

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

ADD ON

Meeting Date: March 20, 2012

Consent Regular
 Public Hearing

Department

Submitted By:

Submitted For: County Attorney's Office

I. EXECUTIVE BRIEF

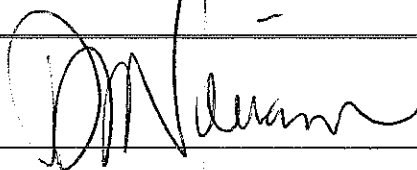
Motion and Title: Staff requests Board direction regarding a proposed settlement agreement and ordinance amendments to the Inspector General Ordinance. Should the Board direct staff to accept the attached settlement and ordinance amendments, the Board should also appoint two individuals to serve on the Ordinance Drafting Committee to expedite the ordinance amendment process.

Summary: Proposed amendments to the ordinance would provide for a contract fee to defray in part the expenses of the Inspector General (IG) office. As a regulatory fee, the contract fees collected can only be used to pay for IG inspection, audit and other oversight operations tied to contract activities of the County and cities. The cities have refused to pay any amount to fund the IG Office beyond the contract fees they would collect, leaving the County to fund the balance of IG operations. Dade County employs the contract fee as a method of partially offsetting IG operation costs. The contract fee was originally employed by the County Commission to apply to County government operations only, but was discontinued several months after implementation due to administrative costs. The proposed settlement agreement would end all litigation between the cities, the Clerk and Comptroller, and the County. As part of the settlement, the cities have tentatively offered to provide some amount of funding to offset the operational costs of the IG office pending full implementation of the contract fee system. As of this writing, however, no concrete proposal to provide such funding has been offered. Countywide (LB)

Background and Policy Issues: Like the Ordinance originally adopted by the County Commission to apply to County government only, the cities' proposal calls for a .25% fee on contracts and includes a number of exemptions most of which were found in the original Ordinance. Implementation of the fee system would mirror the County's impact fee system in most regards. As such, the cities would act as collection agents for the County, would be responsible for ensuring the contract fees are collected on their respective contracts, and would cooperate with the County to ensure the fees are collected and remitted to the County. Both the County and the cities will retain 2% of the contract fees collected to offset the administrative costs of this program. Because contract fee revenues will be based on contract activity, it is difficult to project the amount of such revenues from year to year and, in turn, to project any shortfall that the County will need to pay to ensure the office is adequately funded. The Ordinance can be amended to increase to .25% contract fee if needed to fully offset the costs of the IG's contract-related operations.

- Attachments:**
1. Settlement
 2. Ordinance changes

Recommended by: _____



3/15/12

Date

Approved by: _____

n/a

II. FISCAL IMPACT ANALYSIS

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

Fiscal Years	2012	2013	2014	2015	2016
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:**

* Fiscal impact is indeterminable at this time.

[Signature]

 OFMB

3/11/12

[Signature] 3/19/12

 Contract Development and Control

B. **Legal Sufficiency:**

[Signature]

 Assistant County Attorney

C. **Other Department Review:**

 Department Director

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

IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT, IN AND
FOR PALM BEACH COUNTY, FLORIDA

TOWN OF GULF STREAM, VILLAGE OF TEQUESTA, CASE NO. 502011CA017953MB AN
CITY OF RIVIERA BEACH, TOWN OF JUPITER, CITY OF
DELRAY BEACH, TOWN OF PALM BEACH SHORES,
TOWN OF MANALAPAN, VILLAGE OF WELLINGTON,
TOWN OF MANGONIA PARK, CITY OF PALM BEACH
GARDENS, TOWN OF HIGHLAND BEACH, TOWN OF
LAKE PARK, CITY OF WEST PALM BEACH, TOWN OF
OCEAN RIDGE, CITY OF BOCA RATON, municipal
corporations of the State of Florida,

Plaintiffs,

vs.

PALM BEACH COUNTY, a political subdivision,
Defendant.

SHARON R. BOCK, in her Official Capacity as the
Clerk and Comptroller of Palm Beach County, Florida

Intervenor.

STIPULATION OF SETTLEMENT

Plaintiffs, TOWN OF GULF STREAM, VILLAGE OF TEQUESTA, CITY OF RIVIERA
BEACH, TOWN OF JUPITER, CITY OF DELRAY BEACH, TOWN OF PALM BEACH SHORES, TOWN
OF MANALAPAN, VILLAGE OF WELLINGTON, TOWN OF MANGONIA PARK, CITY OF PALM
BEACH GARDENS, TOWN OF HIGHLAND BEACH, TOWN OF LAKE PARK, CITY OF WEST PALM
BEACH, TOWN OF OCEAN RIDGE, CITY OF BOCA RATON, municipal corporations of the State of
Florida (the "Municipalities"); Defendant, PALM BEACH COUNTY, a political subdivision (the "County");
and SHARON R. BOCK, in her Official Capacity as the Clerk and Comptroller of Palm Beach County,
Florida (the "Clerk"), by and through their undersigned counsel, hereby stipulate as follows:

Background

1. This action is subject to ^[n1]the Florida Governmental Conflict Resolution Act, Chapter 164, Florida Statutes ("the Act").

2. The parties in good faith have undertaken the conflict resolution procedure provided for in the Act.

3. The Municipalities claim, while the County disagrees, that the funding for the countywide inspector general program is unlawful. No party hereto admits liability to the other or to any other person whatsoever.

4. Purely to facilitate a compromise, the parties have determined that it is in the best public interest to amend the inspector general ordinance to make the funding consistent with the countywide impact fee program.

Stipulation

5. The County and Municipalities agree that the amended ordinance attached to this stipulation as Exhibit A (the "Amended Ordinance") shall amend, repeal, and replace the existing countywide inspector general ordinance (the "Existing Funding Mechanism") in all respects, as more fully set forth in the "Amended Ordinance."

6. Pursuant to section 164.1057, Florida Statutes, the County will use its best efforts to promptly submit the Amended Ordinance to the drafting committee so that the Amended Ordinance can be processed for approval by the County with an effective date of June 1, 2012.

