



Sheryl G. Steckler
Inspector General

OFFICE OF INSPECTOR GENERAL PALM BEACH COUNTY



Inspector General
Accredited

“Enhancing Public Trust in Government”

Management Review

2013-0009 WB

November 21, 2013

“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: 2013-0009 WB



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EXECUTIVE SUMMARY

On March 23, 2009, the Solid Waste Authority (SWA) entered into Contract #09-242 (the Contract) with Electronic Technologies Corporation USA D/B/A Ingersoll Rand Security Technologies (Ingersoll) for various services to include fire alarm system inspections. On December 31, 2011, Ingersoll's contractual responsibilities were transferred to Kratos Public Safety and Security Solutions (Kratos) through its purchase by Kratos.

The Office of Inspector General (OIG) received a complaint from an individual regarding SWA's failure to take action after being notified that required fire alarm system inspections were not being routinely conducted since at least January 2009. That individual noted that SWA was paying for those services even though they were not rendered and further stated that on more than one occasion, SWA was notified (February 2010) of this issue, but took no action. Because of the potential life/safety issues presented by the individual, he/she was subsequently designated as a Whistle-blower (WB) and based on the information provided, the OIG initiated a WB Management Review.

The OIG's Review disclosed the following:

- 331 fire alarm system inspections should have been conducted during the review period (Quarter 1, 2009 through Quarter 2, 2013¹). Of the 331, a total of 242 (73%) fire alarm system inspections *were* conducted and 89 (27%) fire alarm system inspections *were not* conducted. Due to potential safety concerns, the OIG contacted SWA to determine if any of the missed fire alarm system inspections resulted in and/or created potential life/safety issues. SWA indicated that there were none. The OIG also obtained records from the responsible Fire Departments, which did not identify any potential life/safety issues that would have been attributed to the missing fire alarm system inspections.
- Of the 89 fire alarm system inspections that were not conducted:
 - Prior to SWA being notified in February 2010 that the required fire alarm system inspections were not being conducted, **84.72%** (61 out of 72) of those *were not* conducted between Quarter 1, 2009 and Quarter 1, 2010.

¹ Pursuant to the contract, fire alarm system inspections should be conducted on a quarterly basis, calculated by calendar year (January 1, 2009 through June 30, 2013).

- After SWA was notified in February 2010 that the required fire alarm system inspections were not being conducted, **10.81%** (28 out of 259) of those *were not* conducted between Quarter 2, 2010 and Quarter 2, 2013.
- Of the 89 total required fire alarm system inspections that *were not* conducted, SWA was billed by the service provider for 49 of those, totaling \$7,630.00.
- Of the 242 required fire alarm system inspections that *were* conducted, SWA was not billed by the service provider for 6 of those, totaling \$795.00.

ISSUE REVIEWED AND FINDINGS

Issue:

The Solid Waste Authority failed to take action after being notified that required fire alarm system inspections were not being routinely conducted since at least January 2009 and that they were paying for those services even though they were not rendered.

Governing Directives:

§ 633.065(2), F.S.; Section 10.4.4, National Fire Protection Association 72; and Section III, Scope of Work, Contract #09-242, between Solid Waste Authority and Electronic Technologies Corporation USA D/B/A Ingersoll Rand Security Technologies

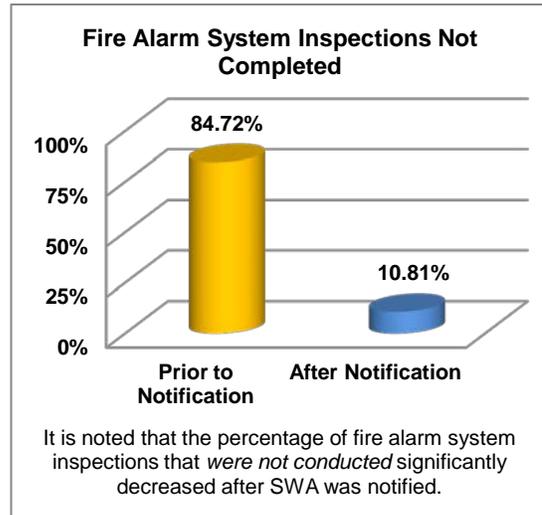
Finding:

According to the information provided by the WB, SWA (mainly management staff) was notified of these issues on at least two occasions (February 27, 2010 and March 22, 2010). Based on these timeframes, the OIG conducted a review of the Contract and all pertinent records maintained by SWA, as well as Ingersoll and Kratos, to establish whether or not there were any significant differences in the frequency of fire alarm system inspections conducted prior to and/or subsequent to SWA being notified of the deficiencies. The OIG's Review disclosed the following:

- Based on the OIG's Review, 331 fire alarm system inspections should have been conducted during the review period (Quarter 1, 2009 – Quarter 2, 2013). 89 of the 331 (27%) required fire alarm system inspections *were not* conducted. Due to potential safety concerns, the OIG contacted SWA to determine if any of the missed fire alarm system inspections resulted in and/or created potential life/safety issues. SWA indicated that there were none. The OIG also obtained records from the responsible Fire Departments, which did not identify any potential life/safety issues that would have been attributed to the missing fire alarm system inspections.

- Of the 89 fire alarm system inspections that were not conducted:

- Prior to SWA being notified in February 2010 that the required fire alarm system inspections were not being conducted, **84.72%** (61 out of 72) of those *were not* conducted between Quarter 1, 2009 and Quarter 1, 2010.
- After SWA was notified in February 2010 that the required fire alarm system inspections were not being conducted, **10.81%** (28 out of 259) of those *were not* conducted between Quarter 2, 2010 and Quarter 2, 2013.



- Of the 89 total required fire alarm system inspections that *were not* conducted, SWA was billed by the service provider for 49 of those, totaling \$7,630.00.
- Of the 242 required fire alarm system inspections that *were* conducted, SWA was not billed by the service provider for 6 of those, totaling \$795.00.

The Contract contains the following pertinent information:

Scope of Work, III Service Contract – Fire Alarm Systems

- A. Monthly and quarterly tests, as well as quarterly preventative maintenance inspections, all service calls, bench work not covered by manufacturer's warranties and cost of labor necessary for the operation of the equipment.

Statement of Ray Schauer, SWA Director of Engineering and Public Works

Mr. Schauer stated that his department was not responsible for the Contract as that responsibility fell under the Risk Management Department (RMD). However, Mr. Schauer recalled that Ingersoll was responsible for monitoring the fire and burglar alarm panels, as well as the required fire alarm system inspections associated with the electronics portion of the fire alarm systems. Mr. Schauer indicated that he recalled at least one meeting (sometime in February 2010) with SWA staff, to include himself and his immediate supervisor, Chief Administrative Officer Marc Bruner, where the lack of required fire alarm system inspections being completed by Ingersoll were discussed. Following that meeting and in consultation with Mr. Bruner, he directed an unrelated contractor who was responsible for inspecting the mechanical portion of the fire alarm systems to increase the frequency of their inspections. Additionally, Mr. Bruner advised him (Mr. Schauer) that he would follow-up with RMD for corrective action.

Statement of Marc Bruner, SWA Chief Administrative Officer

Mr. Bruner stated that he vaguely recalled a meeting (sometime in February 2010) where issues regarding the lack of fire alarm system inspections being completed by the provider (Ingersoll) were discussed. Subsequent to the meeting, Mr. Bruner directed former RMD Director John Williams to conduct a review to determine if the fire alarm system inspections were being conducted and if not, what corrective action needed to be taken. Mr. Bruner stated that Mr. Williams completed the review and found that he (Mr. Williams) was unable to determine² whether or not all of the required fire alarm system inspections were being conducted. Mr. Bruner stated that based on Mr. Williams' completed review (on or about March 13, 2010), SWA increased the review of the Contract invoices to ensure all required documentation was submitted prior to payment for proof of completion, as well as implemented a review of the inspection logs³ at all of the facilities.

