



Sheryl G. Steckler
Inspector General

OFFICE OF INSPECTOR GENERAL PALM BEACH COUNTY



Inspector General
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“Enhancing Public Trust in Government”

Management Review

2013-0010 WB

May 15, 2014

*“Provide leadership in the promotion of accountability and
integrity of Government in Palm Beach County”*



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PALM BEACH COUNTY**

**MANAGEMENT REVIEW
CASE NUMBER: 2013-0010 WB**



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EXECUTIVE SUMMARY

The Office of Inspector General (OIG) received a complaint regarding various issues involving the Palm Beach County Department of Economic Sustainability (DES¹) and/or the West Palm Beach Housing Authority (WPBHA²) staff members and their handling of contractual agreements, which allegedly resulted in a gross waste of taxpayer funds. Based on the complainant's allegations, he/she was subsequently designated as a Whistle-Blower (WB) and initially, an OIG WB Investigation was initiated regarding the following issues:

1. Whether the West Palm Beach Housing Authority complied with the terms of its Agreements with DES by submitting improper Pay Applications (PAs) to DES for reimbursement.
2. Whether DES complied with the terms of its agreement with the Florida Department of Economic Opportunity (DEO³) and whether DES enforced the terms of its Agreements with WPBHA by approving Reimbursement Authorizations (RAs) containing improper PAs submitted by WPBHA for reimbursement.

Based on documents reviewed and statements obtained by the OIG, Issue (1) and Issue (2) disclosed that neither DES nor WPHBA had clear direction and understanding as to what would be considered an acceptable method of documenting work that was performed (i.e., detailed invoices containing work performed, identifiable invoice numbers, and/or individual unit numbers). As such, the OIG WB Investigation was converted to a Management Review.

What DES considered an acceptable method of invoicing and/or documentation for reimbursement varied greatly between their own staff members. DES Staff made the following statements:

- One staff member believed that since the County's Clerk of Court had not made it an issue, there was no issue.

¹ Until January 2012, DES was known as the Department of Housing and Community Development (HCD).

² Pursuant to § 421.04, F.S., WPBHA has the ability to carry on its duties independent of the City. WPBHA's governing board (WPBHA Board of Commissioners) is appointed by the Mayor of the City of West Palm Beach. According to its website, WPBHA "provides decent and affordable housing...for low- and moderate-income residents."

³ Formerly known as the Florida Department of Community Affairs.

- One staff member opined that if WPBHA had made the payment, then it was assumed to be a qualifying transaction.
- One staff member believed that more documentation was required than what DES had been accepting.

On the other hand, a WPBHA staff member contended that for the most part, their invoice tracking system was “what [he/she] knew in [his/her] head.” That same staff member later conceded that if invoices did not contain identification numbers and/or service addresses, there was no way WPBHA could confirm that work at any of the project sites had been completed.

The OIG reviewed 22 Reimbursement Authorizations (RAs), which contained the following:

1. RA #'s 4 and 6 were based on PAs which included copies of thirteen checks (totaling **\$181,439.37**) that were made payable to 10 vendors, yet contained no supporting documentation (i.e., invoices, work orders) detailing work that was completed. The RA was subsequently approved by DES and reimbursement made to WPBHA.
2. RA #'s 7, 8, 11, 16, 17, 18, 22 were based on PAs which included copies of 25 invoices (totaling **\$183,214.65**) that contained no invoice numbers and/or service addresses that could be used for verification purposes to prevent duplicative and/or fraudulent billing.

Additional Information was also reviewed by the OIG concerning WPBHA's subcontract agreement with Gadsden Property Investment, Inc., as well as Change Order #1 to the subcontract agreement. However, no further action was warranted by the OIG as the issue had been adequately resolved prior to the OIG's involvement.

BACKGROUND

On April 28, 2008, DES entered into Agreement #08DB-D3-10-60-01-A07 with DEO for Community Development Block Grant (CDBG)⁴ funding (totaling \$19,568,569.00) that DEO received from the U.S. Department of Housing and Urban Development (HUD). The terms of the Agreement were for a period of 24 months through April 30, 2010; however, various extensions to the Agreement lengthened its terms through December 15, 2013.

