motor vehicle users.

City personnel indicated that, while some enhancements to controls over the fuel pumping station had been made, such as the installation of a video surveillance camera, further enhancements were not made because of limited funding. Under the above conditions, there was an increased risk that loss, theft, or unauthorized use of fuel could occur and not be promptly detected.

In July 2018, the City closed its fuel pumping station and is currently obtaining fuel through a fuel card program sponsored by the State of Florida, utilizing third-party private vendors for procuring fuel for City motor vehicles.

**Recommendation: If the City elects to re-open the fuel pumping station, the City should establish policies and procedures regarding use of the fuel pumping station. Such policies and procedures should provide enhanced measures to ensure that fuel is only pumped into City motor vehicles, provide for accurate tracking of fuel pumped for each City vehicle, and require comparisons of fuel usage with actual vehicle mileage (documented by vehicle usage logs) for reasonableness.**

### **Finding 35: Motor Vehicle Maintenance**

The City garage and repair shop is located next to the City Public Works Motor Pool Center. City personnel typically perform motor vehicle repairs and maintenance but, as necessary, outsource repairs and maintenance to automotive service centers or body shops.

Our examination of City records and discussion with City personnel disclosed that:

- As of February 2019, the City had not established policies and procedures for motor vehicle repairs and maintenance. Effective policies and procedures for motor vehicle repairs and maintenance should prescribe routine, periodic preventative maintenance, including the specific maintenance procedures to be performed; specify the repair and maintenance cost thresholds for vehicle disposition and replacement decision-making purposes; detail responsibilities for reporting vehicle operation problems; provide guidelines for determining whether repairs and maintenance should be performed by City personnel or outsourced to vendors; and require periodic motor vehicle disposition and replacement determinations.
- According to City personnel, each department with assigned motor vehicles is responsible for taking the vehicles to the City garage and repair shop for periodic maintenance; however, no specific guidelines or maintenance schedules have been established to help ensure proper and

periodic servicing of City vehicles. At the February 10, 2016, meeting, the City Commission approved a resolution directing the City Manager to develop a comprehensive preventative motor vehicle maintenance plan. However, as of September 2018, no such plan had been developed. In addition, the City had not implemented a system for tracking each motor vehicle's repair and maintenance costs. That information would assist the City in determining when established repair and maintenance cost thresholds are met, which, in turn, would assist management in making appropriate motor vehicle disposition and replacement decisions.

- As of April 2017, the date of the City's last assessment of operable and inoperable motor vehicles at the time of our examination,<sup>138</sup> only 82 (60 percent) of the City's 137 motor vehicles were operable and 55 (40 percent), including 38 Police Department vehicles, were inoperable and in various stages of disrepair. The large number of inoperable vehicles may be due, in part, to the lack of a formal and comprehensive motor vehicle maintenance plan and a system for tracking each motor vehicle's repair and maintenance costs. Although we requested, City personnel did not provide us documentation evidencing that City personnel periodically performed assessments of City motor vehicles to identify inoperable vehicles and determine whether such vehicles should be repaired, used for spare parts, or otherwise disposed of and replaced. Periodic assessments are necessary to allow the City to prepare timely cost-benefit analyses for vehicle disposition and replacement decisions.

Subsequent to our initial inquiry, City personnel indicated that a cost-benefit analysis of certain motor vehicles had recently been performed, which resulted in 42 vehicles being sold at auction in July 2018 because repairing the vehicles was cost prohibitive. Although we were provided a list of the 42 motor vehicles sold at auction, we were not provided documentation evidencing the cost-benefit analysis that supported the decision to dispose of those vehicles.

City personnel indicated that establishment of policies and procedures for motor vehicle repairs and implementation and maintenance of a comprehensive motor vehicle preventative maintenance plan have not been accomplished because of staff turnover and limited funding. Absent effective policies and procedures and implementation of a preventative maintenance plan, there is an increased risk that avoidable vehicle repair costs will be incurred, and inefficient vehicle operations will continue; management vehicle disposition and replacement decisions will be untimely and inappropriate; and citizens will not receive required services such as timely police responses.

**Recommendation: The City should:**

- **Establish effective policies and procedures for motor vehicle repairs and maintenance.**
- **Implement a system for tracking each motor vehicle's repair and maintenance costs.**
- **Continue efforts to develop a comprehensive motor vehicle preventative maintenance plan.**
- **Perform periodic documented assessments of motor vehicles to identify inoperable vehicles and determine whether such vehicles should be repaired, used for spare parts, or otherwise disposed of and replaced.**

### **Finding 36: Motor Vehicle Parts Inventory**

For its motor vehicle fleet, the City maintains a limited inventory of basic repair and regular maintenance parts (tires, filters, etc.) in the City garage and repair shop. During the period October 2015 through

<sup>138</sup> According to City personnel, April 2017 was the date of the City's most recent list of operable and inoperable motor vehicles when we requested the list in September 2018.

March 2017, the City purchased repair and maintenance parts with costs totaling approximately \$156,000. Our examination of City records and discussion with City personnel disclosed that the City:

- Had not established policies and procedures regarding the purchase, control, and use of repair and maintenance parts.
- Did not maintain a perpetual inventory record of repair and maintenance parts purchased, used, and on-hand.
- Did not use a work order system or other methodology for documenting the use of repair and maintenance parts for City motor vehicles.

In response to our inquiry, City personnel indicated that controls over the purchase, control, and use of repair and maintenance parts had not been established because of limited funding. Notwithstanding, absent such controls, there is an increased risk of unnecessary parts purchases or the use of parts for unauthorized purposes.

**Recommendation: The City should:**

- **Establish policies and procedures regarding the purchase, control, and use of repair and maintenance parts.**
- **Maintain a record of repair and maintenance parts purchased, used, and on-hand.**
- **Implement a work order system or other methodology for documenting the use of repair and maintenance parts for City motor vehicles to associate parts costs with specific motor vehicles. Such information is useful in determining whether to repair or replace a vehicle and provides additional accountability for the use of purchased parts.**

LONG-TERM DEBT

Local governments often incur long-term debt to finance major capital projects or acquisitions. It is important that the City establish adequate debt administration policies and procedures to minimize the costs of borrowing and to ensure compliance with applicable Federal, State, and local laws.

**Finding 37: Debt Management Policy**

According to the City's 2015-16 audit report<sup>139</sup> the City reported long-term debt obligations<sup>140</sup> totaling \$18.9 million as of September 30, 2016. The debt obligations included revenue notes for \$8.3 million, a capital improvement bond for \$5.7 million, State Revolving Fund Loans for \$4.7 million, and capital lease obligations for \$0.2 million. City ordinances<sup>141</sup> provide that the City shall endeavor to maintain formal policies reflecting best practices in the several areas, including debt. The ordinances provide that the policy shall address affordability, capacity, strategies for re-entering the bond market in the future, debt issuance, and debt management.

The Government Finance Officers Association (GFOA)<sup>142</sup> recommends that state and local governments adopt comprehensive written debt management policies that reflect local, state, and Federal laws and

<sup>139</sup> The 2015-16 fiscal year financial audit report was the most recent audit report available as of March 2019.

<sup>140</sup> Long-term debt obligations include bonds, notes, loans, and capital lease obligations.

<sup>141</sup> Section 2-651, City of Opa-locka Code of Ordinances.

<sup>142</sup> GFOA Best Practice: *Debt Management Policy*, October 2012.

regulations. To assist with the development of these policies, the GFOA recommends that a government's debt management policy should be reviewed periodically; updated, if necessary; and provide:

- Specific limits or acceptable ranges for each type of debt.
- Practices for structuring debt, including the maximum term, average maturity, and use of variable or fixed-rate debt, credit enhancements, derivatives, short-term debt, and limitations as to when, and to what extent, each can be used.
- Guidance for the debt issuance process, such as:
  - Selection and use of professional service providers, including an independent financial advisor, to assist with determining the method of sale and the selection of other financing team members.
  - Criteria for determining the sale method (competitive, negotiated, private placement).
  - Use of comparative bond pricing services or market indices as benchmarks in negotiated transactions and to evaluate final bond pricing results.
- Guidance for ongoing administrative activities, including:
  - Investment of bond proceeds.
  - Primary and secondary market disclosure practices, including annual certifications as required.
  - Arbitrage rebate monitoring and filing.
  - Federal and state law compliance practices.
- Clear directives as to whether or not the entity can or should use derivatives and, if so, a separate and comprehensive derivatives policy should be developed.

Contrary to City ordinances, the City had not established debt management policies and procedures. Although we inquired, City personnel did not explain why debt management policies and procedures had not been developed. Absent such policies and procedures, the City's ability to properly issue, manage, and monitor debt is limited.

**Recommendation: The City should establish debt management policies and procedures that are consistent with GFOA best practices.**

### **Finding 38: Selection of Bond Professionals**

At its May 13, 2015, meeting, the City Commission approved an ordinance<sup>143</sup> authorizing issuance of the Series 2015A Tax-Exempt Capital Improvement Revenue and Refunding Note and Series 2015B Taxable Capital Improvement Revenue Note (notes) in the amounts of \$3.5 million and \$5.1 million, respectively. The proceeds of the notes, net of issuance costs, were used to:

- Finance the costs of acquiring the Town Center One Building (building) and related site.
- Renovate and equip the portions of the building to be used for City administration offices.
- Retire the outstanding principal amount of the Series 2014 Capital Improvement Revenue Note.

<sup>143</sup> City of Opa-locka Ordinance No. 15-07.



Governments typically employ professionals, such as financial advisors, underwriters,<sup>144</sup> and bond counsel, to assist with the bond issuance process. Bond counsel renders an opinion on the validity of the bond offering; the security for the offering; and whether, and to what extent, interest on the bonds is exempt from income and other taxation. According to the GFOA, the opinion of bond counsel provides assurance both to issuers and to investors who purchase the bonds that all legal and tax requirements relevant to the matters covered by the opinion are met.<sup>145</sup>

The GFOA recommends that issuers selecting financial advisors, underwriters, and bond counsel employ a competitive process using a Request for Proposal (RFP) or Request for Qualifications (RFQ). A competitive process:

- Allows the issuer to compare the qualifications of proposers and to select the most qualified firm based on the scope of services and evaluation criteria outlined in the RFP or RFQ.
- Provides objective assurance that the best services and interest rates are obtained at the lowest cost possible.
- Demonstrates that marketing and procurement decisions are free of self-interest and personal or political influences, reducing the opportunity for fraud and abuse and providing fairness to competing professionals.

The GFOA further recommends that debt issuers review their relationships with bond professionals periodically. Notwithstanding GFOA best practices, the City contracted<sup>146</sup> with its bond counsel<sup>147</sup> in April 2015 without using a competitive selection process and paid the bond counsel \$40,000 for services associated with issuance of the notes. Although we inquired, City personnel did not explain why a competitive selection process was not used to select the bond counsel.

Without employing a competitive process to select the bond counsel, the City cannot demonstrate that it selected the most qualified bond counsel, received the best services at the lowest cost possible, or that the selection process was free from self-interest and personal or political influences.

**Recommendation: The City should select professionals, such as bond counsel, by employing a competitive selection process whereby RFPs or RFQs are solicited from a reasonable number of professionals.**

## REVENUES AND CASH COLLECTIONS

City management is responsible for establishing effective revenue and cash collection controls including controls over assessments, collections, deposits, and related records. For the 2015-16 fiscal year, the most recent fiscal year for which audited financial statements were available as of May 2019, the City reported revenues totaling \$28.3 million, including \$10.3 million from utility (water, sewer, solid waste, and stormwater) operations, \$8.5 million from ad valorem and other taxes, \$4.2 million from intergovernmental sources (e.g., grants and shared revenues), \$2 million from governmental activity

<sup>144</sup> Financial advisors help governments understand and make decisions regarding debt instruments and underwriters purchase debt securities, such as government, corporate, or municipal bonds, from an issuing body (like a government agency) to resell them either directly to the marketplace or to dealers, who will sell them to other buyers.

<sup>145</sup> GFOA Best Practice: *Selecting Bond Counsel*, February 2008.

<sup>146</sup> City of Opa-locka Resolution No. 15-8971.

<sup>147</sup> The bond counsel served as the City Attorney from April 28, 2010, through March 5, 2015.



charges for services, and \$3.3 million from other miscellaneous revenues such as franchise fees, fines and forfeitures, and building permit fees.

### **Finding 39: Cash Collections**

Effective controls over cash collections<sup>148</sup> require that collections be logged or receipted at the initial point of collection to establish accountability and that the collections be timely recorded in the accounting records and promptly deposited in the bank. The use of prenumbered receipts provides a means for documenting the amounts collected, fixing responsibility for such amounts, and determining whether amounts collected were subsequently recorded in the accounting records and deposited in the bank.

City policies<sup>149</sup> establish certain requirements for receiving, recording, and depositing cash collections. For example, City policies require cash collections to be deposited within 5 days of collection, without exception. Although City policies do not specify the frequency for recording deposits in the accounting records, City personnel indicated that, in practice, cash collections are recorded concurrently with preparing the bank deposit. City personnel also indicated that the practice of the departments located in City Hall (e.g., the Building and Code Enforcement Departments) is to daily deliver collected checks to the Finance Department. Customers paying with cash are referred directly to the Finance Department Cashier since cash is not accepted elsewhere in City Hall. Departments located outside City Hall (e.g., the Parks and Recreation and Police Departments) deliver cash collections to the Finance Department, which records the collections in the accounting records and deposits the money in the bank.

To document receipt of cash collections, City departments use prenumbered receipts, except for the Utility Department, which generates sequentially numbered receipts from the utility billing system. Our evaluation of the City's controls over prenumbered receipts indicated that:

- Blank prenumbered receipts were assigned and delivered to the various City departments accepting cash collections (e.g., the Parks and Recreation and Police Departments). However, the City did not maintain a control record of the receipt numbers assigned to each department. Such a record is necessary for periodic reconciliations of the receipts assigned and delivered to the departments to those used and those unused and on-hand.
- The Policy does not require City personnel to use prenumbered receipts in consecutive number order, which would help to detect unaccounted for receipts. We noted that the Parks and Recreation Department simultaneously used more than one sequence of receipt numbers during the period October 2016 through March 2017, making accountability of used and voided receipts difficult to identify. We also noted that the Building and Licenses Department did not use prenumbered receipts in consecutive order during this same period.

City records indicated that, during the period October 2015 through April 2017, there were a total of 72,538 cash collections totaling \$20.2 million, supported by prenumbered and utility billing system receipts. To determine whether collections were timely recorded and deposited, we examined City records supporting 62 selected receipts from various City departments totaling \$99,811. Our examination of City records and discussions with City personnel disclosed that the cash collections for the selected receipts were not always promptly deposited or timely recorded. Specifically:

<sup>148</sup> Cash collections include currency, checks, money orders, and credit and debit card collections.

<sup>149</sup> City of Opa-locka Administrative Policies and Procedures Manual, *Cash Receipts/Deposits Policy*.

- During the period July 2016 through March 2017, 4 Parks and Recreation Department cash collections totaling \$2,448 were recorded in the accounting records from 7 to 43 days after the receipt date. Although we inquired, City personnel did not explain why the receipts were not timely recorded.
- During the period April 2016 through April 2017, 13 cash collections totaling \$28,300, including the 4 cash collections totaling \$2,448, were deposited in the bank from 6 to 30 business days after the collection date, contrary to the City policies, which require all moneys collected to be deposited within 5 business days of collection. According to City personnel, the cash collections were not timely deposited due to staffing constraints.

The lack of accountability for prenumbered receipts and untimely recording and deposit of cash collections increases the risk that errors, fraud, or theft may occur without timely detection.

**Recommendation: The City should enhance controls over cash collections to ensure that:**

- **Prenumbered receipts are used in consecutive order for all non-utility cash collections at all City cash collection points.**
- **A control record is maintained for prenumbered receipts.**
- **Cash collections are promptly recorded and deposited.**

#### **Finding 40: Permit Fees**

Pursuant to City ordinances,<sup>150</sup> permits are issued for various construction activities, including building, electrical, mechanical, roofing, and plumbing projects. The Building and Licenses Department is responsible for issuing permits and assessing permit fees as specified in the ordinances. During the period April 2016 through April 2017, the City issued 655 permits and collected permit fees totaling \$471,081.

Our examination of City records and discussions with City personnel disclosed that, as of February 2019, the City had not established policies and procedures for issuing permits. In practice, City trade inspectors review, approve, and issue permits for mechanical, electrical, and plumbing projects. Other permits, including building permits, are reviewed and approved by the Building Official prior to issuance. To determine whether City personnel properly assessed permit fee amounts in accordance with City ordinances and documented approval of the amounts, recorded the permit fee revenue in the accounting records, and deposited permit fee collections in the bank, we examined documentation supporting 35 selected permits with associated fees totaling \$86,211. We found that:

- Fees for 2 permits were overassessed by a total of \$132, and 3 permits were underassessed by a total of \$492. In response to our inquiry, the Building Official indicated that the assessments were incorrectly calculated; however, he did not provide explanations for the incorrect calculations. Improperly calculated permit fees result in the City not collecting all fees due or applicants paying unnecessary fees.
- While 2 building permits for \$1,349 and \$227 were accurately calculated, the permits lacked evidence of the Building Official's approval. The Building Official verbally indicated that the permits were not signed due to oversights. Properly documented approvals help ensure that permits are properly calculated, and fees assessed.

<sup>150</sup> Section 2-653, City of Opa-locka Code of Ordinances.

- Although we requested, 3 permit applications with fees of \$288, \$202, and \$16, were not provided and City personnel did not explain why the permit applications were not available. Consequently, City records did not evidence that the permit fees totaling \$506 were collected pursuant to valid permit applications and were correctly assessed.

In addition, we scanned the population of permits issued during the period April 2016 through April 2017 and identified another 3 permits with fee amounts of \$767, \$162, and \$162 that were unsupported by permit applications. Although we inquired, City personnel did not explain why the permit applications were unavailable. In addition, City personnel were unable to demonstrate that the permit fees totaling \$1,091 were collected pursuant to valid permit applications and were correctly assessed.

**Recommendation: The City should establish policies and procedures to ensure, among other things, that permit fees are properly and consistently calculated and approved and that permit applications and other documentation supporting the permit issuance are retained in City records. In addition, the City should refund to applicants the \$132 overassessed permit fees and seek to collect from applicants the \$492 underassessed permit fees.**

#### **Finding 41: Traffic Signal Safety Program**

State law<sup>151</sup> authorizes the City to use traffic infraction detectors (cameras) to help enforce laws related to traffic signal obedience when drivers fail to properly stop at such traffic signals on streets and highways under City jurisdiction. Additionally, State law<sup>152</sup> sets the penalty for each traffic signal violation at \$158, of which \$75 may be retained by the City and \$83 is required to be electronically transferred to the Department of Revenue (DOR) on a weekly basis for deposit into the State's General Fund (\$70), Emergency Medical Services Trust Fund (\$10), and Brain and Spinal Cord Injury Trust Fund (\$3).

According to City records, in March 2009 the City contracted with a vendor to install and monitor cameras at several City intersections, issue notices of infraction to red-light violators, and process and remit payments from those violators to the City. City records showed that during the period July 1, 2010, through June 8, 2018, the vendor remitted to the City \$8.1 million in collected traffic signal penalties for red-light violations. According to State law, the City was required to remit \$4.2 million of that amount to the DOR. However, through July 2018, the City had remitted only \$1 million to the DOR, with the last amounts remitted in May 2013. In August 2018, subsequent to our initial review and analysis, the City remitted an additional \$227,369 to the DOR, leaving approximately \$3 million still owed to the DOR for collected traffic signal penalties.

In response to our inquiry, City personnel indicated they did not know why former City personnel did not make the required weekly transfers to the DOR during the period June 2013 through July 2018. Without prompt remittance of proceeds to the DOR from traffic signal penalties, the associated State funds are deprived of these revenues and unable to use the proceeds for their intended purposes.

According to the City's 5-year financial recovery plan submitted to the Governor on August 1, 2018, the City intends to repay the past due amounts to the DOR over a 5-year period.

<sup>151</sup> Sections 316.008(8)(a), Florida Statutes.

<sup>152</sup> Section 316.0083(1)(b)3., Florida Statutes.

**Recommendation:** The City should weekly remit to the DOR the traffic signal penalties collected as required by State law. Additionally, the City should continue to transfer to the DOR the past due amounts and contact the DOR about establishing a structured payment plan.

#### **Finding 42: Utility Services Customer Deposits**

City ordinances<sup>153</sup> establish utility services customer deposits for water and sewer services. Upon opening a new utility account, both residential and commercial customers are required to pay a deposit ranging from \$170 to \$8,000 for residential accounts and \$250 to \$8,000 for commercial accounts based on meter size. The ordinances also provide that upon discontinuation of service and payment of all outstanding charges for service on said premises, the deposit must be refunded. Our examination of City records and discussions with City personnel disclosed that City controls over utility services customer deposits could be improved. Specifically:

- Although City ordinances do not specify how to account for utility services customer deposits, the City maintained a separate Water and Sewer Fund customer deposits bank account and recorded deposits as both cash and customer deposits payable in its accounting records. The City also maintained a customer deposits subsidiary ledger showing the individual customer deposit amounts. However, the City had not established procedures for periodically reconciling the customer deposits payable account balance to the customer deposits subsidiary ledger balance or the customer deposits bank account balance. Our examination of City records as of September 30, 2017, disclosed that:
  - The customer deposits payable account balance, which should represent the amount of customer deposits being held by the City, was \$2,834,113; however, the customer deposits bank account balance as of that same date was only \$16,267, a difference of \$2,817,846. City records indicated that \$1,234,000 of the difference was attributable to cash transfers during the 2013-14 fiscal year from the Water and Sewer Fund customer deposits bank account to the Water and Sewer Fund Operating bank account (\$638,000) and to the General Fund Operating bank account (\$596,000).

Although we inquired, City personnel did not provide an explanation for these transfers or for the remaining \$1,583,846 difference. However, according to note 6 of the City's 2012-13 and 2013-14 fiscal year audited financial statements, the City transferred substantial amounts from the Water and Sewer Fund to the General Fund to cover excess General Fund expenditures, indicating the possibility that customer deposits were used for City operations.
  - The customer deposits subsidiary ledger balance was \$1,303,680, or \$1,530,433 less than the customer deposits payable account balance of \$2,834,113 as of that same date. In response to our inquiry, City personnel indicated they did not know the reason for the difference.
- Absent periodic reconciliations of the customer deposits payable account balance to the customer deposits subsidiary ledger balance and the customer deposits bank account balance, the City has limited assurance that utility services customer deposits are properly accounted for and reported, and the City Commission may not have a clear understanding of the amount of the City's customer deposit liability and cash needed to refund customer deposits.
- During the period October 2015 through April 2017, the City issued 551 utility services customer deposit refunds totaling \$119,777. Although neither City ordinances nor City policies and procedures specify a time frame for refunding customer deposits, utility bills included information specifying that "any refund will be mailed within 4 to 6 weeks of the date of disconnection." To

<sup>153</sup> Section 21-80, City of Opa-locka Code of Ordinances.

determine whether the City issued the refunds within 6 weeks of the date of disconnection, we examined City records associated with 30 refunds totaling \$18,899 and noted that the refunds were issued from 98 to 296 days, an average of 170 days (approximately 24 weeks), after the utility account was closed. City personnel indicated that refunds were not issued timely because of lack of supervision over the refund process. Failure to promptly return customer deposits unfairly deprives customers of money to which they are entitled.

**Recommendation:** The City should revise the City ordinances to specify how to account for utility services customer deposits and the time frame for refunding deposits to customers. The City should also enhance controls to require and ensure that:

- The customer deposits payable account balance is periodically reconciled to the customer deposits subsidiary ledger balance and the customer deposits bank account balance and that any differences are promptly resolved.
- Customer utility services deposits are promptly refunded after utilities are disconnected.

#### **Finding 43: Utility Services Billing and Collection Processes**

The City entered into an interlocal agreement<sup>154</sup> with Miami-Dade County on February 19, 1985, for the City to purchase water from the County. The interlocal agreement provides the rates for each gallon of water and sewage used by the City and the City, in turn, provides water and sewer services to customers connected to the City water and sewer utility system. For the 2015-16 fiscal year, the most recent fiscal year for which audited financial statements were available as of May 2019, the City reported \$8.4 million of revenue from water and sewer service charges and, as of September 30, 2016, accounts receivable related to these services totaled \$1.7 million, net of an allowance for uncollectible accounts.

City ordinances<sup>155</sup> provide that utility charges levied at rates established by ordinance shall be billed each month of the calendar year and payable upon billing. As of the date of our examination in September 2017, the City had not established utility billing policies and procedures. Although City ordinances do not prescribe when customers are to be billed, City personnel stated that customer bills are prepared in three cycles with Cycle 1 accounts billed on the 5th of the month, Cycle 2 accounts billed on the 15th of the month, and Cycle 3 accounts billed on the 25th of the month, and that bills are typically sent monthly to residential and commercial customers. The water and sewer charges billed include a monthly base charge plus usage charges.

**Billing Frequency.** During the period October 2015 through April 2017, the City had approximately 5,100 utility services customers and billed those customers \$16.4 million for utility services. To determine whether utility services were timely billed during that period, we examined City records for the 57 utility billing cycles (3 billing cycles per month for 19 months). We found that billings for 29 cycles were mailed 8 to 80 days (an average of 35 days) after the dates the respective billing periods ended. According to City personnel, the billings were late for several reasons, including staffing shortages, broken water meters, and lack of supervision over the billing process. Delayed billings could delay utility revenue collections and ultimately affect the City's ability to fund operations.

<sup>154</sup> City of Opa-locka Resolution Nos. 2998 and 06-7010.

<sup>155</sup> Section 21-83, City of Opa-locka Code of Ordinances.

To further evaluate the City's utility services billing procedures, we examined City records supporting 30 selected active utility accounts as of August 2017 and found that 3 commercial accounts were not billed monthly for water and sewer usage. Specifically:

- One account, opened in November 2016, did not receive a bill for the months of January through July 2017. According to City personnel, the account was placed in a “no bill” status for January 2017 because the account was billed a month in advance in December 2016. However, due to an oversight, the “no bill” status was not removed for the months of February through July 2017. Only one bill in the amount of \$12.16 was issued for this account prior to the “no bill” status. Subsequent to our inquiry in September 2017, the City began retroactively billing the account, starting with the month of July 2017; however, as of February 2019, the City had not attempted to bill for the months of January through June 2017.
- One account was not billed for the period October 2013 through August of 2016. According to City personnel, they were unsure as to why the account was not billed during that period. In August 2016, City personnel prepared an adjustment to charge the customer \$28,040 for the unbilled months. Although we inquired, City personnel did not explain when and how City personnel discovered the error; however, City personnel created a work order in July 2016 to repair the customer's meter. The City subsequently collected \$16,712 and \$7,675 in March 2017 and June 2017, respectively, and, as of February 2019, the account balance had increased to \$165,514.
- One account was not billed because, although water was being used, the occupant had not opened a utility account with the City. According to City personnel, the meter readings in the utility billing system for this address were illogical. For example, the meter readings of cumulative gallons, in hundreds, used for August 2013, September 2013, and August 2016 were 18,162, 1,823, and 11,580, respectively; therefore, City personnel were unable to determine the correct amount of water used by the occupant, so no bills were issued. According to City records, City personnel closed this account in August 2016, opened a new account at the same address in September 2016 and, as of August 2017, was billing the current occupant monthly.

Failure to monthly bill utility services customers results in fewer resources available to the City, and the City may have difficulty collecting amounts billed at one time for several months of accumulated utility usage as customers may not be able to fully pay the amount due.

**Delinquent Accounts.** City ordinances<sup>156</sup> provide that water services are to be discontinued without further notice on all accounts not paid within 60 days of billing and require the issuance of property liens on delinquent accounts. However, good business practices suggest that the City should also enter into payment arrangements with customers for delinquent amounts, as circumstances allow, and that City personnel should analyze delinquent accounts that have been outstanding for an extended period (e.g., more than 24 months) and write off accounts determined to be uncollectible.

According to City personnel, the City's practice is to enter into payment arrangements with customers by allowing the customer to make a down payment of 25 to 50 percent of the delinquent balance and make payments on the remaining balance over a period of 6 to 12 months. For this type of arrangement, both the Utility Billing Supervisor and the Finance Director are required to approve the payment arrangement. The City Manager is also required to approve payment arrangements extending more than 12 months.

According to City records, in January 2018 there were 981 delinquent utility accounts with balances outstanding more than 90 days totaling \$1.2 million. To determine whether the City complied with its

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<sup>156</sup> Section 21-83, City of Opa-locka Code of Ordinances.



ordinances and procedures related to collections of delinquent accounts, we examined records associated with 26 commercial accounts (including 12 multi-family dwelling accounts) and 4 residential accounts with the largest account balances. The balances for these 30 accounts totaled \$591,809, or 19 percent of the total delinquent utility accounts receivable balance. Our examination of City records and discussions with City personnel regarding the 30 accounts disclosed that, as of January 2018, the City had not:

- Complied with City ordinances by issuing property liens for 28 of the 30 accounts with balances totaling \$568,912. Although we inquired, City personnel did not explain why liens were not issued for the 28 accounts.<sup>157</sup> The City discontinued water service for one account with a balance totaling \$11,236 due to a major water leak and for three other accounts, with balances totaling \$48,141, because the accounts were closed.
- Discontinued, within 60 days of billing and nonpayment, water service for 25 of the 30 accounts, consisting of 1 residential and 24 commercial accounts with balances totaling \$8,633 and \$510,012, respectively. City personnel indicated that water service was not terminated for these accounts because, in September 2016, City management directed City personnel to not terminate water service for any customers.
- Entered into payment arrangements for 29 of the 30 accounts with balances totaling \$578,023. Although we inquired, City personnel did not explain why payment arrangements had not been entered into for the 29 accounts.

For collection efforts to be effective, the efforts must be both timely and progressively strengthened as accounts become more delinquent. Without effective collection efforts, there is an increased risk of large uncollectible account balances.

**Water Loss.** During the period of October 2015 through April 2017, the City purchased 1.504 billion gallons of water from Miami-Dade County; however, the City only billed customers for .938 billion gallons of water usage, or 62 percent of the water purchased from the County. In response to our August 2017 inquiries regarding the difference between the gallons of water purchased and the gallons of water billed to utility services customers, City personnel indicated that the City did not have procedures to compare the amount of water purchased from the County to the amount billed to utility services customers. Periodically reconciling the volume of water purchased from the County to that billed to customers would assist the City in identifying and remedying the causes of water loss, such as leaky pipes, faulty meters, and nonmetered uses.

At its July 12, 2017, meeting, the Commission approved a resolution<sup>158</sup> and an agreement with Miami-Dade County providing for the County to administer for City utility services customers the meter reading, billing, and collection of water, sanitary sewage, and stormwater utility service charges. However, as of February 2019, the County had assumed billing and collection responsibilities for only approximately 350 commercial and 550 residential City utility accounts. The City continued billing the

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<sup>157</sup> As discussed in Finding 44, the City had not established policies and procedures for adjustments to utility services customer accounts. According to City personnel, it is the City's practice to review utility bills on an account-by-account basis when a customer contacts the City regarding an unusually high utility bill. Upon receiving a complaint, the City Utility Billing Specialist completes a City of Opa-locka Utility Billing Department Adjustment Form to document the amount, purpose, and approval for adjustments. The adjustment form contains signature lines to document the Utility Billing Supervisor, Finance Director, and City Manager approvals.

<sup>158</sup> City of Opa-locka Resolution No. 17-9392.



remaining accounts but, according to County personnel, the County planned to perform all City utility services customer billing by Summer 2019.

**Recommendation:** The City should establish policies and procedures and enhance controls to provide for:

- The prompt billing of utility services until Miami-Dade County takes over responsibility for billing all City utility services customers.
- Progressive strengthening of collection efforts for delinquent accounts.
- Reconciliation of the amount of water purchased from Miami-Dade County to the water billed to City utility services customers to assist with identifying and remedying water loss.

#### **Finding 44: Utility Account Adjustments**

Adjustments to customer water and sewer utility accounts are necessary for various reasons, including for billing error corrections (i.e., due to incorrect meter readings), returned checks, penalty adjustments, and sewer usage adjustments due to plumbing failures. During the period October 2015 through April 2017, the City processed 342 utility account adjustments totaling \$373,674.

As of February 2019, City ordinances and policies and procedures, did not identify the circumstances for utility account adjustments or how the adjustments were to be calculated or approved. According to City personnel, it is the City's practice to review utility bills on an account-by-account basis when a customer contacts the City regarding an unusually high utility bill. Upon receiving a complaint, the City Utility Billing Specialist completes a City of Opa-locka Utility Billing Department Adjustment Form to document the amount, purpose, and approval for the adjustment. The adjustment form contains signature lines to document Utility Billing Supervisor, Finance Director, and City Manager approvals. In December 2017, City personnel developed draft policies and procedures<sup>159</sup> addressing utility account adjustments; however, as of February 2019 the policies and procedures had not been finalized.

Our examination of City records and discussions with City personnel for 31 selected customer utility account adjustments made during the period October 2015 through April 2017 disclosed that 21 adjustments either lacked supporting documentation or were not adequately approved, as shown in Table 14.

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<sup>159</sup> Utility Billing Adjustment Policies and Procedures, City of Opa-locka.

**Table 14**  
**Utility Account Adjustments**  
**With Insufficient Documentation or Approval**  
**For the Period October 2015 Through April 2017**

	Billing Decrease	Billing Increase	Approved by		
			Utility Billing Supervisor?	Finance Director?	City Manager?
1	\$ 8,578	\$ -	No	No	No
2	18,728	-	No	No	No
3	23,390	-	No	Yes	Yes
4	1,608	-	No	No	No
5	533	-	No	No	No
6	2,686	-	No	No	No
7	723	-	No	Yes	Yes
8	98	-	No	Yes	Yes
9	540	-	No	No	No
10	7,866	-	No	No	No
11	2,772	-	No	No	No
12	5,655	-	No	No	No
13	2,348	-	No	No	No
14	7,248	-	No	No	No
15	19,041	-	No	No	No
16	340	-	a	a	a
17	367	-	a	a	a
18	10,425	-	a	a	a
19	7,823	-	a	a	a
20	5,303	-	a	a	a
21	-	15,422	a	a	a
<b>Totals:</b>					
<b>Yes</b>			-	<b>3</b>	<b>3</b>
<b>No</b>			<b>15</b>	<b>12</b>	<b>12</b>
<b>NA</b>			<b>6</b>	<b>6</b>	<b>6</b>
<b>Amount</b>	<b><u>\$126,072</u></b>	<b><u>\$15,422</u></b>			

<sup>a</sup> An adjustment form was not provided to support the basis of the adjustment amount or evidence the approvals.

Source: City records.

The City utility billing system included notes indicating that the 6 adjustments not supported by an adjustment form were necessary due to incorrect meter readings (2 adjustments), errors in water usage estimates (3 adjustments), and a billing error (1 adjustment); however, absent the adjustment forms, City records did not evidence the propriety and basis of the adjustment amounts. City personnel indicated that the 6 adjustments were prepared by a former employee but the adjustment forms could not be located.

The adjustment forms and other support for the other 15 adjustments did not evidence that the adjustments were approved by the Utility Billing Supervisor, Finance Director, and City Manager.

According to the adjustment support, the adjustment amounts for 12 billing adjustment decreases (adjustments 1, 2, 4, 5, 6, and 9 through 15), ranging from \$533 to \$19,041 and totaling \$77,603, were determined by Miami-Dade County personnel who assisted the City with its utility billing process. According to City personnel, Miami-Dade County e-mailed the adjustment amounts and City personnel entered the amounts on adjustment forms; however, in response to our request, County e-mails were provided for only 4 of the adjustments and City personnel did not provide an explanation as to why City personnel approval was not documented for the 12 adjustments. In addition, evidence of Finance Director and City Manager approval was documented for 3 other decreasing adjustments (adjustments 3, 7, and 8) totaling \$24,211, but the Utility Billing Supervisor's approval was not. Although we inquired, City personnel did not explain why the Utility Billing Supervisor's approval was not obtained.

Absent established policies and procedures addressing utility account adjustments, including a standardized methodology for determining the adjustment amount and approval requirements, adjustments may not be made in a manner consistent with City Commission intent and may not be consistently calculated and appropriately approved. Also, absent supporting documentation and evidence of review and approval by the Utility Billing Supervisor, Finance Director, and City Manager, the City has limited assurance that utility account adjustments were appropriate, and the risk increases that improper adjustments could be made and not timely detected and resolved.

**Recommendation: The City should continue efforts to establish policies and procedures addressing utility account adjustments. Such policies and procedures should include a standardized methodology for determining adjustment amounts and specific guidelines for documenting the calculation, review, and appropriate approval of utility account adjustments.**

#### **Finding 45: Utility Water and Sewer Service Charges**

City ordinances<sup>160</sup> prescribe rates for water and sewer service charges and provided for rate increases effective October 1, 2015, and October 1, 2016. During the period October 2015 through April 2017, there were approximately 97,500 monthly residential and commercial customer billings or an average of 5,132 customers billed for each of the 19 months for water and sewer service charges totaling \$16.4 million.

To determine whether the City appropriately billed water and sewer service customers using the rates prescribed by City ordinances, we examined City records supporting 30 billings (1 monthly billing for each of 30 selected accounts) for water and sewer service charges totaling \$29,003. Our examination disclosed that for 25 (83 percent) of the 30 billings examined, the City underassessed water and sewer service charges by amounts ranging from approximately \$1 to \$917 and totaling \$2,634. Although it was not practical for us to determine in total the amount of water and sewer service charges the City underassessed its customers, based on the results of our examination, it is likely that the total amount underassessed was significant during that period.

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<sup>160</sup> Section 21-77, City of Opa-locka Code of Ordinances.

Our examination of City records disclosed that the underassessments occurred because:

- During the period October 2015 through March 2016, City personnel incorrectly continued to assess rates established by City ordinances for the period January through September 2015 instead of the increased rates that were effective October 1, 2015. City personnel did not begin assessing the October 1, 2015, increased rates for all customers until April 2016.<sup>161</sup>
- During the period October 2016 through April 2017, City personnel incorrectly continued to assess rates established by City ordinances for the period October 2015 through September 2016 instead of using the increased rates that were effective October 1, 2016.

Although we inquired, City personnel did not explain why the rates established by City ordinances were not used to bill water and sewer service customers. Failure to correctly assess water and sewer service charges results in less resources available to the City and contributed to the City's financial difficulties.

**Recommendation: The City should enhance controls to ensure that water and sewer service charges are assessed in accordance with rates prescribed by City ordinances. In addition, the City should, to the extent practical, take appropriate actions to collect the underassessed water and sewer service charges.**

#### PAYROLL AND PERSONNEL ADMINISTRATION

Effective payroll policies and procedures ensure payroll transactions are handled accurately and consistently in accordance with applicable laws and the directives of the City Commission and City management. Such policies and procedures should address, among other things, the calculation of salary payments, including terminal leave payments and severance payments to employees upon separation from City employment; required payroll reporting to the Internal Revenue Service and applicable State agencies; and preparation and approval of documentation, including time records, to support salary payments.

Effective personnel administration policies and procedures communicate management's expectations, employment guidelines, and benefits information to employees and promote the consistent administration of City personnel practices. Such policies and procedures should address, among other things, hiring guidelines, including verification of education credentials and prior work experience; employee background screenings; maintenance of leave balances; administration of retirement programs; employee performance evaluations; employee and dependent benefits eligibility determinations; and the maintenance of personnel records to support personnel actions.

#### **Finding 46: Hiring Practices**

Effective personnel administration includes controls over establishing and maintaining position descriptions, hiring practices, and employee personnel files. Such controls include, for example:

- Established position descriptions that specify minimum education and experience requirements.
- Verification of employment history and educational experience prior to offering employment.

<sup>161</sup> The City began assessing the October 1, 2015, increased rates for some customers in March 2016; however, for most customers, the City continued to incorrectly assess the prior rates until April 2016.

- Personnel files that include completed employment applications; letters of reference; education credentials, including college transcripts (if applicable); and records evidencing authorized personnel actions.

The City Manager is responsible for appointing, hiring, promoting, supervising, and removing all City employees, except for the City Attorney and City Clerk. City regulations<sup>162</sup> require all prospective employees to complete an employment application that identifies the individual's education and work experience and requires the applicant to certify that the statements on the application are true and correct and to acknowledge that any misstatements or omissions of material facts in the hiring process will result in disqualification or termination from employment. City position descriptions set forth the education, work experience, and other requirements, such as possession of a valid driver's license, for each position.

City regulations<sup>163</sup> provide that all offers of employment are contingent upon acceptable results of a complete physical, including a drug test. City regulations<sup>164</sup> also provide that, for new hires, the Human Resources (HR) Director is to review the applicant's credentials to determine compensation and send the selected job applicant a conditional job offer letter notifying them of their starting salary. However, the City had not established policies and procedures requiring documented verification that new hires met the minimum education or work experience requirements established for the positions for which they were hired.

During the period October 2015 through April 2017, the City hired 23 employees. Table 15 provides a listing of those employees, their job position titles, and most recent hire dates.

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<sup>162</sup> City of Opa-locka Personnel Administrative Regulations and Procedures: *Equal Employment Opportunity* 1-111.

<sup>163</sup> City of Opa-locka Personnel Administrative Regulations and Procedures: *Background Screening/Physical* 1-104; *Drug Testing* 2-209; and *Hiring* 2-211(6).

<sup>164</sup> City of Opa-locka Personnel Administrative Regulations and Procedures: *Compensation Determination* 2-205.

**Table 15**  
**Listing of Employees Hired**  
**During the Period October 2015 Through April 2017**

Employee	Employee Job Position Title	Employee's Most Recent Hire Date
1	Police Officer	10/01/2015
2	Police Officer	10/04/2015
3	Police Officer	10/04/2015
4	Administrative Assistant	10/05/2015
5	Administrative Assistant	11/09/2015
6	Parks and Recreation Driver	12/07/2015
7	Budget Administrator	12/11/2015
8	Code Compliance Officer	12/28/2015
9	Automotive Mechanic	1/05/2016
10	Automotive Mechanic	1/05/2016
11	Police Officer	1/23/2016
12	Code Enforcement Officer	1/25/2016
13	Police Officer	2/01/2016
14	Accounts Payable Clerk	2/29/2016
15	Assistant City Manager	4/06/2016
16	Lifeguard	6/20/2016
17	Utility Billing Specialist	7/13/2016
18	Police Officer	9/19/2016
19	Assistant to the City Manager	1/17/2017
20	Property Specialist	1/17/2017
21	Police Officer	2/20/2017
22	Police Officer	2/20/2017
23	Code Compliance Officer	3/25/2017

Source: City records.

As part of our audit procedures, we evaluated City controls over hiring practices. The results of our evaluation and our examination of City records and discussions with City personnel disclosed that:

- Contrary to City regulations, City records did not evidence employment applications completed by 8 employees (employees 6, 9, 10, 12, 15, 17, 19, and 23). While the City had previously employed 6 of these employees (employees 6, 9, 10, 12, 17, and 19) and maintained completed applications from those employments, applications were not on file for the positions applicable to the more recent hire dates. In response to our inquiries regarding the lack of employment applications, City personnel indicated that:
  - A City Manager hired employees 15 and 19 and did not require them to complete employment applications.
  - Employee 23 had been working as an independent contractor for the City when a City Manager hired him.
  - A City Manager directed the HR Department to rehire employees 6, 9, 10, and 12, who were former City employees.

