This item was introduced and approved with amendments on May 30, 2012. Final approved item listed on the June 6, 2012 Charter Review Task Force meeting agenda.

Incorporation Petition Concept by Vice-Chair Greer:

Concept: Amend Section 6.05 to create 6.05(a) Incorporation by the Board and 6.05(b) Incorporation by Initiatory Petition. The initiatory provision incorporation process will be modeled after initiatory petition for ordinances and Charter Amendments.

Text of Proposed Charter Amendment:

ARTICLE - 6
MUNICIPALITIES

SECTION 6.01. **CONTINUANCE OF MUNICIPALITIES.**

The municipalities in the county shall remain in existence so long as their electors desire. No municipality in the county shall be abolished without approval of a majority of its electors voting in an election called for that purpose. Notwithstanding any provision of the Charter, the Board of County Commissioners shall have the authority to abolish a municipality by ordinance where such municipality has twenty or fewer electors at the time of adoption of the ordinance abolishing the municipality. The right of self determination in local affairs is reserved and reserved to the municipalities except as otherwise provided in this Charter.

SECTION 6.02. **MUNICIPAL POWERS.**

Each municipality shall have the authority to exercise all powers relating to its local affairs not inconsistent with this Charter. Each municipality may provide for higher standards of zoning, service, and regulation than those provided by the Board of County Commissioners in order that its individual character and standards may be preserved for its citizens.

SECTION 6.03. **MUNICIPAL CHARTERS.**

A. Except as provided in Section 5.04, any municipality in the county may adopt, amend, or revoke a charter for its own government or abolish its existence in the following manner. Its governing body shall, within 120 days after adopting a resolution or after the certification of a petition of ten percent of the qualified electors of the municipality, draft or have drafted by a method determined by municipal ordinance a proposed charter amendment, revocation, or abolition which shall be submitted to the electors of the municipalities. Unless an election occurs not less than 60 nor more than 120 days after the draft is submitted, the proposal shall be submitted at a special election within that time. The governing body shall make copies of the proposal available to the electors not less than 30 days before the election. Alternative proposals may be submitted. Each proposal approved by a majority of the electors voting on such proposal shall become effective at the time fixed in the proposal.

B. All municipal charters, amendments thereto, and repeals thereof shall be filed with the Clerk of the Circuit Court.

SECTION 6.04. **CHANGES IN MUNICIPAL BOUNDARIES.**

A. The planning director shall study municipal boundaries with a view to recommending their orderly adjustment, improvement, and establishment. Proposed boundary changes may be initiated by the Planning Advisory Board, the Board of County Commissioners, the governing body of a municipality, or by a petition of any person or group concerned.

B. The Board of County Commissioners, after obtaining the approval of the municipal governing bodies concerned, after hearing the recommendations of the Planning Advisory Board, and after a public hearing, may by ordinance effect boundary changes, unless the change involves the annexation or separation of an area of which more than 250 residents are electors, in which case an affirmative vote of a majority of those electors voting shall also be required. Upon any such boundary change any conflicting boundaries set forth in the charter of such municipality shall be considered amended.

C. No municipal boundary shall be altered except as provided by this Section.

SECTION 6.05. **CREATION OF NEW MUNICIPALITIES.**

(A) The Board of County Commissioners [[~~and only the Board~~]] may authorize the creation of new municipalities in the unincorporated areas of the county after hearing the recommendations of the Planning Advisory Board, after a public hearing, and after an affirmative vote of a majority of the electors voting and residing within the proposed boundaries. The Board of County Commissioners shall appoint a charter commission, consisting of five electors residing within the proposed boundaries, who shall propose a charter to be submitted to the electors in the manner provided in Section 5.03. The new municipality shall have all the powers and rights granted to or not withheld from municipalities by this Charter and the Constitution and general laws of the State of Florida. Notwithstanding any provision of this Charter to the contrary, with regard to any municipality created after September 1, 2000, the pre-agreed conditions between the County and the prospective municipality which are included in the municipal charter can only be changed if approved by an affirmative vote of two-thirds (2/3) of the members of the Board of County Commissioners then in office, prior to a vote of qualified municipal electors.

>>(B) <u>A new municipality may also be created by petition of electors residing in the area to be incorporated in accordance with the following process:</u>

1. <u>An incorporation committee composed of a minimum of 5 electors from the proposed area of incorporation will initiate the process by filing with the Clerk of the Circuit Court an initiatory petition on a form prescribed by the Clerk for</u>

such purpose. The form shall identify the names and addresses of the Incorporation Committee members and describe the proposed incorporation area. Within seven (7) days of receipt of the form, the Clerk shall approve the form of petition and provide the Incorporation Committee the total number of the electors within the proposed incorporation area and the number of required signatures which shall be equal to ten percent (10%) of the electors in the proposed incorporation area.

2. From the date of approval of the above form, the Incorporation Committee will have six (6) months to obtain signatures equal to ten percent (10%) of the electors in the proposed incorporation area on a petition provided by the Clerk. The petition shall require the name, address and signature of the elector but such signatures shall not have to be notarized.

3. The signed petitions will be submitted to the Clerk, who shall have thirty (30) days to canvass the signatures contained therein.

4. Upon certification of the sufficiency of the signatures on the petition, the Clerk shall present the petition to the Board of County Commissioners at their next regularly scheduled meeting, at which time the Board shall call an election to authorize the creation of a municipality, which election shall occur no sooner than ninety (90) and no greater than one hundred twenty (120) days from the date the Clerk certifies the signatures. The election shall be held, whenever practicable, in conjunction with another election scheduled to occur within the proscribed time period. The election shall be decided by an affirmative vote of a majority of electors voting in the proposed incorporation area.

5. During the sixty (60) days following the certification of the petition, the Board shall complete a budgetary analysis in cooperation with the Incorporation Committee of and on the proposed incorporation area and schedule at least one public hearing prior to the incorporation election. Such budgetary analysis shall at a minimum estimate all of the identifiable revenues generated by the proposed incorporation area prior to incorporation, and present the operating expenses of comparable small, medium and large municipalities providing typical municipal services.

6. Within 30 days after certification of the election, the Board of County Commissioners shall appoint, from a list proposed by the Incorporation Committee, a five member Charter Committee which shall, within ninety (90) days after appointment, create a Charter for the newly incorporated area setting forth at least the form of government and governing body of the newly incorporated area. The new municipality shall have all the powers and rights granted to or not withheld from municipalities by the County Home Rule Charter and the Constitution and general laws of the State of Florida. Upon

completion, the proposed Charter will be submitted to the electors of the municipality no sooner than 60 days and no later than 120 days after it is completed. Upon an affirmative vote of a majority of those electors within the municipality, the municipal charter shall become effective and the municipality shall be created at the time stated in the municipal charter.<<

This item was introduced on May 30, 2012.
No action was taken.

Outline of Miami-Dade County Regional Government Charter Amendment Proposal

Concept:

Provide a process by which all of unincorporated Miami-Dade County will be incorporated into new municipalities or annexed into existing municipalities within 4 years.

Process:

I. Creation of new municipalities – Amend Article 6.05 to add alternate method of incorporation

An incorporation committee organized by electors from the proposed area of incorporation may initiate the process by filing with the Clerk of the Circuit Court an initiatory petition in the manner set forth in Article 8.01 for initiatory petitions. The Petition shall be circulated and canvassed in the manner set forth in Section 8.01 except as provided herein. Upon the certification of signatures from ten percent (10%) of the electorate in the proposed area of incorporation the Clerk shall present the petition to the Board of County Commissioners at their next regularly scheduled meeting at which time the Board shall call an election to authorize the creation of a municipality. Such election shall occur no sooner than ninety (90) and no greater than one hundred twenty (120) days from the date the Clerk certifies the signatures. The election shall be held, whenever practicable, in conjunction with another election scheduled to occur within the proscribed time period. The election shall be determined by an affirmative vote of a majority of resident electors voting in the proposed new municipality. During the sixty (60) days following the certification of the petitions, the Board shall complete a budgetary analysis in cooperation with the incorporation committee of and on the proposed incorporation, including an general analysis of three existing municipalities' budgeted expenditures for consideration by the incorporation committee and the public, and schedule at least one public hearing prior to the incorporation election.

Within 30 days after certification of the election, the Board of County Commissioners shall appoint from a list proposed by the incorporation committee a five member Charter Committee which shall, within ninety (90) days after appointment, create a Charter for the newly incorporated area setting forth the form of government and governing body of the newly incorporated area. Upon completion, the proposed Charter will be submitted to the electors of the newly incorporated area no sooner than 60 days and no later than 120 days after it is completed. Upon an affirmative vote of a majority of those electors within the proposed municipality, the municipal charter shall become effective and the municipality shall be created at the time stated in the municipal charter. The new municipality shall have all the powers and rights granted to or not withheld from municipalities by the County Home Rule Charter and the Constitution and general laws of the State of Florida.

II. Annexation Amendment - Article 6.04

Adjacent areas of Miami-Dade County may be annexed into existing municipalities by a majority vote of the residents in the proposed area of annexation at the initiation of the Board of County Commissioners, the municipality into which the proposed area will be annexed, or by initiatory petition by 10% of the

resident electors in the area proposed to be annexed. All elections shall be held within 90 to 120 days of the completion of the process initiating the annexation.

The Board of County Commissioners may propose annexation with the consent of the municipality to which the area is proposed to be annexed, after hearing the recommendations of the Planning Advisory Board, and after a public hearing by ordinance, unless the change involves the annexation or separation of an area of which more than 250 residents are electors, in which case an affirmative vote of a majority of those electors voting shall also be required.

A municipality may propose the annexation of an adjacent area of unincorporated Miami-Dade County by presenting a resolution to the Board of County Commissioners identifying the area of annexation it proposes to annex. The Board of County Commissioners shall by ordinance effectuate such annexation, unless the change involves the annexation or separation of an area of which more than 250 residents are electors, in which case an affirmative vote of a majority of those electors voting shall also be required.

The residents of a proposed area of annexation may propose the annexation of an area by petition in the manner set forth in Article 8.01 for initiatory petitions. The Petition shall be circulated and canvassed in the manner set forth in Section 8.01 except as provided herein. Upon the certification of signatures from ten percent (10%) of the electorate in the proposed area of annexation the Clerk shall present the petition to the Board of County Commissioners at their next regularly scheduled meeting at which time the Board shall adopt an ordinance effectuating such annexation, unless the change involves the annexation or separation of an area of which more than 250 residents are electors, in which case an affirmative vote of a majority of those electors voting shall also be required. In the event multiple proposals for the annexation of the same area are presented the PAB shall recommend which proposal moves forward subject to disapproval by a two-thirds vote of the Board.

III. Regional Government – Create Section 6.08

If after two (2) years, there are still unincorporated areas of Miami-Dade County which are not incorporated or annexed into cities, the Board shall provide for incorporation into new municipalities or annexation into existing municipalities of those remaining areas, notwithstanding any provision of the Home Rule Charter to the contrary. Such incorporation or annexation shall be completed by 2016.

Memorandum

MIAMI-DADE COUNTY

Date: May 30, 2012

To: Sen. Rene Garcia, Chairman, and Members of the Miami-Dade County Charter Review Task Force

From: Eugene Shy, Jr., Assistant County Attorney, and Valda Clark Christian, Assistant County Attorney

Subject: Changing Governance of the Public Health Trust of Miami-Dade County—Miami-Dade County Hospital Governance Taskforce recommendation to establish a new not for profit corporation for the management and operation of Jackson Health System

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At the May 23rd meeting of the Miami-Dade County Charter Review Task Force ("Charter Review Task Force"), the Charter Review Task Force asked about the legal implications of changing the Public Health Trust governance to the not for profit corporate form of governance as recommended by the Miami-Dade County Hospital Governance Taskforce ("Hospital Governance Taskforce") in its May 12, 2011 Final Report ("Final Report"). Specifically, the Charter Review Task Force asked how a governance change to a not for profit corporate form as recommended by the Hospital Governance Taskforce might affect: (a) sovereign immunity, (b) surtax revenue, (c) Sunshine matters, and (d) intergovernmental transfers.

In 2011, the Hospital Governance Taskforce considered alternative models for operating the Jackson Health System, including but not limited to: direct operational control by the County, direct operational control by a university, increased autonomy for the Public Health Trust, creation of an independent hospital authority or public benefit corporation, creation of a taxing district, operation by a non-profit organization formed by Miami-Dade County, for profit governance, contract management by a third party, and/or a hybrid of the above models.

Under current Florida Statute, a county has the authority to sell or lease a county hospital to a for profit or not for profit Florida corporation, and to enter into leases or other contracts with for profit or not for profit Florida corporations for the purpose of operating and managing such hospitals. Sec. 155.40, Fla. Stat. A sale or lease under this statute would cause Jackson Health System to become a private not for profit hospital system.[1] [2]

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[1] This is the statutory vehicle that Tampa General Hospital used. On its website, Tampa General states that "Tampa General is a private not-for-profit hospital…" http://www.tgh.org

[2] In deciding the case of *Indian River County Hospital District v. Indian River Memorial Hospital, Inc.*, 766 So. 2d 233 (4th DCA 2000), the 4th District Court of Appeals of Florida stated, at 238, the legislative intent of Section 155.40, Fla. Stat.: The Florida Legislature has recognized that public hospitals must be able to privatize in order to retain and attract revenue sources and compete with for-profit hospitals.

After consideration of the various alternative models of operating the Jackson Health System, the Hospital Governance Taskforce recommended as Recommendation 7 in its Final Report, that the Commission:

Establish a new not for profit corporation to manage and operate Jackson Health System, reserving to the County only certain enumerated powers described herein or otherwise provide by law.

Additionally, the Hospital Governance Taskforce included recommendations in its Final Report regarding sovereign immunity[3], the surtax[4] and Disproportionate Share Hospital (DSH) funding[5].

A. Sovereign Immunity

In general, the sovereign immunity doctrine restricts tort suits against the government. The Florida Constitution provides that "provision may be made by general law for bringing suit against the state..." Pursuant to that constitutional power, the Florida legislature statutorily has waived sovereign immunity on a limited basis for state and political subdivisions, including agencies and instrumentalities. Sec. 768.28, Fla. Stat. The Public Health Trust has been found a state agency, for the purposes of sovereign immunity. State agencies also can include corporations primarily acting as instrumentalities or agencies of a county.

However, although possibly incorporated in the first instance by the County, a new not for profit corporation is an independent entity and likely not, under Florida case law, covered by sovereign immunity.[6] Pursuant to Sec. 155.40, Fla. Stat., if a public hospital is sold or leased, unless expressly stated otherwise in the lease or sales documents, the transaction is not to be considered a transfer of government function and is not to be construed to mean that the lessee or purchaser is 'acting on behalf of the government. If there is a complete sale of a public hospital, such sale shall not be construed to make the private corporation an agency. Thus, sovereign immunity would not necessarily apply to a not for profit operating the Jackson Health System. Ultimately, whether a corporation is acting as an instrumentality or agency, and thus covered by sovereign immunity, is an issue of fact for a judge or jury. However, the state legislature could amend the Florida Statutes to provide that public hospitals leased or sold to private not for profit corporations pursuant to Sec. 155.40, Fla. Stat., are primarily acting as agencies or instrumentalities of governmental entities and are acting on behalf of governmental entities. Thus, sovereign immunity could apply to the sold or leased hospital.

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[3] Final Report Recommendation 8. Provide sovereign immunity. Every effort should be made to structure the not for profit corporation in such a way so as to preserve the applicability of the sovereign immunity statute, including pursuing legislative changes...

[4] Final Report Recommendation 9. Concurrently with creation of this new not for profit corporation, the Taskforce recommends creating a Public Health Advisory Committee to ensure accountability on the use of unique public funds (1/2 penny surtax funds; ad valorem/general fund support, etc.)...

[5] Final Report Recommendation 11. Ensure Jackson Health System remains eligible for Disproportionate Share Hospital (DSH) funding.

[6] Tampa General Hospital does not have sovereign immunity. See Final Report, Appendix J.

B. Surtax Revenue

Miami-Dade County is currently authorized to levy a ½ penny sales surtax to support the "county public general hospital" provided the County contributes a "maintenance of effort". Sec. 212.055(5), Fla. Stat. In 2008 the surtax generated approximately $187,408,133 and the maintenance of effort and other contributions from ad valorem revenue totaled approximately $178,059,996. "County public general hospital" means a general hospital . . . . which is owned, operated, maintained, or governed by the county or its agency, authority, or public health trust." Sec. 212.055, Fla. Stat. The statute requires the proceeds be "remitted promptly to the agency, authority, or public health trust," which refers to the antecedent phrase "its agency, authority, or public health trust." Id. Under this language the County could not levy this tax to support a private hospital. Therefore this revenue stream would terminate if a new not for profit corporation operates and manages Jackson Health System under Sec. 155.40, Fla. Stat. Sec. 212.055(5), Fla. Stat. would need to be amended if the County intended to continue to access this revenue stream for the support of the new not for profit corporation recommended by the Hospital Governance Taskforce.

Additionally, the voters of Miami-Dade County approved the levy of the surtax by referendum[7]. A new referendum may be necessary to redirect the surtax to a new not for profit corporation.

C. Sunshine Matters

Generally, there are two tests that the Florida courts apply to determine whether the Public Records Act applies to a private entity such as a new not for profit corporation. The first is the delegation test: if a public entity delegates a statutorily authorized function to a private entity, any records generated by the private entity's performance of that duty becomes a public record. The second test is based on the review of the totality of factors (nine (9) enumerated factors in Florida case law). If combined factual findings regarding the nine (9) factors show that the private entity is acting on behalf of the public entity, then the Public Records Act applies.

As it relates to the meeting requirements of the Sunshine Law, a private entity is subject to those provisions if a public entity delegates the performance of all or a portion of its public purpose to that private entity. And as with public records, the courts use the totality of factors test to determine whether or not the Sunshine Law meeting requirements apply to a private entity that purchased a public hospital.

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[7] The ballot question provided that the surtax proceeds would be used "for the operation, maintenance and administration of Jackson Memorial Hospital to improve health care services such as: emergency room treatment/trauma care for life-threatening injuries; critical care for infants and children; obstetric and gynecological services; treating severe burns, spinal cord injuries, and Alzheimer's disease."

Further, the Florida legislature in adopting Sec. 395.3036, Fla. Stat., has provided that the records of a private corporation that leases a public hospital are exempt from the Public Records Law and the meetings of its board are exempt from the Sunshine Law as long as certain criteria are met. First, the public lessor must comply with the public finance accountability provision of Sec. 154.40(5), Fla. Stat. which addresses the sale or lease of a public hospital to a for-profit or not-for-profit entity. Secondly, the arrangement must comply with at least three of the following five criteria: (i) the government cannot be the incorporator of the private corporation; (ii) there can be no commingling of funds between the government and private entity; (iii) the private entity cannot participate in the decision making for the government; (iv) the lease agreement does not expressly require the private corporation to comply with the Sunshine Law and Public Records law; and (v) the government is not entitled to receive any revenues from the private entity (except rents or administrative fees) and the government cannot be responsible for debts or other obligations. Lastly, receiving Medicare, Medicaid, government grants or loans alone does not render a private hospital subject to the Sunshine Law.

D. Intergovernmental Transfers

Intergovernmental transfers ("IGTs") are the transfer of public funds from different levels of government, or governmental entities/taxing districts, to the state government. States commonly use IGTs, in lieu of general revenue, to fund the non-federal share of certain Medicaid payments. Federal Medicaid dollars then match the IGTs used as part of the state share of Medicaid funding. The states can then pay the enhanced funds to qualifying providers.

Currently in Florida, IGTs are used primarily for the purpose of providing higher payment rates or special Medicaid payments for hospital inpatient and outpatient services. Specifically, IGTs are primary used in hospital fee for service rates to fund the exempt portion and authorized buybacks of inpatient and outpatient hospital rates. Some Florida counties do not have sufficient local funds to contribute IGT dollars in support of their share of exemptions and buybacks. Jackson Memorial historically has been the greatest state contributor of IGT funds to support Medicaid funding. In practice, the utilized funds are surtax dollars. In the 2010-2011 fiscal year, the state and federal amount required to fund the exemption and buybacks for the qualifying hospitals in the county for the impacted population exceeded $139,000,000 (with approximately $50,000,000 contributed through Jackson Memorial).

Currently, through Jackson Memorial Hospital and using the surtax and maintenance of effort dollars, Miami-Dade County has been able to fund this amount in full. However, if Jackson Memorial were led by a not for profit corporation, likely it would no longer qualify as a governmental entity and would not be able to directly make an IGT. The County, as the remaining governmental entity, would need to make any IGTs on behalf of the local area. Further, as noted above, if led by a not for profit corporation Jackson Memorial likely would lose its county public general hospital status. Thus it would not be able to contribute surtax dollars, or the maintenance of effort dollars related thereto, without a statutory change. The County would need to identify new revenue to commit to IGTs in order to maintain the local exemption and buyback support. If unable to do so, the local area (and state at large) likely would see a

reduction in federal match dollars and contraction of the exemption and buyback programs.

CONCLUSION

In conclusion, creation of a new not for profit corporation to operate and manage Jackson Health System would result in it becoming a private hospital system. That result would mean that: (a) it will be unlikely that the new not for profit corporation will have the protection of sovereign immunity, unless the Florida legislature adopts appropriate legislation; (b) the surtax revenues would terminate, unless the legislature amends Sec. 212.055(5) and, possibly, a new referendum would need to be held; (c) Sunshine laws could be made applicable by contract to apply or by application of the test in the case law. Pursuant to Sec. 395.3036, Fla. Stat., the Florida legislature has expressed its intent that private corporations that lease a public hospital should be exempt from the Sunshine law; and (d) federal matching dollars supporting the state and local exemption and buyback programs would be at risk pending a statutory change to support the state's ability to maintain intergovernmental transfer contribution levels.

cc: Hon. Chairman Joe A. Martinez
and Members, Board of County Commissioners
Hon. Carlos A. Gimenez, Mayor
Christopher Agrippa, Division Chief, Clerk of the Board

LOCAL 1991
SEIU

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Martha Baker, RN, President
Sam Ruiz, RN, Vice President
Barbara Scollon, RN, Treasurer
Doris Rahming, RN, Secretary

May 29, 2012

Dear Members of the Miami-Dade County Charter Review Task Force,

Jackson Health System (JHS) is the center of our community's healthcare system. It is a complex system of six hospitals, clinics and other services and is the epicenter of medical research. It serves the indigent as well as the insured---including those in need of cutting-edge cures. In addition, JHS is the training agent for more than 1,000 residents. Simply put, it is our public healthcare jewel.

It would be a great disservice to our community to politicize the survival of Jackson by tacking its future onto the governance issues you are examining. While it appears a few personal agendas may have caused this matter to be wedged into your agenda, good government and ethics suggests that it not be taken up by the Task Force.

First, it is clear that the due diligence necessary to properly study Jackson is beyond the scope and timing of the Task Force. Reviewing the impact of governance on health care requires the inclusion of medical experts, hospital administrators and a sophisticated analysis---none of which are present.

Second, the legal hurdles are many. Just a few core legal questions include: the survival of sovereign immunity, Sunshine laws, public employer status, the County funding obligation for JHS, assignment of the half-penny surtax, eligibility for ear marked federal Medicaid funds, the restriction of bond covenants on governance changes, real property restrictive deed covenants on the use of Jackson landholdings, the impact on UM's recently gained limited sovereign immunity and ACGME accreditation risks. The many legal issues involved cannot be hurriedly addressed by the County Attorney.

Third, the Task Force was never charged with a Jackson governance review. In fact, such a review has already been reported to the BCC. While there is great debate on those findings, they were already acted upon. It is simply disingenuous for your group to go beyond its legally defined scope of inquiry. A few amongst you are attempting to backdoor the Jackson issue onto your already "full plate." This does not honor your stellar reputations and it is a disservice to the community.

We are the caregivers of Jackson. We treat every fallen police officer, watch over the most complex of organ transplants, treat the diseases other hospitals cannot handle and never turn away any human being from needed care. We do this with pride and medical expertise that is second to none. We only ask in exchange that you do not engage in a rush to judgment. We urge you to not go beyond your charge. Please do not force Jackson's structure on to your agenda ---- our public hospital deserves better.

Finally, to give you a sense of the complexity and depth of the healthcare governance issues, we submit just a sampling of the many relevant materials that should be considered in a full review. We have much

more documentation for your analysis if requested.

Perhaps the motto that guides Jackson's caregivers could serve you in your tasks as well ---" DO NO HARM. "

Sincerely,

Martha Baker, RN
President

Cc: Honorable Carlos A. Gimenez, Mayor
Honorable Joe A. Martinez, Chairman
and Members, Board of County Commissioners
Robert Cuevas, County Attorney
Eugene Shy, County Attorney

Appendix L

Dissenting View of a Taskforce Member

Hospital Governance Task Force Dissenting Opinion

The Hospital Governance Task Force (HGT) was a unique and valuable opportunity for a diverse group of community leaders to explore, discuss, and learn more about the governance and related issues impacting Jackson Health System. The group included subject matter experts on hospital governance structures and also solicited the input on several major public healthcare systems on the strengths and weaknesses of their models. Although brief (less than 20 hours total), the task force was able to learn much on the topic and Mr. Zapata should be commended for his leadership.

Given the short duration of the task force and the lack of any legal, financial, operational, strategic or other due diligence or modeling of alternative governance models as they would impact Jackson Health System, it would be inappropriate for the task force to author any specific recommendations to the County Commissioners at this point. The governance discussion is inherently complex and therefore any change in the governance structure is a relatively long process to evaluate and implement. It is clearly not to be considered a solution for the immediate financial issues impacting Jackson. As Mr. Larry Gage, a national known hospital governance expert, reported to the task force "effective governance is a tool, not a panacea." Therefore, Jackson needs to remain focused on the very real operational and other issues currently impacting its ability to achieve sustainability in the short term.

Jackson is currently going through a major leadership transition with the hiring of a new Chief Executive Officer. In addition, the County recently approved the formation of a financial recovery board to oversee Jackson which is in the process of being populated. The financial recovery board is not a governance change, per se, as it is contemplated in ordinance 25A, but it does serve the purpose of reducing the size of the board and populating the board with subject matter experts in relevant areas of focus. These changes have great potential and should be allowed to crystallize and mature prior to introducing a further complexity of a new governance structure. This will provide Jackson the best opportunity to achieve immediate sustainability which needs to be the paramount focus. There can be no distractions from this vital objective although continued study of the optimal governance structure for Jackson is advisable.

The *National Association of Public Hospitals and Health Systems* reported that "before considering a major reorganization, it is essential to evaluate the challenges and obstacles that face a given hospital or health system – and to determine which of these challenges can be improved through improved structure or governance." The following are some operational issues that need to be addressed regardless of the governance structure:

- Develop and implement a contemporary overall strategic plan.
- Secure cash resources to avoid permanent and irreversible consequences to core service levels and mission due to current cash crisis.
- Develop and implement a primary care and outpatient services strategy.
- Reduce length of stay to clinical optimal levels.

- Provide budgeting and other financial reporting with integrity and credibility.
- Maximize the leverage of the Jackson Health Plan.
- Shift the labor cost curve through universal adoption of evidence based medicine guidelines; treating each patient in the most cost effective, clinically appropriate setting; improving patient throughput and other measures.
- Optimize the relationship with the University of Miami.
- Position Jackson for success in an ACO and/or capitated environment.
- Enhance information technology solutions to achieve meaningful use standards.
- Position Jackson to participate successfully in the HHS Patient Safety Initiative Funding Program.

These are several of the mission critical objectives for Jackson to immediately pursue within the revised executive leadership team and newly enacted financial recovery board.

There are certain attributes of any governance model that the task force believes are important for Jackson Health System. Miami-Dade County will always be a vital component of the governance structure of Jackson, even if a new model is ultimately selected, as it has the inherent responsibility to provide healthcare services to the underserved population of the County. Any newly created entity would undoubtedly seek financial support from the County, via the taxpayers, to support the valuable mission of Jackson. Therefore, the governance conversations need to remain open, transparent and in the sunshine to continue to preserve these interests.

The impact of a governance change on all sources of reimbursement, on the outstanding bond obligations, on the pension program, on sovereign immunity, and on other major components of the public healthcare model needs to be fully vetted to avoid any unintended consequences. It is irresponsible to provide specific recommendations on a governance model change, i.e. not-for-profit, without a full understanding of how a change in governance may impact these factors. The taskforce has not studied these issues with any level of specificity and is not in a position to make such recommendations.

As noted, any fundamental change in governance structure is a long term consideration as the financial recovery board should be allowed to address the immediate issues impacting Jackson. Continued exploration, including moving towards appropriate due diligence, should continue to be pursued to identify the optimal governance model for Jackson in the future.

Conclusions

- Jackson Health System is an important community resource and its mission is in jeopardy under the status quo.
- Greater accountability is required for the fulfillment of the mission within a sound financial framework, given budgetary restraints, reduced federal and state funding and competitive pressures.

- The evaluation of optimal governance models should continue in an effort to identify the most efficient and effective structure to allow Jackson Health System to fulfill its mission for decades to come. Any recommendations should be data driven and fully vetted to ensure that this very important assignment is handled with the highest degree of professionalism and responsibility.

- Legal and financial experts need to be engaged to perform the necessary due diligence. Any new structure should maintain Sovereign Immunity which goes hand in hand with the Sunshine Laws. The revenue streams should be enhanced, not decreased with any new structure. The eligibility for ad valorem and ½ cent sales tax should be fully studied to ensure continued availability to fund the mission of Jackson in any recommended model.

- The taskforce never considered or evaluated the risk to federal funding such as Intergovernmental Transfers (IGT) and Certified Public Expenditures (CPE) that a new structure such as not-for profit could possibly jeopardize. These federal monies are a real possibility and are being strategically pursued at JHS. A public structure is necessary to qualify as a recipient for these funds currently.

- The current effort has been very valuable but not sufficient to formulate any concrete solutions or recommendations.

- Task force membership should be re-evaluated to remove any task force members with a conflict of interest. Several members are direct competitors of Jackson and others have competing interests.

- A structure change to a private entity would most likely mandate a cessation in the Public Retirement System (FRS and PHT retirement) and the cost of doing so needs to be evaluated. The taskforce never explored or even recognized this risk which has the potential of significantly increasing the contribution from the employer.

- The Miami-Dade County Commission is an integral component of the governance of Jackson Health System and will continue to be so under any governance model. The tax payers of Miami Dade provide significant funding to Jackson and their elected officials are very relevant to its governance process.

- The immediate focus should be on developing a strategy for Jackson Health System to make it a more competitive alternative in the market place to serve everyone's healthcare needs in Miami-Dade County. The new executive team and the new financial recovery board should be given an opportunity to succeed with great assistance from the County.

- All current efforts regarding Jackson Health System should be directed towards averting a reduction in scope of services provided to County residents and to avoiding any deterioration to the great mission of Jackson. The operational issues denoted in this report should be the primary focus.

Submitted by:
Martha Baker, RN, President
SEIU Healthcare Florida, Local 1991

Hospital Governance Taskforce (HGT) Presentation

Duane J. Fitch, CPA, MBA

April 14, 2011

Fitch Healthcare

Discussion Topics

- Introduction
- Importance of Taskforce
- Immediate Issues Independent of Governance Discussion
- Current Governance Model

Fitch Healthcare

Discussion Topics

- Governance Effectiveness vs. Governance Structure
- Operational Issues Universal to All Governance Models
- PHT Observation
- Miami-Dade County Observation

Fitch Healthcare

Importance of Taskforce

- Governance is a Primary Component of an Integrated, Complex, Healthcare Delivery System.
- Governance Structures have Evolved to Meet Significant Challenges of Healthcare Finance and Operations.
- Mr. Gage's Presentation on the Various Governance Models and Examples of Each was Very Informative and Well Done. Mr. Gage is a Preeminent Leader in this Area.

Fitch Healthcare

Importance of Taskforce

- Public Hospital's Governance Structures are Often Multi-Factorial and Exhibit Attributes of Several Different Models.
- Public Hospitals Consist of Multiple Extraordinarily Complicated Sub-Systems that are Co-Dependent on One Another and Often Times in Conflict.

Fitch Healthcare

Importance of Taskforce

- Effective Governance Structures Continually Adapt to the Issues and Opportunities Impacting the Hospital.
- Effectiveness within a Current Structure is as Important as the Structure Itself.

Fitch Healthcare

Immediate Issues to Address Independent of Governance Discussion

- Cash Infusion to Avoid Permanent/Irreversible Consequences to Core Service Levels Due to Cash Crisis (Internal/External Efforts).
- Access to Bridge Financing to Allow Turnaround Efforts to Take Root.

Fitch Healthcare

Immediate Issues to Address Independent of Governance Discussion

- Balancing Mission (Single Standard of Care to All Patients Regardless of Ability to Pay) with Financial Constraints.
- Providing Clear and Consistent Direction to New CEO and Executive Team During the On-Boarding Process and Turnaround Efforts.