⁴ According to HUD's website program site, the CDBG program “is a flexible program that provides communities with resources to address a wide range of unique community development needs.” In this particular case, HUD provided CDBG funds related to disaster recovery.

DES entered into the following agreements with WPBHA to provide portions of the allotted funds in accordance with DES' Agreement with DEO:

April 1, 2009 – January 31, 2010

- **Agreement #1 (R2009-0995):** Twin Lakes Development Project – maximum funds authorized \$2,050,120.00.
- **Agreement #2 (R2009-0996):** Colony Oaks Development Project – maximum funds authorized \$432,080.00.

June 15, 2010 – October 22, 2010

- **Agreement #3 (R2010-1281⁵):** Twin Lakes Development and Colony Oaks Development Project (both projects were combined under one Agreement) – maximum funds authorized \$2,471,592.85.

October 23, 2010 – October 22, 2011

- **Agreement #4 (R2011-0615⁶):** Addition of items/projects at the Twin Lakes Development and Colony Oaks Development Project – maximum funds authorized \$2,471,537.65.

Expenditure of these funds was on a reimbursement basis, under which WPBHA was required to submit requests for reimbursements (based on several conditions). Upon receipt of those requests, DES was responsible for reimbursing all allowable costs.

ISSUES REVIEWED AND FINDINGS

Issue (1):

Whether the West Palm Beach Housing Authority (WPBHA) complied with the terms of Agreement #'s R2009-0995, R2009-0996, R2010-1281, and R2011-0615, with the Palm Beach County Department of Economic Sustainability by submitting improper Pay Applications to DES for reimbursement.

Governing Directives:

Section 3, Part III, of Agreement #'s R2009-0995, R2009-0996, R2010-1281, and R2011-0615, between WPBHA and DES.

Issue (2):

Whether the Palm Beach County Department of Economic Sustainability (DES) complied with the terms of its Agreement #08DB-D3-10-60-01-A0 7 with the Florida Department of Economic Opportunities (DEO), and whether DES properly

⁵ Amended on December 7, 2010 and October 22, 2011.

⁶ This agreement was extended to December 15, 2013 through Agreements #R2011-0812, #R2012-0138, R2012-1811.

enforced the terms of its Agreement #'s R2009-0995, R2009-0996, R2010-1281, and R2011-0615 with the West Palm Beach Housing Authority (WPBHA) by approving Reimbursement Authorizations containing improper Pay Applications submitted by WPBHA for reimbursement.

Governing Directives:

Section 19 of the Agreement between DES and DEO; and Section 3, Part III, of Agreement #'s R2009-0995, R2009-0996, R2010-1281, and R2011-0615, between WPBHA and DES.

Findings:

Statement of the Whistle-blower (WB)

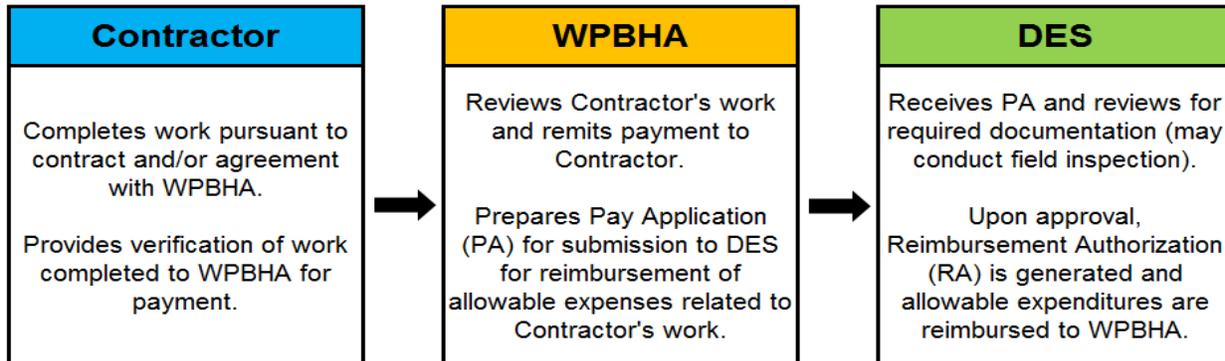
According to the WB, WPBHA's Executive Director Laurel Robinson and Construction Manager Joel Hatcher submitted numerous improper Pay Application (PA) requests to DES for payment that were subsequently approved by DES Capital Real Estate & Inspection Services (CREIS) Section Manager Charles "Bud" Cheney Jr. and Project Coordinator Joseph Greco. The WB further related that the PAs submitted by WPBHA and subsequently approved by DES were not in accordance with any of the agreement(s) between the DEO and DES and/or DES and WPBHA.

