

PALM BEACH COUNTY  
BOARD of COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: 06/21/2011

Consent  Regular  
 Public Hearing

Department:

Submitted By: Internal Auditor's Office

**I. EXECUTIVE BRIEF**

**Motion and Title:** Staff recommends motion to approve:

Amendment No. 7 to the contract (R2004-1796) with Joseph Bergeron, Internal Auditor; extending said contract for one additional year ending on September 30, 2014.

**Summary:** At its April 20, 2011 meeting the Internal Audit Committee unanimously approved recommending a one year extension of the Internal Auditor's contract. The Committee recommended no salary adjustment which is consistent with general County employees. The Internal Auditor's salary will remain \$146,008. The new contract expiration date is September 30, 2014. This item is presented to the Board at this time in accordance with the 90 day notice requirement of the contract. Countywide (PFK)

**Background and Policy Issues:**

The Internal Audit Committee conducted an evaluation of the County Internal Auditor at its April 20, 2011 meeting covering calendar year 2010. All five members submitted evaluations with "meets expectations" ratings. Four members whose terms began in September, 2010 submitted evaluations for the last quarter of 2010 representing the time those new members served on the committee. Copies of the evaluations are attached to this agenda item. Future performance evaluations will be conducted each March for the calendar year just ended. The Audit Committee unanimously approved recommending an extension of the contract for another year and no salary adjustment consistent with general county employees.

**Attachments:**

Amendment No. 7 to contract (R2004-1796)  
Annual Performance Evaluations (5)

Recommended by: Joseph F Bergeron Internal Auditor Date: 23 May 2011

Recommended by: [Signature] County Administrator Date: 6/10/11

## II. FISCAL IMPACT ANALYSIS

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

Fiscal Years	2011	2012	2013	2014	2015
Capital Expenditures					
Operating Costs				146,008	
External Revenues					
Program Income (County)					
In-Kind Match (County)					
<b>NET FISCAL IMPACT</b>				146,008	
# ADDITIONAL FTE					
POSITIONS (Cumulative)					

Is Item Included In Current Budget?      Yes   X   No  
 Budget Account No.: Fund   0001   Agency   500   Org.   5000   Object   1201    
 Program Number \_\_\_\_\_ Revenue Source \_\_\_\_\_

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

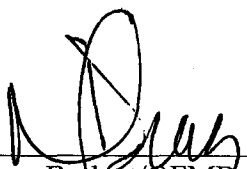
Contract Element	Current	Proposed	Change
Salary (no increase)	146,008	146,008	none


Department Fiscal Review:

\* Section B above does NOT include deferred compensation and auto allowance which are unchanged in this amendment

## III. REVIEW COMMENTS:

### A. OFMB Fiscal and/or Contract Administration Comments:

  
 Budget/OFMB  
 5/26/11  
 5/29/11

  
 Contract Administration  
 5/30/11  
 This amendment complies with our review requirements.

### B. Legal Sufficiency:

  
 Paul F. Jr.  
 Assistant County Attorney  
 5/31/11

### C. Other Department Review:

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

This summary is not to be used as a basis for payment.

**Amendment No. 7 to Contract Between  
Palm Beach County  
And  
Joseph Bergeron, Internal Auditor**

**This amendment No. 7** dated June 21, 2011 to the contract dated August 17, 2004 (R2004-1796 as amended by R2005-1030 (5/17/05), R2006-0801 (5/2/06), R2007-0818 (5/15/07), R2008-0809 (5/6/2008), R2009-0795 (5/5/09), and R2010-0800 (5/18/10) between Palm Beach County, a political subdivision of the State of Florida, hereinafter referred to as "County", and Joseph Bergeron, hereinafter referred to as "Internal Auditor", an individual residing at 13689 Exotica Lane, Wellington, Florida 33414.

**Witnesseth:**

**Whereas**, the parties hereto have previously entered into an employment contract dated August 17, 2004 (R2004-1796 as amended by R2005-1030 (5/17/05), R2006-0801 (5/2/06), R2007-0818 (5/15/07), R2008-0809 (5/6/2008), R2009-0795 (5/5/09), and R2010-0800 (5/18/10); and

**Whereas**, the contract will automatically renew under the same terms and conditions unless terminated by either party in accordance with Section 5 of the employment contract; and

**Whereas**, the parties hereto desire to amend the contract to reflect these changes.

**Now therefore**, in consideration of the mutual covenants hereinafter set forth and for other such good and valuable consideration, the receipt of which the parties hereto expressly acknowledge, the parties agree as follows:

1. Section 1 of the employment contract is amended to read:

The County shall employ Joseph Bergeron (hereinafter "Internal Auditor") as the Internal Auditor of Palm Beach County pursuant to the Charter of Palm Beach County for a period of three (3) years beginning October 1, 2011 and ending September 30, 2014. The County shall pay the Internal Auditor a salary of \$146,008 per year, payable biweekly and a continuing contribution on behalf of the Internal Auditor into the NACO Deferred Compensation Program in the amount of 50% of the maximum basic contribution allowed by law exclusive of any catch-up provisions allowed by law. In addition, the County shall pay the Internal Auditor a car allowance of \$550.00 per month. This Agreement shall continue on the same terms and conditions as herein provided for additional one year periods, unless terminated by either party in accordance with Section 5 of this Agreement.