7. The Municipalities and Clerk are released from any obligations under the Existing Funding Mechanism and from the failure, if any, to perform any duties or obligations with respect to the Existing Funding Mechanism.

8. The Existing Funding Mechanism is permanently enjoined and the Clerk shall return funds held in the Office of Inspector General, Palm Beach County, Florida Special

Revenue Fund (the "IG Account") totaling \$130,560 plus accrued interest to those municipalities that remitted payment pursuant to the Existing Funding Mechanism; and the Clerk, upon presentation of ordinary and proper documentation, and in accordance with the Clerk's usual practices, procedures and requirements, may attest to and pay checks or warrants drawn on the balance remaining in the IG Account for any expenditure authorized by law.

9. Upon entry of an order approving this Stipulation, the parties will file a joint notice of dismissal of this action.

10. Each party shall pay its own attorney's fees and costs in connection with this proceeding.

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ARTICLE XII. INSPECTOR GENERAL

Sec.2-421. Title and Applicability.

- (1) This article shall be titled the "Office of Inspector General, Palm Beach County, Florida Ordinance."
- (2) The Office of Inspector General, Palm Beach County, Florida Ordinance shall apply to the following:
 - a. The board of county commissioners (hereinafter "the board") and all county departments;
 - b. The thirty eight (38) municipalities that approved the charter amendment in the countywide referendum held November 2, 2010;
 - c. Any other public entity that elects to be bound by this article by entering into a memorandum of understanding or other agreement in accordance with section 2-423(9); and
 - d. Any municipality formed after January 1, 2011, except to the extent that an ordinance adopted by that municipality at any time conflicts with this ordinance.

Sec. 2-422. Office created and established.

There is hereby established the office of inspector general which is created in order to promote economy, efficiency, and effectiveness in the administration of and, as its priority, to prevent and detect fraud and abuse in programs and operations administered or financed by the county or municipal agencies. The inspector general shall initiate, conduct, supervise and coordinate investigations designed to detect, deter, prevent and eradicate fraud, waste, mismanagement, misconduct, and other abuses by elected and appointed county and municipal officials and employees, county and municipal agencies and instrumentalities, contractors, their subcontractors and lower tier subcontractors, and other parties doing business with the county or a municipality and/or receiving county or municipal funds. The inspector general shall head the office of inspector general. The organization and administration of the office of inspector general shall be independent to assure that no interference or influence external to the office of inspector general adversely affects the independence and objectivity of the inspector general.

Sec. 2-423. Functions, authority and powers.

(1) The inspector general shall have the authority to: (a) make investigations of county or municipal matters and publish the results of such investigations; (b) review and audit past, present and proposed county or municipal programs, accounts, records, contracts, change orders and transactions; and (c) prepare reports and recommendations to the board, or the subject municipality, or participating entities subject to section 2-421 (2) based on such audits or investigations. All elected and appointed county and municipal officials and employees, county

42 and municipal agencies and instrumentalities, contractors, their subcontractors and lower tier
43 subcontractors, and other parties doing business with the county or a municipality and/or
44 receiving county or municipal funds shall fully cooperate with the inspector general in the
45 exercise of the inspector general's functions, authority and powers. Such cooperation shall
46 include, but not be limited to providing statements, documents, records and other information,
47 during the course of an investigation, audit or review. The inspector general may obtain sworn
48 statements, in accordance with Florida Statutes, of all persons identified in this subsection as
49 well as other witnesses relevant to an investigation, audit or review. Such audits shall be
50 conducted in accordance with the current International Standards for the Professional Practice of
51 Internal Auditing as published by the Institute of Internal Auditors, Inc., or where appropriate, in
52 accordance with generally accepted governmental auditing standards. Such investigations will
53 comply with the General Principles and Standards for Offices of Inspector General as published
54 and revised by the Association of Inspectors General. The office of inspector general shall
55 develop and adhere to written policies in accordance with the accreditation standards set forth by
56 the Commission on Florida Law Enforcement Accreditation, Inc.

57 (2) The inspector general shall have the power to conduct audits of, require production of
58 documents from, and receive full and unrestricted access to the records of the board, each
59 municipality, county administrator, city administrator, city manager or other municipal
60 executive, all elected and appointed county and municipal officials and employees, county and
61 municipal departments, divisions, agencies and instrumentalities, contractors, their
62 subcontractors and lower tier subcontractors, and other persons and entities doing business with
63 the county or a municipality and/or receiving county or municipal funds regarding any such
64 contracts or transactions with the county or a municipality. Except as otherwise limited in this
65 subsection (2), the inspector general's jurisdiction includes but shall not be limited to all projects,
66 programs, contracts or transactions that are funded in whole or in part by the county or any
67 municipality. The inspector general may contract with outside entities deemed necessary to
68 perform the functions of that office. Any such contract is subject to final approval by the board,
69 but such approval shall not be unreasonably withheld. The inspector general may conduct
70 investigations and audits, issue reports, and make recommendations regarding collective
71 bargaining agreements. The inspector general shall conduct investigations and audits in
72 accordance with applicable laws, rules, regulations, policies and past practices. The inspector
73 general shall not interfere with collective bargaining negotiations.

74 (3) As provided in subsection (1), the inspector general can: require all county and municipal
75 officials and employees, contractors, their subcontractors and lower tier subcontractors, and other
76 persons and entities doing business with the county or a municipality and/or receiving county or
77 municipal funds to provide statements; administer oaths; and, require the production of
78 documents, records and other information. In the case of a refusal by an official, employee or
79 other person to obey a request by the inspector general for documents or for an interview, the
80 inspector general shall have the power to subpoena witnesses, administer oaths, and require the
81 production of documents. Seventy-two (72) hours prior to serving a subpoena, the inspector
82 general shall provide written notice to the state attorney and the U.S. Attorney for the Southern
83 District of Florida. The inspector general shall not interfere with any ongoing criminal
84 investigation or prosecution of the state attorney or the U.S. Attorney for the Southern District of
85 Florida. When the state attorney or the U.S. Attorney for the Southern District of Florida has
86 explicitly notified the inspector general in writing that the inspector general's investigation is
87 interfering with an ongoing criminal investigation or prosecution, the inspector general shall

88 suspend service of subpoena, examination of witnesses, or other investigative activities as set
89 forth in the notice. In the case of a refusal to obey a subpoena served to any person, the inspector
90 general may make application to any circuit court of this state which shall have jurisdiction to
91 order the witness to appear before the inspector general and to produce evidence if so ordered, or
92 to give testimony relevant to the matter in question.