According to the OIG's review of the DES Agreement with DEO, as well as Agreement #'s 1, 2, 3, and 4, the following pertinent information was disclosed:

- Pursuant to Section 19 of the DES Agreement with DEO, DES agreed to issue "payments to vendors within 40 days after receipt of an acceptable invoice and receipt, inspection, and acceptance of goods and/or services provided in accordance with the terms and conditions of the Agreement."
- Pursuant to Section 3, Part III, of Agreement #'s 1, 2, 3, and 4, WPBHA agreed to "request payments or reimbursements from the County by submitting to HCD proper documentation of expenditures consisting of originals of invoices, receipts, or other evidence of indebtedness, and when original documents cannot be presented, the Agency may furnish copies if deemed acceptable by the HCD. It also states that payment will be contingent on the timely receipt of complete and accurate reports required by this Agreement..."

Based on documents reviewed and statements obtained by the OIG, Issue (1) and Issue (2) disclosed that neither DES nor WPHBA had clear direction and understanding as to what would be considered an acceptable method of documenting work that is performed (i.e., detailed invoices containing work performed, identifiable invoice numbers, and/or individual unit numbers).

The following chart represents how WPBHA is reimbursed for their expenditures by DES:



The OIG reviewed 22 DES Reimbursement Authorizations⁷ (RA), two of which contained the following:

RA #	Documentation Provided By WPBHA	Amount
4	To support their Payment Application (PA), WPBHA submitted copies of eight checks made payable to 7 vendors without any documentation (i.e., invoices, work orders) detailing work that was completed.	\$ 151,463.44
6	To support their PA, WPBHA submitted copies of five checks made payable to 3 vendors without any documentation (i.e., invoices, work orders) detailing work that was completed.	\$ 29,975.93
TOTAL		\$ 181,439.37

It is noted that these RAs were authorized and have been paid to WPBHA.

Statement from Nancy Palilonis, DES Project Coordinator

Ms. Palilonis explained that sometime after January 2013, she was assigned as the Project Coordinator for the Twin Lakes and Colony Oaks projects following Mr. Greco's re-assignment. According to Ms. Palilonis, it was her belief that all PAs should include invoices for work completed, some form of acknowledgement from WPBHA describing in detail the invoices, provide a reason for such expense, and the individual unit address at each project site that the work was performed. Ms. Palilonis further explained that once DES is in receipt of this documentation, the PA is forwarded to the Project Coordinator for review and approval. The Project Coordinator's supervisor, in this case, Mr. Cheney, is also responsible for a secondary review and approval. Once both of these approvals are documented, the PA is forwarded to DES's Fiscal division for payment.

Ms. Palilonis stated that following the project's reassignment to her, she initiated a review of pertinent files and conducted an on-site inspection. According to Ms.

⁷ Reimbursement Authorizations are completed by DES, which approves payment to WPBHA, following their submission of a Pay Application(s).