Fitch Healthcare

Immediate Issues to Address Independent of Governance Discussion

- Any Governance Change will Likely take a Significant Period of Time, be Very Expensive, Require Extensive Due Diligence and Modeling, and be the Subject of Extensive Legal Debate. It is not a Fix for the Current Financial Reality Facing Jackson.

Fitch Healthcare

Current Governance Model: Hybrid

- Current Model Includes Elements of:
  - Direct Governance- County Reserve Powers, 25A Ordinance, Unfunded Mandates
  - Freestanding Board with Some Authority- Public Health Trust
  - Taxing District- No Independent Ability to Levy Taxes but the Beneficiary of Ad Valorem Taxes and 1991 Half-Penny Tax

Fitch Healthcare

Governance Effectiveness vs. Governance Structure

"Before considering a major reorganization, it is essential to evaluate the challenges and obstacles that face a given hospital or health system – and to determine which of these challenges can be improved through improved structure or governance."

Restructuring ≠ Sustainability

National Association of Public Hospitals and Health Systems

Fitch Healthcare

Operational Issues Universal to All Governance Models

- Develop and Implement a Contemporary Overall Strategic Plan.
- Develop and Implement a Primary Care and Outpatient Services Strategy.
- Reduce Length of Stay to Clinical Optimal Levels.
- Provide Budgeting and Other Financial Reporting with Integrity and Creditability ($232MM Audit Adjustments for FY2009, FY2011 Budget).

Fitch Healthcare

Operational Issues Universal to All Governance Models

- Maximize the Leverage of the Jackson Health Plan.
- Shift the Labor Cost Curve through Universal Adoption of Evidence Based Medicine Guidelines; Treating Each Patient in the Most Cost Effective, Clinically Appropriate Setting; Improving Patient Flow and other Measures.

Fitch Healthcare

Operational Issues Universal to All Governance Models

- Optimize the Relationship with the University of Miami.
- Position Jackson for Success in an ACO and/or Capitated Environment.
- Enhance Information Technology Solutions to Achieve Meaningful Use Standards.
- Position Jackson to Participate Successfully in the HHS Patient Safety Initiative Funding Program.

Fitch Healthcare

PHT Observation

- A Change in PHT Composition, Qualifications, and/or Size May Make it a More Nimble, Effective, and Efficient Governance Body More Readily Able to Address the Immediate Issues and Opportunities Impacting Jackson Health System.
- PHT Board Members Serve as Tireless Volunteers and should be Commended for their Commitment to Public Service.

Fitch Healthcare

PHT Changes to Evaluate-Short Term

- Smaller Membership/Targeted Areas of Expertise
- Enhanced Board Education and Training
- Exclusive Focus on Strategy, Accountability, and Turnaround Efforts.
- Update By-Laws and Board Policies to Ensure Effectiveness and Role Clarity.

Fitch Healthcare

Miami-Dade County Observation

- Under Most Governance Models, the County will Retain a Significant (if not exclusive) Responsibility for Funding Healthcare for the Indigent Population of Miami-Dade. As Such, the County will Likely Seek to Maintain Certain Reserve Powers and a Level of Control.

Fitch Healthcare

Questions?

Fitch Healthcare

Fitch Healthcare

March 23, 2011

Commissioner Joe A. Martinez
Chairman, Board of County Commissioners
Miami-Dade County

John H. Copeland, III
Chairman, Public Health Trust
Jackson Health System

Eneida Roldan, MD, MPH, MBA
President and Chief Executive Officer
Jackson Health System

Dear Chairman Martinez, Chairman Copeland III, and Dr. Roldan,

Jackson Health System is a treasured community asset that has great potential despite its current economic position. The recent interest in the System from a variety of sources illustrates this potential. Our firm has been privileged to witness the great healthcare services provided by Jackson to the Miami-Dade community throughout our engagement with SEIU 1991 since the spring of 2010. The System is clearly at a cross road and clear and decisive action is required immediately to transition Jackson in to a sustainable model. This will require additional working capital, a high degree of cooperation and engagement from all stakeholders, and a turnaround team to work in conjunction with Jackson leadership and governance to transition Jackson into a cost effective, patient centered, healthcare delivery system with the ability to attract patients from all demographics. ***Our core belief is that excellent care, delivered in the appropriate setting, is cost effective and also produces a high degree of patient satisfaction. Applied consistently over time, this approach leads to increased market share, improved financial performance, and ultimately to the creation of a sustainable healthcare delivery system that fulfills its stated mission.***

Of course, working capital is required to effectuate a meaningful and sustainable Jackson capable of delivering on its critical mission. Our solution is based on keeping Jackson as a treasured and viable public asset and therefore the working capital will need to come from leveraging Jackson's own assets and/or an infusion from local, state, federal or other resources. Other areas worthy of exploration are additional community support through a referendum, loans from pension funds, monetization of certain assets, or any other potential sources. Given the critical

financial nature of Jackson, no alternatives can be overlooked. ***However, Jackson should not ask any party for any money in the absence of a comprehensive and strategic turnaround plan, with the right partner capable of executing it, and a supportive authority structure that will enable its implementation.***

Our turnaround plan is thoughtful, strategic, transparent, and focused on providing excellent patient care in the lowest cost setting. It will move Jackson into a cost effective primary care and outpatient services mode while maintaining its world class inpatient and specialty services for patients that require this level of care**.** ***It will focus on improving the overall patient experience to make Jackson a viable choice for all members of the community.*** It will focus on providing excellent clinical services in a cost effective manner to position Jackson to compete fiercely in the marketplace against all other healthcare providers for all patients. It will employ Jackson's strategic assets, like the Jackson Health Plan, to attract and build increased market share. It will leverage the unparalleled brand that Jackson has created over the past 90 plus years.

Our plan is not built around a financial transaction that will permanently and irreversibly change Jackson's basic construct. ***Our plan is all about execution – and rebuilding Jackson through the provision of excellent, cost effective, patient centered services provided in the right setting*****.** This will result in an increased patient base, an improved payer mix, and an innovative, contemporary Jackson that can compete and thrive in the new healthcare world.

This plan should serve to inspire potential funding sources that their investment in Jackson will be utilized to facilitate a strategic, patient centered turnaround that will result in a sustainable Jackson while enabling it to remain an asset of Miami-Dade County. We look forward to an opportunity to present our ideas and proposal.

Duane J. Fitch, CPA, MBA
President
Fitch Healthcare Consulting

Jackson Health System
Management Services Proposal

Introduction and Background

Jackson Health System is a remarkable public healthcare institution that performs medical miracles every day. It is a wonderful community based resource that provides comprehensive healthcare services to all patients, including the most underserved segment of the population. The System also serves as a major economic engine to the Miami-Dade community. It employs over 10,000 people and produces annual gross revenue of over $4 billion. ***It has a long standing relationship with the University of Miami and has been a partner with them in the training of generations of world class physicians.*** Any significant reduction to its scope would have a serious detrimental impact to both the healthcare and economic profile of Miami-Dade County.

There is no question that the financial crisis at Jackson is real and that it has been in the making for quite some time. ***The threat of running out of cash in the next couple of months is a credible one and the situation needs to be addressed now***. The economy and the infusion of uninsured patients are clearly factors in the current profile; however, there are also a significant number of real opportunities that have not been taken advantage of to position Jackson for sustainability. Internal and external factors have contributed significantly to the crises, many of which have not been responded to in a proactive manner. The System is generating significant and unsustainable operating losses and there is a tremendous immediate need for working capital and resources for strategic investment. Jackson is at a critical juncture and business as usual will result in an adverse outcome for Jackson, the University of Miami, other local hospitals, and the patients and community served by Jackson.

Turnaround Initiative and Objective

The System is operating without a contemporary strategic plan. The FY2011 operating budget is drastically off course. There is no comprehensive operations plan to guide the organization's initiatives and to track and monitor progress. ***This lack of focus and planning has contributed to the tremendous crisis which now requires immediate intervention before permanent and irreversible decisions are made impacting the future of this great healthcare system.***

Jackson is in immediate need of securing a focused financial and operational turnaround team to lead its efforts toward sustainability. FHC will provide a team of experienced healthcare experts that will have the challenge and responsibility of positioning Jackson as a cost effective, financially viable, patient centered healthcare provider that is prepared for the risks and rewards available under the provisions of the emerging healthcare reform guidelines. Phase I of this

project, sustainability, will require a minimum of 30 months. This is a very aggressive timeline that will require intense focus and cooperation from all stakeholders to achieve. Goals and objectives for subsequent phases will be mutually agreed upon by the parties at a later date. ***The overarching goal of Phase I is to generate $50 million in margin and to have $200 million in cash resources at the conclusion of the first year.*** These targets assume that $200 million in working capital is secured as discussed later in this proposal. They are also predicated on the timely approval of this proposal including the initiatives contained herein and a high degree of cooperation in their implementation. The projected performance will greatly assist Jackson's ability to remain a community asset. It will also position Jackson, via the County, to enter into the debt financing market to secure additional capital in the future for continued strategic investment through subsequent phases.

Jackson will need to be positioned as a marketplace destination for all of its healthcare services in terms of patient service and satisfaction levels, clinical outcomes, turnaround times, length of stay, and all other relevant metrics. It needs to be a compelling choice for all members of the community, not just the underserved. The Jackson Health Plan, a very strategic asset already with significant additional potential, will be positioned as a "feeder" to Jackson through the use of incentives, advertising, and other strategies. Jackson will need to fiercely compete through service, quality, and cost to earn the opportunity to expand its patient base to include more insured patients. ***Increased patient service revenue through enhanced market share and improved payer mix is the key to a sustainable turnaround for Jackson. This turnaround team will need to have the authority and accountability to remove all barriers that are in conflict with this construct, in conjunction with guidance provided by governance.***

Working Capital

The turnaround effort will ultimately need working capital to implement the important initiatives that are required. These include the transition to a "medical home" care model for primary care services and the transition to a patient centered service delivery mindset in all aspects of emergency department and inpatient care. Operating losses will also need to be funded during the transition. In addition, proposed reductions in current funding sources will need to be addressed as they will create a larger financial challenge moving forward. An estimate of the amount needed to sustain Jackson through the turnaround period and into sustainability is $200 million which equates to approximately 40 days cash on hand. The working capital and the margin goals for Phase I exclude the impact of potential further reductions in existing funding sources. ***Given the complexity of securing additional working capital, we recognize that it may not be received at all once (or even at all) and we are capable of adjusting to this possibility although it will extend the duration of the pathway to sustainability as well as the goals and objectives of Phase I.*** The working capital is needed to fund the operating losses during the turnaround phase as well as provide working capital to commence the strategic initiatives

designed to enable the longer term turnaround to take root. Longer term, Jackson will require much more capital to continue its ability to take advantage of marketplace opportunities and to make the strategic investments required for the future. A successful turnaround project may position Jackson, through the County, to secure tax exempt bond financing based on its improved operating performance to fund all or a portion of these needs. ***A demonstrated track record of success in this initiative may also serve as a basis for a referendum for additional taxpayer support of Jackson with the knowledge that the proceeds will be used appropriately and strategically.***

Sources of Working Capital

The source of the working capital is a challenging obstacle but several options should be considered. One option is to consider leveraging the real estate and any other assets of Jackson through a sale/leaseback, outright sale, mortgage or other financing arrangement. A thorough analysis of the debt instruments currently in place will need to occur to determine if this is a viable option. The County will need to take the lead to enable this solution should it be allowable under the terms of the debt instruments. A private "buyer" of Jackson would undoubtedly explore this option to fund the losses, service the assumed debt, and make agreed upon capital investments until their own turnaround efforts take root.

Another option for working capital is to enroll a State or Federal funding source in the turnaround journey and obtain their willingness to be a part of it financially. ***Assurances would be needed that there is an unwavering commitment to a new approach that is genuinely designed to achieve long term sustainability.*** Given the history of the financial performance of Jackson and the sustained lack of credibility in financial reporting, budgeting, and strategic planning, the need for assurances is understandable and expected. Government funding is extremely difficult to secure in any event but funding Jackson in its current configuration might be considered irresponsible if it is not predicated on a fundamentally different model of accountability and execution than has existed in the past.

Authority Structure for Turnaround

The turnaround team will need an authority structure that is supportive, engaged, efficient, effective, knowledgeable and free from extraneous involvement. In addition, the authority structure needs to be exclusively focused on the best interests of Jackson and be willing and able to support the turnaround team during times of difficult decision making. At this point, the source of the membership for the authority structure (PHT, County, or a hybrid) is not as important as the attributes described above. ***The project would be best served by a smaller (approximately 7 member) and more nimble authority structure that has a membership comprised of dedicated individuals with a demonstrated capability in healthcare finance,***

strategy, operations, marketing, etc. in addition to a couple of community leaders. This body will need to participate in the preparation of the strategic, operational, and financial plans prepared by the turnaround team and monitor the status of implementation (and remove barriers thereto) on a regular basis. A high degree of focus and discipline is required to keep the project on track and to adjust to issues and concerns as they arise.

Sustainability Model

The goal of the turnaround project is to position Jackson for long term sustainability as a vibrant, patient centered, clinically excellent, innovative, contemporary and financially viable public healthcare system. This will be accomplished by increasing market share (and revenue) through the adoption of a patient centered care model in all aspects of service delivery. ***The turnaround effort will focus on the identification and elimination of all barriers to the delivery of safe, timely, respectful, cost effective, patient centered, and evidenced based care in the proper care setting for each patient, every time.*** A significant transition to primary care and outpatient based care will be an area of focus to enhance Jackson's ability to treat patients in the lowest possible cost setting.

University of Miami

The University of Miami is a critical partner of Jackson in all aspects of its clinical operations and will play an important role in the transitioning of Jackson to a sustainable model. A thorough study of all aspects of the relationship with the University of Miami will be performed and a value proposition analysis will be prepared in an attempt to quantify the overall net financial impact to Jackson of its relationship with UM. This will be completed and published prior to the extension of the current agreement in place with UM. ***In addition, service level performance targets will be developed and monitored for all aspects of patient care services provided by UM physicians to help ensure that the partnership provides timely, patient centered services to all patients at Jackson.*** UM is a partner of Jackson in the provision of healthcare services and also a formidable competitor of Jackson for non-indigent patients and potentially profitable service lines. This is a very complex relationship that requires constant monitoring and balancing to ensure it achieves its objectives and is equitable to both parties.

Operating Costs

Jackson's operating cost per unit of service delivered will need to be reduced to ensure sustainability. This will be accomplished through an uncompromised conversion to evidenced based medicine guidelines for all appropriate patients. This will help to reduce length of stay, move patients to the lowest cost treatment setting, reduce hospital generated complications, and increase patient satisfaction and clinical outcomes. This is the right approach in a patient

centered delivery model. Jackson will also vehemently enforce the service guidelines for physician consultations in the emergency department and all other care settings. This will help reduce the length of stay (and related costs) in the emergency department and elsewhere and also increase patient satisfaction levels and therefore patient volumes. ***This will allow Jackson's fixed costs to be spread out over a larger base.***

In addition, more primary care and outpatient services will be provided to help reduce repeated costly emergency room visits, to provide the appropriate setting for follow up visits, and to create a medical home designed to promote patient wellness and accountability. Agency and overtime expenses will be reduced by immediately making training programs available for care givers in low census areas to train them to be able to serve in the higher acuity clinical settings now using agency and overtime resources. Additional staff members will also be hired so that more shifts can be filled with straight time pay versus overtime and agency pay. In situations where patient volumes do not support the current staffing models, every effort will be made to deploy workers to understaffed settings within Jackson before eliminating positions. ***The labor cost per unit of service will be reduced through lower length of stay, increasing patient volumes through enhanced service levels, elimination of inappropriate admissions, more timely service in the ED, placing patients in the lowest appropriate acuity setting, more efficient patient flow through throughout the hospital, and the addition of primary care resources***. We believe this is a powerful and sustainable approach to managing labor costs and it results in increased patient satisfaction and increased clinical quality for the patients. Some of these initiatives are currently underway or under consideration and our approach would increase their velocity and ensure accountability for their execution.

Primary Care and Outpatient Services

Importantly, Jackson needs to make a significant financial and strategic investment in the expansion of primary care physician services and outpatient clinics and capabilities. This will allow Jackson to be positioned for the dynamics of healthcare reform which will reward healthcare providers for their ability to improve the overall wellness of the populations that they serve. This is the accountable care model. It will also allow Jackson to consistently treat and monitor patients in the lowest appropriate cost setting. Currently, patients with chronic conditions and/or no access to primary care services frequently seek treatment at the Jackson emergency department, a very high cost environment. These patients have often delayed seeking care and therefore present in a much more compromised state than if they would have had access to primary care through a medical home. Enhanced primary care and outpatient modalities are one of the keys to reducing operating costs and improving the overall community health. Jackson is significantly behind in these areas which are fundamental in the equation of long term sustainability.

Public/Private Partnership Opportunity

Jackson should consider entering into a transaction with a private enterprise to provide the capital for the expansion into primary care and outpatient services. For example, a private company may invest the upfront capital to develop a primary care/outpatient center on the campus of Jackson and Jackson can become a long term tenant of this facility. This will allow Jackson to make much quicker progress on the primary care strategy than if it had to use its own capital, which is not currently available. This is just one example of an opportunity for a public/private partnership that does not change the fundamental ownership model of Jackson but provides a win-win relationship between the parties.

Outside Proposals

The existence of outside offers to take over Jackson should serve as a very real reminder that Jackson is a wonderful facility with a lot of potential, including the potential to be financially viable if it is run efficiently, effectively and strategically. This activity should serve as an immediate call to action to all stakeholders.

Any outside operator of Jackson will be motivated to adopt a strategic plan, invest in primary care capabilities, reduce operating expenses, work in an efficient and effective governance structure, be adequately funded for the responsibilities it takes on, provide care in the lowest cost setting, reduce length of stay to clinically optimal levels, provide budgeting and other financial reporting with integrity and credibility, invest in information technology including achieving meaningful use compliance, maximize the Jackson brand, maximize the leverage of the Jackson Health Plan, increase physician, patient and employee satisfaction levels, optimize the relationship with the University of Miami, achieve a balanced and harmonic relationship with labor, maximize reimbursement through automation, grow market share, be attractive to all patients, and take all other reasonable steps to ensure a financially viable organization into the future. ***These are the right steps to take and immediate action should be taken to begin the process to achieve them before it is too late. The time is now.***

Jackson can be Saved

The above are all initiatives that can be achieved by Jackson with significant support by all stakeholders (internal and external) and with FHC as its turnaround team partner. Our team will integrate with the existing Jackson leadership to ensure continuity of the initiatives already underway. ***Many important and impactful initiatives have already been developed by Jackson and they are in various stages of implementation including revenue cycle improvement, FQHC initiatives, supply chain expense initiatives, industry benchmarking, etc. It is critical that these continue to move forward.***

Turnaround Plan

Exhibit I describes the major initiatives that we will put into place to enact the turnaround. The completion dates will be filled in and presented to the authority structure within 60 days of commencement of the engagement.

Exhibit I:

Jackson Health System Turnaround Plan

	Description	Completion Date
1	Develop ***a meaningful, transparent, and inclusive process that involves all stakeholders*** to prepare, communicate, and execute meaningful strategic, operational, and financial plans to guide the activities and resource utilization of Jackson.	
2	***In conjunction with the PHT and the County, secure access to approximately $300 million to fund the turnaround effort and to fund operational losses during the interim period.*** Explore options to leverage the real estate or other assets in addition to pursing options with State and Federal resources. The turnaround efforts are not predicated on securing the additional resources although the velocity and impact of the project would be greatly enhanced.	
3	***Institute the use of evidenced base medicine guidelines wherever applicable to reduce the length of stay, move patients to the lowest appropriate acuity settings, reduce operating costs, reduce hospital borne infections, and enhance patient satisfaction and clinical outcomes.*** Develop real time intervention processes to immediately resolve instances where there is a lack of alignment between the case management function and the attending physician.	
4	In conjunction with case management, utilization review, and social workers, ***identify and resolve issues impacting timely patient discharge***. This initiative will supplement the adoption of evidenced based medicine guidelines and other strategies impacting length of stay.	
5	***Develop and implement a primary care physician strategy*** that results in increased primary care capabilities on the Jackson main campus. This is not limited to the ongoing discussions regarding FQHC's. This will help to decompress the emergency department, reduce operating costs, decrease wait times to improve patient satisfaction, and position Jackson to respond to the priorities of health care reform. A robust primary care presence will also help Jackson achieve greater market share among employees and the overall community.	
6	***Develop and implement an information technology strategic plan*** to ensure that Jackson is fully utilizing existing information technology resources and also is positioned to excel with the enhanced transparency and other outcome reporting guidelines associated with health care reform.	

	Description	Completion Date
7	***Conduct a thorough value assessment of the overall relationship with the University of Miami*** and evaluate the totality of the relationship through the lenses of financial performance, clinical quality, strategic importance, and operational efficiency and effectiveness. A detailed, fact based evaluation of this relationship is absolutely critical for Jackson to make timely and relevant decisions and to ensure that the arrangement continues to be mutually beneficial.	
8	***Develop and implement a governance dashboard focused on key metrics in the areas of clinical quality/patient safety, financial performance, operational efficiency and effectiveness, customer service, market share, and physician/patient/employee satisfaction.*** A current state and a desired state will be established for each metric selected and governance should review a stoplight report every month documenting progress on achievement of the desired state value. This tool is very helpful to distinguish between operational issues and tactics and governance issues.	
9	***Enhance the timeliness, accuracy, and credibility of financial information reported to all stakeholders*** to facilitate meaningful decision making and timely course correction. Develop an accountability culture where managers are provided timely departmental reports and report upon issues, opportunities, and compliance with budget.	
10	***Continue to work in conjunction with UM to establish, monitor and maintain quality service standards to ensure timely availability of specialty physicians*** to serve the needs of the Jackson ED. Create a mechanism to measure compliance and course correct on a real time basis.	
11	Provide the appropriate number of inpatient hospitalist physicians, patient admitting teams, and specialty physicians ***to address the long standing legacy issue of "bed holds" in the emergency department***. This practice results in very high costs, low reimbursement and reduced patient, employee and physician satisfaction levels.	
12	Review and adjust, if needed, the span of control of the senior management team to ***ensure the availability of qualified personnel to oversee the multiple initiatives that are currently underway along with the new ones included in the turnaround.***	
13	***Develop marketing campaigns to accentuate the experience of the Jackson clinical team, the nurse to patient ratios, and advanced clinical services provided***. Supplement with focus on new service levels provided in ED and other service lines once they have been achieved.	
14	Make meaningful and tangible progress in the ***reduction of overtime and agency spending*** through the recruitment of additional resources to fill the shifts currently staffed using these means and the training of nurses in low census areas.	

DETERMINANTS OF THE EFFECTIVENESS OF BOARD GOVERNANCE IN HOSPITALS: IMPLICATIONS FOR STRATEGIC DECISION MAKING AND LONG-TERM VIABILITY

Prepared by

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May 20, 2011

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TABLE OF CONTENTS

I. EXECUTIVE SUMMARY **1**

II. OVERVIEW **3**

III. CONCEPTUAL FRAMEWORK: BEST PRACTICES IN HOSPITAL GOVERNANCE **5**

IV. DETERMINANTS OF BOARD EFFECTIVENESS: SPECIFIC EXAMPLES **10**

V. CONCLUSIONS ON BOARD GOVERNANCE AND EFFECTIVENESS IN DECISION MAKING **16**

APPENDIX I: SPECIFIC HOSPITAL CASES AND EVIDENCE OF EFFECTIVENESS **18**

APPENDIX II: REFERENCES CONSULTED IN THE STUDY **27**

I. EXECUTIVE SUMMARY

- **The type of legal structure of a hospital (for-profit, (501)(c)(3), public, Taxing District and others) has less to do with the viability and quality care of a hospital than efficient board governance, effective strategic planning and implementation and top management qualities. Positive financial results and top quality care are the results of these factors, not the results of the legal structure of a hospital.**

- The effectiveness of Board Governance in providing strategic direction and oversight is important in determining the financial viability and quality care of hospitals, according to the comprehensive research and case studies contained in this Study.

- Board Governance effectiveness is determined by at least the following four factors:

1. **Board Size.** Most of the high-performing hospitals studied, with similar characteristics of the Jackson Health System (JHS), have between 11 and 14 board members, with active standing committees empowered to work with hospital management and to reach vital decisions in key functions such as finance, strategic planning, marketing mix and others.

2. **Board Power** to help develop and oversee implementation of decisions of strategic importance to a hospital is another component of Board effectiveness.

   - JHS Board Power is diluted by significant "height" and "width," with oversight of the Board (height) by a large county commission made up of distinct districts and a relatively large Trustee Board (width).
   - The "depth" of the Board is defined by the individual levels of experience and qualifications of the members in the group (depth).

3. **Board Efficiency** is another important determinant of Board Governance effectiveness.

   - Efficiency is enhanced by **independence** of standing committees of the Board.
   - Efficiency is also intensified by reducing the number of overall Board meetings, and allowing the more flexible, smaller and expert committees of the Board to meet more frequently with hospital management such as the CEO, CFO, COO and others.

- "Ad-Hoc" emergency meetings of the Board should be kept to a minimum according to "best practices" of Board Governance.
- JHS's Board Governance appears to have a large number of "emergency" meetings, where limited information to make sound strategic decisions are discussed and debated, which in turn creates confusion among management, critical medical personnel and stakeholders.

4. **Board Composition** is also a key driver of effectiveness in governance structure.

- Board members must include independent directors (S.E.C. test), with significant experience in strategic planning **at hospitals**; financial services, medical care and administration related to funding sources from local and federal governments.
- Successful Board Governance at the hospitals studied avoid over emphasis in one area of Board composition as this changes Board-power dynamics, and could create a biased view of strategic objectives.

The primary conclusion of this study is threefold:

1. There is no governance structure that directly determines the effectiveness of a health system. There are no magical governance answers.
2. **The type of legal structure of a hospital (for-profit, (501)(c)(3), public, Taxing District and others) has less to do with the viability and quality care of a hospital than efficient board governance, effective strategic planning and implementation and top management qualities. Positive financial results and top quality care are the results of these factors, not the results of the legal structure of a hospital.**
3. There are multiple factors that lead to effective governing boards (e.g. power, size, composition, efficiency). These variables are in part driven by the type of health system over which the board governs.

The Washington Economics Group was commissioned by the doctors, nurses and other healthcare professionals of SEIU Local 1991 at Jackson Health System.

II. OVERVIEW

The governance structure within an organization plays an important role in its development and the decision-making related to a number of strategically important areas. In public hospitals for example, the decision-making of Boards can affect the areas of finance and capital, operations, quality, medical staff and personnel, strategic planning and philanthropy decisions among others.

An effective hospital board has been shown to be related to high hospital financial performance. The size and composition of hospital governance boards, and the function (public, private, religious, etc) of the hospital itself, all interact and partially determine the board's effectiveness.

In essence, if the hospital relied heavily on private donations and fundraising, and the hospital was rather large, having a larger board of directors, many of whom had experience in fundraising, would be important for the hospital. If, on the other hand, the hospital received support from the local or federal government instead, as is the case with public hospitals, fundraising experience would be less important for board member selection than administrative skills and knowledge of the administration within the hospitals. Indeed, Rick Kneipper writes of the financial crisis at Jackson that board governance expertise is critical and the board of trustees should be changed so that the majority of members have experience or a background in finance, accounting, business, management or labor. Kneipper also states that at least some of the board members should have backgrounds specifically in hospital finance, hospital management or experience with running a hospital. Therefore, it seems that the effectiveness of board governance structure in hospitals, both as a matter of overall size of the board and as a matter of the composition based upon the experience of each board member, is also contingent on the function of the hospital (or what each hospital needs from its board members).

A majority of hospitals fall into three basic categories; Public (hospitals funded or operated by city, state or federal governments), Religious (hospitals owned and or operated by religious denominations), and Private Nonprofits (hospitals that have no government or religious affiliation), although there are other models such as private for profit, and others. In each of these functional types of hospitals there may also be sub-categories or models of governance structures. For example, within public hospitals although there may be only one main governance board, it may be appointed by and report to a state or local authority, such as a county board of supervisors or some other third-party. Privately owned hospitals on the

other hand, may have multiple boards ranging from national corporate-levels that guide all hospitals under management, to local business-levels, guiding one hospital in particular. Therefore, as the board size is usually examined when exploring how efficient a board is at achieving its mission and creating a high-performing hospital, also considering any additional number of board-levels, or higher authorities it reports to, may be necessary. In each case an attempt is made to optimize the governance structure based upon the environment and the needs of the hospital. In this analysis, the primary focus will be on the board governance effectiveness among public, non-profit hospitals. This study will develop:

1) A conceptual framework on board governance structure issues such as size, composition, experience, linkages, institutional pressures and resource dependency,

2) A comprehensive list and framework of key determinants of board effectiveness will be discussed; and

3) Case studies and other evidence of best practices or key drivers of board effectiveness in hospitals, primarily public hospitals, will be examined.

The primary conclusion of this study is threefold:

1. There is no governance structure that directly determines the effectiveness of a health system. There are no magical governance answers.

2. **The type of legal structure of a hospital (for-profit, (501)(c)(3), Taxing District and others) has less to do with the viability and quality care of a hospital than efficient board governance, effective strategic planning and implementation and top management qualities. Positive financial results and top quality care are the results of these factors, not the results of the legal structure of a hospital.**

3. There are multiple factors that lead to effective governing boards (e.g. power, size, composition, efficiency). These variables are in part driven by the type of health system over which the board governs.

III. CONCEPTUAL FRAMEWORK: BEST PRACTICES IN HOSPITAL GOVERNANCE

In this section, best practices and concepts related to upper-level management teams and board governance will be examined such that an understanding of what issues impact strategic decision making and the effectiveness and quality of decision making may be better understood. In addition, institutional and resource dependency concepts will be explored as a fundamental factor in the relationship between board governance and organizational effectiveness. This analytical background will support a conceptual framework for the key drivers of success in board governance among public hospitals which will later be analyzed qualitatively through case studies and other evidence.

Board Governance - When it comes to executive boards and the oversight of organizations, there are many dynamics in play including the amount of power that the board has, who has power among the board members, what is the level of similarity or dissimilarity among board members, what are the effects of linkages between board members and other entities, how does board member composition effect future member selection and how does board governance effect the hospital's ability to attract vital resources such as funding and medical personnel.

Board Power can be described as the level of influence the board has on a particular area in which strategic decisions are made. In public hospitals for example, when board power is high among officials from a relevant government body, the ability to influence revenue streams from taxpayers is also normally high. Inversely, in cases where board power is given to a third party or to managers within the hospital itself, the ability to influence the quality of care will be high but power to influence revenue streams from taxpayers is lower. Board power may also be considered as a function of the overall restrictions placed on it by complex environments. According to the National Association of Public Hospitals and Health Systems (NAPHHS) public-hospital boards, for example, often have a more complicated set of responsibilities than that of boards from other hospitals in their communities. For example, these boards must adhere to legal, regulatory and political pressures while providing a safety net for the uninsured or underinsured population; worry about reductions in Medicaid funding and local support as well as the competition for such patients; consider immigration reform issues and its effect on patient status, how hospital business is regarded in the public eye and many other issues that encumber management processes. Therefore, although boards may influence several areas of strategic importance, the power that they wield in any one area may be regulated or checked by responsibilities that they have to another constituent area. The research conducted for this study shows that

although boards may have the ability to increase the allocation of funding to support hospital costs, pressures to reduce costs in order to receive state funding, or restrictions placed on funding, may inhibit this. Conversely, the ability to provide quality healthcare by attracting better doctors and nurses may be a function of the salaries and benefits that are paid.

Board Member Power – This is not the same as board power in general. Where board power is the overall ability of the board to decide on and influence matters of strategic importance, *board member power* is the ability to decide on and influence matters of strategic importance that individual members within the board have. Although the function of a board is to serve as a collection of persons who are, for the most part, equally responsible for the strategic outcomes of an organization, such equal distribution of board power is rare. Indeed, often there are one or more board members that dominate the remaining board members regarding what strategic areas need attention and what decisions, if any, should be made in those areas. In some cases, CEO-Board directors or (top managers) actively recruit board members that serve, or have served, on passive boards so that they can maintain their control over board decisions.

Similarly, it is argued that active boards, where top managers do not have control, will seek out board members who serve or have served on active boards-where board members regularly intervene in strategic matters. Indeed, when incumbent CEOs have power over the board members they seek to have members appointed that are similar to themselves so that they are more sympathetic to them with respect to their strategic plans. When this is the case, the CEOs have a tendency to receive more lucrative compensation packages, and also engage in activities that are not essential to the success of the organization, and thus this is an example of the agency costs associated with management not in the best interest of the institution.