93 (4) Where the inspector general suspects a possible violation of any state, federal, or local law,
94 he or she shall notify the appropriate law enforcement agencies. The county administrator and
95 each municipal manager, or administrator, or mayor where the mayor serves as chief executive
96 officer, shall promptly notify the inspector general of possible mismanagement of a contract
97 (misuse or loss exceeding \$5,000 in public funds), fraud, theft, bribery, or other violation of law
98 which appears to fall within the jurisdiction of the inspector general, and may notify the
99 inspector general of any other conduct which may fall within the inspector general's jurisdiction.
100 The county administrator and each municipal manager, or administrator, or mayor where the
101 mayor serves as chief executive officer, shall coordinate with the inspector general to develop
102 reporting procedures for notification to the inspector general.

103 (5) The inspector general shall have the power without limitation to audit, investigate, monitor,
104 inspect and review the operations, activities, performance, and procurement processes including,
105 but not limited to, bid specifications, bid submittals, activities of the contractor, their
106 subcontractors and lower tier subcontractors, its officers, agents and employees, lobbyists,
107 county and municipal staff and officials, in order to ensure compliance with contract
108 specifications and detect corruption and fraud.

109 (6) The inspector general shall have the power to receive, review and investigate any complaints
110 regarding any municipal or county-funded projects, programs, contracts or transactions. The
111 inspector general shall establish a "hotline" to receive complaints, from either anonymous or
112 identified persons.

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

115 (8) The inspector general shall be notified in writing prior to any duly noticed public meeting of
116 a procurement selection committee where any matter relating to the procurement of goods or
117 services by the county or any municipality is to be discussed. The notice required by this
118 subsection shall be given to the inspector general as soon as possible after a meeting has been
119 scheduled. The inspector general may, at his or her discretion, attend all duly noticed county or
120 municipal meetings relating to the procurement of goods or services as provided herein, and may
121 pose questions and raise concerns consistent with the functions, authority and powers of the
122 inspector general. The failure by the county or municipality to give written notice required by
123 this section does not constitute grounds for a protest regarding such procurement and shall not be
124 the cause for the stay of any procurement, and shall not be the basis to overturn the award of a
125 contract.

126 (9) It is anticipated that special districts and other public officials and entities will recognize and
127 desire to benefit from the services of the county office of inspector general. The inspector
128 general may negotiate agreements or memoranda of understanding with other public entities
129 which would authorize the inspector general to provide independent oversight of any or all of the
130 public entity's transactions, projects and operations, and to exercise any and all authority,
131 functions and powers set forth in this article for the benefit of such public entity. The
132 memorandum of understanding or agreement shall include a provision for fees to be paid to the
133 inspector general from the public entity in exchange for such benefits. Such fees shall be based

134 on a rate established by the inspector general to cover the cost of such benefits and shall include,
135 but not be limited to, one quarter of one percent of the contracts as described in section 8.3 of the
136 Charter of Palm Beach County 2-429(2) (hereafter the "funding base") subject to inspector
137 general review under the agreement. ~~The funding base shall be subject to adjustment as set forth~~
138 ~~in section 2-429.1.~~ Any such agreement or memorandum of understanding is subject to final
139 approval of the board, but such approval shall not be unreasonably withheld. For the purposes of
140 the removal procedure set forth in section 2-430, a "funding entity" shall mean a public entity
141 that has entered into an agreement or memorandum of understanding to receive services of the
142 inspector general, and has provided funding in exchange for such services equal to at least
143 twenty-five (25) percent of the total annual budget of the inspector general for the county's fiscal
144 year immediately preceding the fiscal year in which the removal procedure takes place.

145 (10) The inspector general's records related to active audits, investigations and reviews are
146 confidential and exempt from disclosure, as provided by §112.3188(2) and Chapter 119, Florida
147 Statutes.

148 (11) The inspector general is considered "an appropriate local official" of the county and of any
149 municipality for purposes of whistleblower protection provided by §112.3188(1), Florida
150 Statutes.

151 (12) The inspector general may recommend remedial actions and may provide prevention and
152 training services to county and municipal officials, employees, and any other persons covered by
153 this article. The inspector general may follow up to determine whether recommended remedial
154 actions have been taken.

155 (13) The inspector general shall establish policies and procedures and monitor the costs of
156 investigations undertaken. The inspector general shall cooperate with other governmental
157 agencies to recover such costs from other entities involved in willful misconduct in regard to
158 county or municipal funds.

159 (14) Nothing herein shall abridge employees' constitutional right to collective bargaining.

160

161 **Sec. 2-423.1. Outreach.**

162 The inspector general will coordinate with the county administrator and municipal
163 manager or administrator to develop public awareness strategies to inform government officials
164 and employees, as well as the general public, of the authority and responsibilities of the office of
165 the inspector general. Such strategies shall include but not be limited to inclusion in the
166 government's web page with a link to the office of inspector general website, publication of
167 notices in the government's newsletters, and posting information about the office of inspector
168 general in government employee break rooms and other common meeting areas. The inspector
169 general shall provide on its website examples that illustrate fraud, waste, mismanagement,
170 misconduct and abuse.