Palilonis, she requested documentation from WPBHA to support pending payments to a subcontractor; however, Mr. Hatcher was unable to produce such information. Ms. Palilonis stated that she asked what tracking methods WPBHA used to document work completed by their contractors/subcontractors, Mr. Hatcher pointed to his head and stated, "...well, I know, I just know." Ms. Palilonis stated that she asked for additional clarification, to which Mr. Hatcher replied, "I just know in my head." Ms. Palilonis opined that Mr. Hatcher's inability to account for work that had been completed by contractors/subcontractors left WPBHA at risk for fraudulent billing practices (i.e., duplicative billing). Ms. Palilonis stated that she subsequently relayed her concerns to her supervisors.⁸

Statement of Sherry Howard, DES Deputy Director

Ms. Howard stated that sometime in May 2013, DES staff met with WPBHA staff to discuss a monitoring completed by Ms. Palilonis, which disclosed several issues concerning PAs (related to the Twin Lakes Project) submitted by WPBHA, to include lack of original payroll applications, questions regarding inventory, and improper invoices. According to Ms. Howard, although WPBHA mentioned similar invoices being approved previously, the meeting focused on the current monitoring and requirements that had not been complied with. Ms. Howard indicated that she not aware of Mr. Greco or Mr. Cheney intentionally approving improper PAs so that WPBHA could obtain ineligible reimbursements and added that she was unaware of any reimbursements being made for work that was not performed. Ms. Howard concurred that invoices provided by WPBHA should have at least had an invoice number, as well as an address where the product was delivered and/or used, or installed.

Statement of Shairette Major, DES Fiscal Manager

Ms. Major explained that part of her and her staff's responsibilities include the processing of RAs for CREIS. According to Ms. Major, when an entity such as WPBHA expends its funds for a Disaster Recovery Initiative (DRI⁹)-related project, that entity prepares a PA to request reimbursement from DES, which is submitted to the assigned Project Coordinator in the CREIS Section for their review. Ms. Major stated that the Fiscal Section is not versed in construction and therefore, relies on the CREIS Section to make sure that what has been invoiced has actually been performed. Ms. Major further stated that signatures of a Project Coordinator and their Section Manager provide indication to Fiscal that the entity has in fact performed the work for which DES has been invoiced and payment is authorized.

The Agreements required WPBHA to provide DES with "...proper documentation of expenditures consisting of originals of invoices, receipts, or other evidence of indebtedness..." While the Agreements did not outline any specific invoicing methods, the OIG review disclosed the following:

⁸ Ms. Palilonis indicated that she advised Mr. Cheney (her direct supervisor) and Ms. Howard, as well as DES Director Edward Lowery.

⁹ Reference Footnote #3.

- 7 (32%) of the 22 RAs reviewed by the OIG contained a total of 25 invoices for work performed; however, those 25 invoices lacked any identifiable method of internal controls as they did not contain individual invoice numbers and/or specific address(es) of service (i.e., individual unit number).

RA #	# of Invoices	Amount
7	4	\$ 8,695.50
8	4	\$ 36,993.11
11	4	\$ 23,013.00
16	1	\$ 4,086.00
17	5	\$ 44,125.09
18	3	\$ 20,155.60
22	4	\$ 46,146.35
TOTAL	25	\$ 183,214.65

It is noted that these RAs were authorized and have been paid to WPBHA.

- Without an identifiable invoice number,¹⁰ DES and/or WPBHA would be unable to identify duplicate invoices submitted for payment. Furthermore, without providing a service address, to include a specific unit number, DES and/or WPBHA would be unable to identify work completed at individual units.

Statement of Laurel Robinson, WPBHA Executive Director

Ms. Robinson stated that WPBHA was able to tell the difference between invoices that had no identification numbers by visual examination and by personal knowledge of the materials that were installed and approved by Mr. Hatcher even if those invoices contained the same address and/or date. According to Ms. Robinson, Mr. Hatcher was “on site” everyday knew where materials were being installed. Ms. Robinson opined that “when you’re a Project Manager, you’re out there on the site and you know what is happening on the site,” as was the case of Mr. Hatcher. Ms. Robinson added that she did not care where materials were installed [at the project sites] as long as at the end of the day, all of the openings had windows and doors. Ms. Robinson conceded that it would have been more advantageous for invoices to contain identifying information (i.e., invoice number, unit number), but stated that it didn’t matter. In her opinion, she did not need to know that a door went into a particular frame on which unit.