Statement of Beth Winger, SWA RMD Director

Ms. Winger advised that during the course of the OIG's review, she initiated her own research to determine whether or not the same issues persist with the current contract provider (Kratos). Ms. Winger found that although the number of fire alarm system inspections not conducted has decreased since March 2010, 25 of the 28 required fire alarm system inspections that *were not* conducted from Quarter 2, 2010 through Quarter 2, 2013 were due to SWA's own oversight. According to Ms. Winger, an unrelated contractor was completing refurbishments at certain facilities. SWA thought that it was the unrelated contractor's responsibility to conduct the fire alarm system inspections; however, the unrelated contractor was only responsible for monitoring the fire alarm systems at those facilities. Ms. Winger stated that in the future, following facility refurbishments, contractual responsibilities for fire alarm system inspections will be clearly outlined. The remaining three fire alarm system inspections were not conducted by Kratos as required. According to SWA records, fire alarm system inspections have been conducted in every SWA facility (where required) in accordance with NFPA 72, with the exception of the Delray Transfer Station.⁴ Ms. Winger advised that SWA has coordinated with Kratos to ensure the inspection is completed by November 30, 2013.

Ms. Winger acknowledged that it was during the OIG's review that several issues surfaced regarding misplaced or incomplete SWA records.⁵ Ms. Winger advised that she has implemented several changes to address these issues, to include the following:

² According to Mr. Williams' audit report, this was due, in part, to a lack of records to support whether or not an inspection was actually completed.

³ Inspection logs are maintained at each facility and used to record information concerning the completion of an inspection (who, when, etc.).

⁴ Since its reopening on December 4, 2012, the Delray Transfer Station should have had three quarterly fire alarm system inspections which were included in the OIG's data.

⁵ Fire alarm system inspection reports were previously maintained in two SWA locations: at the respective facility and RMD, as well as maintained by the contractor. Historical records maintained by RMD were destroyed by a former SWA employee; however, those records were subsequently recovered through SWA facility records and/or the contractor's records.

- Consolidation of all fire alarm system inspections under RMD.
- RMD staff will be required to conduct routine inspections of facility logbooks on a quarterly basis to ensure that all fire alarm system inspections are conducted.
- In addition to the individual facility logbooks and RMD's records, copies of all fire alarm system inspection reports will be maintained by the Finance Department.
- Invoices are not paid unless all respective fire alarm system inspection reports are received.

ADDITIONAL INFORMATION

During the course of the OIG Review, it was disclosed that fire alarm system inspection reports were previously maintained in two SWA locations: at the respective facility and RMD, as well as maintained by the contractor. Historical records maintained by RMD were destroyed by a former SWA employee prior to the expiration of its required retention. Those records were subsequently recovered through SWA facility records and/or the contractor's records; however, in addition to SWA not following its own retention schedule (GS1-SL⁶), it was further disclosed that the record retention language contained within the Contract did not comport with SWA's record retention schedule. The Contract contains the following quoted language:

CONSULTANT shall maintain adequate records to justify all charges and costs incurred in performing the work for at least three (3) years after completion of this Agreement.

According to SWA, their record retention schedule is based on the State's record retention schedule, GS1-SL, which contains the following quoted language:

INSPECTION RECORDS: FIRE/SECURITY/SAFETY/HEALTH Item #193

This record series consists of inspection reports, logs, and summaries relating to employees, equipment, materials, and facilities safety, health, and security.

RETENTION: 4 calendar years after inspection.

RECOMMENDED CORRECTIVE ACTIONS

Based on the OIG's review, the following corrective actions are recommended:

1. As fire alarm system inspections involve potential life/safety issues, ensure that 100% of the required fire alarm system inspections are being conducted in compliance with the Contract.

⁶ Records Retention Schedule for State and Local Government Agencies, which was adopted by SWA.

According to Ms. Winger, during the course of the OIG Review, SWA implemented the following:

- Consolidation of all fire alarm system inspections under RMD.
- To ensure compliance with the National Fire Protection Association (NFPA) codes, RMD staff will be required to conduct routine inspections of facility logbooks on a quarterly basis to ensure that all fire alarm system inspections are conducted.
- In addition to the individual facility logbooks and RMD's records, copies of all fire alarm system inspection reports will be maintained by the Finance Department.
- Invoices are not paid unless all respective fire alarm system inspection reports are received.

As SWA addressed this issue during the OIG Review, no further action is necessary at this time.

2. Ensure that the fire alarm system inspection for the Delray Transfer Station is completed by November 30, 2013.
3. Recoup costs associated with payments made to both Ingersoll and/or Kratos for services not performed.