171

172 **Sec. 2-424. Minimum qualifications, selection and term of office.**

173 (1) *Minimum qualifications.* The inspector general shall be a person who:

174 a. Has at least ten (10) years of experience in any one (1) or a combination of the following
175 fields:

176 1. As a federal, state or local law enforcement officer/official;

177 2. As a federal or state court judge;

178 3. As a federal, state or local government attorney with expertise in investigating fraud,
179 mismanagement and corruption;

180 4. As an inspector general, certified public accountant, or internal auditor;
181 5. As a person with progressive supervisory and managerial experience in an investigative
182 public agency similar to an inspector general's office;
183 b. Has managed and completed complex investigations involving allegations of fraud, theft,
184 deception or conspiracy;
185 c. Has demonstrated the ability to work with local, state and federal law enforcement agencies
186 and the judiciary;
187 d. Has a four-year degree from an accredited institution of higher learning;
188 e. Has not been employed by the county, any municipality or any other governmental entity
189 subject to the authority of the inspector general office during the two-year period immediately
190 prior to selection, unless such employment has been with the Office of Inspector General, Palm
191 Beach County, Florida.
192 f. Highly qualified candidates will also have audit-related skills and/or hold one (1) or more of
193 the following professional certifications at the time of selection: certified inspector general
194 (CIG), certified inspector general investigator (CIGI), certified inspector general auditor (CIGA),
195 certified public accountant (CPA), certified internal auditor (CIA), or certified fraud examiner
196 (CFE).

197 (2) *Selection.* No official or employee of any governmental entity subject to the authority of the
198 office of inspector general shall participate on the inspector general committee. Responsibility
199 for selecting the inspector general shall be vested solely with the inspector general committee.
200 The inspector general committee shall be comprised of the commission on ethics as established
201 in section 2-254 et seq. of this Code, the state attorney for the Fifteenth Judicial Circuit or his or
202 her designee, and the public defender for the Fifteenth Judicial Circuit or his or her designee. The
203 chairperson of the inspector general committee shall be chairperson of the commission on ethics.
204 After thoroughly reviewing qualifications, background information, and personal and
205 professional referrals, the inspector general committee shall notify the county attorney of its
206 selection. The county attorney shall promptly notify the board that a selection has been made.

207 (3) *Staffing of inspector general committee.* The county human resources department shall
208 provide staff to the inspector general committee and as necessary will advertise the acceptance of
209 resumes for the position of inspector general. All resumes received by the human resources
210 department will be forwarded to the inspector general committee for consideration. The human
211 resources department shall contract with an appropriate entity to ensure that background checks
212 are conducted on the candidates selected for interview by the inspector general committee. The
213 results of the background checks shall be provided to the inspector general committee prior to
214 the interview of candidates. Following the initial selection of the inspector general, the inspector
215 general committee, for future selection processes as described in subsection (2) above, may
216 continue to employ the services of the human resources department or may utilize its own staff to
217 solicit candidates for inspector general. All advertisements for the acceptance of resumes for
218 inspector general shall include a salary range commensurate with public officials of like
219 experience and expertise.

220 (4) *Term.* The inspector general shall serve for a term of four (4) years. At least six (6) months
221 prior to the end of each contract term, the inspector general committee will determine whether or
222 not to renew the contract for an additional term of four (4) years, and shall promptly notify the
223 inspector general of its decision. In the event the inspector general committee elects not to renew
224 the contract, the inspector general committee shall promptly convene as necessary to solicit
225 candidates for and to select a new inspector general in the same manner as described in

226 subsection (2) above. The incumbent inspector general may submit his or her name as a
227 candidate to be considered for selection. The incumbent inspector general shall serve until a
228 successor is selected and assumes office.

229 (5) *Vacancy*. In case of a vacancy in the position of inspector general, the inspector general
230 committee may appoint a member of the inspector general's office as interim inspector general
231 within ten (10) days of the vacancy occurring, until such time as a successor inspector general is
232 selected and assumes office. A successor inspector general shall be selected in the same manner
233 as described in subsection (2) above, except for the following specific time constraints: (a)
234 solicitation for qualified candidates for selection should be published within twenty (20) days,
235 but no later than forty (40) days of the date the vacancy occurs; and (b) the inspector general
236 committee must in good faith endeavor to convene and select an inspector general within ninety
237 (90) days of the date the vacancy occurs.

238

239 **Sec. 2-425. Contract.**

240 A designee from the commission on ethics, with the assistance of the county's human
241 resources department and the county attorney's office, shall negotiate a contract of employment
242 with the inspector general substantially consistent with the terms included in contracts of other
243 contractual employees of the county. For the purposes of contract negotiations, such designation
244 by the commission on ethics shall not be deemed a delegation of the commission on ethics'
245 decision making authority. The inspector general shall be paid at a rate commensurate with
246 public officials of like experience and expertise. Before any contract shall become effective, the
247 contract must be approved by a majority of the board present at a regularly scheduled board
248 meeting. The contract will cover the entire four-year term subject to the removal provisions in
249 section 2-430. The contract will include a provision requiring the inspector general committee to
250 provide notice of its decision to renew or not to renew the contract at least six (6) months prior to
251 the termination of the contract. The contract shall provide that the inspector general may not
252 represent a political party or be on any executive committee thereof, or seek public office during
253 his or her term of service, and shall not seek public office or employment with any public entity
254 subject to the jurisdiction of the inspector general for four (4) years thereafter. That limitation
255 does not include seeking selection as inspector general for a subsequent term. The contract shall
256 further provide that the inspector general may not be a lobbyist, as defined in section 2-352 of
257 this Code, for two (2) years after term of service.

258

259 **Sec. 2-426. Physical facilities and staff.**

260 (1) The county shall provide the office of inspector general with appropriately located office
261 space and sufficient physical facilities together with necessary office equipment and furnishings
262 to enable the inspector general to perform his or her functions.

263 (2) The inspector general shall have the power to appoint, employ, and remove such assistants,
264 employees and personnel, and establish personnel procedures as deemed necessary for the
265 efficient and effective administration of the activities of the office of inspector general.