Ms. Robinson stated that if DES had a problem with verifying information listed on an invoice, DES should have gone to the project site and looked or requested that information from WPBHA. Ms. Robinson opined that in an ideal world, the invoice should be an accurate description of what was going on, but stated that “you’re not

¹⁰ It is noted that invoices that contained individual unit numbers but no invoice numbers, were not questioned as the unit numbers were sufficient for the purposes of locating an identifiable method.

paying on the door; you're paying on the contract," and it was the contract that governs the scope of the work. Ms. Robinson subsequently stated that even if there were no addresses on the invoices, she considered the information submitted by WPBHA accurate.

Statement of Joel Hatcher, WPHBA Construction Services Director

Mr. Hatcher stated that he had no knowledge of any improper invoices that had been submitted by WPBHA to DES for reimbursement. Further, Mr. Hatcher stated that he had no knowledge of any DES staff members authorizing improper invoices for the purpose of "gaining funding" for WPBHA. Mr. Hatcher stated that DES had made it very clear to WPBHA that they could only receive reimbursement for materials that were already delivered and installed. However, Mr. Hatcher conceded that he was not really sure how he would be able to determine what and where those materials were installed because the invoices were not clear. Mr. Hatcher stated that he had not noticed that invoices (submitted to DES) did not have identification numbers on them. Mr. Hatcher initially explained that he would differentiate invoices by the individual units, locations, what the materials were, and what the ongoing projects were; however, when advised of invoices that did not contain individual units, locations, etc., Mr. Hatcher explained that at that time, he was pretty sure that he knew "where they were."

Mr. Hatcher contended that had "they [DES]" made this an issue, then WPHBA would have had to deal with it, but added that as far as he was aware, the lack of identifiable information on invoices was not an issue. Mr. Hatcher explained that for the most part, his invoice tracking system was "what he knew in his head" and acknowledged that it could have been done better. Contrary to Ms. Robinson's statements, Mr. Hatcher conceded that if invoices did not contain identification numbers and/or service address, there was no way neither he nor WPBHA could confirm that work at any of the project sites had been completed.

Statement of Joe Greco, DES Real Estate Contract Analyst

Mr. Greco stated that he was the assigned Project Coordinator for the Colony Oaks and Twin Lakes project sites until approximately one year ago (December 2012). Mr. Greco indicated that after June 2, 2011,¹¹ he was not aware of any RAs that did not contain invoices, that were authorized.

Mr. Greco stated that he never questioned invoices submitted by WPBHA vendors that did not contain invoice numbers. Mr. Greco stated that if there was an invoice from a vendor, followed by a payment from WPBHA to the vendor, he assumed it was a qualifying transaction. Mr. Greco subsequently opined that the invoices could have been more informative.

¹¹ Initially, through a contract with WPBHA, E.O. Koch Construction Co. (Koch) was the General Contractor for this project. Due to performance issues, Koch's contract with WPBHA was terminated, at which time WPBHA became its own General Contractor.

Statement of Charles “Bud” Cheney, DES Capital Real Estate & Inspection Services Section Manager

Mr. Cheney explained that DES is mostly funded by grants and Project Coordinators within his division (CREIS) are responsible for coordinating individual projects under their respective grants. According to Mr. Cheney, reimbursements to outside entities, such as WPBHA, occur once the entity has submitted a request for reimbursement (PA). Mr. Cheney indicated that such a request would include copies of checks, invoices, letters requesting payment, etc.

Mr. Cheney acknowledged that upon his review of records, it appeared that an invoice or two, or possibly more, may have been missing from PAs previously submitted by WPHBA and later approved by DES. Mr. Cheney stated that he was not aware of Mr. Greco knowingly approving improper PAs and added that he believed Mr. Greco had obtained the required documentation. Mr. Cheney indicated that the lack of identifiable invoice numbers was not an issue as neither DES' Fiscal section nor the Palm Beach County Clerk of Court made an issue of the items submitted.

