

SB-1

Approved by: N/A Date \_\_\_\_\_

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	2010	2011	2012	2013	2014
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
 NET FISCAL IMPACT	_____	_____	_____	_____	_____
 # ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes \_\_\_\_\_ No \_\_\_\_\_

Budget Account No.: Fund \_\_\_\_\_ Department \_\_\_\_\_ Unit \_\_\_\_\_ Object \_\_\_\_\_

Reporting Category \_\_\_\_\_

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

**C. Departmental Fiscal Review:** \_\_\_\_\_

**III. REVIEW COMMENTS**

**A. OFMB Fiscal and/or Contract Development and Control Comments:**

\_\_\_\_\_  
OFMB Contract Development and Control

**B. Legal Sufficiency:**

\_\_\_\_\_  
Assistant County Attorney

**C. Other Department Review:**

\_\_\_\_\_  
Department Director

**THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.**

(continued from page 1)

on December 15, 2009, as part of a series of ethics reforms. Last month, the Board of County Commissioners approved a change in the manner of assessing the .25% fee on County contracting/purchasing activity to fund the Office of Inspector General from a charge on each bill payable to a single charge on gross contract/purchasing amounts. This Ordinance introduces amendments to provide for that change and also includes several clarifications proposed by the Inspector General. Countywide (LB)

**Background and Policy Issues:** The proposed change in assessing the .25% fee will not reduce the amount of funds available to the Office of Inspector General for its operations, and will speed and simplify collection and transfer of those funds. If approved by the Board of County Commissioners, this change will take effect on October 1, 2010. The amendments also include several changes requested by the Inspector General, which includes clarifications to the investigative procedures of the Office and clarification of the post-employment limitations of the Inspector General.

## ORDINANCE 2010-\_\_\_\_\_

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING THE PALM BEACH COUNTY OFFICE OF INSPECTOR GENERAL ORDINANCE, PALM BEACH COUNTY CODE CHAPTER 2, ARTICLE XII (ORD. 2009-049) AS FOLLOWS: AMENDING SECTION 2-423 FUNCTIONS, AUTHORITY AND POWERS; AMENDING 2-425 CONTRACT; AMENDING 2-427 PROCEDURE FOR FINALIZATION OF REPORTS AND RECOMMENDATIONS; AMENDING 2-429 FINANCIAL SUPPORT AND BUDGETING; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Palm Beach County, pursuant to its authority under Florida Constitution, Article VIII, Section 1(g), Section 125.01, Florida Statutes, the Palm Beach County Charter, adopted the Palm Beach County Office of Inspector General Ordinance; and

WHEREAS, the Board of County Commissioners and the Inspector General have reviewed said Ordinance and recommend the changes set forth in this amending ordinance; and

WHEREAS, the Board of County Commissioners hereby determines that the amendments set forth herein advance the purposes and intent of the Palm Beach County Office of Inspector General Ordinance; and

WHEREAS, the Board of County Commissioners has conducted a duly noticed public hearing to consider these amendments as required by law.

**NOW, THEREFORE**, be it ordained by the Board of County Commissioners of Palm Beach County, Florida, that:

**Part 1. Sec. 2-423. Functions, authority and powers, is hereby amended as follows:**

\* \* \*

(4) The costs of reviews, audits, inspections and investigations by the inspector general shall be ~~defrayed by imposition of a fee which shall be~~ funded at minimum in an amount equal to one quarter of one percent (0.25%) of ~~the contracts entered into by the County price,~~ as may be adjusted as necessary (hereinafter "~~IG contract fee~~" "minimum funding percentage"). The IG ~~contract fee~~ minimum funding percentage shall not apply to the following contracts:

- a. Contracts for legal services;
- b. Auditing contracts;
- c. Contracts under one thousand dollars (\$1,000.00), ~~except for decentralized purchase orders as set forth in the county purchasing ordinance, section 2-51(f)(1)(i);~~
- d. Federal, state and local government-funded grants;
- e. Interlocal agreements;
- f. Revenue-generating contracts; and
- g. Purchases made pursuant to the State of Florida Department of Revenue approved Sales Tax Recovery Program.

Notwithstanding the foregoing, the board may ~~authorize the inclusion of the IG contract fee in~~  
apply the minimum funding percentage to any contract to ensure the Inspector General receives  
sufficient funding to perform the functions and duties set forth in this ordinance. Nothing  
contained in this subsection shall in any way limit the powers of the inspector general provided  
for in this article to perform audits, inspections, reviews and investigations on all county

contracts including, but not limited to, those contracts specifically exempted from the minimum funding percentage IG contract fee.

(5) Where the inspector general suspects a possible violation of any state, federal or local law, or rule, regulation or policy, he or she shall notify the appropriate civil, criminal or administrative agencies, ~~including the county commission on ethics~~. In the case of a possible violation of a rule, regulation or policy governing a county employee, the inspector general shall also notify the county administrator and the head of the department for which the employee works. ~~After referring the matter to the appropriate entity for fact finding, the inspector general may assist the entity in conducting the investigation.~~

\* \* \*

(8) The inspector general may exercise any of the powers contained in this article upon his or her own initiative.

\* \* \*

(10) It is anticipated that municipalities, special districts, and other public officials and entities will recognize and desire to benefit from the services of the county office of inspector general. The inspector general may negotiate agreements or memoranda of understanding with other public entities which would authorize the inspector general to exercise any and all authority, functions and powers set forth in this article for the benefit of such public entity. The memorandum of understanding or agreement shall include a provision for fees to be paid to the inspector general from the public entity in exchange for such benefits. Such fee shall be based on a rate established by the inspector general and shall include, but not be limited to, the minimum funding percentage IG contract fee. Any such agreement or memorandum of understanding is subject to final approval of the board, but such approval shall not be

76 unreasonably withheld. For the purposes of the removal procedure set forth in section 2-430, a  
77 "funding entity" shall mean a public entity that has entered into an agreement or memorandum of  
78 understanding to receive services of the inspector general, and has provided funding in exchange  
79 for such services equal to at least twenty-five (25) percent of the total annual budget of the  
80 inspector general for the county's fiscal year immediately preceding the fiscal year in which the  
81 removal procedure takes place.