Based on the information disclosed in the Additional Information section, the following Corrective Action is recommended:

4. Ensure that all SWA contracts and/or agreements contain language regarding record retention schedules in accordance to SWA's own record retention schedules, which is based on the State's Record Retention Schedule, GS1-SL.

IDENTIFIED COSTS

Identified Costs: \$6,835.00 [\$7,630.00 (paid by SWA for services not performed) minus \$795.00 (services performed but not yet billed to SWA)]

ARTICLE XII, SECTION 2-427

Pursuant to Article XII, Section 2-427 of the Palm Beach County Code, a subject or subject entities of an OIG Management Review are entitled to submit a written explanation or rebuttal of the findings, prior to the OIG Management Review being finalized. The exception to this rule is for Management Reviews designated as WB, in accordance with Florida Statutes.

Pursuant to § 112.3189, Florida Statutes, on October 11, 2013, the WB was provided the opportunity to review this OIG Management Review and on October 28, 2013, the WB provided the following quoted responses (attached in its entirety), in pertinent parts:

WB Response: After reading the OIG's draft report regarding this subject matter I have the following comments that I request to be added to the report. I would like to be able to say the report is accurate that includes all of the facts of the investigation and findings, but it is my opinion the reports fails in addressing the real issues of the allegations presented by the WB.

Why doesn't the OIG's report include the fact the SWA violated F.S. 633.065(2) State law and the National Fire Protection Associations code NFPA 72?

OIG Response: Both the Statute and NFPA are addressed in the Governing Directives section of this report. Even though the Statute through the NFPA require quarterly fire alarm system inspections there are no penalties associated with not performing the quarterly fire alarm system inspections.

WB Response: ***The WB never requested that the OIG investigate to see if there was an improvement in the frequency of the fire alarm inspection tests, but rather focus on why there were so many deficiencies and why SWA staff was approving invoices for payment for services that were never performed.***

...I will agree that from the second quarter of 2010 through the second quarter of 2013 the inspections were performed at a higher frequency, but again failed to comply with both the Law and Code, and these are the things that the public must be made aware of and included in the report.

Why didn't the OIG ask why there continues to be deficiencies especially when Marc Bruner states new requirements have been implemented?

OIG Response: The OIG's report acknowledges that prior to being notified in February 2010, 84.72% of fire alarm system inspections were not being conducted, which was attributed to a lack of checks and balances by SWA. The report notes that the percentage of fire alarm system inspections that *were not conducted* significantly decreased after SWA was notified. However, the OIG review disclosed that although significant changes have occurred, SWA is still not in full compliance. Due to safety concerns, this information was provided to SWA and they have since implemented multiple checks and balances to ensure 100% compliance with NFPA. According to SWA records, fire alarm system inspections have been conducted in every SWA facility (where required) in accordance with NFPA 72, with the exception of the Delray Transfer

Station. SWA has coordinated with Kratos to ensure the inspection is completed by November 30, 2013.

WB Response: In Marc Bruner's "SWA Chief Administrative Officer" statement he states the former Risk Manager John C. Williams could not determine whether all the required fire alarm inspection tests were performed.

Why didn't the OIG ask "why not" when John C. Williams name and/or initials were on the invoices from the service provider approving payment whether performed or not?

OIG Response: Mr. Williams was unable to determine whether or not all of the required fire alarm system inspections were conducted due to misplaced or incomplete SWA paperwork.

WB Response: ***Why didn't the OIG ask how could anyone prove that the actual fire alarm inspection tests were performed without witnessing the actual test being performed? Reviewing a piece of paper doesn't verify whether or not the service was performed, and verifying is also a requirement of the SWA Purchasing Policy which isn't mentioned in this report.***

Did the OIG asked how invoices got approved for fire alarm inspection tests that weren't performed if someone was to ensure that all documentation was submitted, and there was a review of the field fire alarm inspection logs? It appears that Marc Bruner and/or assigned staff never followed up to ensure that a 100% of the fire alarm inspection tests were being performed.

Why didn't the OIG question the SWA by asking why is there still a 11% deficiency rate if the SWA was serious about getting these fire alarm inspection tests performed in accordance with the Law and Code?