ADDITIONAL INFORMATION

During the course of the OIG Management Review, additional information concerning WPBHA's subcontract agreement with Gadsden Property Investment, Inc. (GPI), as well as Change Order #1 to the subcontract agreement, totaling \$79,000.00, was reviewed. Although the procurement itself between WPBHA and GPI was not an issue, WPBHA's ability to subcontract with GPI without DES' prior approval was in question. Pursuant to the OIG's review of Agreement #'s 1, 2, 3, and 4, WPBHA agreed to have “all subcontracts [to] be submitted by [WPBHA] to [DES] and approved by [DES] prior to execution of any subcontract hereunder.”

Based on documents reviewed and statements obtained, the following pertinent information was disclosed:

- **October 12, 2010:** E.O. Koch Construction Co. (Koch) served as WPBHA's General Contractor (GC) for the Colony Oaks and Twin Lakes project sites. As the GC, Koch was not required to seek pre-approval from WPBHA or DES for its subcontractors (reference Section 37 of the General Conditions in the Agreement between WPBHA and Koch).
- **June 2, 2011:** Due to performance issues, WPBHA terminated Koch's contract. WPBHA subsequently became its own GC for this project.
- **September 19, 2012:** In order to complete the projects already in progress by Koch, WPBHA entered into the subcontract agreement with GPI totaling \$22,000.00.
- **February 8, 2013:** WPHBA completed Change Order #001 to the Subcontract totaling \$57,000.00. The subcontract agreement now totaled \$79,000.00.

WPBHA maintained that in its current role as the GC, similar to Koch's role, they did not have to seek pre-approval to subcontract with GPI.

- **September 20, 2013:** Through Amendment #5, DES waived the contract pre-approval requirement and agreed that since WPBHA was now acting as its own GC, pre-approval was not necessary for the GC.

WPBHA's initial role throughout its Agreements with DES was as the Sub-Grantee (DES to WPBHA); however, due to the GC's termination, WPBHA took on the role as its own GC. Although WPBHA entered into the subcontract agreement with GPI without pre-approval from DES, a subsequent Amendment to the Agreements between DES and WPBHA, clarified that in its new role as the GC, did not need pre-approval from DES to hire contractors. As this issue was already resolved, no further action by the OIG was warranted.

RECOMMENDED CORRECTIVE ACTIONS

Based on the findings in Issues 1 and 2, the OIG recommends the following corrective actions:

1. Review Reimbursement Applications #4 and #6 to determine if additional documentation can be obtained to support the payments identified in the report. If no documentation exists, where appropriate, seek recoupment of funds.
2. Determine whether additional measures can be implemented to ensure that all invoicing documentation contains an identifiable methodology (i.e., invoice numbers, specific service addresses).
3. For all future reimbursement contracts/agreements, develop standards outlining acceptable documentation for reimbursement (i.e., invoices containing an identifiable tracking method, individual service unit addresses, itemized services). Once that is developed, include that language in all future contracts/agreements to ensure that all parties (DES and the prospective vendor) fully understand their responsibilities in order to comply with and enforce the terms of a contract/agreement.
4. Determine whether additional contract monitoring is necessary to ensure that all contractual requirements are enforced.

IDENTIFIED, AND QUESTIONED COSTS

Identified Costs: \$181,439.37

Questioned Costs: \$183,214.65

ARTICLE XII, SECTION 2-427

Pursuant to Article XII, Section 2-427 of the Palm Beach County Code, on May 2, 2014, the WB was provided the opportunity to submit a written explanation or rebuttal to the findings as stated in this Management Review within twenty (20) calendar days. On May 14, 2014, the WB advised the OIG that he/she had "No comments."

This Investigation has been conducted in accordance with the ASSOCIATION OF INSPECTORS GENERAL Principles & Quality Standards for Investigations.