266

267 **Sec. 2-427. Procedure for finalization of reports and recommendations which make
268 findings as to the person or entity being reviewed or inspected.**

269 The inspector general shall publish and deliver finalized reports and recommendations to
270 the board or the appropriate municipality, and to the county commission on ethics.
271 Notwithstanding any other provision of this article, whenever the inspector general determines

272 that it is appropriate to publish and deliver a report or recommendation which contains findings
273 as to the person or entity being reported on or who is the subject of the recommendation, the
274 inspector general shall provide the affected person or entity a copy of the findings. Such person
275 or entity, who is the subject of a finding or recommendation resulting from an investigation or
276 review, shall have ten (10) calendar days to submit a written explanation or rebuttal of the
277 findings before the report or recommendation is finalized. In the case of an audit, such person or
278 entity shall have twenty (20) calendar days to submit a written explanation or rebuttal of the
279 audit findings or before the report or recommendation is finalized. The inspector general shall
280 grant reasonable extensions of time for providing a written explanation or rebuttal upon written
281 request. Such timely submitted written explanation or rebuttal shall be attached to the finalized
282 report or recommendation. The requirements of this subsection shall not apply in matters subject
283 to the State of Florida's Whistle-blower's Act, or when the inspector general, in conjunction with
284 the state attorney or U.S. Attorney, determines that supplying the affected person or entity with
285 such report will jeopardize a pending criminal investigation.

286
287 **Sec. 2-428. Reporting.**

288 (1) Not later than December 31 of each year, the Inspector General shall prepare and publish a
289 written annual report summarizing the activities of the office during the immediately preceding
290 fiscal year ended September 30. The report shall be furnished to the inspector general
291 committee, the county administrator and the Palm Beach County League of Cities, Inc., and
292 posted on the inspector general's website. The report shall include, but need not be limited to: a
293 description of significant abuses and deficiencies relating to the administration of programs and
294 operations disclosed by investigations, audits, reviews, or other activities during the reporting
295 period; a description of the recommendations for corrective action made by the inspector general
296 during the reporting period with respect to significant problems, abuses, or deficiencies
297 identified; identification of each significant recommendation described in previous annual
298 reports on which corrective action has not been completed; and a summary of each audit and
299 investigation completed during the reporting period.

300 (2) The inspector general committee will meet with the inspector general every six months to
301 review the previous six month's activities and the inspector general's plans and objectives for the
302 upcoming six month.

303 **Sec. 2-429. Financial support and budgeting.**

304 (1) The inspector general contract fee. Pursuant to ~~their~~ its annual budgeting processes, the
305 county ~~and each municipality~~ shall fund and provide sufficient financial support for the inspector
306 general's office to fulfill its duties as set forth in this article. The costs of reviews, audits,
307 inspections and investigations by the Inspector General shall be defrayed in part by the county's
308 imposition of a fee on all county and municipal contracts except those specifically exempted
309 herein, which shall be equal to one quarter of one percent (0.25%) of the contract price
310 (hereinafter "IG contract fee"). The term "contract" as used in this ordinance shall mean an
311 agreement between the county or municipality as applicable and a party or parties for the
312 governmental entity's procurement of goods, services or construction projects in exchange for
313 economic consideration. This term includes, but is not limited to, agreements, memoranda of
314 understanding, work authorizations under a continuing contract, change orders, and all other
315 procurement type contracts and purchase orders regardless of source selection. The term
316 "purchase order" includes, but is not limited, a decentralized (departmental) purchase order as set

317 forth in county or municipal purchasing guidelines as applicable. The IG contract fee shall not
318 apply to the following contracts:

319 a. Contracts for legal services. This exemption applies to any contract for legal
320 services and related fees, including those contracts and related fees for special magistrates and
321 special masters;

322 b. Auditing contracts;

323 c. Contracts under one thousand dollars (\$1,000.00);

324 d. Federal, state, special district and local government funded grants. This
325 exemption applies only to the portion of the procurement funded by federal, state, special district
326 or local grant and any procurement made pursuant to a federal, state or local declaration of
327 emergency;

328 e. Interlocal agreements. This applies to payments to another governmental entity
329 for any reason even if that payment is being made for services directly provided by that other
330 governmental entity;

331 f. Revenue generating contracts. This applies to contracts that generate revenue for
332 the government agency;

333 g. Purchases made pursuant to the State of Florida Department of Revenue approved
334 Sales Tax Recovery Program;

335 h. Employee travel expenses and reimbursements (mileage, tuition etc.);

336 i. Job related dues, memberships and subscriptions;

337 j. Job related expenses such as training and seminars;

338 k. Job applicant expenses;

339 l. Employment contracts for county and municipal employees and contracts for the
340 management or administration of a municipality or municipal department;

341 m. Employee moving and relocation expenses;

342 n. Vending machines;

343 o. Goods and services purchased with petty cash in accordance with established
344 county or municipal procedures as applicable;

345 p. Insurance policies;

346 q. Postage;

347 r. Professional medical services;

348 s. Advertising;

349 t. Admission fees for amusement parks and entertainment activities for county and
350 municipal recreational programs;

351 u. Goods or services purchased with donations, gifts or bequests where the
352 application of county or municipal procurement policies as applicable would be contrary to any
353 condition of the donation, gift or bequest;

354 v. Payments to AT&T, FPL, Florida Public Utilities and other utility service
355 providers for utility services or to modify, alter, or install utility owned infrastructure;

356 w. Mobile Satellite, Direct TV, Dish Network, Comcast and other cable providers;

357 x. Contracts with Respect of Florida or PRIDE or other similar service providers
358 relating to the training of individuals for criminal and non-criminal infractions;

359 y. Garbage collection and disposal fees;

360 z. Hazardous waste disposal fees;

361 aa. Regulatory fees;

362 bb. Contracts where otherwise superseded or prohibited by federal, state or local law.

363 cc. Pension funds, 401(k) retirement funds, other retirement plans or funds, payments
364 to a Voluntary Employees' Beneficiary Association (VEBA), employee benefits or employee
365 benefits plans, and all payroll/benefit/fund/plan related costs.

366 dd. Bond financing and related bond issuance services, which include, but are not
367 limited to, bond legal services.

