



OFFICE OF INSPECTOR GENERAL PALM BEACH COUNTY

LIMITED REVIEW CASE NUMBER: 2012-0013

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Inspector General

"Enhancing Public Trust in Government"

BACKGROUND

The Office of Inspector General (OIG) received information concerning the following two issues:

1. Payment of a lump sum bonus to South Bay City Manager Corey Alston, pursuant to his Employment Agreement (May 5, 2009 through May 4, 2012) in August 2011 that may not have been in compliance with recent changes to Section 166.021(7), Florida Statutes.
2. Provision(s) of Mr. Alston's Updated Employment Agreement (August 1, 2011 through June 30, 2015) may not be in compliance with recent changes to Section 166.021(7) or Section 215.425, Florida Statutes.

Based on that information, the OIG initiated a Limited Review.¹

ISSUES REVIEWED

The OIG's review identified the following changes to Florida Law:

Effective July 1, 2011, Florida Senate Bill 88 removed provisions from Section 166.021(7), Florida Statutes, that previously allowed municipalities to provide for *"an extra compensation program, including a lump-sum bonus payment program, to reward outstanding employees whose performance exceeds standards..."*

Furthermore, Senate Bill 88 amended Section 215.425, Florida Statutes, to require units of local government to include in all employment agreements (or renewing an existing agreement) that certain severance pay provisions include language that limits the amount of severance pay to a maximum of 20 weeks.

Issue (1):

The City of South Bay's lump sum bonus payment to City Manager Corey Alston was not in compliance with recent changes to Florida Statutes.

Governing Directives:

§ 166.021(7), Florida Statutes.

¹ A request by management for assistance which does not rise to a full investigation or management review.

Because the Employment Agreement and the commitment to pay the bonus preceded the changes to Florida Law, it does not appear that the bonus compensation paid to Mr. Alston was in violation of Florida Statutes.

According to the OIG's review of City Resolution 25-2011, dated August 16, 2011, the City Commission approved a bonus compensation payment of \$25,000.00² to Mr. Alston based on his overall performance rating as provided for in his initial Employment Agreement, which went into effect on May 5, 2009.

During the OIG's interviews with South Bay Mayor Shirley Walker-Turner and Mr. Alston, it was determined that the bonus compensation for Mr. Alston, originally planned to be paid in May 2011, was delayed due to unrelated circumstances until August 2011.

Issue (2):

The City of South Bay re-negotiated City Manager Corey Alston's Employment Agreement, which included provisions that were not in compliance with Florida Statutes.

Governing Directives:

§ 166.021(7), Florida Statutes and § 215.425, Florida Statutes.

Based on the OIG's review, on August 1, 2011, the City re-negotiated Mr. Alston's Employment Agreement (now referred to as the Updated Employment Agreement) to include the following:

III. TERMINATION OF THIS CONTRACT

The City may terminate this contract as provided below:

a. Without Cause

The City may terminate this contract without cause by providing Mr. Alston with a Notice of Termination plus 6 months severance pay.

IV. SALARY

c. The City may, at its sole discretion, offer bonus compensation to Mr. Alston based on performance.

Due to the changes in Section 166.021(7) and Section 215.425, Florida Statutes, as explained on page one of this report, the following sections of the Updated Employment Agreement are not in compliance with Florida Law:

Section III.a.

- The Agreement provided for six months of severance pay versus the 20 weeks now allowed by Florida Statute. *Based on Mr. Alston's annual salary of \$105,000, in the event of his termination without cause, pursuant to the new Statute, the City would be liable for \$40,384.61 instead of \$52,500.00, as*

² This was in the form of a lump sum payment.

currently written in Mr. Alston's Employment Agreement. This reduction is a savings to the City of \$12,115.39.

Section IV.c.

- The Agreement provided for performance-based bonus compensation to Mr. Alston. *This is no longer allowed per Section 166.021(7), Florida Statutes.*

RECOMMENDED CORRECTIVE ACTIONS

Based on the information revealed in the Limited Review, the OIG recommends the following Corrective Actions:

- Section III.a. of the Updated Employment Agreement, dated August 2011, should be changed to not exceed the amount of severance pay allowed by Florida Statutes.

During the course of this review, on December 20, 2011, the City Commission passed Resolution 11-2012, which amended Mr. Alston's Agreement (now referred to as the Amended Employment Agreement) to comply with the change to Florida Statutes regarding severance pay.

- Section IV.c. of the Updated Employment Agreement should be changed to remove "an extra compensation program, including a lump-sum bonus payment program, to reward outstanding employees whose performance exceeds standards..." to be in accordance with Florida Statutes.

During the course of this review, on December 20, 2011, the City Commission passed Resolution 11-2012, which amended Mr. Alston's Agreement (now referred to as the Amended Employment Agreement) by removing the word "bonus" from Section IV.c. and replacing it with "additional."

Upon the OIG's subsequent review of the Amended Employment Agreement, dated December 20, 2011, the term "additional" still does not satisfy the requirements of Florida Statutes as it allows for extra compensation based on performance.

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