




BOARD OF COUNTY COMMISSIONERS  
OFFICE OF THE COMMISSION AUDITOR

**M E M O R A N D U M**

**TO:** Honorable Natacha Seijas, Commissioner, District 13

**FROM:** Charles Anderson  
Commission Auditor 

**DATE:** February 19, 2008

**SUBJECT:** **Comments on Annual Prompt Payment, Portfolio Performance and Swap Transaction Reports (February 19, 2008, BCC Agenda Items 12B1, 12B2, and 12B3)**

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As requested at the February 15, 2008 Agenda Briefing, we have reviewed subject reports from an audit perspective and have appended comments as Attachments 1-3 to the memorandum.

We would be glad to provide further assistance if desired.

- Attachments:
1. Comment on Year-End Portfolio Performance Report for Fiscal Year 2006-07, February 19, 2008, BCC Agenda Item 12B1
  2. Comment on Prompt Payment Annual Report for Fiscal Year 2007, February 19, 2008, BCC Agenda Item 12B2
  3. Comment on Annual Report on Swap Transactions for Fiscal Year 2006-07, February 19, 2008, BCC Agenda Item 12B3

c: Honorable Carlos Alvarez, Mayor  
Honorable Bruno A. Barreiro, Chairman, and  
Members, Board of County Commissioners  
George Burgess, County Manager  
Cynthia Curry, Senior Advisor  
Rachel Baum, Director, Finance Department  
Jennifer Glazer-Moon, Director, Office of Strategic Business Management

## Attachment 1

### Office of the Commission Auditor Comment on Year-End Portfolio Performance Report for Fiscal Year 2006-07

February 19, 2008, BCC Agenda Item 12B1

#### Pertinent statutes, ordinances, and policies:

- a. Miami-Dade County Investment Policy adopted by Resolution No. R-1074-04; and
- b. Part IV of Chapter 218 of Florida Statutes, "Investment of Local Government Surplus Funds"

Miami-Dade Investment Policy (County Policy) was issued pursuant to Florida Statutes, §218.415, which also prescribes minimum requirements, including annual or more frequent reports to the BCC listing securities in the portfolio by class or type, book value, income earned, and market value as of the report date. County Policy establishes monthly, quarterly and annual reporting requirements with the annual report required to be presented to the BCC within 120 days of the end of the FY and adds a requirement to include overall statistical performance. No other information is mandated to be reported.

#### OCA Comment:

Florida Statutes and County Policy require that the County's independent auditors review the system of internal controls for investments and compliance with §218.415 as part of the County's annual financial audit. The "Independent Auditors' Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*" for FY 2005-06 was issued May 18, 2007 and reported that "we noted no matters involving the internal control over financial reporting and its operation that we consider to be material weaknesses." No compliance issues were noted related to investment activities. The FY 2006-07 independent auditors' report is not yet available.

#### Portfolio Performance. Item 12B1 reports:

- Net income from investments for FY 2006-07 = \$215 million
- Rate of return = 5.24% with average days to maturity = 192 days
- State of Florida Local Government Surplus Fund Trust fund (SBA Pool) = 5.37%
- 180-day United States Government Treasury Bills (T-Bill) = 5.06%
- Prior year portfolio rates of return:

<u>Year</u>	<u>Rate of Return</u>
1997	5.67%
1998	5.77%
1999	5.27%
2000	6.03%
2001	5.49%
2002	2.82%
2003	1.82%
2004	1.66%
2005	2.63%
2006	4.40% <sup>1</sup>

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<sup>1</sup> For 2006, Palm Beach and Broward Counties reported rates of return of approx. 4.5% & 4.4%, respectively. Palm Beach County had a 2-year average to maturity. 2007 data was not available.

## **Attachment 1**

### **Office of the Commission Auditor Comment on Year-End Portfolio Performance Report for Fiscal Year 2006-07 February 19, 2008, BCC Agenda Item 12B1**

Reported Portfolio Composition and Maturity are in compliance with County Policy.

No information has come to our attention that would contradict the data in the County Manager's report; however, OCA has not audited the data. OCA is not an investment advisor. OCA attends Investment Advisory Committee meetings as an observer in order to: (a) determine whether departments, agencies and entities of the County have complied with the fiscal and legislative policies of the Commission; (b) provide information to the Commission on proposals that could adversely affect the County including, but not limited to, the County's credit rating; and (c) report on matters and make recommendations concerning the effectiveness and efficiency of programs and the operation of the County.

## Attachment 2

### Office of the Commission Auditor Comment on Prompt Payment Annual Report for Fiscal Year 2007 February 19, 2008, BCC Agenda Item 12B2

#### Pertinent statutes, ordinances, and policies:

- a. Administrative Order No. 3-19;
- b. Sec. 2-8.1.4 of the Code, “The Sherman S. Winn Prompt Payment Ordinance”;  
and
- c. Part VII of Chapter 218 of Florida Statutes, the “Local Government Prompt Payment Act” (formerly known as the “Florida Prompt Payment Act”)

Pertinent statutes, ordinances and administrative order all require that, during December of each year, a report be provided to the BCC indicating the number and amount of interest payments made for late payments. Item 12B2 reports that the County made two such payments (one each by Aviation Department and Housing Agency), totaling \$462, during FY 2006-07. No other information is mandated to be reported. This Item also reports that 87% of invoices were reported paid on time.