- Employee 17 was initially a temporary employee but was subsequently hired as a permanent employee.

Completed employment applications provide the City with essential applicant information in a uniform format and demonstrate the applicant's certification that the information they provided, including information related to education and work experience, is true and correct.

- The education and work experience portions of the application for employee 4 were not completed. City personnel indicated that the employee was hired as a temporary employee at the direction of a City Manager; however, absent education and work experience information, the City cannot demonstrate that the employee met the minimum job qualifications.
- Personnel records did not include copies of college transcripts or high school diplomas (as applicable) to demonstrate that 15 new hires met the respective position's education requirements (employees 4, 5, 6, 7, 8, 9, 10, 12, 15, 16, 17, 18, 19, 20, and 23). In addition, City personnel had not verified the prior work experience for 15 applicants (employees 4, 5, 6, 7, 8, 9, 10, 12, 14, 15, 16, 17, 18, 19, and 23). Although 6 of these employees were rehired former City employees (employees 6, 9, 10, 12, 17, and 19), evidence of verification of education credentials and work experience associated with their original City employment was also not provided. City personnel indicated that a City Manager directed HR Department personnel to not perform credential verifications for these employees.

Documented verifications of education credentials and prior work experience provide critical information for making personnel decisions and provide assurance that new employees meet the minimum requirements for the position.

- Personnel records for 3 employees did not include documentation evidencing that the employees met the minimum requirements for their positions. Specifically, the records for employees 10 and 12 did not demonstrate that the employees held certifications required for their positions, and the records for employee 9 did not demonstrate that the employee had a valid driver's license required for his position. Although we inquired, City personnel did explain why the documentation was not on file.
- City records did not evidence that employees 2, 6, 14, and 15 obtained required drug tests, and employee 23 received a drug test approximately 1 month after his hire date. In addition, although employees 11, 13, 17, and 19 received drug tests prior to employment, as the tests were performed approximately 2 months to 2 years prior to the employees' hire dates, the test results may not have been reliable at the date of hire. Although we inquired, City personnel did not explain why drug tests were not always performed prior to employment nor provide a reason why the results of drug tests conducted 2 or more months prior to the start of employment were acceptable. Absent pre-employment drug screenings conducted immediately prior to the start of employment, there is an increased risk that individuals may not be suitable for City employment.
- Although we requested, we were not provided records evidencing a conditional job offer for 14 job applicants (employees 1, 2, 3, 4, 7, 9, 10, 11, 14, 15, 16, 17, 18, and 20). In response to our inquiry, City personnel indicated that an executed personnel action form includes conditional job offer information and that no offer letter is required. Notwithstanding, City regulations require job offer letters, which are necessary to document that the employee was informed of the conditions and terms of their employment, including the position, start date, and starting rate of pay. Absent such written communication, there is an increased risk that employees may misunderstand the conditions and terms of their employment.



**Recommendation:** The City should establish policies and procedures to ensure that:

- Prospective employees submit a completed employment application.
- Prior to offering employment, City personnel document verification that prospective employees met the minimum education and work experience requirements established for the positions for which they are being hired.
- Prospective employees receive drug tests near the anticipated start of employment and City personnel document acceptable test results in the applicable personnel files prior to offering employment.
- The City provide each prospective employee a conditional job offer letter that includes the conditions and terms of employment. A copy of the conditional job offer letter should be maintained in City personnel files.

#### **Finding 47: Background Screenings**

City regulations<sup>165</sup> provide that employment is contingent upon the job candidate, including volunteers and temporary employees, receiving an acceptable background screening result. However, our evaluation of the regulations disclosed that enhancements were needed to:

- Clarify the type of background screening required. Although the regulations did not indicate what a background screening entails, in practice, according to City personnel, they obtain a level 2 screening<sup>166</sup> for Police Department and Parks and Recreation Department applicants; however, although we requested, we were not provided a description of the type of background screening that is obtained for other applicants.
- Define what constitutes an acceptable background screening result.
- Identify the types of offenses that would be considered disqualifiers or potential disqualifiers for employment.
- Describe the process for evaluating, and documenting in the personnel records consideration of, any offenses disclosed by a background screening.
- Require initial and periodic screenings of employees in executive-level positions and positions of trust, as well as, employees, volunteers, and vendor employees who work with vulnerable populations.

To determine whether the City complied with applicable regulations, we examined City records for the 23 employees hired during the period October 2015 through April 2017 and noted that:

- City records did not evidence that 4 employees had obtained a background screening, contrary to City regulations.
- City records did not evidence recent background screenings for 3 employees rehired by the City in August 2015, January 2016, and July 2016, respectively. The City maintained copies of the background screening results obtained during the employees' previous employments with the City; however, those screenings were approximately 6, 7, and 1 years, respectively, prior to the employees' rehire dates.

<sup>165</sup> City of Opa-locka Personnel Administrative Regulations and Procedures: *Hiring 2-211(6) and (7)*.

<sup>166</sup> Pursuant to Section 435.04(1)(a), Florida Statutes, a level 2 screening includes fingerprinting for Statewide criminal history records screenings through the Department of Law Enforcement and national criminal history records screenings through the Federal Bureau of Investigation and may include local criminal records screenings through local law enforcement agencies.

- Background screenings for 2 employees were not completed until 22 and 34 days after the employees' respective hire dates.
- The background screening for an employee disclosed a felony conviction for grand theft in July 2009, 7 years before the applicant's employment in July 2016. The employee's personnel records did not document what consideration, if any, the City gave to the screening results prior to hire.
- Although we requested, we were not provided a listing of volunteers who received background screenings or any records to demonstrate that the City obtained background screenings for volunteers.

Although we inquired, City personnel did not explain why timely background screenings were not obtained for all employees and volunteers. Regarding the employee with the felony conviction, City personnel informed us that the background screening results were provided to the City Manager, and the City Manager made the decision to hire the employee; however, documentation of the City Manager's evaluation of the impact of the felony conviction on her hiring decision was not maintained. Absent effective controls to timely obtain required background screenings of applicable employees and volunteers, the risk increases that individuals with unsuitable backgrounds may be allowed to perform City services.

At its December 14, 2016, meeting, the Commission adopted a resolution<sup>167</sup> directing the City Manager, HR Director, and City Attorney to develop a fair hiring policy, within 60 days, to establish procedures to ensure that applicants with convictions can present themselves first as employees and that only charges directly related to the job position be considered. However, according to City personnel, as of February 2019, a fair hiring policy had not been developed.

**Recommendation: The City should ensure that background screenings are timely obtained and continue efforts to enhance established regulations to:**

- **Clarify the type of background screening required for the various City departments and activities.**
- **Define what constitutes an acceptable background screening result, including identification of the types of offenses that would be considered disqualifiers or potential disqualifiers for employment.**
- **Describe the process for evaluating, and documenting in the personnel records consideration of, any offenses disclosed by a background screening.**
- **Require background screenings to be initially and periodically obtained for City employees in executive-level positions and positions of special trust, as well as employees, volunteers, and vendor employees who work with vulnerable populations.**

#### **Finding 48: City Manager Selection and Compensation**

The City Charter<sup>168</sup> authorizes the City Commission to appoint, and establish compensation for, the City Manager. During the period October 2015 through April 2017, the City Manager position was held by four individuals. Our examination of City records and discussions with City personnel disclosed that:

<sup>167</sup> City of Opa-locka Resolution No. 16-9280.

<sup>168</sup> Sections 2.5 and 3.1, City of Opa-locka Charter.

- An individual was appointed City Manager at the November 24, 2015, City Commission meeting and remained in that position until he resigned effective August 1, 2016. Another individual was appointed City Manager at the August 2, 2016, City Commission meeting and remained in that position until she resigned in July 2017.

Pursuant to City ordinances,<sup>169</sup> the City must establish a search committee to search for candidates for the City Manager position, evaluate the candidates' qualifications, and recommend no more than five candidates for consideration to fill the position. In addition, City ordinances<sup>170</sup> provide that the search committee is to "make every effort to conduct a thorough local and nationwide search for candidates" for the City Manager position. Although we requested, we were not provided records evidencing advertisement of the City Manager position prior to the City Commission appointments of either of these individuals to the City Manager position or any other records evidencing efforts to solicit or evaluate other candidates for the position. Consequently, City records did not evidence compliance with the City ordinance requirements to conduct a local and nationwide search for candidates for the City Manager position and evaluate the qualifications of the candidates.

Advertising for the City Manager position and using a documented candidate evaluation process would have demonstrated that the City Commission used a fair, equitable, and unbiased process to select the best available candidate to fill the position.

- The City provided a City Manager a rental car at a cost to the City of \$10,759 during the period December 2015 through June 2016. However, although we requested, we were not provided records evidencing City Commission approval of the rental car for City Manager use. Absent such documentation, City records did not demonstrate authority for the rental car and its use by the City Manager may have been contrary to City Commission intent.

**Recommendation: For future City Manager selections, the City should comply with City ordinances and establish a search committee to conduct a thorough local and nationwide search for candidates, evaluate candidates' qualifications, and recommend candidates for City Commission consideration. In addition, the City should limit City Manager compensation to that established by the City Commission.**

#### **Finding 49: Extra Compensation**

Pursuant to State law,<sup>171</sup> no City employee may be paid extra compensation after the service has been rendered or the contract made. State law also requires that employment agreements entered on or after July 1, 2011, that contain a provision for severance pay must include a provision requiring that such pay not exceed an amount greater than 20 weeks of compensation and prohibit severance pay when the employee has been fired for misconduct as defined by State law.<sup>172</sup>

During the period July 2015 through April 2017, the City entered into three employment agreements with severance pay provisions, including agreements with two of the five individuals who held the City Manager position and an individual in the City Clerk position. Our examination of City records and discussions with City personnel disclosed that:

- The agreements did not prohibit severance pay in the event the employee was fired for misconduct.

<sup>169</sup> Section 2-8.4, City of Opa-locka Code of Ordinances.

<sup>170</sup> Section 2-8.4(c), City of Opa-locka Code of Ordinances.

<sup>171</sup> Section 215.425, Florida Statutes.

<sup>172</sup> Sections 215.425(4)(a)2. and 443.036(29), Florida Statutes.

- According to one City Manager's employment agreement, the City would provide him with an automobile and full coverage automobile insurance during the term of his employment agreement. The agreement also indicated that, upon termination of the agreement for any reason, he would receive severance pay "in the amount of 20 weeks salary" and the City would enter into a separate agreement with him with a term of not less than 2 months for management consulting relating to the transition of the City Manager position. The employment agreement further provided that his compensation for the consulting services was to be at the same rate of compensation, including benefits, as he received as City Manager. Notwithstanding, we noted that this City Manager received extra compensation as:
  - At its November 24, 2015, meeting, the City Commission adopted a resolution<sup>173</sup> terminating the City Manager's employment effective that date. However, he remained on the City payroll through June 10, 2016, or a total of 28 weeks after the effective date of the resolution. Specifically, he was paid 20 weeks of salary for 10 biweekly pay periods (November 28, 2015, through April 15, 2016) and, on June 15, 2016, the City paid him another \$23,077 for 8 additional weeks of salary for 4 biweekly pay periods (April 16 through June 10, 2016). Also, while the employment agreement specified that the City would enter into a separate agreement for management consulting for not less than 2 months, the City did not enter into such an agreement. Although we requested, we were not provided records evidencing that the former City Manager provided services, either as an employee or consultant, subsequent to November 24, 2015, his last day of employment. Absent records evidencing services provided as either an employee or consultant, the \$23,077 represents extra compensation.
  - At a cost of \$6,903, the City continued to provide him a rental car, and pay related costs (e.g., insurance, tolls), after November 24, 2015, his last day of employment, through July 12, 2016. One section of the employment agreement provided that, upon termination from employment, he would be entitled to "all compensation," including salary; accrued benefits, including sick and vacation days; and any unpaid car or expense allowances as permitted by State law, provided that such severance pay did not exceed 20 weeks of compensation. However, another section of the employment agreement provided that, if he was terminated without cause, he was to be paid severance of 20 weeks of salary and did not mention providing him an automobile subsequent to his last day of employment. Consequently, it is unclear from the employment agreement whether the City Commission intended to continue providing him an automobile as severance pay after his last day of employment. If it was the City Commission's intention to do so, the City could only do so for up to 20 weeks, or through mid-April 2016, consistent with the 20-week compensation limit prescribed in State law, and the \$4,485 paid for the automobile costs after that date would represent extra compensation. Otherwise, the entire \$6,903 would represent extra compensation.

Although we inquired, City personnel did not explain the inconsistencies between employment agreement provisions or the instances of extra compensation not permitted by State law.

**Recommendation: The City should ensure that severance pay provisions in employment agreements prohibit severance pay when the employee has been fired for misconduct and that extra compensation is not paid after the service has been rendered or the contract made. In addition, the City should take appropriate action to recover from the former City Manager the extra salary compensation and applicable automobile costs.**

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<sup>173</sup> City of Opa-locka Resolution No. 15-9116.

## Finding 50: Mayor and City Commissioner Compensation and Expense Reimbursements

City ordinances<sup>174</sup> prescribe the Mayor and City Commissioners' compensation and provide for the Mayor and City Commissioners to be reimbursed for expenses incurred in carrying out their official City duties. Our examination of City records and discussions with City personnel disclosed that the City may not have always complied with City ordinances or Federal law regarding compensation provided to the Mayor and City Commissioners.

City ordinances<sup>175</sup> provide that the Mayor and City Commissioners are to receive compensation of \$550 per month and that the Mayor and Commissioners shall not receive compensation exceeding the amount specified in City ordinances. City ordinances<sup>176</sup> also provide that, pursuant to State law,<sup>177</sup> the Mayor and City Commissioners may be reimbursed up to \$200 per month for expenses such as publications, food and drink for dignitaries and public officials, cleaning, fuel and transportation, and other similar and related expenses incurred in the performance of their duties.

**Automobiles.** While City ordinances provide for compensation and monthly expense reimbursements to the Mayor and City Commissioners, as shown in Table 16, during the period October 2015 through April 2017, the City also provided automobiles for the Mayor and certain City Commissioners' use without apparent legal authority.

**Table 16**  
**Automobiles Provided to the Mayor and City Commissioners**  
**October 2015 Through April 2017**

	Number of Months Automobile Provided	Method by Which Automobile was Provided	Total Amount of Lease Payments
Mayor	11	City-Owned	Not Applicable
Commissioner 1	19	Leased	\$22,411
Commissioner 2	10	Leased	11,795
Commissioner 3	8	Leased	5,463
Commissioner 4	11	Leased	12,975

Source: City records.

Additionally, as discussed in Finding 33, because motor vehicle usage logs were not maintained, City records were not available to demonstrate the extent that City automobiles were used for the Mayor or City Commissioners' personal benefit and the value of personal usage, if any, that should have been included in the Commissioners' gross income reported to the Internal Revenue Service (IRS).<sup>178</sup> Further,

<sup>174</sup> Sections 2-26 and 2-27, City of Opa-locka Code of Ordinances.

<sup>175</sup> Section 2-26, City of Opa-locka Code of Ordinances.

<sup>176</sup> Section 2-27, City of Opa-locka Code of Ordinances.

<sup>177</sup> Section 112.061, Florida Statutes.

<sup>178</sup> Title 26, Section 1.61-21(a), Code of Federal Regulations.

as reportable taxable income, the value of the personal usage of the City automobiles represents additional compensation to the Mayor and City Commissioners, contrary to City ordinances.<sup>179</sup>

**Monthly Expense Reimbursements.** City ordinances<sup>180</sup> provide that, to receive a monthly expense reimbursement, the Mayor and City Commissioners are to provide a voucher detailing the nature and purpose of the expenses accompanied by supporting receipts, if available, or for fuel, estimates based on mileage. According to United States Treasury regulations,<sup>181</sup> to be excluded from wages reported to the IRS and not be subject to Federal income tax withholding and payment of employment taxes,<sup>182</sup> reimbursement and other expense allowance arrangements must meet Treasury regulations<sup>183</sup> requirements regarding business connection, substantiation, and return of amounts in excess of expenses.

Our examination of City records supporting 70 selected general expenditures totaling \$409,443 for the period October 2015 through March 2017 included 5 monthly payments of \$200, each ostensibly for expense reimbursements to the Mayor and four City Commissioners. However, contrary to City ordinances, the payments were not supported by vouchers detailing the nature and purpose of expenses or any supporting receipts.

We expanded our procedures and identified 45 similar payments totaling \$9,000 made to the Mayor and City Commissioners for the period October 2015 through June 2016.<sup>184</sup> In response to our inquiry, City personnel indicated that they did not know why City personnel, who are no longer employed by the City, reimbursed the Mayor and City Commissioners for expenses without obtaining the required supporting documentation.

In addition, the City treated these payments like expense allowances rather than reimbursement payments as contemplated by City ordinances. However, since these payments were made through the accounts payable system, rather than the payroll system, the payment amounts were not included in the Mayor and City Commissioners' earnings reported to the IRS and were not subject to income tax withholding or payment of employment taxes. Because the City failed to document that these payments met the Treasury regulations requirements of business connection, substantiation, and return of amounts in excess of expenses, the exclusion of these payments from the Mayor and City Commissioners' earnings reported to the IRS may have been contrary to Treasury regulations.

**Recommendation: The City should:**

- **Discontinue providing automobiles to the Mayor and City Commissioners.**
- **For any future reimbursement payments to the Mayor and City Commissioners, require the Mayor and City Commissioners to provide, prior to payment, documentation detailing the nature and purpose for the expenses for which they are seeking reimbursement.**

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<sup>179</sup> Section 2-26, City of Opa-locka Code of Ordinances.

<sup>180</sup> Section 2-27, City of Opa-locka Code of Ordinances.

<sup>181</sup> Title 26, Section 1.62-2(h)(2)(ii), Code of Federal Regulations.

<sup>182</sup> Federal Insurance Contributions Act (FICA) and Medicare taxes.

<sup>183</sup> Title 26, Section 1.62-2(d), (e), and (f), Code of Federal Regulations.

<sup>184</sup> After June 2016, the City ceased monthly reimbursement payments to the Mayor and City Commissioners as recommended by the Financial Emergency Board.



- **Consult with the IRS to determine the extent to which the value of any personal usage of automobiles and payments made to the Mayor and City Commissioners should have been reported as earnings to the IRS.**

#### **Finding 51: Employee and Independent Contractor Classifications**

IRS regulations require employers to determine whether a worker is an employee or independent contractor for income tax reporting purposes. This distinction is important because employees and independent contractors are treated differently, both for Federal income tax reporting and State pension reporting purposes. For example, compensation to independent contractors is not subject to income tax withholding or payment of employment taxes and, as the City is a participating employer in the Florida Retirement System, pension contributions to the Department of Management Services, Division of Retirement, may be required for employees.

To assist employers in making employee or independent contractor determinations, the IRS has established certain guidelines that contain a list of factors to consider. The factors are listed in three categories:

- Behavioral – Does the employer control or have the right to control what the worker does and how the worker does his or her job?
- Financial – Are the business aspects of the worker's job (e.g., how the worker is paid, whether expenses are reimbursed, and who provides supplies) controlled by the payer?
- Type of relationship – Are there written contracts or employee benefits?

If, after reviewing the factors in these categories, it is still unclear whether a worker is an employee or independent contractor, an employer may file Form SS-8, *Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding* (Form SS-8) with the IRS for the determination.

As of February 2019, the City had not established policies and procedures for determining whether workers should be classified as employees or independent contractors. In response to our request for all contracts for personal services entered into during the period October 2015 through April 2017, the City provided ten contracts with nine workers. Our examination of City records and discussions with City personnel regarding the nine workers classified as independent contractors disclosed that, based on IRS guidelines, two workers may have been more appropriately classified as employees. Specifically:

- A Utility Billing Specialist, who resigned from employment with the City on January 1, 2016, was paid \$7,680 as an independent contractor for work performed as a utility billing consultant during the period February 1, 2016, through October 28, 2016. The job duties listed in the Utility Billing Specialist position description were substantially the same as the duties specified in the utility billing consultant contract. Consequently, City records did not evidence why the City classified the worker as an employee prior to January 2016 and as an independent contractor in February 2016 and thereafter.
- The City paid a worker \$40,135 as an independent contractor for code enforcement services during the period January 2016 through March 24, 2017, and subsequently hired the worker as a Code Enforcement Officer employee on March 25, 2017. The job duties listed in the Code Enforcement Officer position description were substantially the same as the duties specified in the code enforcement services consultant contract. Consequently, City records did not evidence



why the City classified the worker as an independent contractor prior to March 25, 2017, and as an employee beginning on March 25, 2017.

Although we requested, we were not provided records evidencing the basis for classifying these workers as independent contractors. Without sufficient information of record to evidence the relevant factors and circumstances considered when classifying workers as employees or independent contractors, there is an increased risk that the City may be subject to additional employment taxes and penalties for classifying as independent contractor workers who should have been classified as employees.

**Recommendation: The City should establish policies and procedures for determining whether workers should be classified as employees or independent contractors. In addition, the City should contact the IRS to officially determine the appropriate classification for the two workers.**

## **Finding 52: City Pay Plan**

The City Commission, at its May 26, 2010, meeting, adopted a resolution<sup>185</sup> establishing a comprehensive City pay plan that lists City positions with the associated pay ranges. Our examination of the City pay plan in effect during the period October 2015 through April 2017 disclosed that the pay plan did not list all City positions. Specifically, we noted that the Risk Manager, Intelligence Analyst, Project Manager, Assistant Director of Building and Licenses Department/City Engineer, and Lifeguard positions were not included in the City pay plan. In response to our inquiry regarding the Lifeguard position, City personnel indicated that the City had an emergency need for a lifeguard because it opened a new City facility that included a swimming pool. Although we inquired, City personnel did not explain why the other positions were not included in the pay plan; however, the HR Director indicated that those positions were created pursuant to directives by a City Manager.

Additionally, our examination of City records supporting 24 pay increases totaling \$217,476 for 18 employees during the period October 2015 through April 2017 (the pay increases are also discussed in Finding 56) disclosed that 10 of the 24 selected pay increases resulted in annual salaries that were not consistent with the City pay plan in effect during that period. Specifically:

- 3 of the pay increases were for employees in the Assistant Director of Building and Licenses Department/City Engineer, Code Enforcement Manager, and Human Resources Administrator positions not listed in the City pay plan.
- 7 of the pay increases resulted in salaries that were not within the pay ranges specified in the pay plan. Five of the 7 pay increases resulted in salaries that exceeded by \$166 to \$4,888 the maximum pay specified for the position in the City pay plan. The other 2 pay increases, made approximately 17 months apart for the same employee, resulted in salaries \$9,220 and \$4,280 less, respectively, than the minimum pay specified for the position.

In response to our inquiry, the HR Director indicated that the HR Department is generally not consulted regarding employee pay increase decisions and that these increases were pursuant to directives from a City Manager. Maintaining pay plans that include all positions with the associated pay ranges and ensuring that salaries are consistent with the specified pay ranges help control payroll costs and ensure pay equity among employees in similar positions.

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<sup>185</sup> City of Opa-locka Resolution No. 10-8069.

**Recommendation: The City should:**

- **Ensure that the City pay plan includes all City positions with the associated pay ranges and timely update the pay plan when new positions are created.**
- **Enhance controls to require the HR Department to verify that salary increases are consistent with the pay plan.**

**Finding 53: Salary Payments**

City payroll expenditures totaled \$11.7 million during the period October 2015 through April 2017. As of February 2019, the City had not established policies and procedures regarding approval of employee time worked. In addition, our examination of City records and discussions with City personnel regarding 30 selected salary payments totaling \$59,534 and 30 additional selected salary payments involving overtime totaling \$23,954 (also discussed in Finding 58) disclosed that:

- Timecards were not approved by the employee's supervisor for 13 payroll payments totaling \$23,060 and 18 overtime payments totaling \$12,969. In addition, timecards for 4 other overtime payments totaling \$3,243 evidenced supervisor approval for only a portion of the reported time worked. City personnel indicated that, when these payments were made, the City payroll system did not require employee timecards be approved by supervisory personnel prior to payment; however, the payroll system was modified to require supervisory approval beginning September 2017. The lack of documented supervisory review and approval of employee time worked increases the risk that City personnel may be incorrectly compensated, leave balances may not be accurate, employee services may not be provided consistent with City expectations, and City records may not be sufficiently detailed in the event of a salary or leave dispute.
- 3 salary payments totaling \$3,275 made to three employees were calculated using rates of pay that were not within the pay ranges established in the City pay plan. Specifically:
  - A Parks and Recreation Driver was paid \$10.00 per hour although the City pay plan indicated a minimum rate of \$11.21 per hour for that position.
  - An Assistant City Clerk was paid \$16.00 per hour although the City pay plan indicated a minimum rate of \$20.43 per hour for that position.
  - A Neighborhood Improvement Supervisor was paid \$26.95 per hour which exceeded the City pay plan maximum rate of \$25.12 per hour for that position.

City personnel indicated that the City Manager directed that these employees be paid at salary rates other than the rates established in the City pay plan.

**Recommendation: The City should establish policies and procedures regarding approval of employee time worked and ensure documented supervisory review and approval of employee time worked and payment of employees in accordance with the established City pay plan.**

**Finding 54: Personnel Action Form Approval**

The City uses personnel action forms (PAFs) to document original appointments (new hires), salary changes, promotions, and other personnel actions. Although, according to the PAF instructions, a PAF must be completed for all personnel actions and each PAF must be signed by the employee, department director, HR Director, and City Manager or Assistant City Manager, as of February 2019, the City had not established policies and procedures regarding the preparation and approval of PAFs.

As part of our examination of personnel actions for the period October 2015 through April 2017, we requested for review 88 PAFs supporting selected actions, including:

- 23 supporting new hires.
- 30 supporting pay rates used for salary payments.
- 35 supporting pay rates used for salary payments involving overtime.

However, a PAF supporting a Parks and Recreation Supervisor's pay rate was not provided and City personnel did not explain why the PAF was not available. The results of our examination of the 87 PAFs provided disclosed that:

- 32 PAFs were missing one or more required signatures. Specifically:
  - 18 PAFs were not signed by the department director.
  - 12 PAFs were not signed by the HR Director.
  - 2 PAFs, 1 PAF supporting the original appointment of a police officer and another supporting the reclassification of a reserve police officer<sup>186</sup> to a full-time police officer, were not signed by either the City Manager or Assistant City Manager.
- Although we inquired, City personnel did not explain why the City Manager did not approve the 2 PAFs. According to City personnel, the department director and HR Director approvals were not required because, according to the City Charter,<sup>187</sup> only the City Manager is required to approve a personnel change, and the City Manager's signature authenticates the PAF. Notwithstanding the City Manager's authority provided in the City Charter, documenting personnel actions through an approved PAF ensures that department directors, the HR Director, and other City personnel are aware of personnel actions.
- 4 PAFs had preparation dates that ranged from 29 to 88 days (an average of 47 days) after the effective date of the action noted in the PAF. According to City personnel, the preparation of PAFs is often delayed when information is not timely provided to the HR Department and, in such instances, the actions are retroactive to the effective date.

Without timely and properly approved PAFs, the City cannot demonstrate that appointments, salary changes, and promotions were authorized by the required members of City management and could encounter difficulty in resolving employee compensation disputes should they arise.

**Recommendation:** The City should establish policies and procedures regarding the preparation and approval of PAFs and ensure that PAFs are timely prepared and signed by the required individuals.

#### **Finding 55: Employee Performance Reviews**

City regulations<sup>188</sup> provide that, to help employees perform their jobs to the best of their ability, it is important that employees be recognized for good performance and receive guidance and counseling if their performance needs improvement. City regulations require that newly hired employees generally receive a written progress review during their first 90 days of employment and that all employees

<sup>186</sup> A reserve police officer is an unpaid position. Reserve police officers perform the same scope of services as a full-time officer but work a minimal number of hours per month.

<sup>187</sup> Section 3.3, City of Opa-locka Charter.

<sup>188</sup> City of Opa-locka Personnel Administrative Regulations and Procedures: *Job Expectations and Performance Reviews 1-112*.

generally receive an annual performance review. To facilitate the performance reviews, City regulations require the HR Director to notify department directors in writing, and copy the City Manager, at least 30 days prior to the employee's performance review date.<sup>189</sup>

To determine whether City supervisory personnel conducted the required employee performance reviews, we examined personnel records for 23 employees<sup>190</sup> hired during the period October 2015 through April 2017 and noted that, as of May 2018:

- City records did not evidence that 11 employees received a progress review during their first 90 days of employment.
- The progress review for 9 employees, was performed 27 to 206 days after the employees completed their first 90 days of employment.
- City records did not evidence that 17 employees received an annual performance review.

In addition, we examined personnel records for 24 of the 108 employees hired prior to October 2015 and still employed as of June 2017 to determine if an annual performance review had been performed. We found that, as of November 2017, the City had not performed a 2015-16 or a 2016-17 fiscal year annual performance review for 23 of the 24 employees.

In response to our inquiries, the HR Director indicated that, the HR Department sends monthly notifications to the respective departments that have employee performance reviews due; however, the departments generally do not respond. The HR Director also indicated that she has requested the City Manager to remind senior staff of the importance of completing employee performance reviews. Timely conducted performance reviews are an important management tool to inform employees of their accomplishments, training needs, and areas for improvement, and to assist management in making and supporting personnel decisions.

**Recommendation: The City should timely perform employee reviews as required by City regulations.**

## **Finding 56: Pay Increases**

City regulations specify provisions for City employee pay adjustments. For example:

- For promotions, the HR Director is responsible for determining the compensation and making recommendations to the City Manager.<sup>191</sup>
- Merit pay adjustments are to be based on specified criteria,<sup>192</sup> including an "Exceeds Standards" or "Clearly Outstanding" overall performance review rating. The employee's immediate supervisor is to prepare a Merit Recommendation Form indicating the recommended merit pay adjustment amount, and the City Manager is to make the final determination after receiving a recommendation from the Finance Director.

<sup>189</sup> City of Opa-locka Personnel Administrative Regulations and Procedures: *Performance Evaluations* 2-216.

<sup>190</sup> Although 23 employees were hired during the period October 2015 through April 2017, 2 employees separated from City employment within 90 days of hire; consequently the 90-day progress review was not applicable for those employees.

<sup>191</sup> City of Opa-locka Personnel Administrative Regulations and Procedures: *Compensation Determination* 2-205.

<sup>192</sup> City of Opa-locka Personnel Administrative Regulations and Procedures: *Merit Pay* 1-132.

Although not specifically addressed by City regulations, other pay adjustments may result from changes in an employee's assigned duties or responsibilities, budget reductions due to City financial difficulties, or other circumstances as determined by the City Commission.

According to City records, during the period October 2015 through April 2017, 118 employees received 223 pay increases totaling \$877,015 for various reasons such as promotions, additional duties, and job reassignments. To determine whether pay increases were appropriate and documented of record, we selected for examination 24 pay increases totaling \$217,476 for 18 employees and requested City records supporting the increases. Our examination of the City records provided for the 24 selected pay increases disclosed that:

- City records did not evidence the reason for 4 annual increases ranging from \$3,986 to \$14,914 (representing increases ranging from 5 to 22 percent) or how the pay increase amounts were determined.
- City records for 8 annual increases, ranging from \$1,500 to \$21,000 (representing increases ranging from 2 to 81 percent), indicated temporary (interim) or permanent promotions of employees to another position; however, the records did not evidence the City's determination that the employees met the educational and work experience requirements for the positions or how the pay increase amounts were determined. For 2 of these employees, we were provided copies of resumes indicating that the employees met the educational and work experience requirements specified for the position to which they were promoted; however, although requested, we were not provided records evidencing City personnel's verification of the education or work experience shown on the resume.
- For 7 annual increases ranging from \$500 to \$24,000 (representing increases ranging from 1 to 32 percent), correspondence indicated that the employee received the pay increase in connection with the City Commission's approval of the 2016-17 fiscal year budget; however, although requested, we were not provided records evidencing that the 2016-17 fiscal year budget specifically provided for the increases.
- City records for 4 annual increases ranging from \$5,000 to \$12,228 (representing increases ranging from 6 to 19 percent), indicated that the employee had been assigned additional duties; however, the records did not specify the additional duties assigned or how the pay increase amounts were determined.
- City records for 1 annual increase of \$6,344 (24 percent), indicated that the employee received the increase because the employee was reclassified from an exempt status (paid on a biweekly basis) to a non-exempt status (paid on an hourly basis); however, although requested, City personnel did not provide an explanation for why the change in status necessitated a pay increase or how the pay increase amount was determined.

In response to our inquiries, the HR Director indicated that the HR Department is generally not consulted in decision-making as it pertains to employee pay increases and that the increases for the 18 employees were directives from a City Manager. Notwithstanding, absent documentation evidencing the reasons for pay increases and the basis for the pay increase amounts and demonstrating that employees meet the education and work experience requirements for the positions to which they are promoted, the City has limited assurance that pay increases are appropriate, employees are equitably compensated, and promoted employees are qualified for the positions to which they are promoted.

**Recommendation:** The City should enhance policies and procedures to ensure that all pay increases are supported by records evidencing the reason and basis for the pay increases. For promotions, a determination that the employee met the education and work experience requirements for the position to which they are being promoted should also be documented.

#### **Finding 57: Florida Retirement System Contributions and Reporting**

State law<sup>193</sup> requires employers that participate in the Florida Retirement System (FRS) to send both employer and employee contributions and accompanying payroll data to the Department of Management Services, Division of Retirement (Division) no later than the 5<sup>th</sup> working day of the month immediately following the month during which the payroll period ended.<sup>194</sup> Employee and employer contributions and accompanying payroll data received after the 5<sup>th</sup> working day of the month are considered late, and the Division is to assess the employer a penalty of 1 percent of the contributions due for each calendar month or part thereof that the contributions or accompanying payroll data are late.<sup>195</sup> In addition, delinquent penalties are to be assessed for prior period contributions due to incorrect wages and contributions from an earlier period that should have been reported but were not.<sup>196</sup> Further, State law<sup>197</sup> provides that if contributions made on behalf of members of the FRS Investment Plan are not timely received, and the plan member incurs market losses as a result, the employer shall reimburse each member's account for the market losses resulting from the late contributions.

Our discussions with City personnel and review of City FRS contribution payments and correspondence for the period July 2016 through June 2017 disclosed that:

- As shown in Table 17, the City did not timely remit contributions for 6 months and, consequently, paid penalties totaling \$5,915 assessed by the Division.

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<sup>193</sup> Section 121.78(1), Florida Statutes.

<sup>194</sup> In April 2016, the Division issued *Information Release #2016-192* to FRS employer participants with the dates contributions were due for the period July 2016 through June 2017.

<sup>195</sup> Section 121.78(3)(a), Florida Statutes.

<sup>196</sup> Section 121.78(3)(b), Florida Statutes.

<sup>197</sup> Section 121.78(3)(c), Florida Statutes.

**Table 17**  
**Delinquent Penalties Assessed and Paid**  
**for Untimely FRS Contributions**

**For the Period July 2016 through June 2017**

<b>Reporting Month and Year</b>	<b>Date Contributions Due to Division</b>	<b>Date Contributions Received by Division</b>	<b>Delinquent Penalties Assessed and Paid</b>
August 2016	9/08/16	9/29/16	\$ 797
September 2016	10/07/16	10/19/16	567
October 2016	11/07/16	11/21/16	2,014
December 2016	1/09/17	1/17/17	917
January 2017	2/07/17	2/13/17	780
April 2017	5/05/17	5/22/17	840
<b>Total</b>			<b><u>\$5,915</u></b>

Source: City records.

- In June 2017, the Division assessed, and the City paid, \$391 and \$101 for market losses caused by late contributions on behalf of two employees in the FRS Investment Plan during the months of August and September 2016.

In addition, the City was assessed and paid delinquent fees because of certain reporting errors. Specifically:

- FRS contribution amounts vary by employee membership class (i.e., regular, senior management, special risk, etc.). Our examination of Division correspondence disclosed that City personnel incorrectly reported the membership class for two employees:
  - For the period August 2016 through April 2017, City personnel incorrectly reported an employee as a member of the regular membership class instead of the senior management class. Consequently, in July 2017 the Division assessed the City a delinquent fee of \$540 for the reporting error.
  - For the period February 2013 through November 2015, City personnel incorrectly reported an employee as a member of the regular membership class instead of the special risk class. Consequently, in March 2017 the Division assessed the City a delinquent fee of \$4,438 for the reporting error.
- According to Division correspondence to the City, FRS contributions for 11 other employees were submitted incorrectly during the period July 2015 through November 2016, and the Division assessed \$1,502 in delinquent fees.

In response to our inquiry in November 2017, the Finance Director indicated that he did not know why the FRS contributions were not timely remitted or why the reporting errors occurred.

In December 2018 we requested City policies and procedures or, in the absence of established policies and procedures, a description of the process used by City personnel to prepare, review, and submit FRS contributions and the associated data to the Division. However, we were not provided policies and procedures or other information related to the City's processes for submitting FRS contributions and the associated data. Established policies and procedures, including procedures requiring the review of



payroll data and contribution amounts prior to submittal, would promote the timely and accurate remittance of contributions and data to the Division and help the City avoid further penalties.

**Recommendation:** To ensure that employer and employee retirement contributions and the accompanying payroll data are accurately prepared and timely submitted to the Division as required by State law, the City should establish policies and procedures for the preparation, review, and submittal of FRS contributions and the associated data.

#### **Finding 58: Authorization of Overtime**

During the period October 2015 through April 2017, the City paid employees a total of \$162,830 for overtime worked. City regulations<sup>198</sup> provide for overtime payments to nonexempt employees<sup>199</sup> when the employees work more than 40 hours in a week, excluding paid and unpaid leave hours. Exempt employees<sup>200</sup> are prohibited from overtime payments. City regulations provide for nonexempt employees to receive overtime payments based on one and one-half times their hourly pay rate. In addition, employees are not to work overtime without prior written approval from the employee's department director and the City Manager's knowledge and written approval "depending upon the dollars available in the current budget."

To document the purpose, hours, and authorization for overtime, the City developed an Overtime Authorization Form, which includes three signature lines for the employee, department director, and the City Manager or Assistant City Manager. Although City regulations do not specifically provide for the Assistant City Manager to authorize overtime, the Overtime Authorization Form includes the Assistant City Manager on the City Manager signature line since, according to City personnel, the Assistant City Manager authorizes overtime when the City Manager is unavailable.

As part of our audit we requested for examination City records supporting 35 overtime payments totaling \$23,954 made to 32 employees during the period October 2015 through April 2017. Our discussions with City personnel and examination of the records provided disclosed that:

- Overtime Authorization Forms or other City records supporting 24 overtime payments (23 payments to 22 Police Department nonexempt employees and 1 payment to a Public Works Department nonexempt employee) totaling \$16,368 were not provided. According to City personnel, the Police Department had been historically noncompliant in documenting overtime authorizations; however, City personnel did not explain why the overtime payment to the Public Works Department employee was not authorized.
- Although applicable department directors and the City Manager or Assistant City Manager approved 7 overtime payments totaling \$4,082 for 5 nonexempt employees, the approval signatures were dated 1 to 24 days after the overtime was worked. City personnel were unable to explain why the overtime was not authorized in advance.
- Overtime payments totaling \$1,177 for the Police Chief and the Assistant Police Chief even though City regulations provide that exempt employees are not entitled to payment for overtime hours. City personnel did not explain why these employees received overtime pay.

<sup>198</sup> City of Opa-locka Personnel Administrative Regulations and Procedures: *Hours of Work/Overtime Pay* 1-131.

<sup>199</sup> Nonexempt City employees include, for example, police officers and code enforcement officers.

<sup>200</sup> Exempt City employees include, for example, the Police Chief, Assistant Police Chief, and City Manager.

Absent timely, documented overtime authorizations, there is an increased risk that overtime costs may be incurred contrary to City management's intent, resulting in costs that exceed budgeted salary amounts and causing City records to be insufficient in the event of a salary or leave dispute.

**Recommendation:** The City should comply with City regulations and ensure that all overtime is authorized in writing before the overtime is worked, overtime payments are supported by Overtime Authorization Forms, and only eligible nonexempt employees receive payments for overtime.

#### **Finding 59: Health Insurance Plan Dependent Eligibility**

City regulations<sup>201</sup> provide that group health insurance is available to full time employees and their eligible dependents. For the period October 2015 through April 2017, the City paid premium costs totaling \$1.5 million to provide health insurance coverage for City employees and their dependents. As of April 30, 2017, the City health insurance plan insured 129 employees and 222 dependents. Eligible dependents include the spouses and qualifying children of City employees. To ensure that only eligible dependents participate in the City health insurance plan, procedures to obtain and verify documentation supporting dependent eligibility are necessary.

To enroll in the City health insurance plan, employees are required to complete a benefit enrollment application that includes each dependent's name, social security number, and date of birth. The application is to be completed when an individual is hired, during open enrollment periods, or after a qualifying life event such as marriage, birth, or adoption. However, the City had not established policies and procedures requiring documented verification of evidence supporting initial dependent eligibility, such as birth and marriage certificates for child and spouse dependents, respectively, and periodic verifications of dependents' continued eligibility for plan services.

Although we requested, we were not provided records evidencing verifications of the eligibility of 47 of the 222 dependents enrolled in the City health insurance plan as of April 30, 2017. According to City personnel, when employees made changes outside the open enrollment periods due to a qualifying event, such as a birth or marriage, the contracted health insurance provider required documentation evidencing the dependent's eligibility. City personnel also indicated that the insurance provider requires that proof of a dependent's relation be submitted directly to the insurance provider to enroll the dependent. However, although we requested, we were not provided the City's contract with the insurance provider or other records evidencing that the insurance provider periodically requires City employees to provide documentation or otherwise certify that covered dependents remain eligible.

Without dependent eligibility verification procedures, there is an increased risk that the dependents receiving insurance benefits may not be eligible for those benefits. In addition, claims for ineligible dependents could result in increases in future health insurance premium costs paid by the City and City employees.

**Recommendation:** The City should require, upon enrollment of a dependent into the City health insurance plan, employees to provide applicable documentation, such as birth or marriage certificates, evidencing the dependent's eligibility. In addition, the City should establish policies

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<sup>201</sup> City of Opa-locka Personnel Administrative Regulations and Procedures: *Group Benefits 3-305*.

and procedures requiring documented verifications of the documentation supporting each dependent's eligibility at the time of enrollment, and periodically thereafter, to ensure participating dependents continue to be eligible for plan services.

#### **Finding 60: Medical Insurance Premium Payments**

Pursuant to State law,<sup>202</sup> the City provides group insurance for City employees consisting of health, life, dental, vision, and other supplemental coverages through seven insurance providers. According to City personnel, each provider submits an insurance premium invoice accompanied by a roster of the covered individuals (i.e., current and retired City officials and employees and their dependents). Prior to paying the invoice, HR Department personnel review the roster and make needed adjustments, such as reductions for separations from employment and voluntary decreases in desired coverage and additions for new hires and increases in desired coverage.