Board Member Similarity - The strategic direction of an organization is often thought to be a reflection of the characteristics of top management teams. In other words, the background and makeup of each leader such as their work experience, formal education, age and other attributes, all influence the manner in which leaders view, and cognitively interpret, the environment in which strategic decisions are made. Indeed, case evidence demonstrates that managers of hospitals have been shown to play an important role in scanning and interpreting information from the environment in order to make sense of it and act strategically so that their hospitals may perform better than managers that are less pro-active. Therefore, **the results of positive financial performance and strategic direction are primarily the outcomes of board decisions.**

When board members are similar in terms of their characteristics, the manner in which they view and interpret the world is also likely to be similar. As noted previously, top managers within boards, such as CEOs who may be chairman, often seek out board members who are demographically similar in order to achieve power within the board. Thus, too much demographic similarity of board members is also likely to yield an unfavorable distribution of strategic attention and power of influence targeting one area rather than creating a comprehensive view. For example, **if hospital board members were heavily influential and they similarly believed the only solution to a strategic issue, such as reducing deficits, was to reduce costs, such as labor, they would only focus attention on this matter and not necessarily examine other issues that may be creating budget deficits, such as an inability to generate revenue or minimize losses from operational ineffectiveness**.

In an attempt to improve board effectiveness that is hindered by such issues, the Wyoming Valley Health Care System board elected seven new members, and had a fresh and balanced board. This move effectively removed entrenched leadership that may have continued to view strategic issues in a similar manner based upon their collective experience, and also allowed for a balanced perspective that included the cognition of physicians as well as banking officials.

Board Size **-** Board size is generally measured by the number of members serving on a particular board, and this is reported to influence the effectiveness of boards in many hospital systems. For example, recommendations for the WVHCS board in 2001 led to the reduction in board members from 16 to 13 in an effort to improve efficiencies. The Bain & Company Report on hospital governance also shows that high performing non-profit boards have an average of 14 members, with a sample size of boards ranging from 6 to 20. This leads some to believe that a bigger board is not necessarily more effective, and there are several reasons why this may be the case. As noted above in reference to similarity/dissimilarity, having too many board members may hinder the decision-making process. **Thus, having a diverse body to share information and perspective is good up until a certain point, and then the added benefit of additional opinions is outweighed by sluggish decision making or other problems created by additional members.**

Board size measured by number of members is not necessarily a complete view of the size of the board. For example, to understand the size of a box, one cannot only look at its width, but also the depth and the height must be included to have a good understanding of its size. Similarly, hospital boards may have an additional measure of depth such as the number of standing committees that serve specific roles on the board. There is also a matter of height

when it comes to board size. Privatized hospitals may have one board where public hospitals have multiple board levels from local to governmental responsibilities requiring coordination between the levels.

Board Member Linkages - A board member linkage is any connection that a board member has with another group or organization. In the case of the JHS, the Public Health Trust has members that work for other organizations, it has two members that sit on the Board of County Commissioners, and it has other ex-officio members that may be in charge of hospitals or university schools of medicine within the local community. Accordingly, each member has access to different learning mechanisms from the organizations that they represent, and they also have different linkages that they may influence on behalf of the Public Health Trust or that may influence them and thus the Board of Trustees. Each board member is appointed and brings with them a connection to the external community that will influence the manner in which they think and act as a part of the board.

Gerald F. Davis in Corporate Governance argues that attempting to reform board governance by changing their incentive plans is of little use because the real effect may stem from the relations they have serving on being other boards, or being the heads of other organizations. Indeed, the *interlocks* that they have with other organizations yield a type of social influence that may affect the strategic decision making as well as the strategies themselves. Thus, linkages cannot simply be characterized as having a positive or negative impact on board governance, but rather identified as a manner of social influence that must be taken into account when creating an effective board structure.

Essentially, each board member is embedded in a larger social environment in which they face normative pressures to adhere to the demands of society and industry on how to behave strategically. These pressures are described as isomorphic pressures (meaning a change in form similar to other successful organizations), as the leaders of organizations have a tendency to *mimic* best strategies, follow the *norms* of society and be *coerced* by influential external parties until most organizations all look the same. For example, Harding and Preker argue that there is justification and increased pressure to privatize, corporatize, and/or autonomize the management of public safety-net hospitals that will lead many hospitals to alter their governance structures accordingly. On one end of this spectrum, giving more autonomy to hospitals will allow management to have more control over accessing revenues, but goals for quality and access to care functions may still need to be specified. Privatization, on the opposite end of this spectrum, where management not only will more closely resemble a *corporation*, would cede control to separate owners most likely keeping the generation or profits at paramount importance (the implication being at the expense of

quality healthcare for the local community). Thus, having a greater amount of board members with linkages to specific organizations or industries is likely to influence the strategic thinking and orientation of hospitals.

IV. DETERMINANTS OF BOARD EFFECTIVENESS: SPECIFIC EXAMPLES

In this section, a review of research and cases on the key determinants of board effectiveness will be discussed based on the conceptual framework developed previously, with primary focus on public hospitals similar to Jackson Health System (JHS). Most evidence of board effectiveness will deal with financial performance; however, it should also be noted that financial performance is not the only measure of effectiveness, and it may often times be correlated with other measures such as quality of patient care and operational effectiveness. Any and all evidence that particular board governance structures or policies are more effective than others will be provided. Also, findings that suggest that one area is more important for board effectiveness than others will be discussed and the interaction effects with other areas will be examined. **Finally, a model will be created to illustrate the relationships between key determinants of board effectiveness and their relationship to decision making, leading to long-term hospital viability.**

Hospital Type **- There is no optimal model of governance as studies examining the attempts of public hospitals to change their governance structure have proven**. For example, Grady Memorial Healthcare System in Atlanta and Westchester Medical Center in upstate New York both shifted to hospital 501(c) (3) and public-benefit corporations. Grady Memorial had a great deal of success and support from the local community; Westchester Medical nearly went bankrupt as a result of failure to create autonomy in hospital management and problems from the local community. Studies show that there were trade-offs to different legal classifications. **For-profit corporations may lose focus of the mission of the hospital to serve the community, as well as government funding, and a hospital district structure would require alterations in property taxes which would likely be difficult**.

In a 2008, National Public Health and Hospital Institute Report on "Best Practices in Public Board Governance," prepared by Larry Gage and David Gross, for a proposal to restructure the Cook County Bureau of Health Services. The authors examined semi-autonomous boards within the local government, Independent Non-taxing Unit of Government, Independent Taxing Districts, and Non-profit corporation models and suggested that best practices apply to all models and indicated that the models are not necessarily what are most important. **They suggest that autonomy, accountability and member leadership are the keys to successful boards, and each model presents benefits and drawbacks with respect to this.**

Board Size **-** Efficiency is a key determinant of board effectiveness and part of this is matching the size of the board correctly to the financial status and complexity of the

organization. Cases studied frequently find 9 to 11 member boards, although some were as large as 17 members in the case of Grady Memorial. The 2008 NPHHI report found that there were about 13 board members on average per hospital with fewer on average (8) in non-public hospitals.

The Bain & Company Report suggests that high-performing non-profit hospitals have an average board size of about 11-14 members. Research shows that board size is reduced in importance when the hospitals rely less on the local environment for funding, as is the case with federally funded hospitals, although many hospitals have recognized that smaller boards might be more efficient, and board sizes have been adjusted in this manner. For example, the Wyoming Valley Healthcare System was reduced from 16 to 13 members to improve efficiency upon the recommendation of consultants (see References in Appendix II for this section).

Board Levels – Board Levels and Committees are issues of board size that matter and should be taken into consideration. The Greater Southeast Community Hospital in Washington, D.C. had as many as 13 boards and 70 members as they thought bigger was better. This hospital later recognized the inefficiency and attempted to reduce board size and complexity, achieving 25 percent reductions, but eventually this hospital would have to make enormous cuts in its services, and ended up nearly insolvement before being purchased by a private healthcare company that changed its name due to the bad reputation it had received. **Standing committees that separately audit the board, governance and finance/budget activities are essential for increased financial performance. Independent committees and auditing of the board for conflicts of interest, allowing for meetings without executives and delegation of authority to committees are all recommended to improve board effectiveness, and this has some implications for efficiency. Sharing information is also recommended in recent management studies, which means having regular meetings, setting attendance requirements and having access to senior executives. The Bain & Company Report suggests that having around 8 to 12 meetings per year is the norm for high-performing hospitals while also having about 8 standing committees**.

Board Power – Research and cases of financially viable hospitals, recommended that boards be actively engaged in oversight of executive management (CEO, COO, CFO, GC), and it has shown that proactive adoption of such items, as guidelines to financial oversight increases financial performance in hospitals. The National Public Health and Hospital Institute Report as well as Bharucha & Oberlin (see Reference Section), argued that boards should serve to empower the hospital administrators and give them autonomy while still providing oversight and accountability. Best practices recommend that board directors receive orientation and ongoing education alongside a clearly established set of

responsibilities, thus a mission statement of organization with a statement of directors' responsibilities should be formalized. A 2009 article from the International Journal of Environmental Research and Public Health found limitation of board member terms, as was recommended by Bain & Company and Peregrine & Schwartz. Recommendation of term limits at a maximum of three years, with some consulting firms recommending term limits of one year. This helps generate fresh thinking, eliminating some cognitive and attention-based bias, creating active boards, and limits insidership and the formation of powerful subgroups within the board.

Best Practices recommend that boards must ensure high executive performance, high quality of patient care, financial health and oversight of itself. Thus, boards are in essence established to reduce agency costs within hospital administration and consequently the elimination of conflicts of interest that inhibit the accomplishment of any one of these tasks. To make decisions effectively, policies must be set by boards, such that decisions include evaluation of external scenarios in accordance with internal mission statements and goals, lest decisions be disjointed and ineffective. There must also be a healthy balance of power with the CEO and boards such that tensions may be reduced and performance enhanced.

Board Composition – Best Practices indicate that there needs to be diversity of experience and an establishment of qualifications to serve on the board in order to increase effectiveness. They suggest that boards need to have access to hospitals' administrative staff/executives on a regular basis, not just at scheduled board meetings. High-performing hospitals often have a CFO representative-member on the board, which would help sort out financial planning issues, and most boards carry majority of outside members (non-medical staff, non-hospital administrators.)

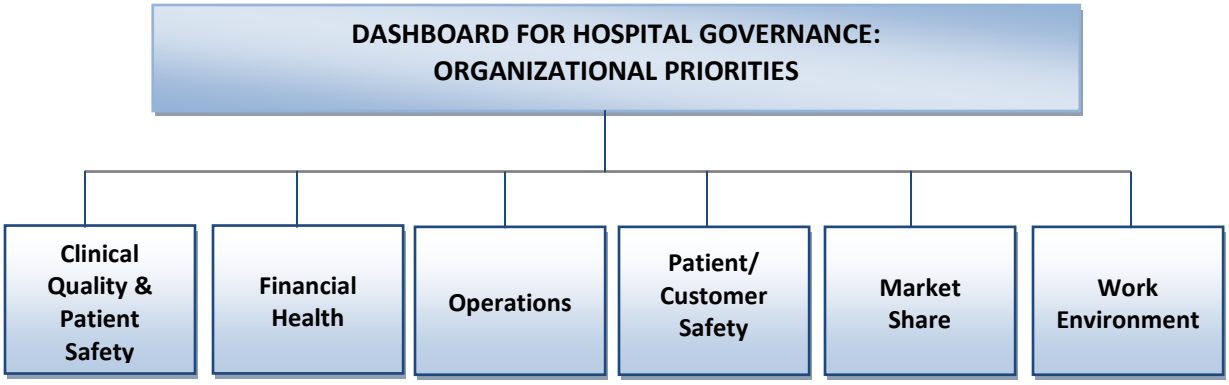
High-performing hospitals tend to have more medical staff (about 30 percent) and more hospital administrators (about 10 percent) on Boards than those hospitals that perform about average. This could be attributable to the need to maintain quality care to attract patients and the need for unique information sharing provided by administrators and medical staff directly involved with hospital operations. However, it is noted that public hospitals should not have more than 50 percent of their members receive more than 10 percent on their income from a healthcare profession. In essence, many hospitals that attempt revisions of management oversight, board composition, public involvement and education as well as hospital bylaws, increase the flexibility of hospitals and this in turn improves effectiveness. The following matrix summarizes recommendations for efficient Board Governance, based on the exhaustive research of management practices and concepts at hospitals in the U.S. A model of discussion of board effectiveness is also presented.

Broad Categories of Key Determinants of Board Effectiveness in Non-Profit Hospitals: Recommendations			
Board Size	**Board Power**	**Board Efficiency**	**Board Composition**
Reduce committee members to optimal size for efficiency – Many high performing hospitals have 11-14 total board members, at a maximum. ***Reduce number of standing committees & maximize independency*** – Many high-performing hospitals have around 8 or fewer standing committees. – Financial/business, strategic planning, governance of hospital, self-auditing, nominating, and quality committees are all critical to successful boards.	***Create an active (proactive), independent board for oversight of management of hospital*** – Board members need to be actively engaged and be empowered in informed oversight of hospital, with specific guidelines for oversight of CEO and other executive performance. ***Create a specific set of duties & responsibilities for board*** – The board's authority and duties must be clearly laid out alongside all those in standing committees and individual members. ***Remove conflicts of interest*** – Many high performing hospitals limit the term of members to less than 3 years, some as few as one. – Create independence from CEO (of hospital) and Board Director position. – Have committee meetings without CEO or other hospital administration on a regular basis.	***Reduce overall meetings to the amount necessary to achieve objectives*** – Many high performing hospital Boards meet less than 12 times per year. ***Increase autonomy & independence of standing committees*** – Establish qualifications of members and formally create mandates for independent committees. – Many high-performing hospitals have audits of budget/financial performance, governance of hospital, strategic planning and auditing of the board itself. ***Promote timely information sharing*** – Regularity in meetings, required attendance, and access to members who can share strategically important information will improve decision-making speed and ability. ***Prepare plans for removal or transfer of board members in the event of conflict or failure to perform duties*** – Specific guidelines and timelines should be created to ensure board members fulfill their duties, when members' fail to meet their responsibilities, an efficient codified plan to correct the problem should already be in place.	***Establish qualifications needed based on the demands of external constituents*** – Be sure to include members experienced with strategic planning in hospitals, financial services, medical care, and of course administration related to funding from local or federal government (public relations). ***Do not over or under emphasize particular qualifications in members*** – Highly effective hospitals often have about 30 percent medical staff, 60 percent outside independent directors (usually from business and financial services), and about 10 percent hospital administration. – Over emphasis in one area can change board power dynamics and create a biased view of strategic objectives. – Board appointments based on competence, not political connections.

Recommendations for the Jackson Health System based on Key Determinates of Board Effectiveness			
Board Size	**Board Power**	**Board Efficiency**	**Board Composition**
Reduce the number of Public Health Trust members, currently at 16 members and 7 ex-officio members, to 11-14 total board members. This is the recommended maximum size for efficiency. ***Do not exceed the number of current standing committees, currently at 6 within the Public Health Trust, in order to maximize independence and to meet the strategic goals of the Public Health Trust.***	***The Operations Oversight committee shall be independent and provide informed and proactive oversight of the hospital system, with specific guidelines for oversight of the new CEO and other executive performance.*** ***Revisit and update the duties and responsibilities for the Public Health Trust members under the new CEO.***	***Reduce excessive meetings to the amount necessary to achieve strategic, planned objectives.*** ***Increase the autonomy and independence of the six standing committees.*** ***Require timely information sharing and attendance guidelines for members. If guidelines are not met, plans should be in place so that members failing to perform their duties are removed or transferred.***	***Among other members with diverse professional experience, include members who have the following background and experience: hospital management, strategic planning and financial management of hospitals and administration related to funding from local, state or federal governments.*** ***Ensure that Public Health Trust members are appointed based on their merits and competence, not for their political connections.***

Furthermore, determinants of a quality and efficient hospital system depend on important policies being in place and a tool to measure the operating functionality of such policies. As shown in the figure below, a **dashboard for best governing practices** should be included as part of a system-wide performance management tool to measure, track and carry out the performance priorities as determined by the hospital system's Board of Directors and management. An effective governing body adheres to guidelines that are in place to ensure the seamless function of its mission. For example, **an effective governing body will have a strategic plan in place which incorporates measures for clinical quality and patient safety, financial approaches and top patient care and employee satisfaction practices.**

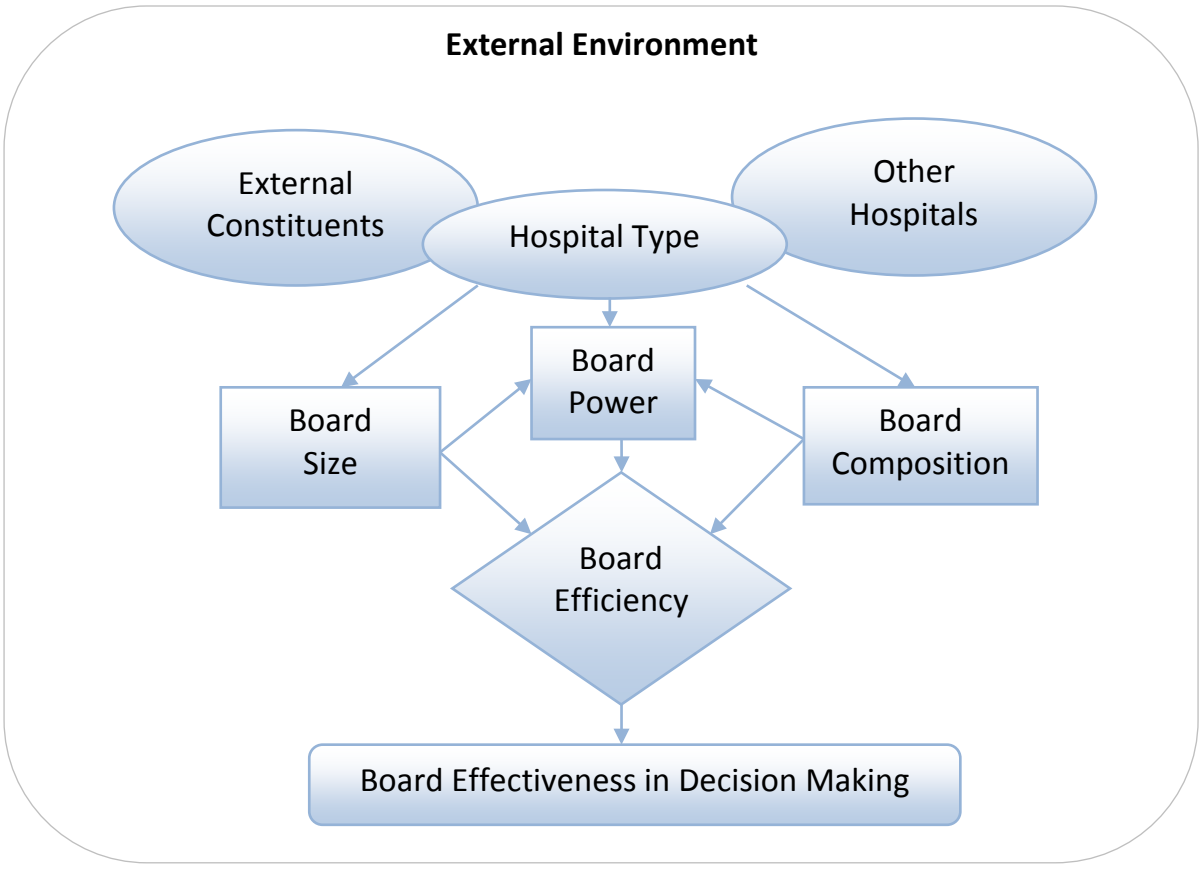
Organizational Priorities in Hospital Governance: A Recommended Dashboard



V. Conclusions on Board Governance and Effectiveness in Decision Making

Based on the research conducted, below is a schematic summary of factors impacting decision making within Boards.

Model of Factors Contributing to Board Governance Effectiveness in Decision-Making



Source: The Washington Economics Group, Inc.

Research and cases presented in this Study suggest that simply changing legal status may not improve efficiency. Board governance efficiency depends on best practices as discussed in this analysis, not legal structure per se. Efficient boards are equipped to deal with non-performance issues proactively so that problems do not perpetuate. Efficiency could be described as maximizing the productivity of meetings, minimizing conflicts of interest (and therefore reducing agency costs), sharing information in a timely fashion and attending to strategic concerns and implementations of decisions while they are relevant. Accordingly, efficiency seeks the optimum amount of meetings to facilitate this process. **Efficiency is in turn partially a function of *board power, board size* and *board***

***composition*, with the latter two factors also affecting *board power*, and all factors related to the strategic fit with hospital type.**

As mentioned previously, each hospital requires its own unique board structure and composition to yield optimal efficiency in decision making. ***Hospital type*** will partially dictate this need as private hospitals and public hospitals face different needs; taxing districts versus public trusts that report to county commissioners are facing different pressures for funding, and of course size and scope of hospital care are important as well. Each hospital has a unique array of ***external constituents*** that it must attend to in order to maintain legitimacy that may help attract scarce resources. These hospitals are also operating in an external environment where they compete with *other hospitals* for resources such as Medicaid funding, patients and medical staff (as well as board members). Thus, the optimal board structure is contingent on a number of external factors interacting with internal factors. So although benchmarking is a good way to determine if the governance structure is not efficient, it should most likely be taken as reform priority only in cases where there is a large difference in the recommended structural norms that lead to high performance and what the focal hospital structuring looks like. It is also worth considering any structural reform in the case of larger macro-environmental reform or changes, as high performing hospitals under one set of conditions may not be high performing under alternate conditions in the external environment (i.e. changes in health insurance coverage or economic conditions).

The type of legal structure of a hospital (for-profit, (501)(c)(3), public, Taxing District) has less to do with the viability and quality of care of a hospital than efficient board governance, effective strategic planning and implementation and top management qualities. Positive financial results and top quality care **are the results** of these factors, not the results of the legal structure of a hospital.

APPENDIX I

SPECIFIC HOSPITAL CASES AND EVIDENCE OF EFFECTIVENESS

- **Grady Healthcare System (GHS)**

GHS, based in metro Atlanta, was and still remains a non-unionized hospital system with nearly 1,000 beds and one of the largest Level 1 Trauma Centers in the U.S. More than ¾ of its patients were on Medicaid or uninsured in 2008. Up until 2007, GHS was a Hospital Authority model marred with allegations of corruption and discrimination, alongside highly politicized board members not yielding authority to leadership at the hospital. Prior appointed boards lacked independence and expert backgrounds such as finance and information technology, and Grady Memorial Hospital faced a $120 million shortfall. From 2005-2008 there were five new CEOs. The System also had issues with recruiting and retaining qualified employees and firing those not meeting standards as a result of civil service limitations. In 2006, GHS was bordering on insolvency and accordingly, officials established the "Greater Grady" Task Force that was asked to return GHS to a viable healthcare entity.

The "Greater Grady" Task Force recommended restructuring the legal entity and changing board governance structure to the Grady Memorial Hospital Corporation. The agreement had many provisos including $200 million in commitments from the business community in Atlanta, commitments to retain vital healthcare services for the community and to raise $100 million in philanthropic funds by 2012. The new board was put in place that had 17 members with four of them retained from the current board. A new CEO was also appointed in less than six months and within 9 months GHS had $42.6 million enhancements in revenue cycle, $17.2 million in supply chain savings and had received over $50 million in philanthropic funding.

As part of the Metro Atlanta Chamber of Commerce's request for best governance practices, the following main findings and recommendations to GHS were:

- Board sizes of high performing hospitals were about 11-14 members, met about 8-12 times per year, had around 8 standing committees,
- Boards should have three or more members with finance experience,
- Twenty (20) to 30 percent of members with hospital and medical expertise and a majority with management experience,
- Clearly established guidelines for monitoring CEO performance and a separate auditing of board performance.

- **Cook County Health & Hospitals System (CCHHS)**

CCHHS, formerly known as the Cook County Bureau of Health Services (CCHHS) in Chicago, Illinois, is a unionized hospital that serves the approximately 5 million residents of Cook County, Illinois, with its three hospitals and various health and services departments. It is a teaching hospital with Level I Trauma Center and 464 beds among its hospitals. In 2008, an 11-member board was elected by the Cook County President and County Board of Commissioners in an effort to improve efficiency and delivery of healthcare to the residents of Cook County, overseeing a budget of nearly $1 billion in medical care to its 500,000 annual patients.

In May 2008, a report to the Union League Club of Chicago and to the citizens of Cook County was prepared by the National Public Health and Hospital Institute (NPHHI) regarding best practices in Public Hospital Governance. The Report presented proposals to the restructuring of the Cook County Bureau of Health Services. It also examined governance models such as a semi-autonomous Board within Local Government, Independent Non-taxing Unit of Government, Independent Taxing District and Nonprofit Corporation. The findings were mostly applicable to taxing and non-taxing units of government, but it stated that regardless of the model (even in nonprofit corporations), 'best practice' recommendations would apply.

The NPHHI Report found the following: reorganization success was contingent on achieving a balance between *autonomy* (in critical areas such as budget and finance, strategic planning, procurement and purchasing, and personnel) and *accountability* by elected officials and the community to ensure public funds are being used efficiently.

***Board organiza*tion** initiatives need to simultaneously consider the following areas to optimize efficiency: size (7-13 members), appointment procedures for members of the board (broad range of interests should be represented, no single political entity should appoint members), removal policies for board members (if members violate bylaws or fail to do their job), term staggering and term limits (directors 4-year terms, members 3-year terms with revolving appointments to avoid loss of entire board at once), qualifications of board members (including management, law, finance, and medical or health backgrounds), bylaws to guide meetings and behavior of members, number of standing committees (6-8 committees with auditing of governance and finance/accounting paramount among others), board education (keeping members informed on matters of importance and training new members), board action (voting requirements for decision making), removal of conflicts of interest (external linkages that can create bias and/or agency costs should be reduced or eliminated), and indemnification against liabilities (such that there is no liability for members acting in the best interest of the hospital that would inhibit board members from taking action on

strategic matters of importance). *Accountability and transparency* should also exist such as: who is voting on important issues, the keeping of records, listing of mission, and maintaining some local government reserve powers for accountability, but many public hospitals cite *transparency* as the Achilles heel of public hospitals – when competing with privatized hospitals that do not keep a public record of their strategic discussions and initiatives.

The recommendation of the NPHHI Report was that in the circumstance of the Cook County Bureau of Health Services, it should create a hospital board within county government. The board should consist of 11-voting members and one non-voting CEO ex-officio member with various appointments made by alternate political entities. The board members should have 2-year staggered terms and should delegate authority to the hospital CEO and hospital administrators whenever possible while maintaining oversight. Many of these recommendations were implemented the same year.

- **Denver Health**

Denver Health is Colorado's primary safety-net hospital, is non-unionized, and has 477 beds and a Level 1 Trauma Center. The system provided about $300 million in uncompensated care in 2008. Formerly a department of the city/county government during the early to mid-1990's, Denver Health had difficulties dealing with operational flexibility and faced many constraints by local government both in civil purchasing and service as well as legal constraints. The hospital and 11 community clinics operated in rather isolated fashion and leadership lacked the authority or experience to make decisions that could improve management.

In 1997, Denver Health became the Denver Health Hospital Authority (DHHA). Prior to this change, a task force was commissioned to examine alternative mechanisms/models of governance including: a not-for-profit corporation, public benefit corporation, hospital district and a hospital authority. The move to a hospital authority was instrumental in increasing the management's efficiency, flexibility and ability to act strategically while still remaining a public entity. The board now consists of 9 members appointed by the mayor that are otherwise insulated from local political pressure and have a great deal of autonomy. Although the structural change was influential, the success of the system was more in line with gaining flexibility which led to increasingly efficient practices.

The 9 members have 5-year terms limits and direct the financial management, education, personnel, quality assurance and compensation activities as well as Denver Medical Health Plan, Inc. The CEO reports directly to the board and suggests that the new stability in

leadership has facilitated the strategic planning and implementation process. The new DHHA was transferred property and other balance sheet assets with the following provisions: 1) that the assets be used to support the hospital's mission, 2) the assets not be sold without permission, 3) over time the Authority provide an amount of unreimbursed care equal to the value of the assets, and 4) in the event of default, all assets will revert back to the city.

The hospital's operational flexibility has improved alongside its integration with multiple care facilities. The hospital now has a competitive market-based salary structure for physicians and other medical staff and has integrated county, state and federal funding and negotiated improved DSH financing. Since making the change they have delivered over $1 billion in unsponsored care, have had $130 million in capital improvements and currently have a positive net margin.

- **Tampa General Hospital**

Tampa General Hospital (TGH) is a private not-for-profit hospital serving 12 counties and a population of over 4 million. It is the region's leading safety net hospital and has the region's only Level 1 Trauma Center that serves the 23 surrounding counties. This Hospital has 1,004 beds and around 6,700 employees. TGH has a longstanding relationship with the University of South Florida's College of Medicine (since 1970), and serves as the College's primary teaching affiliate with over 300 residents assigned to specialty training in a broad spectrum of areas from neurosurgery to internal medicine. TGH is presently governed by a 15-member, volunteer Board of Directors that includes four M.D.'s, one of whom is chief of staff, and a non-physician Chairman of the Board.

Tampa General Hospital opened in 1927 as Tampa Municipal Hospital, a 250-bed facility that would later become the region's largest provider of indigent care. Its governance structure has changed several times during its lifetime with hospital board governance in 1931, City Council oversight in 1949, a Hospital and welfare board in 1963 and then to a Hospital authority under the county board of commissioners in 1980. Governance in some cases was related to external involvement and/or contribution. In 1971, the Hillsborough County Commission agreed to supplement revenues to TGH with property taxes; in 1981 the Hospital authority issued a $166 million bond to renovate the hospital and create another 550-bed tower, and in 1985 another quarter-percent sales tax was added to fund indigent healthcare (the tax law lapsed in 1987) amid warnings of an impending financial crisis. Prior to this, in 1983, TGH was recording financial losses beyond $11 million per year and was on the verge of bankruptcy, as it was providing a disproportionate amount of the share of charity healthcare (up to 75 percent of the indigent care in 1990-91) yet dividing the balance of support by as many as 10 hospitals by 1991. Indeed, the lack of proportionate support as

well as the inability to compete effectively with many privatized hospitals that emerged in the region during the 1980s and 1990s is blamed for the 13 years of losses prior to the privatization of TGH in 1997.

Several attempts had been made to privatize the hospital prior to 1997. Many attributed the financial issues of TGH to the bureaucracy of being a public hospital which some argued prevented TGH from moving to a better location off of the inconvenient Davis Island, making all meetings available to the public, essentially disclosing the hospital's strategic initiatives to competitors and withholding from county commissioners Medicaid funding, in some cases to leverage transparency of hospital finances and operations. Hospitals accounting policies, in particular 'cost shifting,' are issues with many hospitals facing similar shortfalls, as indicated by a former member of TGH's Board of Directors; public hospitals could offset some of their losses by overcharging paying customers and the privately insured. As insurance reimbursement policies became more stringent throughout the 1980s this became more difficult.

Prior to achieving privatization several options were considered in order to help alleviate the financial issues facing TGH including such broad tactics as divestiture (sale of assets) and reorganization. Many options had mixed support, however and were met with resistance. The president of TGH in the mid-1980s, Newell France, believed privatization was the only method of offsetting skyrocketing indigent care costs with diversified revenue streams. Privatization would also allow the CEO and hospital more autonomy to negotiate contracts, making them more competitive, although he was unable to achieve this reorganization. David Bussone, the TGH president from 1991-1995 believed the hospital's public status decreased its ability to compete effectively with surrounding privatized hospitals, yet he attempted divestiture measures, and such changes did not sit well with the public community.

Although privatization seemed like the best option to many hospitals executives it was consistently opposed by the public and was not without its drawbacks. One main reason it was met with opposition was that the public believed privatization would lead the hospital to abandon its mission as a safety net provider of healthcare to indigent patients. In the case of TGH a move from public to private nonprofit was viewed by the public as the same as moving to private for-profit status. As with many cases of privatization, the loss of government funding and some legal abilities provided to public hospitals was a concern. For example, the Lien Law that allowed TGH to place a lien on the awards of accident victims. Privatization did not grant the hospital that same right and from 1998-2000 revenue stream losses from Medicaid and the Lien Law were as much as $40 million.

TGH was reorganized as a private nonprofit, with its present 15-member volunteer board, in 1997. However, it continued to absorb financial losses for several years after the move, partially as a result of the transition in funding to a (501)(c)(3) and also amidst a challenging political environment and public anger. The public continued to lobby for transparency of operations under Florida's Sunshine Law. TGH recorded a $4.1 million profit in 1997, however, experienced losses of $17.3 million in 1998, $10.2 million in 1999 and $7.1 million in 2000 until it (TGH) reversed the trend and achieved a $9 million profit in 2001 and $56.2 million in 2002. During 2003, the City Council also approved a $103 million expansion. In addition to the financial turnaround, and despite worries that it would no longer serve as a public safety net hospital, the hospital's indigent care expenses more than tripled from 1999 until 2003. Deloitte and Touche estimated that although initially privatization looked more costly than the former model of governance, the $11 million in losses for 1999 would have been quadrupled had they not privatized. Total profits rose consistently from 2004 until 2007 (as did indigent patient expenses) when it recorded profits of $67.2 million, yet in 2008 it saw a sharp decline in profits to only $5 million.