OIG Response: Fire alarm system inspection reports were used as verification that the fire alarm system inspections were conducted. As referenced in the report, there were a number of fire alarm system inspections that were not conducted. However, the OIG review disclosed that although significant changes have occurred, SWA is still not in full compliance. Due to safety concerns, this information was provided to SWA and they have since implemented multiple checks and balances to ensure 100% compliance with NFPA.

WB Response: The OIG's report states due to the potential safety concern they contacted the SWA to determine if any of the missed fire alarm system

inspections resulted in and/or created a potential life/safety issues. The SWA indicated that there were **none**.

Why didn't the OIG question the basis for the SWA statement regarding the above comment?

OIG Response: The OIG has amended its report to include records that the OIG also obtained from the responsible Fire Departments, which did not identify any potential life/safety issues that would have been attributed to the missing fire alarm system inspections.

WB Response: Within the OIG's findings section of the report it states the OIG reviewed all pertinent records maintained by the SWA as well as other agencies.

Why doesn't the OIG report provide the factual findings of the pertinent records at the SWA, which I was told were destroyed. Why didn't the OIG report the fact in this report that the SWA again violated yet another F.S. 257 and 119 and the Florida Administrative Code for public record retention and disposition.

Why didn't the OIG include in this report informing the SWA and taxpayers that the majority of the SWA fire alarm inspection tests were destroyed by the person assigned the task of managing this contract, and these records were destroyed without authorization and without the proper documentation in accordance with above mention F.S., F.A.C. and SWA policy.

OIG Response: Fire alarm system inspection reports were previously maintained in two SWA locations: at the respective facility and RMD, as well as maintained by the contractor. Certain copies of historical records maintained by RMD were destroyed by a former SWA employee. However, because other copies of those same documents were maintained by SWA and its contractor, and were available to requesting parties, there was no violation of § 119.07, F.S. It is noted that the retention of records by SWA and their contractors, in accordance with SWA's record retention schedules and § 257.36, F.S. has been addressed in the Corrective Action Recommendations section.

WB Response: ***Is the OIG going to include in the report the recommendation to recoup the funds that were approved and paid by the SWA for services never rendered, and discuss the issue of fraud against the SWA and the service providers that didn't perform the service but invoiced and were paid by the SWA? At least state that what take place at the SWA was fraud and could be turned over to the State Attorney's office for further action regarding the people or agencies involved.***

OIG Response: A Corrective Action Recommendation was made to recoup costs associated with payments made to both Ingersoll and/or Kratos for services not performed. Based on all of the records reviewed and statements obtained, the OIG's Review did not disclose any evidence to support a criminal referral to the State Attorney's Office.

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

RESPONSE TO OIG'S REPORT REGARDING SWA FIRE ALARM INSPECTIONS

After reading the OIG's draft report regarding this subject matter I have the following comments that I request to be added to the report. I would like to be able to say the report is accurate that includes all of the facts of the investigation and findings, but it is my opinion the reports fails in addressing the real issues of the allegations presented by the WB.

Why doesn't the OIG's report include the fact the SWA violated F.S. 633.065(2) State law and the National Fire Protection Associations code NFPA 72? Not only were these violations allowed to take place in 2009 and 2010 and prior, but were allowed to continue up to 2013.

The OIG's report states they reviewed the Contracts and documentation to establish whether or not there were any significant differences in the frequency of the fire alarm inspections.

The WB never requested that the OIG investigate to see if there was an improvement in the frequency of the fire alarm inspection tests, but rather focus on why there were so many deficiencies and why SWA staff was approving invoices for payment for services that were never performed.

In accordance with the OIG's report there were a total of 331 fire alarm inspections to take place between first quarters of 2009 through second quarter of 2013. OIG reports 89 of the 331 required fire alarm inspection reports were not performed resulting in a 27% deficiency rate.

During the first quarter of 2009 and the first quarter of 2010 there were 61 out of 72 required fire alarm inspections not performed resulting in a 85% deficiency rate.

From the second quarter of 2010 through the second quarter of 2013 there were 28 out of 259 fire alarm inspections not performed resulting in a 11% deficiency rate.