The City is required by State law<sup>203</sup> to process and pay provider invoices within 45 days of the date the invoice is received. Payments not made within this period are subject to interest at the rate of 1 percent per month on the unpaid balance.

During the period July 2015 through April 2017, the City made 138 payments to seven providers, totaling \$2.2 million, for medical insurance premiums. To determine whether the City timely remitted medical insurance premium payments, we examined City records supporting 32 payments totaling \$1.2 million and found that:

- 29 payments totaling \$1 million were made 12 to 125 days after the invoice due dates.
- The checks for 19 payments (including 16 payments that were paid after the invoice due dates) totaling \$455,649 cleared the bank 12 to 60 days after the check date, possibly due to the City holding the check before remitting.
- Because, as discussed in Finding 69, City accounts payable processing procedures did not include documentation of the dates invoices are received, City records did not evidence that the 32 payments were made within 45 days of the date the invoice was received, and the City cannot demonstrate compliance with State law.

In response to our inquiry, City personnel indicated that Finance Department employees have had to "prioritize" the payment of invoices due to the City's financial difficulties.

In addition, we found that one of the seven providers discontinued supplemental insurance coverage for the period December 2015 through March 2016 for approximately 190 individuals because the City did not promptly pay the provider.

Untimely payments to insurance providers may result in suspended coverage for insured individuals, subject the City to litigation for failing to provide required insurance coverages, and result in increased costs for interest payments and late charges.

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<sup>202</sup> Section 112.08(2)(a), Florida Statutes.

<sup>203</sup> Section 218.74(2) and (4), Florida Statutes.

**Recommendation: The City should take appropriate measures to ensure that insurance providers are promptly paid within 45 days of the date the invoice is received in accordance with State law.**

#### **Finding 61: Accumulated Annual Leave Limits**

Pursuant to City regulations,<sup>204</sup> employees earn annual leave based on the number of years of City employment and position status (e.g., exempt, non-exempt, or represented by a collective bargaining agreement). Upon separation from City employment, accumulated annual leave hours are paid to employees at their current hourly wage or salary. City regulations also provide employees with 1 or more years of continuous service the option to be paid for up to 50 percent of annual leave hours accrued in any given year. The City's collective bargaining agreement<sup>205</sup> and City regulations<sup>206</sup> establish limits for accumulated annual leave for employees covered by the collective bargaining agreement and other (exempt and nonexempt) City employees, respectively. Table 18 shows, by employee type, the maximum number of annual leave hours a City employee can accumulate.

**Table 18**  
**Annual Leave Limits (in Hours)**  
**By Employee Type**

	1-5 Years of Service	6-10 Years of Service	11-15 Years of Service	16-20 Years of Service	20+ Years of Service
Exempt	192	240	288	320	352
Non-exempt	144	180	216	240	264
Collective Bargaining	240	240	240	240	240

Source: City regulations and collective bargaining agreement.

To determine whether the City appropriately limited the amount of accumulated annual leave, we examined leave records for the 124 City employees who had accumulated annual leave as of September 2017. Our examination of these records and discussions with City personnel disclosed that 46 of the 124 employees had accumulated annual leave hours in excess of the allowed limits. Specifically:

- 20 collective bargaining employees had accumulated annual leave hours that exceeded the established 240-hour limit by 63 to 798 hours, or an average of 338 hours.
- 20 exempt employees had accumulated annual leave hours that exceeded established limits by 2 to 659 hours, or an average of 125 hours.
- 6 nonexempt employees had accumulated annual leave hours that exceeded limits by 1 to 511 hours, or an average of 38 hours.

The dollar value of all annual leave hours accumulated in excess of the limits for the 46 employees was \$248,345.

<sup>204</sup> City of Opa-locka Personnel Administrative Regulations and Procedures: *Annual Leave 3-301*.

<sup>205</sup> Contract Between City of Opa-locka and the American Federation of State, County and Municipal Employees (AFSCME), Council 79 Local 2068, also referred to as the City's collective bargaining agreement.

<sup>206</sup> City of Opa-locka Personnel Administrative Regulations and Procedures: *Annual Leave 3-301*.

The City had not established procedures to prevent paying employees, upon separation of employment or at other specified times, for accumulated annual leave hours in excess of the annual leave limits. As discussed in Finding 63, our examination of annual leave payouts to employees upon separation from City employment disclosed instances in which the hours paid exceeded applicable limits.

In response to our inquiries, City personnel indicated that annual leave balances are not limited in the employee leave records, allowing employees to accumulate excess hours in their annual leave accounts. City personnel also indicated that City practice is to pay employees for all time accumulated at the time of employment separation. HR Department personnel indicated that, at various times, recommendations to clarify the leave payout issue had been submitted to the respective City Managers; however, according to the HR Director, as of November 2018, a City Manager had not responded to the recommendations.

Excess accumulated annual leave balances maintained in employee annual leave accounts increase the risk that employees will use annual leave in excess of the established maximum limits or be overpaid for accumulated annual leave hours upon separation from City employment.

**Recommendation: The City should enhance procedures to appropriately limit accumulated annual leave balances maintained in employee leave accounts to the amounts established in City regulations and the collective bargaining agreement.**

#### **Finding 62: Employee Leave Payments**

City regulations<sup>207</sup> allow employees with 1 or more years of continuous service the option to be paid for up to 50 percent of annual leave hours accrued (earned) in any given year. According to City personnel, payouts for annual leave earned during a fiscal year are made at the conclusion of the fiscal year. City regulations provide that the employee must submit a written request to the HR Department to request an annual leave payment. City regulations prohibit employees from being paid for accrued sick leave or personal days.

To determine whether the City made employee leave payments as prescribed by City regulations, we examined City records supporting leave payments to employees during the period October 2015 through April 2017 and found that the City made leave payments totaling \$52,128 to six employees. Our examination of City records and discussions with City personnel regarding those leave payments disclosed that:

- Three annual leave payments ranging from \$2,389 to \$14,160 and totaling \$20,709 were not supported by a written request from the employee. Although we requested, we were not provided other City records evidencing authorization for the payments or an explanation for why the HR Department authorized the payments without employee written requests.
- Five annual leave payments (including the three above-noted payments and two other payments supported by written requests from the employees) included annual leave hours that exceeded the maximum 50 percent of employee-accrued hours in a given fiscal year, contrary to City regulations. Excess hours per employee ranged from 17 to 190 hours and totaled 383 hours, and the associated overpayments ranged from \$498 to \$11,301 and totaled \$15,958. Although we inquired, City personnel did not explain why these overpayments occurred.

<sup>207</sup> City of Opa-locka Personnel Administrative Regulations and Procedures: *Annual Leave 3-301*.

- Contrary to City regulations, three leave payments included accrued sick leave, ranging from \$205 to \$24,983 and totaling \$26,177, and one of the three leave payments also included \$126 for 8 hours of personal leave. City personnel indicated that one leave payment that included sick leave and the payment that included personal leave resulted because the employee was inadvertently paid as though the employee had accrued 222.50 hours of annual leave; however, the employee had actually only accrued 151.7 hours of annual leave resulting in a 70.8 hour annual leave shortage that required 62.8 sick leave hours and 8 personal leave hours be utilized for the payment. Explanations were not provided for why, contrary to City regulations, sick leave hours were paid to the other employees.

Failure to comply with City regulations regarding annual leave payments increases the risk that City personnel may be incorrectly compensated and for overpayments to occur without timely detection and resolution.

**Recommendation: The City should ensure that annual leave payments to employees are in accordance with City regulations. In addition, the City should take action to recover the leave overpayments totaling \$42,261.**

### **Finding 63: Terminal Leave Payouts**

Upon separation from City employment, employees who meet established years of service requirements are entitled to payment of accumulated leave at their current hourly wage or salary. Limits on the hours of leave that can be accumulated and paid upon separation from City employment are established by union contracts<sup>208</sup> for covered employees and by City regulations<sup>209</sup> for other employees.

During the period October 2015 through May 2017, the City paid \$233,760, \$84,961, and \$274 to 41 employees for unused annual, sick, and personal days, respectively, upon the employees' separation from City employment. Our examination of City records and discussions with City personnel regarding terminal leave payouts totaling \$155,197, \$56,599, and \$104, for annual, sick, and personal leave hours, respectively, to 29 former employees disclosed that 20 employees were not properly paid for accumulated leave. Specifically, we noted that:

- 3 employees were paid for annual and sick leave although they were not employed by the City long enough to qualify for leave payments, including:
  - 1 employee, employed less than a year, who was paid \$2,042 for 51.8 hours of annual leave and \$510 for 12.95 hours of sick leave, contrary to City regulations, which do not provide for payment of accumulated leave to employees with less than 1 year of service. According to City personnel, the City Manager directed the HR Department to pay the employee for the unused leave.
  - 2 Police Department employees, subject to a union contract,<sup>210</sup> with 2.25 and 2 years of service were paid \$1,074 and \$559, respectively, for accumulated sick leave, contrary to the contract, which provided only employees with 5 years or more of service were entitled to

<sup>208</sup> Agreement Between the City of Opa-locka and Miami-Dade County Police Benevolent Association (PBA) and the City's collective bargaining agreement with the AFSCME.

<sup>209</sup> City of Opa-locka Personnel Administrative Regulations and Procedures: *Annual Leave 3-301* and *Sick Leave 3-311*.

<sup>210</sup> Article 25, Section 6, Sick Leave, Agreement Between the City of Opa-locka and Miami-Dade County PBA. The agreement specifies for sick leave payouts that, accrued sick leave is payable at 25 percent for 5 through 10 years of service, 50 percent for 11 through 15 years of service, 75 percent for 16 through 19 years of services, and 100 percent for 20 years or more of service.



payment for accumulated sick leave. Although we inquired, City personnel did not explain why these employees were paid for accumulated sick leave.

- Pursuant to City regulations, 1 employee with 2.83 years of service was entitled to 25 percent of his accumulated sick leave and 100 percent of his accumulated annual leave. However, the City paid this employee for 100 percent of his 311 unused sick leave hours and nothing for his 192 unused hours of annual leave. As a result, the City overpaid this employee \$2,123 (overpaid \$11,999 accumulated sick leave and underpaid \$9,876 accumulated annual leave). In response to our inquiry, City personnel responded that a City Manager authorized full payment for accumulated sick leave to this employee but did not explain why the employee was paid for unused sick leave and not paid for unused annual leave.
- 5 employees, subject to the City's collective bargaining agreement,<sup>211</sup> were paid \$2,978 for sick leave hours contrary to the agreement, including:
  - 4 employees with more than 5 but less than 10 years of service paid for 50 percent of their accumulated sick leave, rather than for 25 percent as provided in the agreement. As a result, the 4 employees were overpaid a total of \$2,755 for accumulated sick leave.
  - 1 employee with 11.75 years of service paid for 75 percent of his accumulated sick leave, rather than for 50 percent as provided in the agreement. As a result, the employee was overpaid \$223 for accumulated sick leave.

Although we inquired, City personnel did not explain why the incorrect percentage rates were used to calculate the accumulated sick leave payouts to these 5 employees.

- 10 employees were paid for annual leave hours in excess of the limits allowed by City regulations<sup>212</sup> or the City's collective bargaining agreement.<sup>213</sup> Specifically:
  - 6 employees were paid a total of \$57,405 for 1,657.50 annual leave hours ranging from 4.1 to 917.37 hours in excess of the maximum hours allowed to be accrued according to City regulations.
  - 4 employees were paid \$5,671 for 301.91 annual leave hours ranging from 20.02 to 122.08 hours in excess of the maximum hours allowed to be accrued according to the City's collective bargaining agreement.

According to City personnel, the overpayments occurred because the City payroll system does not limit annual leave hours and City practice has been to pay employees for all annual leave accrued upon separation from employment.

- One employee was paid \$104 for 8 hours of personal leave even though the collective bargaining agreement<sup>214</sup> and City regulations did not provide for a personal leave payout upon separation from employment. Although we requested, we were not provided the authority for paying personal leave to the employee.

Failure to follow City regulations and the terms agreed upon in union contracts, as applicable, when calculating terminal leave payouts may result in over and under payments.

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<sup>211</sup> According to Article 28, Section 4, of the City's collective bargaining agreement with the AFSCME, for sick leave payouts, accrued sick leave is payable at 25 percent for 1 through 10 years of service, 50 percent for 11 through 15 years of service, 75 percent for 16 through 19 years of service, and 100 for 20 years or more of service.

<sup>212</sup> City of Opa-locka Personnel Administrative Regulations and Procedures: *Annual Leave 3-301*. The annual leave accumulation limits are shown in Table 18.

<sup>213</sup> According to Article 27, Section 4, of the City's collective bargaining agreement with the AFSCME, for annual leave payouts, accrued annual leave is payable for employees after 6 months of continuous service; however, no more than 30 days (or 240 hours) may be accrued.

<sup>214</sup> Article 27, Section 4, of the City's collective bargaining agreement with the AFSCME.



**Recommendation:** The City should ensure that terminal leave payouts are made in accordance with City regulations or the applicable union contract. In addition, the City should, as appropriate, seek to recover the net overpayments totaling \$72,466 from the applicable individuals.

#### **Finding 64: Consultant Agreements with Former Employees**

To reduce the appearance of a conflict of interest, the City has adopted ordinances<sup>215</sup> to provide that:

- No officer, official, or employee of the City, including every member of any board, commission or agency of the City, including those normally considered autonomous or semiautonomous, shall enter into any contract or transact any business with the City or any person or agency acting for the City.
- Prohibitions against contracting or transacting business with the City remain in effect for a period of 2 years after the officer, official, or employee has separated from City employment.
- Any contract or agreement entered into in violation of the ordinances shall render any transaction resulting from the same voidable.

Our examination of City records supporting the 9 contracts with City employees and the 3 contracts with former employees in effect during the period October 2015 through April 2017 disclosed that, contrary to City ordinances, the City entered into three contractual agreements with two former employees within 2 years of their separation from City employment. Specifically:

- On January 15, 2016, the City contracted with a former employee for consulting services to assist the City in its financial recovery process. The former employee was employed as Assistant to the City Manager from December 2014 to May 2015 and as Interim City Manager from August 2015 to September 2015. The January 2016 agreement was on a month-to-month basis, had a start date of January 15, 2016. The City paid \$14,000 to the former Interim City Manager pursuant to the agreement.
- On March 30, 2016, the City entered into a second agreement with the same former Interim City Manager for a term of 5 months with a start date of April 15, 2016. The agreement provided that the former Interim City Manager was to work with the Miami-Dade County Property Appraiser's Office and Value Adjustment Board on issues that impact property values and property tax exemptions and adjustments, and to assist the City in its financial recovery efforts. The City paid \$25,667, including \$667 for reimbursable expenses, to the former Interim City Manager pursuant to the agreement.
- In January 15, 2016, the City contracted, at an hourly rate of \$20, for consulting services with a former Utility Billing Specialist employed from March 1, 2013, through January 1, 2016. The agreement was on a month-to-month basis, had no specified beginning or ending dates, and could be terminated at will and by either party without cause. The contract provided that the former Utility Billing Specialist would assist with processing monthly utility billings and resolving billing issues associated with water meter replacements. Pursuant to the contract, the City paid a total of \$7,680 from February 2016 to October 2016 for services received during the period January 2016 through September 2016.

Although we inquired, City personnel did not explain why the City contracted with the former Interim City Manager and former Utility Billing Specialist within 2 years of their separation from City employment. Contracting with former employees and officials is contrary to City ordinances and

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<sup>215</sup> City of Opa-locka Ordinance Nos. 2.09(a) and (c), *Applicability and Definitions*, and 2.10(a), *Transacting business with City; appearing before City Commission, agencies and/or boards*.

increases the appearance of a conflict of interest. Finding 75 includes further discussion about the two consulting contracts with the former Interim City Manager.

**Recommendation: City personnel should comply with established ordinances and not contract or transact business with former City officers, officials, or employees within 2 years of their separation from City employment.**

#### **Finding 65: Employee Necessity Study**

At its January 27, 2016, meeting, the City Commission approved a resolution<sup>216</sup> directing the City Manager to conduct a necessity study to determine the employee positions, if any, that could be revised to promote better functionality of the City. The resolution provided for the study to include all current budgeted employee positions and for a report of the findings to be provided to the Commission within 60 days.

Our examination of City records and discussions with City personnel disclosed that, contrary to the resolution, a report of the necessity study was not completed and provided to the City Commission. In response to our inquiries, City personnel stated that they had no record of a necessity study and were unaware that a study had been completed. However, according to City personnel, the City Manager met individually with the City department directors to evaluate certain positions for elimination and to reassign to other positions the essential responsibilities of the eliminated positions. Additionally, City personnel indicated that the Finance Director performed an analysis to determine the salary and benefits savings related to the eliminated positions. Notwithstanding the assertions made by City personnel, although we requested, we were not provided records evidencing such meetings between the City Manager and department directors or a cost analysis performed by the Finance Director.

The City Charter<sup>217</sup> provides that the City Manager is responsible for appointing, hiring, promoting, supervising, and removing (laying off or firing) all City employees, except for the City Attorney, City Clerk, and the employees in those two offices. According to City records, during the period of January 27, 2016, through April 30, 2017, the City removed 12 full-time employees due to the City's financial difficulties. Employees laid off included, for example, a utility billing specialist, risk manager, budget administrator, grant writer, and code enforcement officer. Although listings of vacant unfunded positions were presented to the City Commission as part of the annual budget process, minutes of the City Commission meetings did not indicate whether the City Commission was informed about the personnel actions taken by the City Manager in relation to the City's financial difficulties. Therefore, it was not apparent that the City Commission had the opportunity to discuss and approve or disapprove the actions.

Removing employees without City Commission consideration of the results of a necessity study may have been contrary to the City Commission's intent expressed by the resolution. In addition, absent a completed necessity study that documented consideration of potential negative impacts on the delivery of City services because of proposed staff reductions or position revisions and addressed strategies to mitigate such impacts, the City Commission has limited assurance that the staff reductions or position revisions promoted better City functionality.

<sup>216</sup> City of Opa-locka Resolution No. 16-9145

<sup>217</sup> Section 3.3, City of Opa-locka Charter.

**Recommendation:** For future considerations of staff reductions, the City Manager should follow City Commission directives or otherwise collaborate with the City Commission. In addition, future staff reductions should be supported by documented consideration of the potential negative effects of such reductions on the delivery of City services and City functionality and strategies to mitigate such effects.

## TRAVEL

State law<sup>218</sup> provides travel guidelines for public officers, employees, and other authorized persons, and establishes requirements for travel voucher forms and mileage and subsistence rates. Notwithstanding these guidelines and requirements, pursuant to State law,<sup>219</sup> the governing body of a municipality may provide for a per diem and travel expense policy for its travelers that varies from the provisions in State law. Pursuant to City ordinances,<sup>220</sup> City officials and employees traveling on City business are subject to the provisions of State law except with respect to subsistence allowance rates, which are established by City ordinances.<sup>221</sup>

### **Finding 66: Travel Expenditures**

Effective policies and procedures for the administration of travel advances, travel reimbursements, and other travel-related expenditures promote compliance with travel guidelines and requirements and, among other things, require supervisory approval, documented justification for travel, travel by the most economical means possible, and maintenance of documentation supporting the travel expenditures incurred. Such policies and procedures provide travelers and those responsible for approving travel and related expenditures, a clear understanding of their responsibilities. As of February 2019, the City had not established policies and procedures regarding the administration of travel advances, travel reimbursements, and other travel-related expenditures.

During the period October 2015 through March 2017, the City recorded 127 travel expenditures totaling \$42,684, of which \$19,712 was paid by City credit cards directly to the vendor, and \$22,972 was paid by check to the traveler for travel advances and reimbursements. Our examination of City records and discussions with City personnel associated with 102 selected travel expenditures totaling \$20,462 disclosed that controls over travel expenditures could be enhanced. Specifically:

- Travelers, such as City officials or employees, were typically required to prepare travel vouchers to support requests for travel advances or reimbursements of expenses associated with City-approved travel. However, contrary to State law,<sup>222</sup> 9 expenditures totaling \$1,714 were not properly supported, as the travel vouchers for 7 expenditures totaling \$900 were not signed by the travelers to certify that the expenditures were incurred and necessary in the performance of

<sup>218</sup> Section 112.061, Florida Statutes.

<sup>219</sup> Section 166.021(9)(b), Florida Statutes.

<sup>220</sup> Sections 2-26 and 2-31, City of Opa-locka Code of Ordinances.

<sup>221</sup> Section 2-31, City of Opa-locka Code of Ordinances, establishes subsistence allowance rates of \$10 for breakfast, \$10 for lunch, and \$30 for dinner.

<sup>222</sup> Section 112.061(10), Florida Statutes, requires that any claim authorized or required to be made under any provision of Section 112.061, Florida Statutes, shall contain a statement that the expenses were actually incurred by the traveler as necessary travel expenses in the performance of official duties and shall be verified by a written declaration that it is true and correct as to every material matter.

official City duties and 2 expenditures totaling \$814 were not supported by travel vouchers or other records evidencing the required certifications.

- Pursuant to State law,<sup>223</sup> City officials and employees traveling on City business are entitled to be paid per diem or subsistence allowances, as appropriate. For Class A or Class B travel,<sup>224</sup> travelers are entitled to \$80 per diem or, if actual expenses exceed \$80, subsistence allowances plus actual lodging expenses whereas, for Class C travel,<sup>225</sup> travelers are entitled to subsistence allowances. Amounts travelers are to be paid for per diem or subsistence allowances must be calculated in the manner prescribed by State law<sup>226</sup> based on the time travel begins (departure time) and ends (return time). Pursuant to City ordinances,<sup>227</sup> travelers are to be paid \$10 for breakfast, \$10 for lunch, and \$30 for dinner rather than the subsistence allowance rates provided for in State law.<sup>228</sup>

We found that 9 travel expenditures included payments totaling \$1,550 to travelers. Although identified as payments for per diem, the amount paid for each day with travel was \$50, which is equal to the total daily subsistence allowances. We also found that neither the travel vouchers nor other supporting records identified the time of departure or return, and City travel voucher forms did not include a place for travelers to note this information. Without specifying travel departure and return times and travel expenditures based on those times and allowance amounts, City records did not demonstrate that the travelers were paid in accordance with City ordinances or for the classes of travel specified in State law.

- We found that 23 expenditures totaling \$9,803 included travel to a conference or convention. State law<sup>229</sup> provides that no one, whether traveling out-of-State or in-State, shall be reimbursed for any meal or lodging included in a convention or conference registration fee; however, we found that:
  - For 16 expenditures totaling \$5,825, supporting documentation did not include copies of conference or convention agenda or programs, and the agenda or programs were not otherwise available for viewing on the Internet. In the absence of an agenda or program, City records did not demonstrate that per diem amounts paid to the travelers were reduced as required by State law for any meals or lodging included in the registration fee.
  - For the other 7 conference or convention-related travel expenditures totaling \$3,978, the agenda or programs were available; however, contrary to State law, the City did not reduce the amount paid to the traveler for meals included in the registration fee and, consequently, overpaid \$390 to the travelers.
- State law<sup>230</sup> authorizes the City to make advance payments to travelers to cover anticipated travel expenses. We found that 9 travel expenditures totaling \$3,728 represented advances to travelers, including \$1,550 for per diem and \$2,178 for lodging, airfare, registration fees, and other travel expenses. For these advances, the traveler prepared a travel voucher showing anticipated travel expenses. Our examination of the travel vouchers and other supporting records disclosed that for all 9 travel expenditures for advances, the traveler was not required to prepare a travel voucher

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<sup>223</sup> Sections 112.061(5) and (6), Florida Statutes.

<sup>224</sup> Class A travel is defined by Section 112.061(2)(k), Florida Statutes, as continuous travel of 24 hours or more away from official headquarters. Class B travel is defined by Section 112.061(2)(l), Florida Statutes, as continuous travel of less than 24 hours which involves overnight absence from official headquarters.

<sup>225</sup> Class C travel is defined by Section 112.061(2)(m), Florida Statutes, as travel for short or day trips where the traveler is not away from his or her official headquarters overnight.

<sup>226</sup> Section 112.061(5), Florida Statutes.

<sup>227</sup> Section 2-31, City of Opa-locka Code of Ordinances.

<sup>228</sup> Section 112.061(6)(b), Florida Statutes, provides subsistence allowances of \$6 for breakfast, \$11 for lunch, and \$19 for dinner.

<sup>229</sup> Section 112.061(6)(c), Florida Statutes.

<sup>230</sup> Section 112.061(12), Florida Statutes.

after the traveler's return date to document the actual expenses incurred by the traveler and that the advances did not exceed the actual expenses. For example:

- Although for 7 advances totaling \$900, the travel voucher showing anticipated travel expenses indicated that the travel was for attendance at a conference, training session, or other event requiring registration, City records did not evidence the basis for the anticipated expenses or that the traveler actually registered for and attended the conference, training session, or event.
- For 1 advance, the travel voucher showed anticipated travel expenses of \$2,286 for a conference. The travel voucher listed \$300 for per diem and \$1,986 for anticipated expenses, including \$1,245 for lodging, \$393 for airfare, \$250 for a conference registration fee, \$50 for baggage fees, and \$48 for a shuttle (presumably for transportation between the airport and the hotel where the conference was to be held). Although supporting records included several screenshots of Web pages showing the prices for the anticipated travel expenses, such records did not evidence that the traveler actually registered for and attended the conference.

In addition, for 59 of the 102 travel expenditures, travel vouchers and other supporting records did not clearly evidence the public purpose served by the travel expenditures. These 59 travel expenditures totaled \$7,194 and are included in the expenditures totaling \$51,405 discussed in Finding 70 as lacking a documented public purpose.

Although we requested, City personnel did not provide us explanations for the deficiencies disclosed by our examination of City records supporting travel expenditures. However, the lack of detailed policies and procedures for the administration of travel advances, travel reimbursements, and other travel-related expenditures likely contributed to the deficiencies. The absence of established policies and procedures and adequate controls over travel expenditures increases the risk of unauthorized or unnecessary travel expenditures.

**Recommendation: The City should establish policies and procedures that provide for the effective administration of travel advances, travel reimbursements, and other travel-related expenditures. The City should also enhance controls over travel expenditures to ensure that:**

- **Travel vouchers and other supporting documentation clearly evidence the actual travel expenses incurred and the public purpose served for all travel expenditures.**
- **All travelers sign travel vouchers certifying that the expenses were actually incurred by the traveler as necessary travel expenses in the performance of official City duties.**
- **All travel vouchers indicate the traveler's time of departure and return, and travelers are paid per diem or subsistence allowances based on time of departure and return in accordance with State law and City ordinances.**
- **Copies of conference or convention agenda or programs are retained for such travel, and per diem or subsistence allowances paid to the traveler are reduced for any meals included in the conference or convention registration fee.**
- **Travel advance payments are compared to the actual travel expenses shown on travel vouchers prepared after the traveler's return date to verify that the advance payments did not exceed the actual travel expenses. If travel advance payments exceed the actual travel expenses incurred, the City should seek to recover the excess amount from the traveler.**

Included in the City Commission's stewardship and fiduciary responsibilities associated with managing public resources is the responsibility to ensure that City controls provide for the effective and efficient use of resources in accordance with applicable laws, contracts, grant agreements, and City policies and procedures. To promote responsible spending, improved accountability, and transparency, it is important that City records demonstrate that public funds are properly utilized in fulfilling the City's legally established responsibilities.

#### **Finding 67: Procurement Ordinances**

The City is responsible for establishing controls to provide assurance that the process for acquiring goods or services is effective and consistently administered, and procurements are made in an equitable and economic manner. City ordinances establish procurement requirements for City employees responsible for initiating or approving the acquisition of goods and services; however, such requirements could be improved. Specifically, we noted:

- City ordinances<sup>231</sup> require competitive sealed bids or requests for proposals (RFPs) for purchases of commodities exceeding \$5,000 and contractual services of \$3,500 or more, with some exceptions. The exceptions generally seemed reasonable, such as emergency purchases and sole source procurements. However, for commodities, City ordinances<sup>232</sup> provide that "purchasing agreements, contracts, and maximum price regulations executed by the city commission are excepted from competitive bid requirements." This provision, which applies regardless of the dollar amount of the purchase or circumstances, allows the City Commission to circumvent the competitive procurement process and could result in commodities procurements that are not at the lowest price consistent with desired quality.
- City ordinances<sup>233</sup> authorize the City Manager to make purchases not exceeding \$25,000 by "negotiations and informal bids." However, the ordinances lacked clarity regarding how to comply with this provision. Specifically:
  - Although not explicitly stated, the provision implies that City Commission approval is required for purchases exceeding \$25,000. Explicitly stating in a City ordinance that such approval is required would provide clarification and may have prevented the large expenditures discussed in Finding 68 that occurred without City Commission approval.
  - The provision provides an exemption to the formal bid or RFP requirements prescribed by City ordinances<sup>234</sup> for purchases of commodities in amounts exceeding \$5,000 up to \$25,000 and procurements of contractual services in amounts of \$3,500 up to \$25,000. However, those City ordinances do not mention this exemption or otherwise refer to the provision. Explicitly identifying this exemption in the respective City ordinances pertaining to the purchase of commodities and services would provide additional clarity for interpreting and complying with the ordinances.
  - The provision authorizes the City Manager to purchase commodities or services in amounts not exceeding \$25,000 by negotiations and informal bids. However, the provision does not

<sup>231</sup> Sections 2-319(a) and 320, City of Opa-locka Code of Ordinances.

<sup>232</sup> Section 2-319(a)(2), City of Opa-locka Code of Ordinances.

<sup>233</sup> Section 2-316(8), City of Opa-locka Code of Ordinances.

<sup>234</sup> Sections 2-319(a) and 320, City of Opa-locka Code of Ordinances.



specify the procedures to apply in conducting negotiations and obtaining informal bids, or how negotiations relate to informal bids. For example, the provision does not specify:

- The manner in which the informal bids may be solicited (e.g., telephone, e-mail, or Web site posting) or the minimum number of informal bids to be obtained.
  - Whether the informal bids should be used as the basis for negotiations, specifically, whether the informal bids should be ranked and negotiations started with the highest-ranked firm.
  - How negotiation and informal bid activities should be documented.
- City ordinances<sup>235</sup> require the City to establish a search committee to solicit, screen, and recommend, when applicable, candidates for the City Attorney position and the City contracts with a law firm to act as the City Attorney. In conducting its search for candidates, the committee is required to use, at a minimum, the qualifications for the position contained in Article III of the City Charter as criteria for evaluating each candidate. However, that article does not prescribe any qualifications for the City Attorney position, nor are such qualifications mentioned elsewhere in the City Charter or City ordinances. A similar issue exists regarding incorrect references to Articles I and V of the City Charter regarding qualifications for the City Manager and City Clerk positions, although those positions are filled by City employees.

City personnel indicated that criteria for evaluating candidates for these positions was, at one time, included in Articles I, III, and V of the City Charter. While the City may establish qualifications for these positions by other means, referring to City Charter minimum qualifications that do not exist is misleading and confusing to City officials and others seeking to determine the qualifications for these positions.

- City ordinances<sup>236</sup> authorize the City Manager or a designated representative to purchase insurance by negotiation when in the City's best interest. However, this provision is contrary to State law,<sup>237</sup> which requires the City to enter into contracts with insurance companies or professional administrators to provide health insurance and to award such contracts pursuant to advertised competitive bids. As discussed in Finding 79, the City also did not competitively procure other types of insurance.
- Pursuant to State law,<sup>238</sup> the City must provide for an annual financial audit and establish an audit committee to assist in the selection of the financial auditor. Although City ordinances<sup>239</sup> require the City to provide for an annual audit by a "certified public accountant or firm of such accountants," the ordinances do not reference the relevant State law or the need to establish an audit committee. As discussed in Finding 77, the City did not establish or use an audit committee to select auditors to conduct recent audits of its financial records.

These City ordinances were unclear or inconsistent with existing State law or City Charter or other City ordinance provisions most likely because of inadequate consideration of those provisions at the time the ordinances were enacted. These deficiencies in the City ordinances increase the risk that procurements of good and services may not be made in accordance with State law, City ordinances, good business practices, or City Commission intent, and that commodities or services may not be obtained at the lowest cost consistent with desired quality.

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<sup>235</sup> Sections 2-8.4(a) and (d), City of Opa-locka Code of Ordinances.

<sup>236</sup> Section 2-319(a)(4), City of Opa-locka Code of Ordinances.

<sup>237</sup> Section 112.08(2)(a), Florida Statutes.

<sup>238</sup> Sections 218.39 and 218.391, Florida Statutes.

<sup>239</sup> Section 4.10, City of Opa-locka Code of Ordinances.



**Recommendation:** We recommend that City ordinances be amended to clarify the City Commission intent for the ordinance requirements and to help City personnel and others understand and comply with requirements in the City ordinances. Specifically:

- City ordinances<sup>240</sup> should be amended to require that the City Commission employ, except in specified circumstances such as emergency purchases or sole source procurements, a competitive process for purchases of commodities that exceed \$5,000 and for procurements of contractual services of \$3,500 or more.
- City ordinances<sup>241</sup> should be amended to:
  - Explicitly require City Commission approval for purchases exceeding \$25,000.
  - Specify how the City Manager is to use negotiations and informal bids for purchases not exceeding \$25,000. For example, specific procedures should address:
    - The manner in which the informal bids may be solicited and the minimum number of informal bids to be obtained.
    - Whether the informal bids should be used as the basis for the negotiations, specifically, whether the informal bids should be ranked and negotiations started with the highest-ranked firm.
    - Appropriate documentation of the negotiation and informal bid activities. Explicitly identify and explain the basis for exceptions to the required competitive bid process.
- City ordinances<sup>242</sup> should be amended to correctly reference where the qualifications for the City Manager, City Attorney, and City Clerk positions are described. Alternatively, Articles I, III, and V, respectively, of the City Charter could be amended to prescribe the qualifications for those positions.
- City ordinances<sup>243</sup> should be amended to require the City to comply with State law when procuring health insurance by advertising and soliciting competitive bids for insurance company and professional administrator services and awarding contracts based on such bids.
- City ordinances<sup>244</sup> should be amended to reference the State law requiring the annual financial audit and to require the establishment and use of an audit committee for selecting the financial auditor as prescribed by State law.

#### **Finding 68: Disbursement Processing**

The City is responsible for establishing controls to provide assurance that the processes used for approving purchases and processing payments for goods and services are effective and consistently administered. Our examination of City records and discussions with City personnel disclosed that the City disbursement processing controls could be improved. Specifically:

- According to City personnel, a Finance Director developed the *Finance Department Policies and Procedures Manual (Manual)* dated September 29, 1999, and, as of September 2018, the *Manual*

<sup>240</sup> Section 2-319(a)(2), City of Opa-locka Code of Ordinances.

<sup>241</sup> Section 2-316(8), City of Opa-locka Code of Ordinances.

<sup>242</sup> Section 2-8.4(d), City of Opa-locka Code of Ordinances.

<sup>243</sup> Section 2-319(a)(4), City of Opa-locka Code of Ordinances.

<sup>244</sup> Section 4.10, City of Opa-locka Code of Ordinances.

was still used by City personnel. While the *Manual* includes comprehensive disbursement processing procedures, the *Manual* has not been appropriately updated and includes several obsolete references. For example:

- The *Manual* specified that purchase orders generated based on purchase requisitions are to be sent to the Finance Director and City Manager for approval. However, as noted below, the Finance Director and City Manager's preapproval for purchases is documented in the City accounting system's purchase requisition module.
- The *Manual* refers to a check-writing machine no longer in use.

In response to our inquiry, the Finance Director indicated that he intends to request example procedures from other governmental entities for use in developing procedures for the City.

- The City vendor file is an electronic file of vendors authorized to do business with the City and includes information such as the vendor name, number, and address and the last vendor activity date. Our review of the vendor file as of September 30, 2017, disclosed that:
  - 438 vendor names were listed in the vendor file more than once with each duplicate listing assigned a different vendor number, including 1 vendor listed 41 times and 15 other vendors listed at least 10 times each.
  - The address fields for 344 of the 8,883 vendor numbers included in the vendor file were either blank or incomplete and the only address listed for another 796 vendor numbers was a post office box.

City personnel indicated that they were unsure how or why each of these deficiencies occurred but stated that some of the duplicate entries might have been initiated because multiple location addresses were needed for a national vendor. It may be appropriate for the City vendor file to include more than one listing for vendors with multiple locations, and some vendors may use a post office box because the post office does not deliver to the vendor's physical address. However, limiting unnecessary vendor listings, ensuring vendor files have complete and accurate vendor mailing addresses, and requiring vendors to provide a physical address unless there is a demonstrated need to use a post office box reduces the risk of unauthorized disbursements, including disbursements to fictitious vendors.

- To ensure purchases are consistent with management's expectations and in amounts that are within available resources, effective procurement processes include preapproval of purchases of goods or services exceeding an established dollar amount. According to City personnel, purchase preapprovals are electronically documented through the City accounting system's purchase requisition module. Our examination of City records and discussions with City personnel disclosed that the City's processes for obtaining required preapprovals for purchases needed improvement. Specifically:
  - The City had not established, through the purchase requisition module or otherwise, a mechanism to ensure that purchases exceeding \$25,000 were provided to the City Commission for approval.<sup>245</sup>
  - The purchase requisition module provided for different preapprovals depending on the department and amount of requisitioned goods or services. The City Manager's preapproval was required for all purchases, but the requirements for the Finance Director's preapproval were not consistent for all City departments. For most departments, the Finance Director's approval was required only for purchases exceeding \$5,000; however, for other departments (e.g., Police and Water Services), the Finance Director's preapproval was required for all purchases. However, we were not provided records (e.g., City ordinance or resolution)

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<sup>245</sup> Pursuant to Section 2-316(8), City of Opa-locka Code of Ordinances, \$25,000 is the maximum amount the City Manager, or other City employee, is authorized to approve.

evidencing the City Commission's authorization to establish the departmental preapproval thresholds specified in the purchase requisition module.

- As part of our examination of general expenditures and contractual service payments for the period October 2015 through March 2017, we examined City records (voucher packages and preapprovals recorded in the purchase requisition module) to determine whether required preapprovals were obtained for 118 payments for purchases of goods and services totaling \$3,890,618. We found that, for 16 payments totaling \$330,710, City records did not evidence all required preapprovals through the purchase requisition module as:
  - For 11 payments ranging from \$715 to \$9,726 and totaling \$42,683 for leased vehicles, promotional charges, consultant services, and security services, there was no evidence of preapproval in the purchase requisition module or voucher package. All 11 purchases required City Manager preapproval and 4 required Finance Director preapproval.
  - For 2 payments totaling \$44,381 (\$33,480 for security services and \$10,901 for janitorial services), the purchase requisition module evidenced preapproval for \$8,768, leaving \$35,613 without evidence of preapproval in the purchase requisition module or the voucher package. Additionally, there was no evidence of City Commission approval for the \$33,480 payment.
  - For a \$198,597 payment for Miami-Dade County sewer charges, the Finance Director at that time initialed a printed copy of the electronically generated purchase order; however, there was no evidence of any preapprovals in the purchase requisition module. Also, there was no evidence of City Commission approval for the payment.
  - Although the City Manager at that time manually signed a printed copy of the electronically generated purchase order for a \$20,504 payment for maintenance services, there was no evidence of any preapprovals in the requisition module.
  - For a \$24,545 payment for 132 water meters, including \$125 for freight charges, required preapprovals were documented in the purchase requisition module for 100 water meters at a total cost of \$18,500; however, required preapprovals were not documented for the additional 32 water meters received from the vendor at an additional cost of \$5,920.
- Additionally, during our examination of 50 selected payments totaling \$2.7 million for non-grant restricted resources expenditures for the period October 2015 through March 2017, we also noted 4 payments totaling \$10,731 for which City records did not evidence all the required preapprovals in the purchase requisition module. The 4 payments were for motor vehicle lease payments, maintenance, and tile installation.

In response to our inquiry as to how checks were generated without all the required preapprovals in the purchase requisition module, City personnel indicated that certain Finance Department personnel, who do not have the ability to create vendors or generate checks, have the ability to bypass all required preapprovals through the City accounting system's purchase order module. City personnel further stated that this preapproval bypass only occurred when a check needed to be printed quickly to facilitate City business and the City Manager or Finance Director, as applicable, was not available to input their preapprovals into the purchase requisition module. However, City records did not evidence that these circumstances existed for the instances we noted.

- The Florida Attorney General has opined on numerous occasions<sup>246</sup> that documentation of an expenditure in sufficient detail to establish the authorized public purpose served, and how that particular expenditure serves to further the identified public purpose, should be present when the

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<sup>246</sup> Florida Attorney General Opinion Nos. 68-12, 75-07, 79-14, and 94-89.

voucher is presented for payment of funds. The Attorney General has also opined that, unless such documentation is present, the request for payment should be denied.

As part of our audit procedures, we examined City records supporting 70 selected general expenditures payments totaling \$409,443 to evaluate whether the payments were supported by documentation (e.g., invoices and receipts) in sufficient detail to determine the propriety of the expenditures. We found that 9 payments totaling \$4,190 were not adequately supported as:

- 5 payments of \$200 each for monthly expense reimbursement payments to the Mayor or City Commissioners were not supported by documentation evidencing the specific nature of the expenses incurred (as discussed in Finding 50).
- 4 payments ranging from \$300 to \$1,800 and totaling \$3,190 were not supported by invoices or receipts. For example, the \$1,800 payment to a City employee was to remedy an information technology security issue; however, the voucher package did not include documentation evidencing how the employee used the payment to remedy the security issue.
- According to City personnel, an accounts payable clerk, after preparing the voucher package consisting of invoices and other supporting expenditure documentation, initiates a check in the accounting system, which assigns the next sequential check number to a blank, unnumbered check.

Our analysis of the 2,232 check numbers used during the period October 2015 through March 2017 disclosed 6 instances, as shown in Table 19, in which the same check number was used twice, although the payees and amounts were different.

**Table 19**  
**Duplicate Check Numbers**

Instance	Original Check Amount	Original Check Date	Duplicate Check Amount	Duplicate Check Date
1	\$ 188.00	September 8, 2016	\$ 30,272.25	September 27, 2016
2	285.07	September 25, 2015	320.03	December 23, 2016
3	69.98	October 2, 2015	145,819.80	January 20, 2017
4	1,000.00	October 2, 2015	186,158.68	January 25, 2017
5	419.20	October 2, 2015	850.00	January 26, 2017
6	500.00	October 2, 2015	46,975.00	January 26, 2017

Source: City records.

In response to our inquiry, City personnel indicated that, on occasion, an accounts payable clerk inadvertently reset the check number sequencing for the accounting system, resulting in the assignment of duplicate check numbers. City personnel also indicated that the accounting system lacks controls to identify and prevent the assignment of duplicate check numbers. Use of duplicate check numbers can frustrate the ability to account for cash disbursements during the bank account reconciliation process.

One check for \$46,975 shown in Table 19 related to a payment included in our examination of contractual service payments. Documentation in the voucher package for this payment included a \$45,000 invoice from a consultant for preparation of a "Sanitary Sewer Evaluation Phase III report" for the City. However, as discussed in Finding 75, City records did not evidence the propriety of the \$45,000 expenditure.