Privatization at TGH was not immediately effective, despite its initial profits; several more years of financial losses occurred, mostly as a result of non-cooperation and coordination with the external environment. The move toward privatization did mean that some governmental funding limitations were placed on TGH as well as rights such as with the Lien Laws, however, the following are some of the benefits sought and achieved by TGH as well as other privatizing hospitals:

- Greater strategic and managerial flexibility achieved by removing the bureaucracy of public oversight and procurement rules,
- Ability to seek alternative revenue streams, such as philanthropic contributions under (501)(c)(3), in response to a lack of community and local governmental tax and funding support,
- Organizational streamlining for efficiency of operations and improvement of quality of services and costs savings,
- Medicaid Managed Care to create strategic partnerships with a variety of specialty healthcare providers that matched demand efficiently.

- **Shands Healthcare**

Shands Healthcare is a private, not-for-profit hospital affiliated with the University of Florida's Health Science Center in Gainesville, Florida. Shands Hospital at the University of Florida is unionized while the other hospitals within the system are not unionized. Shands encompasses two academic Medical Centers and two specialty Hospitals as well as outpatient programs and physician practices. It has nearly 1,500 University of Florida (UF) faculty and community physicians alongside over 13,000 employees and roughly 2,000 volunteers that serve 17 counties and receive patients from all of Florida's 67 counties. Shands has two Level I Trauma Centers with emergency air and ground transport, with 220,091 emergency room visits, 1,154,115 outpatient visits and 1,807 licensed beds that served 85,527 hospital admissions in fiscal year 2010. Shands has a 19-member Board of Directors and was a recipient of the 2008 Governor's Sterling Award for Excellence in Performance with scored categories that include leadership, strategic planning and process management among others.

Shands was originally part of what is described as an Academic Health Center (AHC), which in essence is a set group of interrelated entities including such things as medical schools, clinical practices, research activities and associated teaching hospitals, for example. These relationships vary from highly related, with a single CEO and oversight board, to loosely-integrated, independently led and separately board-governed entities. Founded in 1956, the UF Health Sciences Center grew to include colleges of: medicine, nursing, pharmacy, dentistry, veterinary medicine and public health by 1995, in essence growing more diversified and complex. In 1976, a faculty group practice was introduced under the (501)(c)(3) status and in 1980 another Health Center was established in Jacksonville, 70 miles away. The collection of entities often had alternative strategic needs and conflicts among parties within the AHC emerged contributing to decreased efficiency. In the late 1970s and early 1980s, changes in the external environment created significant liabilities for the Shands Teaching Hospital Model AHC. Notably, Shands was facing increased competition from privatized hospitals; it faced significant curbs in reimbursement from the federal Medicare program, and had increased legal and financial risks as a teaching hospital.

In 1985, in response to external pressures, Shands Teaching Hospital was spun-off into a private nonprofit corporation with the primary function of supporting the University of Florida Health Science Center. This move significantly increased operational flexibility and allowed Shands to compete with other privatized hospitals more effectively, particularly with issues related to purchasing and personnel that were state-regulated under the previous legal classification. It has been recognized however that some drawbacks came from the new system, such as an incremental medical liability insurance coverage of $12 million per year and perhaps some errors with purchasing made for Gainesville facilities, not critical to Shands, but thought to be strategically important to prevent competitors from acquiring them. Additionally, in 1998 the position of Vice President for Health Affairs was combined with the position of Dean of Medicine, while the President of the University became the Chairman of the Board. Although the President's position as Chairman was to be temporary, it became permanent in 2003 with the passage of new legislation. In the fiscal year ended June 30, 2010 Shands provided $152.4 million in unsponsored care and generated a profit from its consolidated operations of $26.9 million.

Although Shands Healthcare was proactive in its move towards privatization and still largely assumes its initial role as a teaching hospital in support of the University's College of Medicine, providing $40 million in academic and clinical program funds to the college in 2007-2008, there is some concern over the disintegrated nature of the Academic Health Center. Having so many constituencies under one roof has caused some to worry that turf wars between one entity, for example the college of medicine, and another, for example the hospital will emerge. Thus, although Shands has been successful at pleasing multiple constituencies, and proactive in changes to its legal structure that aided in enhancements of operational efficiency and flexibility, it is recommended that additional attention be placed on the integration of all interrelated entities, particularly at a functional-level. Shands Healthcare has a 19-member Board that oversees separate hospital boards and is considered somewhat disintegrated at present, although efforts are being made to reverse this trend.

Indeed, in 2010 the Shands Hospital Board of Directors voted to restructure governance at Shands Jacksonville and Shands at the University of Florida so that they would more closely collaborate as 'sister' entities. It is considered vital that the faculty recognize that the partners who run the hospital have a great business acumen and extensive managerial expertise that will enhance competitive positioning.

APPENDIX II

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MEMORANDUM

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DATE: May 3, 2011

TO: Bob Johnson

FROM: Larry S. Gage

SUBJECT: Comments for Governance Task Force on Proposed Models

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You have asked for comments on the pros and cons of organizational and funding models under consideration by the Governance Task Force. I am happy to provide the following general observations, and to follow up as needed in response to any questions you (or other members of the Task Force) may have.

1. Structural and Governance Models.

   You have suggested that the following models are under consideration by the Task Force:

   a. Direct Operational Control by the County
   b. Direct Operational Control by the University
   c. Status Quo (Separate Governance Entity)
   d. Enhanced Status Quo
   e. Hospital District Authority
   f. Taxing District
   g. Non- Profit Organization formed by the County
      1) 501 (c) 3
      2) Public Benefit Corporation

I think that realistically, there is very little to be gained (and potentially much to be lost) by returning Jackson Memorial to the direct operation of the County. One of their current obstacles to success – as described in considerable detail in my 2008 report – is the fact that even in its current structure as a semi-independent Public Health Trust, the JHS Board and management has not been granted adequate autonomy from County rules, regulations and requirements. For this reason, I would also discourage the Task Force from thinking about the status quo as an option, unless the County was willing to give the Trust considerably more autonomy than they currently enjoy.

Of the remaining options, the same comments would apply to either an Authority or public benefit corporation structure. Both are generally thought of as semi-independent entities that retain ties to

the governmental entity that created them. Those that have had the greatest measure of success in transforming their systems have been granted considerably greater autonomy than is currently enjoyed by the JHS Board and management. Since such autonomy could clearly be granted under the current structure if the County was willing to do so, there would likely be little need to also create an entirely new authority or PBC structure to accomplish the same goal (unless it is done for image or "branding" purposes.)

Each of the remaining three options (operation by university, taxing district, 501-c-3 non-profit corporation) has the potential to generate substantial improvement over the current situation, although each also has drawbacks.

The creation of an independent taxing district certainly has some merit. The major difference between an authority/PBC/trust type of structure and a taxing district is the ability to collect and spend tax revenues directly, without needing to rely on the County. There will likely remain a substantial need for supplemental funding for the foreseeable future. Even after the implementation of health reform (assuming it is ultimately implemented and not repealed by the Congress or thrown out by the courts), there will be a substantial need for uncompensated care by populations that will not be covered (immigrants) and for community-wide services provided by JHS that will likely never be adequately funded by patient care revenues. Moreover, there is ample precedence for the creation of taxing districts in Florida, and their boards are often appointed by a combination of state and local governing bodies, thereby somewhat insulating them from politics at either level. (If a taxing district model is considered, I would suggest looking at the Palm Beach County Health Care District rather than the North or South Broward Districts, whose boards are appointed entirely by the Governor. Three members of the seven member Palm Beach District Board are appointed by the Governor, three by the County, and the seventh is the County Health Officer serving ex officio.)

On the other hand, the creation of a taxing district requires a number of political approvals, including the approval of the voters who reside within the district. This has been considered to be politically unfeasible in the past. Also, Governor Scott has recently made clear his concern about taxing districts and appointed a commission to study them, so this may not be an ideal time politically to seek to create a new one. Finally, it is well known that the North Broward District is itself seriously exploring alternative models to its current district structure, so that this structure may not ultimately prove to be ideal.

Direct operation by the University of Miami also has much to recommend it, provided that sufficient operating autonomy can be delegated to the University to permit it to take the necessary steps to transform the system and to integrate it thoroughly with the other components of the current University Health system. The model for a management relationship (both in terms of structure and in terms of achievement of success) is the management of Harborview Medical Center, the major public teaching hospital owned by King County, by the University of Washington. Harborview retains its own separate Board, appointed by the County, which oversees the relationship, but the University has been granted full control over personnel, operations, procurement, etc.

Potential barriers to the success of a University of Miami management agreement may include the difficulty of negotiating all of the details of such an agreement, the willingness of the County to enter into the required funding agreements, while providing iron-clad assurances that there would not be political interference once the relationship is established, and the question of how such an agreement would fit within the long-range strategic plans of the University for its own health system.

One way to address these concerns would be to consider the third remaining model, which is the creation of a new non-profit corporation to operate the Jackson Health System. Such a new corporation would by its nature need to be granted substantial operating autonomy, which would include the ability on its own to enter into a more robust management or affiliation agreement with the University. Such a model could also be considered a stepping stone to a full asset merger with the University Health system, through the creation of an entity like the Boston Medical Center (which I would suggest as a very positive model for the Task Force to consider carefully). The creation of a non-profit corporation that retains the mission of a safety net health system has clear analogies in Florida (Tampa General) and in other states (Grady Memorial, Truman Medical Centers, etc.).

Potential obstacles to the successful implementation of a non-profit model would include the degree to which the County was willing to transfer all of the necessary financial and operating autonomy (including personnel, financial and procurement autonomy) to the new corporation, while also ensuring adequate funding for the system's safety net mission.

2. Your second question related to the development of a financial model between Jackson Health System and Miami-Dade County that addresses:

   a. Mutual accountability
   b. Pays JHS for indigent care
   c. County Mandated Services
   d. A system that keeps pace with health care inflation

Some of my observations about the financial model are included in my comments on structural issues above. As noted above, it is highly unlikely that the Jackson Health System will be fully self-supporting from patient care revenues at any time in the foreseeable future, even with the implementation of health reform. All of the elements identified above will therefore remain essential to the ability of the JHS to continue to fulfill its multiple missions, even while implementing transformational reforms that could ease future pressure on and need for subsidies and supplemental funding. It is important to note that the state will remain an essential partner in adequate funding for the Jackson Health System, under any structure adopted. Leveraging local tax dollars to draw down federal Medicaid dollars for various purposes will remain an important part of the model.

Models for Organizational & Structural Reform

Larry S. Gage, President, NAPH
Partner, Ropes & Gray LLP

Miami-Dade County Hospital Governance Task Force
April 8, 2011

Agenda

- What is a “typical” public hospital?
- Why do public hospitals restructure?
- Case Studies of Structural Reforms

What is a “Typical” Public Hospital?

- Direct governance by elected/appointed officials
- Advisory board or commission
- Freestanding board with some autonomy
- State University
- Hospital District
- Hospital Authority
- Public benefit corporation
- Private non-profit corporation
- Public/private partnership

Public Hospitals in Transition

- In 1981, half of NAPH members were traditional City or County owned hospitals
- Less than 10% retain that structure today
- Restructuring is seen as one response to strategic and financial threats and opportunities

Why Do Public Hospitals Restructure?

- Financial pressures
  - Large numbers of uninsured and underinsured patients
  - Community need for money-losing services
  - Increased demand, reduced funds when economy slows
  - Disproportionate impact of Medicaid cuts and "reforms"
  - Aggressive competition for reimbursed services
  - Drain on local government resources
- Lengthy budget & decision-making process
- Limited control over revenues, expenditures
- Personnel & procurement constraints
- Under-funded medical education role
- Access to capital
- Ability to partner or compete
- Need to prepare for health reform

Health Reform: Challenges & Opportunities

- Coverage Expansion
  - Health Insurance Exchanges (29 Million New Members by 2019)
  - Expands Medicaid (16 Million New Enrollees by 2019)
- Delivery System Pressures
  - Value-based Purchasing
  - Hospital Readmissions
  - Hospital-Acquired Conditions
  - Payment Bundling
  - Accountable Care Organizations & Medical Homes
  - Primary Care Reimbursement
- Payment Reductions

Health Reform – Delivery System Reforms

- Payment Innovation Center
- Medicaid Global Payment Demonstration
- Accountable Care Organizations
- Community-based Collaborative Care Networks
- Payment Bundling Demonstration
- Uninsured Access Demonstration
- Community Health Teams Support Patient Centered Medical Homes
- Federal Coordinated Health Care Office for Dual Eligible Patients

Advantages of Public Status

- Access to county tax revenues
- Access to general obligation bonds
- Ability to make Medicaid transfers and receive supplemental payments
- OSHA, Social Security, labor, antitrust, tax and other federal and state exemptions
- Availability of cross subsidies for prevention & public health
- Sovereign immunity and eminent domain
- Access to municipal support services – pension, benefits, self-insurance fund, etc.

Checklist: Typical Goals of Governance Reform

- Reduce costs/improve operational efficiency
- Strengthen clinical integration
- Improve quality and patient satisfaction
- Enhance reimbursement opportunities/broaden payer mix
- Improve relationship with County: insulate County from future risk
- Raise capital/reduce indebtedness
- Improve ability to act competitively
- Achieve closer affiliation with other system(s)
- Prepare for health reform through creation of regional integrated system

Case Studies:
Models of Governance Reform at Other Safety Net Systems

Potential Models for Governance Reform

- Independent Authority or Public Benefit Corporation
- Independent Taxing District
- Contract management
- New non-profit corporation
- Merger with existing non-profit system
- Acquisition by for-profit system

Independent Authority or Public Benefit Corporation

- Special legislation authorizes transfer of significant County services & powers
- State law may authorize County to create through resolution or ordinance
- County can appoint board
- Assets, personnel, programs, obligations can all be transferred to new entity
- Contracts and agreements between County and authority govern services, funding
- County reserve powers

Independent Authority or PBC: Examples

- Alameda County Health Care Authority
- Hennepin County Medical Center
- Nassau & Westchester Counties NY
- Denver Health & Hospitals Authority
- Hawaii Health Systems Corporation
- New York City Health & Hospitals Corporation
- Universities of Colorado, Kansas, Wisconsin

Alameda County Health Care Authority

Hospital authority with County-appointed Board

- Objectives:
  - More flexibility and autonomy
  - Greater ability to compete in healthcare marketplace
  - End County's perceived funding "drain"
- Results:
  - Revenue and productivity have improved
    - Estimated increase in revenues per patient day
  - Improved personnel recruitment and retention
  - Enhanced ability to achieve passage of new tax
  - Greater financial stability for County and ACMC
  - Still realizing potential advantages
  - "Extremely beneficial"
- May seek additional powers

Hennepin County Medical Center

- Authority with County-appointed Board
- Objectives:
  - More focused, dedicated governance
  - Greater ability to compete in healthcare marketplace
  - Reduce drain on County's property taxes
  - Restructure relationships with medical staff
- Results:
  - Improved productivity and more efficient operations
  - Volume of insured business growing
  - Improved personnel recruitment
  - Benefits of dedicated Board's focus
  - Compared with past trajectories, "very successful" financial projections
  - Serious work has begun on medical staff restructure

Independent Taxing District

- Common form of public hospital in Florida, California, Texas
- Each District established by statute in Florida
- A County may have one or more Districts
- Governing boards appointed by Governor in Florida
- Florida Districts enjoy broad powers
  - Create or purchase non-profit or for-profit facilities
  - Enter management contract for hospital
  - Transferring all or majority of hospital assets to third party
  - Create subsidiary, participate in joint venture
  - Levy taxes, issue bonds

Taxing District: Examples

- Maricopa Integrated Health System
- Dallas County Hospital District (Parkland)
- Harris County Hospital District (Houston)
- North & South Broward Districts

Taxing District: Examples

- Maricopa Integrated Health System:
  - Taxing health care district with 5 elected directors
  - County sought greater financial independence and autonomy for MIHS
  - Now benefit from greater stability, financial planning, flexibility
  - "Absolutely a net positive"
- Dallas County Hospital District (Parkland):
  - Longstanding taxing healthcare district with Board of Managers appointed by County commissioners
  - County approves the tax rate, the budget, and debt issuance
  - Recognizes health care as a business
  - Structure encourages flexibility and strong governance

Contract Management by Third Party

- Harborview Medical Center (County hospital managed by University of Washington)
- Wishard Memorial Hospital (City-County hospital managed by Indiana University)
- Brackenridge Hospital (City hospital owned by new taxing district and managed by Seton Health, part of Ascension)

Harborview Medical Center

- Details: Management contract under which Harborview Medical Center ("HMC") capital assets are owned by King County and HMC is managed by the University of Washington ("UW").
- Primary Goal: To maintain a hospital providing care for King County, while being a teaching center for UW.
- Legal Obligations:
  - HMC has own Governing Board, appointed by County
  - Determined to be an arm of state government, with state obligations.
  - All employees are considered UW employees; those who began at HMC prior to 1970 retain previously acquired county rights, including retirement benefits.

New Not-for-Profit Corporation

- Grady Health System
- Tampa General Hospital
- Truman Medical Centers
- Regional Medical Center at Memphis
- University hospitals of Florida, Maryland, West Virginia, Georgia etc.

Grady Health System

- Details: Lease and transfer agreement
  - Grady Heath System, operated by Fulton-Dekalb Hospital Authority (the "Authority"), is leased to new nonprofit Grady Memorial Hospital Corporation.
- Primary Goal: To gain more operating autonomy from two-county Authority in order to contain costs and gain access to capital & philanthropy
- Legal Obligations:
  - Grady has no responsibility for former/retired employees
  - Grady remains subject to certain public requirements
    - Open Meeting & Records
    - Financial Reports

Tampa General Hospital

- Details: Transfer of Tampa General Hospital ("TGH") from Hillsborough County Hospital Authority to new private, non-profit corporation.
- Primary Goal: Given lack of local financial support, need to compete with private hospitals in the region for privately insured, Medicare and Medicaid patients.
- Legal Obligations:
  - TGH remains subject to liberally-construed sunshine laws.

Merger or Affiliation with Existing Not-for-profit Corporation

- Great Lakes Health System of Western New York
- Boston Medical Center
- UMass Memorial Health Care System
- Fresno County Valley Medical Center
- University of Arizona Healthcare

Great Lakes Health System of Western New York

- Details: Contractual relationship between Erie County Medical Center ("ECMC"), a public benefit corporation, and Kaleida Health, a non-profit corporation.
- Primary Goal: To address excessive bed capacity, duplication of services, and economic challenges in region.
- Legal Obligations:
  - ECMC maintains its status as a PBC, and remains subject to state ethics, personnel, and procurement policies.

Boston Medical Center

- Details: Merger of the public Boston City Hospital ("BCH") with the private not-for-profit Boston University Medical Center.
- Primary Goal: Consolidation of operations and relieving BCH of governmental constraints and obligations in order to improve payer mix and compete more effectively.
- Legal Obligations:
  - BCH must file an annual report to the city on its provision of health care services.
  - BCH is no longer subject to civil service or procurement rules.
  - BCH maintains its status as a public hospital for Medicaid DSH adjustments.

Characteristics of For-profit Systems

- Narrow market focus (urban, suburban, rural)
- Narrow business focus (operating hospitals)
- Junk-rated debt – but retain ability to borrow
- Bullish on health reform!
- Intense focus on operating efficiencies
- Labor costs average 40% of total costs (compared to 53% for all non-profit hospitals under $1 billion)
- Supply costs under 16% of total costs (vs 18-20% for average community hospital)

For-profit Hospital Systems

Publicly Owned (#)

- HCA (154)
- Community Health Systems (126)
- Lifepoint (52)
- Hospital Management Associates (50)
- Tenet (49)
- Universal (25)

Privately Held (#)

- Vanguard (25) (Blackstone)
- Iasis (18) (Texas Pacific)
- Ardent (8) (Welsh Carson)
- Steward (6) (Cerberus)
- Essent (5) (Cressey, Vestar)
- Regional Care (4)
- LHP (2) (Formerly Triad)
- American Health Care Network (0) (Ascension and Oak Hill)
- Over two dozen PE firms waiting in the wings (with $$$)

What Do For-profit Companies/PE Investors Look For?

- Distressed hospitals in need of capital
- Ability to buy cheap and use leverage
- Potential to cut costs and improve cash flow
- Potential to generate scale for company
- Ability to cut deal with labor force
- Continuous growth – potential availability of other providers in market and/or state
- A viable exit strategy – sale, merger or IPO
- To be the next HCA……

Potential Models of For-Profit Acquisition

- Amarillo Hospital District (Universal)
- Oklahoma University Medical Center (HCA)
- Memorial Medical Center, Las Cruces (Lifepoint)
- Detroit Medical Center (Vanguard)
- Caritas Cristi System (Cerberus/Steward)

Detroit Medical Center/Vanguard

- DMC down to a few days cash, with aging plant and equipment, inner city location, declining utilization, poor payer mix
- State refused bailout; local systems not interested; facing closure of most facilities
- $1.267 billion “deal” closed January 1, 2011 – Vanguard agreed to assume $417 million debt, assume pension obligations and spend $850 million on capital over 5 years
- Non-profit board remains in place to manage $140 million spent annually on charity care
- Deals cut with unions

Caritas Cristi/Cerberus

- Six hospital Caritas Cristi system perceived to be failing in aggressively competitive Boston hospital market
- Both Ascension and CHI had passed on opportunity to purchase
- Cerberus agreed in 2010 to pay $895 million to assume debt and pension liability and for capital infusion over five year period
- Cerberus had no previous health industry experience and no management team – Caritas management was preserved and became “Steward”
- Deal cut with SEIU to unionize workers
- Required approval of AG, Archdiocese, state Supreme Court
- Steward has already acquired two other Massachusetts hospitals and has aggressive expansion goals – desire to “scale up” for future “event”

In Conclusion -- Issues to Be Considered

- Remember: effective governance is a tool, not a panacea
- System change requires will, ideas & execution
- Systematically identify key problems – and determine if a new structure can address them (conduct thorough preliminary assessment prior to making final decision to proceed)
- Carefully define new structure: make sure it has the resources and power it needs
- Lay out required process in detail before proceeding, e.g., authorizing legislation, referendum, board structure, services to be transferred, funding, personnel, procurement, information, accounting & financial systems, etc.
- Educate & enlist all relevant stakeholders
- Recruit an outstanding board – and let it function with sufficient autonomy to get the job done

September 10, 2010

VIA HAND DELIVERY
& FACSIMILE

To: The Honorable Board of County Commissioners
Commissioner Dennis Moss, Chair
Commissioner Barbara Jordan
Commissioner Dorrin Rolle
Commissioner Audrey Edmonson
Commissioner Sally Heyman
Commissioner Bruno Barreiro
Commissioner Rebeca Sosa
Commissioner Carlos Gimenez
Commissioner Katy Sorenson
Commissioner Javier Souto
Commissioner Joe Martinez
Commissioner Jose "Pepe" Diaz
Commissioner Natacha Seijas

From: Martha Baker, RN, President, SEIU Local 1991

Re: Jackson Doctors, Nurses and Healthcare Professionals Respond to PHT Grand Jury Report (BCC Agenda Item 6B2)

Our healthcare union, which represents over 5,000 doctors, nurses and other healthcare professionals working at PHT/Jackson Health System, made the original request to have the Grand Jury investigate the operations of PHT/JHS. We did so because as we labor each day to save lives, we also are professionals dedicated to saving the public's health system.

We very much appreciate the efforts of the citizens who served on the Grand Jury. They recognized the importance of JHS to our community.

There are many important factual findings brought out by the report. These issues demand further investigation. However, there were multiple political conclusions and opinions offered by the report. If we are to have an honest discussion of the report it is critical that the community know the difference between political conclusions and factual findings.

Grand Jury Finds Evidence of Gross Operational Mismanagement Perpetrated by the PHT Administration and/or PHT Board.

The Grand Jury did an excellent job of framing the issues or as the report said, "incompentencies." Highlights of some of these findings include:

- Accounts receivables were overestimated by management and the PHT Board did not detect such errors, leading to a $50MM deficit instead of a $50MM gain in the 2009 budget.

- Management instituted a Net Patient Revenue Adjustment, and the PHT Board did not detect the error which lead to a falsely inflated revenue/AR. (pg 22)

- JHS management miscalculated contractual adjustments. As pointed out by the auditor, a huge error was created by JHS administration when it used an inaccurate reimbursement rate in calculating its projected revenue. (pg 23) The PHT Board never caught this error.

- Management thought there was a $46MM budget deficit in 2009. PHT Board thought the same. However, it took external auditors to disclose the real deficit of $244MM.

- The Revenue Cycle is broken and JHS was unable for years to properly collect on its billings. JHS paid millions to have Deloitte work at JHS with their primary assignment to fix the revenue cycle. Deloitte proceeded to rescue the broken department by staffing with their own employees and moving the entire billing world off campus. Then, when Deloitte left JHS 5 years later, the billing world collapsed again. JHS internal employees had never fully learned to properly collect all monies owed. JHS paid Deloitte greater than $80MM over five years.

- The words of the report sum up certain managerial incompetence. "We were stunned by the lack of competence certain witnesses demonstrated during the course of their testimony about the finances of JHS…It appears to us that persons at JHS are working in positions for which they are not qualified…We have no confidence in the numbers presented in the internal financial reports…." (pg 20-21).

- As the report stated, "management should have known there was a problem because JHS issues monthly financial statements to management and members of the PHT. For fiscal year 08-09 the monthly CFO reports reflected the following warning signs:

  - increase in money owed
  - decrease in cash on hand
  - decrease in cash and investments
  - decrease in money coming in

  The failure of the PHT [Board] to note this trend and address it in a timely manner may speak to the need to change the eligibility requirement for those serving on the PHT…"(Pg 26)

- "In the 2009 Audit Reports, the auditors found a certain deficiency that they considered a 'material weakness' in internal control, which affected the JHS financial statements." The auditors also reported "the checks and balances …were insufficient."(pg 29)

The Grand Jury Offered a Political Conclusion, not Based on the Facts in the Report, but Rather Based on Their Personal Desire to Blame the County Commission for the Crisis at Jackson.

One would hope that personal opinions would not be intertwined into a factual report. Unfortunately, regardless of the facts the Grand Jury found, its ultimate conclusion in every case was to blame the woes on the governing structure of the PHT. In the end the report essentially blames the County Commission for the managerial incompetencies of certain Jackson administrators and the lack of proper oversight by the PHT Board members themselves.

The Grand Jury makes a flawed recommendation to change the governance structure and actually give *more* autonomy to the very PHT Board that was unable (or perhaps unwilling) to catch management's mistakes and "incompetencies." The auditors talk about insufficient "checks and balances," yet the Grand Jury recommends removing a critical check and balance, the BCC.

Further, this report is being used by certain lobbyists to remove the ultimate check and balance, the voters of Dade County. They are disingenuously advocating to take away the right of the electorate to remove from office those who are accountable for Jackson by creating an insulated private organization.

There are many matters that may have lead to such gross incompetence at JHS. However, the Grand Jury only mainly focuses upon structure as the alleged culprit. With

millions of dollars mishandled not a single administrator was held accountable. No vendors or lobbyists were called into question. No indictments were issued. The report purposely avoided "naming names" – allowing public officials to evade responsibility.

The PHT Board only received one central admonishment. On pg 30 of the report it is written that, "The PHT's specific job is to make sure something like this does not happen." The PHT Board clearly failed to do their job. Yet the Grand Jury report suggests they get more autonomy in several arenas.

The County Commission and County Structure has Created an Outstanding Police Department, Nationally Recognized Fire Rescue Service, and World Class Healthcare at Jackson. Yet, now BCC is to be Blamed for the JHS Crisis.

How can the same BCC and County structure that manages our incredibly successful Police Department and Fire Rescue Department, become bumbling idiots with regard to PHT? The Police Department has the right to use lethal force. Fire Rescue becomes our front line during our most challenging crises. Why is it that only PHT business operation are running afoul of the public trust?

It is odd that the so called broken structure at PHT/JHS seems to also produce superb medical results. While some mangers and the PHT Board commit operational malpractice, the healthcare professionals at Jackson perform medical miracles every day. The employees should be commended for their continued deliverance of excellent healthcare when the systems around them are crumbling with incompetence. The employees not only gave 5 percent of their wages, but took voluntary demotions and froze wages and bonuses for 12 months adding up to a 7-12 percent contribution in reality. The employees at Jackson donated over 100 million in concessions this year alone. The union employees also have created an Efficiency Task Force that is saving JHS multiple millions.

To make Jackson Stronger We must have an Honest Community Dialogue and not Engage in Political Games. It is perverse that a Report that Allegedly Seeks to take the Politics out of Jackson, has done just the Opposite. Instead of Sticking to the Facts and Looking for Solutions, the Report Bootstraps a Preordained Conclusion and Blames Everthing on the Commission and the Employees. Simply put the Facts do not Support the Conclusion.

Critical stakeholders never appeared before the Grand Jury. Did any charity care patients testify? Did independent experts on hospital administration testify? Did renowned scholars on government and governance appear? Were any independent studies commissioned? We think not.

It is disconcerting also to note that many of the allegations and certain testimony presented was not verified or checked for accuracy. For example, the report is completely false when it reports that the BCC overruled the PHT and unilaterally gave employee raises. That never happened and the evidence proving otherwise is easily discoverable. We would like the Grand Jury to follow up to see if that witness committed perjury or was just mistaken.

It Is Time for the Stakeholders to come Together to Save Jackson

Instead of political gainsmenship, self-serving task forces and anointed committees of 41 throwing political rocks, it would be best for the community and the stakeholders to have an honest dialogue. Can one imagine what healthcare would be like if our doctors and nurses approached a heart attack patient in the same manner that the Grand Jury approached its political conclusion? We, as medical professionals, must every day labor to save our patients lives. We now call upon the BCC to approach the Jackson crisis with the same professionalism and honesty.

Sincerely,

Martha Baker, RN, President

CC: The Honorable Katherine Fernandez Rundle
The Honorable Mayor Carlos Alvarez
County Manager George Burgess
PHT President Dr. Eneida Roldan

Hospital Governance Models

Governance Models	Governance Description	Characteristics		Example of Hospitals	Location	Effective Date of Governance Model	Links to References	Type of Change	Notes	Other Variables	
										Teaching Hospital (Y/N)	Organized Labor union (Y/N)
Direct Local Government Control/Operation	- Major decisions made by elected officials; -May designate operations to semi-autonomous board; - Have access to local gov't tax support; - No separate legal structure	-Is current structure and has worked since the 1970's; -Should provide base of political support for advocacy initiatives; -Full faith and credit of county gov't to underpin bonding; -Sovereign immunity applies to those employed by JHS; -Sole beneficiary of ad valorem property taxes earmarked for indigent care; -Exempt from taxes	-Levels of autonomy for PHT vary based on leadership both at Trust and on Commission; -dependent upon gov't purchasing and personnel policies and procedures; -Sunshine law provisions occasionally hamper internal communications; -county can delegate programs/services and over-ride PHT decisions	John H Stroger Jr. Hospital Cook County	Chicago , IL					Y	Y
				Los Angeles County Dept of Health Services	Los Angeles County, CA					Y	Y
				Jackson Health System	Miami Dade County, FL					Y	Y
Separate Government Entity With Taxing Capacity	-Distinct independent government entity; -Functionally dedicated board; -Statutory authority identifies election/appointment process; -Controls own budget, issues bonds; -Has autonomy in civil service, purchasing and contracting	-Sets own millage rates; -Has both authority and responsibility for use of public funds; -Still has some political ties based on way legislation is written and board is elected/appointed; -Has sovereign immunity as unit of gov't; -Develops and adopts own policies and procedures and labor agreements; -Tax exempt	-Subject to Sunshine law; funding levels vary based on economy and property values; -Board members have high public/political profile; -have to use own credit status to raise capital; -not eligible for philanthropy	Memorial Health Care System (South Broward) & Broward Health (North Broward Hospital District)	Broward County, FL	1947 & 1951		Taxing District		Y	?
				Parkland Health & Hospital System	Dallas, TX					Y	?
				University of Colorado Hospital	Colorado	1991	6	Established new (Independent) hospital authority		Y	N
				Denver Health Medical Center	Denver, CO	1996	2			Y	N
Nonprofit/Third Party Management	-Tax exempt under Sect. 501(c)(3) of IRS; -Local gov't may maintain some role in governance (eg seat on, or appointment to, board) and/or funding (pay for specified services to specified patients); -Sale, transfer or long term lease of buildings/assets of gov't; -Third party controls operations including human resources, purchasing and contracts	-Eligible recipient for philanthropy without using separate foundation; -Not required to have organized labor; -Can develop and implement own policies and procedures for nomination and selection of board of directors, purchasing and contracts; -Exempt from income, property and sales taxes on all "related" revenue	-No longer only hospital designated eligible for County funding for indigent care; -Must create and maintain own credit rating; -No sovereign immunity; -Have to compete with other community based organizations for talented board leadership and local philanthropy; - "Non-related" revenue subject to taxation	Boston Medical Center	Boston, MA	1996	1, 6	Consolidated with existing non-profit		Y	Y
				Great Lakes Health System of Western New York	Buffalo, NY	2008	1		Unified Kaleida Health and the Eric County Medical Center into a new non-profit (unification continues)	Y	Y
				Fresno County Valley Medical Center	Fresno County, CA	1996	1			Y	N
				Oakwood Healthcare System	Dearborn, MI	1991	6			Y	Y
				Shands Jacksonville	Jacksonville, FL	1980	1			Y	Y
				Umass Memorial Health Care System	Massachusetts	1998	1			Y	Y
				Middle Tennessee Medical Center	Murfreesboro, TN	1996	5			N	N
				University of Arizona Healthcare	Tucson, AZ	2010	1			Y	?
				Grady Health System	Atlanta, GA	2008	1,3	Conversion to new non-profit		Y	N
				Truman Medical Centers	Kansas City, MO	1960s	1			Y	Y
				Regional Medical Center at Memphis	Memphis, TN	1981	1			Y	N
				Hillsborough County Hospital Authority / Tampa General Hospital	Tampa, FL	1997	1,4			Y	N
				Brackenridge Hospital and Children's Hospital	Austin, TX	1995	1,6	Contract management by non-profit 3rd Party		Y	?
				Harborview Medical Center	King County, WA					Y	Y
				Sutter Medical Center of Santa Rosa, California	Santa Rosa, CA	1996	6			Y	Y
				Wishard Memorial Hospital	Indianapolis, IN					?	?
				Henry Ford Hospital	Michigan, MI	1987	7	Shared Governance	Non-profit hospital adopted "shared governance" model	Y	?
				Nebraska Medical Center	Omaha, NE		1			Y	Y
For-Profit Management	Managed as a private organization			Amarillo Hospital District	Amarillo, TX						
				Detroit Medical Center/Vanguard Health Systems	Detroit, MI	2010			Acquired by Vanguard Health Systems	Y	Y
				Caritas Christi/Steward Health Care System	Massachusetts	2010	1		Acquired by Steward Health Care System LLC	Y	Y
				Memorial Medical Center	Las Cruces, NM					?	?
				Oklahoma University Medical Center	Oklahoma City, OK					?	?