2. All other terms and conditions of the employment contract shall remain in full force and effect.

This amendment shall be effective following execution hereof by the parties hereto.

In witness whereof, the parties hereto have set their hands and seal on the day set forth above.

Attest:

Sharon R. Bock, Clerk & Comptroller

Palm Beach County, Florida

By Its Board of County

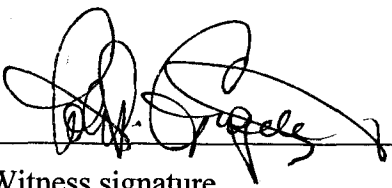
Commissioners

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

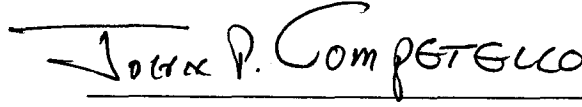
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Karen Marcus, Chair

Witness for Internal Auditor

Internal Auditor

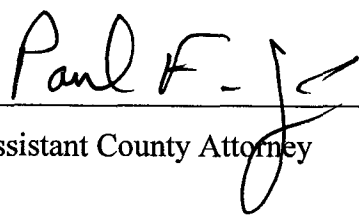
  
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Witness signature

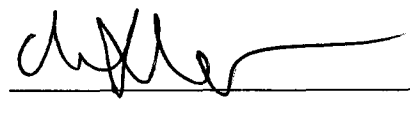
  
\_\_\_\_\_  
Joseph F. Bergeron

  
\_\_\_\_\_  
Witness printed name

Approved as to form and legal sufficiency

Approved as to terms and conditions

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

  
\_\_\_\_\_  
County Administrator

**Internal Auditor's Annual Performance Evaluation**  
**Annual Performance Evaluation**  
**Palm Beach County Internal Auditor**  
**Joseph Bergeron**  
**For the Calendar Year Ended December 31, 2010**

**Overall Evaluation of Performance**

(See "Considerations for the Internal Auditor's Annual Performance Review" which are attached.)

- Exceeds Expectations
- Meets Expectations MJB - 4/29/2011
- Needs Improvements (must provide explanatory comments)

Evaluator:

  
Mark J Burger

Date: 4/29/2011

**Comments (optional, unless Needs Improvement selected)**

There is evidence that Joe is working to be in compliance with the Palm Beach County Charter and the Audit Resolution. He is working to develop a working relationship with the new Internal Audit Committee. I believe that Joe realizes that the scope of the future audit engagements will need to shift from procedural compliance audits to more financial and risk based audits.

The Association of Local Government Auditors peer review report identified several areas that need to be corrected for the department to be in compliance with GAS. Some of the deficiencies were identified in the prior review for the period ending September 30, 2007. I was surprised to read that there is not a formal review process for department staff. That according to the peer review report, there were no staff evaluations performed during the review period October 1, 2007 through September 30, 2010. I subsequently learned that most departments within the county do not have a formal review process.

Another statement by the peer review report states that the control deficiencies resulted in recurring nonconformance with Governmental Auditing Standards. Deficiencies identified in the report need to be addressed to ensure that the department is operating at the highest level. Since the items identified in the independent assessment covers activities before I was appointed to the Internal Audit Committee, the report was not considered as part of my rating. I am confident with the guidance of the Internal Audit Committee these items will not be included in the next peer review report.

By: Mark J Burger, CPA

## **Considerations for the Internal Auditor's Annual Performance Review**

The evaluation criteria should reflect some or all of the following factors:

- Compliance with Palm Beach County Charter requirements
- Compliance with Audit Resolution
- Compliance with Generally Accepted Governmental Auditing Standards (GAGAS)
- Relationship of the Internal Auditor with the Audit Committee
- Relationship of the Internal Auditor with County management
- Degree of accomplishment of the annual audit plan
- Degree of accomplishment of objectives from annual budget
- Management of the audit staff
- Leadership skills demonstrated
- Results of periodic peer reviews

One matter that should be considered relevant to each of the factors listed above is the ability of the Audit Committee to have access to information relating to the evaluated measures.

Other matters relevant to the performance evaluation process would developing mutual agreement as to the performance items to be evaluated at the beginning of the evaluation period, agreeing on the weights (if any) to be assigned to the factors and what scale (if any) to be used to rate each factor.

The Palm Beach County Charter states that the Internal Auditor shall be responsible for conducting post audits and performance audits for all departments, divisions, regulatory boards and advisory boards under the BCC in all financial matters relating to their official capacity.