In addition, to determine whether sufficient documentation evidencing the propriety of the expenditures was available for the other five checks shown in Table 19, we requested City personnel to provide documentation, including voucher packages, for our examination. Our

examination disclosed that supporting documentation was available to support instances 1 and 2 shown in Table 19; however, we noted the following regarding instances 3, 4, and 5:

- City accounting records indicated that the \$145,819.80 check payable to a solid waste collection and disposal services vendor had been voided, and City personnel did not provide supporting documentation for the check; however, City bank statements showed that the check cleared the bank 4 days after the check date. The deficiencies in the City's bank account reconciliation procedures discussed in Finding 22 may have contributed to City personnel not detecting this discrepancy between the bank account and accounting records.
- Documentation provided to support the \$186,158.68 check payable to an engineering company was not sufficient to evidence the propriety of the expenditure. Documentation in the voucher package included numerous invoices; however, one of the invoices was illegible, there were duplicate copies of three invoices, and the legible non-duplicative invoices only totaled \$143,989.44, or \$42,169.24 less than the check amount.
- City personnel were unable to locate supporting documentation for the \$850 check payable to a bank. City bank statements for several months following the check date did not show the check clearing the bank.
- City personnel indicated that the accounts payable clerk mails the printed checks to the vendors unless the clerk is notified that someone will be picking up the check (i.e., either the vendor, the vendor's representative, or another City employee who will deliver the check to the vendor). City personnel further indicated that, when checks are not mailed, the person picking up the check is asked to sign a copy of the check and, if the accounts payable clerk does not personally know the individual, the clerk makes a copy of that individual's driver's license, which is retained as part of the expenditure documentation.

To determine whether checks were distributed in accordance with the described procedures, we examined supporting documentation for 118 selected payments totaling \$3,890,618 included in our examination of general expenditures and contractual service payments. Our examination disclosed that 52 of the 118 checks were not mailed directly to the vendors. Of these 52 checks:

- 37 checks totaling \$1,639,627 were given to a City employee to deliver to the vendor.
- 12 checks totaling \$380,606 were given to the vendor or the vendor's representative.
- Expenditure documentation for 3 checks<sup>247</sup> totaling \$105,904 did not include the name of the individual who picked up the check or a copy of the individual's driver's license. Generally, checks should be directly mailed to vendors to provide additional assurance that checks are for legitimate purposes and the funds will not be misappropriated.

The lack of up-to-date disbursement processing procedures and employee turnover in the Finance Department, which resulted in the use of temporary accounts payable clerks, contributed to the disbursement processing deficiencies.

Absent updated disbursement processing procedures, an adequately maintained record of authorized vendors, required preapprovals for all expenditures, sufficient expenditure documentation, appropriate check preparation and distribution procedures, and an effective means to prevent the use of duplicate check numbers, there is an increased risk that errors or fraud could occur without timely detection.

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<sup>247</sup> One check was for \$46,975 and is included in Table 19 as a check with a duplicate check number and another check for \$52,689 was for payment of services for which documentation in the voucher package was not sufficient to evidence that the vendor actually provided the services billed (as discussed in Finding 75).

**Recommendation:** The City should update the *Finance Department Policies and Procedures Manual* to reflect current processes and enhance its disbursement processing procedures by:

- Ensuring the validity and completeness of vendor file information by removing inaccurate, duplicative, or obsolete information; ensuring future vendor entries include pertinent, complete, and nonduplicative information; and providing for periodic supervisory reviews of the vendors included in the vendor file.
- Requiring documented preapprovals and adequate supporting documentation for all expenditures.
- Modifying the City accounting system or taking other measures to prevent the use of duplicate check numbers.
- Requiring that checks be mailed directly to vendors.

#### **Finding 69: Untimely Payments**

In accordance with the Local Government Prompt Payment Act (Act),<sup>248</sup> the City must pay invoices within a specified number of days after the invoice is received. Specifically:

- Construction service payment requests or invoices requiring an agent's approval must be paid within 25 business days of the date the payment request or invoice is received by the agent.<sup>249</sup>
- Construction service payment requests or invoices not requiring an agent's approval must be paid within 20 business days of the date the invoice is received by the City.<sup>250</sup>
- Invoices for the purchase of goods or services other than construction services must be paid within 45 days of the date the invoice is received.<sup>251</sup>

When payments are not timely made, the Act specifies that construction service payments are subject to interest at the rate of 1 percent per month or the rate specified by contract, whichever is greater, and that payments for other than construction services are subject to interest at the rate of 1 percent per month on the unpaid balance.<sup>252</sup>

Our examination of City records and discussions with City personnel disclosed that the City disbursement processing procedures were not adequate to ensure vendors were promptly paid. Specifically:

- According to City personnel, there was no established method, such as use of a date stamp, to document the date an invoice was received. However, some vendor invoices were delivered to the City via e-mail, in which case the e-mail provided a record of the invoice receipt date.
- The City did not always document the date an invoice was received. As part of our examinations of City records supporting general expenditures and contractual service payments totaling \$3.9 million for the period October 2015 through March 2017, we examined City records to determine whether 152 invoices supporting 76 payments<sup>253</sup> totaling \$3.7 million were timely paid. We found that, based on the invoice receipt date, 7 of the invoices were timely paid. However,

<sup>248</sup> Chapter 218, Part VII, Florida Statutes.

<sup>249</sup> Section 218.735(1)(a), Florida Statutes.

<sup>250</sup> Section 218.735(1)(b), Florida Statutes.

<sup>251</sup> Section 218.74(2), Florida Statutes.

<sup>252</sup> Sections 218.735(7) and 218.74(4), Florida Statutes.

<sup>253</sup> Some payments, such as payments to employees and petty cash reimbursements, were not required to be supported by invoices.

City records did not indicate the date the other 145 invoices were received. Without a documented invoice receipt date, the City cannot demonstrate compliance with the Act.

To evaluate the timeliness of the payments for the 145 invoices without documented receipt dates, we calculated the number of days that elapsed from the invoice date to the payment (check) date and found that 79 of the 145 invoices, totaling \$697,830, were made by the City 49 to 503 days, an average of 150 days, after the invoice date. Therefore, it is likely these invoices were not paid within 45 days of the invoice receipt date as required by the Act.

- Monthly credit card statements supporting payments totaling \$75,228 to the City's credit card vendor during the period October 2015 through June 2016 for charges incurred by City cardholders included late fees totaling \$1,723, or 2.3 percent of the total charges.
- We examined City records supporting 47 selected motor vehicle lease payments made during the period October 2016 through June 2017 and found that the City did not timely make 31 of the lease payments totaling \$148,132. Since the City made the payments from 1 to 138 days, or an average of 35 days, after the payment due dates, the City paid late fees totaling \$3,284.
- Payments for construction services during the period October 2015 through March 2017 were not always timely made. We examined City records supporting 3 transactions (payments) totaling \$402,561 from the population of 9 capital outlay expenditure transactions totaling \$732,503 recorded in a capital projects fund and 8 expenditure transactions (payments) totaling \$708,832 from the population of 75 capital outlay expenditure transactions totaling \$1.9 million recorded in the General Fund, Water and Sewer Fund, Stormwater Utility Management Fund, or Town Center One Fund and found that:
  - The 3 payments recorded in a capital projects fund required agent approval and 1 payment in the amount of \$19,240 was paid 45 business days after the invoice receipt date, or 20 business days after the 25-day period prescribed by the Act.
  - Of the 8 payments recorded in the General Fund, Water and Sewer Fund, Stormwater Utility Management Fund, or Town Center One Fund, 4 payments totaling \$472,552 were not timely paid as:
    - 2 payments for 3 invoices totaling \$254,857, for which agent approval was required, were made 38 to 171 business days, an average of 127 days, after the invoice receipt date, and 13 to 146 business days, an average of 102 days, after the 25-day period prescribed by the Act.
    - 2 payments for 8 invoices totaling \$217,695, for which no agent approval was required, were made 101 to 284 business days, an average of 142 days, after the invoice date. City records did not evidence the receipt date for the 8 invoices; however, based on the number of days between the invoice and payment dates, it is likely the City did not pay the invoices within the 20-day period prescribed by the Act.

Additionally, as discussed in Finding 43, the City entered into a contract with Miami-Dade County providing for the County to administer the meter reading, billing, and collection of water, sanitary sewage, and stormwater utility service charges for City utility services customers. The contract indicated that one of the conditions leading to the execution of the contract was that the City owed the County, as of March 15, 2017, approximately \$7 million of delinquent fees and charges.

The prompt payment deficiencies resulted from numerous factors, including the lack of written procedures requiring documentation of the invoice receipt date; employee turnover in the Finance Department, resulting in the use of temporary accounts payable clerks; and vendors being instructed to send invoices to the ordering department instead of to the Finance Department, contributing to the processing delay.



In addition, City personnel indicated that Finance Department employees have had to “prioritize” the payment of invoices due to the City’s financial difficulties.

Without prompt payment of invoices and payment requests, the City is in noncompliance with the Act and is subject to making interest payments. In addition, failure to pay vendors timely could result in work stoppages and potential litigation costs to settle unpaid obligations (actual work stoppages and unpaid construction obligations are discussed in Finding 28). Also, failure to timely make credit card and lease payments increases the cost of financing to the City through the assessment of late fees.

**Recommendation: The City should establish procedures that require and ensure invoice receipt dates are documented and invoices are promptly paid in accordance with State law.**

#### **Finding 70: Expenditures Without a Documented Public Purpose**

Authority for City officials to expend moneys is set forth in various provisions of general or special law and in ordinances enacted by the City Commission. Expenditures of public funds must, to qualify as authorized expenditures, be shown to be authorized by applicable law or ordinance; reasonable in the circumstances and necessary to the accomplishment of authorized purposes of the governmental entity; and in pursuit of a public, rather than a private, purpose. Additionally, the Florida Attorney General has opined on numerous occasions<sup>254</sup> that documentation of an expenditure in sufficient detail to establish the authorized public purpose served, and how that particular expenditure serves to further the identified public purpose, should be present when the voucher is presented for payment of funds. The Attorney General has also opined that, unless such documentation is present, the request for payment should be denied.

As part of our audit, we examined City records supporting selected general expenditures, credit card charge expenditures, and travel expenditures to determine whether the records established the authorized public purpose for the expenditures. The City records we examined included voucher packages for check disbursements and original receipts and other documentation supporting credit card charges. Specifically, for the period October 2015 through March 2017, we examined available City records supporting:

- 70 expenditures totaling \$409,443 selected from the population of 2,084 general expenditures<sup>255</sup> totaling \$18.9 million.
- 259 credit card charge expenditures totaling \$51,552 selected from the population of 393 credit card charge expenditures (excluding travel-related credit card charges) totaling \$80,834.
- 102 travel expenditures totaling \$20,462 selected from the population of 127 travel expenditures totaling \$42,684.

Our examination of City records for the 431 expenditures totaling \$481,457 disclosed that the records did not clearly evidence the authorized public purpose served for 227 expenditures totaling \$51,405, resulting in questioned costs of that amount. Examples of these questioned costs include:

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<sup>254</sup> Florida Attorney General Opinion Nos. 68-12, 75-07, 79-14, and 94-89.

<sup>255</sup> General expenditures include all non-payroll check disbursements excluding travel expenditures and payments to the credit card vendor for City credit card charges.

- \$24,625 related to various giveaway events. Although we requested, we were not provided City records evidencing why items were given away, to whom the items were given, or how City personnel determined who would receive an item. The amounts paid related to the events included:
  - \$12,738 for frozen turkeys for an annual turkey giveaway event and signs purchased to advertise the event.
  - \$9,386 for an annual bicycle giveaway event, including credit card charges of \$7,693 for bicycles, gift cards, and other miscellaneous items; a \$978 employee reimbursement for purchased bicycles; and \$715 for signs and artwork to advertise the event.
  - \$2,501 for a toy giveaway.
- \$4,458 for the purchase of food and beverage items. Although we requested, we were not provided City records identifying the individuals provided the food and beverage items or why the individuals were provided the items. The amounts paid for these items included:
  - \$2,735 for numerous purchases of food and beverage items, including credit card charges of \$1,682 and \$1,053 recorded as travel expenditures.
  - Credit card charges of \$1,025 for “staff lunch/meeting/workshop” food purchases.
  - \$698 reimbursed to a City employee for the purchase of refreshments for various training events and meetings.
- \$3,695 for bingo, bowling, and movie-related activities and events. Supporting documentation did not evidence the purposes for the expenditures or identify the individuals who participated in these activities and events.
- Credit card charges of \$1,750 for expenditures related to holiday parties and events. Supporting documentation did not identify those in attendance at the parties and events or provide any other detail.
- Credit card charges of \$1,332 for gift cards and prepaid credit cards. Supporting documentation did not indicate the purpose for which the gift cards or prepaid credit cards were purchased or identify the individuals to whom the cards were provided.
- \$945 to publish an advertisement in a local newspaper in February 2016 regarding the Mayor’s “State of the City” address at a public meeting on January 29, 2016. The advertisement provided information to the public regarding the Mayor’s stated City accomplishments; however, the need to pay for such an advertisement, which appeared to primarily represent promotion and public relations efforts by the City, was questionable, as the information in the advertisement had already been provided at a public meeting and such meetings are covered by the local media.
- Credit card charges of \$400, \$50 each for the Mayor’s and seven City Commissioners’ personal prepaid toll accounts. Because the prepaid tolls were purchased for their personal toll accounts, the City has no assurance that tolls charged to the Mayor’s and Commissioners’ personal prepaid toll accounts will be for travel performed exclusively for City business.

The lack of adequate Finance Department policies and procedures (as discussed in Finding 68) and employee turnover in the Finance Department, resulting in the use of temporary accounts payable clerks, likely contributed to the numerous inadequately documented expenditures we identified.

When expenditures, including those incurred using credit cards, are approved without adequate supporting documentation, there is an increased risk that City funds may not be expended only for authorized public purposes.

**Recommendation:** The City should document in its public records the authorized public purpose for the questioned costs totaling \$51,405. The City should also establish appropriate monitoring and preaudit procedures to require and ensure that the public purpose for anticipated expenditures is appropriately documented before the expenditures are made.

#### **Finding 71: Credit Cards**

The City uses credit cards to expedite the purchase of certain goods and services. Credit cards provide a cost effective, convenient, and decentralized method for certain designated City officials and employees to make business purchases on the City's behalf. As credit cards are vulnerable to fraud and misuse, it is essential that City policies and procedures provide effective controls over the accountability and use of credit cards.

City policies<sup>256</sup> authorize the assignment and use of credit cards and provide that the cards may be used for travel-related expenditures and purchases of supplies not exceeding \$1,000. In addition, the policies prohibit credit cards from being used for cash advances, personal purchases, and purchases of alcoholic beverages.

Our examination of City records disclosed that, during the period October 2015 through April 2017, 13 City officials and employees were each assigned a bank credit card and made charges totaling \$86,184, including \$19,711 for travel-related charges. Also, purchases totaling \$14,361 were made using two store credit cards in the City's name, which were held in the Finance Department and checked out to City employees as needed.

Our examination of City records and discussions with City personnel disclosed that controls over City-assigned credit cards and credit card use could be improved. Specifically:

- City policies provide that individuals assigned credit cards must sign a Credit Card User Agreement (user agreement). However, City policies did not specify who is responsible for approving credit card assignments, maintaining a record of the assignments, or retaining the user agreements.

Although we requested, user agreements were not provided. Absent signed user agreements evidencing the users' concurrence with assigned credit card responsibilities, including potential disciplinary action or personal liability for unapproved charges, there is an increased risk that unauthorized credit card charges could occur.

- City policies established a \$3,500 monthly credit limit for all assigned credit cards; however, due to oversight, monthly credit limits for eight bank credit cards assigned during the period October 2015 through April 2017 exceeded that limit by amounts ranging from \$1,500 to \$3,500. Allowing credit card limits to exceed prescribed credit limits increases the risk of misuse, and the risk that purchases may exceed budget constraints.
- City policies require the Finance Department to provide monthly transaction summaries to the credit cardholders and that each cardholder verify all credit card charges shown on the summary, sign the summary, attach to the summary the corresponding credit card receipts and detail receipts showing what was purchased, and forward the summary and receipts to the City Manager for approval.

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<sup>256</sup> *City of Opa-locka Credit Card Policy.*

To determine whether credit card charges were verified by the cardholder, approved by the City Manager or other appropriate supervisory personnel, and supported by receipts, we examined City records supporting 361 credit card charges totaling \$65,207 and listed on 59 monthly bank or store credit card activity statements. The 361 credit card charges included 102 travel-related credit card charges totaling \$13,655 and 259 non-travel related credit card charges totaling \$51,552 and were incurred within the 2-year period preceding our examination.<sup>257</sup> Our examination disclosed that City records did not evidence:

- Cardholder verification of 118 credit card charges totaling \$25,721 (39 percent).
- City Manager or another supervisory employee's review and approval of 157 credit card charges totaling \$31,142 (48 percent).
- Original or copies of receipts for 31 credit card charges totaling \$5,927 (9 percent). For 10 of those 31 credit card charges totaling \$1,461, supporting documentation included a note from the cardholder indicating that either a receipt was not obtained, was obtained but not retained, or was misplaced. Although City personnel did not indicate why the other 21 receipts were missing, those receipts were likely missing for those same reasons.

Absent documented review and approval of credit card charges by cardholders and supervisory personnel, there is an increased risk that credit cards may be used for unauthorized purposes and absent supporting receipts for charges incurred and paid using City credit cards, City records do not demonstrate that such charges are reasonable and serve a public purpose.

- State law<sup>258</sup> provides an exemption from sales tax to governmental entities when payments are made directly to the vendor by the governmental entity; however, there is no mention in City policies of this provision or the need for cardholders to provide vendors with the City's sales tax exemption certificate so that the vendor does not collect sales tax. Contrary to State law, sales tax totaling \$898 was paid on 105 (34 percent) of the 311 credit card charges we examined for which sales tax applied. For example, charges paid for five hotel stays included sales tax of \$278 and the City paid sales tax of \$76 and \$27 for an audio equipment purchase and satellite radio service, respectively. The lack of guidance in City policies regarding the payment of sales tax likely contributed to the unnecessary and inappropriate sales tax payments disclosed by our examination.
- City policies require that original receipts be obtained for each credit card transaction and retained for 2 years. However, pursuant to State law,<sup>259</sup> the City is required to maintain public records in accordance with the Department of State, Division of Library and Information Services, records retention schedule,<sup>260</sup> which requires that credit card receipts be retained for 5 fiscal years after the transaction is completed. Consequently, the 2-year retention period prescribed by City policies is contrary to the State records retention schedule. As a result, there is an increased risk that City personnel will not retain credit card receipts in accordance with State law. City personnel indicated they were unaware of the State's 5-year retention period requirement for receipts supporting credit card charges.

According to City personnel, at the Financial Emergency Board's request, in approximately August 2016, all bank credit card cardholders turned in their credit cards to the City Manager's Office for cancellation. However, although we requested, we were not provided records evidencing the card cancellations or an explanation for why such documentation was not available. Although our examination of City records did

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<sup>257</sup> We limited our examination to those charges within the 2-year period preceding our testing as City policies required that original receipts only be retained for 2 years.

<sup>258</sup> Section 212.08(6), Florida Statutes,

<sup>259</sup> Section 119.021(2)(a) and (b), Florida Statutes.

<sup>260</sup> State of Florida General Records Schedule GS1-SL for State and Local Government Agencies, Item #340.

not disclose any bank credit card charges after August 2016, absent documented cancellation of these credit cards, there is a risk that unauthorized charges may occur.

**Recommendation:** As City personnel are still utilizing store credit cards, and the City Commission may decide to utilize bank credit cards in the future, City policies should be revised to:

- Specify who is responsible for approving credit card assignments, maintaining a record of credit card assignments, and retaining signed user agreements.
- Require the retention of credit card receipts, signed user agreements, and other documentation pertaining to credit card usage for the period specified by the State records retention schedule.
- Require cardholders be provided a copy of the City's sales tax exemption certificate and ensure that cardholders present the certificate copy to vendors so sales tax is not collected on purchases for the City.

The City should also enhance controls over credit cards to ensure that:

- Cardholder credit limits are consistent with City policies.
- Documentation is retained to evidence the assignment, including signed user agreements, and cancellation of credit cards and verification and approval of credit card charges by the cardholder and supervisory personnel.
- Credit card receipts are obtained and retained.

## **Finding 72: Commodity Purchases**

City ordinances<sup>261</sup> require competitive sealed bids or requests for proposals (RFPs) for purchases of commodities exceeding \$5,000 with some exceptions, such as emergency purchases and sole source procurements. In addition, City ordinances<sup>262</sup> authorize the City Manager to make purchases of supplies and equipment not exceeding \$25,000 by "negotiations and informal bids."

As part of our audit procedures, we examined City records supporting 70 selected payments totaling \$409,443 for general expenditures during the period October 2015 through March 2017 to determine whether purchases of goods or services were made pursuant to competitive selection procedures in accordance with City ordinances. Of the 70 payments, 3 payments totaling \$51,251 represented purchases of commodities. Our examination of City records and discussions with City personnel disclosed that, although each of the payments exceeded \$5,000 and did not qualify for an exception, the City did not competitively select the vendors of the commodities in accordance with City ordinances. Specifically:

- One payment for \$14,683 was for the purchase of gasoline for the City's fuel pump station. For the period October 2015 through March 2017, the City paid \$332,318 to the vendor for gasoline purchases and City records did not evidence that competitive sealed bids or RFPs were used to select the vendor. City personnel asserted that, in lieu of seeking competitive bids for fuel purchases, they performed informal procedures to determine whether the City was being charged

<sup>261</sup> Section 2-319(a), City of Opa-locka Code of Ordinances.

<sup>262</sup> Section 2-316(8), City of Opa-locka Code of Ordinances.

a competitive rate for gasoline. Notwithstanding, although we requested, we were not provided records to support this assertion.

- One payment for \$12,023 for the purchase of frozen turkeys and another payment for \$24,545 for the purchase of water meters and accessories were not supported by evidence that competitive sealed bids, RFPs, or negotiations and informal bids were used to select the vendor and, although we inquired, City personnel did not explain why the vendors were not selected in accordance with City ordinances.

Use of a documented competitive procurement process reduces the appearance and opportunity for favoritism and provides assurance that commodities are obtained at the lowest cost consistent with desired quality.

**Recommendation:** City policies and procedures should be enhanced to ensure commodities are competitively procured in accordance with City ordinances.

#### PROCUREMENT – CONTRACTUAL SERVICES

Included in the City Commission's stewardship and fiduciary responsibilities associated with managing public resources is the responsibility to ensure that City controls provide for the effective and efficient procurement of contractual services in accordance with applicable laws, contracts, grant agreements, and City ordinances, policies, and procedures. Effective contractual service procurements are supported by written contracts embodying all provisions and conditions of the procurement of such services. Properly written contracts protect contracting party interests, establish the responsibilities of contracting parties, define the services to be performed, and provide a basis for payment. Effective contract monitoring includes procedures to ensure that contractors comply with applicable contract terms and conditions and satisfactory receipt of services is documented before payments are made.

#### **Finding 73: Competitive Procurement of Services**

The Legislature has recognized in State law<sup>263</sup> that fair and open competition is a basic tenet of public procurement and that competition reduces the appearance and opportunity for favoritism and inspires public confidence that contracts are awarded equitably and economically. An effective procurement process for contractual services typically requires documented requests for proposals, consideration of the qualifications of the service providers that respond to the requests, and selection of the service provider that submits the best proposal.

City ordinances<sup>264</sup> require competitive sealed bids or RFPs for purchases of contractual services of \$3,500 or more with some exceptions, such as emergency purchases and sole source items. City ordinances<sup>265</sup> also authorize the City Manager to make purchases of services not exceeding \$25,000 by "negotiations and informal bids." During the period October 2015 through March 2017, the City made 1,238 payments totaling \$13.1 million for contractual services.

**Use of Competitive Selection Process.** As part of our audit, we conducted various tests to determine whether services were properly procured in accordance with City ordinances. As part of these tests, we

<sup>263</sup> Section 287.001, Florida Statutes.

<sup>264</sup> Section 2-320, City of Opa-locka Code of Ordinances.

<sup>265</sup> Section 2-316(8), City of Opa-locka Code of Ordinances.

selected for examination 55 payments totaling \$3.6 million associated with 37 purchases of services costing at least \$3,500 that were not exempt from competitive selection. We examined City records regarding the procurement of those services and found that the records did not demonstrate that the City followed the competitive process required by City ordinances when selecting the vendors for 24 of the 37 purchased services. Specifically:

- As shown in Table 20, City records did not evidence that competitive sealed bids or RFPs were used to select vendors associated with 11 purchased services each costing over \$25,000. In total, the vendors were paid \$1.4 million during the period October 2015 through April 2017.

**Table 20**  
**Purchased Services Exceeding \$25,000**  
**Not Competitively Selected**  
**During the Period October 2015 Through April 2017**

Purchased Services	Amount Paid
Security at City Hall	\$ 326,447
Community shuttle bus	292,411
Maintain City alleys <sup>a</sup>	263,393
Maintain City medians <sup>a</sup>	(Included in above)
Leased motor vehicles	153,644
Janitorial	88,161
Leased motor vehicles	76,477
Sanitary sewer evaluation system study and pump station testing and inspections	69,029
Preparation of sanitary sewer system evaluation phase III	45,000
Consulting	37,599
Temporary accounts payable clerk	32,782
<b>Total</b>	<b><u>\$1,384,943</u></b>

<sup>a</sup> The City paid a vendor \$263,393 to maintain the City alleys and City medians. City records did not indicate the amount paid for each of these services because the vendor did not always separately bill the City for the services. However, the cost for each of the services exceeded \$25,000.

Source: City records.

- Also, as shown in Table 21, City records did not evidence that competitive sealed bids, RFPs, or negotiations and informal bids, as applicable, were used to select vendors associated with 13 purchased services, costing \$3,500 or more but not exceeding \$25,000. In total, the vendors were paid approximately \$181,000 during the period October 2015 through April 2017.



**Table 21**  
**Purchased Services Costing \$3,500 to \$25,000**  
**Not Competitively Selected**  
**During the Period October 2015 Through April 2017**

Purchased Services	Amount Paid
Consulting	\$ 25,000
Preparation of plan for compliance – sanitary sewer collection system	25,000
Security camera installation	23,582
Unknown <sup>a</sup>	20,504
Consulting	14,000
Road repair	14,000
Truck repair	13,331
Moving	13,032
Security	9,035
Fireworks display	8,000
Basketball court restoration	5,600
Lawn service	5,450
Leased motor vehicles	4,275
<b>Total</b>	<b><u>\$180,809</u></b>

<sup>a</sup> Vendor invoice did not provide sufficient detail to determine the type of services provided.

Source: City records.

Although we inquired, City personnel did not explain why the vendors for the 24 purchased services were not competitively selected in accordance with City ordinances.

City ordinances<sup>266</sup> require that emergency procurements be made “with such competition as is practicable.” Our examination disclosed that the City paid a vendor \$47,500 for emergency sewer repairs made on December 7, 2015. City records indicated that quotes were solicited from two vendors. One vendor responded that it could not do the job and the other vendor provided a \$36,000 quote. Rather than select the vendor that quoted \$36,000, the City selected and paid \$47,500 to a third vendor to make the repairs. Although we requested, we were not provided records evidencing that a quote was received from the vendor that made the repairs or explaining why the City paid that vendor \$11,500 more than the amount quoted by another vendor. In the absence of a documented competitive procurement process there is an increased risk that services will not be obtained at the lowest cost consistent with desired quality.

**Selection of Vendor and Evaluation of Proposals.** City ordinances<sup>267</sup> provide that when an RFP process is used, the contract should be awarded to the respondent whose proposal is determined in writing to be the most advantageous to the City, considering the price and the other criteria set forth in the RFP. Our audit procedures disclosed two purchases of services, solid waste collection and disposal services and services for maintaining City medians, made using an RFP process for which City records

<sup>266</sup> Section 2-319(a)(5), City of Opa-locka Code of Ordinances.

<sup>267</sup> Section 2-320(c), City of Opa-locka Code of Ordinances.

did not evidence justification for deviations from evaluation committee rankings of respondents or explanations for variances in proposal scoring.

The City issued an RFP for commercial and residential solid waste collection and disposal services, which required proposals to be submitted by 2:00 PM on March 31, 2016; however, an addendum to the RFP extended the deadline to May 20, 2016. The RFP indicated that submitted proposals would be evaluated based on seven weighted criteria: price, frequency of franchise fee payments, financial stability and resources, qualification and experience, customer service and operations plan, references, and local preference.

City records indicated that four companies submitted proposals. The proposals were evaluated by each of the five members of an evaluation committee and each committee member assigned each proposal a total score not to exceed 100 points, making 500 points the maximum total score a proposal could receive. As shown in Table 22, the highest-ranked respondent (Respondent A) received a total score of 404.09, and the second highest-ranked respondent (Respondent B) received a total score of 382.82.

**Table 22**  
**Evaluation Committee Criteria and Scores**  
**Proposals for Solid Waste Collection and Disposal Services**

	Evaluation Criteria							Total Score
	Price	Frequency of Franchise Fee Payments	Financial Stability and Resources	Qualification and Experience	Customer Service and Operations Plan	References	Local Preference	
<b>Maximum Weighted Score</b>	<b>175.00</b>	<b>100.00</b>	<b>75.00</b>	<b>75.00</b>	<b>25.00</b>	<b>25.00</b>	<b>25.00</b>	<b>500.00</b>
Respondent A Score	140.09	60.00	75.00	64.00	24.00	23.00	18.00	<b>404.09</b>
Respondent B Score	131.82	64.00	75.00	52.00	17.00	20.00	23.00	<b>382.82</b>
Respondent C Score	154.44	23.00	75.00	59.00	19.00	22.00	20.00	<b>372.44</b>
Respondent D Score	155.31	15.00	75.00	66.00	23.00	24.00	6.00	<b>364.31</b>

Source: City records.

At its October 26, 2016, meeting, the City Commission selected Respondent B<sup>268</sup> to provide commercial and residential solid waste collection and disposal services and paid a total of \$291,640 to Respondent B for the period October 2016 through April 2017. The City did not enter into a written contract with Respondent B for services and, at its January 26, 2017, meeting, the City Commission took action to discontinue using Respondent B for these services.

The October 26, 2016, City Commission meeting minutes indicate that the City Commission selected Respondent B over Respondent A based on the City Manager's recommendation and purported savings of "about a half of a million dollars." However, the decision to select Respondent B on this basis was inconsistent with the RFP's prescribed proposal evaluation methodology, which already considered the price proposed by respondents. In addition, although we requested, City records were not provided to support the savings the City purportedly would realize by selecting Respondent B. As such, City records

<sup>268</sup> Respondent B was the vendor that provided commercial and residential solid waste collection and disposal services pursuant to a contract that expired September 30, 2016.

did not demonstrate that the City Commission selected the respondent whose proposal was most advantageous to the City, considering the price and the other criteria set forth in the RFP.

Regarding the use of predetermined and established proposal evaluation criteria, the NIGP: The Institute for Public Procurement,<sup>269</sup> in its *Global Best Practices*, recommends:

- Use of clearly defined criteria for procurement decisions.
- A clear understanding by evaluation committee members of how criteria and scoring should be applied.
- Use of a consistent approach when scoring against preannounced criteria.
- Transparency of the selection criteria and evaluation process.

Consistent with NIGP's recommended best practices, providing evaluation committee members with written instructions that explain how criteria and scoring should be applied would provide additional assurance that a consistent approach was used by committee members to identify the most favorable proposal. However, evaluation committee members were not, of record, provided such instructions. Our review of the evaluation criteria included in the RFP disclosed that the criteria descriptions were instructive to respondents as to what information to provide for each criterion; however, except for the "frequency of franchise fee payments" criterion, the RFP did not provide instructions for how the evaluators were to use the provided information when scoring proposals.

Each evaluation committee member prepared a worksheet showing the member's assigned scores based on the predetermined criteria included in the RFP. Our review of those worksheets and the resulting scores disclosed significant unexplained discrepancies, patterns, or variances in the scores assigned by the committee members. For example:

- For the "frequency of franchise fee payments" criterion, points were to be assigned based on proposed advanced remittances of 5 points for monthly, 10 points for quarterly, 15 points for semi-annually, and 20 points for annually. However, for the proposals from Respondents B and C, three committee members assigned points for this criterion that were not evenly divisible by 5. Also, for the proposal from Respondent A, three committee members assigned 20 points for this criterion while the other two committee members assigned 0 points.
- The "price" criterion was the most heavily weighted criterion with a maximum of 35 points. For each proposal, four of the five committee members assigned the same point value for this criterion, while the other committee member assigned a different point value. For example, for the proposal from Respondent D, four committee members assigned the maximum point value of 35, while the other committee member assigned a point value of 15.31.
- For the "qualification and experience" criterion for the proposal from Respondent A, a committee member assigned a point value of 7 points while three other committee members assigned the maximum point value of 15 points. The fifth committee member assigned a point value of 12.

Although we inquired, City personnel did not provide explanations for these discrepancies, patterns, or variances. While some variations in scores are normal and expected, significant variations may be because evaluation committee members were not informed (e.g., through written instructions) about how criteria and scoring should be applied. In addition, as a consistent approach is essential when scoring

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<sup>269</sup> NIGP: Institute for Public Procurement is a membership-based, nonprofit organization composed of members representing Federal, state, provincial and local government levels throughout the United States and Canada and provides support to professionals in the public sector procurement profession.

proposals against predetermined criteria, documented explanations for significant variances in criteria rating scores would provide more transparency in the competitive selection process.

The City issued an RFP for maintenance of City medians, which required proposals to be submitted by 1:00 PM on February 17, 2015. The RFP indicated that submitted proposals would be evaluated based on three weighted criteria: price, experience and references, and local workforce participation.

City records indicated that four companies submitted proposals; however, the proposals from two companies were disqualified. One proposal was disqualified because the company was involved in prior litigation with the City and did not include all the RFP-required documents. The other proposal was disqualified because it was determined the company did not have sufficient equipment to accommodate the scope of the job. The remaining two proposals were evaluated by each of the five members of an evaluation committee and each committee member assigned each proposal a total score not to exceed 100 points, making 500 points the maximum total score a proposal could receive. As shown in Table 23, the highest-ranked respondent (Respondent A) received a total score of 395 and proposed an annual fee of \$41,800, and the other respondent (Respondent B) received a total score of 274 and proposed an annual fee of \$87,600.

**Table 23**  
**Evaluation Committee Criteria and Scores**  
**Proposals for Maintenance of City Medians**

	Evaluation Criteria			Total Score	Proposed Annual Fee
	Price	Experience and References	Local Workforce Participation		
<b>Maximum Weighted Score</b>	<b>350</b>	<b>125</b>	<b>25</b>	<b>500</b>	
Respondent A Score and Fee	350	43	2	<b>395</b>	<b>\$41,800</b>
Respondent B Score and Fee	160	110	4	<b>274</b>	<b>\$87,600</b>

Source: City records.

At its April 27, 2015, meeting, the City Commission selected Respondent B to provide maintenance services for City medians and executed a contract with the vendor for the period May 5, 2015, through May 4, 2016, that provided for an annual fee of \$61,750. City records indicate that the evaluation committee and the City Manager recommended Respondent A; however, the April 27, 2015, meeting minutes indicate that the City Commission selected Respondent B primarily based on a City Commissioner's recommendation.

Although we requested, other than the meeting minutes, we were not provided records evidencing the basis for the Commission's decision or how the \$61,750 fee was derived, nor were we provided records indicating the public purpose served by awarding a contract with an annual fee that was \$19,950 more than the fee proposed by the highest-ranked respondent. As such, City records did not demonstrate that the City Commission selected the respondent whose proposal was most advantageous to the City, considering the price and the other criteria set forth in the RFP.

**City Commission Approval of Purchased Services.** To determine whether City records evidenced City Commission approval of purchased services with costs exceeding \$25,000, we examined City records supporting 33 payments totaling \$3.5 million associated with 23 purchased services costing over \$25,000. However, as shown in Table 24, although we requested, we were not provided City records evidencing City Commission approval for 6 of the 23 purchased services.

**Table 24**  
**Purchased Services Exceeding \$25,000**  
**No Evidence of City Commission Approval**  
**During the Period October 2015 Through April 2017**

Purchased Services	Amount Paid
Security at City Hall	\$326,447
Janitorial	88,161
Sanitary sewer evaluation system study and pump station testing and inspections	69,029
Maintenance of City medians	45,500
Preparation of sanitary sewer system evaluation phase III report	45,000
Temporary accounts payable clerk	32,782

Source: City records.

Documented City Commission approval is necessary to ensure the City procures services consistent with City Commission intent.

**Recommendation: The City should enhance policies and procedures to ensure:**

- **Competitive procurement of services in accordance with City ordinances.**
- **Maintenance of records evidencing procurements of services, including quotes or proposals submitted in response to RFPs and evaluations of such proposals.**
- **Use of detailed descriptions of evaluation criteria and written evaluation committee instructions for reviewing and scoring RFP responses using those criteria.**
- **Documented explanations when individual evaluator scores vary significantly for a specific criterion.**
- **Maintenance of records justifying procurement decisions that deviate from evaluation committee recommendations.**
- **Documented City Commission approval for purchased services costing over \$25,000.**

**Finding 74: Contract Documents**

City ordinances<sup>270</sup> require that every contractual services procurement be evidenced by a written contract embodying all provisions and conditions of the procurement of such services and specify certain provisions that must be included in all written contracts. For example, written contracts must include a provision:

<sup>270</sup> Section 2-321(a), City of Opa-locka Code of Ordinances.

- Requiring that bills for fees or other compensation for services or expenses be submitted in detail sufficient for a proper preaudit and postaudit.
- Specifying deliverables including, but not limited to, reports, findings, and drafts, which must be received and accepted in writing by City personnel prior to vendor payment.

We examined City records supporting 55 payments totaling \$3.6 million associated with 37 purchased services to determine whether the City executed contracts that contained the provisions specified in City ordinances. As shown in Table 25, our examination disclosed that the City did not enter into written contracts for 14 purchased services for which the vendors were paid \$3.7 million and, although the City executed written contracts for 3 purchased services for which vendors were paid \$76,599, the contracts were incomplete as the contracts did not specify deliverables or include a provision requiring the vendors to provide documentation of services rendered prior to payment.

**Table 25**  
**Purchased Services with Contract Deficiencies**  
**During the Period October 2015 Through April 2017**

Purchased Services	Contract Period	Amount Paid	Deficiency Type (Indicated by "X")	
			No Written Contract <sup>a</sup>	Incomplete Contract <sup>b</sup>
Sewage disposal <sup>c</sup>	-	\$2,223,722	X	
Security at City Hall	-	326,447	X	
Community shuttle bus services	-	292,411	X	
Solid waste collection and disposal <sup>d</sup>	-	291,640	X	
Maintain City alleys	-	263,393 <sup>e</sup>	X	
Maintain City medians	-	(Included in Above) <sup>e</sup>	X	
Janitorial	-	88,161	X	
Sanitary sewer evaluation system study and pump station testing and inspections	-	69,029	X	
Preparation of sanitary sewer system evaluation phase III report	-	45,000	X	
Consulting	Month-to-month starting January 15, 2016	37,599		X
Temporary accounts payable clerk	-	32,782	X	
Curbside recycling	-	32,493	X	
Consulting	April 15 - October 14, 2015	25,000		X
Unknown	-	20,504	X	
Consulting	Month to month starting January 15, 2016	14,000		X
Road repair	-	14,000	X	
Security	-	9,035	X	

<sup>a</sup> Contrary to Section 2-321(a), City of Opa-locka Code of Ordinances, although purchased services were obtained, no executed written contract was in effect during the entire period of October 2015 through April 2017.

<sup>b</sup> Contrary to Section 2-321(a)(4), City of Opa-locka Code of Ordinances, written contracts did not specify a deliverable or require the vendor to provide documentation of services rendered prior to payment.

<sup>c</sup> There was not an executed written contract with Miami-Dade County in effect during the period October 2015 through April 2017; however, there was a previous contract in effect until January 2011 and the City executed a new written contract with the County on August 4, 2017.

<sup>d</sup> There was an executed written contract with the vendor in effect through September 2016. However, the City did not execute a new written contract with the vendor effective October 2016 when the vendor was selected pursuant to a competitive selection process to continue providing these services.

<sup>e</sup> The City paid a vendor \$263,393 to maintain the City alleys and City medians. City records did not indicate the amount paid for each of these services because the vendor did not always separately bill the City for the services.

Source: City records.

Absent written contracts defining the services to be provided and compensation to be paid, specifying deliverables, and requiring documentation of services rendered prior to payment, there is an increased risk of overpayments and misunderstandings between the parties, and the City may be limited in its ability to require satisfactory performance in the event of a dispute.

**Recommendation: The City should enhance policies and procedures to ensure that every contractual services procurement is evidenced by a written contract that includes the provisions and conditions required by City ordinances, including specified deliverables and a requirement for the vendor to provide sufficiently detailed invoices evidencing services performed at agreed-upon rates.**



## **Finding 75: Monitoring of Purchased Services**

The City is responsible for monitoring and enforcing the terms and conditions of all contracts to ensure that contract deliverables are appropriately provided, and related payments are adequately supported. Regardless of whether a written contract is properly executed for purchased services, the City is responsible for ensuring that desired services are received at agreed-upon rates and that payments for services are adequately supported by detailed records.

As part of our audit, we requested and examined City records supporting 55 selected payments to vendors totaling \$3.6 million associated with 37 purchased services. Our examination disclosed that payments were not always supported by records evidencing the satisfactory receipt of the services and the appropriateness and accuracy of the amounts billed. Specifically, for 18 (33 percent) of the 55 selected payments we found that:

- 7 payments totaling \$566,684 were not supported by a written contract or other documentation evidencing that the City intended to receive the services from the vendor at the rates charged. These payments included:
  - 2 payments totaling \$407,636 to a vendor (Miami-Dade County) for sewage disposal services. In addition, City records were not provided to evidence that City personnel verified the accuracy of the meter readings shown on the County invoices and used to calculate the amounts due or the accuracy of a \$35,480 adjustment for the “Results of Fiscal Year 2013/14 True-Up” included in one of the County invoices.
  - 2 payments totaling \$38,880 to a vendor for security services billed at \$15.00 per hour. Previously, from August 2013 through January 2015 when the City had a written contract with the vendor, the City paid \$11.70 per hour for these services. In addition, although the vendor invoices indicated the dates security was provided and that 24-hour security was provided each day, City records demonstrating the actual receipt of security services for the dates and hours indicated on the invoices were not provided.
  - A payment for \$52,689 to a vendor for services related to a sanitary sewer evaluation system study, pump station testing, and inspections. In addition, City records were not provided to evidence that the vendor actually provided the billed services.
  - A payment for \$46,975 that included \$45,000 for services related to the preparation of a “Sanitary Sewer Evaluation Phase III report” for the City. In addition, we were not provided a copy of the report the vendor allegedly prepared or other records evidencing that City personnel verified that the City received the billed services.
  - A payment for \$20,504 for which the vendor invoice did not provide enough detail to indicate the exact nature of the services provided or the basis for the late fees charged. No additional records were provided to support this payment.
- 2 payments totaling \$145,807 to a vendor for residential solid waste collection and disposal services were not supported by sufficiently detailed documentation. One \$72,897 payment, dated December 22, 2015, was supported by an invoice for November 2015 residential solid waste collection services. However, City records were not provided to evidence that City personnel verified the accuracy of the amount billed based on the contract terms, which provided that the City would bill and collect from residents a monthly fee and pay the vendor a monthly amount based on the number of residential units served at specified rates.<sup>271</sup> The other payment, dated March 9, 2017, for \$72,910 was supported by an invoice for “RUBBISH REMOVAL.” However,

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<sup>271</sup> The specified rates varied depending on the number of collection containers assigned to a residence.

the invoice did not include any details as to how the invoice amount was calculated and, although we requested, we were not provided records evidencing the basis for the payment amount.