This item was introduced on May 30, 2012 but no action was taken. At the June 6th meeting, the Charter Review Task Force approved the item with amendments. Final approved item listed on the June 20, 2012 Charter Review Task Force meeting agenda.

Mayoral Vacancy and Vacancy Election Proposal

Concept:

Amend Section 1.07 to increase the time for a vacancy election to 90 days with a 10 day qualifications period and a runoff 30 days thereafter. Add Section 2.03 of the Charter to temporarily transfer, during the period of vacancy, the Mayoral powers as head of the County for emergency management purposes, to hire department directors and to recommend bid waivers to the Chairperson of the Board of County Commissioners, the Vice Chairperson if the Chair declines the powers, and then the Clerk of the Circuit Court if the Chair and Vice Chairperson declines the powers.

Text of Change:

MIAMI-DADE COUNTY HOME RULE CHARTER

ARTICLE-1[1]

BOARD OF COUNTY COMMISSIONERS

* * *

Section 1.07. VACANCIES.

Any vacancy in the office of Mayor or the members of the Board shall be filled by majority vote of the remaining members of the Board within 30 days, or the Board shall call an election to be held not more than [[~~45~~]] >>90<< days thereafter to fill the vacancy. >>The qualification period for such election shall be the first 10 days after the call of the election and any runoff election shall be held within 30 days of the certification of election results requiring a runoff.<< The person chosen to fill the office vacated must at the time of appointment meet the residence requirements for the office to which such person is appointed. A person appointed shall serve only until the next county-wide election. A person elected shall serve for the remainder of the unexpired term of office. If a majority of the members of the Board should become appointed rather than elected to office, then the Board shall call an election to

[1]Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

be held not more than [[~~45~~]] >>90<< days thereafter to permit the registered electors to elect commissioners to succeed the appointed commissioners; appointed commissioners may succeed themselves unless otherwise prohibited by the Charter. >>The qualification period for such election shall be the first 10 days after the call of the election and any runoff election shall be held within 30 days of the certification of election results requiring a runoff.< If a county-wide election is scheduled to be held within 180 days from the date on which the majority of the members of the Board become appointive, the Board may elect to defer the required election until the scheduled county-wide election.

* * *

ARTICLE-2

MAYOR

* * *

>>Section 2.03. TEMPORARY TRANSFER OF MAYORAL POWERS AND RESPONSIBILITIES UPON A VACANCY IN THE OFFICE OF MAYOR.

Upon a vacancy in the Office of Mayor and until such time as the vacancy is filled in accordance with Section 1.07 of the Charter, the powers and responsibilities vested by this Charter in the Office of Mayor to head the County for emergency management purposes, to hire department directors and to recommend waivers of competitive bidding shall be temporarily vested in the Office of the Chairperson of the County Commission as supplementary powers and responsibilities of such Office and shall not reside in the Office of Mayor. During such time, if the Chairperson relinquishes such supplemental powers and responsibilities in writing filed with the Clerk of the Board, such supplemental powers shall be vested in the Office of Vice-Chairperson of the County Commission. If the Vice-Chairperson relinquishes such supplemental powers and responsibilities in writing filed with the Clerk of the Board, such supplemental powers shall be vested in the Clerk of the Courts for the Eleventh Judicial Circuit. The temporary removal and transfer of powers and responsibilities

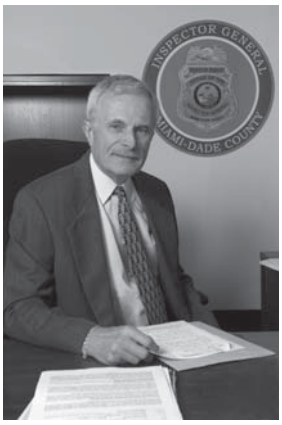
provided for in this Section shall not be construed to fill the vacancy in the Office of Mayor. Immediately upon filling the vacancy in the Office of Mayor the powers and responsibilities vested in the Office of Mayor shall be as provided in this Charter without regard to this Section. If, pursuant to the provisions of Section 1.07 of the Charter, the Board determines to fill the vacancy in the Office of Mayor by election, then the person exercising powers and responsibilities of the Office of Mayor pursuant to this Section at the time of such determination may not qualify as a candidate for the Office of Mayor for that vacancy election.<<

2007 Annual Report

A Decade of Service

Miami-Dade Office of the Inspector General

Office of the Inspector General



The Office of the Inspector General was established ten years ago and so this Anniversary Edition of our 2007 Annual Report is very special. I hope it helps you better understand our wide ranging investigative responsibility, mission and vision.

Our primary goal is to restore the public's trust in government by enforcing honesty and integrity in the business practices and policies of our County's projects, programs and contracts. I believe this report demonstrates that we have made significant progress in achieving this objective.

This report highlights some of our outstanding accomplishments over the past ten years by describing some of our more prominent and influential investigations, audits, and initiatives.

Because of the continued support my office has received from elected officials, County staff, the law enforcement community, the Miami-Dade State Attorney's Office, and, most importantly, from the public, we achieved momentum to help lead Miami-Dade County to earn a top spot as a leader in fighting corruption at the local level. Indeed, County government has become an active partner in this endeavor over the years through the enactment and implementation of many accountability programs and procedures. And for that I would like to express my deep appreciation. As always, the OIG will perform its statutory duties and root out corruption and abuse through accurate and unbiased investigations.

Very truly yours,

Christopher R. Mazzella

Christopher Mazzella
Inspector General

A Decade of Service

TABLE OF CONTENTS

How It All Began 2
A Look At What We Do 2
The OIG's Executive Staff 3
The Rest of Our Team 4
- The Investigations Unit 4
- The Audit Unit 4
- The Legal Unit 5
- The Administrative Unit 5

Providing Additional Oversight Support 5
Now At Miami-Dade County Public Schools 5
OIG Financial Report 6
Our Report Card - Making the Grade 6
2007 Highlights - Significant Cases, Audits and Activities 7
- Million Dollar Theft and Money Laundering Scheme 7
- Criminal Investigations Affecting Affordable Housing and Economic Development 7
- County Employees Arrested in Tuition Refund Fraud 8
- Cheating the Clock for Overtime Pay 9
- Multi-Departmental Audit of the Equitable Distribution Program 9
- Seaport Oversight: Audit of a Construction Manager At-Risk's Change Order 10
- Airport Security Co. Underreports Revenues to Avoid Paying Fees 10
- Audit of Misc. Construction Contract with TGSV Enterprises, Inc. 11
- Tale of Two Companies: Union Electrical and Union Electric 11
- ASMO's Permits to Provide Services at Miami International Airport 12
- 7th Avenue Transit Village Development Project 12

A Decade In Review: Snapshots from the First Ten Years 13
- OIG Sting Operations 13
- Election Oversight and Investigations 15
- Miami International Airport 17
- Property Tax, Foreclosure and Title Cases 18
- Miami-Dade Building Department 20
- Public Works 21
- Employee Union Cases 22
- Employee Misconduct Cases 23
- The Public Health Trust 25
- Water and Sewer Department 26

Focus for the Upcoming Year 28

Appendix A: Section 2-1076 Office of the Inspector General 29

Appendix B: Interlocal Agreement between the School Board of Miami-Dade County, FL, and Miami-Dade County, FL, for the Provision of Inspector General Services through the Office of the Miami-Dade County Inspector General 33

How It All Began

Ten years ago, in response to the public's demand for clean government, the Miami-Dade County Board of County Commissioners (BCC) created the Office of the Inspector General (OIG) in December 1997. The Office was created through the enactment of Section 2-1076 of the Code of Miami-Dade County, our enabling authority. It empowered the OIG to investigate and review allegations of waste, fraud, abuse and mismanagement in County government.

The BCC determined that the oversight of such a large and diverse government required the OIG to be independent and autonomous. To effectively uphold this mandate, the Commissioners vested the OIG with independent status so that it could carry out its goals without political interference. Miami-Dade County has one of the few inspectors general in the country that has jurisdiction to investigate officials at any level, including elected officials.

Offices of Inspectors General (OIG) are commonly known as "watchdog" agencies and are found in all levels of local, state and federal government. The Miami-Dade County OIG has oversight of over 60 County departments, including Aviation, Seaport, Transit, Housing, Community and Economic Development, Water and Sewer, Public Works, Planning and Zoning, Solid Waste Management, Human Services, Cultural Affairs, the Libraries, and the Miami-Dade Public Health Trust/Jackson Memorial Hospital.

In March of 2005, the Miami-Dade Board of County Commissioners voted unanimously on a new measure to give the OIG greater autonomy and independence by revamping the selection and removal process of the Inspector General (IG) and by specifically codifying the jurisdiction, powers and responsibilities of the OIG.

A Look At What We Do

Specifically, under its oversight responsibilities the Miami-Dade Inspector General has authority to conduct investigations of County affairs and to review past, present and proposed County programs, accounts, records, contracts, and transactions. The OIG investigates allegations of fraud, waste, abuse and misconduct involving public officials and County employees, as well as contractors and vendors doing business with the County. It also has the power to report and recommend to County government whether particular programs, contracts or transactions are financially sound, reasonable, necessary or operationally deficient. The OIG may conduct random audits and inspections. The OIG may also provide general oversight on departmental programs and large-scale construction projects.

The Miami-Dade Office of the Inspector General serves the more than 2.3 million citizens of the County with the objective of preventing misconduct and abuse among public officials and County employees, as well as contractors and vendors doing business with the County. With a principal objective of promoting honesty and efficiency in government, the Office of the Inspector General strives to ensure that taxpayers get a fair and honest accounting of their money, and it seeks to find appropriate remedies to recover the loss of public monies.

In performing its primary mission, the OIG is empowered to require the production of documents and records by using its power to issue subpoenas, when proper and necessary. The OIG can also require reports from any County official, County agency or instrumentality regarding any matter within its jurisdiction.

The OIG's Executive Staff

Christopher Mazzella was appointed as the first Inspector General of Miami-Dade County in September 1998, upon retiring from a distinguished thirty-four year career with the FBI. Since becoming operational in the fall of 1998, the OIG has prosecuted officials involved in bribery, official misconduct, fraud, and election law violations. Mr. Mazzella earned the designation of Certified Inspector General by the National Association of Inspectors General.

As the County's Inspector General, Mr. Mazzella has participated on a number of task forces aimed at restoring integrity and ethics in County government. For instance, his participation on the Debarment Task Force played an important role in the adoption of legislation strengthening the County's debarment policy to exclude dishonest contractors. He also participated on committees studying procurement and lobbying reforms, and participated in the Ethics in Business and Government Committee of the Miami Chamber of Commerce. This group drafted a model business code of conduct. Mr. Mazzella often lectures to various professional organizations regarding the types of fraud cases investigated by his Office.

During his career with the FBI, Mr. Mazzella investigated and supervised complex organized crime and public corruption cases. In a famous organized crime investigation code-named "Operation Gangplank", the leadership of the Philadelphia organized crime family was dismantled. Mr. Mazzella was also responsible for a number of prominent public corruption prosecutions in South Florida.

Mr. Mazzella also held a number of executive level positions at the FBI. He was Legal Counsel for two field offices. While assigned to the Office of Legal Counsel in Washington, D.C., Mr. Mazzella conducted liaison activities with Congress and was instrumental in drafting legislation expanding the jurisdiction of the FBI. He served as the Organized Crime Drug Enforcement Task Force Coordinator for the Florida Caribbean Region. In that capacity, he coordinated the FBI's drug programs and investigations in the Florida Caribbean region, involving over 200 federal, state and local law enforcement personnel. In that capacity, he helped secure millions of dollars in federal funding for local law enforcement initiatives and personnel.

The Deputy Inspector General, Alan Solowitz, has been with the Office since its inception and is primarily charged with heading the Investigations Unit. Prior to joining the OIG, Mr. Solowitz was a Law Enforcement Investigator with the Florida Division of Insurance Fraud, a Senior Investigator with the State of Florida Medicaid Fraud Control Unit, and was a police officer with the City of Miami Beach Police Department for 28 years. There he held the positions of Assistant Chief of Police, Chief of Investigations and SWAT Commander.

His extensive investigative background includes organized insurance fraud, health care fraud, corporate fraud, organized crime, money laundering, narcotics, violent criminal and racketeering investigations. Mr. Solowitz is a graduate of the FBI National Academy and the Institute on Organized Crime. He is a member of the American Institute for Industrial Security and is also a Certified Fraud Examiner. Mr. Solowitz is a Certified Inspector General and a board member of the National Association of Inspectors General.

The Assistant Inspector General and Legal Counsel for the Office, Patra Liu, manages and supervises the legal, audit and administrative units. As the chief legal advisor to the Inspector General, she provides independent legal advice on both procedural and substantive matters and monitors proposed legislation, advising the Inspector General of any potential implications for the office. Ms. Liu is responsible for the filing of administrative debarment actions, ethics complaints, enforcing subpoenas, and defending the OIG in civil actions. She reviews all subpoenas and reports issued by the Office, coordinates the contract and project oversight assignments of the Audit Unit, and supervises administrative operations of the office, including the Office's finances and its annual budget. Ms. Liu joined the Miami-Dade OIG in March 2000 and took on the

additional responsibilities of Assistant Inspector General in February 2002.

Ms. Liu was previously with the Miami-Dade State Attorney's office in the Economic Crimes Unit, prosecuting numerous criminal cases involving health care fraud, insurance fraud, embezzlement, money laundering, and various schemes to defraud. Directly before joining the OIG, she was a Florida Assistant Attorney General to the State's Medicaid Fraud Control Unit serving as the Miami Bureau's in-house legal advisor. She coordinated legal action with federal prosecutors; prepared and negotiated civil settlements; handled civil cases involving the False Claims Act, the State's civil theft statute, applications for other injunctive relief involving the proceeds of Medicaid fraud, and forfeiture actions. Ms. Liu has also earned the designation of Certified Inspector General by the National Association of Inspectors General (AIG). She currently sits on the AIG's Executive Committee and is a member of the AIG's Ethics and Training committees.

The Rest of Our Team

Staffing is a critical factor in determining the volume and caseload of investigations, audits, and inquiries. The Inspector General launched the Office in 1998 with just two investigators, an analyst and an administrative staffer. Today his executive team leads a diverse team of over thirty-four highly skilled professionals from various disciplines and backgrounds that include former prosecutors and law enforcement officials; certified public accountants, internal auditors and fraud examiners; financial investigators; criminal analysts; and engineers. His staff has specialties in the fields of construction auditing, engineering, project management, financial forecasting, forensic information retrieval, and criminal justice database facilitation. Many staff members hold professional certifications in various disciplines.

The Office has grown substantially since its earliest years, remaining constant at thirty-one budgeted staff positions for the past several years. The Fiscal Year 06-07 adopted budget increased OIG staff positions by seven positions, primarily to handle the increased caseload resulting from the Miami-Dade Housing Agency crisis and our stepped up auditing efforts of Miami-Dade Transit contracts.

The additional positions will positively impact our ability to quickly tackle the increasing number of complaints that are brought to our attention, as well as provide the opportunity for increased contract oversight.

The Office is divided into four operational units that work together to fulfill the OIG's primary mission of County oversight. These four units are: Investigations, Audit, Legal, and Administration.

The Investigations Unit

A diverse group of Special Agents comprise the Investigations Unit. The staff is represented by various investigative backgrounds, experience, and disciplines. This experience runs from traditional law enforcement backgrounds to state regulatory backgrounds.

Investigative Analysts support the Unit by maintaining compliance in the usage of specialized investigative databases that are instrumental in furthering the objectives and function of the Unit.

The Audit Unit

The Audit Unit was first established in 2000 with the hiring of its first audit professional. Today, the Unit is almost fully staffed, and includes an Audit Supervisor, four auditors, and two contract specialists.

The Audit Unit concentrates its resources on distinct aspects of County contracts and projects, recognizing its differences in size, resources, and mission from other County audit agencies.
The Unit also assists the Investigations Unit with cases requiring investigative accounting. The Unit serves the OIG's mission by providing procurement oversight and by participating in reviews, studies and evaluations, in addition to conducting specialized audits on County contracts and projects.

Audit Unit members include staff that are certified public accountants, internal auditors, and fraud examiners. The Unit also includes two contract oversight specialists with backgrounds in governmental budgets and finance, and engineering.

The Legal Unit

The Legal Unit provides legal counsel to the Inspector General. OIG attorneys assist the Investigations Unit in assessing the strengths and weaknesses of any investigation with potential civil, administrative or criminal implications. The Unit reviews proposed ordinances and resolutions to provide the Inspector General with an independent legal assessment of the potential or possible impact of the legislative items. The Unit also reviews County contracts to assess contractual rights and liabilities, as well as the efficiency and cost effectiveness of these contracts.

The Legal Unit reviews all subpoenas to be issued by the Inspector General and is charged with making sure the office complies with its "advance notice" responsibilities in the areas of subpoena issuance and final report distribution. All final public reports issued by the office are reviewed by the Legal Unit for legal sufficiency and work product integrity. OIG attorneys also handle litigation involving the office. The Unit has also provided for a summer Law Clerk Internship Program that recruits from Florida law schools.

The Administrative Unit

Individuals in this unit handle the day-to-day administrative functions required of any office, as well as supporting the OIG's oversight mission through the preparation and dissemination of our public reports, maintenance and updating of information on our independent website, the tracking and referral of complaints, and the design and distribution of OIG posters, flyers, and the annual report.

Providing Additional Oversight Support

In its overall mission to provide effective oversight support to the County, the OIG maintains a critical presence at various County locations by allocating staff and other resources for satellite assignments.

While its office at the Performing Art Center (PAC) was recently dismantled at the conclusion of construction, additional OIG presence can be found at Miami International Airport; the Port of Miami; the Water and Sewer Department; the Public Health Trust at Jackson Memorial Hospital; Miami-Dade Transit; the Miami-Dade Housing Agency; and, most recently, at Miami-Dade County Public Schools.

Now At Miami-Dade County Public Schools

In December 2007, the Board of County Commissioners unanimously approved an Interlocal Agreement with the School Board of Miami-Dade County. Under the agreement, the Miami-Dade County Office of the Inspector General would take on the additional role of Inspector General for the nation's fourth largest school district. The Interlocal Agreement grants to the OIG the authority to investigate any aspect of the school system. Independent oversight is essential to a school district managing $5.6 billion in public funds.

The Office of the Inspector General is currently in the process of drawing up its proposed annual budget and is proceeding to lay the groundwork for its new base of operations. According to Inspector General Mazzella, the OIG will focus on several areas, including the school district's procurement process and construction program.

OIG Financial Report

Three separate sources fund the OIG's budget: IG propriety contract fees assessed on County contracts; direct payments collected through memorandums of understanding contracted with various County departments; and general funds allocated through the County's budget process.

The OIG's approved budget for FY 06-07 was $5.1 million and our actual expenditures for the year were $4.6 million. With a long history of careful budgetary planning, just 34% of the OIG Fiscal Year 06-07 budget was derived from County General Funds. The $1.7 million in County General Funds was primarily utilized for the expansion of staff, physical office space, and equipment.

For the current fiscal year, the OIG's overall budget, as approved by the Board of County Commissioners, totals $5.2 million, largely in account for its recent expansion approval.

Our Report Card - Making the Grade

Since the inception of the Office ten years ago, beginning with our first arrests involving a ghost employee on the Water and Sewer Department's payroll, OIG investigations have yielded over 180 arrests and the indictment of eleven companies.

During Fiscal Year 2006-07, we can report that OIG investigations yielded seventeen arrests and resulted in the indictment of five companies. Charges included grand theft, forgery, uttering a false instrument, official misconduct, obtaining property or credit through false statements, money laundering, organized scheme to defraud, campaign contributions in the name of another, excessive campaign contributions, and failure to secure Workers Compensation insurance coverage.

Fraud complaints continue to remain an invaluable source of leads in our mission to detect, investigate and prevent fraud, mismanagement, waste and the abuse of power in County programs, projects and contracts. We continue to encourage the citizens, employees and vendors of Miami-Dade County to contact us with their suspicions of fraud. Complaints can be made by calling our fraud hotline, by going to the report fraud link on our website, or by writing or faxing the complaint to our office. The number of fraud complaints made to the OIG has tripled during the past five years and over 2095 complaints have been handled by the Office during this time. Statistics for the last year show that a total of 586 complaints were received, which was a 20% increase from the previous year. Eight percent of the complaints received resulted in the OIG initiating an inquiry, investigation or review; 10% were related to a matter already under OIG investigation or review; 43% were referred to another agency for appropriate action; 26% did not warrant any further action; 8% were from and handled by our dedicated Housing Hotline and 5% are still under review for further determination by the OIG.

During its first decade of operations, the OIG identified over $106 million dollars in questionable costs, losses and damages, and lost revenues through OIG investigations, audits and reviews. Since 1998, over $60 million in future savings and restitution has been achieved for the County.

In continuing our mission to fight against waste and abuse within our County government, this fiscal year the OIG issued thirteen audit and other final reports, and the OIG audited, inspected, and reviewed 23 programs. To review these reports online, visit our website at www.miamidadeig.org.

2007 Highlights

Significant Cases, Audits and Activities

Million Dollar Theft and Money Laundering Scheme

An OIG investigation, initiated in September 2006, uncovered a $1 million theft from the Miami-Dade County Water and Sewer Department (WASD). The investigation led to the arrest of Charles Anthony Vance, a WASD employee since 1991, and Frank Tucker, the principal of the company that laundered the stolen funds, Modular Innovations .

The embezzlement scheme was directly tied to Vance's position at WASD where he was in charge of the mailroom, and specifically tied to his job duties over the metered mail accounts with the U.S. Postal Service (USPS). Vance was able to embezzle $1 million, from September 2003 to August 2006, by requesting and then diverting twenty $50,000 checks that were meant to replenish the postage meter accounts. The checks were then deposited into a USPS account in the name of Modular Innovations, the company controlled by co-defendant Tucker. The funds were then withdrawn and deposited into a series of bank accounts as a way to launder the stolen proceeds. Our examination of financial records revealed that Vance purchased a 2006 BMW 530i and a 2005 Honda Accord with funds directly traceable to the stolen proceeds. Using secondary bank accounts hiding the stolen funds, Vance also wrote checks to himself, to cash, and to friends totaling $50,700.

Vance was arrested in October 2006. Tucker surrendered to authorities and pled guilty to the criminal charges in November 2006. Tucker's plea required him to cooperate with authorities against Vance. In exchange, he will be sentenced to three years state prison followed by 10 years of probation. He is jointly responsible for paying back the $1 million of stolen proceeds, and as of December 2007, he has paid back $262,432. Additionally, as part of the legal proceedings, the two vehicles were seized and forfeited.

Just recently in March 2008, Vance pled guilty to the criminal charges for the mailroom embezzlement and other unrelated WASD theft charges. He received a sentence of 10 years in state prison with a possible sentence mitigation to eight years based on honest and truthful cooperation with the investigating authorities to identify stolen funds, additional perpetrators, and substitute assets. Vance is jointly responsible with Tucker to pay back the stolen funds. In order to qualify for any sentence mitigation, he will be required to pass a polygraph test.

Criminal Investigations Affecting Affordable Housing and Economic Development

OIG investigations have led to three prominent arrests and the filing of criminal charges against individuals directly involved in the botched housing and economic development activities of Miami-Dade County. By the year's end, all three criminal prosecutions were still on-going.

In March 2007, the OIG's investigation into uses of the County's Documentary Stamp Surtax funds (dedicated for affordable housing initiatives) uncovered that Raul Masvidal, the developer working with the Miami-Dade Housing Agency to build new offices for the agency, had diverted funds slated for the building of the agency's new administrative headquarters for his own personal use. Surtax funds were given to the developer as an "equity contribution" toward the construction costs. Of those funds, $287,000 was used to purchase two large sculptures (a stacked set of teacups and a gigantic slice of watermelon). However, when questioned by County auditors, Masvidal produced a fraudulent invoice detailing the purchase of only one sculpture – the

teacups – for the price of $287,493. The purchase of the second sculpture was kept hidden from the County. In subsequent loan documents, Masvidal used both pieces of artwork as collateral for a personal loan. Masvidal has been charged with Organized Scheme to Defraud and First Degree Grand Theft.

Also in March 2007, the OIG announced the arrest of Reynaldo Diaz, a developer who received $940,000 in funds slated to provide affordable housing for low and moderate income families. Diaz, who contracted with the County to build 28 homes, had to show that he was in possession or control of site properties where the affordable housing could be built. The investigation revealed that among the application paperwork submitted to the County, Diaz included fake real estate sales contracts for six properties. The funds were given to Diaz's company and the funds were deposited and disbursed for expenses other than the construction of affordable homes. Only two of the 28 homes were ever built. Diaz has been charged with Organized Scheme to Defraud, a first degree felony.

In September 2007, an investigation by the OIG resulted in a state judge issuing a warrant for the arrest of Poinciana Biopharmaceutical Park developer Dennis Stackhouse and several of his companies for criminal violations of the State's campaign financing laws. The OIG investigation found that a total of $3,500 in campaign contributions was made by Stackhouse in the names of two of his employees. The employees were reimbursed by Stackhouse through several companies that he controlled. One of the companies received federal funds expended through the Empowerment Trust. Stackhouse has been charged with three counts of Contributions in the Name of Another and two counts of Excessive Campaign Contributions.

County Employees Arrested in Tuition Refund Fraud

Since 1963, employees of Miami-Dade County have been offered a generous Tuition Refund Program that provides the opportunity to enroll in any school of higher learning, even high-end institutions such as the University of Miami School of Law and Harvard University. The Program refunds up to 50% of eligible out-of-pocket tuition costs with taxpayer dollars. The employee must obtain a "C" grade or better in order to receive reimbursement.

In early March 2006, the OIG began a probe into the Program due to possible employee misconduct in not reporting grants and scholarships, as required by Program rules. In addition to hundreds of referrals made to the County's Human Resources (HR) Department, where we identified overpayments, the OIG investigation also resulted in five County employees being charged with submitting falsified documents (i.e. falsified grades to show grades of a "C" of higher) in order to qualify for Program reimbursement.

Four individuals were indicted by the Miami-Dade County Grand Jury in November 2006 for submitting falsified copies of their college transcripts in order to fraudulently receive tuition reimbursement from the County. Two of the four were employees of the Clerk's Office; the third was the Tuition Refund Coordinator for the Planning and Zoning Department; and the fourth, an employee of the County's HR Department, was the person responsible for oversight and processing of tuition reimbursements for all County employees. Public funds stolen by these four employees exceeded $30,000. In June 2007, all four employees pled to theft-related charges and were sentenced to two years probation with the special conditions that they pay restitution to the County, complete 200 hours of community service, and reimburse the OIG for the costs of the investigation.

Two months later, in August 2007, the on-going OIG probe revealed that a fifth individual submitted falsified grades in order to receive reimbursement according to Program rules, requiring grades of a "C" or higher.

As of December 31, 2007, the OIG has identified a cumulative total of over $400,000 in overpayments among 200-plus employees. The overpayments were reported to the County Manager's Office and to the HR Department for appropriate action. Just as importantly, the Program's paperwork and process deficiencies illustrated in the Miami-Dade County Grand Jury Report are in the process of being corrected. New procedures to ensure verification in the areas of grants, scholarships, and student grades have been enacted. Uniform training is also being provided to departmental tuition refund coordinators regarding the new procedures.

Cheating the Clock for Overtime Pay

Two long-term County workers, one of twenty-six years and the other thirteen, were caught on video changing the time clock while working weekends in the Department of Solid Waste Management's North Dade Landfill Maintenance Shop. One manually changed the date and time settings while the other acted as the look-out. By tampering with the time cards, they caused false overtime to be recorded on official payroll attendance records. In addition to the video, the pair was surveilled arriving and departing from work at different times than reflected on their time cards. Sunpass toll records documented them leaving work earlier than their time cards indicated. They obtained over $2,000 each from January 2006 through June 2007 in falsified weekend overtime pay. Both employees were arrested and pled guilty to Organized Scheme to Defraud and Official Misconduct. Both must repay the County for the fraudulent overtime and the OIG for its investigative costs.

Multi-Departmental Audit of the Equitable Distribution Program

As a follow-up to an earlier OIG report on an engineering firm that resulted in it receiving a one-year suspension for violating County procedures, we initiated a multi-departmental review of the County's Equitable Distribution Program (EDP), focusing on the selection processes and practices used by County departments when selecting a professional consultant for a particular project.

The EDP is the County's standard method to procure architectural and engineering (A&E) services for miscellaneous projects not exceeding $1 million in construction costs and $50,000 for study activities. The program consists of a pre-qualified pool of eligible A&E firms available to do county work and is designed to equitably distribute work and increase opportunities for locally based businesses. The EDP is administered by the County's Office of Capital Improvements (OCI).

We reviewed ten County departments. Our review revealed that several departments lacked adequate documentation to sufficiently support their solicitation processes and selection criteria. We also found that some departments did not require their EDP consultants to submit certain monthly reports and other departments did not adequately document a firm's declination to participate in the process.

Furthermore, we found that one project in particular had a poorly performing consultant and was also poorly managed by department project managers. The consultant received 95% of its fee; however, the consultant had stopped paying its sub-consultants and had not turned in architectural plans anywhere near 95% completion. The OIG's involvement resulted in the sub-consultants getting paid and the County department taking action to finish the plans in-house in order to move along with the stalled project.

In response to the recommendations and findings in our final report, OCI and the County departments established corrective measures

to ensure consistency in the selection processes and selection criteria. OCI has revised its EDP procedures and has included additional documents and reports on its Capital Improvements Information System webpage for both departments and EDP firms to access. Additionally, OCI committed to providing additional training to department personnel and EDP firms about the program and the processes required of them. Several departments have implemented their own internal procedures to ensure that their selection processes and criteria are properly documented.

Seaport Oversight: Audit of a Construction Manager At-Risk's Change Order

As part of the OIG's continuing oversight activities at the Seaport, we selected for audit a change order to the Seaport's Construction Manager at-risk (CM) contract with Centex Construction Inc. for a variety of capital improvements in the cargo areas of the Port of Miami. The change order was for an additional 60 contract days at a cost of $626,844. The audit was predicated on our assessment that the change order was not adequately supported when it was brought before the Board of County Commissioners for approval.

Seaport officials informed us that the CM had not already received the additional compensation related to the 60 days; however, during our review we determined that the Seaport had, in fact, already paid additional compensation of $95,685 to Centex, in the form of extended general conditions costs, before the change order was even administratively executed by the County Manager.

To determine whether authoritative support for both the payment of the additional funds and the authorized extension was provided, we evaluated whether the Seaport employed a reasonable, effective and documented process to review and approve the contract change order. We found disorganized and incomplete support, which required us to make repeated requests to the CM for copies of its records. This condition raised our concerns on whether the Seaport's program manager could have completed an effective and thorough evaluation.