368 ee. Contracts related to debt servicing or to any debt instrument;

369 ff. Investment services and all related fees;

370 gg. Bank or banking fees and related expenses;

371 hh. Veterinary services for service animals;

372
373 The board may adopt additional exemptions to the IG contract fee pursuant to resolution
374 from time to time. Nothing contained in this subsection shall in any way limit the powers of the
375 inspector general provided for in this ordinance to perform audits, inspections, reviews and
376 investigations on all County and municipal contracts including, but not limited to, those contracts
377 specifically exempted from the IG contract fee.

378
379 (2) Imposition and collection of the fees. The county shall impose the IG contract fee on all
380 non-exempt contracts as described in this ordinance that are executed or renewed on or after June
381 1, 2012 (the "effective date"). The county shall collect the IG contract fee on the non-exempt
382 county contracts and the municipalities shall collect the IG contract fee on their respective non-
383 exempt municipal contracts. The county and municipalities shall collect the IG contract fee in an
384 amount equal to one quarter of one percent (0.25%) on all payments made by the county or
385 municipality as applicable to the non-exempt vendors, contractors, subcontractors and lower tier
386 subcontractors or other parties under the contract. The county and municipalities shall be
387 responsible for ensuring that the IG contract fees are collected from their non-exempt vendors,
388 contractors, subcontractors and lower tier subcontractors or other parties doing business with the
389 county or municipality as applicable. The municipalities shall cooperate with the county to
390 ensure that the IG contract fees are collected and remitted to the county on a quarterly basis.
391 With respect to the credit card and debit card purchases described below, the county and
392 municipalities shall pay the IG contract fee only by remitting one quarter of one percent (0.25%)
393 of cash rebates, if any, which are received in connection with the use of the debit or credit card.
394 The percentage of cash rebate shall be remitted within 30 days from the last day in the quarter in
395 which the cash rebate was received. This alternative remittance option applies only to credit card
396 and debit card purchases of goods and services from a vendor, contractor, subcontractor, lower
397 tier subcontractor or other party without a written purchase order or written contract so long as
398 the purchase is made in accordance with established county and municipal procedures as
399 applicable. A credit card or debit card may not be used to otherwise avoid collecting the IG
400 contract fee.

401 (a) Municipalities as collecting agents. Municipalities will assist in collecting the IG
402 contract fees under this section, but are acting only as collecting agents for the county. Such
403 municipalities shall be responsible to the county for the proper collection and remittance of IG
404 contract fees, but shall not be liable for the inadvertent miscalculation of the fees or any disputes
405 regarding the propriety of the fees. The municipalities further shall not be liable to the county if
406 the IG contract fee cannot be remitted to the county in full due to litigation or other legal
407 proceeding that results in no payment or a lesser payment on the applicable contract or that

408 results in the fee being held in a court registry or escrow pending the outcome of the litigation or
409 other legal proceeding.

410 (b) *Administrative fees.* The county or municipality collecting the IG contract fee shall
411 be entitled to retain 2.0 percent of the funds collected as an administrative fee not to exceed the
412 actual costs associated with the collection of the fees.

413 (c) *Fees collected by the county.* All IG contract fees collected by the county, less the
414 administrative fee, shall be transferred on a quarterly basis for deposit in the Office of Inspector
415 General, Palm Beach County, Florida Special Revenue Fund. The transfers shall occur on
416 October 30, January 30, April 30 and July 30 of each year.

417 (d) *Fees collected by municipalities.*

418 (i) *On time remittance.* All IG contract fees collected by the municipalities, less
419 the administrative fee, shall be remitted to the Clerk & Comptroller's Revenue Department on a
420 quarterly basis along with a transmittal report. The remittance dates shall be October 30, January
421 30, April 30 and July 30 of each year. One draft may be used to remit the funds to the county.
422 Remittance may be made by electronic/wire transfer. Funds received from the municipalities
423 shall be deposited promptly in the Office of Inspector General, Palm Beach County, Florida
424 Special Revenue Fund. The transmittal report shall include the following information for each
425 IG contract fee collected: the name of the payee, the amount of the payment to the payee, the
426 amount collected for the IG contract fee, the amount withheld for the administrative fee, and the
427 amount remitted to the Clerk & Comptroller. The transmittal report shall be in a form acceptable
428 to the Clerk & Comptroller. If a municipality has no IG contract fees to be collected during the
429 quarter, then the municipality shall remit a transmittal report showing zero fees collected. The
430 Clerk & Comptroller's responsibility for the IG contract fees is limited to reconciling the
431 transmittal report to the amount of the draft or transfer.

432 (ii) *Late remittance.* In the event a municipality fails for two or more consecutive
433 quarters in a calendar year period to remit the required IG contract fees to the county by the 30th
434 calendar day of the month following the end of the quarter in which the IG contract fees are
435 collected, the municipality shall pay simple interest at the statutory rate on the entire amount
436 collected but not yet remitted to the county. Interest shall accrue beginning the first day after the
437 second applicable remittance date and shall continue to accrue until payment is made. In the
438 event payment is not timely received, the county may pursue any legal remedy available under
439 the law against the delinquent municipality.

440 (iii) *Transfer of fees.* If fees are transferred in accordance with this section, the
441 county and the municipalities may retain any interest earned on the IG contract fees collected
442 prior to the transfer of the funds to the county in addition to the administrative fee to offset the
443 costs of collecting, remitting and accounting for the funds.

444 (iv) *Overpayment of fees.* In the event of overpayment, a vendor, contractor,
445 subcontractor, lower tier subcontractor, or other party to the contract with a municipality may
446 request a refund from the county. Such request shall be made on a form approved by the county.
447 The county will review the request and confer with the municipality on the validity of the
448 request. Upon approval, overpayments will be refunded to the vendor, contractor, subcontractor,
449 lower tier subcontractor or other party.

450 (e) *Record keeping.* Records shall be maintained by the county and municipalities
451 regarding the collection and transfer of the IG contract fees to the county to ensure proper
452 accounting controls. The county shall have the authority to audit the records of any municipality
453 to ensure the procedures and standards of this section are being met by the municipality.