- 9 payments totaling \$39,666 to a former City Manager for consulting services and related expenses were not adequately supported. Specifically:
  - 4 payments totaling \$25,000 were made pursuant to a written contract that indicated the consultant would perform certain specified tasks such as interfacing with the Miami-Dade County Property Appraiser and Value Adjustment Board, working with the City Attorney regarding “challenge applicants,” implementing a strategic plan for dealing with “unscrupulous methods to avoid paying assessed property values,” working with the economic recovery team, and exploring economic and community development opportunities. The contract provided that the consultant would be paid \$5,000 a month for 5 months beginning April 2015. However, the contract did not require the consultant to provide any deliverables or submit billings with details of activities and actual time spent performing the tasks and City records were not provided to evidence that the consultant had performed the required tasks.
  - A payment for \$666 was supported by an invoice for consultant travel expenses for a trip to Atlanta and Birmingham on official City business. The charges included \$269 for airfare, \$168 for a rental car, \$129 for lodging, and \$100 for checked baggage. However, the invoice did not indicate how the travel expenses related to the tasks specified in the consultant’s contract and was not accompanied by receipts evidencing that the consultant had actually incurred the expenses. No additional records were provided to support this payment.
  - 4 payments totaling \$14,000, including a \$2,000 payment for a retainer and 3 payments of \$4,000 each, were made pursuant to another City contract with the consultant that indicated the consultant would perform certain specified tasks related to the City’s financial recovery plan and be paid \$4,000 a month (the contract was effective January 2016 but did not specify a contract term). However, the contract did not require the consultant to provide any deliverables or submit billings with details of activities and actual time spent performing the tasks and City records were not provided to evidence that the consultant had performed the required tasks.

We also noted that, when a vendor providing commercial solid waste collection and disposal services for the City experienced financial difficulties, another vendor assumed the contract. The contract, which was effective through September 2016, provided that, in exchange for the City granting the vendor the exclusive right to collect and dispose of solid waste from commercial establishments and nonresidential units within the City limits, the vendor would pay the City a monthly franchise fee of 28 percent of the vendor’s gross revenue from billed customers. The City entered into a separate contract with the vendor in February 2015, whereby the vendor agreed to pay the City unpaid franchise fees totaling \$115,823 owed to the City by the previous vendor. The payments were to be paid in 10 consecutive monthly installments of \$11,582.30 beginning March 15, 2015. However, although we requested, we were not provided records evidencing that the vendor made any franchise fee payments to the City, pursuant to either contract. In addition, although we requested, we were not provided records evidencing that City personnel calculated the amount of franchise fees owed to the City based on the vendor’s gross revenue from billed customers or that the City made any effort to collect the franchise fees.

Absent effective monitoring for purchased services, the City has limited assurance that it is receiving the desired services at agreed-upon rates, and there is an increased risk that vendor noncompliance with contract terms will not be detected and overpayments may occur.

**Recommendation:** The City should enhance policies and procedures to ensure that:

- Prior to payment for contractual services, City personnel document verification that services were satisfactorily received in accordance with the contract or other agreed-upon terms.
- Franchise fees are collected from vendors providing commercial solid waste collection and disposal services.

In addition, we recommend that the City, in consultation with the City Attorney, take appropriate actions to collect unpaid franchise fees.

#### **Finding 76: 5-Year Recovery Plan Consultants**

The City was required to prepare and submit a 5-year financial recovery plan to the Governor for the 2016-17 through 2020-21 fiscal years and, to assist in preparing this plan, the City contracted with and obtained services from several consultants. City ordinances<sup>272</sup> prescribe requirements for the procurement of consulting and other contractual services. Our audit procedures disclosed deficiencies in City processes for selecting and paying the consultants that assisted the City in preparing the recovery plan.

At its January 25, 2017, meeting, the City Commission adopted a resolution<sup>273</sup> authorizing the City to “piggyback”<sup>274</sup> Miami-Dade County’s “miscellaneous management services agreement” with a consultant (Consultant 1) and enter into an agreement with the Consultant for services related to developing the recovery plan. We listened to recordings of the meeting and determined that the Commission’s action was based on a City Manager recommendation to use Consultant 1 because the Consultant had been vetted by the County. The City executed a contract with Consultant 1 on March 1, 2017, that provided that the Consultant’s fees would range from \$40,000 to \$80,000 and, once the fees reached \$40,000, the Consultant would notify the City and provide an estimate of the hours and fees needed to complete the engagement. Our discussions with City personnel and review of documentation associated with this contract disclosed that:

- Although Miami-Dade County used a request to qualify (RTQ) process to identify Consultant 1 as a potential vendor qualified to provide management consulting services for the County, City records did not evidence that the County executed a contract with Consultant 1 prior to the January 2017 City Commission resolution. Consequently, at the time of the resolution, there was no County contract for the City to piggyback.
- City ordinances<sup>275</sup> require that, except in certain circumstances, contractual service contracts of \$3,500 or more be awarded using competitive sealed bids or proposals. Although the

<sup>272</sup> Sections 2-316(8), 316(10), and 320, City of Opa-locka Code of Ordinances.

<sup>273</sup> City of Opa-locka Resolution No. 17-9306.

<sup>274</sup> To “piggyback” is to use another entity’s contract to acquire similar commodities or services at the same or lower price without following prescribed procurement requirements. Section 2-316(10), City of Opa-locka Code of Ordinances, authorized the City Manager to use competitive bids of other public entities within the State of Florida for purchasing purposes when it was determined to be in the City’s best interest.

<sup>275</sup> Sections 2-320(b) through (f) and (j), City of Opa-locka Code of Ordinances. According to City ordinances, circumstances for not utilizing a competitive selection process include instances when Federal or State law prescribe to whom the contract is to be awarded, services are available from only one source, or emergency action is needed due to an immediate danger to the public health, safety, or welfare of the City residents.

January 2017 resolution indicated that time was of the essence to avoid State action and mitigate potential penalties associated with delays in providing the required recovery plan, City records did not evidence the existence of circumstances contemplated by City ordinances for not following the required competitive selection process. Absent evidence that Consultant 1's selection was exempt from the competitive selection requirements, any deviation from such requirements necessitates enactment of an ordinance, which requires notice and certain procedures not required for resolutions.<sup>276</sup>

Consultant 1 resigned from the engagement before the recovery plan was complete, stating in his resignation letter dated July 28, 2017, that the City's "organizational infrastructure needed to create a credible plan is somewhat deficient."

At its September 27, 2017, meeting, the City Commission approved a resolution<sup>277</sup> to engage another consultant to assist the City in preparing the recovery plan, this time by issuing an RFP. Only one respondent provided a proposal and the City Commission approved a resolution<sup>278</sup> at its October 25, 2017, meeting, authorizing the City Manager to negotiate an agreement with that respondent. The agreement with Consultant 2 was executed on October 30, 2017. Our review of City records and discussions with City personnel disclosed deficiencies related to the City's selection of, contracting with, and payment of Consultant 2. Specifically:

- The City did not allow sufficient time for responses to the RFP. The NIGP, in its *Public Procurement Guide for Elected and Senior Government Officials*, indicates that potential service providers should be given adequate time (typically a minimum of 14 to 30 days) to prepare bids or proposals. The City advertised the RFP on October 5, 2017, and required proposals be submitted by 2:00 PM on October 12, 2017, thus allowing only 7 days for potential respondents to become aware of the RFP and prepare and submit a proposal to the City. Although we inquired, City personnel did not explain why potential respondents were only allowed 7 days from the RFP advertisement date to submit a proposal or provide documentation evidencing that the City provided the RFP to potential qualified consultants. Under these conditions, the City's chances of finding the most qualified consultant at a reasonable cost were diminished.
- In an undated memorandum to the City's legal counsel, Consultant 2 asserted that the City Manager contacted him on August 15, 2017, about hiring him to assist in developing the recovery plan and he submitted a proposal for the work. According to Consultant 2, the City then determined that the City Manager could not enter into a contract without going through an RFP process. If these assertions are correct, the City Manager's August 15, 2017, communication with Consultant 2 may represent a violation of City ordinances,<sup>279</sup> which prohibit City personnel from having any communications relating to RFPs. This communication, combined with the short 7-day proposal submittal time frame, may be why Consultant 2 was the only RFP respondent.
- On October 30, 2017, the City and Consultant 2 executed a written contract, which specified a term of 5 months from October 26, 2017. Our review of the contract and Consultant 2's proposal disclosed that:

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<sup>276</sup> Section 166.041(3)(a), Florida Statutes, provides that a proposed ordinance may be read by title, or in full, on at least 2 separate days and shall, at least 10 days prior to adoption, be noticed once in a newspaper of general circulation in the municipality.

<sup>277</sup> City of Opa-locka Resolution No. 17-9419.

<sup>278</sup> City of Opa-locka Resolution No. 17-9426.

<sup>279</sup> Section 2-320.2, City of Opa-locka Code of Ordinances.

- The compensation rates differed as the proposal stated fees were to be billed at an average rate of \$150 per hour (no monthly fee) with a \$3,500 retainer and the contract provided for fees of \$5,000 per month (no hourly fee) with a \$2,500 retainer.
- Although retainers typically represent an advance payment for services to be provided, neither the proposal nor the contract indicated whether this was the case for the specified retainer amounts.

Although we inquired, City personnel did not provide an explanation for why the compensation terms differed or for the lack of clarity regarding the retainer.

- As of August 2018, the City had paid Consultant 2 a total of \$29,500 (\$2,500 for retainer, 3 monthly payments of \$5,000 each, and a \$12,000 final payment). Our review of supporting documentation for the payments to Consultant 2 disclosed that:
  - The dates of services billed on invoices by Consultant 2 were duplicative. Specifically, the invoice supporting the first \$5,000 payment was for services performed for the period November 10 through December 10, 2017, and the invoice supporting the second \$5,000 payment was for the period November 15 through December 15, 2017.
  - The invoice supporting the final \$12,000 payment showed 80 hours of services performed for the period January 16 through February 15, 2018, at a rate of \$150 per hour; however, the contract terms did not provide for services at an hourly rate.

Based on the services dates specified on the supporting invoices, and assuming the \$2,500 retainer was an advance to be applied against charges for services, Consultant 2 was due total compensation of \$15,000 for approximately 3 months (November 10, 2017, through February 15, 2018) of services at a rate of \$5,000 per month. However, Consultant 2 submitted, and the City paid, invoices totaling \$29,500, or \$14,500 more than what should have been billed based on the \$5,000 per month contracted rate. Although we inquired, City personnel did not explain the invoice discrepancies or the apparent overpayment. The City Manager terminated the contract with Consultant 2 effective February 16, 2018.

At its June 27, 2018, meeting, the City Commission adopted resolutions<sup>280</sup> retroactively approving contracts with and approving payments to additional two consultants (Consultants 3 and 4) who assisted in preparing the recovery plan. According to City personnel, draft contracts for the consultants' services were discovered when the City Manager asked the Finance Department about payments made to the consultants. A June 19, 2018, memorandum from the Finance Director to the City Manager indicated that:

- Consultants 3 and 4 were engaged by the City Manager due to the additional urgency resulting from the resignation of Consultant 1 and the termination of Consultant 2.
- Draft contracts were prepared for the two consultants, but the contracts were not awarded pursuant to a competitive selection process and not presented to the City Commission for review or approval.
- The consultants were coordinated and supervised by Assistant City Managers and work products were submitted to the City Manager.

Both draft contracts were dated January 29, 2018, provided for an initial term of 3 months with the City Commission reserving the right to renew the contract for additional months, and provided that the consultants would be paid \$125 per hour for work performed. According to City records, prior to the City Commission's retroactive approval on June 27, 2018, Consultant 3 and Consultant 4 had been paid a

<sup>280</sup> City of Opa-locka Resolution Nos. 18-9503 and 18-9504.

total of \$5,000 (for 40 hours) and \$10,500 (for 84 hours), respectively, based on the \$125 per hour rates specified in the draft contracts.

As Consultant 3 and Consultant 4 each received payments of \$3,500 or more, City ordinances<sup>281</sup> required the contracts be awarded pursuant to a competitive selection process unless the contract award was exempt from being competitively selected. The adopted resolutions<sup>282</sup> referenced City ordinances<sup>283</sup> specifying that “if the City Manager determines in writing that a substantial loss to the City requires emergency action, the agency may proceed with the procurement of the contractual services necessitated by the immediate danger without competition.” Notwithstanding the City’s urgency for preparing the recovery plan, it was not apparent, of record, how use of a competitive selection process at the time the City Manager engaged the consultants, nearly 5 months prior to the City Commission’s retroactive approval, would have resulted in a substantial cost to the City or posed an immediate danger. In addition, although City ordinances<sup>284</sup> authorize the City Manager to make purchases of services costing \$3,500 up to \$25,000 by “negotiations and informal bids” rather than by use of formal bids or RFPs, City records were not provided to evidence the use of negotiations and informal bids when procuring the services of Consultant 3 or Consultant 4.

Failure to competitively procure consulting services, timely execute appropriate contracts, and monitor consultant services and billings for adherence to the contract terms and conditions, increases the risk that services may not be obtained at the lowest price consistent with desired quality, the City may be limited in its ability to require satisfactory performance in the event of a dispute with the consultant, and the City may pay more for the services than contemplated.

**Recommendation: The City should ensure that:**

- **City personnel adhere to ordinances when procuring contractual services, including consultant services.**
- **RFPs provide sufficient time for respondents to provide proposals.**
- **The terms of executed contracts are consistent with the related RFP terms.**
- **Monitoring procedures are effective to ensure that, prior to payment, billings are adequately supported and comply with the contract terms.**

**We also recommend that the City request Consultant 2 to provide explanations or additional documentation regarding the invoice discrepancies and take appropriate action to recover any overpayment.**

**Finding 77: Auditor Selection and Audit Services Contract**

Pursuant to State law,<sup>285</sup> the City is required to provide for annual financial audits. Financial audits performed by an independent certified public accountant (CPA) give assurance as to the reliability and completeness of the City’s financial statements; provide a means for evaluating the effectiveness of the

<sup>281</sup> Sections 2-320(b) through (f) and (j), City of Opa-locka Code of Ordinances.

<sup>282</sup> City of Opa-locka Resolution Nos. 18-9503 and 18-9504.

<sup>283</sup> Section 2-320(i), City of Opa-locka Code of Ordinances.

<sup>284</sup> Section 2-316(8), City of Opa-locka Code of Ordinances.

<sup>285</sup> Section 218.39, Florida Statutes.

City's internal control over financial reporting; and include a determination of the extent to which the City complied with applicable laws, contracts, grant agreements, and City ordinances, policies, and procedures, noncompliance with which could have a direct and material effect on the City's financial statement amounts. Consequently, it is important for entities to use an effective auditor selection process to obtain timely, adequate, and appropriate audits.

State law<sup>286</sup> requires each local government, prior to entering into a written contract for audit services, to establish an audit committee, assign to the audit committee responsibilities for evaluating and recommending an auditor, and use specified auditor selection procedures. According to the Government Finance Officers Association (GFOA),<sup>287</sup> an audit committee is a practical means for a governing body to provide independent review and oversight of the government's financial reporting processes, internal controls, and independent auditors. By effectively carrying out its functions and responsibilities, an audit committee helps to ensure that management properly develops and adheres to a sound system of internal controls; that procedures are in place to objectively assess management's practices; and that the independent auditors, through their own review, objectively assess the government's financial reporting practices. The GFOA provides recommendations for the establishment of audit committees, including a recommendation that the audit committee be established by charter, enabling resolution, or other appropriate legal means.

Our examination of City records and discussions with City personnel disclosed that, contrary to State law and GFOA best practices, the City had not established or used an audit committee to select auditors to conduct recent audits of its financial records and activities. Our audit procedures also disclosed that, at its March 11, 2015, meeting, the City Commission approved a resolution<sup>288</sup> directing the City Manager to utilize a competitive selection process to procure an auditor to conduct the 2014-15 fiscal year financial audit. Pursuant to that directive, City personnel prepared and issued an RFP for audit services on April 15, 2015, and five CPA firms provided proposals in response to the RFP. An evaluation team composed of five City employees reviewed and scored the five proposals. Table 26 shows, in order of ranking, the evaluation committee's composite scoring of the proposals based on the evaluation criteria included in the RFP.

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<sup>286</sup> Section 218.391, Florida Statutes.

<sup>287</sup> GFOA Best Practice: *Audit Committees*, October 2008.

<sup>288</sup> City of Opa-locka Resolution No. 15-8949.



**Table 26**  
**Evaluation Committee Criteria and Scores**  
**Proposals for 2014-15 Fiscal Year Audit Services**

	Evaluation Criteria					Total Score
	Experience and Expertise	Audit Approach	References	Price	Proximity of Assigned Office	
<b>Maximum Score</b>	<b>200.00</b>	<b>125.00</b>	<b>50.00</b>	<b>100.00</b>	<b>25.00</b>	<b>500.00</b>
Respondent A Score	179.00	116.00	30.00	100.00	8.00	<b>433.00</b>
Respondent B Score	181.00	112.00	34.00	72.25	14.00	<b>413.25</b>
Respondent C Score	151.00	104.00	31.00	86.62	20.00	<b>392.62</b>
Respondent D Score	141.00	101.00	46.00	56.40	15.00	<b>359.40</b>
Respondent E Score	145.00	88.00	18.00	81.85	19.00	<b>351.85</b>

Source: City records.

Regarding the selection and hiring of a firm to conduct the 2014-15 fiscal year financial audit, we found that:

- Evaluation committee members were not provided written instructions on how to apply the evaluation criteria when rating proposals. Providing evaluation committee members with written instructions that explain how criteria and scoring should be applied would provide additional assurance that a consistent approach was used by committee members to identify the most favorable proposal.
- There were significant unexplained variations in the scores assigned by each evaluation committee member for the evaluation criteria specified in the RFP. For example, for the “experience and expertise” criterion, one committee member assigned the maximum 40 points to a respondent firm, while another committee member assigned only 15 points to that firm. Similarly, for the “audit approach” criterion, one committee member assigned the maximum 25 points to a respondent firm while another committee member assigned only 10 points to that firm. While some variations in scores are normal and expected, significant variations may be because evaluation committee members were not informed (e.g., through written instructions) about how criteria and scoring should be applied. Additionally, without documented explanations for significant variances in criteria rating scores, there is less transparency in the competitive selection process.
- In a memorandum dated July 14, 2015, the City Manager requested the City Commission to adopt a resolution authorizing the City Manager to enter into an agreement for audit services with the highest-ranked respondent (Respondent A). However, at its September 29, 2015, meeting, the City Commission adopted a resolution<sup>289</sup> that awarded the audit services contract to the second highest-ranked respondent (Respondent B). According to the resolution, the City Commission believed that, because Respondent B had served as the City’s external auditor for the past 7 years and was familiar with the City’s current financial conditions, it would not be prudent to change external auditors at that time. However, familiarity with the City was not a criterion established in the RFP and used to score the proposals and City records did not indicate why the City Commission directed City personnel to select an auditor using a competitive selection process given the Commission’s apparent concern about changing audit firms.

<sup>289</sup> City of Opa-locka Resolution No. 15-9071.

Given these circumstances, City records did not demonstrate that the audit services were procured in the most fair and equitable manner.

The CPA firm engaged to conduct the City's 2014-15 fiscal year financial audit commenced the audit but subsequently resigned from the engagement. In its resignation letter dated August 31, 2016, the firm indicated it was resigning "because of your [the City's] continued failure to pay for our services on a timely basis and of a growing conflict of interest in our services to you [the City] and other clients we serve." The firm also indicated the City had not yet paid \$6,721 that had been previously invoiced by the firm.

The Financial Emergency Board, at its September 22, 2016, meeting, recommended that the City consider hiring the CPA firm used by Miami-Dade County to complete the City's 2014-15 fiscal year audit as that firm had been vetted and determined qualified. Subsequently, according to minutes prepared for the Board's October 27, 2016, meeting, the County advised against the City using the County's auditors because they were "too expensive." As an alternative, the City Commission, at its November 17, 2016, meeting, adopted a resolution<sup>290</sup> authorizing the City to piggyback the City of Miami Gardens audit services contract. Based on that resolution, on January 23, 2017, the City executed a contract with the City of Miami Gardens external auditor to conduct the City's 2014-15 and 2015-16 fiscal year financial audits.

Although piggybacking another municipality's audit services contract provided the City a means to expedite completion of the City's 2014-15 financial audit, such action was contrary to State law and good business practices. Specifically:

- Contrary to State law,<sup>291</sup> the City did not establish an audit committee prior to entering into a written contract for audit services, and the Attorney General has opined<sup>292</sup> that an audit committee's statutorily prescribed function may not be delegated to a subordinate or other entity absent statutory authorization. Additionally, as agreements, including agreed-upon fees, for audit services are based on an entity's personnel, financial records, and unique circumstances, it is not feasible to piggyback another entity's audit services contract.
- It appears that the City had ample time to issue a new RFP, receive and evaluate the resulting proposals, and select a new auditor under the statutorily prescribed process. During the selection process for the former external auditor, 49 days elapsed between the date the City advertised the RFP and the date City personnel completed evaluation of the RFP respondent proposals. In comparison, a total of 139 days elapsed from September 6, 2016, the date the City received the prior auditor's resignation letter, and January 23, 2017, the date a contract was executed with the successor auditor.
- Contrary to the City Commission's directive to piggyback the City of Miami Gardens audit services contract, City personnel, in executing a contract with the audit firm, revised some of the terms and conditions contained in the City of Miami Gardens contract. The differing terms and conditions included varied:
  - Fee structures as the City of Miami Gardens contract provided for an annual fixed fee of \$62,500 for the audit of the City's financial statements and Federal and State grant programs, while the City's contract for the 2014-15 and 2015-16 fiscal year audits did not include a fixed fee but provided that the City would be billed for work performed at rates ranging from \$75 to \$325 per hour, depending on which staff members worked on the audit. Since the City

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<sup>290</sup> City of Opa-locka Resolution No. 16-9273.

<sup>291</sup> Section 218.391, Florida Statutes.

<sup>292</sup> Attorney General Advisory Opinion No. 2012-31.

contract did not provide for a fixed fee, it allowed for the possibility that the City could ultimately pay an annualized amount that exceeds the \$62,500 fixed fee under the piggybacked contract.

At its May 9, 2018, meeting, the Commission approved a resolution<sup>293</sup> increasing the audit fee for the 2014-15 and 2015-16 fiscal year audits to \$125,780 due to additional audit hours determined necessary to complete the audits. A letter from the audit firm indicated that additional hours were needed because City personnel “did not have the experience or skill set to meet the challenge of the City’s poor accounting records and systems.”

- Expense reimbursement provisions as the City of Miami Gardens contract did not provide for reimbursement of audit firm expenses, whereas the City contract provided for reimbursing the audit firm for certain out-of-pocket expenses including travel, postage, copies, long-distance calls, courier services, etc.
- Terms and renewal options as the City of Miami Gardens contract provided for an initial term of 3 fiscal years (2014-15 through 2016-17) and an option for the City of Miami Gardens to renew annually for up to 2 additional fiscal years. In comparison, the City contract provided for an initial term of 2 fiscal years (2014-15 and 2015-16) and indicated that “the City has agreed to grant a 3-year extension for fiscal years ending September 30, 2017, 2018, and 2019.” Effectively, the City contract is for 5 fiscal years as it does not give the City the option to not renew after the initial contract term.
- Termination provisions as the City of Miami Gardens contract provided for termination of the contract “without cause” by giving the audit firm written notice at least 30 days prior to the effective date of the termination. In comparison, the City’s contract terms made it more difficult to terminate the contract as the City contract provided that the City or the audit firm may terminate the contract for “good cause” upon 30 days written notice.

Revising the terms and conditions contained in the City of Miami Gardens contract frustrated the purpose for piggybacking, which is to obtain similar commodities or services using the same terms and conditions at the same or lower price. Although we requested, we were not provided records indicating the reasons for the revisions and City personnel indicated that City employees responsible for entering into the contract with the audit firm were no longer employed. Accordingly, City records did not demonstrate how the deviations from the City of Miami Gardens contract benefited the City.

- Contrary to State law,<sup>294</sup> the contract did not include a provision requiring invoices for fees or other compensation be submitted in sufficient detail to demonstrate compliance with the terms of the contract. According to the contract, the fees for the 2014-15 and 2015-16 fiscal year audits were to be based on hourly rates ranging from \$75 to \$325 per hour. City personnel indicated that they did not know why the required contract language was omitted.

As of May 2018, the City had paid the audit firm a total of \$87,010, including \$920 for out-of-pocket expense reimbursements. Insofar as none of the billings included detail, such as staff hourly rates and number of hours worked by each staff person, it is not apparent how City personnel verified that the amounts billed and paid were in accordance with the contract terms and conditions. In addition, the \$87,010 paid included \$8,500 for a retainer. In response to our inquiry, City personnel indicated that the retainer was part of the audit fee; however, the contract did not provide for payment of a retainer as fees were to be based on actual work performed at applicable hourly rates. Absent contract language

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<sup>293</sup> City of Opa-locka Resolution No.18-9490.

<sup>294</sup> Section 218.391(7), Florida Statutes, requires that a written audit services contract, at a minimum, include provisions: (1) specifying the services to be provided and fees or other compensation for such services; (2) requiring that invoices for fees or other compensation be submitted in sufficient detail to demonstrate compliance with the terms of the contract; and (3) specifying the contract period, including renewals, and conditions under which the contract may be terminated or renewed.

requiring detailed billings, the City cannot be assured that invoices for services are in accordance with the contract, thereby increasing the risk of over payments for those services.

**Recommendation:** The City should establish policies and procedures, consistent with State law, requiring:

- The establishment and use of an audit committee to select auditors.
- Use of detailed descriptions of evaluation criteria and written evaluation committee instructions for reviewing and scoring RFP responses using those criteria.
- Documented explanations when individual evaluator scores vary significantly for a specific criterion.
- Maintenance of records justifying procurement decisions that deviate from audit committee rankings and management recommendations.

In addition, we recommend that the City ensure that contracts for audit services include provisions required by State law and that, prior to payment, City personnel verify that invoices for audit services provide sufficient detail to demonstrate compliance with the terms of the audit services contract.

#### **Finding 78: Legal Services**

Pursuant to its Charter,<sup>295</sup> the City contracts with a law firm to act as the City Attorney. When seeking candidates to fill a City Attorney position vacancy, City ordinances<sup>296</sup> require the City to establish a search committee.

At its February 19, 2015, meeting, the City Commission directed City personnel to issue an RFP for the City Attorney vacancy and at its March 5, 2015, meeting, the City Commission selected a firm to serve as the City Attorney. During the period October 2015 through April 2017, the City paid the firm \$486,809 for its services.

Our examination of City records and discussions with City personnel regarding the process used to select the City Attorney disclosed:

- Pursuant to City ordinances,<sup>297</sup> the search committee was required to “make every effort to conduct a thorough local and nationwide search for candidates” for the City Attorney position. Although we requested, we were not provided City records evidencing that the City Attorney vacancy was advertised in a manner to attract non-local firms. Such advertising could have included, for example, advertisements in publications such as the Florida Bar Journal or publications of national organizations affiliated with legal services, or direct solicitation of RFPs from non-local firms. Consequently, City records did not evidence compliance with the requirement to conduct a nationwide search for candidates for the City Attorney position.
- Pursuant to City ordinances,<sup>298</sup> the search committee was required to evaluate the candidates’ qualifications and recommend no more than five candidates for consideration to fill the position. At the City Commission’s March 5, 2015, meeting, representatives of four candidate firms made presentations to the City Commission and answered questions, after which the City Commission

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<sup>295</sup> Section 3.7, City of Opa-locka Charter.

<sup>296</sup> Section 2-8.4, City of Opa-locka Code of Ordinances.

<sup>297</sup> Section 2-8.4(c), City of Opa-locka Code of Ordinances.

<sup>298</sup> Section 2-8.4(d) and (e), City of Opa-locka Code of Ordinances.

selected one of the candidates to serve as the City Attorney. Although we requested, we were not provided records evidencing the criteria used to evaluate the four candidates or how the candidates were ranked based on such criteria. Consequently, City records did not demonstrate that the City Commission selected the best candidate.

- The firm that previously acted as City Attorney was paid a retainer of \$16,667 per month whereas the initial contract with the new firm provided for a retainer of \$22,000 per month, an increase of \$5,333 or 32 percent per month. Although we requested, City personnel did not provide an explanation or records evidencing the City's methodology for determining the reasonableness of the new firm's monthly retainer.

Under the above conditions, the City's chances of finding the most qualified law firm at a reasonable cost were significantly diminished. Use of a documented competitive selection process would demonstrate the City Commission's commitment to the fair, equitable, and economical procurement of legal services.

The City Commission, at its March 30, 2015, meeting, adopted a resolution<sup>299</sup> approving a contract be executed with the new firm selected to serve as the City Attorney. City ordinances<sup>300</sup> require that every procurement of contractual services be evidenced by a written agreement (contract) embodying all provisions and conditions of the procurement. Properly written contracts protect contracting party interests, identify the responsibilities of all parties, define the services to be performed, and provide the basis for payment. In addition, pursuant to State law,<sup>301</sup> when the City enters into a contract, or renewal or renegotiation of an existing contract, that contains a provision for severance pay, the contract must also include a provision that precludes severance pay from exceeding 20 weeks of compensation and a provision prohibiting severance pay when the contractor has been fired for misconduct, as defined by State law.<sup>302</sup>

Our examination of City records and discussions with City personnel regarding the City's contract with the law firm disclosed that:

- The City Manager executed a contract with the firm on March 5, 2015, the date the City Commission selected the firm to serve as City Attorney, but 25 days before the City Commission officially approved the contract. Execution of a contract prior to City Commission approval and failure to maintain documentation evidencing the proposal terms increases the risk that the terms of the contract may not be favorable to the City or consistent with City Commission intent.
- At its December 14, 2016, meeting, the City Commission approved certain revisions to the contract, including extending the contract period through February 5, 2019. The revised contract provided that the City may terminate its contract with the firm for "Good Cause" (defined as breaching material terms of the contract), in which case the firm would be paid 5 months (or the equivalent of 21.7 weeks) of compensation. However, there is no apparent public purpose served by providing severance pay to a firm for material breach of contract and the provision is contrary to State law,<sup>303</sup> which requires contracts to specify that severance pay may not exceed 20 weeks of compensation and to prohibit severance pay in the event the firm is fired for misconduct.

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<sup>299</sup> City of Opa-locka Resolution No. 15-8952.

<sup>300</sup> Section 2-321(a), City of Opa-locka Code of Ordinances.

<sup>301</sup> Section 215.425(4)(a), Florida Statutes.

<sup>302</sup> Section 443.036(29), Florida Statutes.

<sup>303</sup> Section 215.425(4)(a)1. and 2., Florida Statutes.

In addition, the Executive Office of the Governor, Office of the Chief Inspector General (CIG), issued a report<sup>304</sup> describing several other deficiencies regarding the City Attorney contract related to scope of services, compensation, method for billing chargeable time, travel expenses, private work, and terms that should have been included in the contract. Given these contract deficiencies, the City may be limited in its ability to require satisfactory performance in the event of a dispute with the City Attorney. Also, severance pay contract provisions that are contrary to good business practices and State law could result in the City Attorney inappropriately receiving severance pay or receiving severance pay exceeding amounts permitted by State law.

The contract revisions approved by the City Commission at its December 14, 2016, meeting included a reduction of the monthly retainer from \$22,000 to \$19,800 per month effective October 1, 2016. However, according to City records, the City continued to pay a monthly retainer of \$22,000 for the months of October through December 2016, for a total apparent overpayment of \$6,600 (this overpayment was also noted in the aforementioned CIG report). The City Attorney's law firm detected the overpayment and reimbursed the City for the \$6,600 overpayment in October 2017. In the absence of effective contract monitoring, including procedures to ensure that contractors comply with applicable contract terms and conditions and invoices support the receipt of specified services, the City has limited assurance that it is receiving desired services at agreed-upon rates, and there is an increased risk of overpayment to the contractor.

**Recommendation:** For future selections of a law firm to serve as City Attorney, the City should:

- Ensure compliance with City ordinances is documented.
- Execute a contract with the selected firm only after the proposed contract has been approved by the City Commission.
- Ensure that contract provisions are consistent with State law and good business practices.

In addition, we recommend that the City amend the City Attorney contract to address the above-noted deficiencies and those noted by the CIG and enhance controls over contract monitoring to ensure payments to the City Attorney are made in accordance with the contract.

#### **Finding 79: Insurance Procurement**

The City obtains insurance coverages for general liability, motor vehicle, property, and workers' compensation through the Florida Municipal Insurance Trust (FMIT).<sup>305</sup> According to City records, FMIT annual premium assessments have increased significantly over the past several fiscal years. For example, FMIT annual premium assessments for these coverages increased from \$1 million for the 2013-14 fiscal year to \$1.7 million for the 2017-18 fiscal year, a 68-percent increase.

City ordinances<sup>306</sup> require formal bids and written contracts for insurance purchases exceeding \$5,000. Although we requested, we were not provided records evidencing that a competitive selection process was used for the most recent procurement of insurance. Additionally, although City ordinances<sup>307</sup>

<sup>304</sup> CIG June 20, 2018, report titled *Review of City of Opa-locka Legal Services*.

<sup>305</sup> FMIT is a nonprofit, tax-exempt risk-sharing pool that provides coverage for public entities within the State of Florida.

<sup>306</sup> Sections 2-317 and 2-319(a), City of Opa-locka Code of Ordinances.

<sup>307</sup> Section 2-319(a)4., City of Opa-locka Code of Ordinances.

authorize the City Manager or designee to purchase insurance through negotiation if such purchase results in the lowest possible cost to the City, City records evidencing negotiations with the FMIT or other potential insurance providers were not available.

According to City personnel, the failure to procure insurance through competitive procurement or negotiation procedures is likely due, in part, to staff turnover and reassignment of insurance duties. While City ordinances do not specify how often insurance should be competitively bid or procured by negotiations, by periodically seeking competitive bids for insurance or negotiating with potential insurance providers, the City may gain additional assurance that insurance coverages are obtained at the lowest cost consistent with acceptable quality.

**Recommendation: The City should periodically procure insurance pursuant to competitive bids or through negotiations with potential insurance providers.**

#### **Finding 80: Wireless Communication Devices and Services**

The City provides certain City officials and employees wireless communication devices to facilitate City communication needs in conducting City business, and wireless communication services associated with these devices are provided by a wireless services provider. As of April 2017, the wireless services provider provided services for 114 devices, consisting of 54 cell phones, 57 air cards<sup>308</sup> and 3 tablets.<sup>309</sup> Charges for the use of these devices totaled approximately \$92,000 during the period October 2015 through April 2017.

City ordinances<sup>310</sup> require, with some exceptions, competitive sealed bids or requests for proposals for purchases of contractual services of \$3,500 or more. As of February 2019, contrary to City ordinances, the City had not used a competitive selection process to procure communication services for wireless devices since the City began using the wireless services provider in May 2009.

In response to our inquiry, City personnel indicated that the City relied upon a consultant employed by the wireless services provider to perform an ongoing analysis of device activity to help ensure that the City is using the wireless services provider's most cost-effective plan. However, periodically seeking competitive bids or proposals from other qualified wireless services providers, rather than relying upon analysis provided by a consultant employed by the City's current wireless services provider, would provide the City additional assurance that it is being provided wireless devices and services at the lowest cost consistent with acceptable quality.

City management is responsible for establishing adequate controls to ensure that wireless devices are purchased only for a demonstrated need and used only for authorized public purposes. When accepting a wireless device, users are required to sign a property assignment form that indicates users are to restrict use to City business and, for cell phones, that users will be responsible for reimbursing the City for the costs of any calls over the allotted minutes and for charges not specified on the form. Most of the City's wireless device users are currently on a cumulative "shared" plan with cost driven by aggregate

<sup>308</sup> Air cards are wireless modems used for connecting mobile devices to the Internet.

<sup>309</sup> As of January 2019, the wireless services provider provided wireless communication services for 115 devices, including 48 cell phones, 45 laptop computers, 3 tablets, and 19 other devices.

<sup>310</sup> Section 2-320, City of Opa-locka Code of Ordinances.



data usage, although high-volume device users are provided an unlimited data usage plan. Our examination of City records and discussions with City personnel disclosed that the City's controls over the acquisition, assignment, and use of wireless devices could be improved. Specifically, we found that:

- Other than the property assignment forms, the City had not, as of February 2019, established policies and procedures regarding the acquisition, assignment, and use of wireless devices. Such policies and procedures should require: (1) documented determinations of the need for devices and assignments to City officials and employees, (2) maintenance of a master list of devices assigned to City officials and employees, (3) periodic comparisons of the devices per the master list to devices shown on the wireless communication services billing statements, and (4) periodic evaluations of each device's usage activity to determine whether the nature and level of activity justifies the continued need for the device.
- The City did not maintain a master list of wireless devices assigned to City officials and employees. Such a list would allow City personnel to periodically compare devices per the master list to devices shown on wireless communication services billing statements to identify devices with improper charges and devices for which there is no activity. In response to our inquiry, City personnel indicated that, in November 2017, the City began keeping a list of newly acquired devices; however, a master list of all devices assigned to City officials and employees was not maintained.
- The Information Technologies (IT) Department Director performed a monthly cursory, high-level review the billing statements for inappropriate charges and the service provider consultant performed monthly reviews of device activity levels. However, City procedures did not require City officials or employees assigned devices, or their supervisors, to evaluate the device activity detailed on monthly wireless communication services billing statements and report any non-business use.
- Four monthly billing statements, with cumulative charges totaling \$28,544 for the months of November 2015, February 2016, March 2016, and May 2017 included charges for equipment that was not used. Specifically:
  - The billing statements for 2 months included significant new or upgraded equipment charges totaling \$6,278, including \$4,770 for nine tablets, \$1,200 for four smart phones, and \$308 for other devices. In response to our inquiry about these charges, City personnel indicated that the nine tablets purchased in October 2015 were for a project that never started because of the City's financial crisis. At the time of our inquiry in November 2017, the nine tablets were in the IT Department Director's office and City records were not provided to evidence City management's decision to postpone use of the tablets or City attempts to return the tablets for a refund. Also, City personnel did not explain the basis for the other equipment charges totaling \$1,508.
  - The four billing statements included charges for numerous wireless devices (ranging from 25 to 39 devices) with no activity. In response to our inquiry, City personnel indicated it could be that there was no activity for these devices because the devices were broken.

Absent effective policies and procedures regarding the acquisition, assignment, and use of wireless devices, there is an increased risk that devices will be unnecessarily acquired or used for unauthorized purposes and the City may be overcharged for devices and related services.

**Recommendation: The City should establish policies and procedures regarding the acquisition, assignment, and use of wireless devices. Such policies and procedures should require:**

- **In accordance with City ordinances, City personnel to periodically use a competitive selection process for acquiring wireless devices and the associated communication services.**

- That a master list of all devices assigned to City officials and employees be maintained.
- The performance of a documented comparison of devices per the master list to devices shown on billing statements.
- City officials and employees assigned devices, or their supervisors, to evaluate device activity detailed on monthly billing statements and report any non-business use.

## PUBLIC RECORDS

The City is responsible for establishing policies and procedures that are designed to effectively promote compliance with the statutory and ordinance requirements requiring the maintenance of public records.

### **Finding 81: Public Records Retention**

Pursuant to State law,<sup>311</sup> the City is required to maintain public records in accordance with the Department of State, Division of Library and Information Services, records retention schedules. Failure to maintain records in accordance with State law could result in City officials being subjected to the penalties specified in State law.<sup>312</sup>

Our examination of City records and discussion with City personnel disclosed that, as of August 2018, the City had not established policies and procedures regarding the retention of public records, including records created or maintained in electronic format such as e-mails and text messages.<sup>313</sup> In response to our inquiry, City personnel provided us a draft public records retention policy that certain City personnel considered in March 2017; however, although we requested, we were not provided documentation evidencing that a public records policy was finalized and made available to all City officials and employees.

While performing audit procedures in various City program areas, we noted that the City did not always comply with State records retention requirements. For example:

- According to the State records retention schedule,<sup>314</sup> documentation related to journal transactions must be maintained for 5 fiscal years after the transaction is completed. As part of our procedures related to journal entries totaling \$204 million during the period October 2015 through March 2017, we requested for examination City records supporting 30 selected journal entries totaling \$3.1 million. For 7 journal entries totaling \$373,322, we were not provided supporting records as, according to City personnel, the records had been misplaced (as discussed in Finding 21).
- According to the State records retention schedule,<sup>315</sup> credit card receipts must be maintained for 5 fiscal years after the transaction is completed. As part of our procedures for evaluating credit card charges totaling \$100,565 during the period October 2015 through April 2017, we requested for examination City records, including receipts, supporting 361 credit card charges totaling

<sup>311</sup> Section 119.021(2)(a) and (b), Florida Statutes.

<sup>312</sup> Section 119.10, Florida Statutes.

<sup>313</sup> The Division of Library and Information's Services General Records Schedule GS1-SL for State and Local Government Agencies applies to records regardless of the format in which they reside; therefore, records created or maintained in electronic format must be retained in accordance with the minimum retention requirements presented in the Schedule.

<sup>314</sup> State of Florida General Records Schedule GS1-SL for State and Local Government Agencies, Item # 340 and # 365.

<sup>315</sup> State of Florida General Records Schedule GS1-SL for State and Local Government Agencies, Item # 340.

\$65,207. We were not provided the original or copies of receipts for 31 charges totaling \$5,927 (as discussed in Finding 71). For 10 of the 31 transactions, City records included a note from the cardholder indicating that either a receipt was not obtained, was obtained but not retained, or was misplaced. Although City personnel did not explain why the other 21 receipts were missing, those receipts were likely missing for those same reasons.

- According to the State records retention schedule,<sup>316</sup> correspondence for contracts, leases, and agreements related to capital improvement and real property must be maintained for 10 fiscal years after completion or termination of the contract, lease, or agreement. The schedule<sup>317</sup> also provides that correspondence for contracts, leases, and agreements not related to capital improvement and real property must be maintained for 5 fiscal years after completion or termination of the contract, lease, or agreement.
- As part of our audit procedures to determine compliance with competitive procurement requirements, we requested for examination City records supporting the selection process used to procure various contractual services. For example, as discussed in Finding 28, we requested City records related to four construction contracts totaling \$11.3 million awarded during the period March 2010 through April 2017. We were not provided the date- and time-stamped envelopes for respondent bids or proposals for these procurements and certain other procurements of services not related to capital improvement and real property. According to City personnel, date- and time-stamped envelopes in which respondent bids or proposals are submitted are only retained for 2 months, contrary to the 5-year or 10-year required retention period.