Lastly, we continue to be concerned that the practice of using one CM for multiple, concurrent projects could provide cover for questionable CM performance or allow a CM to maximize its revenues at additional cost to the Seaport. This condition, combined with ineffective program management and incomplete departmental files, could result in a problematic situation where a CM "at-risk" is never really "at-risk." We grant that there may be operational efficiencies and cost savings gained by having one CM for multiple projects, but unless the Seaport can establish an effective program management function, any such efficiencies and savings appear to evaporate during actual construction. We recommended that the Seaport re-evaluate its practice of combining multiple projects, that easily merit separate contracts, into one "jumbo-sized" contract.

Airport Security Company Underreports Revenues to Avoid Paying Fees

In February 2007, the OIG released its final report on JMG Insystem, Inc. d/b/a Sereca Security, a security services firm providing services to airlines at Miami International Airport (MIA). Firms apply to provide services at MIA under permits issued by the Miami-Dade Aviation Department. Under the permit terms the firm must report its gross revenues and pay the Aviation Department a fee based on 7% of the gross revenue. The OIG investigation found that for the year 2005 alone, Sereca underreported its gross revenues by $3 million, thereby shortchanging the County over $200,000 in permit fees. The OIG highly recommended that the Aviation Department review 2006 and prior years to determine how much may be owed in additional underreported amounts.

The Aviation Department has since terminated Sereca's permit and has requested supporting

financial documentation and certified financial audits for other permit years as recommended by the OIG. As of November 2007, Sereca has repaid $145,919 of the initial $209,000 due to the County. The OIG has initiated several other reviews of companies operating under similar permits at the airport to ensure that the County is receiving what it is properly owed.

Audit of Miscellaneous Construction Contract with TGSV Enterprises, Inc.

An OIG audit of the Aviation Department's MCC-6-2002 contract for miscellaneous construction projects did not result in any findings or recommendations requiring management's response. Our review focused on MDAD's administration of the contract, including whether compensation was paid according to contract terms. We sought to determine if the contractor effectively used the contract to make work available to certified Community Small Business Enterprise subcontractors (CSBE), implemented required CSBE program participation and paid its subcontractors timely. We also reviewed the Department of Business Development's monitoring of this contract.

We found that the MCC-6 contractor, TGSV, performed its work assignments and fulfilled its primary objective in engaging CSBE subcontractors in the construction work. Over 58% awarded for hard construction costs ($13.3 million out of $22.8 million) through November 2006 went to CSBE contractors and TGSV paid almost $1.5 million to its two CSBE construction management services subcontractors.

Tale of Two Companies: Union Electrical and Union Electric

This investigation involved two corporations. The first, Union Electrical Contractor, Inc. (Union Electrical), is a state licensed electrical contractor and a County certified Community Small Business Enterprise (CSBE) approved to perform work under the Office of Capital Improvements' (OCI) CSBE 7040 contract program. Mr. Ruiz is the principal owner and the licensed electrician holding the company's electrical contractor license. Mr. Reloba was a field supervisor in this company.

The second company, Union Electric Contractor, Inc. (Union Electric), is a separate company formed in 2004 by Mr. Reloba and Mr. Ruiz. This company is not a CSBE certified County contractor, is not a registered County vendor, and is not approved under the 7040 contract program. The company is controlled by Mr. Reloba, who is not a licensed electrician. This company does not list any individual as its qualifier, and the company is not licensed.

In 2002, Union Electrical was hired to work on the grounding system at the Miami-Dade Police Department Annex Building. In 2006, additional work to the grounding system was needed and Union Electric was hired. During the course of a separate OIG investigation, we discovered that Union Electric had not applied for or obtained the required electrical permit for the 2006 project and that Union Electric was an unlicensed contractor that should not have performed the work on this project. The Miami-Dade County Building Department was notified and issued a Notice of Violation for electrical work without a permit. Remedial measures were taken in order to cure the unlicensed electrical work. The investigation also revealed that the second company, Union Electric, usurped the identity of Union Electrical and that payments were allegedly diverted. The case has been referred to the State Attorney's Office for prosecutive action.

ASMO's Permits to Provide Services At MIA

American Sales and Management Organization Corp. (ASMO) provides general aeronautical and security services to its clients at Miami International Airport (MIA). These services include ramp, porter assistance, dispatching, ticket counter, baggage check-in, delayed baggage and security services. ASMO is

authorized to provide these services at MIA under two separate permits issued by the Miami-Dade Aviation Department. Under the terms of the permits, ASMO must remit certain fees to MDAD based upon its gross revenues. American Airlines (AA) is ASMO's largest client at MIA.

The primary purpose of the OIG audit was to determine if ASMO had accurately and timely reported its gross revenues to MDAD. Of course, we wanted to ensure that MDAD was paid the correct amount that it was due under the permits. The OIG's audit focused on ASMO's revenues generated from one client, AA, for the period January 2005 through December 2006.

In general, ASMO performed unsatisfactorily. The OIG determined that ASMO either did not report or reported late (when it was detected by the OIG auditors) over $6 million, amounting to 14% of its total reportable gross revenues. This amounted to ASMO not paying (or paying late due to the OIG's detection) approximately $430,000 to MDAD. We are pleased to report that as a result of our audit, ASMO has already paid over $200,000 in additional fees and $32,860 in late charges to MDAD. The OIG also determined that ASMO still owes MDAD $75,000 in unpaid percentage fees, based on over $1 million in unreported revenues. This is in addition to $65,000 in other late charges that ASMO owes to MDAD, as detailed in our audit. Based on the cumulative impact of all of the findings, the OIG recommended that MDAD consider ASMO's fitness to continue providing services at MIA. Moreover, the OIG recommended for MDAD to examine its airport-wide permit oversight activities and take increased steps to ensure that all permittees are complying with their respective agreements.

7th Avenue Transit Village Development Project

An audit of the Miami-Dade Empowerment Trust's (MDET) selection of Red Rock Global, LLC (RRG) as its development partner for the 7th Avenue Transit Village Project (Project) was undertaken to audit all the invoices that had been paid up to that point and to determine what Project deliverables RRG had produced. The overall Project is an $86 million mixed-use development, which includes a transportation hub and passenger activity center.

The Miami-Dade Transit Department was to share in the Project's costs. The Transit Department was to reimburse MDET for 100% of the transportation improvements costs and 50% of all costs jointly serving Transit and joint-development portions of the Project.

The OIG audit concluded that MDET did not comply with its Trust Board Resolution requiring that it award the Project based on a competitive selection. We also determined that the Project schedule defined the starting point in March 2006, yet significant Project activities (that were compensated for) began in June 2005, one year before the Letter of Agreement between MDET and RRG, and six months before the Board of County Commissioners approved that agreement.

The audit found the entire amount of $351,906 paid by MDET to RRG (based on the first three invoices) to be questionable costs. The costs either pre-dated the Letter of Agreement and/or lacked adequate support justifying its payment. Furthermore, OIG auditors were unable to validate whether any of the invoiced charges were allowable or consistent with agreement work scopes, schedules and other contract requirements. For example, travel expenses were paid without submission of valid documentation, such as airline tickets, itinerary documentation and receipts for lodging, taxis, or car rentals. In addition, we found a RRG invoice containing over $9,000 in duplicate expenses.

We questioned several budgeted line-items, which were invoiced and paid as lump-sum expenses, including a line-item for legal expenses that was paid even though there was no evidence that legal fees were incurred. Over 23% of the almost $1million in budgeted RRG Project costs were for "contingencies." The OIG critically questioned why a pre-project development budget, such as this one, would even have a

dedicated line-item for contingencies when no construction was taking place. In addition, a contingency line item was paid on a pro-rata lump-sum basis with no supporting evidence that any money for "contingencies" was spent. Furthermore, the budget already included line-item amounts for developer, architect and contractor reimbursables, which could have covered any contingencies.

We recommended that the Transit Department not pay MDET until MDET obtained complete and verifiable support for the charges it submitted for reimbursement. Similarly, the OIG recommended to MDET that it should closely review all RRG invoices and requests for reimbursement to ensure RRG's accurate accounting and the reasonableness of the charges.

A Decade in Review

Snapshots from the First Ten Years

OIG STING OPERATIONS

Miami Fire Equipment Fraudulent Billing Sting

In January of 2001, the OIG released a report on Miami Fire Equipment, a fire extinguisher company that had been contracting with the County for the previous three years. The OIG initiated an undercover sting to determine the extent of the fraudulent overbilling by the vendor. The sting revealed that the County was being billed for parts that were not actually replaced, and was being charged for services that were otherwise free according to the vendor's bid proposal. As a result of our investigation, the County negotiated a settlement for a total of $138,000. The vendor, as part of the agreement, also voluntarily suspended itself from engaging in or bidding on County contracts for a two-year period.

Extinguishing the Fraudulent Billing Scheme of Biscayne Havana Fire & Safety Equipment Company

On the heels of the previous sting operation, the OIG commenced a similar sting operation to investigate Biscayne Havana Fire and Safety Equipment Company (Biscayne Havana) for defrauding both the County and the City of Miami in its performance under lucrative service contracts to maintain and repair the County's and City's fire extinguishers. Biscayne Havana was previously awarded a contract to service fire extinguishers from the City of Miami. After revoking the contract from Miami Fire Equipment, the County accessed the City's contract with Biscayne Havana while the County utilized the procurement process to find a new vendor.

To make the case, the OIG hired an expert to inspect 32 fire extinguishers. The expert certified that the 32 extinguishers were in perfect working order, and marked them with special invisible ink. These specially-marked extinguishers were then delivered to Biscayne Havana for inspection, maintenance, and repair, if necessary. Biscayne Havana billed the County for maintenance and repair work on a number of the specially-marked extinguishers.

The extinguishers were again examined by the OIG's expert witness to determine if, in fact, any maintenance or repair work had been performed as claimed in the Biscayne Havana invoices. The expert stated categorically that no work at all had been performed. Furthermore, an OIG review of thousands of invoices submitted to the City and County for payment from Biscayne Havana revealed that Biscayne Havana habitually overbilled for both work not performed over the course of the contract and work not chargeable pursuant to the contract. Lastly, OIG investigation of the qualifier's credentials revealed that he

had lied to the State Fire Marshal on various licensing applications, by denying that he was a previously convicted felon, in violation of state law.

The owner of the company and its qualifier were arrested, and the company itself was indicted on numerous charges of Grand Theft and Aggravated White Collar Crime. Charges against the owner of the company were dismissed following his death while pending trial. The company qualifier pled guilty to Aggravated White Collar Crime and was ordered to pay $7,500 in restitution to the City of Miami and $32,500 to Miami-Dade County for his portion of the much-larger theft. During the probationary term, the qualifier was debarred from doing any future business with either the City of Miami or Miami-Dade County. The Company was dissolved and closed.

Operation "Get the Lead Out"

An OIG investigation that began in March 2004 proved that indeed "scales sometimes lie." The investigation uncovered several schemes at the Department of Solid Waste Management (DSWM): one by waste tire haulers to cheat the County's truck scales; a second by a County employee to steal and illegally resell DSWM payment coupons; and a third by DSWM employees to defraud the County of disposal fees for their own profit.

The probe began at the County's Resource Recovery Facility, where waste is converted into energy after being shredded and recycled. The OIG review of the facility's procedures revealed that in order to assess disposal fees, the scale house routinely kept records of the weight of empty registered disposal trucks. The scale house would then subtract this weight from the weight of fully loaded trucks, and assess a $75 per ton disposal fee to the difference.

In the first scheme, two brothers owning a Hialeah tire disposal business were arrested after adding thousands of pounds of hidden lead weight to one truck and a false heavy plywood liner to another truck to fraudulently inflate the weight of their supposedly empty disposal trucks. They then removed the hidden weight and dumped truckloads of tires at greatly reduced disposal fees. Pursuant to an OIG sting operation, both brothers and another co-conspirator were arrested after a driver and one of the disposal trucks were caught with two false 33-gallon gas tanks filled with lead. Both disposal trucks were searched and seized by State Attorney's Office investigators and the lead tanks, plywood and disposal trucks were impounded.

In a second scheme, the DSWM employee who actually sold the coupons (which are used for payment purposes for disposing at the County facility) was arrested for theft when it was revealed that he stole coupons and resold them to the commercial waste tire haulers at 20-40% less than the coupon's face value. An OIG audit of coupon sales showed that over $480,000 worth of coupons were unaccounted for. The missing coupons were voided by serial number, thus preventing thousands of dollars in additional fraudulent transactions. The investigation showed that the employee illegally pocketed as much as $52,000 before he was caught. The investigation also revealed that the two brothers from the lead/plywood scheme were among the biggest black market customers who purchased and used the stolen coupons to pay their already-reduced disposal fees.

In a third scheme, three employees defrauded the County of disposal fees in two separate incidents. These employees used their County disposal vehicle, which is exempt from paying disposal fees, to bypass the scales and dump tires directly into the shredding area. One pair fraudulently pocketed cash from a tire vendor to dispose of over nine tons of tires. Another employee fraudulently disposed of nearly twenty tons of tires.

A final resolution from all seven arrests was reached through various pleas, resulting in

restitution of almost $150,000 for the County. The Resource Recovery Center discontinued disposal coupon sales, made procedural changes in assessing and weighing trucks, and increased employee training. DSWM now collects over $25,000 in additional fees each month since implementing the new procedures. A post-investigation review revealed that revenues increased by 46% in one three-month period alone. In the years to come, we can expect that revenues will increase by millions because of this investigation.

ELECTION OVERSIGHT AND INVESTIGATIONS

Former Commissioner Miriam Alonso Convicted of Public Corruption Crimes

A joint investigation conducted by the OIG, the Miami-Dade Police Department, and the Miami-Dade State Attorney's Office led to the arrests of Miami-Dade County Commissioner Miriam Alonso, her husband and her chief of staff. All three were charged with a variety of corruption-related offenses, including Organized Scheme to Defraud, Grand Theft, Evidence Tampering, Money Laundering, and Exploitation of Official Position. The investigation focused on the pilfering of approximately $50,000 from Alonso's 1998 reelection campaign account and the misuse of approximately $78,000 raised to combat a campaign to recall Alonso because of her landfill expansion efforts near Miami Lakes. After Commissioner Alonso's arrest, the Governor suspended her from the Board of County Commission and she later resigned.

Miriam Alonso and her husband Leonel were sentenced in October 2006 and received two years of house arrest followed by three years probation. They were also ordered to pay $250,000 in restitution and investigative costs. Alonso's chief of staff was charged with mortgage fraud-related offenses and pled to the charges in 2002. She was sentenced to probation and ordered to pay $105,845 restitution and perform community service. She cooperated during the remainder of the investigation into the Alonsos.

The Alonso investigation led to other arrests, including the arrests of Alonso's daughter and her daughter's husband for misusing campaign funds raised for her 1997 failed bid to be elected to the City of Miami Commission. Two other Alonso associates, who lied under oath to the State Attorney's office about anti-recall campaign work, pled guilty in February 2003.

2002 Primary Election and Subsequent Oversight

In the aftermath of the September 2002 primary elections, when the County's newly acquired touch screen voting machines wreaked havoc at the polls, the OIG, at Mayor Penelas' request, conducted a thorough examination of what went wrong. In perhaps the most crucial advice ever rendered by this Office, we recommended that the County's crisis management professionals lead the upcoming general election planning and preparation efforts. We cautioned the County not to rely on any new, untested software upgrades, but instead to plan around known parameters, in light of the six week time limitation to prepare for the general election. The command staff of the Miami-Dade Police Department, who became the Special Project Management Team, echoed the same sentiments and embraced the OIG's recommendations, thus averting another voting fiasco during the November 2002 election.

Afterwards, the OIG turned its attention to the procurement process used in the selection and purchase of Election Systems and Software, Inc.'s (ES&S) iVotronic touch screen direct recording

electronic devices. Our review focused on the representations made by the vendor and expectations of the client (the County) in an area of election systems technology that was relatively new. This was particularly relevant to Miami-Dade County, as our election needs warranted technological adjustments to the vendor's firmware in order to produce a tri-lingual ballot display. Despite assurances to the contrary, Miami-Dade County found that the upgrade to accommodate our tri-lingual needs required other resources and logistical adjustments that were not as represented.

The 2004 Election

Two years later, the OIG was again involved in assessing the County's overall preparedness for the then-upcoming 2004 elections. The OIG issued a number of recommendations–which were all adopted–to help ensure the integrity of the election process. Recommendations included additional training in areas of absentee ballots, specifically in handwriting analysis; providing extra pre-election polls security; implementing Election Day parallel testing; and conducting additional post-election audits. County preparedness for the fall elections was high, and Miami-Dade County earned high marks for its 2004 electoral processes.

Commission Candidate's Theft of Campaign Financing Trust Fund Monies

An investigation was initiated after the OIG was alerted to campaign contribution irregularities in the 2004 County Commission District 13 election. The initial focus was on the campaign of candidate Jorge Roque. During the course of the campaign, the Elections Department unknowingly relied on fraudulent information supplied by the candidate and thus determined that Roque was eligible to receive $75,000 of public matching funds from the County's Campaign Financing Trust Fund.

Investigative fieldwork verified that fraudulent activity did occur for qualifying the campaign to receive $75,000 that the candidate would not otherwise have been entitled to receive. The scheme was accomplished by reimbursing supposed contributors, thereby creating fake campaign contributions. The candidate then reported these phony contributions to the Elections Department to satisfy the minimum requirements (number of contributors and amount of contributions) in order to obtain public financing.

The investigation led to the arrests of four individuals related to the Roque campaign: the candidate, the candidate's campaign manager, the candidate's sister-in-law, and a sitting City of Hialeah Councilwoman who was supporting the candidate in the election. The Councilwoman pled to charges and resigned her seat on the City of Hialeah Commission. The sister-in-law pled guilty to charges and was sentenced to house arrest and probation, and ordered to pay restitution and investigative costs. The candidate was convicted after trial by jury, and sentenced to 17 months in state prison. The Judge also ordered him to pay back the monies he stole from the Trust Fund and pay costs of the OIG investigation. The candidate is currently appealing his conviction. The fourth individual, the campaign manager, is currently awaiting trial.

The fraudulent activities discovered in the Roque investigation led the OIG to audit the qualification submittals of all eleven candidates that applied for public funding in 2004. These audits identified loopholes, deficiencies, inefficiencies, problems and other notable concerns with the procedures used to verify information provided by candidates and used to qualify them as eligible to receive public Campaign Financing Trust Fund monies. As a result, the BCC amended the language of the Campaign Finance Ordinance to include the OIG recommendations.

MIAMI INTERNATIONAL AIRPORT

Review of the Duty-Free Concessions Agreement

An investigation of the Duty Free Concession Agreement at Miami International Airport (MIA) revealed violations of several important contractual provisions that required real, meaningful and commercially useful participation by vendors designated disadvantaged business enterprises (DBEs). The awarded Joint Venture (JV) Concession Agreement included four DBEs as JV partners. It was found that these four partners were allocated over $14 million in revenues since 1995, but had not performed any actual work or services despite complaints by one of the JV partners who wanted to participate. The OIG also concluded that MDAD staff failed to properly monitor and accurately report the required DBE participation. In response to our report, the Aviation Department took remedial action to correct this contract violation.

Paramedia Audit Results in Prison Sentence for Lobbyist

Beginning in 2001, the OIG questioned the County's extensions of a multi-million dollar consulting contract between the airport and Paramedia, a company running an international marketing office in Madrid, Spain. An audit conducted by the OIG highlighted numerous instances of contractual non-compliance by Paramedia. OIG auditors found instances of failure to provide MDAD with detailed invoices, failure to document personnel time, failure to supply detailed annual marketing plans and budget proposals as required, and failure to maintain adequate financial and accounting records. The OIG also noted that MDAD paid for non-contractual expenses and that MDAD made payments without requiring supporting documentation. These financial discrepancies and questions over the need for an office in Madrid, Spain led MDAD to terminate the contract with Paramedia.

The OIG's concerns were compounded by the fact that a very large amount of Paramedia's income was disbursed to other companies controlled by Paramedia's principals. In continuing the review, the OIG uncovered criminal activity by one of Paramedia's principals, who also worked as a lobbyist. In 2003, this person was arrested and charged with 75 counts of illegal credit card factoring, which totaled over $527,000 in false credit card charges to the American Express Credit Card Company.

The individual was arrested a second time in 2003, when it was discovered that in his role as a lobbyist, he pocketed hundreds of thousands of dollars given to him by companies seeking to do business with the County. The investigation revealed that as a lobbyist, he falsely represented to his clients that the money given to him would be used to buy expensive gifts and lavish dinners for public officials. While it was clear from the OIG investigation that the lobbyist pocketed the money and that public officials did not receive any gifts, the perception that County officials would engage in such illegal and improper conduct was tremendously damaging. The OIG also provided the IRS with information leading to his indictment and arrest for federal tax evasion crimes.

In 2005, the lobbyist was sentenced to two years in federal prison, to be followed by two years of supervised release, and he was ordered to pay the IRS $472,970 in restitution. He was also sentenced concurrently in state court to two years state prison followed by ten years probation, and was ordered to pay $203,972 in restitution and OIG investigative costs.

Fuel Farm Scam

A massive investigation by the OIG and the Miami-Dade State Attorney's Office into Miami International Airport's fuel farm facility revealed that almost 3 million gallons of jet fuel, worth almost $4 million, was stolen from the facility from 1999-2003. The investigation focused on Aircraft Services International Group (ASIG), the company hired by the Miami-Dade Aviation Department (MDAD) to operate and manage the fuel depot. The investigation netted eight separate but related criminal cases involving numerous individuals and five companies, including ASIG. Individual defendants include ASIG employees, MDAD contractors, and one MDAD employee. The investigation also revealed contract fraud—overbilling—and unlawful payments to the County employee. Criminal charges included Racketeering, Organized Scheme to Defraud, Grand Theft and Unlawful Compensation.

A plea agreement was reached with a top level ASIG manager responsible for billing schemes involving fictitious work and parts. The plea agreement required him to sell his home, which was partially purchased with proceeds from the theft, to pay restitution of $200,000. In a separate settlement, the County received $2.5 million in restitution from ASIG. Just recently, six of the major players in the fraud scheme were sentenced. The sentences ranged from four years in state prison for the ASIG manager to four years of house arrest for two of the lesser culpable defendants.

One conservative estimate projects the County's savings as a result of this investigation at over $15 million for a five-year period. As in similar frauds detected by the OIG, corrective actions were taken by the airport in order to avert any future fuel thefts.

PROPERTY TAX, FORECLOSURE AND TITLE CASES

County Tax Collector's Office – Fraud in the Sale of 2002 Property Tax Certificates

A joint investigation with the Florida Department of Law Enforcement into misconduct at the County Tax Collector's Office centered on the 2002 tax certificate sale of unpaid delinquent 2001 real estate taxes. The investigation uncovered the common practice of tax certificate buyers to give gifts, tips and gratuities to employees of the Tax Collector's Office and the Clerk of the Court's Tax Deed Section. This practice was clearly in violation of County regulations and was brought to the attention of County management. Twenty-three County employees were identified; they resigned, were suspended, or were subsequently disciplined for violating County policies.

The investigation also uncovered a scheme by an employee to alter the interest rate on the auctioned tax certificates that were purchased by one particular buyer. The interest rate is passed on to the property owners, who would then have to pay inflated amounts to remove the lien. The interest rates due on these altered tax certificates would have given that tax certificate buyer a fraudulent net gain of over $37,600. The identified buyer is now prohibited from participating in future tax certificate sales.

The investigation resulted in the arrest of two Tax Collector's Office supervisors. One supervisor was charged with Perjury in an Official Proceeding for lying about accepting gifts. The other supervisor, who worked as an auctioneer during the tax certificate sale, was arrested for Official Misconduct and Aggravated White Collar Crime in connection to the fraudulent alteration of the tax certificate sales cards. He has since pled to the charges and was sentenced to house arrest followed by probation. He is required to pay investigative costs, perform community service,

resign his County employment, and is banned from future government employment. Due to the OIG investigation, the Tax Collector's Office has changed their procedures for conducting tax certificate auctions and instituted internal controls to ensure that this type of corruption of the sales process could not occur again in the future.

Operation Foreclosure Vultures

The OIG takes pride in our record of protecting our community's disadvantaged citizens from scam artists. Multiple schemes were uncovered by OIG investigators, working closely with the Florida Department of Law Enforcement (FDLE) and the Office of Statewide Prosecution, in an investigation dubbed "Operation Foreclosure Vultures." The investigation has yielded numerous arrests thus far, and began after a group of Circuit Court Judges alerted the OIG of concerns that were arising in court. In the first probe, an asset locator was arrested for his part in a foreclosure surplus fraud scheme that victimized South Florida homeowners. The scheme was perpetrated through the Circuit Courts of Miami-Dade and Hillsborough Counties.

"Operation Foreclosure Vultures" highlighted a serious weakness plaguing the court system. This weakness provided the opportunity for unscrupulous predators and asset locators to victimize homeowners who are unaware that monies from the foreclosure sales of their homes exceeded the debt on the properties. One scheme involved misappropriating $66,339 in surplus foreclosure funds from 20 victims. In another scheme, $48,000 in surplus funds owed to an elderly foreclosure victim was misappropriated.

In a separate probe, four individuals, one of whom was an attorney, were arrested for falsifying loan documents to gain illegal proceeds. As of the date of this report, the attorney's case is still pending in the criminal courts; however, the Florida Supreme Court has permanently disbarred him from the practice of law in the State of Florida for his participation in the scheme. The other three, arrested on charges of Organized Scheme to Defraud and Grand Theft, have pled guilty. As a part of their sentence they must pay restitution to the victims and the OIG's investigative costs.

Stolen Identities and Stolen Homes

An OIG joint investigation with the Miami-Dade State Attorney's Office and the Miami-Dade Police Department resulted in the arrests of a man and a woman for stealing identities and stealing homes. The investigation was launched after the OIG learned that two separate homes and a vacant lot adjacent to one of the homes were all mysteriously deeded to the same woman, who used two different names. One name was proven to be a stolen identity. Investigation of the deeds revealed that the notary public information was bogus and that the identities of two notary publics were also stolen by the pair. These three transactions were mysterious, in that at the time the bogus deeds were purportedly signed, the real owners of the homes and lot had either been dead for over ten years, or were elderly and confined to a nursing home suffering from dementia.

As the investigation unfolded, evidence revealed that the woman involved in the scheme was a drug addict who acted as a straw buyer for the mastermind of the scheme, a man who was in the real estate business. Evidence further revealed that they appeared together at a Team Metro office to negotiate a settlement of liens related to one property. At that time, they posed as brother and sister using false names. The mastermind was so brazen as to attempt to obtain a medical discount for his supposed sister, by pointing out her emaciated physical appearance and claiming she was a "cancer patient." Upon being pressed for medical evidence of her disease, he quickly dropped this claim.

After title of the properties was conveyed into the addict's various names, she then conveyed equitable title to the mastermind's corporate entity or his designee, and then purportedly conveyed real title to innocent third parties. The mastermind and addict netted over $100,000 cash from the various transactions and left a wake of chaos behind them. The real owners' heirs, the innocent purchasers, the mortgage companies, and the title insurance companies were left to sort out the legal morass created by the pair's fraudulent acts.

The now-former addict has entered a plea to the charges and has agreed to testify against the mastermind, who is currently awaiting trial. She remains in jail and will be sentenced after completing the obligations under the plea agreement. The mastermind is facing a multitude of five-year minimum mandatory state prison sentences, should he be convicted at trial.

Due to the OIG investigation, the County Recorder's Office instituted a postcard notification system, in an attempt to keep these types of cases from occurring again in the future. If any instrument affecting title, such as a quitclaim deed, is filed and recorded, the owner of record at the time of the filing is sent written notification via postcard. This notification informs them that an instrument affecting title to the property has been filed.

MIAMI-DADE BUILDING DEPARTMENT

Certificates of Completion for Sale

In 2003, the OIG launched a widespread investigation into activities at the Building Department, namely whether a County employee was illegally issuing Certificates of Completion and/or Occupancy on uninspected work for his own personal gain. Investigation revealed that a County employee who once had the authority to issue Certificates of Completion had been transferred to another department. However, his computer access to Building Department databases was never adjusted or taken away. This investigation culminated in the arrests of four individuals for various fraud-related crimes, such as Grand Theft, Organized Scheme to Defraud, Official Misconduct, and Unlawful Compensation. These arrests included the corrupt County employee, the president of a company in the business of expediting commercial and residential building plans, the project manager for a real estate development firm, and a licensed general contractor.

In 2005, the president of the expediting company pled guilty to charges in seven cases and was sentenced to house arrest, probation, and the payment of restitution. He also agreed to testify against the corrupt County employee. The corrupt County employee pled guilty and was sentenced to six months in the County jail, followed by house arrest and probation. In addition to the nine illegal Certificates of Completion at issue among the four defendants, the corrupt employee admitted to issuing illegal

Certificates of Completion in over 50 other cases.

The project manager for a real estate development firm agreed to pay costs of the OIG investigation and perform community service. The general contractor entered a plea in late 2006, and is still awaiting sentencing. He has already made restitution regarding the crimes charged by correcting any illegal construction and obtaining proper Certificates of Completion on two properties for which he was charged. Furthermore, he is working to legalize 39 other properties that he had involvement on, but was barred from being criminally charged due to statute of limitation issues.

Corrupt Employees Accepting Gifts to Speed-Up the Processing of Construction Plans

As the OIG delved more deeply into the activities of the corrupt employee mentioned above and the other three individuals arrested, evidence surfaced that two additional employees in the Building Department were habitually accepting gifts, tips or gratuities from customers to "speed up their work." That is, if an expediter needed plans pushed through the system and approved more quickly, a small gift to certain employees made that happen.

In 2004, a plans processing technician and a clerk working in the Microfilm Section were arrested for numerous charges of Unlawful Compensation. Both were fired from County employment, entered pleas, and were sentenced to probation.

PUBLIC WORKS

OIG Bores into Roads to Determine the Quantity of Asphalting Work

In 2001, the OIG reviewed billings submitted by a paving contractor for permanent asphalt patching work done in various neighborhoods around the County. The OIG's review questioned the quantities of asphalt laid by the contractor and, thus, the bill paid by the County. The OIG retained field experts to examine core samples of the asphalt patches. These samples provided proof that the contractor overbilled the County on the amount of material laid. As a result of the OIG's investigation, the Public Works Department obtained a $40,000 credit from the paving contractor.

OIG Digs Down to Drainage Trenches to Determine Quality of Work

A 2005 OIG investigation resulted in arrests of a County contractor, two employees, and fraud-related charges for a corporation in connection with the contractor's work on County storm drainage projects. The charges related to billing Miami-Dade County for substandard work, work not performed, and for billing the County for used materials that were represented as new. It is estimated that the County lost over $100,000 due to this scheme.

The contract in part called for storm drainage trenches to be installed at certain specified depths. The company then billed the County depending upon that depth. The deeper the trench, the more the contractor was paid. The OIG investigation revealed that although the plans called for–and the contract paid for–trenches at depths of 13 feet, the trenches in some areas were actually 2-8 feet shallower than required. The OIG determined that the required depth had not been achieved by actually digging down and measuring the actual depth of the trenches.

The Public Works Department used an outside agency to inspect the day-to-day construction

of this project and to ensure that the County got what it paid for. The duties of this agency included preparing daily inspection reports detailing the amount of pipe laid, the depth of trenches, and number of structures installed by the contractor. Instead of performing these duties, the outside agency accepted the word of the contractor's employees as to the depth of the trenches, instead of demanding that the trenches be dug up to verify the depths and to properly inspect the worksites.

As a result of this investigation, the County has implemented specific reforms to hold inspectional service contractors responsible for failures in detecting and/or reporting defective work. As of the date of this report, all defendants are awaiting trial.

QNIP Audit Series

During 2002, the OIG selected nine Miami-Dade Public Works Department (PWD) contracts under the Quality Neighborhood Initiative Bond Program and Quality Neighborhood Improvement Program (collectively referred to as QNIP) for street resurfacing and drainage improvement. The audit resulted in four separate audit reports that address a variety of QNIP issues.

Report 1 addressed PWD's contract administration activities, including its payment processing practices. We generally found PWD's contract administration and payment processes to be inefficient in several areas, including timeliness of payments and in its consistency in obtaining Release of Claim forms from its contractors and direct material suppliers.

Report 2 focused on the Department of Business Development's (DBD) monitoring of contractor compliance with the workforce requirement in QNIP contracts. Overall, the audit found DBD's oversight to be lacking in consistency and effectiveness.

Report 3 addressed PWD's contract administration relating to its handling of financial issues. We found unauthorized use of contract contingency allowances; significant, unexplained cost variances between estimates and final work order costs; and questionable reports of contingency allowance usage.

Report 4 described unauthorized usage of QNIP contracts; questionable costs due to undocumented work and disproportionate costs; and improper unit costs assigned to "lump sum" work orders.

Each OIG Report contained specific recommendations to address the various weaknesses and inefficiencies revealed by the audit. Management was given an opportunity to respond to the above reports during the audit process, and their comments showed management's willingness and intent to correct identified deficiencies. Management occasionally challenged specific audit findings, but generally appreciated the in-depth review conducted by the OIG and have since implemented several important audit recommendations.