454
455 (3) Required contract and procurement document language. All contracts and related
456 procurements documents that are not exempt from the IG contract fee shall include the following
457 language or substantially similar language pertaining to the fee:
458

459 THIS CONTRACT AND ALL CHANGE ORDERS ARE SUBJECT TO THE
460 INSPECTOR GENERAL CONTRACT FEE, WHICH EQUALS ONE
461 QUARTER OF ONE PERCENT (0.25%) OF THE CONTRACT PRICE
462 AND/OR CHANGE ORDER PRICE. THIS FEE IS BEING CHARGED BY
463 PALM BEACH COUNTY PURSUANT TO THE COUNTYWIDE INSPECTOR
464 GENERAL ORDINANCE. THE INSPECTOR GENERAL CONTRACT FEE
465 SHALL BE COLLECTED FROM YOU IN THE MANNER DESCRIBED IN
466 THIS CONTRACT AND SHALL BE REMITTED TO PALM BEACH
467 COUNTY. BY SIGNING THIS CONTRACT AND/OR BY SUBMITTING A
468 BID, REQUEST FOR PROPOSAL OR REQUEST FOR QUALIFICATIONS
469 TO APPLY FOR THIS CONTRACT, YOU ARE AGREEING TO THE
470 IMPOSITION AND COLLECTION OF THE FEE.
471

472 ~~The county and municipalities shall fund the inspector general's office proportionately, based on~~
473 ~~the actual expenses of each governmental entity as recorded in the most recent audited year and~~
474 ~~reported in the Florida Department of Financial Services Local Government Electronic~~
475 ~~Reporting system (LOGGER), pursuant to section 218.32, Florida Statutes, as may be amended.~~

476 ~~(2) The county and each municipality's proportionate share shall be based on each~~
477 ~~entity's actual expenses as defined in the then-current Uniform Accounting System Manual,~~
478 ~~published by the State of Florida, Department of Financial Services, Bureau of Local~~
479 ~~Government, and shall include the following Object Categories: 30 Operating~~
480 ~~Expenditures/Expenses; 60 Capital Outlay; and 80 Grants and Aids. Notwithstanding the~~
481 ~~above, however, law enforcement, pension funds, electric utility services, fire control, and~~
482 ~~intergovernmental transfer costs shall not be included in the proportionate share calculation.~~
483 ~~Nothing contained herein shall in any way limit the powers of the inspector general provided for~~
484 ~~in this Ordinance to perform audits, inspections, reviews and investigations on all county and~~
485 ~~municipal contracts.~~

486 ~~(3 4) The inspector general shall establish and maintain a fiscal year which coincides~~
487 ~~with that of the county. Beginning May 1, 2011, and every May 1 thereafter, the inspector~~
488 ~~general shall deliver to the board a budget request, which shall include, but not be limited to,~~
489 ~~including a reasonable estimate of operating and capital expenditures, projected IG contract fee~~
490 ~~revenues, projected revenues from any other participating local governmental agencies, and shall~~
491 ~~also include, but not be limited to, anticipated revenues from sources other than the county and~~
492 ~~municipalities, and funds estimated to be received but not expended in the current fiscal year.~~
493 ~~The budget of the inspector general shall be subject to final approval of the board. No later than~~
494 ~~September 30 of each year, the board shall set the inspector general budget for the coming fiscal~~
495 ~~year. No later than April 1 of every year, the inspector general shall deliver a preliminary budget~~
496 ~~request to the Palm Beach County League of Cities, Inc., and be available to discuss the budget~~
497 ~~request with the League of Cities membership prior to May 1 of every year. The board shall meet~~
498 ~~with a delegation selected by the Palm Beach County League of Cities, Inc., to discuss the~~
499 ~~budget request for each fiscal year. The county shall endeavor to place the matter on a board~~

500 agenda prior to June 15 of each year, but in no event later than June 30. The parties attending
501 this meeting shall acknowledge the provisions of section 2-429.1(1).

502 (4) No later than the fifth business day in July of each year, the Office of the Clerk and
503 Comptroller shall prepare an allocation schedule based on the most current LOGER system data.
504 The proportionate share to be paid by the county and each municipality shall be reduced
505 proportionately by the anticipated revenues from sources other than the county and
506 municipalities and the amount of funds estimated to be received but not expended by the
507 inspector general in the current fiscal year.

508 (5) In the event the county or a municipality does not submit the most recent fiscal year
509 data in the LOGER system, the proportionate share for that municipality shall be based upon its
510 last LOGER system submittal, subject to an escalator for each year the submittal was not made.
511 The escalator shall be based on the Consumer Price Index for All Urban Consumers, U.S. City
512 Average, as set forth in section 193.155, Florida Statutes, as may be amended.

513 (6) The budget of the inspector general shall be subject to final approval of the board.
514 No later than September 30 of each year, the board shall set the inspector general budget for the
515 coming fiscal year and adjust the proportionate share of the county and each municipality
516 accordingly as described in this section.

517 (7) The Office of the Clerk and Comptroller shall invoice the county and each
518 municipality one-fourth of the proportionate share as adjusted on October 10, January 10, April
519 10 and July 10 of each year. Payment shall be submitted to the board and due no later than thirty
520 (30) days from the date of the invoice. Upon receipt, all funds shall be placed in the Office of
521 Inspector General, Palm Beach County, Florida Special Revenue Fund. In the event payment is
522 not timely received, the county or any municipality in compliance with this section may pursue
523 any available legal remedy.

524 (8) The county and each municipality's proportionate share for the period of June 1, 2011
525 through September 30, 2011 shall be as set forth in Exhibit A which is attached hereto and
526 incorporated herein by reference. The Office of the Clerk and Comptroller shall invoice the
527 County, upon adoption of this ordinance, \$946,764. This amount is based on the estimated
528 expenses through June 1, 2011 of \$483,333, plus the County's proportionate share as reflected
529 on Exhibit A. The Office of the Clerk and Comptroller shall invoice each municipality for their
530 proportionate share as set forth in subsection (7) beginning with the first invoice on October 10,
531 2011.