Additionally, in response to our inquiry in February 2019, City personnel indicated that the City was not archiving text messages sent or received using wireless communication devices<sup>318</sup> that had text message capability because the City's wireless communications carrier contract did not provide for archiving services. However, City personnel indicated that they were researching ways to ensure that text messages are retained, including use of a wireless communications carrier that provides archive services for all texting activity.

Absent public records retention policies and procedures and adequate controls to ensure compliance with those requirements, the City has limited assurance that City personnel complied with the statutory retention requirements and are appropriately maintaining public records, including records created or maintained in electronic format.

**Recommendation: The City should establish public records retention policies and procedures and ensure that all City officials and employees are aware of the policy. The policy should be consistent with the Department of State, Division of Library and Information Services, records retention schedule and address retention requirements for records created or maintained in electronic format.**

## **Finding 82: City Commission Minutes**

Pursuant to State law,<sup>319</sup> minutes of City Commission meetings must be promptly recorded and open to public inspection. The City Charter<sup>320</sup> provides that written minutes from all City Commission meetings

<sup>316</sup> State of Florida General Records Schedule GS1-SL for State and Local Government Agencies, Item # 64.

<sup>317</sup> State of Florida General Records Schedule GS1-SL for State and Local Government Agencies, Item # 65.

<sup>318</sup> As of June 2018, there were 58 City cellular telephones with texting capabilities.

<sup>319</sup> Section 286.011(2), Florida Statutes.

<sup>320</sup> Citizens' Bill of Rights (A)(4), City of Opa-locka Charter.

be available for inspection no later than 30 days after the conclusion of the meeting. The City Charter<sup>321</sup> also provides that the City Clerk is responsible for preparing City Commission meeting minutes. In practice, the City Commission officially approves the minutes at a Commission meeting before the City Clerk makes the minutes available for public inspection.

The City maintains City Commission meeting minutes on the City Web site, which facilitates public access to official City Commission actions. During the 19-month period October 2015 through April 2017, the City Commission held 65 meetings, composed of 32 regular bi-monthly meetings and periodic budget and special meetings. Our review of documentation related to City Commission meetings during this period disclosed that:

- Contrary to State law and the Miami-Dade County Charter, as of October 12, 2017, City Commission meeting minutes for a regular meeting held on December 14, 2016, and a special meeting held on May 24, 2016, had not been prepared and posted on the City Web site.
- The City Commission did not promptly approve meeting minutes for 37 of the 63 City Commission meetings for which meeting minutes were prepared as of October 12, 2017. The 63 meetings consisted of 17 regular meetings, 15 special meetings, and 5 budget meetings. The meeting minutes were approved 33 to 260 days after the meetings occurred. Consequently, the meeting minutes were not available for public inspection until 3 to 230 days (an average of 57 days) after the City Charter-prescribed 30-day deadline.

According to City personnel, the untimely preparation and approval of the minutes was because of an increased number of meetings and workshops since the financial emergency declaration,<sup>322</sup> increased records requests from governmental agencies, and increased public records requests. In addition, City Clerk positions were reduced by one position effective for the 2015-16 fiscal year. When minutes are not timely approved and made available for public inspection on the City Web site, public access to and awareness of official City Commission actions may be limited.

**Recommendation: The City should ensure that minutes for all City Commission meetings are timely approved and posted to the City Web site.**

### **Finding 83: Financial Disclosures**

The Legislature has declared that it is essential to the proper conduct and operation of government that public officials be independent and impartial and that no officer or employee of a State governmental entity have any interest, financial or otherwise, direct or indirect; engage in any business transaction or professional activity; or incur any obligation of any nature which is in substantial conflict with the proper discharge of their duties in the public interest.<sup>323</sup> State law<sup>324</sup> provides that no public officer or employee is to have or hold any employment or contractual relationship with any business entity or any agency that is subject to the regulation of, or is doing business with, the agency of which he or she is an officer or employee. State law<sup>325</sup> also requires certain public officials and specified employees to file an annual

<sup>321</sup> Section 3.6(3), City of Opa-locka Charter.

<sup>322</sup> City of Opa-locka Resolution No. 16-9189 adopted June 1, 2016.

<sup>323</sup> Section 112.311, Florida Statutes.

<sup>324</sup> Section 112.313(7)(a), Florida Statutes.

<sup>325</sup> Section 112.3145(1) and (2), Florida Statutes.

financial disclosure (Form 1) as of July 1 each year<sup>326</sup> and within 30 days of employment and a Final Statement of Financial Interest (Form 1F) within 60 days of leaving office or employment. Local officers include, among others:

- Elected officials.
- Chief administrative employee of a municipality.
- Municipal attorney.
- Municipal finance director.
- Chief municipal building code inspector.
- Appointed members of municipal boards having the power to enforce local code provisions.
- Appointed members of the planning and zoning board or other boards having the power to recommend, create, or modify land planning or zoning within a political subdivision.
- Purchasing agents having the authority to make any purchase exceeding \$20,000 on behalf of a municipality.

In addition, pursuant to State law,<sup>327</sup> the Commission on Ethics (Ethics Commission) must annually prepare and provide each supervisor of elections a list of the names and addresses of local officers required to file financial disclosure forms for the previous calendar year. To assist the Ethics Commission, governmental entities, such as the City, are required to provide the Ethics Commission the names and addresses of local officers required to file financial disclosure forms.

The Miami-Dade County charter,<sup>328</sup> as authorized by the State Constitution,<sup>329</sup> provides that its ordinances supersede all conflicting municipal ordinances; consequently, County ordinances<sup>330</sup> constitute the minimum standard of ethical conduct and behavior for certain officers and employees of municipalities within the County. County ordinances require the individuals listed above and the following additional employees to file financial disclosure forms with the City Clerk:

- Assistant city managers.
- Heads or directors of city departments and their assistant or deputy directors.
- Police department employees with a rank of captain, major, or chief.
- Building and zoning inspectors.

Miami-Dade County ordinances provide that the annual financial disclosure form filed to comply with State law can be used to satisfy the County requirements.

Additionally, the City Charter<sup>331</sup> provides that all elected officers, employees, and appointed board or committee members also disclose any interest in real estate or other business, upon entering office or being hired, and shall redisclose annually thereafter. The City Charter is more restrictive than the State financial disclosure requirements as the City Charter financial disclosure provisions apply to all

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<sup>326</sup> Per Commission on Ethics Rule 34-8.202, Florida Administrative Code, an individual who is a public official or specified employee on December 31 of a calendar year must file the financial disclosure form by July 1 of the following calendar year.

<sup>327</sup> Section 112.3145(7)(a)1., Florida Statutes.

<sup>328</sup> Section 9.04, Miami-Dade County Charter.

<sup>329</sup> Article VIII, Section 6(e) of the State Constitution.

<sup>330</sup> Miami-Dade County Ordinance 2.11.1(i).

<sup>331</sup> Section 7.2(B), City of Opa-locka Charter.

employees, require disclosure of personal residences, and provide for certain dollar-value and income percentage threshold exclusions regarding disclosures of business interests.

In response to our inquiry, City personnel indicated that the City had not established policies and procedures to ensure compliance with the statutorily required financial disclosure filings or the financial disclosures required by Miami-Dade County ordinances and the City Charter. Although we requested, we were not provided records evidencing that Finance Department personnel or other employees responsible for approving purchases routinely reviewed and considered those disclosures to reduce the risk of contractual conflicts of interest. However, the City Clerk indicated that, in practice, she ensured that the names and addresses of officials and employees required to file financial disclosure forms by State law were correctly reported to the Ethics Commission. The City Clerk also informed us that she was not aware that the County ordinances require certain employees to file financial disclosure forms with the City Clerk or the reason why elected officials, employees, and appointed board members were required to make the additional disclosures set forth by the City Charter.

Our examination of City records and discussions with City personnel disclosed that, as of August 2017, 6 officials and employees (a City Commissioner, 2 City Managers, a Chief of Police, a Building Official, and a Planning Council member) had not filed a Form 1F for the 2015 or 2016 years. In addition, 21 employees (2 Capital Improvement Projects Directors, 2 Code Enforcement Directors, 2 Human Resource Directors, 2 Police Majors, a Purchasing Administrator, and 12 other employees) who were required to file a financial disclosure form with the City Clerk pursuant to Miami-Dade County ordinances did not file the forms for the 2015 through 2017 calendar years. Our audit procedures also disclosed that, for the period October 2015 through April 2017, no elected officials, employees, or appointed board members made the additional disclosures required by the City Charter, either upon election, hiring, appointment, or annually thereafter.

Financial disclosures are essential to provide a public record that discloses the financial interests, activities, and associations of local officers, as well as potential conflicts of interest. Also, absent the required financial disclosures, and the routine review and consideration of those disclosures by the Finance Department or other City personnel responsible for approving purchases, there is an increased risk that City personnel may be unaware of potential conflicts of interest when procuring goods or services.

**Recommendation: The City should establish policies and procedures to ensure that the designated officers and employees make the required financial disclosures. Such policies and procedures should require the City Clerk to monitor and verify that the required financial disclosures are timely completed and documented in the City records. In addition, Finance Department or other City personnel responsible for approving purchases should routinely review and consider financial disclosures to avoid potential conflicts of interest when procuring goods and services.**



## **Finding 84: Lobbyist Registration**

City ordinances<sup>332</sup> provide that, before engaging in any lobbying activities, all lobbyists must:

- Register with the City Clerk on prescribed forms.
- Pay a registration fee of \$300. The City Clerk is required to deposit the registration fee into a separate account to be expended only to cover the costs incurred to administer the provisions of the ordinance.
- State under oath his or her name, business address, the name and business address of each person or entity of each person or entity represented, and the specific issues that the lobbyist is being employed to lobby.
- Annually submit to the City Clerk a signed statement under oath listing all lobbying expenditures of the preceding calendar year. As statement shall be filed even if no expenditures occurred during the reporting period.

The ordinances also require that the City Clerk quarterly and annually publish logs of filed lobbyist registrations and provide such logs to the City Commission within the Commission meeting materials.

In response to our request, in October 2017 the City Clerk provided listings of 6, 8, and 4 lobbyists who registered in the 2015, 2016, and 2017 calendar years, respectively. Our audit procedures found that, as of December 2017, the City had not fully complied with the ordinances as:

- The fees collected for lobbyist registrations were deposited into the City's General Operating bank account rather than into a separate bank account as required by the ordinances, and the fee revenue was not identified in the accounting records as being earmarked only for the costs of administering the ordinance. Because the fees were coded as miscellaneous revenue, it was not practical for us to determine the amount of fees collected; however, if the City properly collected the \$300 registration fee for the 18 lobbyists, \$5,400 of lobbyist registration fees were comingled with other General Fund operating revenues for the 2015 through 2017 calendar years. According to the City Clerk, City personnel who collect cash were not aware of the requirement to separately account for the lobbyist registration fees.
- None of the lobbyists who registered during the 2015, 2016, and 2017 had submitted to the City Clerk the required annual statements of lobbying expenditures from the prior calendar year. The City Clerk said that she did not know why the annual statements had not been filed and indicated that City personnel had not developed standardized forms for lobbyists to report expenditure information.
- The City Clerk had not published and provided the required quarterly and annually lobbyist logs of filed lobbyist registrations to the City Commission because she was unaware of the requirement.

Absent complete lobbyist information, members of the public may not be aware of the individual lobbyists and their clients who seek to influence official actions of the City Commission. Additionally, without depositing the lobbyist registration fees into a separate account, or otherwise separately track the fee revenues within the accounting records as required by the ordinances, the City Commission's assurance that the fees collected are expended solely to administer the provisions of the ordinances is limited.

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<sup>332</sup> Section 2-18, City of Opa-locka Code of Ordinances.



**Recommendation:** The City should establish policies and procedures that require and ensure:

- City personnel establish a separate account or otherwise separately identify lobbyist registration fees and expenditure of those fees so that the fee revenue is only expended to administer lobbyist registration provisions.
- Lobbyists annually file statements of lobbying expenditures from the prior calendar year as required.
- City personnel publish and provide the required quarterly and annually lobbyist registration logs of filed lobbyist registrations to the City Commission.

## **OPA-LOCKA COMMUNITY REDEVELOPMENT AGENCY BACKGROUND**

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State law<sup>333</sup> authorizes the creation of community redevelopment agencies (CRAs) by counties and municipalities for the purpose of redeveloping slums and blighted areas that are injurious to the public health, safety, morals, and welfare of residents and for which there is a shortage of housing affordable to residents of low or moderate income, including the elderly. CRA funding is accomplished through tax financing provided by applicable taxing authorities and expenditures from such funding must be in accordance with an approved plan. In addition, the CRA revenues and expenditures must be accounted for in a separate trust fund.

The area served by the Opa-locka CRA encompasses 18 percent of the City's total area and generally borders Northwest 151st Street, Opa-Locka Executive Airport, Tri-Rail corridor, and a constructed stormwater lake managed by the South Florida Water Management District. Although the CRA is a separate legal entity, the City Planning and Community Development Department (Department) is responsible for CRA operations and reports to the City Manager. Duties of certain Department positions<sup>334</sup> include CRA-related activities.

## **OPA-LOCKA COMMUNITY REDEVELOPMENT AGENCY FINDINGS AND RECOMMENDATIONS**

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Our operational audit of the Opa-locka Community Redevelopment Agency (CRA) focused on selected CRA processes and administrative activities. Our audit disclosed a pervasive lack of adequate controls necessary to promote and encourage compliance with applicable State laws, contracts, an interlocal agreement with Miami-Dade County, and other guidelines; economic and efficient CRA operations; reliability of records and reports; and the safeguarding of assets. For example, we noted instances of noncompliance relative to CRA creation and plan adoption; reports of activities and annual audits; administrative expenses; budget adoption and implementation; Web site transparency; maintenance of CRA Board meeting minutes; severance pay; and procurement of legal services.

Our audit also disclosed numerous instances of potential fraud, waste, and abuse.<sup>335</sup> For some of our findings, the amount of resources lost due to noncompliance or inadequate accountability was not quantifiable; however, as shown in **EXHIBIT A** to this report, we identified questioned costs totaling \$342,731 for the CRA.

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<sup>333</sup> Chapter 163, Part III, Florida Statutes, also known as the Community Redevelopment Act of 1969.

<sup>334</sup> Department Director/CRA Manager, Zoning Official, and Secretary.

<sup>335</sup> Chapter 2019-15, Laws of Florida, amended Section 11.45(1), Florida Statutes, to define fraud, waste, and abuse. Fraud includes theft of an entity's assets, bribery, or the use of one's position for personal enrichment through the deliberate misuse or misapplication of an organization's resources. Waste includes the act of using or expending resources unreasonably, carelessly, extravagantly, or for no useful purpose. Abuse includes behavior that is deficient or improper when compared with behavior that a prudent person would consider a reasonable and necessary operational practice given the facts and circumstances, and the misuse of authority or position for personal gain.

## COMPLIANCE WITH THE COMMUNITY REDEVELOPMENT ACT AND INTERLOCAL COOPERATION AGREEMENT

State law<sup>336</sup> provides that any county that has adopted a home rule charter may by resolution delegate the exercise of the powers conferred upon the county by the Community Redevelopment Act of 1969 (Act)<sup>337</sup> within the boundaries of a municipality to the governing body of such a municipality. Any such powers to be delegated to a municipality's governing body must be specifically enumerated in the delegating resolution, and any power not specifically delegated shall be reserved exclusively to the governing body of the county.

On December 4, 2012, the Miami-Dade County Board of County Commissioners (BOCC) adopted a resolution<sup>338</sup> declaring a need for a CRA in the City of Opa-locka (City) and, on October 1, 2013, adopted a second resolution<sup>339</sup> approving the execution of an interlocal cooperation agreement (interlocal agreement) between the CRA, the City, and the County. The interlocal agreement was executed on December 9, 2013.

The Act and the interlocal agreement established various requirements the CRA must follow, including requirements pertaining to CRA funding, expenditures, reporting, and audit requirements. Given these requirements, it is important that the CRA establish and maintain policies and procedures to effectively promote and monitor compliance with the Act, other State laws, and the interlocal agreement, and to demonstrate accountability for the use of public resources.

### **Finding 85: CRA Creation**

On April 28, 2010, the City Commission adopted a resolution<sup>340</sup> declaring the need for a CRA and, on June 8, 2011, the City Commission adopted a resolution<sup>341</sup> creating the CRA. On December 4, 2012, the Miami-Dade County BOCC adopted a resolution<sup>342</sup> declaring the need for a CRA in the City, delegating to the City Commission the power to create a CRA with the sole power initially to prepare and adopt a redevelopment plan of a specified area within the City and submit the plan to the County BOCC for review and approval. Notwithstanding, the City Commission-adopted resolution creating the CRA was contrary to State law<sup>343</sup> as the resolution was adopted nearly 18 months before the County BOCC granted the City Commission authority to create the CRA.

In addition, before the Miami-Dade County BOCC adopted the resolution<sup>344</sup> authorizing the CRA's creation, the CRA Board of Commissioners (CRA Board) held several meetings, conducted business, and incurred expenditures totaling approximately \$86,000 to employ an executive director and legal

<sup>336</sup> Section 163.410, Florida Statutes.

<sup>337</sup> Sections 163.330 through 163.463, Florida Statutes.

<sup>338</sup> Miami-Dade County BOCC Resolution No. R-996-12.

<sup>339</sup> Miami-Dade County BOCC Resolution No. R-795-13.

<sup>340</sup> City of Opa-locka Resolution No. 10-8054.

<sup>341</sup> City of Opa-locka Resolution No. 11-8238

<sup>342</sup> Miami-Dade County BOCC Resolution No. R-996-12.

<sup>343</sup> Section 163.410, Florida Statutes.

<sup>344</sup> Miami-Dade County BOCC Resolution No. R-996-12.

counsel. These expenditures were reported as CRA expenditures on the combining financial statements included in the City's 2011-12 and 2012-13 fiscal year audit reports.

Although we requested, City records were not provided to evidence the necessity for creating the CRA and the CRA incurring these expenditures before the Miami-Dade County BOCC authorized creating the CRA. In response to our inquiry, the City Planning and Community Development Department Director/CRA Manager indicated that this activity predated his involvement with the CRA and surmised that the expenditures were related to the development of the CRA Finding of Necessity and Masterplan, both of which are required for establishing a CRA. Notwithstanding City authority to incur such expenditures as part of its attempt to obtain Miami-Dade County BOCC approval to create a CRA, the City could have taken actions to develop the CRA Finding of Necessity and Masterplan at its own expense without creating the CRA.

**Recommendation: The City should document of record the public purpose served by the CRA expenditures totaling \$86,000 incurred prior to the Miami-Dade County BOCC's authorization to create the CRA or reimburse the \$86,000 to the CRA. Additionally, the CRA should seek clarification from Miami-Dade County regarding the legality of CRA Board actions taken, and the related costs incurred, prior to the County BOCC authorizing the CRA's creation on December 4, 2012. For any future CRAs, the City should ensure that the County BOCC authorizes the CRA before the City adopts the CRA resolution.**

#### **Finding 86: CRA Plan Adoption**

Pursuant to State law,<sup>345</sup> the CRA must expend tax increment financing moneys in accordance with an approved CRA Plan, which must include information prescribed by State law.<sup>346</sup> State law<sup>347</sup> requires the City Commission to publish notice of its intent to consider adopting the CRA Plan in a newspaper of general circulation at least 10 days prior to adoption and include in the notice the information prescribed in State law.<sup>348</sup>

At the August 13, 2013, meetings, the CRA Board and City Commission approved a CRA plan.<sup>349</sup> In accordance with the interlocal agreement,<sup>350</sup> on October 1, 2013, the Miami-Dade County BOCC also approved the CRA plan.<sup>351</sup> Our examination of City and CRA records and discussions with City personnel disclosed that:

- City records were not available to evidence that the City published the required notice. In response to our inquiry, the City Planning and Community Development Department Director/CRA Manager indicated that the adoption of the CRA Plan predated his City employment and involvement with the CRA. Providing the required meeting notice helps ensure compliance with State law and promotes public awareness of and attendance at CRA Board or City Commission meetings pertaining to the CRA Plan.

<sup>345</sup> Section 163.387(1)(a), Florida Statutes.

<sup>346</sup> Section 163.362, Florida Statutes.

<sup>347</sup> Sections 163.360(6)(a) and 163.346, Florida Statutes.

<sup>348</sup> Sections 163.360(6)(a) and 166.041(3)(a), Florida Statutes.

<sup>349</sup> CRA Resolution Nos. 13-8668 and 13-8670.

<sup>350</sup> Interlocal Agreement, Section III.A.

<sup>351</sup> Miami-Dade County BOCC Resolution No. R-795-13.

- The CRA Plan did not always comply with State law or include accurate information as:
  - While the CRA Plan included certain information about planned goals and objectives for redevelopment districts located within the CRA area and proposed capital improvements thereto, the Plan did not include all the information specified in State law.<sup>352</sup> Specifically, the Plan lacked detailed descriptions of proposed redevelopment projects, estimated project costs, time frames for completing projects, and a date certain for completing all redevelopment projects. In response to our inquiry, the City Planning and Community Development Department Director/CRA Manager indicated that the Plan is a work in progress and such information is not currently available.
  - The CRA Plan indicated that the CRA had been established for a 40-year period; however, the interlocal agreement stated that the CRA was created for a 20-year period. In response to our inquiry, the City Planning and Community Development Department Director/CRA Manager indicated that he was unaware of this discrepancy, but it may be that at the time the CRA Plan was prepared, the CRA had hoped Miami-Dade County would approve a 40-year period.

Inclusion of required and accurate information in the CRA Plan regarding the CRA establishment period and proposed CRA redevelopment activities provides valuable information to taxing authorities required to contribute to the CRA and to the general public.

**Recommendation: The CRA should ensure that future modifications of the CRA Plan are publicly noticed and include all required information. Additionally, the CRA should amend the CRA Plan to include detailed descriptions of proposed redevelopment projects, estimated project costs, time frames for completing projects, and a certain date for completing all redevelopment projects and to correctly specify the CRA's 20-year existence period.**

#### **Finding 87: CRA Annual Report of Activities**

Pursuant to State law<sup>353</sup> and the interlocal agreement,<sup>354</sup> the CRA is required to file with the City and Miami-Dade County, on or before March 31 of each year, a report of its activities for the preceding fiscal year, which report shall include a complete set of financial statements setting forth its assets, liabilities, income, and operating expenses as of the end of such fiscal year.

The CRA Board initially met in February 2012 and took several actions at subsequent meetings during the 2011-12 fiscal year, including adopting and amending a preliminary version of the CRA Plan, employing the CRA's first Executive Director, and procuring legal services. Our examination of CRA records disclosed that the CRA prepared annual reports of activities for the 2012-13, 2015-16, and 2016-17 fiscal years; however, the CRA did not, of record, prepare annual reports of activities for the 2011-12, 2013-14, and 2014-15 fiscal years. In response to our inquiry, the City Planning and Community Development Department Director/CRA Manager indicated that he did not know why annual reports were not prepared for those 3 fiscal years.

The required annual reports provide useful information to taxing authorities and the general public disclosing CRA activities and how the CRA is accomplishing its redevelopment objectives.

<sup>352</sup> Section 163.362, Florida Statutes.

<sup>353</sup> Section 163.356(3)(c), Florida Statutes.

<sup>354</sup> Interlocal Agreement, Section VI.C.

**Recommendation: The CRA should ensure that the required annual reports of activities are timely completed and submitted to the City and Miami-Dade County.**

#### **Finding 88: CRA Annual Audit**

On October 1, 2013, in accordance with State law,<sup>355</sup> the Miami-Dade County BOCC enacted an ordinance<sup>356</sup> establishing a redevelopment trust fund (trust fund). Pursuant to State law<sup>357</sup> and the interlocal agreement,<sup>358</sup> the City, either directly or through the CRA, must provide for an annual audit of the trust fund. The audit report must describe the amount and source of deposits into, and the amount and purpose of withdrawals from, the trust fund during the fiscal year. Additionally, the interlocal agreement<sup>359</sup> requires the City to, either directly or through the CRA, provide for an outside independent annual audit to monitor and investigate compliance with the terms of the interlocal agreement.

Our examination of City and CRA records and discussions with City personnel disclosed that the City and CRA did not always comply with applicable audit requirements as:

- The CRA is a component unit of the City, and its financial activity is reported as a nonmajor governmental fund (CRA Fund) and audited as part of the City's annual financial audit. Accordingly, the CRA's financial activity for the 2011-12 through 2014-15 fiscal years was reported in the City's audited financial statements for those fiscal years. However, because the CRA Fund did not meet the criteria to be reported as a major fund for those fiscal years, the scope of the audits and related audit opinions did not focus on the CRA trust fund and the audit reports did not provide a means for evaluating the adequacy of internal controls over CRA trust fund activities or the extent to which such activities were administered in accordance with applicable laws, rules, and governing policies.

The audit reports also did not provide the amount and source of deposits into, and the amount and purpose of withdrawals from, the CRA trust fund for those fiscal years. In addition, as discussed in Finding 5, the City's 2014-15 and 2015-16 fiscal year financial audits were not timely completed.

- Neither the CRA nor the City provided for an audit pursuant to the interlocal agreement as the scope of the City's annual financial audits did not include a determination of compliance with the terms of the interlocal agreement.

In response to our inquiry, the City Planning and Community Development Department Director/CRA Manager indicated that noncompliance with the audit requirements was due to changes in City administration and leadership.

Timely audits that appropriately focus on the CRA are necessary for Miami-Dade County, other taxing authorities that contribute tax increment funding to the CRA, and the general public to monitor the CRA's compliance with applicable laws and the interlocal agreement. In addition, ensuring compliance with the interlocal agreement audit requirement would improve accountability for CRA resources and provide additional transparency regarding CRA activities. Had CRA audits been timely conducted in accordance with State law and the interlocal agreement, taxing authorities required to contribute to the CRA and the

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<sup>355</sup> Section 163.387(1), Florida Statutes.

<sup>356</sup> Miami-Dade County BOCC Ordinance No. 13-94.

<sup>357</sup> Section 163.387(8), Florida Statutes.

<sup>358</sup> Interlocal Agreement, Section VI.B.

<sup>359</sup> Interlocal Agreement, Section X.A.(3).

general public may have been more timely informed of the control deficiencies and instances of noncompliance discussed in this report.

**Recommendation: The CRA should ensure that timely annual audits of the CRA, including the CRA trust fund, are conducted in accordance with State law and the interlocal agreement.**

#### **Finding 89: CRA Tax Increment Financing**

Pursuant to State law,<sup>360</sup> CRAs are to receive tax increment financing (TIF) annually. TIF is defined as 95 percent of the difference between the amount of ad valorem taxes levied by each applicable taxing authority<sup>361</sup> (exclusive of amounts derived from debt service millages) on taxable properties within the designated community redevelopment area, and the amount of taxes that would have been produced by the millage rates levied by the taxing authorities prior to the effective date of the ordinance providing for the funding.

Timely receipt of TIF moneys from taxing authorities is necessary to ensure CRAs have the resources necessary to carry out their activities. Accordingly, State law<sup>362</sup> also provides that any taxing authority that does not pay TIF to a CRA by January 1 of the year for which the property tax is levied shall pay a late fee equal to 5 percent of the TIF amount and interest on the unpaid TIF equal to 1 percent for each month the TIF payment is past due, although the CRA may waive such penalty payments in whole or in part.

The City and Miami-Dade County are the taxing authorities for the CRA. The County calculated TIF contributions using a 2013 base year and ad valorem real property tax values totaling \$123.6 million. Our examination of City and CRA records and discussions with City personnel disclosed that, while the County made required contributions to the CRA, the City had made no annual contributions to the CRA as of July 1, 2018. Due, in part, to the lack of City contributions, the City reported a \$700,511 deficit unreserved fund balance for the CRA at September 30, 2017. Table 27 discloses that the City owed the CRA \$484,000, including late fees and interest,<sup>363</sup> as of that date.

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<sup>360</sup> Section 163.387(1)(a), Florida Statutes.

<sup>361</sup> Certain taxing authorities are exempt from contributing TIF moneys pursuant to Section 163.387(2)(c) and (2)(d), Florida Statutes.

<sup>362</sup> Section 163.287(2)(b), Florida Statutes.

<sup>363</sup> As of July 1, 2018, the CRA had not, of record, waived late fees and interest pursuant to Section 163.287(2)(b), Florida Statutes.



**Table 27**  
**Annual TIF Contributions, Late Fees, and Interest**  
**the City Owed to the CRA**  
**as of July 1, 2018**

Year	Required Annual Contribution <sup>a</sup>	Late Fees	Interest	Total
2014 <sup>b</sup>	\$ -	\$ -	\$ -	\$ -
2015	35,190	1,760	10,557	47,507
2016	137,712	6,886	24,788	169,386
2017	240,637	12,032	14,438	267,107
<b>Totals</b>	<b><u>\$413,539</u></b>	<b><u>\$20,678</u></b>	<b><u>\$49,783</u></b>	<b><u>\$484,000</u></b>

<sup>a</sup> As shown in Table 3 of the City's 2017-18 Fiscal Year 1st Quarter Budget Performance Report.

<sup>b</sup> The tax increment value decreased from the 2013 year to the 2014 year; therefore, neither the City nor Miami-Dade County were required to make TIF contributions to the CRA for the 2014 year.

Had the City paid the required annual contributions when due, the deficit unreserved fund balance reported for the CRA at September 30, 2017, would have only been \$286,972.

In response to our inquiries, the City Planning and Community Development Department Director/CRA Manager indicated that the City and CRA are in the process of determining what TIF amount the City needs to contribute to the CRA after considering amounts fronted for the CRA from the City Water and Sewer Fund<sup>364</sup> (as discussed in Finding 18), and that the City and the CRA have not entered into any written agreement regarding the unpaid TIF moneys or related late fees and interest. Although we requested, City personnel did not provide us an explanation as to why the City did not make the required TIF contributions.

**Recommendation: The City, in accordance with State law, should immediately pay the CRA the required TIF contributions and, unless waived by the CRA, the related late fees and interest as adjusted for any authorized payments by the City to, or on behalf of, the CRA.**

#### **Finding 90: CRA Financial Transaction Accountability**

Pursuant to State law,<sup>365</sup> the CRA is required to follow uniform accounting practices and procedures as promulgated by the Department of Financial Services (DFS). As such, the CRA must maintain separate accountability for the receipt and use of TIF revenues through the use of a separate fund and account codes prescribed in the DFS *Uniform Accounting System Manual*. City personnel established the CRA Fund to account for CRA financial transactions in the City's accounting records; however, the City accounting records did not always provide adequate accountability for CRA financial transactions. Specifically:

- From its inception on June 8, 2011, through September 30, 2017, the CRA reported revenues totaling \$99,102, transfers in totaling \$344,971, and expenditures totaling \$548,504. Rather than

<sup>364</sup> Pursuant to interlocal agreement Section III.B.

<sup>365</sup> Section 218.33, Florida Statutes.

maintain a separate CRA bank account or record these transactions in a separate CRA cash account for the CRA Fund, City personnel deposited CRA cash receipts into, and paid CRA expenditures from, the City's General Fund Operating or Payroll bank accounts and then recorded corresponding revenues and expenditures to the CRA Fund with journal entries.

The City's 2017-18 fiscal year 1st quarter budget performance report indicated that measures were underway to establish a separate CRA bank account, and once the CRA bank account has been established, Miami-Dade County and City TIF contributions can be transferred from the General Fund Operating bank account into the CRA bank account to cease the comingling of CRA moneys with City moneys.

- According to City accounting records and as shown in Table 28, the CRA Fund reported \$529,575 as Due to the City's General Fund as of September 30, 2017, representing the amount of CRA expenditures the City had paid on the CRA's behalf.

**Table 28**  
**CRA Expenditures Paid by the City**  
**For the 2011-12 Through 2016-17 Fiscal Years**

<b>Fiscal Year</b>	<b>Amount Paid</b>
2011-12	\$ 55,698
2012-13	148,469
2013-14	139,605
2014-15	155,673
2015-16	30,130
2016-17	-
<b>Total</b>	<b><u>\$529,575</u></b>

Source: City records

Additionally, the CRA Fund reported \$344,973 as Due from the City's Water and Sewer Fund as of September 30, 2017. Although we requested, City records were not provided to demonstrate the basis for reporting these amounts. Specifically, City records did not evidence:

- City Commission approval to borrow or use internal fund transfers to obtain cash from one fund type to fund the activities of another fund type, as required by City ordinance.<sup>366</sup>
- CRA Board authorization for the City to pay expenditures on the CRA's behalf and agreement to repay the City for such expenditures.
- As discussed in Finding 89, the City had not, as of September 30, 2017, remitted \$413,539 of required TIF contributions owed to the CRA. However, City accounting records did not, as of that date, report that amount as due from the City to the CRA.
- As discussed in Finding 91, CRA expenditures through September 30, 2017, were primarily administrative. Even if the City can demonstrate that it had proper authority to pay CRA expenditures on the CRA's behalf, according to the interlocal agreement<sup>367</sup> the City is only entitled to reimbursement for up to \$200,000 of such expenditures.
- The 2015-16 fiscal year CRA expenditures, according to the City accounting records, were overstated in October 2015 as the City double-recorded CRA payments totaling \$11,175 to a former CRA Executive Director. The payments included \$8,418 for severance pay and \$2,757 for leave.

<sup>366</sup> Section 2-651, City of Opa-locka Code of Ordinances.

<sup>367</sup> Interlocal Agreement, Section III.B.

- The 2016-17 fiscal year CRA revenues, as reported in the City accounting records, were understated in January 2017 as Miami-Dade County remitted TIF moneys totaling \$72,000 to the City for the CRA that were inadvertently recorded in a City fund other than the CRA Fund.
- A firm was paid \$59,597 through September 30, 2017, for CRA legal services; however, only \$12,097 of that amount was reported as CRA expenditures in the City accounting records.

Although we inquired, City personnel did not explain these accountability deficiencies. When CRA financial transactions are not properly accounted for and reported, the CRA Board may draw incorrect conclusions about the availability of CRA resources for funding CRA operations and projects, and the Board's ability to make informed decisions is diminished. Also, the CRA's ability to ensure compliance with State law,<sup>368</sup> City ordinances, and the interlocal agreement is limited.

**Recommendation: The CRA and the City should continue efforts to establish a separate bank account or otherwise establish accountability for CRA financial transactions and ensure that CRA financial transactions are properly recorded and reported.**

#### **Finding 91: CRA Administrative Expenses and Fees**

According to the interlocal agreement,<sup>369</sup> for the first 7 years of the CRA's existence, CRA administrative expenditures (expenses)<sup>370</sup> may not cumulatively exceed \$200,000 and, although the City may front moneys to the CRA for administrative expenses, the CRA may not reimburse the City more than \$200,000. The interlocal agreement also provides that Miami-Dade County must charge, and the CRA must pay to the County, an annual administrative fee by March 31 each year, and the fee may not exceed 1.5 percent of the County's payment of TIF moneys to the CRA.

Our examination of City and CRA records and discussions with City personnel disclosed that the CRA did not always comply with these requirements. Specifically:

- Since the CRA's inception on June 8, 2011, through September 30, 2017, CRA administrative expenses totaled at least \$511,754 (\$416,657 for salaries and benefits and \$95,097 for legal services), which was \$311,754 more than the \$200,000 limit prescribed in the interlocal agreement. In response to our inquiry, the City Planning and Community Development Department Director/CRA Manager indicated that he was unable to explain why the CRA administrative expenses exceeded the \$200,000 limit because the administrative expenses predated his involvement with the CRA. However, he also indicated that the CRA did not maintain records to track which CRA expenses represent administrative expenses.
- As of the time of our inquiry in March 2018, Miami-Dade County had provided TIF moneys totaling \$215,241 to the CRA; however, the CRA had not paid any administrative fees to the County as of that date. According to a County official responsible for overseeing CRA activities, the County billed the CRA \$1,891 for administrative fees but did not receive payment. In response to our inquiry as to why the CRA had not paid the County the required administrative fee, the City Planning and Community Development Department Director/CRA Manager attributed the delay to changes in City administration and leadership.

<sup>368</sup> Sections 163.387(7), 163.387(8), and 218.32(1)(b), Florida Statutes.

<sup>369</sup> Interlocal Agreement, Section III.B.

<sup>370</sup> Administrative expenses typically include those associated with the general operation of an organization, such as salary and other expenses attributable to management and legal services.

Incurring excess administrative expenses reduces resources available to implement the CRA Plan, and failure to pay the required administrative fee deprives Miami-Dade County of resources needed to defray administrative costs incurred in connection with monitoring CRA activities.

**Recommendation: The CRA should ensure that administrative expenses do not exceed the \$200,000 limit specified in the interlocal agreement. In addition, the CRA should seek and follow guidance from Miami-Dade County to remedy the excessive CRA administrative expenses totaling \$311,754. Also, the CRA should pay the County the administrative fees of \$1,891 billed to the CRA in accordance with the interlocal agreement.**

#### COMPLIANCE WITH THE UNIFORM SPECIAL DISTRICT ACCOUNTABILITY ACT

The CRA is a special district as defined by State law.<sup>371</sup> Special districts must comply with the creation, dissolution, and reporting requirements set forth in the Uniform Special District Accountability Act.<sup>372</sup> The requirements include, for example, providing information to the Department of Economic Opportunity (DEO), paying the DEO an annual fee, adopting a budget for each fiscal year, posting tentative and final budgets and budget amendments to the special district's Web site, and ensuring that certain information about the special district is provided either on the special district's Web site or on the Web site of a local general-purpose government on which the special district is dependent.

#### **Finding 92: DEO Filing and Annual Fee Requirements**

Pursuant to State law,<sup>373</sup> each special district is required to provide to the DEO a copy of the document that created the special district within 30 days after the special district was created. Any amendment, modification, or update of the document by which the special district was created must be filed with the DEO within 30 days after adoption. State law<sup>374</sup> authorizes the DEO to assess each special district an annual fee, not to exceed \$175, to help defray DEO costs incurred in administering the Uniform Special District Accountability Act. DEO rules<sup>375</sup> provide a fee schedule of the amount each special district is required to pay, unless certain conditions are met.

Our examination of City and CRA records and discussions with City personnel disclosed that the CRA did not always comply with the statutory and DEO rule requirements. Specifically:

- As discussed in Finding 85, the City Commission adopted a resolution<sup>376</sup> on June 8, 2011, creating the CRA and nearly 18 months later the Miami-Dade County BOCC adopted a resolution<sup>377</sup> on December 4, 2012, authorizing the CRA's creation. Nearly 6 years after the CRA was created and subsequent to our inquiry in April 2017, the CRA provided the DEO a copy of the County BOCC resolution. The City resolution creating the CRA was not provided to the DEO until after our inquiry in January 2018.

<sup>371</sup> Section 189.012(6), Florida Statutes.

<sup>372</sup> Chapter 189, Florida Statutes.

<sup>373</sup> Section 189.016(1), Florida Statutes (effective July 1, 2014), formerly Section 189.418(1), Florida Statutes.

<sup>374</sup> Section 189.018, Florida Statutes (effective July 1, 2014), formerly Section 189.427, Florida Statutes.

<sup>375</sup> DEO Rule 73C-24.003, Florida Administrative Code.

<sup>376</sup> City of Opa-locka Resolution No. 11-8238.

<sup>377</sup> Miami-Dade County BOCC Resolution No. R-996-12.

In response to our inquiry, the City Planning and Community Development Department Director/CRA Manager indicated that he was unable to explain why the DEO was not provided the required documentation within the statutory deadline. Timely provision of required documentation to the DEO is essential to demonstrating the accountability necessary to keep the general public and appropriate local general-purpose governments informed of the status and activities of special districts such as the CRA.

- The CRA did not meet the conditions specified in DEO rules<sup>378</sup> to be exempt from the annual fee. Because the CRA did not provide to the DEO until April 2017 the documentation related to the CRA's creation, the 2017-18 fiscal year was the first fiscal year for which the DOE billed the CRA the \$175 annual fee. The DEO sent the CRA an invoice for \$175 dated October 2, 2017, and sent a second invoice dated January 18, 2018, advising the CRA it owed \$225, including a \$50 late payment fee. As of February 2019, the CRA still had not paid the amount due to the DEO.

In response to our inquiry, the City Planning and Community Development Department Director/CRA Manager indicated the annual fee was not timely paid due to oversight. Timely payment of the annual fee is necessary to help defray DEO costs incurred in administering the Uniform Special District Accountability Act and for the CRA to avoid late payment fees.

**Recommendation: The CRA should ensure that any future amendments, modifications, or updates to the resolution creating the CRA are timely provided to the DEO. In addition, the CRA should ensure that the annual fee is timely paid to the DEO.**

### **Finding 93: CRA Budgets**

Pursuant to State law,<sup>379</sup> the CRA Board must adopt a budget by resolution each fiscal year, and the total amount available from taxation and other sources, including balances brought forward from prior fiscal years, must equal the total appropriations for expenditures and reserves. The CRA Board-adopted budget must regulate CRA expenditures, and it is unlawful for any CRA officer to expend or contract for expenditures except pursuant to the adopted budget. Additionally, pursuant to State law,<sup>380</sup> since the CRA is a dependent special district,<sup>381</sup> the CRA budget must be contained within the City budget and clearly identified as the CRA budget or, as an alternative with the City Commission's approval, the CRA may be budgeted separately. The interlocal agreement<sup>382</sup> requires the CRA to submit its annual budget to the Miami-Dade County BOCC for approval by October 30th each year.

Our examination of City and CRA records and discussions with City personnel disclosed that the CRA controls over budget administration could be improved. Specifically:

- The CRA Board did not adopt budgets for the 2012-13 or 2013-14 fiscal years and CRA actual expenditures for those fiscal years totaled \$136,393 and \$140,264, respectively. In response to our inquiry, the City Planning and Community Development Department Director/CRA Manager indicated that the CRA did not have any TIF revenue prior to the 2014-15 fiscal year but did not explain why the CRA Board did not adopt budgets for CRA expenditures for the 2012-13 and

<sup>378</sup> DEO Rule 73C-24.003(2)(e), Florida Administrative Code.

<sup>379</sup> Section 189.016(3), Florida Statutes.

<sup>380</sup> Section 189.016(5), Florida Statutes.

<sup>381</sup> A dependent special district is a special district that meets at least one of the criteria specified in Section 189.012(2), Florida Statutes.

<sup>382</sup> Interlocal Agreement, Section IV.D.

2013-14 fiscal years. Adopting budgets provides the CRA Board information necessary to monitor the CRA financial position and make informed financial decisions.

- The CRA Board adopted budgets for the 2011-12, 2014-15, 2015-16, and 2016-17 fiscal years; however, the budgets did not include budgeted revenues and transfers in or the prior fiscal year ending fund equity balances as required by State law. Table 29 shows the total budgeted and actual revenues and transfers in, total budgeted and actual expenditures, and the actual prior fiscal year ending fund equity balances for those fiscal years.