82 \* \* \*

83 **Part 2. Sec. 2-425. Contract, is hereby amended as follows:**

84 The commission on ethics with the assistance of the county attorney shall negotiate a  
85 contract of employment with the inspector general substantially consistent with the terms  
86 included in contracts of other contractual employees of the county. The inspector general shall  
87 be paid at a rate commensurate with public officials of like experience and expertise. Before any  
88 contract shall become effective, the contract must be approved by a majority of the board present  
89 at a regularly scheduled board meeting. The contract will cover the entire four-year term subject  
90 to the removal provisions in section 2-430. The contract will include a provision requiring the  
91 selection committee to provide notice of its decision to renew or not to renew the contract at least  
92 six (6) months prior to the termination of the contract. The contract shall provide that the  
93 inspector general may not represent a political party or be on any executive committee thereof, or  
94 seek public office during his or her term of service, and shall not seek public office of  
95 employment with any public entity subject to the jurisdiction of the Inspector General ~~or~~ for four  
96 (4) years thereafter. That limitation does not include seeking selection as inspector general for a  
97 subsequent term. The contract shall further provide that the inspector general may not be a  
98 lobbyist, as defined in section 2-352 of this Code, for two (2) years after term of service.

101 **Part 3, Sec. 2-427. Procedure for finalization of reports and recommendations which make**  
102 **findings as to the person or entity being reviewed or inspected, is hereby amended as**  
103 **follows:**

104 The inspector general shall publish and deliver finalized reports and recommendations to  
105 the board and to the county commission on ethics. Notwithstanding any other provision of this  
106 article, whenever the inspector general determines that it is appropriate to publish and deliver a  
107 report or recommendation which contains findings as to the person or entity being reported on or  
108 who is the subject of the recommendation, the inspector general shall provide the affected person  
109 or entity a copy of the report or recommendation. Such person or entity shall have fifteen (15)  
110 working days to submit a written explanation or rebuttal of the findings before the report or  
111 recommendation is finalized. Such timely submitted written explanation or rebuttal shall be  
112 attached to the finalized report or recommendation. The requirements of this subsection shall not  
113 apply in matters subject to the State of Florida's Whistle-blower's Act, or when the inspector  
114 general, in conjunction with the state attorney or U.S. Attorney, determines that supplying the  
115 affected person or entity with such report will jeopardize a pending criminal investigation.

119 **Part 4, Sec. 2-429. Financial support and budgeting, is hereby amended as follows:**

120 Pursuant to its annual budget process, the county shall provide sufficient financial  
121 support for the inspector general's office to fulfill its duties as set forth in this article. In order to



122 ensure adequate funding for the prompt establishment of the inspector general pending  
123 implementation, the board of county commissioners hereby approves an amount equal to three  
124 hundred twenty thousand dollars (\$320,000) to fund all inspector general operations for the  
125 remainder of the 2009-2010 fiscal year. The inspector general shall timely deliver to the board  
126 of county commissioners a budget request including a reasonable estimate of operating and  
127 capital expenditures, and shall include revenues, including, but not limited to, projected  
128 minimum funding percentage ~~IG contract fee~~ revenues to be collected from the county and any  
129 other participating local governments and public agencies. The inspector general's budget  
130 request shall not be implemented until approved by the board of county commissioners. The  
131 inspector general shall establish a fiscal year which coincides with that of the county. Nothing  
132 contained herein shall be construed to prohibit the inspector general from transmitting to the  
133 county commission supplemental budget requests which, if approved by the commission, shall  
134 constitute amendments to the county budget.

135 **Part 5. Repeal of Laws in Conflict.**

136 All local laws and ordinances in conflict with any provisions of this Ordinance are hereby  
137 repealed to the extent of such conflict. The Palm Beach County Code of Ethics adopted by  
138 Resolution 94-693 as amended by Resolution 2003-0962, is hereby repealed in its entirety.

139 **Part 6. Severability.**

140 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any  
141 reason held by the Court to be unconstitutional, inoperative, or void, such holding shall not affect  
142 the remainder of this Ordinance.

143 **Part 7. Inclusion in the Code of Laws and Ordinances.**

144 The provisions of this Ordinance shall become and be made a part of the Code of Laws  
145 and Ordinances of Palm Beach County, Florida. The sections of this Ordinance may be  
146 renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to  
147 "section," "article," or other appropriate word.

148 **Part 8. Effective Date.**

149 The provisions of this Ordinance shall become effective October 1, 2010.

150 APPROVED AND ADOPTED by the Board of County Commissioners of Palm Beach  
151 County, Florida, on this the \_\_\_\_ day of \_\_\_\_\_, 2010.

152 SHARON R. BOCK  
153 CLERK & COMPTROLLER

PALM BEACH COUNTY, FLORIDA, BY ITS  
BOARD OF COUNTY COMMISSIONERS

154  
155  
156 By: \_\_\_\_\_  
157 Deputy Clerk

By: \_\_\_\_\_  
Chairman

158  
159  
160 (SEAL)

161  
162  
163 APPROVED AS TO FORM AND  
164 LEGAL SUFFICIENCY

165  
166  
167 By: \_\_\_\_\_  
168 County Attorney

169  
170 Filed with the Department of State on the \_\_\_\_ day of \_\_\_\_\_, 2010.