I will agree that from the second quarter of 2010 through the second quarter of 2013 the inspections were performed at a higher frequency, but again failed to comply with both the Law and Code, and these are the things that the public must be made aware of and included in the report.

Why didn't the OIG ask why there continues to be deficiencies especially when Marc Bruner states new requirements have been implemented?

In Marc Bruner's "SWA Chief Administrative Officer" statement he states the former Risk Manager John C. Williams could not determine whether all the required fire alarm inspection tests were performed.

Why didn't the OIG ask "why not" when John C. Williams name and/or initials were on the invoices from the service provider approving payment whether performed or not?

According to the OIG's report there were a total of 89 fire alarm inspections not

performed, in which 49 of the 89 were invoiced to the SWA and paid. Also, in Marc Bruner's statement he stated that the SWA increased the review of the invoices to **ensure** all required documentation was submitted prior to payment for proof of completion, as well as implemented a review of the inspection logs at all of the facilities.

Why didn't the OIG ask if this was the case why weren't the fire alarm inspection tests performed at a 100% instead of 89%?

Why didn't the OIG ask how could anyone prove that the actual fire alarm inspection tests were performed without witnessing the actual test being performed? Reviewing a piece of paper doesn't verify whether or not the service was performed, and verifying is also a requirement of the SWA Purchasing Policy which isn't mentioned in this report.

Did the OIG ask how invoices got approved for fire alarm inspection tests that weren't performed if someone was to ensure that all documentation was submitted, and there was a review of the field fire alarm inspection logs? It appears that Marc Bruner and/or assigned staff never followed up to ensure that a 100% of the fire alarm inspection tests were being performed.

Why would the OIG note that the amount of fire alarm inspections that were not conducted significantly decreased following the SWA being notified?

Why didn't the OIG question the SWA by asking why is there still a 11% deficiency rate if the SWA was serious about getting these fire alarm inspection tests performed in accordance with the Law and Code?

These are the types of questions that must be asked so the taxpayers of PBC are aware of the real facts of this case at the SWA which continued up to and may include 2013.

The OIG's report states due to the potential safety concern they contacted the SWA to determine if any of the missed fire alarm inspections resulted in and/or created a potential life/safety issues. The SWA indicated that there were **none**.

Why didn't the OIG question the basis for the SWA statement regarding the above comment? What was the basis of their statement?

Why would the OIG accept such a lame statement when the WB informed the OIG that SWA Management was informed of numerous deficiencies while performing the required fire sprinkler system inspections and tests as far back as 2005?

i.e. Deficiencies such as fire alarms not wired, duct detectors not working, signal devices not sending signal to fire panel and then central control, flow detectors not wired or wired improperly and flow detectors not activating signals etc. The fore mentioned deficiencies which in my opinion all create life/safety concerns whether or not a catastrophic event, injury or death takes place. This is the reason the Law and Codes requires these tests.

Within the OIG's findings section of the report it states the OIG reviewed all pertinent records maintained by the SWA as well as other agencies.

Why doesn't the OIG report provide the factual findings of the pertinent records at the SWA, which I was told were destroyed.

Why didn't the OIG report the fact in this report that the SWA again violated yet another F.S. 257 and 119 and the Florida Administrative Code for public record retention and disposition.

Why didn't the OIG include in this report informing the SWA and taxpayers that the majority of the SWA fire alarm inspection tests were destroyed by the person assigned the task of managing this contract, and these records were destroyed without authorization and without the proper documentation in accordance with above mention F.S., F.A.C. and SWA policy.

Is the OIG going to include in the report the recommendation to recoup the funds that were approved and paid by the SWA for services never rendered, and discuss the issue of fraud against the SWA and the service providers that didn't perform the service but invoiced and were paid by the SWA? At least state that what take place at the SWA was fraud and could be turned over to the State Attorney's office for further action regarding the people or agencies involved.

The above are all key elements in this investigation and should be included in the OIG's report so all facts can be openly shared with the taxpayers of this county so they are informed with factual first hand information and not fluff. If the WB wanted this report to be fluff it would not been in my best interest to bring this allegation to the attention of the OIG. I request the OIG review and revise the current report to include all of the above informative details and questions regarding this investigation.

Thanks.