**Table 29**  
**Budget and Actual Revenues and Transfers In, Expenditures,**  
**and Prior Fiscal Year Ending Fund Equity Balances**

Fiscal Year	Total Revenues and Transfers In		Total Expenditures		Prior Fiscal Year Ending Fund Equity	
	Budgeted	Actual	Budgeted	Actual	Budgeted	Actual
2011-12	\$ -	\$ -	\$200,000	\$ 69,910	\$ -	\$ -
2014-15	-	97,984	250,000	162,283	-	(99,580)
2015-16	-	7,096	65,000	36,899	-	(160,393)
2016-17	-	72,006	52,178	2,755	-	(170,196)

Source: City records

Although we inquired, the City Planning and Community Development Department Director/CRA Manager did not explain why the budgets for the 2011-12, 2014-15, 2015-16, and 2016-17 fiscal years did not include budgeted revenues and transfers in or prior fiscal year ending fund equity balances. Without such information, use of the budget as a financial management tool is limited and the budget's anticipated funding sources are not identified. By identifying anticipated funding sources in the budget, the CRA Board and Miami-Dade County BOCC could establish the basis for spending estimates and other financial decisions.

- The resolution<sup>383</sup> through which the CRA Board adopted the 2014-15 fiscal year budget did not include language specifying the legal level of budgetary control and, therefore, the established legal level of budgetary control was the level at which budgeted expenditure amounts were presented on the adopted budget. The adopted budget presented budgeted expenditure amounts at the expenditure account code level and subtotals for three expenditure account code groups: salaries and related costs, operating expenditures, and capital outlay.

Our comparison of the final budget amounts to actual expenditures reported in the CRA 2014-15 fiscal year audited financial statements disclosed that actual expenditures for the operating expenditures account code group were \$36,316, which exceeded the CRA Board-adopted budgeted expenditures by \$13,516 (8 percent of total actual expenditures), contrary to State law.<sup>384</sup> Although we inquired, the City Planning and Community Development Department Director/CRA Manager did not explain why this overexpenditure occurred or why the CRA Board did not make a budget amendment to prevent the overexpenditure. Absent timely budget amendments, there is an increased risk that the CRA will not comply with State law and CRA expenditures may exceed available resources.

- Our comparison of the CRA Board-approved budget amounts to budget amounts recorded for the CRA Fund in the City accounting records for the 2016-17 fiscal year disclosed that the final budgeted expenditure amount of \$32,000 for the operating expenditures account code group exceeded recorded budgeted expenditures by \$29,500. The difference was due to two approved

<sup>383</sup> CRA Resolution No. 2014-03.

<sup>384</sup> Section 189.016(3), Florida Statutes.



budget expenditure items, \$2,500 for advertising and \$27,000 for “trust account” that were not recorded in the City accounting records. In response to our inquiry, the City’s Planning and Community Development Department Director/CRA Manager indicated that the \$27,000 “trust account” budget expenditures item represented a planned TIF money transfer of \$27,000 from Miami-Dade County for the CRA from one bank account to another. Notwithstanding, as the planned transfer would not result in a CRA expenditure, it is not apparent why it was budgeted as an expenditure item.

Absent controls to ensure that CRA Board-approved budgeted expenditures are appropriate and properly recorded in the accounting records, there is an increased risk of noncompliance with statutory budget requirements and that actual expenditures will not be consistent with approved budgeted expenditures.

**Recommendation: The CRA Board should:**

- **Adopt a budget for each fiscal year.**
- **Ensure that such budgets include all relevant information including revenues and transfers in and prior fiscal year ending fund equity balances.**
- **Enhance controls to limit actual CRA expenditures to budgeted amounts as required by State law and ensure that CRA Board-approved budgeted expenditures are properly recorded in the accounting records.**

**Finding 94: CRA Web Site Transparency**

Pursuant to State law,<sup>385</sup> the CRA is required to maintain certain specified information on its own Web site or on the City Web site. In addition, the City Web site home page must include a hyperlink to Web pages as necessary to provide the CRA information specified in State law.<sup>386</sup>

As of the time of our review in February 2018, the City Web site included a Web page dedicated to the CRA; however, contrary to State law,<sup>387</sup> the CRA was not prominently displayed on the City Web site home page. Also, neither the CRA Web page nor any other City Web page included the following information required to be posted on the Web site:

- The name, official address, official e-mail address, and, if applicable, term and appointing authority for each member of the CRA Board.
- The CRA fiscal year.
- The CRA telephone number.
- The CRA primary contact information for purposes of communication from the DEO.
- The CRA budget and any amendments thereto in accordance with State law.<sup>388</sup>
- The CRA audit report for the most recent completed fiscal year and audit reports required by law or authorized by the CRA Board.
- A listing of regularly scheduled CRA Board meetings, as required by State law.<sup>389</sup>

<sup>385</sup> Section 189.069(1), Florida Statutes.

<sup>386</sup> Section 189.069(2), Florida Statutes.

<sup>387</sup> Section 189.069(1)(b), Florida Statutes.

<sup>388</sup> Section 189.016, Florida Statutes.

<sup>389</sup> Section 189.015(1), Florida Statutes.



- The agenda and any meeting materials available in an electronic format, excluding confidential and exempt information, for each CRA Board meeting or workshop held within the prior 12 months.
- A link to the DFS Web site.<sup>390</sup>

In response to our inquiry, the City Planning and Community Development Department Director/CRA Manager indicated that the required Web site information would be addressed as the CRA establishes protocols for the CRA Board and CRA operations. Maintenance of the required CRA information on either a separate CRA Web site or the City Web site is essential to provide information to the taxing authorities required to contribute to the CRA and the general public regarding CRA activities and how the CRA is accomplishing its redevelopment objectives.

**Recommendation:** To comply with State law and provide essential information to interested parties, the CRA and the City should ensure that the CRA either establishes a Web site that includes all required CRA information or includes the information on the City Web site. In addition, the CRA should be prominently displayed on the City Web site home page.

#### CRA BOARD OF COMMISSIONERS

The interlocal agreement<sup>391</sup> provides that the CRA Board will consist of the City Commission members plus two voting seats assigned from the general public and appointed by the Miami-Dade County BOCC.

#### Finding 95: CRA Board Member Terms

Pursuant to State law,<sup>392</sup> the City Commission, at its June 8, 2011, meeting, approved a resolution<sup>393</sup> appointing City Commissioners to be CRA Board members. Subsequently, the Miami-Dade County BOCC appointed two CRA Board members who were not City Commission members, including one appointed on April 14, 2014, and the other appointed on August 11, 2014.

Our examination of City and CRA records and discussions with City personnel disclosed that as of the time of our review in April 2018, Miami-Dade County BOCC-appointed CRA Board member terms had not been established. The CRA Board-adopted bylaws<sup>394</sup> (as discussed in Finding 96), limited the terms of City Commission CRA Board members to 8 years. The bylaws also provided that terms of County BOCC-appointed CRA Board members shall be “concurrent and coterminous with their official term of office.” However, because the County BOCC-appointed CRA Board members are not members of the City Commission or County BOCC and, other than in their capacity as CRA Board members, are not serving as officials, the bylaws did not clearly establish the terms of the County BOCC-appointed CRA Board members. Additionally, neither the interlocal agreement<sup>395</sup> nor the County BOCC appointment letters for these Board members specified the terms of the members’ appointments.

<sup>390</sup> Section 218.32(1)(g), Florida Statutes.

<sup>391</sup> Interlocal Agreement, Section IX.A.

<sup>392</sup> Section 163.355, Florida Statutes.

<sup>393</sup> City of Opa-locka Resolution No. 11-8238.

<sup>394</sup> CRA bylaws, Article 1.4.

<sup>395</sup> Interlocal Agreement, Section IX.A.

In response to our inquiry, the City Planning and Community Development Department Director/CRA Manager indicated that the two County BOCC-appointed CRA Board members were appointed by two Miami-Dade County BOCC members. He also indicated that he presumed that should one of those County BOCC members leave office, the new County BOCC member would have the option to replace the CRA Board member appointed by the former County BOCC member or could choose to serve on the CRA board themselves. However, we were not provided documentation supporting this assertion.

Absent specificity as to the terms of Miami-Dade County BOCC-appointed CRA Board members, other CRA Board members and the general public may not have a clear understanding as to how long such Board members are to serve on the CRA Board.

**Recommendation: The CRA Board, in consultation with the Miami-Dade County BOCC, should amend its bylaws to clarify terms of County BOCC-appointed CRA Board members.**

#### **Finding 96: Sunshine Law**

Pursuant to State law,<sup>396</sup> all meetings of any CRA Board members, except as otherwise provided in the Constitution, at which official acts are to be taken are declared to be public meetings open to the public at all times, and minutes of CRA Board meetings must be promptly recorded and open to public inspection. The Florida Attorney General's publication *Government-in-the-Sunshine Manual 2017 Edition*, when discussing certain situations whereby non-board members or staff act as liaisons or to conduct a de facto meeting of the board, refers to an Attorney General Opinion (AGO),<sup>397</sup> which indicates that a director should refrain from calling each member of the board separately and asking each member to state his or her position on a matter that will foreseeably be presented for consideration to the entire board in open sessions. The AGO also indicates that the spirit of the Sunshine Law requires official decisions to be made in public only after full and open discussion by board members.

Our examination of City and CRA records and discussions with City personnel disclosed that the CRA did not always comply with the Sunshine Law. Specifically:

- At the April 27, 2015, meeting, the CRA Board directed the CRA Executive Director to prepare bylaws for presentation at the next CRA Board meeting, and the Board Chair directed the Executive Director to meet with each Board member to "get their input for the bylaws." The CRA Board did not take action regarding the bylaws at the next meeting on May 27, 2015; however, at the July 22, 2015, meeting, the CRA Board adopted the CRA bylaws by resolution.<sup>398</sup>

The minutes for the May 27, 2015, and July 22, 2015, meetings did not indicate that the bylaws were discussed and, although we requested, other records evidencing discussion of the bylaws at those meetings were not provided. Absent CRA records evidencing public discussion prior to the decision to adopt the bylaws, the CRA cannot demonstrate compliance with the Sunshine Law. CRA bylaws significantly impact CRA operations and an open discussion about the bylaws at a CRA Board meeting would have enhanced transparency and promoted public dialog regarding the bylaws.

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<sup>396</sup> Section 286.011(1) and (2), Florida Statutes (Sunshine Law).

<sup>397</sup> Attorney General Opinion No. 75-59.

<sup>398</sup> CRA Resolution No. 2-15-11.

- The CRA bylaws<sup>399</sup> require the CRA Board to hold a minimum of four regular meetings per fiscal year. The bylaws<sup>400</sup> also specify that the City Clerk is responsible for preparing CRA Board meeting minutes.

Although the City Web site included a Web page for the CRA, the City did not maintain CRA Board meeting minutes on the CRA Web page or elsewhere on its Web site. To gain access to CRA Board meeting minutes, the general public must submit a request through the City Clerk Office. During the period October 2015 through April 2017, the CRA Board held seven regular meetings and one emergency meeting. Our review of CRA Board meeting minutes during this period disclosed that, contrary to State law,<sup>401</sup> the CRA Board meeting minutes were not promptly recorded and made available to the public. Specifically, we noted that as of June 22, 2018, minutes for five regular CRA Board meetings had not been prepared.

Additionally, the CRA Board did not approve the minutes for two regular meetings and one special meeting within a reasonable time frame. Specifically, for two regular meetings held on October 6, 2015, the CRA Board did not approve the minutes until April 13, 2016, 190 days after the meetings occurred. Also, the CRA Board did not approve the minutes for the April 13, 2016, special meeting until October 26, 2016, 196 days after the meeting occurred.

According to City personnel, meeting minutes were not always timely prepared or approved because the City Clerk Office lost a position effective for the 2015-16 fiscal year and Financial Emergency Board directives increased the number of City Commission meetings, increasing the City Clerk's workload. When meeting minutes are not approved within a reasonable time frame and made available on the City Web site, the public may not be timely informed about official CRA Board actions.

**Recommendation: To avoid violations of the Sunshine Law, promote CRA transparency, and encourage public interest, the CRA Board should ensure that:**

- **All significant topics impacting CRA operations are openly discussed at public CRA Board meetings.**
- **Minutes for all CRA Board meetings are timely recorded, approved, and maintained on the City Web site.**

#### CRA EMPLOYMENT ACTIVITIES – EXECUTIVE DIRECTOR

Pursuant to State law,<sup>402</sup> the CRA is authorized to employ an executive director, technical experts, and other such agents and employees, permanent and temporary, as the CRA requires. From the CRA's inception on June 8, 2011, through September 2017, the CRA incurred salary and benefits expenditures totaling \$416,657 for two individuals filling the Executive Director position. Combined, these individuals filled the position for a total of 56 months during that 76-month period and, although some City personnel have worked on CRA-related activities, these two individuals were the only CRA employees. The first Executive Director, Mr. Newall Daughtrey, served in that position from March 5, 2012, through April 15, 2015. His successor, Mr. Eddie Brown, served as Executive Director from April 22, 2015, through October 6, 2015. Effective October 14, 2015, the City Commission approved the CRA Board's request to have the City Manager take over the Executive Director responsibilities.

<sup>399</sup> CRA Bylaws, Article 3.1.

<sup>400</sup> CRA Bylaws, Article 2.5.

<sup>401</sup> Section 286.011(2), Florida Statutes.

<sup>402</sup> Section 163.356(3)(c), Florida Statutes.

## **Finding 97: Employment Process**

Effective personnel administration necessitates the implementation of controls to specify duties and requirements for positions, promote the hiring of qualified employees, and ensure maintenance of personnel records. Such controls include, for example:

- Established position descriptions that specify minimum education and experience requirements.
- Requiring the advertising of position vacancies to attract qualified applicants and enhance the opportunity to engage top talent.
- Personnel files that include completed employment applications, letters of reference, and applicable college transcripts and documented work experience verifications.
- Records of personnel actions, including documented considerations of position candidate qualifications prior to hire.

Our examination of City and CRA records and discussions with City personnel regarding the employment of Mr. Brown as CRA Executive Director disclosed that:

- A CRA Executive Director position description (including minimum training and experience requirements) for use in evaluating potential candidates was not provided in response to our request.
- The minutes for the CRA Board's March 25, 2015, meeting indicated that the Executive Director position was to be advertised. However, although we requested, we were not provided records evidencing advertisement of the Executive Director position vacancy.
- The minutes for the CRA Board's April 27, 2015 meeting, at which Mr. Brown was selected as Executive Director, did not indicate any discussion regarding consideration of Mr. Brown's qualifications or the qualifications of any other candidates and, although we requested, we were not provided records evidencing consideration of other candidates.

Established position descriptions provide a clear understanding of position expectations, benchmarks for evaluations and advancement, and help protect against hiring inequities. Specifying necessary education and work experience requirements in position descriptions provides a transparent means of determining whether an applicant's level of education and work experience meets or exceeds management's expectations. Advertising the Executive Director position vacancy and documenting consideration of applicant qualifications would have demonstrated that the CRA used a fair, equitable, and unbiased process to select the best available applicant to fill the position.

### **Recommendation: The CRA Board, should:**

- **Establish position descriptions that include minimum training and experience requirements for the Executive Director and any future CRA positions.**
- **Ensure position vacancies are properly advertised.**
- **Use a documented process for considering applicant qualifications.**

## Finding 98: Severance Pay

Pursuant to State law,<sup>403</sup> when the CRA enters into an employment agreement or renewal or renegotiation of an existing employment agreement that contains a provision for severance pay, the employment agreement must also include a provision that precludes the severance pay from exceeding 20 weeks of compensation and a provision prohibiting severance pay when the employee has been fired for misconduct as defined by State law.<sup>404</sup> State law<sup>405</sup> defines severance pay as salary, benefits, or perquisites for employment services yet to be rendered that are provided to an employee who has recently been or is about to be terminated.

Mr. Daughtrey's employment agreement, as amended, was for the period March 5, 2012, through May 5, 2015. At its April 27, 2015, meeting, the CRA Board established April 15, 2015, as Mr. Daughtrey's last day of employment and approved a separation agreement with him, which was executed on August 28, 2015. The separation agreement authorized a severance payment equal to 10 weeks at his base salary, to be paid in 5 biweekly payments, with no benefits.

Mr. Brown's employment agreement was for the period April 22, 2015, through April 21, 2017. At its October 6, 2015, meeting the CRA Board terminated Mr. Brown's employment effective that date and approved a resolution<sup>406</sup> providing that he would receive severance pay as outlined in his employment agreement.

Our examination of City and CRA records and discussions with City personnel disclosed that the CRA did not always comply with requirements applicable to severance and other termination pay for the Executive Directors. Specifically:

- Contrary to State law,<sup>407</sup> which prohibits severance pay when an employee is fired for misconduct, the employment agreements for these two individuals provided for a lump-sum severance payment equal to 1 month's salary if they were terminated for cause.
- Based on the separation agreement provisions, Mr. Daughtrey should have received regular pay through April 15, 2015, and severance pay totaling \$15,385 (5 biweekly pay periods at \$3,077 per pay period based on an annual salary of \$80,000). However, we noted that:
  - Subsequent to his last day of employment on April 15, 2015, Mr. Daughtrey received payments totaling \$37,768, including:
    - \$22,383 for the period April 16 through July 24, 2015. This amount was composed of \$10,696 for vacation leave (278.1 hours), \$10,227 for sick leave (265.9 hours), \$615 for holidays (16 hours), \$307 for an unused personal day (8 hours), \$307 for a day for which he did not receive holiday or leave pay, and \$231 for an automobile allowance. This was contrary to Mr. Daughtrey's separation agreement, which only provided for payment for the 5 biweekly pay periods and did not provide for payment for unused leave, holidays, personal days, or any perquisite.

<sup>403</sup> Section 215.425(4)(a), Florida Statutes.

<sup>404</sup> Section 443.036(29), Florida Statutes.

<sup>405</sup> Section 215.425(4)(d), Florida Statutes.

<sup>406</sup> CRA Resolution No. 2015-14.

<sup>407</sup> Section 215.425(4)(a), Florida Statutes.

- \$15,385 representing \$3,077 for each of the five pay periods ending August 7, September 5, September 18, October 2, and October 16, 2015.
- The CRA continued to pay medical and dental insurance premiums totaling \$3,371 for him and his spouse through August 30, 2015, contrary to the separation agreement, which provided that severance compensation was not to include benefits.

Consequently, he received \$25,754 more severance compensation than provided for by the separation agreement.

- Pursuant to his employment agreement, Mr. Brown was paid severance pay equivalent to 2 months' salary and the cash equivalent of 2 months' health insurance. However, on December 24, 2015, subsequent to his last day of employment on October 6, 2015, Mr. Brown was also paid \$3,610, including \$2,990 for unused vacation leave (69.9 hours), \$342 for an unused personal day (8 hours), and \$278 for unused sick leave (6.5 hours). This payment was contrary to his employment agreement, which specifically prohibited payment for unused vacation and sick leave and did not provide for the payment of an unused personal day.

City personnel processed the payments on the CRA's behalf to the former Executive Directors. Although we inquired, City personnel did not explain why the former Executive Directors received severance compensation in excess of the amounts authorized by their employment or separation agreements.

**Recommendation: The CRA should ensure that future employment agreements contain severance pay provisions that are consistent with State law and that severance payments do not exceed the limits established by employment or separation agreements. In addition, the CRA Board should consider taking action to recover the \$25,754 and \$3,610 of severance compensation received by the former Executive Directors, respectively, in excess of what was specified in their employment or separation agreements.**

#### LEGAL SERVICES

Pursuant to State law,<sup>408</sup> the CRA contracts for legal services. From the CRA's inception through September 30, 2017, the CRA paid a total of \$140,097 to two firms for legal services. The first firm began providing the CRA legal services in April 2012 and served in that capacity until a new firm was selected at the CRA Board March 25, 2015, meeting.

#### **Finding 99: Legal Services Procurement and Contract Monitoring**

An effective procurement process for contractual services typically requires documented requests for proposals, consideration of the qualifications of the service providers that respond to the requests, and selection of the most qualified service provider. Effective contractual service procurements are supported by written contracts embodying all provisions and conditions of the procurement of such services. Properly written contracts protect contracting party interests, establish the responsibilities of contracting parties, define the services to be performed, and provide a basis for payment.

In addition, pursuant to State law,<sup>409</sup> when the CRA enters into a contract, or renewal or renegotiation of an existing contract, that contains a provision for severance pay, the contract must also include a

<sup>408</sup> Section 163.356(3)(c), Florida Statutes.

<sup>409</sup> Section 215.425(4)(a), Florida Statutes.



provision that precludes the severance pay from exceeding 20 weeks of compensation and a provision prohibiting severance pay when the contractor has been fired for misconduct as defined by State law.<sup>410</sup>

Effective contract monitoring includes procedures to ensure that contractors comply with applicable contract terms and conditions and satisfactory receipt of services is documented before payments are made.

Our examination of City and CRA records and discussions with City personnel disclosed that CRA policies and procedures for selecting firms to provide legal services and developing and managing legal services contracts could be improved. Specifically, we found that:

- At the time the CRA Board began using the firms in April 2012 and March 2015, respectively, the CRA had no formal policies or procedures for procuring services. Subsequently, the CRA Board adopted a bylaw<sup>411</sup> at the July 22, 2015, meeting, which refers to purchases made under specific requirements of law.<sup>412</sup> However, the bylaw does not require or prescribe a competitive selection process for procuring legal or other contractual services when Federal or State law do not prescribe procurement requirements. For example, City ordinances<sup>413</sup> require that contracts for services costing at least \$3,500 be procured using competitive sealed bidding, if practical, or competitive sealed proposals, and prescribes the process to be used in soliciting and evaluating bids or proposals. Absent policies and procedures requiring and prescribing a competitive selection process for procuring legal services, there is an increased risk that such services may not be obtained at the lowest price consistent with desired quality, or that the selected firm may not have sufficient knowledge or experience.
- Contrary to good business practices, the CRA did not utilize a competitive selection process to select either firm. In response to our inquiry, the City's Planning and Community Development Department Director/CRA Manager indicated that the firms were selected because each firm was providing legal services for the City at the time it was selected. Notwithstanding this response, using a competitive selection process to select a firm based on knowledge and experience related to community redevelopment agencies may have benefited the CRA.
- The CRA bylaws<sup>414</sup> adopted in July 2015 addressed purchases of goods or services; however, the bylaws do not require the use of a written contract when procuring legal or other contractual services.

One firm was paid \$80,500 for services rendered without benefit of a written contract. The CRA entered into a written contract with the other firm effective for the period April 28, 2015, through April 27, 2017. However, the firm provided and was paid for services before and after that period without benefit of a written contract. Specifically, the firm was paid \$2,814 for services provided from March 25, 2015, through April 27, 2015. In addition, as of April 4, 2018, the CRA had not entered into another written contract with the firm and had paid the firm \$17,501 for services provided to the CRA since April 27, 2017. In response to our inquiry, the City Planning and Community Development Department Director/CRA Manager indicated that he did not know why the CRA had not entered into another written contract with the firm. Absent use of written contracts specifying the nature of services to be received and related pay rates, the CRA has

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<sup>410</sup> Section 443.036(29), Florida Statutes.

<sup>411</sup> CRA Bylaws, Article 4.3, *Purchasing Goods and Services*.

<sup>412</sup> For example, Section 287.055, Florida Statutes, prescribes a process for procuring architectural and engineering services, while Section 218.391, Florida Statutes, prescribes a process for procuring external audit services.

<sup>413</sup> Section 2-320, City of Opa-locka Code of Ordinances.

<sup>414</sup> CRA Bylaws, Article 4.3.



limited assurance that services received and related billings will be as expected or that disputes over services and billings will be satisfactorily resolved.

- The written contract with the second firm provided that the CRA Board could terminate the contract with the firm for “good cause” (defined as breaching material terms of the contract), in which case the firm would be paid 5 months (or the equivalent of 21.7 weeks) of compensation. This compensation period exceeds the 20 weeks prescribed in State law.<sup>415</sup> In addition, contrary to State law,<sup>416</sup> the contract did not include a provision prohibiting the payment of severance pay in the event a contractor is fired for misconduct.
- The Executive Office of the Governor, Office of Chief Inspector General (CIG) issued a report<sup>417</sup> describing several other deficiencies regarding the contract with the second firm. The report noted deficiencies related to scope of services, compensation, method for billing chargeable time, travel expenses, private work, and terms that should have been included in the contract.
- Through September 30, 2017, City personnel, on the CRA's behalf, processed payments totaling \$14,597 to the second firm. These payments included a \$7,097 payment on May 22, 2015, for services rendered for the period March 5 through May 31, 2015, although the CRA Board did not approve using the firm to provide legal services until March 25, 2015, and City and CRA records did not evidence that the firm provided services to the CRA prior to March 25, 2015. The firm was paid \$2,500 per month, or approximately \$81 per day for the month of March. Accordingly, it appears that the firm was overpaid \$1,613 for the 20-day period March 5 through March 24, 2015.

As City personnel pay CRA expenses using City disbursement procedures, this overpayment may have been due to inadequate City disbursement procedures (as discussed in Finding 68). Absent effective contract monitoring procedures, there is an increased risk that services may not be received, or overpayments may occur.

**Recommendation: The CRA should revise the bylaws to require:**

- **The use of a documented competitive selection process for procuring legal and other contractual services.**
- **The use of written contracts for the procurement of legal and other contractual services and ensure that such contracts include severance pay and other provisions that are consistent with good business practices and State law.**

**In addition, the City and CRA should enhance controls over contract monitoring to ensure services are received before payments are made and either document that the second firm provided legal services for the period March 5 through March 24, 2015, or request a \$1,613 refund from the firm for the overpayment.**

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<sup>415</sup> Section 215.425(4)(a)1., Florida Statutes.

<sup>416</sup> Section 215.425(4)(a)2., Florida Statutes.

<sup>417</sup> CIG June 20, 2018 report titled *Review of City of Opa-locka Legal Services*.

## ***RELATED INFORMATION***

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During the course of our audit, we became aware that certain City records were subpoenaed in connection with a criminal investigation of a suspected Federal offense. The specific nature of the investigation was not disclosed to us.

## ***OBJECTIVES, SCOPE, AND METHODOLOGY***

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The Auditor General conducts operational audits of governmental entities to provide the Legislature, Florida's citizens, public entity management, and other stakeholders unbiased, timely, and relevant information for use in promoting government accountability and stewardship and improving government operations. Pursuant to Section 11.45(3)(a), Florida Statutes, the Legislative Auditing Committee, at its February 23, 2017, meeting, directed us to conduct this operational audit of the City of Opa-locka.

We conducted this operational audit from May 2017 through May 2019 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The objectives of this operational audit were to:

- Evaluate management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities in accordance with applicable laws, contracts, grant agreements, and other guidelines.
- Examine internal controls designed and placed in operation to promote and encourage the achievement of management's control objectives in the categories of compliance, economic and efficient operations, reliability of records and reports, and the safeguarding of assets, and identify weaknesses in those controls.
- To identify statutory and fiscal changes that may be recommended to the Legislature pursuant to Section 11.45(7)(h), Florida Statutes.

This audit was designed to identify, for those programs, activities, or functions included within the scope of the audit, deficiencies in management's internal controls, instances of noncompliance with applicable laws, contracts, grant agreements, and other guidelines; and instances of inefficient or ineffective operational policies, procedures, or practices. The focus of this audit was to identify problems so that they may be corrected in such a way as to improve government accountability and efficiency and the stewardship of management. Professional judgment has been used in determining significance and audit risk and in selecting the particular transactions, legal compliance matters, records, and controls considered.

As described in more detail below, for those programs, activities, and functions included within the scope of our audit, our audit work included, but was not limited to, communicating to management and those charged with governance the scope, objectives, timing, overall methodology, and reporting of our audit; obtaining an understanding of the program, activity, or function; exercising professional judgment in considering significance and audit risk in the design and execution of the research, interviews, tests,

analyses, and other procedures included in the audit methodology; obtaining reasonable assurance of the overall sufficiency and appropriateness of the evidence gathered in support of our audit findings and conclusions; and reporting on the results of the audit as required by governing laws and auditing standards.

Our audit included the selection and examination of transactions and records during the audit period October 2015 through April 2017, and selected transactions taken prior and subsequent thereto. Unless otherwise indicated in this report, these transactions and records were not selected with the intent of statistically projecting the results, although we have presented for perspective, where practicable, information concerning relevant population value or size and quantifications relative to the items selected for examination.

An audit by its nature, does not include a review of all records and actions of agency management, staff, and vendors, and as a consequence, cannot be relied upon to identify all instances of noncompliance, fraud, waste, abuse, or inefficiency.

In conducting our audit, we:

- Reviewed applicable laws, contracts, grant agreements, and City ordinances, policies, and procedures, and interviewed City personnel to gain an understanding of the City's processes and to determine whether the City had established effective policies and procedures for major City functions, such as procurement, finance, and human resource management.
- Examined minutes of City Commission and CRA meetings held during the audit period, and the minutes of selected meetings held prior and subsequent to the audit period, to determine the propriety and sufficiency of actions taken related to the programs, activities, and functions included in the scope of this audit.
- Performed audit procedures to:
  - Determine whether the City complied with a State and Local Agreement of Cooperation and Financial Emergency Board recommendations.
  - Assess the City's financial condition.
  - Determine whether the City maintained a General Fund reserve amount in accordance with the City's General Fund reserve policy and Government Finance Officers Association (GFOA) best practices and developed a target amount of working capital to maintain for each enterprise fund.
- Determined whether the City established and maintained a comprehensive framework for internal controls that included adequate policies and procedures for monitoring financial reporting, strategic planning, budgetary planning and oversight, administrative costs, and other managerial functions and evaluated the effectiveness of the established policies and procedures for, among other things, ensuring compliance with applicable State laws and GFOA best practices.
- Determined whether the City implemented control procedures and processes that effectively ensured compliance with accountability and other requirements associated with the receipt and use of Federal, State, and local resources.
- Determined whether the City had established effective cash controls to:
  - Provide reasonable assurance that cash assets agree with recorded amounts.
  - Promptly detect and correct unrecorded and improperly recorded cash transactions or bank errors.

- Facilitate the efficient and economic management of cash resources.
- Ensure adequate integrity, security, confidentiality, and auditability of business transactions conducted using electronic commerce, including electronic funds transfers.
- Ensure compliance with State law regarding public deposits.
- Appropriately monitor petty cash funds.
- Determined whether the City had established adequate controls over the acquisition, disposition, accountability, and safeguarding of capital assets.
- Determined whether the City had established procedures for effectively monitoring motor vehicle use, reporting the value of personal use to the Internal Revenue Service, and managing fuel and parts inventories.
- Determined whether the City had established adequate debt administration policies and procedures to minimize borrowing costs and to ensure compliance with applicable Federal, State, and local laws and GFOA best practices.
- Determined whether the City had established effective revenue and cash collection controls over assessments, collections, deposits, and related records. We also determined whether the City appropriately remitted to the Department of Revenue applicable amounts collected for traffic signal penalties for red-light violations.
- Determined whether the City had established effective:
  - Payroll policies and procedures to ensure payroll transactions are processed accurately and consistently in accordance with applicable laws and the directives of the City Commission and City management.
  - Personnel administration policies and procedures to communicate management's expectations, employment guidelines, and benefits information to employees and promote the consistent administration of City personnel practices.

We also evaluated whether the City's contributions to the Florida Retirement System and payments to the group health insurance carrier were timely and appropriately made.

- Evaluated the effectiveness of City policies and procedures for monitoring travel expenditures and ensuring travel reimbursements complied with City ordinances and State law.
- Determined whether the City had established appropriate procurement controls and controls for the effective and efficient use of resources in accordance with applicable laws, contracts, grant agreements, and City policies and procedures and documenting that public funds are properly utilized in fulfilling the City's legally established responsibilities. We also evaluated the City's compliance with the Local Government Prompt Payment Act.
- Determined whether the City had established controls for effectively and efficiently procuring and monitoring contractual services and related payments. Our audit procedures included, but were not limited to, an examination of documentation related to the procurement of consultant, audit, legal, and insurance services.
- Determined whether the City had established policies and procedures designed to effectively promote compliance with the statutory and ordinance requirements requiring the maintenance of public records, including electronic records, Commission Meeting minutes, financial disclosure filings, and annual statements of lobbying expenditures.
- Determined whether the City and the CRA had established adequate controls to ensure:
  - Compliance with applicable Federal, State, and local laws, and an interlocal cooperation agreement between the CRA, the City, and Miami-Dade County.

- Proper accountability for CRA transactions.
- CRA Board member terms are clearly established.
- The hiring and compensation of CRA Executive Directors is appropriate.
- The effective and efficient procurement of legal services.
- Performed various other audit procedures, including analytical procedures, as necessary, to accomplish the objectives of the audit. For example, we:
  - Evaluated City controls over selected processes to determine whether an adequate separation of duties existed to prevent employees from access to both physical assets and the related accounting records or to all phases of a transaction.
  - Evaluated the adequacy of City policies and procedures related to identifying potential conflicts of interest. For selected City officials, we reviewed Department of State, Division of Corporations, records; statements of financial interests; and City records to identify any potential relationships that represented a conflict of interest with City vendors.
  - Determined whether City employees were properly notified of the existence of the Miami-Dade County Commission on Ethics and Public Trust's fraud hotline in accordance with City ordinance requirements.
  - Determined whether the City posted the tentative and final budgets for the 2015-16 through 2017-18 fiscal years to its Web site in accordance with State law.
  - Determined whether the City complied with State law, City ordinances, and debt covenants regarding \$8.3 million of revenue notes issued during the 2014-15 fiscal year.
  - Identified bonuses paid to City employees during the audit period and determined whether the bonuses complied with State law, City ordinances, and collective bargaining agreements.
  - Determined whether fidelity bonds were obtained for City employees in accordance with City ordinances.
  - Scanned Police Department expenditures totaling \$7.6 million during the audit period for propriety.
  - Obtained and reviewed a Department of Corrections monitoring report and determined whether the City had taken corrective actions to address the report findings.
  - Evaluated City information technology (IT) access controls for protecting data and IT resources from unauthorized disclosure, modification, or destruction.
  - Evaluated the appropriateness of the portion of the cost of the City's annual financial audit allocated to the CRA.
- Communicated on an interim basis with applicable officials to ensure the timely resolution of issues involving controls and noncompliance.
- Prepared and submitted for management response the findings and recommendations that are included in this report and which describe the matters requiring corrective actions. Management's response is included in this report under the heading **MANAGEMENT'S RESPONSE**.

## ***AUTHORITY***

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Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.

A handwritten signature in blue ink, reading "Sherrill F. Norman". The signature is fluid and cursive, with a large initial "S" and "N".

Sherrill F. Norman, CPA  
Auditor General

## EXHIBIT A

### QUESTIONED COSTS AND POTENTIAL AVOIDABLE LOSSES

#### CITY OF OPA-LOCKA

Finding	Description	Questioned Costs	Potential Loss Avoidance	Total
5	Funds withheld due to untimely filed audit reports	\$ -	\$1,221,350	\$1,221,350
14	Lost grant moneys	-	299,277	299,277
23	Unsupported electronic funds transfers (EFTs)	781,849	-	781,849
26	Unsupported petty cash disbursements	913	-	913
28	Low bid not selected, unnecessary procurement of project management services, unsupported payment, and unnecessary litigation costs	-	1,155,250	1,155,250
29	Improper return of deposit to successful bidder	-	1,600	1,600
30	Missing tangible personal property	-	13,630	13,630
40	Underassessed permit fees	-	360	360
44	Inadequately supported utility account adjustments	-	8,836	8,836
45	Underassessed water and sewer service charges	-	2,634	2,634
48	Unauthorized rental car	10,759	-	10,759
49	Extra compensation to City Manager	27,562	-	27,562
50	Unauthorized or unsupported compensation and expense reimbursements to Mayor and Commissioners	61,644	-	61,644
56	Unsupported City employee pay increases	217,476	-	217,476
57	Florida Retirement System penalties, losses, and fees	-	12,887	12,887
58	Improper overtime payments	1,177	-	1,177
62	Improper leave payments	62,844	-	62,844
63	Improper terminal leave payouts	72,496	-	72,496
66	Travelers paid for meals included in conference registration fees and unsupported travel expenses	4,118	-	4,118
68	Unsupported disbursements	192,029	-	192,029
69	Fees for late payments	-	5,007	5,007
70	Expenditures without supported public purpose	51,405	-	51,405
71	Missing credit card receipts and sales tax paid in error	5,927	898	6,825
73	Low bid not selected	-	31,450	31,450
75	Inadequate support for deliverables, expenses, and rates paid and uncollected franchise fees	157,859	115,823	273,682
76	Overpayment for consultant services	14,500	-	14,500
78	Overpayment to law firm	6,600	-	6,600
80	Unnecessary wireless communication devices and services	6,278	-	6,278
<b>Totals</b>		<b><u>\$1,675,436</u></b>	<b><u>\$2,869,002</u></b>	<b><u>\$4,544,438</u></b>

#### OPA-LOCKA COMMUNITY REDEVELOPMENT AGENCY

Finding	Description	Questioned Costs	Potential Loss Avoidance	Total
91	Excess administrative fees paid	\$311,754	\$ -	\$311,754
98	Excess severance compensation for Executive Directors	29,364	-	29,364
99	Overpayment to law firm	1,613	-	1,613
<b>Totals</b>		<b><u>\$342,731</u></b>	<b><u>\$ 0</u></b>	<b><u>\$342,731</u></b>



## **MANAGEMENT'S RESPONSE**

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City of Opa-locka  
Response to Auditor General  
Operational Audit Findings and Recommendations  
Letter Dated May 23, 2019

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Office of the City Manager

**Newall J. Daughtrey**  
Acting City Manager

June 21, 2019



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Auditor General  
State of Florida  
Sherrill F. Norman, CPA, Auditor General  
111 West Madison Street  
Tallahassee, Florida 32399-1450

RE: City of Opa-locka and Opa-locka Community Redevelopment Agency's Operational Audit

Dear Mrs. Norman:

The City of Opa-locka, Florida ("the City") was incorporated in 1926 and operates under the Commission/City Manager form of government. The City Commission is comprised of the Mayor, Vice Mayor and three Commissioners, who are responsible for enacting ordinances, resolutions and regulations governing the City and appointing the members of various advisory boards. Additionally, the City Commission appoints the City Manager, the City Attorney and the City Clerk. As Chief Administrative Officer, the City Manager is responsible for the enforcement of laws and ordinances and the appointment and supervision of the City's Department heads.

The City is comprised of approximately 4.5 square miles and has a population of approximately 18,000 residents. It is located in the northern portion of Miami-Dade County and has a mix of residential, commercial, and industrial zones.

On June 1, 2016, the City Commission adopted a Resolution to request a declaration that the City is in a State of Financial Emergency to seek the appointment of a Financial Emergency Board and other assistance pursuant to section 218.503 (1), Florida Statutes. The State of Florida, Office of the Governor, issued Executive Order 16-135, signed by Florida Governor, Rick Scott.

As City Manager of the City, I would like to express my appreciation to you for conducting this operational audit which will help the City incorporate adequate controls necessary to promote compliance with Federal, State and local laws, such as City ordinances and regulations. This operational audit clearly revealed why the Financial Emergency exists in the City of Opa-locka.

I sincerely thank you,

***Newall J. Daughtrey***  
Newall J. Daughtrey  
Acting City Manager

Cc: Mayor Matthew Pigatt and City of Opa-locka Commission  
CRA Chair Jannie Russell and CRA Board Members  
Melinda Miguel, State of Florida Inspector General

## Summary of Responses

Pursuant to Section 11.45(4)(d), Florida Statutes, the City is submitting within thirty (30) days after receipt of the listing of 99 preliminary and tentative audit findings, a written statement of explanation concerning actual or proposed corrective actions.

### Finding 1 - State of Financial Emergency

Although the City generally complied with the provisions of the State and Local Agreement of Cooperation executed pursuant to the Office of the Governor Executive Order No. 16-135 and the Financial Emergency Board recommendations, the City did not comply with the Agreement provisions pertaining to the 5-year financial recovery plan and budget or the Board recommendations pertaining to motor vehicle use and tangible personal property accountability.

#### Response:

The City concurs with the recommendation, and will ensure that future budgets within the 5-year financial recovery plan address the resource, staffing and capacity issues required to properly address timely compliance with the State and Local Agreement provisions.

### Finding 2 - Financial Condition Assessment

Our financial condition assessment procedures disclosed deteriorating City financial conditions. Of 16 key financial indicators, 13 indicators are unfavorable rating.

#### Response:

The City concurs with the recommendation, and will ensure that future budgets within the 5-year financial recovery plan address the resource, staffing and capacity issues required to properly address timely compliance, specifically as indicated within the 13 unfavorable ratings.

### Finding 3 - General Fund Reserve Requirement

The City did not comply with its General Fund reserve policy and did not establish reserve requirements consistent with Government Finance Officers Association (GFOA) recommendations.

#### Response:

The City will ensure that the General Fund reserve amount is maintained in accordance with the City's General Fund reserve policy. Additionally, the City will consider whether the General Fund reserve policy should be revised in accordance with GFOA best practices.

### Finding 4 - Enterprise Fund Working Capital Reserve Requirement

The City Commission had not established target amounts of working capital that should be maintained for the City's three enterprise funds.



**Response:**

The City will consider adopting a policy establishing minimum target amounts of working capital funds that should be maintained for the City's three enterprise funds.

**Finding 5 - Untimely Financial Reports and Annual Audits**

The City did not timely provide for and submit required annual financial audits and annual financial reports. Consequently, through July 2018, State agencies had withheld from the City approximately \$1.2 million.

**Response:**

The City concurs with the recommendation, and will ensure that future budgets address the staffing and capacity issues required to properly address the completion of annual financial audits and annual financial reports. The City will ensure that audit reports and annual financial reports (AFR) are timely presented to the City Commission, timely filed with the Auditor General, and timely submitted to the Department of Financial Services (DFS). The City is currently working to complete the audit report for fiscal year 2016-2017.

In addition, the City has contracted with a consultant with government finance, accounting and auditing expertise to assist in improving financial operations and accounting to help enhance the internal control environment and operational efficiencies within the Finance Department.

**Finding 6 - Strategic Planning**

As of February 2019, the City's strategic plan had not been updated since September 2014 to reflect changing circumstances, impacting management's ability to implement the plan and effectively prioritize the use of City resources.

**Response:**

The City concurs with the recommendation, and will ensure that future budgets address the staffing and capacity issues required to monitor and periodically reassess, update and address changes in the City's circumstances within the strategic plan.

**Finding 7 - Management Turnover**

During the period September 2014 through April 2018, the City experienced significant turnover in certain key management positions, which may have contributed to the numerous control deficiencies and instances of noncompliance disclosed in this report.

**Response:**

The City concurs with the recommendation and will strive to provide stability in key management positions.

### Finding 8 - Internal Audit Function

The City had not established an internal audit function or otherwise provided for internal audit activities to assist management in maintaining a comprehensive framework of internal controls.

#### Response:

The City concurs with the recommendation, and will ensure that future budgets address the resources and capacity issues required to establish an internal audit function to assist management in maintaining a comprehensive framework of internal controls.