EMPLOYEE UNION CASES

President of Transport Workers Union Convicted of Fraud

The OIG investigation of the president of the Transport Workers Union (TWU) Local 291 resulted in criminal charges being filed against Edward Talley (Talley). The OIG investigation revealed that Tally abused his position as TWU president to steal union monies. As a Miami-Dade Transit Agency employee, Talley used County procedures governing the donation of leave time to siphon off union monies. These fraudulent acts were concealed from the TWU membership and served only to benefit Talley. Talley was arrested in July 2001 and charged with Organized Scheme to Defraud and Grand Theft. He later pled guilty and was ordered to repay $85,910 in restitution. As part of his plea, the court ordered that Talley pay investigative costs, resign both his presidency and his membership in the TWU, refrain from working in any capacity for any union, and refrain from holding public office or working for any government agency.

Former County Employees Serving as AFSCME Local 121 Officials Convicted of Racketeering

The OIG launched an investigation when, at the urging of the former Director of the Water and Sewer Department (WASD), the newly elected President of the American Federation of State, County, and Municipal Employees (AFSCME) Labor Union, Local 121, lodged a formal complaint. The complaint alleged that thousands of dollars (dues paid by County employees) were stolen from the Union's coffers over a five-year period by the preceding administration. AFSCME Local 121 serves the employees of the WASD. Members consist mainly of WASD employees in positions ranging from meter readers to engineers. The County deducts membership dues from the participating employee's payroll and remits them to Local 121.

The ensuing investigation, conducted jointly by the OIG and the Miami-Dade State Attorney's Office, found that over a five year period the former President, Vice President, Secretary-Treasurer, Recording Secretary and Executive Board Members received checks drawn on the Union checking account totaling $350,832, without the membership's knowledge or consent. In order to conceal the fraud and explain the Union's lack of money, members were given a variety of explanations including that the lack of money was due to the "wining and dining of County Commissioners." The investigation found that due to the large amount of money that the Union officials paid themselves, various monthly per capita payments to both the International Union and the Regional Council, entities that oversee the Local 121, were not made. This failure to pay placed the Local 121's sovereignty and existence in jeopardy. The former administration's failure to pay Local 121's financial obligations was particularly egregious, because the Union had no other material expenses other than their per capita taxes.

After the initial arrests in April of 2005, the former Executive Board members agreed to testify against the former Local 121 officers. In March of 2006, the former Recording Secretary pled to grand theft charges and he was sentenced to probation. He was ordered to pay restitution of $20,000 to the Local 121 and to pay the costs of the investigation to the OIG. He also agreed to testify against the former President and Secretary-Treasurer.

In January of 2007, the former President and Secretary-Treasurer each pled guilty to Conspiracy to Racketeer and Organized Scheme to Defraud, both first-degree felonies. Each was sentenced to two years of house arrest followed by ten years of probation, wherein they were ordered to pay a total of $179,434 in restitution, and pay OIG investigative costs.

EMPLOYEE MISCONDUCT CASES

OIG Ghostbusters Discover Ghost Employee at WASD

In 1998, the OIG uncovered alleged payroll fraud committed by a WASD senior administrator. Investigation found that she falsified time sheets of a seasonal student employee who never actually worked at WASD. This "ghost employee" was allegedly the goddaughter of the administrator. As part of the scheme, the administrator directed other WASD employees to lie about and otherwise cover-up for the ghost employee. In total, the ghost was paid $4,875.

As part of its investigation, the OIG consulted a questioned documents examiner to determine the authenticity of signatures on the time sheets. After their arrests, the administrator and the ghost were both convicted after a trial by jury. The two were sentenced to probation and were ordered to complete 300 hours of community service, and pay approximately $16,000 in restitution and investigative costs. Additionally, the administrator was sentenced to 15 weekends in the County jail to be served over the course of her probation, primarily for involving other employees and asking them to lie on her behalf.

Corrections Employee Convicted for Falsifying Military Leave Orders

Information was received by the OIG concerning suspected fraudulent Military Reserve Orders submitted by a Corrections Department employee. Our investigation revealed that the employee submitted five falsified military orders, thereby causing the falsification of eight Payroll Attendance Reports. The scam netted him 33 days of Military Reserve Leave from his County employment in 2000-2001. The scam cost the County $3,845 plus benefits. The corrections officer was arrested and pled guilty to 13 counts of Official Misconduct and eight counts of Grand Theft. The defendant's sentence included full restitution to the County and payment of the OIG's investigative costs.

A Supervisor is Guilty of Overtime Fraud

The OIG exposed a WASD supervisor who abused his position by fraudulently altering his Payroll Attendance Reports to obtain pay for overtime hours not worked. In the course of 18 months, the supervisor defrauded the County of over $36,000. He was arrested and pled guilty in 2001 to 33 counts of Grand Theft and other charges. The supervisor was sentenced to 30 days in the County jail, one year of house arrest, and 14 years of probation wherein he was ordered to pay restitution of $36,442. He also forfeited over $25,000 in accrued sick and annual leave pay.

County Fire Rescue Engineer Arrested, Then Extradited from Hungary to Face Additional Charges

A County engineer working in the Fire Rescue Department was arrested in February 2003 on 38 counts of Bribery, Money Laundering, Organized Scheme to Defraud and other serious crimes. OIG investigators determined that while employed by the County, the engineer secretly owned and operated two companies that drafted fire sprinkler plans. His businesses received over a million dollars from July 1998 to 2003 for producing fire sprinkler plans for at least 18 different companies. As an engineer for the County, he was responsible for reviewing and approving some of the same fire sprinkler plans that his own business had prepared. Further investigation revealed that he recommended his own company to County vendors whose plans he was reviewing, and also solicited bribes from those vendors. In April 2003, OIG Special Agents obtained a second warrant for his arrest after determining that he solicited three of his employees and a client to falsely testify on his behalf to prosecutors. After learning of this second warrant, he literally ran out of the courthouse and fled the country.

The OIG's pursuit and investigation into his whereabouts resulted in his unprecedented extradition from Hungary, the country to which

he had fled. U.S. Marshals escorted him back to the U.S. and booked him into the Miami-Dade County Jail. After pleading guilty, he was sentenced to three years in Florida state prison, was ordered to pay $58,537 in restitution, forfeited over $20,000 in annual and sick leave, and was ordered to pay $20,000 in OIG investigative costs. During the course of this investigation, the OIG shared evidence of his finances with the IRS. Based in large part upon this evidence and after his return to the U.S., the engineer (for a third time) and his employee (for the first time) were indicted, arrested, and pled guilty to federal tax evasion charges related to the engineer's secret businesses.

Phantom Juror Exposed

The OIG investigated a former Court Records Specialist for payroll fraud. The investigation led to his arrest for defrauding the County Clerk's Office out $17,388 in salary and benefits. The former County employee had orchestrated an on-going lie that he was serving on federal jury duty for about six months. The investigation revealed that while still employed by the County, the employee had in fact been summoned for duty, but had failed to appear for service. Instead, he reported to supervisors that he had been selected to serve on an important federal criminal jury trial. The employee would periodically report to supervisors over the six-month period that he was still serving on the jury, but could not give specifics regarding the case due to confidentiality concerns and the federal judge's orders not to talk about the case. After repeated requests from supervisors to provide back-up documentation of his service, the clerk abruptly resigned.

In 2004, the former Court Records Specialist pled guilty to all charges, was sentenced by the Court to probation, and was banned from seeking public employment. Prior to sentencing, the former employee paid a total of $17,388 in restitution to the County and also paid OIG investigative costs.

THE PUBLIC HEALTH TRUST

Cardinal Health 109, Inc. Probe Involving Sex, Lies, and Prescription Medication

An OIG investigation was undertaken in 2005 into the Public Health Trust's (PHT) multi-million dollar pharmacy operations management contract with Cardinal Health 109, Inc. (Cardinal), which had been awarded as a no-bid contract based on the promise that taxpayers would save millions of dollars. Cardinal's implementation manager, the person in charge of the PHT contract, was arrested and charged in December 2004 with Organized Scheme to Defraud and Grand Theft. The arrest stemmed from nine instances where he fraudulently submitted bills for nights at strip clubs, fishing trips, and for expensive meals. His expense reports falsely stated the purpose of the events and inflated the number of attendees to avoid scrutiny by the PHT and Cardinal. It was also discovered that the PHT signed off on over $6,380 in expenses without reviewing bills or requesting back-up documentation that might have triggered appropriate scrutiny of expenses. This was just the tip of the iceberg.

This manager was the same person in charge of the PHT's pharmacy operations and who supervised the Cardinal transition team that set up Cardinal's billing system to the PHT. A subsequent audit uncovered that the PHT suffered over $15 million in damages and overcharges. A settlement with Cardinal was eventually reached, which resulted in the return of $11 million to the PHT.

The Admission and Treatment of Non-County Residents and Non-Emergency Patients at JMH

In December 2003, the OIG issued an audit report of non-County resident and non-emergency treatment and admissions at Jackson Memorial Hospital (JMH). This audit followed the investigation of a non-resident patient from Guatemala who was admitted to and treated by JMH's Burn Center. This patient died in 2001, owing JMH a bill of approximately $2.2 million for his treatment and care.

The audit was presented to the PHT to provide comprehensive evidence of the financial impact of non-County resident admissions; to assist in evaluating future measures that could be adopted by the PHT to address similar occurrences; and to recommend possible actions in the pursuit and collection of unpaid balances (especially those balances guaranteed by third party international insurance carriers and foreign governments). The audit summarized data compiled by OIG auditors on admissions, lengths of stays, and costs related to selected non-County residents admitted to and treated at JMH. Although cumulative patient account balances exceeded $85 million, the audit focused only on 68 notable cases that represented almost $16.3 million in unpaid balances, and on adjustments exceeding $2 million.

Of the 68 unpaid patient accounts scrutinized, the OIG audit determined that four patients received free services by JMH, 30 patients had accounts managed by the International Health Center and 34 patients were other self-paying, non-County residents. These patients included a Peruvian who received two years' worth of treatment and left an unpaid balance of $1.16 million; a Saudi national admitted with a guarantee letter from the Saudi Arabian government and who died leaving an unpaid balance of $235,500; four patients from Aruba who were admitted under the same insurance company and who collectively left an unpaid balance of $930,909 for treatments dating back to 2001; and an Indiana patient with an unpaid balance of over $1 million owed by his state after receiving multiple organ transplants and ongoing care for 2½ years.

PHT management concurred with the findings highlighted by the audit and implemented remedial actions. Most notably, the PHT assumed administrative control of the intake and initial screening process of Jackson Health System hospital patients who utilize the International Health Center. Furthermore, the PHT hired collection agencies, specializing in international patient collections, to assist them with the collection of unpaid patient debt.

Audit of Collection Agency Fees

The OIG Audit Unit completed a review of the PHT's collection of out-of-state Medicaid accounts. We found that the PHT was unnecessarily paying fees of 7.5% of the collected amount for patients whose medical procedures were either pre-arranged or pre-authorized. As a result of the audit, the collection of these accounts was transferred in-house. Later, an OIG follow-up found that the PHT had done a poor job in collecting these accounts; subsequently, the OIG provided the PHT with recommendations for enhancing its current methods of collection. The PHT was encouraged to aggressively collect these accounts, which totaled almost $6 million owed by a mere 14 patients.

Audit of Incident Management Group, Inc. Reveals Million Dollar Discrepancy

The OIG's extensive review of the consultancy arrangement between the PHT and the Incident Management Group, Inc. (IMG) questioned, among other things, the procurement process utilized to initially select IMG, the types of services allegedly provided by IMG, and the poor documentation submitted to the PHT as support for payment of its services. Moreover, the OIG outright questioned some of the consultant's invoices for so-called "recruitment fees" and a PHT trustee's involvement in matters related to invoicing disputes. After issuance of the OIG's final report, and in response to our follow-up,

a PHT internal audit concurred in identifying over $1 million in questionable payments and overcharges, and stated it would be seeking recoveries from the vendor.

WATER AND SEWER DEPARTMENT

WASD Water Tampering Unit

The Inspector General spearheaded an effort to detect consumer utility tampering at the County's Water and Sewer Department (WASD), leading to the creation of the Water Tampering Unit in June of 1999. Since its inception through the end of this fiscal year, the Unit has performed over 33,000 inspections and has found evidence of tampering during 17% of the inspections. The Unit has issued over $2.7 million in tampering citations and has actually recovered almost $2.4 million in revenues from these citations. Residential tampering has comprised the bulk of the citations issued (79%), followed by violations at construction sites (14%), commercial property tampering (4%), tampering at multi-unit properties (2%), and tampering of fire hydrants (1%). WASD's Tampering Enforcement Program won an achievement award and received national recognition by the National Association of Counties for its innovative resource saving program.

The OIG continued its work at WASD to expand this recovery initiative to the tampering of water fire lines and other illegal thefts of our crucial water supplies. The OIG joined with WASD and conducted a study to determine the feasibility of applying similar measures to detect the tampering of metered water fire lines. The study specifically reviewed fire line meters at the County's Seaport and revealed that there had been no billing for approximately six months, equating to a loss of over $15,000, which was immediately billed by WASD to the Seaport. If it had not been for the oversight the OIG initiated in this area, WASD would have continued to lose $2,600 each month from the Seaport alone. This initiative has been expanded to other large-scale facilities and will result in anti-theft measures being put into place where needed.

Pump Station Improvement Project

In December 1998, an OIG investigation uncovered a multi-million dollar fraud in the construction of a $450 million County sewer project known as the Pump Station Improvement Program (PSIP). The County settled with several major contractors on the project in January 2001. The settlements required reexamination and testing of the pipelines and, where necessary, recertification of the installed underground lines. Over $7 million in estimated potential losses to the County were averted because of the investigation, as all remedial work was completed at no additional charge – not to mention the aversion of public safety and health risks to citizens of Miami-Dade County.

WASD AUDIT SERIES – 3 REPORTS

The OIG Audit unit completed a series of three audit reports in 2005, relating to a WASD contract for the installation or repair of various force mains and their associated systems. Known as a "blanket", the contract establishes a pool of eligible contractors who then bid on individual projects. Seventeen construction projects – ranging from $100,000 to $2.6 million in work order amounts – were reviewed as part of this audit.

The first two audit reports focused on WASD procedures for work order pre-bid estimates,

work order bid proposals and awards, contract documentation, and the reporting of final contract expended amounts. The audits also focused on documenting the work completion date, which is essential in determining whether liquidated damages and/or time extensions are applicable. It was found that project files for the work orders issued did not contain records establishing and documenting authoritative work completion dates, which are essential project records for work order close-outs or for the granting of time extensions for the assessing of liquidated damages. Many of the completed work orders appeared to have been completed "late" to some degree, time extensions were not documented, and liquidated damages were not assessed against any of the contractors, regardless of whether time extensions were granted.

The third audit focused on WASD's change order documentation and detailed three findings related to inadequate record keeping, approval of change order amounts without obtaining adequate cost data, and questioning specific change order amounts for work orders sampled. The OIG emphasized the need for WASD to maximize its collective professional experiences and knowledge of prior contract histories to improve upon the contractual terms and conditions, bid specifications, work descriptions and unit price comparisons, which should positively affect reducing change orders prospectively.

As a result of the OIG's findings and recommendations, WASD has implemented corrective measures addressing the cited deficiencies, including expanded training for its employees, issuing new procedures, centralizing its record keeping and document control, and processing contractor claims in a timelier manner.

FOCUS FOR THE UPCOMING YEAR

The Inspector General's Office will face enormous challenges in the coming year. Of course, we will continue our oversight initiatives of County programs, projects and contracts, and conduct audits, reviews and investigations of County affairs to deter fraud, waste, and abuse wherever possible. We will also focus our limited resources on identifying and recovering monetary losses suffered by the County because of criminal activity or misconduct.

As we embark in 2008, our Office has assumed the role of Inspector General for the Miami-Dade County Public School District. Both the School Board and the Board of County Commissioners concluded that it would be more efficient and effective to use the services of the County's OIG because it is an established, highly respected organization. Given the size and complexities of the school district, this new responsibility will test our capabilities but, undoubtedly, will provide an exceptional opportunity for the OIG to help the district achieve savings at a time of dwindling tax revenues.

In short, we expect that County programs and projects will continue to expand. As such, the OIG will streamline its oversight strategies to monitor expenditures and uses of the County's tax and bond revenues. Future initiatives include examining grant proceeds from the Building Better Communities Bond Program, monitoring capital infrastructure improvements to our transportation network, and investigating complaints and abuses in our procurement programs.

APPENDIX A

Sec. 2-1076. Office of the Inspector General.

(a) Created and established. There is hereby created and established the Office of Miami-Dade County Inspector General. The Inspector General shall head the Office. The organization and administration of the Office of the Inspector General shall be sufficiently independent to assure that no interference or influence external to the Office adversely affects the independence and objectivity of the Inspector General.

(b) Minimum Qualifications, Appointment and Term of Office.

(1) Minimum qualifications. The Inspector General shall be a person who:

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

(i) as a Federal, State or local Law Enforcement Officer;

(ii) as a Federal or State court Judge;

(iii) as a Federal, State or local government attorney;

(iv) progressive supervisory experience in an investigative public agency similar to an inspector general's office;

(b) Has managed and completed complex investigations involving allegations of fraud, theft, deception and conspiracy;

(c) Has demonstrated the ability to work with local, state and federal law enforcement agencies and the judiciary; and

(d) Has a four-year degree from an accredited institution of higher learning.

(2) Appointment. The Inspector General shall be appointed by the Ad Hoc Inspector General Selection Committee ("Selection Committee"), except that before any appointment shall become effective, the appointment must be approved by a majority of the whole number of members of the Board of County Commissioners at the next regularly scheduled County Commission meeting after the appointment. In the event that the appointment is disapproved by the County Commission, the appointment shall become null and void, and the Selection Committee shall make a new appointment, which shall likewise be submitted for approval by the County Commission. The Selection Committee shall be composed of five members selected as follows:

(a) The State Attorney of the Eleventh Judicial Circuit for Miami-Dade County;

(b) The Public Defender of the Eleventh Judicial Circuit for Miami-Dade County;

(c) The Chairperson of the Miami-Dade Commission on Ethics and Public Trust;

(d) The President of the Miami-Dade Police Chief's Association; and

(e) The Special Agent in charge of the Miami Field Office of the Florida Department of Law Enforcement.

The members of the Selection Committee shall elect a chairperson who shall serve as chairperson until the Inspector General is appointed. The Selection Committee shall select the Inspector General from a list of qualified candidates submitted by the Miami-Dade County Employee Relations Department.

(3) Term. The Inspector General shall be appointed for a term of four (4) years. In case of a vacancy in the position of Inspector General, the Chairperson of the Board of County Commissioners may appoint the deputy inspector general, assistant inspector general, or other Inspector General's office management personnel as interim Inspector General until such time as a successor Inspector General is appointed in the same manner as described in subsection (b)(2) above. The Commission may by majority vote of members present disapprove of the interim appointment made by the Chairperson at the next regularly scheduled County Commission meeting after the appointment. In the event such appointment shall be disapproved by the County Commission, the appointment shall become null and void and, prior to the next

regularly scheduled Commission meeting, the Chairperson shall make a new appointment which shall likewise be subject to disapproval as provided in this subsection (3). Any successor appointment made by the Selection Committee as provided in subsection (b)(2) shall be for the full four-year term.

Upon expiration of the term, the Board of County Commissioners may by majority vote of members present reappoint the Inspector General to another term. In lieu of reappointment, the Board of County Commissioners may reconvene the Selection Committee to appoint the new Inspector General in the same manner as described in subsection (b)(2). The incumbent Inspector General may submit his or her name as a candidate to be considered for selection and appointment.

(4) Staffing of Selection Committee. The Miami-Dade County Employee Relations Department shall provide staffing to the Selection Committee and as necessary will advertise the acceptance of resumes for the position of Inspector General and shall provide the Selection Committee with a list of qualified candidates. The County Employee Relations Department shall also be responsible for ensuring that background checks are conducted on the slate of candidates selected for interview by the Selection Committee. The County Employee Relations Department may refer the background checks to another agency or department. The results of the background checks shall be provided to the Selection Committee prior to the interview of candidates.

(c) Contract. The Director of the Employee Relations Department shall, in consultation with the County Attorney, negotiate a contract of employment with the Inspector General, except that before any contract shall become effective, the contract must be approved by a majority of Commissioners present at a regularly scheduled Commission meeting.

(d) Functions, authority and powers.

(1) The Office shall have the authority to make investigations of county affairs and the power to review past, present and proposed County and Public Health Trust programs, accounts, records, contracts and transactions.

(2) The Office shall have the power to require reports from the Mayor, County Commissioners, Manager, County agencies and instrumentalities, County officers and employees and the Public Health Trust and its officers and employees regarding any matter within the jurisdiction of the Inspector General.

(3) The Office shall have the power to subpoena witnesses, administer oaths and require the production of records. In the case of a refusal to obey a subpoena issued to any person, the Inspector General may make application to any circuit court of this State which shall have jurisdiction to order the witness to appear before the Inspector General and to produce evidence if so ordered, or to give testimony touching on the matter in question. Prior to issuing a subpoena, the Inspector General shall notify the State Attorney and the U.S. Attorney for the Southern District of Florida. The Inspector General shall not interfere with any ongoing criminal investigation of the State Attorney or the U.S. Attorney for the Southern District of Florida where the State Attorney or the U.S. Attorney for the Southern District of Florida has explicitly notified the Inspector General in writing that the Inspector General's investigation is interfering with an ongoing criminal investigation.

(4) The Office shall have the power to report and/or recommend to the Board of County Commissioners whether a particular project, program, contract or transaction is or was necessary and, if deemed necessary, whether the method used for implementing the project or program is or was efficient both financially and operationally. Any review of a proposed project or program shall be performed in such a manner as to assist the Board of County Commissioners in determining whether the project or program is the most feasible solution to a particular need or problem. Monitoring of an existing project or program may include reporting whether the project is on time, within budget and in conformity with plans, specifications and applicable law.

(5) The Office shall have the power to analyze the need for, and the reasonableness of, proposed change orders. The Inspector General shall also be authorized to conduct any reviews, audits,

inspections, investigations or analyses relating to departments, offices, boards, activities, programs and agencies of the County and the Public Health Trust.

(6) The Inspector General may, on a random basis, perform audits, inspections and reviews of all County contracts. The cost of random audits, inspections and reviews shall, except as provided in (a)-(n) in this subsection (6), be incorporated into the contract price of all contracts and shall be one quarter (1/4) of one (1) percent of the contract price (hereinafter "IG contract fee"). The IG contract fee shall not apply to the following contracts:

(a) IPSIG contracts;

(b) Contracts for legal services;

(c) Contracts for financial advisory services;

(d) Auditing contracts;

(e) Facility rentals and lease agreements;

(f) Concessions and other rental agreements;

(g) Insurance contracts;

(h) Revenue-generating contracts;

(i) Contracts where an IPSIG is assigned at the time the contractis approved by the Commission;

(g) Insurance contracts;

(j) Professional service agreements under one thousand dollars ($1,000);

(k) Management agreements;

(l) Small purchase orders as defined in Administrative Order 3-2;

(m) Federal, state and local government-funded grants; and

(n) Interlocal agreements.

Notwithstanding the foregoing, the Commission may by resolution specifically authorize the inclusion of the IG contract fee in any contract. Nothing contained in this Subsection (c)(6) shall in any way limit the powers of the Inspector General provided for in this Section to perform audits, inspections, reviews and investigations on all county contracts including, but not limited to, those contracts specifically exempted from the IG contract fee.

(7) Where the Inspector General detects corruption or fraud, he or she shall notify the appropriate law enforcement agencies. Subsequent to notifying the appropriate law enforcement agency, the Inspector General may assist the law enforcement agency in concluding the investigation. When the Inspector General detects a violation of one (1) of the ordinances within the jurisdiction of the Ethics Commission, he or she may file a complaint with the Ethics Commission or refer the matter to the Advocate.

(8) The Inspector General shall have the power to audit, investigate, monitor, oversee, inspect and review the operations, activities and performance and procurement process including, but not limited to, project design, establishment of bid specifications, bid submittals, activities of the contractor, its officers, agents and employees, lobbyists, County staff and elected officials in order to ensure compliance with contract specifications and detect corruption and fraud.

(9) The Inspector General shall have the power to review and investigate any citizen's complaints regarding County or Public Health Trust projects, programs, contracts or transactions.

(10) The Inspector General may exercise any of the powers contained in Section 2-1076 upon his or her own initiative.

(11) The Inspector General shall be notified in writing prior to any meeting of a selection or negotiation committee where any matter relating to the procurement of goods or services by the County is to be discussed. The notice required by this subsection (11) shall be given to the Inspector General as soon as possible after a meeting has been scheduled, but in no event later than twenty-four (24) hours prior to the scheduled meeting. The Inspector General may, at his or her discretion, attend all duly noticed County meetings relating to the procurement of goods or services as provided herein, and, in addition to the exercise of all powers conferred by Section 2-1076, may pose questions and raise concerns

consistent with the functions, authority and powers of the Inspector General. An audio tape recorder shall be utilized to record all selection and negotiation committee meetings.

(12) The Inspector General shall have the authority to retain and coordinate the services of Independent Private Sector Inspectors General (IPSIG) or other professional services, as required, when in the Inspector General's discretion he or she concludes that such services are needed to perform the duties and functions enumerated in subsection (d) herein.

(e) Physical facilities and staff.

(1) The County shall provide the Office of the Inspector General with appropriately located office space and sufficient physical facilities together with necessary office supplies, equipment and furnishings to enable the Office to perform its functions.

(2) The Inspector General shall have, subject to budgetary allocation by the Board of County Commissioners, the power to appoint, employ, and remove such assistants, employees and personnel and establish personnel procedures as deemed necessary for the efficient and effective administration of the activities of the Office.

(f) Procedure for finalization of reports and recommendations which make findings as to the person or entity being reviewed or inspected. Not withstanding any other provisions of this Code, whenever the Inspector General concludes a report or recommendation which contains findings as to the person or entity being reported on or who is the subject of the recommendation, the Inspector General shall provide the affected person or entity a copy of the report or recommendation and such person or entity shall have 10 working days to submit a written explanation or rebuttal of the findings before the report or recommendation is finalized, and such timely submitted written explanation or rebuttal shall be attached to the finalized report or recommendation. The requirements of this subsection (f) shall not apply when the Inspector General, in conjunction with the State Attorney, determines that supplying the affected person or entity with such report will jeopardize a pending criminal investigation.

(g) Reporting. The Inspector General shall annually prepare and submit to the Mayor and Board of County Commissioners a written report concerning the work and activities of the Office including, but not limited to, statistical information regarding the disposition of closed investigations, audits and other reviews.

(h) Removal. The Inspector General may be removed from the office upon the affirmative vote of two-thirds (2/3) of the whole number of members of the Board of County Commissioners.

(i) Abolition of the Office. The Office of the Inspector General shall only be abolished upon the affirmative vote of two-thirds (2/3) of the whole number of members of the Board of County Commissioners.

(j) Retention of current Inspector General. Notwithstanding any provision to the contrary, the incumbent Inspector General, Christopher R. Mazzella, shall serve a four-year term of office commencing on December 20, 2005, as provided in the Memorandum of Understanding approved by Resolution No. R-1394-05, and shall not be subject to the appointment process provided for in Section 2-1076(b)(2).

(Ord. No. 97-215, § 1, 12-16-97; Ord. No. 99-63, § 1, 6-8-99; Ord. No. 99-149,§ 1, 10-19-99; Ord. No. 00-105, § 1, 7-25-00; Ord. No. 01-114, § 1, 7-10-01; Ord. No. 05-51, § 1, 3-1-05; Ord. No. 06-88, § 2, 6-6-06; Ord. No. 07-165, § 1, 11-6-07)

APPENDIX B: INTERLOCAL AGREEMENT BETWEEN THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, AND MIAMI-DADE COUNTY, FLORIDA, FOR THE PROVISION OF INSPECTOR GENERAL SERVICES THROUGH THE OFFICE OF THE MIAMI-DADE COUNTY INSPECTOR GENERAL

THIS INTERLOCAL AGREEMENT (the "Interlocal Agreement" or "Agreement" or "ILA") is entered into as of the 27th day of December 2007, by and between THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, a public body corporate and politic and governing body of The School District of Miami-Dade Florida, a political subdivision of the State, existing under the laws of the State of Florida, its successors and assigns (hereinafter referred to as the "School Board"), and MIAMI-DADE COUNTY, a political subdivision of the State, its successors and assigns (hereinafter referred to as the "County"). The School Board and the County are sometimes referred to herein individually as a "Party" and collectively as the "Parties")

RECITALS

WHEREAS, Section 163.01, Florida Statutes, the "Florida Interlocal Cooperation Act of 1969," authorizes public agencies to enter into interlocal agreements for mutual benefit; and

WHEREAS, the home rule powers under Section 1001.32(2), Florida Statues, authorizes the School Board to exercise any power except as expressly prohibited by the State Constitution or general law; and

WHEREAS, the School Board seeks to hire an Inspector General that would be responsible, on behalf of the School Board, for conducting independent audits and investigations into school district practices and operations in order to prevent and detect fraud, waste, financial mismanagement, or other abuses, and promote accountability, integrity, economy, and efficiency in government; and

WHEREAS, School Board Rule 6GX13-8A-1.08 expressly authorizes the School Board, as an alternative method to selecting and employing an Inspector General, to contract through an interlocal agreement with the County for inspector general services to fulfill the role of the Inspector General for the School Board; and

WHEREAS, the County already has an established Office of the Inspector General that has been nationally recognized for independently and effectively conducting inspector general activities; and

WHEREAS, the County and the School Board recognize that, given the knowledge, experience, and ability of the staff of the Office of the Miami-Dade County Inspector General in conducting investigations into government waste, fraud, or mismanagement, the Office of the Miami-Dade County Inspector General is in the best position to expeditiously fulfill the services of Inspector General for the School Board; and

WHEREAS, the School Board and the County have determined that it will serve the public interest to enter into this Interlocal Agreement in order to accomplish all of the foregoing goals,

Now Therefore, in consideration of the terms and conditions, promises and covenants hereinafter set forth, the Parties agree as follows:

Section 1. Recitals Incorporated.

The above recitals are true and correct and incorporated herein by reference.

Section 2. Purpose.

The purpose of this Interlocal Agreement (ILA) is to arrange for the services of an Inspector General and the provision of inspector general services to the School Board by the Miami-Dade County Office of the Inspector General (County OIG).

Section 3. Responsibilities, Functions, Authority, and Jurisdiction of the Inspector General:

a. The Miami-Dade County Inspector General shall act as head of the School Board's Office of Inspector General (hereinafter "SB OIG") and serve as the Inspector General for the School Board during the term of this ILA. The organization and administration of the SB OIG shall be sufficiently independent to assure that no interference or influence external

to the SB OIG adversely affects the independence and objectivity of the Inspector General. The term "Inspector General" when standing alone hereinafter shall refer to the Inspector General for the School Board whose role is being fulfilled by the County's Inspector General pursuant to the terms of this ILA.

b. The SB OIG shall have the authority to make investigations of School Board affairs and the power to review past, present and proposed School Board programs, accounts, records, contracts and transactions.

c. The SB OIG shall have the power to require reports and the production of records from the Superintendent, School Board members, School District departments and allied organizations, and District officers and employees, regarding any matter within the jurisdiction of the Inspector General.

d. The OIG shall have the power to report and/or recommend to the School Board and/or the Superintendent whether a particular project, program, contract, or transaction is or was necessary and, if deemed necessary, whether the method used for implementing the project or program is or was efficient both financially and operationally. Any review of a proposed project or program shall be performed in such a manner as to assist the School Board or Superintendent in determining whether the project or program is the most feasible solution to a particular need or problem. Monitoring of an existing project or program may include reporting whether the project is on time, within budget, and in conformity with plans, specifications and applicable law.

e. The OIG shall have the power to analyze the need for, and the reasonableness of, proposed change orders. The Inspector General shall also be authorized to conduct any reviews, audits, inspections, investigations or analyses relating to departments, offices, committees, activities, programs and agencies of the School Board.

f. The Inspector General may, on a random basis, perform audits, inspections and reviews of all School Board contracts. All prospective bidders, proposers, vendors and contractors doing business with the School Board will be informed of the authority of the SB OIG to conduct such random audits, inspections, and reviews and language to this effect, including but not limited to the authority of the SB OIG to access contractor records and the obligation of the contractor to make those records available upon request, shall be incorporated into every bid, proposal, contract and purchase order issued by the School Board after the effective date of this ILA.

g. The Inspector General shall have the power to audit, investigate, monitor, oversee, inspect, and review the operations, activities and performance and procurement process including, but not limited to, project design, establishment of bid specifications, bid submittals, activities of the contractor, its officers, agents and employees, lobbyists, School Board staff, and elected officials, in order to ensure compliance with contract specifications and detect corruption and fraud.

h. Pursuant to § 112.3187(6), Fla. Stat., the OIG shall be the designee of the District's chief executive officer for purposes of receiving Whistle-blower's Act disclosures under § 112.3187(7) and investigating in accordance with §§ 112.3187-31895, Fla. Stat.

i. Notwithstanding section (h) above, the Inspector General shall have the power to review and investigate any citizen's complaints regarding School Board projects, programs, contracts or transactions.

j. The Inspector General may exercise any of the responsibilities, functions and authorities contained in this ILA upon his or her own initiative.

k. The Inspector General shall be notified in writing prior to any meeting of a selection or negotiation committee where any matter relating to the procurement of goods or services by the School Board is to be discussed. The notice required by this section shall be given to the Inspector General as soon as possible after a meeting has been scheduled, but in no event later than twenty-four hours prior to the scheduled meeting; said notice may be provided via electronic mail. The Inspector General may, at his or her discretion, attend all duly noticed School District meetings relating to the procurement of goods or services as provided herein, and may pose questions and raise concerns consistent with the functions, authority and powers of the Inspector General. An audio tape recorder shall be utilized to record all selection and negotiation committee meetings.

l. Under § 1002.22(3), Fla. Stat., student records are highly confidential and may be disclosed only as allowed by § 1002.22(3)(d), Fla. Stat., and State Board of Education Rule 6A-1.0955, F.A.C. The Inspector General will observe these restrictions when preparing reports, as well as observing all other applicable confidentiality requirements under state and federal law.