#### OCA Comment:

\$462 in interest on late payments seems disproportionately low compared to the reported performance (87% paid on time). However, interest does not begin to accrue until 30 days after the due date, and both Florida Statutes and the County Code require that, if a vendor qualifies for and desires to receive interest payments, the vendor must invoice for the interest charges; automatic payments are not allowed. Vendor awareness of the availability of this compensation may be limited.

County prompt payment policies substantially parallel Florida Statutes, but Florida Statutes have been updated several times since the County policies were issued in 1994.

No information came to our attention that would contradict the data in the County Manager’s report; however, OCA has not audited the data. OCA does have a “Review of Vendor Payment Processes Including Prompt Payment Compliance with CSBE Program Requirements” in progress; completion is anticipated next quarter.

### Attachment 3

**Office of the Commission Auditor Comment on  
Annual Report on Swap Transactions for Fiscal Year 2006-07  
February 19, 2008, BCC Agenda Item 12B3**

Pertinent statutes, ordinances, and policies:

- a. Miami-Dade County Master Swap Policy adopted by Resolution No. R-31-05; and
- b. Part IV of Chapter 218 of Florida Statutes, “Investment of Local Government Surplus Funds”

Per the Governmental Accounting Standards Board (GASB)<sup>1</sup>, “interest rate swaps are one of the most common examples of a derivative entered into by governments.” Derivatives were prohibited by the Miami-Dade County Investment Policy, adopted in 2004, but the Miami-Dade County Master Swap Policy (County Policy) was subsequently adopted in 2005.

Florida Statutes §218.415(5) states that,

*If the [investment] policy authorizes investments in derivative products, the policy must require that the unit of local government's officials responsible for making investment decisions or chief financial officer have developed sufficient understanding of the derivative products and have the expertise to manage them.*

County Policy requires an annual report to the BCC. It must include key terms of swap agreements, including interest rates, maturity and method of procurement, changes since the last report, mark-to-market value (termination value), amount of the County’s exposure to and credit ratings of each counterparty, and any collateral posting as a result of the swaps. No other information is mandated for the annual report.

County Policy also specifically requires such monitoring and reporting as may be required by rating agencies or for compliance with GASB requirements. GASB is in the process of revising derivative reporting requirements and have published a “plain language” document discussing the subject and risks.<sup>1</sup>

OCA Comment:

Item 12B3, the annual report to the BCC that is required by County Policy, contains all mandatory information per County Policy except:

- Discussion of the downgrade in credit ratings of Merrill Lynch Capital Services to A1, A+, A+, which are below the AA standard normally required by County Policy and are below the Aa3, AA-, AA- ratings reported in the previous annual report. There is also no discussion of any resulting collateralization as would generally be required by County Policy.

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<sup>1</sup> GASB, April 28, 2006. *Preliminary Views of the Governmental Accounting Standards Board: Plain-Language Supplement Accounting and Financial Reporting for Derivatives*, p. 2, available online at [http://www.gasb.org/plain-language\\_documents/derivatives\\_ed\\_plain-language\\_supplement.pdf](http://www.gasb.org/plain-language_documents/derivatives_ed_plain-language_supplement.pdf)

### Attachment 3

**Office of the Commission Auditor Comment on  
Annual Report on Swap Transactions for Fiscal Year 2006-07**  
February 19, 2008, BCC Agenda Item 12B3

- Description of changes adopted in Resolution R-664-07 to the interest rate swap with Rice Financial Products Co. related to Water and Sewer Bonds Series 1994 and Series 1999;
- Method of procurement, if any;
- Description of any collateral posting, if any.

Florida Statutes and County Policy require that the County's independent auditors review the system of internal controls for investments and compliance with §218.415 as part of the County's annual financial audit. The "Independent Auditors' Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*" for FY 2005-06 was issued May 18, 2007 and reported that "we noted no matters involving the internal control over financial reporting and its operation that we consider to be material weaknesses." No compliance issues were noted related to investment activities. The FY 2006-07 independent auditors' report is not yet available.

Swaps are complex investment transactions requiring specialized professional investment counsel. Because OCA is not a swap investment advisor, OCA's review of this Item was compliance oriented. Except as noted above, no information has come to our attention that would contradict the data in the County Manager's report; however, OCA has not audited the data. OCA attends Investment Advisory Committee meetings as an observer in order to: (a) determine whether departments, agencies and entities of the County have complied with the fiscal and legislative policies of the Commission; (b) provide information to the Commission on proposals that could adversely affect the County including, but not limited to, the County's credit rating; and (c) report on matters and make recommendations concerning the effectiveness and efficiency of programs and the operation of the County.