### Finding 9 - Anti-Fraud Policies and Procedures

The City needs to establish policies and procedures for communicating, investigating, and reporting known or suspected fraud. In addition, the City Honor Code needs revising to ensure the provisions specifically pertain to City employees and officials.

#### Response:

The City concurs with the recommendation, and will work to adopt policies and procedures for communicating, investigating, and reporting known or suspected fraud, and will ensure that future budgets within the 5-year financial recovery plan address the resource, staffing and capacity issues.

In addition, the City concurs with the recommendation to ensure the provisions specifically pertaining to City employees and officials in the Honor Code be revised.

### Finding 10 - Risk Assessment

The City did not perform documented periodic risk assessments to help ensure that adequate internal controls were in place to minimize fraud risks and control deficiencies that could adversely affect City operations.

#### Response:

The City concurs with the recommendation, and has been without a Risk Manager and adequate staffing to perform periodic risk assessments. The City will ensure that future budgets within the 5-year financial recovery plan address the resource and capacity issues required to perform risk assessment procedures.

### Finding 11 - Budgetary Process

City controls over the budgetary process need enhancement.

#### Response:

The City concurs with the recommendation, and has hired a full-time Budget Administrator to oversee the budgetary process and to assure compliance with State laws and rules.

### Finding 12 - Administrative Costs

City records did not support the equitable allocation of General Fund administrative costs to City enterprise funds.

#### Response:

The City concurs with the recommendation, and will ensure that future budgets within the 5-year financial recovery plan address the resource, staffing and capacity issues required to create a clearly documented cost allocation methodology for equitable allocation of administrative costs to the City's enterprise funds.

The City will evaluate whether or not the cost allocation plan can be developed and prepared internally with existing personnel or externally through contracted services.

### Finding 13 - Law Enforcement Revenue Sharing

Accountability over resources received by the City for participation in a law enforcement revenue sharing program needs enhancement.

#### Response:

The City concurs with the recommendation, and will ensure that future budgets address the staffing and capacity issues required to properly address accountability in the City accounting records for the Federal Sharing Program proceeds. Additionally, the City will ensure compliance with Federal laws and rules.

### Finding 14 - State Grant Compliance

The City's management of State grants was ineffective as the City did not always ensure that grant expenditures were allowable, records were retained to support the allowability of grant expenditures, reimbursement requests were filed for allowable grant expenditures as soon as practicable, grant moneys were expended during the grant award period, or required grant reports were prepared and timely filed with the grantor.

#### Response:

The City concurs with the recommendation to establish grant management policies and procedures. The City has made improvements to the grant administration, management and compliance process to comply with Federal, State and Local requirements by evaluating its internal grant management process through additional internal support with a Grant Coordinator supervised by the Finance Director, and the hiring of a grant consultant to assist with building internal control policies and procedures that ensure compliance.

The City is also in the process of developing a Grants Manual. The purpose of this manual is to describe the policies and procedures of the City associated with:

- the development of grant proposals to external public and private funding sources,

- proper accounting and recording of grant funds in accordance with accounting standards,
- controls to assist in adhering to grant program and compliance goals and objectives,
- receipt and management of externally funded grant awards, and
- to define the roles and responsibilities of the City employees pertaining to the management of external funding and compliance with prescribed grant and City requirements.

In addition, the City will ensure that future budgets within the 5-year financial recovery plan address the resource and capacity issues required to recruit a Grant Writer/Compliance Manager.

#### **Finding 15 - Department of Environmental Protection Grants and Loans**

The City did not always provide the accountability required by Department of Environmental Protection (DEP) grant award and loan agreements. In addition, the City did not always promptly record grant and loan receipts in the City accounting records. During the period October 2015 through April 2017, the City received grant and loan proceeds of \$2.1 million from the Department of Environmental Protection.

##### **Response:**

The City concurs with the recommendation, and will ensure that future budgets address the staffing and capacity issues required to properly address the issue of accountability for grants and loans, and to ensure that all grant and loan receipts are promptly posted to the accounting records.

#### **Finding 16 - Fuel Taxes**

Contrary to Department of Financial Services (DFS) guidance, the City had not established special revenue funds to maintain separate accountability for fuel tax revenues.

##### **Response:**

The City concurs with the recommendation to establish separate accountability for fuel tax revenues and expenditures in accordance with the *DFS* Manual.

#### **Finding 17 - Discretionary Sales Surtax Proceeds**

The City did not comply with the requirements included in an interlocal agreement between the City and Miami-Dade County regarding administration and use of discretionary sales surtax proceeds. As a result, the County suspended surtax distributions to the City effective November 2015 and, as of February 2019, the surtax distributions remained suspended due to the City's continued noncompliance.

##### **Response:**

The City concurs with the recommendation, and have implemented policies and procedures to ensure compliance with the interlocal agreement surtax requirements and taking prompt action to fully resolve the issues noted in the Miami-Dade County Audit and Management Services Division (Audit Division) surtax review report. In June 2019, the City began the surtax audit with the Audit Division to conduct the Citizen's Independent Transportation Trust Audit (CITT).

### Finding 18 - Interfund Borrowing and Transfers

City procedures need enhancement to ensure that interfund borrowings and transfers are properly accounted for and comply with City ordinances.

#### Response:

The City concurs with the recommendation, and will work to enhance adopted procedures to comply with the City's ordinance concerning interfund borrowings and transfers.

### Finding 19 - Special Events

The City had not established controls to provide adequate accountability for special events, including the donations and expenditures for such events.

#### Response:

The City concurs with the recommendation to establish controls to provide adequate accountability for special events and to provide the City Commission with information to determine the economic viability of holding special events.

### Finding 20 - Fund Accounting and Expenditure Coding

City procedures were not effective to ensure that payments were made from the appropriate bank accounts or that financial transactions were properly accounted for in the City accounting records.

#### Response:

The City concurs with the recommendation to assess and review the internal accounting policies, procedures and controls over the recording, processing and reporting of its accounting events and transactions, to update and develop policies and procedures. The City is actively reconciling accounts timely to produce relevant and accurate data. The City is enhancing and developing financial reporting policies and procedures to be implemented periodically to monitor the monthly general ledger activity and reconciliation process.

Additionally, the City is in the process of recruiting competent, and permanent senior-level staff with government accounting experience, and engaging professional government accounting and audit consultants to continually monitor and review the Finance Departments reporting system and improvement needs.

The City is ensuring that future budgets within the 5-year financial recovery plan address the resource, staffing and capacity issues within the Finance Department.

### Finding 21 - Journal Entries

Journal entries to adjust account balances and transactions in the City accounting records were not always adequately supported or reviewed and approved.

**Response:**

The City concurs with the recommendation, and has enhanced its procedures to ensure that journal entries are properly supported by journal entry forms, supporting documentation and evidence of supervisory review and approval is being performed and documented currently.

**Finding 22 - Bank Account Reconciliations**

City controls over bank account reconciliations need improvement to ensure documented timely performance and review by individuals not assigned cash handling and journal entry duties; reconciling items are accurately identified, promptly and thoroughly investigated, explained, and documented; required adjustments to the general ledger cash account balances, as a result of the reconciliations, are timely made; and online access to electronic bank account statements is granted to appropriate employees.

**Response:**

The City concurs with the recommendation, and will work to adopt policies and procedures to address timely and accurately prepared bank reconciliations that are appropriately documented, reviewed and approved by individuals not assigned to cash handling and journal entry responsibilities. Reconciling items will be accurately identified, promptly and thoroughly investigated, explained, and documented. Any required adjustments to the general ledger cash account balances will be made timely, while online access to bank account statements will be granted only to appropriate employees.

**Finding 23 - Electronic Funds Transfers**

Contrary to State law, the City had not established policies and procedures to ensure adequate integrity, security, confidentiality, and auditability of business transactions conducted using electronic funds transfers (EFTs). In addition, City controls need enhancement to ensure and document that EFTs are only made by authorized personnel and for authorized purposes.

**Response:**

The City concurs with the recommendation, and will work to adopt a policy to establish EFT's and put in place the appropriate controls. Best practices such as separation of duties will be implemented to ensure incompatible duties are not performed by same individual employees. Banking agreements for all financial institutions conducting business with the City will identify, by name, the employees authorized to initiate EFTs and those authorized to review and approve EFTs, and establish employee EFT dollar limits. Bank agreements will be timely updated for personnel changes.

**Finding 24- Stale-Dated Checks**

The City did not timely notify apparent owners of unclaimed property or annually report and remit unclaimed property to the Department of Financial Services, contrary to State law.

**Response:**

The City concurs with the recommendation, and will work to adopt a policies and procedures to address the timely notification to owners of unclaimed property and that unclaimed property is annually reported and remitted to the DFS. The City will assign responsibility to a specific position for such notification and reporting; in addition to filing all past due reports and deliver the applicable unclaimed property to the DFS.

**Finding 25- Public Deposit Accounts**

The City did not timely submit to the State's Chief Financial Officer (CFO) the statutorily required annual reports of the City's public deposit accounts.

**Response:**

The City concurs with the recommendation, and will work to adopt policies and procedures to address designation of an employee to be responsible for annually preparing and submitting the required report of public deposit accounts to the CFO and supervisory personnel to ensure that the report is accurate and timely submitted.

The City is ensuring that future budgets within the 5-year financial recovery plan address the resource, staffing and capacity issues within the Finance Department.

**Finding 26 - Petty Cash Fund**

City controls over petty cash funds need enhancement to ensure that petty cash disbursements are supported by dated receipts and documentation evidencing the authorized public purpose and that petty cash funds are timely counted and reconciled to receipts.

**Response:**

The City concurs with the recommendation, and will work to revise existing policies to address petty cash, the specific purpose for using it, the appropriate controls to make sure City records are maintained in sufficient detail to document the authorized public purpose for all petty cash disbursements. The City will ensure that disbursements are supported by dated receipts and petty cash funds are counted and reconciled to receipts weekly.

**Finding 27 - Administrative Building Purchase**

City records did not evidence that the City exercised due diligence in determining the fiscal viability of purchasing a \$7.9 million building to house its administrative offices and other tenants. Specifically, the City did not ensure the accuracy of reported renter lease information and building operating costs prior to purchasing the building and did not maintain records to support significant assumptions regarding the rental income anticipated to be generated from other tenants.



**Response:**

The City concurs with the recommendation, to establish policies and procedures that set forth guidelines to purchase real property, and that appropriate due diligence is performed.

The City continues to market the available office space at Town Center in order maximize rental revenue.

**Finding 28 - Construction Administration**

The City needs to enhance construction administrative policies and procedures to ensure that construction contractors are competitively selected in accordance with State law and City ordinances, construction services and related costs are not duplicated, contract addenda do not provide compensation for work already performed, City Commission approval is obtained for change orders exceeding \$25,000, contractors are timely paid to avoid work stoppages, and contractors obtain payment bonds.

**Response:**

The City will review the policies and procedures for construction administration to ensure compliance with applicable laws and City ordinances, and that adequate documentation is obtained and maintained to support all phases of construction projects.

**Finding 29 - Land Disposals**

The City had not established surplus land disposal procedures. Absent such procedures, the City did not always timely collect and deposit land sale proceeds, timely record land sales in City accounting records, or timely correct deed errors.

**Response:**

The City concurs with some aspects of this finding as the City has a land disposal process in place. However, due to turnover and vacancy in procurement, there has been a void in addressing proper procurement processes and the bid procedures to access and evaluate the bid submission. Planning and Community Development staff roles in the process have been to provide the Request for Proposal (RFP) for bids on City owned property/lands that have been declared as surplus, and provide input to the evaluation committee. The Procurement Officer normally would provide the recommendation to the City Manager's Office (CMO) to provide the City Commission for acceptance/approval of the bids. The completion of property transactions has been handled in by the CMO and the City Attorney's Office.

**Finding 30 - Property Records**

The City had not established appropriate accountability for its tangible personal property (TPP) with acquisition values totaling \$11.5 million.

**Response**

The City concurs with the recommendation, and will work to adopt policies and procedures to address the management of the City's TPP. The City is ensuring that future budgets within the 5-year financial recovery

plan address the resource, staffing and capacity issues within varies Departments to address the compliance requirements to safeguard, track and account for TPP.

### **Finding 31 - Property Insurance**

The City had not established policies and procedures to ensure that City property was adequately insured and had not developed a formal contingency plan in the event that uninsured losses are incurred in a catastrophic event.

#### **Response:**

The City concurs with the recommendation, and will work to adopt policies and procedures to assess the adequacy of property insurance coverages. The City receives assistance from the liability insurance carrier to ensure that all City property is insured at its current value.

### **Finding 32 - Motor Vehicle Use**

City records did not evidence City Manager approval and justification for employee take-home motor vehicle assignments. In addition, neither the City Employee Handbook nor any other City-established policies or manuals addressed elected official's use of City motor vehicles or the preparation and maintenance of motor vehicle usage logs.

#### **Response**

The City concurs with the recommendations and is assessing and reviewing the internal policies and procedures that would address procedures and controls over the safeguarding of City assets.

In addition, the City is ensuring that future budgets within the 5-year financial recovery plan address the resource, staffing and capacity issues required for enhanced accountability.

### **Finding 33 - Vehicle Taxable Fringe Benefits**

The City did not include the value of personal use of City motor vehicles in the gross income reported to the Internal Revenue Service (IRS) for applicable City officials and employees.

#### **Response**

The City concurs with the recommendation, and will work to adopt policies and procedures to enhance and ensure that City provided motor vehicles are included in the applicable individual's gross income reported to the IRS at the value of personal usage.

### **Finding 34 - Motor Vehicle Fuel Inventory**

The City had not established policies and procedures regarding the use of its fuel pumping station. In addition, the City's fuel management system did not provide for adequate accountability of fuel pumping station inventory and fuel distributions to City officials and employees.

**Response:**

The City is currently utilizing the services of the State approved Fueling Card Service and has established policies and procedures surrounding the use of its fuel pumping station.

**Finding 35 - Motor Vehicle Maintenance**

The City had not established policies and procedures for motor vehicle repairs and maintenance. In addition, the City had not implemented a comprehensive motor vehicle preventative maintenance plan or a system for tracking each motor vehicle's repair and maintenance costs and documenting periodic motor vehicle cost-benefit analyses for vehicle disposition and replacement decisions.

**Response:**

The City concurs with this finding and recommendation, and will institute policies and procedures to address in future budgets within the 5-year financial recovery plan.

**Finding 36 - Motor Vehicle Parts Inventory**

City controls and records did not provide for adequate accountability over the purchase and use of the City's motor vehicle parts inventory.

**Response:**

The City concurs with this finding and recommendation, and will institute policies and procedures to address in future budgets within the 5-year financial recovery plan.

**Finding 37 -Debt Management Policy**

Contrary to City ordinances, the City had not established debt management policies and procedures.

**Response:**

The City concurs with the recommendation, and will work to adopt policies and procedures to address debt management best practices to better manage and monitor debt.

**Finding 38 - Selection of Bond Professionals**

Contrary to GFOA best practices, the City contracted with its bond counsel in April 2015 without using a competitive selection process and paid the bond counsel \$40,000 for services associated with issuance of the Series 2015A Tax-Exempt Capital Improvement Revenue and Refunding Note and Series 2015B Taxable Capital Improvement Revenue Note.

**Response:**

The City agrees with the recommendations and has recently hired a Purchasing Officer. The duties and responsibilities of the Purchasing Officer is to manage the purchase of commodities, services and technical items for use by the City Departments according to approved budgets. Emphasis of the work is on developing specifications for informal bids, analyzing requisitions for purchases, preparing informal bid

documents, bid evaluations, enforcing competitive bid procedures in accordance with established legal procedural requirements.

### **Finding 39 - Cash Collections**

The City did not always timely record and deposit cash collections or consecutively use pre-numbered receipts for non-utility cash collections.

#### **Response:**

The City agrees with the recommendation to enhance existing controls over cash collections by assessing and reviewing the internal accounting policies, procedures and controls over the recording, processing and reporting of its cash collections.

The City will ensure that future budgets within the 5-year financial recovery plan address the resource, staffing and capacity issues required to properly address cash collection process improvements.

### **Finding 40 - Permit Fees**

The City had not established policies and procedures for properly and consistently calculating, approving, and recording permit fees or for maintaining permit applications and other documentation supporting the permits issued.

#### **Response:**

The City concurs that there were minor errors in computation. The City's Building Department will enhance its policies and procedures to ensure proper, accurate and consistent computation of permit fees.

### **Finding 41 - Traffic Signal Safety Program**

Contrary to State law, as of August 2018, the City had failed to remit to the Department of Revenue (DOR) approximately \$3 million in collected traffic signal penalties for red-light violations.

#### **Response:**

The City concurs with the recommendation, and will ensure that future budgets address the staffing and capacity issues required to properly address the traffic signal penalties collected that are required to be remitted weekly to the DOR as required by State law and to transfer to DOR the past due amounts.

### **Finding 42 - Utility Services Customer Deposits**

The City needs to revise City ordinances to specify how to account for utility services customer deposits and the time frame for refunding deposits to customers. In addition, City controls need enhancement to require that the customer deposits payable account balance be periodically reconciled to the customer deposits subsidiary ledger balance and to ensure that customer deposits are timely refunded.

**Response:**

The City concurs with the recommendation, and is in the process of revising and updating its policies and procedures and City ordinance for the billing of utility services with the anticipated June 30, 2019 transition to the utility services provider Miami-Dade County Water & Sewer (WASD). Miami-Dade Water and Sewer Department Implementing Order No. 10-8 Rules and Regulations are being reviewed by staff and legal counsel for the City Commission Board approval and acceptance.

**Finding 43 - Utility Services Billing and Collection Processes**

The City needs to establish policies and procedures to provide for the prompt billing of utility services customers, progressive strengthening of collection efforts for delinquent accounts, and reconciliation of the amount of water purchased from Miami-Dade County to the amount of water billed to City utility service customers to identify water loss so that timely actions can be taken to prevent such loss.

**Response:**

The City concurs with the recommendation, and is in the process of revising and updating its policies and procedures and City ordinance for the billing of utility services with the anticipated June 30, 2019 transition to the utility services provider Miami-Dade County Water & Sewer (WASD). Miami-Dade Water and Sewer Department Implementing Order No. 10-8 Rules and Regulations are being reviewed by staff and legal counsel for the City Commission Board approval and acceptance.

**Finding 44 - Utility Account Adjustments**

The City needs to establish policies and procedures for the calculation, review, and approval of utility account adjustments

**Response:**

The City concurs with the recommendation, and is in the process of revising and updating its policies and procedures and City ordinance for the billing of utility services with the anticipated June 30, 2019 transition to the utility services provider Miami-Dade County Water & Sewer (WASD). Miami-Dade Water and Sewer Department Implementing Order No. 10-8 Rules and Regulations are being reviewed by staff and legal counsel for the City Commission Board approval and acceptance.

**Finding 45 - Utility Water and Sewer Service Charges**

During the period October 2015 through April 2017, water and sewer service charges were not always assessed in accordance with rates prescribed by City ordinances and, consequently, the City under assessed a significant amount of water and sewer service charges.

**Response:**

The City concurs with the recommendation, and is in the process of revising and updating its policies

and procedures and City ordinance for the billing of utility services with the anticipated June 30, 2019 transition to the utility services provider Miami-Dade County Water & Sewer (WASD). Miami-Dade Water and Sewer Department Implementing Order No. 10-8 Rules and Regulations are being reviewed by staff and legal counsel for the City Commission Board approval and acceptance.

#### **Finding 46 - Hiring Practices**

City personnel administrative regulations and procedures were not always followed when hiring City employees and City hiring practices need improvement.

##### **Response:**

The City concurs with the recommendation to enhance and establish policies and procedures over its hiring practices. In the past, there have been instances when staff was directed by the former City Manager to effectuate hires of employee's contrary to City Policy; however, this practice no longer occurs at the City.

#### **Finding 47 - Background Screenings**

City controls over background screenings for employees and certain volunteers and vendor employees need enhancement.

##### **Response:**

The City concurs with this recommendation; the City currently utilizes the Florida Department of Law Enforcement (FDLE) system to conduct background screenings for pre-employment.

#### **Finding 48 - City Manager Selection and Compensation**

Contrary to City ordinances, the City did not establish a search committee to conduct a local and nationwide search for candidates for the City Manager position. In addition, the City provided a City Manager with a rental car without documented City Commission approval.

##### **Response:**

The City concurs with the recommendation and has selected a search firm to conduct a thorough local and nationwide search for qualified candidates for the future City Manager selection, and will comply with the City's ordinance.

#### **Finding 49 - Extra Compensation**

Severance pay provisions in City employment agreements were not consistent with State law, and the City paid post-employment extra compensation to a City Manager contrary to State law.

**Response:**

The City concurs with this recommendation to ensure that severance pay provisions in employment agreements prohibit severance pay when the employee has been fired for misconduct. The City will confer with the City Attorney for appropriate actions to recover any inappropriate compensation made to the former City Manager.

**Finding 50 - Mayor and City Commissioner Compensation and Expense Reimbursements**

The City, with no apparent legal authority, provided automobiles for the Mayor and City Commissioners' use. Also, contrary to City ordinances, which provide that the Mayor and City Commissioners may be reimbursed up to \$200 per month for documented expenses associated with their official duties, the City made monthly \$200 payments to the Mayor and City Commissioners without documentation of any expenses incurred. In addition, although the City treated the payments like expense allowances, the City did not include the payments in the Mayor and City Commissioners' earnings reported to the IRS and did not document a determination that the payments were exempt from such reporting.

**Response:**

The City concurs with the recommendation and has discontinued providing automobiles to the Mayor and the City Commission. Additionally, the City will comply with City ordinances.

**Finding 51 - Employee and Independent Contractor Classifications**

The City had not established policies and procedures for determining whether workers should be classified as employees or independent contractors and we noted instances in which the City did not consistently classify workers.

**Response:**

The City concurs with the recommendation to implement policies and procedures to determine whether individuals should be classified as employee or an independent contractor.

**Finding 52 - City Pay Plan**

The City pay plan had not been updated to include certain employee positions. In addition, our examination of selected pay increases disclosed several increases that resulted in annual salaries that were not consistent with the pay plan.

**Response:**

The City concurs with this recommendation, additionally, an updated Pay and Classification plan has been prepared to be presented to the City Commission for review and approval.



### Finding 53 - Salary Payments

The City had not established policies and procedures requiring all employee timecards to be reviewed and approved by supervisory personnel and did not always pay employees in accordance with its pay plan.

#### Response:

The City concurs with this recommendation, and has implemented these procedures, and will be updating proposed policies.

### Finding 54 - Personnel Action Form Approval

The City's personnel action form used to document personnel actions, such as appointments, salary changes, and promotions, were not always retained or signed by the required individuals prior to the effective date of the personnel action.

#### Response:

Personnel action forms require only the signature of the City Manager for implementation. The City Manager's signature authorizes the personnel action to be made. The City will make an effort to ensure that all signatures are received before filing.

### Finding 55 - Employee Performance Reviews

The City did not always timely perform employee performance reviews required by City regulations.

#### Response:

The City concurs with this finding and the recommendation. In addition, the Human Resources Department forwarded monthly notices to Departments advising the due date for employee evaluations. Per the City's Personnel Administrative Regulations and Procedures policy, the Human Resources Director shall notify the City Manager regarding Department Directors who do not complete their employee evaluations in a timely manner.

### Finding 56 - Pay Increases

The City needs to enhance its policies and procedures to ensure that all pay increases are appropriately supported.

#### Response:

The City concurs with this finding and recommendation and will enhance its procedures by requesting justification from the appropriate Department Director to supplement pay increases noted on the personnel action forms.

### Finding 57 - Florida Retirement System Contributions and Reporting

The City incurred penalties totaling \$12,887 for incorrectly reporting and not timely remitting employee and employer Florida Retirement System contributions to the Department of Management Services, Division of Retirement.

#### Response:

The City remitted penalty payments, while errors noted have been corrected.

### Finding 58 - Authorization of Overtime

Contrary to City regulations, overtime was not always authorized in advance. In addition, the City paid \$1,177 for overtime to employees not entitled to overtime pay.

#### Response:

The City concurs with the recommendation and recognizes that proper use of overtime is very important. For that reason, and in accordance with the City policy, the City's employees may be disciplined for overtime policy violations which include failure to ask for and receive prior approval from the Department Director when the employee knows ahead of time that overtime hours are needed that day, failure to promptly report unexpected overtime to the Department Director and working overtime that could have been avoided with properly planning. In these situations, the employee will still receive overtime pay for the overtime hours worked, even if he or she is disciplined for a policy violation.

### Finding 59 - Health Insurance Plan Dependent Eligibility

The City had not established policies and procedures requiring, at the time of enrollment, verification of dependent eligibility to participate in the City's health insurance plan or periodic verifications that participating dependents continued to be eligible for plan services.

#### Response:

The City believes that verification of dependency is confirmed through the insurance carrier directly with the employee and that written proof such as a birth certificate, marriage license, or domestic partnership affidavit are required to be submitted for participation in the plan as a dependent. However, the City will ensure that the insurance carrier's verification of dependent eligibility is required in the City's contract with the insurance carrier and is documented in the City records.

### Finding 60 - Medical Insurance Premium Payments

Contrary to State law, the City did not always timely pay group insurance premiums. As a result, coverage was temporarily suspended for certain individuals.

#### Response:

The City concurs with the recommendation; in addition, staff have been ensuring the timely request for payment to all insurance carriers to protect employee policy status.

### **Finding 61 - Accumulated Annual Leave Limits**

City employees accumulated annual leave balances in excess of limits in City regulations and the collective bargaining agreement.

#### **Response:**

The City concurs with this finding and will work with the City Attorney on a recommendation to correct.

### **Finding 62 - Employee Leave Payments**

City leave payments to six City employees exceeded by \$42,261 the amounts allowed by City regulations and leave payments were not always supported by City records evidencing authorization for the payments.

#### **Response:**

The City concurs with this finding; however, the Human Resources Department identified that these payments were authorized by the former City Manager.

### **Finding 63 - Terminal Leave Payouts**

City terminal leave payouts made to City employees upon separation from City employment exceeded by \$72,466 the amounts provided by City regulations or the applicable union contracts.

#### **Response:**

The City concurs with this finding; however, the Human Resources Department identified that these payments were authorized by the former City Manager.

### **Finding 64 - Consultant Agreements with Former Employees**

Contrary to City ordinances, the City contracted with two former employees within 2 years of their separation from City employment.

#### **Response:**

The City concurs with this finding, however, the Human Resources Department (HR) identified that these contracts were authorized by former City Manager without consultation with HR.

### **Finding 65 - Employee Necessity Study**

Contrary to a City Commission resolution in January 2016, the City Manager did not perform an employee necessity study and report the study results to the City Commission. Absent a completed necessity study, the City Commission had limited assurance that staff reductions and position revisions promoted better functionality of the City.

**Response:**

The City concurs with the recommendation to work with the City Commission to review staff reductions and assess the ability to meet financial obligations associated with personnel expenditures, in conjunction with meeting delivery of City services.

**Finding 66 - Travel Expenditures**

City controls did not ensure that City records evidenced that all travel served a public purpose, travelers were reimbursed in accordance with City ordinances and State law, and travel advances did not exceed actual expenses.

**Response:**

The City concurs with this finding and will enhance its policies and procedures surrounding the controls over travel expenditures.

**Finding 67 - Procurement Ordinances**

Requirements established in City ordinances regarding the procurement of commodities and contractual services need improvement to clarify the City Commission intent for and promote compliance with the requirements.

**Response:**

The City concurs with the recommendation, and will work to amend City ordinances where appropriate.

**Finding 68 - Disbursement Processing**

City disbursement processing procedures were not up-to-date or sufficient to ensure the validity and completeness of vendor file information, preapproval of all purchases by appropriate City personnel, adequate supporting documentation for all expenditures, or proper distribution of checks to vendors. In addition, City procedures did not prevent the use of duplicate check numbers.

**Response:**

The City concurs with the recommendation, and will ensure that future budgets address the staffing and capacity issues required to properly address the update of the Finance Department Policies and Procedures Manual to reflect current processes and enhance its disbursement processing procedures. The City will ensure the validity and completeness of vendor file information, require documented preapprovals and adequate supporting documentation for all expenditures, modify the City accounting system, and require that checks be mailed directly to vendors.

### Finding 69 - Untimely Payments

The City had not established procedures to promote compliance with the Local Government Prompt Payment Act and did not always timely pay vendors, resulting in late fees of \$5,007. In addition, as of March 15, 2017, the City owed Miami-Dade County approximately \$7 million for delinquent fees and charges.

#### Response:

The City concurs with the recommendation, and will work to establish procedures to ensure invoice receipt dates are documented and invoices are promptly paid in accordance with State law.

### Finding 70 - Expenditures Without a Documented Public Purpose

City records did not clearly evidence the authorized public purpose served for expenditures totaling \$51,405. These expenditures included, for example, the purchase of items for giveaway events, food and beverage items, bowling, movies, and gift cards.

#### Response:

The City concurs with the recommendations to assess and review the internal accounting policies, procedures and controls over the recording, processing and reporting of its accounting events and transactions to develop and enhance existing policies and procedures. The City is actively reconciling accounts timely to produce relevant and accurate data. Additionally, the City has recruited and engaged professional and experienced government consultants and actively recruiting an experienced Finance Director with government expertise to continually monitor and review the Finance Departments reporting system and will develop and implement any needed improvements to be made to Finance Department systems. This will aid in establishing appropriate monitoring and preaudit procedures to require and ensure that the public purpose for anticipated expenditures are appropriately documented before the expenditures are made.

### Finding 71 - Credit Cards

Controls over City-assigned credit cards need improving to ensure that credit card assignments are properly approved, user agreements are signed and maintained, credit limits do not exceed those established in City policies, all credit card charges are verified and approved, the City's sales tax exemption is properly utilized, credit card receipts are retained as required by the State records retention policy, and evidence of canceled credit cards is maintained.

#### Response:

The City concurs with the recommendation, and will work to enhance policies to address City personnel and City Commission use of store and bank City-assigned credit cards.

### Finding 72 - Commodity Purchases

When purchasing commodities, the City did not always competitively select vendors in accordance with City ordinances.

#### Response

The City concurs with the recommendation, and will work to enhance City policies and procedures to ensure commodities are competitively procured in accordance with City ordinances.

### Finding 73 - Competitive Procurement of Services

Contrary to City ordinances, the City did not always use a competitive selection process to procure vendor services and City controls over the competitive procurement of services need enhancement. In addition, City records did not always demonstrate that the City Commission selected the vendor whose proposal was most advantageous to the City or that the City Commission approved purchased services costing over \$25,000.

#### Response:

The City concurs with the recommendation, and will work to enhance City policies and procedures to ensure competitive procurement of services in accordance with City ordinances.

### Finding 74 - Contract Documents

City contractual services procurements were not always supported by a written contract that included the provisions and conditions required by City ordinances.

#### Response:

The City concurs with the recommendation, and will work to enhance contractual services policies and procedures in accordance with City ordinances.

### Finding 75 - Monitoring of Purchased Services

City controls for monitoring purchased services and franchise fee collections need enhancement.

#### Response:

The City concurs with the recommendation.

### Finding 76 - 5-Year Recovery Plan Consultants

The City did not follow City ordinances when selecting four consultants to assist with preparing a 5-year financial recovery plan and did not execute contracts with two of the consultants prior to payment for services. In addition, the City executed a contract with one consultant that included compensation terms

differing from those approved by the City Commission and, based on the contract and submitted invoices, the City overpaid the consultant \$14,500.

**Response:**

The City concurs with the recommendation and will ensure that City personnel adhere to City ordinances and procurement policies and procedures are adhered to. The City hired a Purchasing Officer in June 2019.

Consultant 2, which is the Newall J. Daughtrey & Associates firm, provided the City additional information regarding services provided to the City and the number of hours worked to provide those services. The firm believes it is entitled to compensation at a rate of \$150 per hour as specified in the firm's proposal, which the City Commission accepted by adopting Resolution No. 17-9426.

### **Finding 77 - Auditor Selection and Audit Services Contract**

Contrary to State law, the City did not establish an audit committee to select auditors to conduct its 2014-15 and 2015-16 fiscal year financial audits. In addition, although the City utilized an evaluation committee to score proposals received pursuant to a request for proposals for the 2014-15 fiscal year financial audit and rank the respondents, the City Commission did not select, and did not document justification for not selecting, the highest-ranked respondent.

**Response:**

The City concurs with the recommendation and will ensure that contracts for audit services are in accordance with required State laws and compliance with City ordinances.

### **Finding 78 - Legal Services**

The City did not follow City ordinances when selecting a law firm to act as City Attorney and the contract executed with the selected firm contained several deficiencies. In addition, City controls for monitoring payments to the City Attorney were inadequate.

**Response:**

The City concurs with the recommendation, and will work to confirm future selections of law firms are in accordance with State laws and compliance with City ordinances.

### **Finding 79 - Insurance Procurement**

Contrary to City ordinances, the City did not use a competitive process to procure insurance.

**Response:**

The City concurs with the recommendation, and will work to adopt insurance procurement procedures in accordance with State laws and compliance with City ordinances.



### Finding 80 - Wireless Communication Devices and Services

The City did not procure wireless communication devices and related services in accordance with City ordinances. In addition, the City needed to enhance controls over the acquisition, assignment, and use of wireless communication devices.

#### Response:

Prior to the date of this report, the City has piggy backed a new State of Florida contract with FirstNest for cellular service. This procurement was done via a resolution of the City Commission and then final approval by the State Financial Emergency Oversight Board. Additionally, the Information Technology (IT) Department at the City has created and implemented a new property receipt which is mandatory for all issued City phones. A detailed list of the devices and the assigned users is also maintained by IT. The City also made an investment in Meraki Mobile Device Manager (MDM) which is used to remotely manage, maintain, and organize all City issued mobile devices.

### Finding 81 - Public Records Retention

The City had not established policies and procedures regarding the retention of public records, including records created or maintained in electronic format such as e-mails and text messages. In addition, the City did not always comply with State records retention requirements and did not archive text messages sent or received using wireless communication devices.

#### Response:

The City concurs with the recommendation and is in the process of establishing policies and procedures for Public Records Requests and will be in compliance moving forward. In addition, the City recently piggybacked off of the State of Florida Department of Management Services contract with AT&T Mobility and currently has the technology to intercept text messages using wireless communication devices.

### Finding 82 - City Commission Minutes

City Commission meeting minutes were not always timely recorded, approved, and maintained on the City Web site, contrary to State law and the City Charter.

#### Response:

The City concurs with the recommendation to timely post all approved City Commission meetings to the City's Web site.

In an effort to address various financial oversight requirements of the State, there was an increase in the volume of Commission meetings held on a monthly basis, and as such, the minutes became backlogged. Corrective action was completed to address this matter. As of today, the meeting minutes are current and the information will be uploaded to the City's website. The City shall ensure full compliance with both State law and the City of Opa-locka's Charter.

### Finding 83 - Financial Disclosures

The City had not established policies and procedures to ensure compliance with financial disclosure filings required by State law, Miami-Dade County ordinances, and the City Charter. In addition, neither Finance Department personnel nor other City employees responsible for approving purchases routinely reviewed and considered those disclosures.

#### Response:

The City concurs with the recommendation and shall draft legislation to amend the Code of Ordinances to establish policies and procedures for the completion of required financial disclosures and adhere to any and all State laws. In the future, the City will ensure that all essential personnel complete the required disclosure and it be reviewed periodically by designated staff.

### Finding 84 - Lobbyist Registration

Contrary to City ordinances, the City did not separately account for lobbyist registration fees or ensure that required annual statements of lobbying expenditures were filed with the City Clerk and required logs of filed lobbyist registrations were provided to the City Commission.

#### Response:

The City concurs with the recommendation and in the future will ensure compliance with the current laws of the City ordinances. In addition to establishing policies and procedures related to the Finance Department with respect to administer lobbyist registration provisions.

### Finding 85 - CRA Creation

Contrary to State law, the City Commission adopted a resolution creating the Opa-locka Community Redevelopment Agency (CRA) nearly 18 months before the Miami-Dade County Board of County Commissioners (BOCC) granted the City Commission authority to create the CRA. In addition, City records did not evidence the necessity for creating the CRA and incurring CRA expenditures of approximately \$86,000 before the Miami-Dade County BOCC authorized creation of the CRA.

#### Response:

The City concurs with the recommendation.

### Finding 86 - CRA Plan Adoption

City records did not evidence that the City Commission published the State-required notice of intent to consider adopting a CRA Plan and the adopted CRA Plan did not always comply with State law or include accurate information.

#### Response:

The City concurs with the recommendation, in addition, the current CRA staff was not aware of these actions nor if it was required.

#### **Finding 87 - CRA Annual Report of Activities**

The CRA did not prepare annual reports of activities for the City and Miami-Dade County for the 2011-12, 2013-14, and 2014-15 fiscal years, contrary to State law and the City and CRA Interlocal Agreement with the County.

##### **Response:**

The City concurs with the recommendation. In addition, the Opa-locka CRA's FON was created in 2010 and approved by the County on December 4, 2012. The Opa-locka CRA Plan and Interlocal Agreement were approved on October 1, 2013. The City of Opa-locka and the CRA did not receive any tax increment funds until December 2015. Annual reports have been submitted to the Office of Management and Budget of Miami-Dade County since 2016.

#### **Finding 88 - CRA Annual Audit**

The City and the CRA did not always provide for audits required by State law and the interlocal agreement.

##### **Response:**

The City concurs with the recommendation to complete audits for the Opa-locka CRA. The 2016-2017 fiscal year audit is scheduled to begin in July 2019.

#### **Finding 89 - CRA Tax Increment Financing**

As of July 1, 2018, the City had not made required annual contributions of tax increment revenues to the CRA totaling \$484,000, including late fees and interest.

##### **Response:**

The City concurs with the recommendation. From 2009 through 2015, the City funded the CRA from the general fund and the City's Water Fund. Audits are being completed to determine the amount the City has contributed to the operation of the CRA which may amount to more than the estimated TIF allocation.

#### **Finding 90 - CRA Financial Transaction Accountability**

City accounting records did not always provide for adequate accountability of CRA financial transactions.

##### **Response:**

The City concurs with the recommendation, in addition this information will be validated through the financial audits that remain pending.

#### **Finding 91 - CRA Administrative Expenses and Fees**

Through September 2017, the CRA exceeded the interlocal agreement administrative expense limitation of \$200,000 by at least \$311,754 and had not paid the administrative fees to Miami-Dade County required by the interlocal agreement.

**Response:**

Prior to 2017, the CRA administrative expenses were funded from the City. The CRA did not generate a TIF until December 2015. Since 2017, the operation of the CRA has been merged with the Planning and Community Development Department (PCD) of the City of Opa-locka. The PCD staff compensation which is 10% charged to the CRA has been less than the 20% administration cap annually, which per the Interlocal Agreement, cannot exceed up to \$200,000 for the first 7 years of the operation of the CRA. Item III Section B of the Interlocal Cooperation Agreement states that "For the first seven years, administrative expenses shall not exceed \$200,000, the City may front these costs to the CRA and may be reimbursed. Any administrative expenses over \$200,000, or any other expenses incurred by the agency shall not be reimbursed to the City. The City has fronted the balance of the administrative expenses. The 20% administrative cap would be fully implemented in FY 2020-2021. As for the Miami Dade County administrative fees, those have been included in the CRA budget since 2017, CRA staff has not been able to confirm through the City's Finance Director or Budget Director that these fees have been paid or are scheduled to be paid. This information is currently being verified.

**Finding 92 - DEO Filing and Annual Fee Requirements**

The CRA did not timely provide to the Department of Economic Opportunity (DEO) a copy of the document that created the CRA and had not paid the DEO the annual fee required by State law.

**Response:**

The current CRA staff is not aware of these actions. While the DEO annual fees and the Miami Dade County Administrative fees have been included in the CRA budget since 2017, CRA staff has not been able to confirm through the City's Finance Director or Budget Director that these fees have been paid or are scheduled to be paid. This information is currently being verified.

**Finding 93 - CRA Budgets**

Contrary to the State law, the CRA did not adopt budgets for the 2012-13 or 2013-14 fiscal years. CRA Board-adopted budgets for the 2011-12, 2014-15, 2015-16, and 2016-17 fiscal years did not include budgeted revenues and transfers or prior fiscal year ending fund equity balances, and the CRA did not limit actual CRA expenditures to budgeted amounts for the 2014-15 fiscal year. Also, CRA Board-approved budgeted expenditures were not properly recorded in the accounting records for the 2016-17 fiscal year.

**Response:**

The City concurs with the recommendation.

**Finding 94 - CRA Web Site Transparency**

The City Web site did not prominently display the CRA and include certain CRA information required to be included on the Web site, contrary to State law.

**Response:**

The City concurs with the recommendation and this information is being corrected.

**Finding 95 - CRA Board Member Terms**

The CRA had not clearly established the terms of Miami-Dade County BOCC-appointed CRA Board members.

**Response:**

The City concurs with the recommendation. The term of the Miami-Dade County Commission ("County Commissioner") appointees to the Opa-locka CRA are based on the sitting County Commissioner's term in office. When a new County Commissioner is elected, they have the option to represent themselves or appoint a new person to represent them on the Opa-locka CRA Board.

**Finding 96 - Sunshine Law**

CRA records did not evidence that decisions made in adopting the CRA bylaws were made in accordance with State law requirements that official decisions be made in public only after full and open discussion by board members. In addition, CRA Board meeting minutes were not always timely recorded, approved, and maintained on the City Web site, contrary to State law.

**Response:**

The City concurs with the recommendation. The Planning & Community Development Department of the City currently serves as the CRA staff and transcribes CRA meetings, and has been tasked with transcribing the past meeting minutes for public consumption on the City's Web Site.

**Finding 97 - Employment Process**

The CRA had not established a position description for the Executive Director position, did not advertise an Executive Director Position vacancy, and did not document consideration of applicant qualifications prior to hiring an Executive Director.

**Response**

The City concurs with the recommendation.

**Finding 98 - Severance Pay**

The CRA did not always comply with requirements applicable to severance pay for two former CRA Executive Directors. Consequently, these former Executive Directors received excess compensation of \$25,754 and \$3,610, respectively, after their last day of employment.

### Response

The City concurs with the recommendation and will work to adopt policies and procedures to address future compensation for the CRA's Executive Director. There were Executive Directors that were contracted employees of the CRA, who received their compensation based on a separation agreement.

The facts are as follows:

- The Severance pay was for 10 weeks only.
- Mr. Daughtrey was not terminated, his contract was not extended or renewed.
- On April 10, 2013, the March 5, 2012 agreement was amended to permit sick leave and vacation time to be carried over from year to year.
- Benefits covered before the April 15, 2015 date were not part of the separation agreement.
- City records do not show that Mr. Daughtrey was overpaid.

### Finding 99 - Legal Services Procurement and Contract Monitoring

CRA policies and procedures for selecting firms to provide legal services and developing and monitoring legal services contracts could be improved.

#### Response:

The City concurs with the recommendation and may consider other options for legal services. Since 2014, the Opa-locka CRA has deferred to the legal services of the City Attorney hired by the City of Opa-locka City Commission.