The Internal Audit Committee Ordinance (2010-006 3/23/10) requires the Internal Audit Committee to "Evaluate at least annually the performance of the County Internal Auditor and the effectiveness of the internal audit function and recommend compensation adjustments and contract renewal for the County Internal Auditor to the BCC." The County Internal Auditor Ordinance (2010-007 3/23/10) establishes requirements for the scope of audits, the annual audit plan, and the content and distribution of audit reports. Ordinance 2010-007 also requires that audits be conducted according to GAGAS. There is significant detail in GAGAS on the requirements for specific audit engagements but no direction on the annual audit plan. The Institute of Internal Auditors standards require the annual audit plan to be risk based, consistent with the organization's goals and developed with input from senior management and the Board.

GAGAS require audit reports to be timely, complete, accurate, objective, convincing, clear and concise. These requirements are specific to performance audits which represent the vast majority of audits currently conducted by the Office.

By: Mark J Burger, CPA

**Annual Performance Evaluation  
Palm Beach County Internal Auditor  
Joseph Bergeron  
For the Calendar Year Ended December 31, 2010**

**Overall Evaluation of Performance**

(See "Considerations for the Internal Auditor's Annual Performance Review" which are attached.)

- Exceeds Expectations \_\_\_\_\_
- Meets Expectations   X
- Needs Improvements \_\_\_\_\_ (must provide explanatory comments)

Evaluator: Donald M. Miller

Date: 4/22/11

Signature

**Comments (optional, unless Needs Improvement selected)**

Joe has worked really hard to provide proper training and orientation to the newly constituted Audit Committee. He has taken our recommendations for improvement very seriously and has shown a willingness to take the Internal Auditor's Office to a higher level.

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**Annual Performance Evaluation**  
**Palm Beach County Internal Auditor**  
**Joseph Bergeron**  
**For the Calendar Year Ended December 31, 2010**

**Overall Evaluation of Performance**

(See "Considerations for the Internal Auditor's Annual Performance Review" which are attached.)

- Exceeds Expectations \_\_\_\_\_
- Meets Expectations ✓
- Needs Improvements \_\_\_\_\_ (must provide explanatory comments)

Evaluator: DAVID ROSENSTEIN  
  
Signature

Date: 5/1/2011

**Comments (optional, unless Needs Improvement selected)**

As a member of the Internal Audit Committee, I cannot  
determine the basis for grading Mr. Bergeron's performance.  
A meaningful evaluation would require a private discussion  
with audit committee members, members of the IA Staff,  
County leaders, and staff of departments that have  
been audited.

My evaluation is based on several months of observing  
Mr. Bergeron and his team, reviewing reports and  
occasional conversations related to IA Strategy



**Annual Performance Evaluation  
Palm Beach County Internal Auditor  
Joseph Bergeron  
For the Calendar Year Ended December 31, 2010**

**Overall Evaluation of Performance**

(See "Considerations for the Internal Auditor's Annual Performance Review" which are attached.)

- Exceeds Expectations \_\_\_\_\_
- Meets Expectations \_\_\_\_\_
- Needs Improvements \_\_\_\_\_ (must provide explanatory comments)

Evaluator: Alan H. Friedberg

Date: April 21, 2011

Signature

**Comments (optional, unless Needs Improvement selected)**

The period I am evaluating is the last quarter of 2010. My review is based on the audit reports I read, the information provided by the Internal Auditor, the Internal Auditor's level of preparation, and ex-post the favorable results of the peer review. I would like to add some constructive comments from my observations that took place after the period under review. These comments are not incorporated in my evaluation.

- a. There has been a common explanation of a lack of skill/ability/desire among staff that has restricted IA department performance. I would expect to see a focus on staff training/development and motivation to remedy this deficit.
- b. Constraints on IA performance due to a lack of management cooperation are unacceptable. As a last resort, we must have the necessary political capital to approach the BCC to remedy this situation.

While there are other areas of concern, these are the most critical.

**Annual Performance Evaluation  
Palm Beach County Internal Auditor  
Joseph Bergeron  
For the Calendar Year Ended December 31, 2010**

**Overall Evaluation of Performance**

(See "Considerations for the Internal Auditor's Annual Performance Review" which are attached.)

- Exceeds Expectations \_\_\_\_\_
- Meets Expectations YES
- Needs Improvements \_\_\_\_\_ (must provide explanatory comments)

Evaluator:

NAM  
NAM H. NGUYEN  
Signature

Date: May 20, 2011

**Comments (optional, unless Needs Improvement selected)**

As a member of the Internal Audit Committee established under the Internal Audit Committee Ordinance (2010-006 3/23/10), my evaluation of Mr. Joseph Bergeron, Palm Beach County Internal Auditor pertains to his performance from the period of September 15, 2010 to December 31, 2010. Mr. Bergeron's overall performance meets expectations based on the period of approximately three months and the evaluation criteria some of which were not observed, not completed and outside the evaluation period.

I'm strongly encouraged that Mr. Bergeron exhibits his desire and enthusiasm to move the internal audit activities toward the operational and efficiency audits and a risk based audit approach for the annual audit plan.