532

533 **Sec. 2-429.1. Funding Base.**

534 (1) As set forth in section 8.3 of the Charter of Palm Beach County, the office of
535 inspector general shall be funded at a minimum in an amount equal to one quarter of one percent
536 of contracts of the county and all other governmental entities subject to the authority of the
537 inspector general (the "funding base") as determined by this Ordinance. The funding base is a
538 minimum level of funding, determined as a percentage of contract activity of the governmental
539 entities subject to the authority of the inspector general. The purpose of establishing the funding
540 base is to ensure the office is adequately funded. The funding base is currently set at an amount
541 equal to one quarter of one percent (0.25%) of the contracts as described in section 2-429(2). The
542 purpose of the IG contract fee is to meet the funding base requirement and to defray in part the
543 costs of reviews, audits, inspections and investigations by the inspector general. Within ten (10)
544 days following establishment of the allocation schedule as described in 2-429(4), the county will
545 determine whether the calculated funding requirement meets the one quarter of one percent

546 (0.25%) funding base. In the event the calculated funding requirement is less than one quarter of
547 one percent (0.25%), but the inspector general's proposed budget is fully funded by the
548 allocation schedule and revenues from sources other than the county and municipalities, the
549 inspector general shall request a reduction of the funding base accordingly for that budget year.
550 Nothing herein shall be construed to:

551 (a) Limit the calculated funding base to one quarter of one percent (0.25%) of
552 contracts, as may be required to adequately fund the Office of the Inspector General;

553 (b) Limit the inspector general's authority to request a budget that results in a
554 calculated funding base that is less than one quarter of one percent (0.25%) of contracts at any
555 time; or

556 (c) Prohibit the inspector general from transmitting to the county supplemental
557 budget requests; or

558 (d) Prohibit the inspector general from requesting that the board by amendment to
559 this ordinance reduce the funding base to less than one quarter of one percent (0.25%) of
560 contracts.

561 No adjustment to the calculated funding base shall occur if such adjustment results in the
562 Office of the Inspector General not being adequately funded.

563 (2) ~~On an annual basis~~ The board of county commissioners may adjust by amendment to
564 this ordinance the funding base percentage upon a showing of need which shall be based upon,
565 but need not be limited to, the following criteria:

566 (a) additional expenses in a particular year necessitated by an extraordinarily large
567 investigation or audit;

568 (b) the amount of increases or decreases in budget requests by the inspector general in
569 prior years;

570 (c) the amount and frequency of supplemental budget requests made by the inspector
571 general in prior years;

572 (d) the amount and frequency of surpluses and/or shortfalls in the inspector general's
573 budget in prior years;

574 (e) the ability of the county and each municipality to bear an increase ~~of~~ in the funding
575 base percentage in a particular year.

576 The demonstration of need shall be subject to review and recommendation by the ~~¶~~
577 Review e-Committee as established in the Charter of Palm Beach County, section 8.3. The ~~¶~~
578 Review e-Committee's recommendation shall only be overruled by a supermajority vote of the
579 board of county commissioners. In no event shall the funding base be reduced below one quarter
580 of one percent unless such request for reduction is made by the inspector general.

581

582 **Sec. 2-430. Removal.**

583 The inspector general may be removed only for cause based upon specified charges of the
584 following: neglect of duty, abuse of power or authority, discrimination, or ethical misconduct.
585 The removal process shall be initiated at a duly noticed public hearing of either the board, the
586 inspector general committee, or a funding entity as described in section 2-423(9). An affirmative
587 vote of five (5) members of the board, an affirmative vote of five (5) members of the inspector
588 general committee, or an affirmative supermajority vote of a funding entity shall be required to
589 present the inspector general with the charges and to proceed to final public hearings. The board,
590 inspector general committee, or the initiating funding entity, as appropriate, shall transmit a copy
591 of the charges to the inspector general at least sixty (60) days prior to all final public hearings

592 which shall be convened by the board, all funding entities, and the inspector general committee.
593 The inspector general shall have an opportunity to be heard in person and by counsel at the final
594 public hearings prior to the votes being taken on his or her removal. The inspector general may
595 only be removed upon the affirmative vote of five (5) members of the board, five (5) members of
596 the inspector general committee, and a supermajority of all funding entities. A record of the
597 proceedings, together with the charges and findings thereon, shall be filed with the clerk to the
598 board. The inspector general shall be removed without a public hearing in the event the inspector
599 general is convicted of or enters a guilty plea or *nolo contendere* plea to a state or federal
600 felony. Based upon specified charges of neglect of duty, abuse of power or authority,
601 discrimination, or ethical misconduct, one or more municipalities may file a petition for removal
602 with the general counsel for the Office of Inspector General. A petition for removal must be
603 duly authorized as a resolution outlining the specific charges and passed by a majority plus one
604 of the governing body. The petition for removal shall be transmitted to the inspector general
605 committee with a copy to the general counsel of the inspector general. The inspector general
606 committee shall decide whether to initiate the removal process or dismiss based on the petition.
607 The inspector general committee may investigate the allegations contained in the petition before
608 deciding whether to initiate the removal process. If the inspector general committee initiates the
609 removal process, the municipality or municipalities making the petition for removal shall have
610 the opportunity to be heard at the final public hearings prior to the votes being taken.

611

612 **Sec. 2-431. Enforcement.**

613 This Ordinance is enforceable by all means provided by law, including seeking injunctive
614 relief in the Fifteenth Judicial Circuit Court in and for Palm Beach County.

615

616 **Sec. 2-432. Penalty.**

617 Any person who:

618 (1) retaliates against, punishes, threatens, harasses, or penalizes, or attempts to retaliate
619 against, punish, threaten, harass, or penalize any person for assisting, communicating or
620 cooperating with the Inspector General, or

621 (2) who knowingly interferes, obstructs, impedes or attempts to interfere, obstruct or
622 impede in any investigation conducted by the Inspector General shall be guilty of a violation of
623 this Ordinance and punished, pursuant to section 125.69, Florida Statutes, in the same manner as
624 a second degree misdemeanor. Any potential violation of this section shall be referred to the
625 State Attorney for possible investigation and prosecution.

626