Section 4. Coordination Of Activities With Internal And External Agencies.

a. The School Board, Superintendent, Chief Auditor, Office of Civil Rights Compliance, Civilian Investigative Unit, Office of Professional Standards and Miami-Dade Schools Police will cooperate with the Inspector General and SB OIG to achieve the goals of preventing and detecting fraud, waste, financial mismanagement, or other abuses, and promoting accountability, integrity, economy, and efficiency in government. Although the SB OIG does not, whenever possible, intend to duplicate the work of the aforementioned entities, its audits, investigations, inspections and reviews may from time to time address the same or similar issues or activities being reviewed by the aforementioned entities. In such cases, and in every case, SB OIG audits, investigations, inspections and reviews will be conducted separately and independently from the aforementioned activities, and upon conclusion, the SB OIG, where appropriate, shall refer the disposition or finalization of an audit, investigation, inspection or review to the appropriate school board entity for any additional action. The Inspector General, District Superintendent and directors of the aforementioned departments may, through subsequent mutual written agreement(s), agree upon operating procedures to ensure that the aforementioned goals are achieved.

b. The Inspector General shall not interfere with any ongoing criminal investigation of the State Attorney or the U.S. Attorney for the Southern District of Florida where the State Attorney or the U.S. Attorney for the Southern District of Florida has explicitly notified the Inspector General in writing that the Inspector General's investigation is interfering, or would interfere, with an ongoing criminal investigation.

c. Where the Inspector General detects corruption or fraud, he shall notify the appropriate law enforcement agency(ies). Subsequent to notifying the appropriate law enforcement agency, the Inspector General may assist the law enforcement agency in concluding the investigation.

d. OIG personnel will make every reasonable effort to minimize any disruption or interference with work activities being performed in the school system. Except where investigative requirements dictate otherwise, advance notice should be given of a need for the IG or other OIG staff to access areas not routinely accessed by the Board, employees, contractors, or subcontractors of a school. Visits to school sites should be coordinated with the principal and School Police; and any access to students (e.g. interviews or requests for statements) must be consistent with the District's procedures for investigations and the rights of parents and guardians. OIG personnel, who in the course of their employment will have direct contact with students or access to school grounds while students are present, must comply with the requirements of the Jessica Lunsford Act, § 1012.465, Fla. Stat. (2007), and any amendments thereto.

Section 5. Physical Facilities and Staff of the SB OIG:

a. The School Board and District shall provide the SB OIG with appropriately located office space and sufficient physical equipment facilities together with necessary office supplies, equipment, and furnishings to enable the SB OIG to perform its functions.

b. The Inspector General may make available staff members of the County's OIG to provide administrative, legal, investigative, audit and inspectional services. The provision of these services will be reimbursed by the School Board pursuant to Section 7 of this agreement. County personnel providing services pursuant to this agreement, including the Inspector General, shall remain at all times employees of the County.

c. The District Superintendent will make available personnel, resources and accommodations to the Inspector General in order to staff the SB OIG. Funding for personnel, resources and accommodations provided by the District shall be included in the annual allocation by the School Board for the SB OIG as provided in Section 7 of this agreement. The identification, duration, and terms of detachment of District personnel pursuant to this

section will be made by subsequent mutual written agreement(s) between the Inspector General and the Superintendent, which will be in conformance with the requirements of § 112.24, Fla. Stat. During the term of this ILA, the School Board hereby delegates to the Superintendent the authority to enter into said personnel detachment agreements. These individuals shall report directly to the Inspector General or his designee during the period of the detachment. District personnel detached to the SB OIG shall remain at all times employees of the School District and such detachment will in no way adversely affect the individual's employment rights and privileges, nor shall an employee's return to his or her previous position be adversely affected after a period of detachment to the SB OIG. At the conclusion of their detachment, placement and assignment of school district employees will be governed under the terms of their respective collective bargaining agreements.

d. The Inspector General shall, subject to the budgetary allocation by the School Board, have the authority to retain and coordinate the services of Independent Private Sector Inspectors General (IPSIG) or other professional services, as required, when in the Inspector General's discretion he or she concludes that such services are need to perform the duties and functions enumerated in this ILA.

e. The Inspector General shall have the power to establish personnel and operating procedures as deemed necessary for the efficient and effective administration and performance of this ILA.

Section 6. Reports and Recommendations by the OIG:

a. Notwithstanding any other provision of this ILA, whenever the Inspector General drafts a report or recommendation which contains findings as to the person or entity being reported on or who is the subject of the recommendation, the Inspector General shall provide the affected person or entity a copy of the report or recommendation and such person shall have 10 working days to submit a written explanation or rebuttal of the findings before the report or recommendation is finalized, and such timely submitted written explanation or rebuttal shall be attached to the finalized report or recommendation. The requirements of this section shall not apply when the Inspector General, in conjunction with the State Attorney, or other prosecuting authority, determines that supplying the affected person or entity with such report will jeopardize a pending criminal investigation.

b. The Inspector General shall annually prepare and submit to the School Board a written report concerning the work and activities of the SB OIG as it relates to the duties outlined in this ILA including, but not limited to, statistical information regarding the disposition of closed investigations, audits, and other reviews.

Section 7. Budgetary Allocation By The School Board.

It is agreed by the Parties that the operations and services to be provided by the SB OIG to the School Board shall be adequately funded at no cost to the County.

a. Initial Allocation. The School Board agrees that it will allocate $75,000 (allocated from a fund that has been budgeted for purposes reasonably related to OIG services) as an initial amount of funds to the SB OIG, and place such funds in an account to be drawn by the SB OIG as needed, until an annual budget is agreed upon by the School Board and the Inspector General. The SB OIG will provide the School Board with an invoice, accounting or other report of any monies drawn from the initial $75,000 allocation.

b. SB OIG Budget. The Inspector General will, within 90 days after the ILA becomes effective, present to the School Board, through a recommendation from the Superintendent, a proposed annual budget for the SB OIG and a method for its implementation. This proposed budget shall be inclusive of the resources to be provided by the County OIG through its professional staff and any operating expenditures made directly by the County OIG in the furtherance of or pursuant to this ILA. Additionally, the annual budget shall contain funds to accommodate the resources to be provided for the operation of the SB OIG as identified in Section 5(a) and 5(c) herein, and sufficient funds for the general operation of the SB OIG. Once the SB OIG and the School Board are in agreement, the School Board shall adequately fund the costs of the services and operations for not less than the first year of this ILA. Thereafter, annual budgets shall be proposed in accordance with the guidelines set forth in this Section.

c. Compensation for County OIG services. Compensation for direct County OIG services shall be paid by the School Board within 30 days upon presentation of an invoice from the County OIG, which shall be submitted quarterly. Copies of receipts or other appropriate supporting documentation will be presented with the invoice seeking payment. Compensation for professional services rendered by County OIG personnel shall include the individual's direct hourly salary, County payroll fringe and other benefits, and applicable County OIG office overhead.

d. Should the parties hereto be unable to agree upon a budget in the manner prescribed in this section, this ILA shall be void ab initio, and any unexpended and unencumbered funds included in the initial funding allocation provided by the School Board, shall be returned to the School Board.

Section 8. Termination of ILA.

This ILA may be terminated for any reason, including convenience, by either party by thirty (30) days' written notice to the other party.

Section 9. Term and Effective Date of ILA.

This ILA shall take effect upon final execution of the ILA by both the School Board and the County, for a term of three years from the date it takes effect. This three year term may be renewed for an additional term, the length of which must be determined and agreed upon by both parties to the ILA.

Section 10. Indemnification and Legal Representation of the County, OIG and OIG Staff:

The School Board agrees to indemnify and hold harmless the County and its officers, employees, agents and instrumentalities including, but not limited to, the Inspector General, any member of the County OIG, and any District personnel detached or assigned to the SB OIG for any civil actions, complaints, claims, or lawsuits that may be served on them resulting from the performance of this ILA, subject to the provisions of § 768.28, Fla. Stat. The School Board agrees to pay the legal fees and expenses resulting from the defense of such actions in accordance with § 1012.26, Fla. Stat. Notwithstanding any provisions of State law or School Board Rules, the School Board agrees that the County and its officers, employees, agents and instrumentalities including, but not limited to, Inspector General, any members of the County OIG and any District personnel detached or assigned to the SB OIG, at their sole discretion, may use or retain the services of in-house, County, outside and/or private legal counsel of their choice, in the defense of such actions, and that such services shall be paid for by the School Board, to the extent consistent with § 768.28, Fla. Stat., as interpreted by case law and pertinent Attorney General's opinions.

Section 11. Miscellaneous.

a. Notices. All notices, requests, consents, and other communications under this ILA shall be made in writing and shall be personally delivered, mailed by First Class Mail, postage prepaid, or sent by overnight delivery service, to the parties, as follows:

If to the School Board:

Dr. Rudolph F. Crew, Superintendent
Miami-Dade County Public Schools
1450 NE 2nd Avenue
Miami, FL 33132
Phone: 305-995-1430
Fax: 305-995-1488

With a Copy to:

JulieAnn Rico, Esquire
School Board Attorney
The School Board of Miami-Dade County
1450 NE 2nd Avenue
Miami, FL 33132
Phone: 305-995-1304
Fax: 305-995-1412

If to the County:

Christopher R. Mazzella, Inspector General
Miami-Dade County OIG
19 W. Flagler Street, Suite 220
Miami, FL 33130
Phone: 305-375-1946
Fax: 305-579-2656

With a Copy to:

Robert A. Cuevas Jr., County Attorney
Miami-Dade County Attorney's Office
111 N.W. 1st Street, Suite 2800
Miami, FL 33128
Phone: 305-375-5151
Fax: 305-375-5634

Except as otherwise provided in this ILA, any Notice shall be deemed received only upon actual delivery at the address set forth above. Notices delivered after 5:00 PM (at place of delivery) or on non-business day, shall be deemed received on the next business day. If any time for giving Notice contained in this Agreement would otherwise expire on a non-business day, the Notice period shall be extended to the next succeeding business day. Saturdays, Sundays, and legal holidays recognized by the United States government shall not be regarded as business days. Counsel for the School Board and counsel for the County may deliver Notice on behalf of the School Board and the County, respectively. Any party or other person to whom Notices are to be sent or copied may notify the other parties and addressees of any change in name or address to which Notices shall be sent by providing the same on five (5) days written notice to the Parties.

b. Enforcement of Agreement. In the event that the County, including the County OIG and the Inspector General, is required to prosecute or defend any action by court proceeding or otherwise relating to this ILA, the School Board shall be responsible for the fees and costs of the County's attorneys to the extent permitted by law.

c. Entire Agreement. This instrument incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein. The Parties also acknowledge that certain operating procedures and protocols, relating to the assignment of staff and coordination of activities among certain School Board departments, will be stated and agreed to by the Inspector General and the District Superintendent through subsequent, separate written agreements, as provided for in Sections 4(a), 5(c) and 5(e).

d. Amendments. Amendments and Addenda to and waivers of the provisions contained in this Interlocal Agreement may be made only by an instrument in writing which is executed by both Parties.

e. Joint Preparation. This Interlocal Agreement has been negotiated fully between the Parties as an arm's length transaction. Both Parties participated fully in the preparation of this Interlocal Agreement and received the advice of counsel. In the case of a dispute concerning the interpretation of any provision of this Interlocal Agreement, both Parties are deemed to have drafted, chosen, and selected the language, and the doubtful language will not be interpreted or construed against any Party.

f. Assignment. This Interlocal Agreement may not be assigned, in whole or in part, by any Party without the prior written consent of the other Party.

g. No Third Party Beneficiaries. This Interlocal Agreement is solely for the benefit of the School Board and the County and no right or cause of action shall accrue upon or by reason of, to or for the benefit of any third party not a formal party to this Interlocal Agreement. Nothing in this Interlocal Agreement expressed or implied is intended or shall be construed to confer upon any person or corporation other than the School Board and the County any right, remedy, or claim under or by reason of this Interlocal Agreement or any of the provisions or conditions of this Interlocal Agreement; and all of the provisions, representations, covenants, and conditions contained in this Interlocal Agreement shall inure to the sole benefit of and shall be binding upon the School Board and the County, and their respective representatives, successors, and assigns.

h. Severability. The invalidity or unenforceability of any one or more provisions of this Interlocal Agreement shall not affect the validity or enforceability of the remaining portions of this Interlocal Agreement or any part of this Interlocal Agreement that is not held to be invalid or unenforceable.

i. Governance and Venue. This Interlocal Agreement and the provisions contained herein shall be construed, interpreted and controlled according to the laws of the State of Florida. Venue for any dispute shall be in Miami-Dade County, Florida. Disputes arising from this agreement are subject to

and must adhere to the provisions of Chapter 164 of the Florida Statutes, the "Florida Governmental Conflict Resolution Act."

j. Joint Defense. In the event that the validity of this Agreement is challenged by a third party or parties unrelated to the Parties through legal proceedings or otherwise, the Parties hereto agree to cooperate with each other in defense of this Agreement, with the School Board to bear attorneys' fees and costs associated with such defense.

k. Time of the Essence. The parties acknowledge that time is of the essence in the performance of all obligations required hereunder and all "days" referenced herein shall be deemed "business days" unless otherwise specifically set forth.

l. Authorization. The execution of this Interlocal Agreement has been duly authorized by the School Board and the County. The School Board and the County have complied with all the requirements of law in connection with the execution and delivery of this Interlocal Agreement and the performance of their respective obligations hereunder. The School Board and the County have full power and authority to comply with the terms and provisions of this instrument.

m. Headings for Convenience Only. The descriptive headings in this Interlocal Agreement are for convenience only and shall not control or affect the meaning or construction of any of the provisions of this Interlocal Agreement.

n. Counterparts. This Interlocal Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be an original; however, all such counterparts together shall constitute but one and the same instrument.

Signature and acknowledgment pages, if any, may be detached from the counterparts and attached to a single copy of this document to physically form one document.

Approved By the School Board of Miami-Dade County on October 17, 2007, Agenda Item #2.

Approved by the Miami-Dade Board of County Commissioners on December 18, 2007, R-1387-07.

4 Convenient Ways to Report Fraud

Online **Mail**

Fax

Fraud Hotline: (305) 579-2593
We Urge Miami-Dade County Citizens, Employees, Vendors and Contractors to Report Fraud
Call (305) 579-2593

Miami-Dade County
Office of the Inspector General
19 West Flagler Street, Suite 220
Miami, Florida 33130
Phone: (305) 375-1946
Fax: (305) 579-2656

Report Fraud Hotline: (305) 579-2593
or report fraud on our website at
www.miamidadeig.org

Miami-Dade County
OFFICE OF THE INSPECTOR GENERAL
Christopher R. Mazzella, Inspector General
A State of Florida Commission on Law Enforcement Accredited Agency

NEWS RELEASE

Office of the Inspector General 2010 Annual Report Released

The Office of the Inspector General (OIG) today released its 2010 Annual Report summarizing important investigations and audits conducted in Fiscal Year 2009-2010. The report notes that since 1998, the OIG has identified over $140 million dollars in questionable costs, losses, damages, and lost revenues. In this past fiscal year alone, the OIG identified almost $6.1 million dollars in questionable costs, losses, and lost revenues and achieved over $2.6 million dollars in future savings, prevented losses, and restitution. The report also notes that since its inception, investigations have resulted in the arrests of 202 individuals and the indictment of eleven companies.

The OIG was established by the Board of County Commissioners as an independent, autonomous agency empowered to investigate fraud, abuse, waste, and mismanagement in County affairs. The OIG has oversight over all County departments, agencies, and boards, including all County officials and employees, and vendors doing business with the County. In 2008, the OIG also assumed the role of Inspector General for the Miami-Dade Public School District, the fourth largest in the country. The OIG is designated a "criminal justice agency" by the FBI and is accredited by the Commission for Florida Law Enforcement Accreditation.

To report abuse, fraud or corruption, call the Inspector General's hotline at (305) 579-2593, or visit the OIG's website at www.miamidadeig.org. The OIG will protect the identity of callers to the full extent of the law. Our website offers additional information about the OIG. The 2010 Annual Report is also published on our website.

19 W. FLAGLER STREET • SUITE 220 • MIAMI, FL 33130
Report Fraud Hotline: (305) 579-2593 or via the Internet: www.miamidadeig.org
Telephone: (305) 375-1946 • Fax: (305) 579-2656

Annual Report 2010

Miami-Dade Office of the Inspector General

MESSAGE FROM THE INSPECTOR GENERAL

It is with considerable pride that we present our 2010 Annual Report. As you read this report you will see that we have addressed a number of controversial issues. I hope that in fulfilling our mission we have demonstrated to you, our ultimate stakeholders, the importance of independent oversight of County operations and programs. Why? Because we are trying our best to ensure your tax dollars are spent wisely and frugally, particularly in these difficult economic times. The Board of County Commissioners has continued to support the efforts of the Office of the Inspector General (OIG), both legislatively and funding-wise. I think we should give them considerable credit for that support.

I also wanted to take a moment to tell you about the accreditation the OIG received from the Commission for Florida Law Enforcement Accreditation. In July 2010, the Miami-Dade County Office of the Inspector General was accredited by the Commission for Florida Law Enforcement Accreditation. Accreditation is the certification that the Office of the Inspector General adheres to the highest level of professionally recognized best business standards and practices. Accreditation for Offices of Inspectors General is a relatively new process and the Miami-Dade County Office of the Inspector General is one of just a few OIGs in the State of Florida that have received this prestigious recognition.

In closing, let me stress that more and more local governments are adopting OIGs to oversight their operations. Both Palm Beach and Broward Counties have joined the ranks. The Miami-Dade OIG is the model they looked to in creating their offices. We appreciate all your support and look forward to continuing our efforts to provide transparency, fairness, and ethical governmental operations in Miami-Dade County.

Sincerely,

Christopher R. Mazzella

Christopher Mazzella
Inspector General

TABLE OF CONTENTS

History of the Office of the Inspector General 2

Serving the Miami-Dade Community. 2

Operational Structure of the Office 3

Our Executive Team 5

Training, Lectures, and Speaking Engagements 7

Professional Development of Staff 7

Miami-Dade Office of the Inspector General Achieved Accreditation 9

Our Financial Report 10

OIG Achievements 10
- Questionable Costs, Savings, and Restitutions 10
- Fraud Complaint Summary 11
- Some Examples of Reviews from our Complaint Files 12
- Arrest Statistics Summary 13

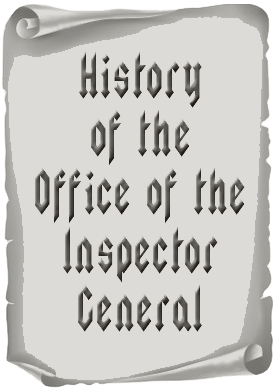
Criminal Investigations–Arrests, Convictions, and Guilty Verdicts 13

Audits, Reviews, and Contract Oversight 18

Partnerships With Other Agencies 24

Appendix: Section 2-1076 Office of the Inspector General 25

History of the Office of the Inspector General



The Miami-Dade County Board of County Commissioners (BCC) responded to the public's demand for clean government fourteen years ago by creating the Office of the Inspector General (OIG). The Office was created in December 1997 through the enactment of Section 2-1076 of the Code of Miami-Dade County, our enabling authority. It empowered the OIG to investigate and review allegations of waste, fraud, abuse, and mismanagement in County government. The BCC determined that the oversight of such a large and diverse government required the OIG to be independent and autonomous. To effectively uphold this mandate, the BCC vested the OIG with an independent status so that it could carry out its goals without political interference.

The Office's first Inspector General (IG), Christopher Mazzella, was selected and appointed in September 1998, and has continuously served since then. Mr. Mazzella was reappointed as the County's IG in 2005, and again reappointed for another four-year term in December 2009.

While IG offices are found throughout the country at all levels of local, state, and federal jurisdictions, the Miami-Dade IG is one of the few inspectors general in the country that has jurisdiction to investigate officials at any level — including elected officials. The Miami-Dade County Office of the Inspector General has been favorably viewed by other local jurisdictions around the country as being a leading model upon which to structure their organization.

In performing our mission, the OIG is empowered to require the production of documents and records by using its power to issue subpoenas, when proper and necessary. The OIG can also require the production of reports regarding any matter within its jurisdiction from any County official, County agency, or instrumentality.

Serving the Miami-Dade Community

As one of its oversight responsibilities, the Inspector General's Office specifically has authority to conduct investigations of County affairs and to review past, present and proposed County programs, accounts, records, contracts, and transactions. The OIG investigates allegations of fraud, waste, abuse, and mismanagement involving public officials and County employees, as well as contractors and vendors doing business with the County. It also has the power to report and recommend to County government whether particular programs, contracts, or transactions are financially sound, reasonable, necessary, or operationally deficient. The OIG may conduct audits and inspections, and it may also provide general oversight of departmental programs and large-scale construction projects regarding any matter within its jurisdiction. One recent example of the construction contract oversight it is providing is that of the Marlin's Baseball Stadium. Furthermore, the Office offers guidance and assistance to other agencies and County departments, and conducts numerous pre-employment screenings of employees and contractors working in sensitive security areas.

Today, the Miami-Dade OIG has oversight of a County budget totaling over $7.5 billion spread over 64 County departments, including the Seaport, Transit, Housing, Aviation, Community

and Economic Development, Water and Sewer, Public Works, Planning and Zoning, Solid Waste Management, Human Services, Cultural Affairs, the Libraries, and the Miami-Dade Public Health Trust/Jackson Memorial Hospital.

The Board of County Commissioners unanimously approved an Interlocal Agreement in December 2007 with the School Board of Miami-Dade County. Under the agreement, the Office of the Inspector General would take on the additional role of Inspector General for the nation's fourth largest school district. The Interlocal Agreement grants the OIG the authority to investigate any aspect of the school system. Independent oversight is essential to a school district managing $4.3 billion in public funds. The second annual report of the Miami-Dade County Public Schools IG was published in July 2010, and can be viewed at www.miamidadeig.org/whatsnewMDCPS.html.

The OIG serves the Miami-Dade community of almost 2.4 million people by detecting, investigating, and preventing fraud, mismanagement, waste, and the abuse of power in County projects, programs and contracts. Above all, our principal objective is to promote honesty, efficiency and ethics in government, and to maintain and promote the public's trust in government. We must continue to stay vigilant to ensure that, in the final analysis, our citizens get a fair and honest accounting of taxpayer money.

Operational Structure of the Office

The Office is led by the Inspector General, who was appointed by the Board of County Commissioners. He is assisted by the Deputy Inspector General and the Assistant Inspector General. The Assistant IG also serves as the OIG's Legal Counsel. The Office is fully committed to recruiting a diverse team of qualified employees that reflect the makeup of Miami-Dade County. Our team consists of highly skilled professionals from various disciplines and backgrounds that include attorneys, certified public accountants, certified fraud examiners, former law enforcement officials, investigators, financial analysts, engineers, and forensic accountants. Additionally, some of our staff members have specialities in the fields of construction, information technology, investigative databases, and government procurement.

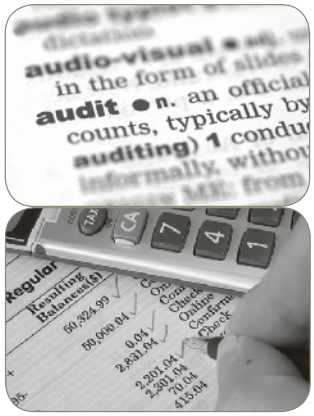
The OIG office structure is comprised of four operational units that work together to fulfill its primary mission of County oversight. The four operational units are: Investigations, Audit, Legal, and Administration.

The Investigations Unit

A staff of special agents with diverse backgrounds comprises the Investigations Unit. The Unit consists of employees who have various investigative backgrounds and disciplines possessing experiences that have been gained mostly by working in the public service sector for agencies whose activities ranged from traditional law enforcement to governmental regulation.

The Unit is supported by Investigative Analysts who have specific expertise in the usage and compliance required of specialized investigative databases that are instrumental in furthering the objectives and function of the Unit.

The Audit Unit



The Audit Unit consists of an Audit Manager and five auditors that are Certified Public Accountants, Certified Internal Auditors, and Certified Fraud Examiners. Additionally, the Unit is supplemented with two contract oversight specialists who have professional expertise in governmental budgets, finance, and engineering, as well as all being Certified Inspector General Auditors.

The Audit Unit recognizes that it is different in size, resources, and mission from other County audit departments, and thus concentrates its resources on distinct aspects of County contracts and projects. The Unit serves the OIG's mission by randomly providing procurement oversight and by participating in reviews, studies and evaluations, in addition to conducting specialized audits on County contracts and projects. The Unit also assists the Investigations Unit with cases that require investigative accounting in such a manner that the outcome will have suitable application to a court of law.

The Legal Unit

Legal counsel is provided to the Inspector General by the Legal Unit. OIG attorneys work closely with the Investigations Unit to assess the strengths and weaknesses of any investigation with potential civil, administrative or criminal implications. The Unit also reviews County contracts to assess contractual rights and liabilities, as well as the efficiency and cost effectiveness of these contracts. From time to time, OIG attorneys also assist with the Office's procurement and contracting oversight responsibilities. The Unit reviews proposed ordinances and resolutions to provide the Inspector General with independent legal assessments of the potential or possible impact of legislative items.

The Legal Unit reviews all subpoenas to be issued by the Inspector General. OIG attorneys are charged with making sure that the Office complies with its "advance notice" responsibilities in the areas of subpoena issuance and final report distribution. All public reports issued by the OIG are reviewed by the Legal Unit to ensure legal sufficiency and work product integrity. OIG attorneys also respond to public records requests and handle any litigation involving the Office.

The Administrative Unit

Unit members support the OIG's oversight mission and handle the day-to-day administrative functions required of any office. This is accomplished through the preparation and dissemination of our public reports; maintenance and updating of information on our independent website; the tracking and referral of all incoming complaints; and the design and distribution of OIG posters, flyers, and our annual report.

Our Executive Team

Christopher R. Mazzella

Christopher Mazzella became the first Inspector General appointed by Miami-Dade County in September 1998. He accepted the position upon retiring from a distinguished thirty-four year career with the FBI. Since the Office became operational in the fall of 1998, the OIG has investigated officials involved in bribery, official misconduct, election law violations, and fraud. In addition, Mr. Mazzella earned the designation of Certified Inspector General by the national Association of Inspectors General.

Mr. Mazzella has participated on a number of task forces aimed at restoring integrity and ethics in our County government. For instance, his participation on the Debarment Task Force played an important role in the adoption of legislation that strengthened the County's debarment policy to exclude dishonest contractors. He has also participated on committees studying procurement and lobbying reforms, and often lectures to various professional organizations regarding the types of fraud cases investigated by his Office.

During his career with the FBI, Mr. Mazzella investigated and supervised complex organized crime and public corruption cases. In a famous organized crime investigation code-named "Operation Gangplank," the leadership of the Philadelphia organized crime family was dismantled. Mr. Mazzella was also responsible for a number of prominent public corruption prosecutions in South Florida.

Mr. Mazzella also held a number of executive-level positions at the FBI. He was Legal Counsel for two field offices. While assigned to the Office of Legal Counsel in Washington, D.C., Mr. Mazzella conducted liaison activities with Congress and was instrumental in drafting legislation expanding the jurisdiction of the FBI. He served as the Organized Crime Drug Enforcement Task Force Coordinator for the Florida Caribbean Region. In that capacity, he coordinated the FBI's drug programs and investigations in the Florida Caribbean region, involving over 200 federal, state and local law enforcement personnel, and helped secure millions of dollars in federal funding for local law enforcement initiatives and personnel.

As the public's demand for ethical government continues to grow, Mr. Mazzella has been called upon to showcase the Miami-Dade IG Office, which has served as a successful model for other local governments.

Mr. Mazzella holds a Juris Doctor and Master of Arts degree and is a member of the Florida, New Jersey, and Missouri Bar Associations.

Alan Solowitz

The Deputy Inspector General has been with the Office since its inception in 1998, and is primarily charged with heading the Investigations Unit. Mr. Solowitz has received the designation of Certified Inspector General by the national Association of Inspectors General.

Prior to joining the OIG team, Mr. Solowitz was a Law Enforcement Investigator with the Florida Division of Insurance Fraud, a Senior Investigator with the State of Florida Medicaid Fraud Control Unit, and was a police officer with the City of Miami Beach Police Department for 28 years. There he held the positions of Assistant Chief of Police, Chief of Investigations, and SWAT Commander.

His extensive investigative background includes organized insurance fraud, health care fraud, corporate fraud, organized crime, money laundering, narcotics, and violent criminal and racketeering investigations. Mr. Solowitz is a graduate of the FBI National Academy and the Institute on Organized Crime.

Mr. Solowitz is a member of the American Institute for Industrial Security and is also a Certified Fraud Examiner. He has also recently served on the Board of Directors of the national Association of Inspectors General.

Patra Liu

As Assistant Inspector General and Legal Counsel for the Office, Ms. Liu manages and supervises the legal, audit, and administrative units of the Miami-Dade Office of the Inspector General. She is the chief legal advisor to the Inspector General, and in her role as Assistant Inspector General, she coordinates the activities of the Audit Unit and oversees all the administrative operations of the Office, including the Office's finances and its annual budget. Ms. Liu joined the Miami-Dade OIG in March 2000.

Ms. Liu began her legal career as a criminal prosecutor with the Miami-Dade State Attorney's Office. After working her way through various assignments within the State Attorneys Office, she was last assigned to the Economic Crimes Unit investigating and prosecuting cases involving health care fraud, insurance fraud, embezzlement, money laundering, and various schemes to defraud. Directly before joining the OIG, Ms. Liu was a Florida Assistant Attorney General in the Medicaid Fraud Control Unit. There she served as the Miami Bureau's in-house legal advisor, coordinating legal action with federal prosecutors and handling civil cases involving the False Claims Act, Florida's civil theft statute, applications for other injunctive relief involving the proceeds of Medicaid fraud, and forfeiture actions.

Ms. Liu received her Juris Doctor degree from the University of Washington in Seattle, Washington. She has a Bachelor of Arts in History from the same institution. She is a member of the Florida and Washington State Bar Associations. Ms. Liu became a Certified Inspector General in 2003 and earned the designation of Certified Inspector General Auditor in 2009. Both certifications are accorded by the Association of Inspectors General (AIG), a national organization that Ms. Liu is an active member of and which she has served on its Board of Directors since 2006. Ms. Liu was also recently made a Board member of the Florida Chapter of the AIG.

Training, Lectures, and Speaking Engagements

Mr. Mazzella played an instrumental part in the creation of IG offices in Palm Beach and Broward Counties. Mr. Mazzella testified before the statewide Grand Jury in April of 2009 regarding corruption issues. Mr. Mazzella also spoke before the Palm Beach Ethics Commission and other governmental entities regarding the role of the IG in local government. Consequently, OIGs were created and modeled after the Miami-Dade County IG's office.

Mr. Mazzella was invited to address civic organizations, rotary clubs, and other groups this year.

OIG Special Agents are sometimes requested to lend their professional expertise to the community. This year, OIG staff taught several courses at the Association of Inspectors General/Certified Inspectors General Institute. The focus of one course, *Multi-Jurisdictional Investigations*, highlighted aspects of an OIG investigation that required international extradition of a County public official from Hungary back to Miami. Another course, *Digital Evidence*, focused on probative information stored or transmitted in digital or electronic form that can be used in trial.

Upon receiving Ethics Instructor certification from the Federal Law Enforcement training center, OIG staff conducted a series of training classes in the law enforcement community. This fiscal year, *Ethics Training for Law Enforcement* was presented by OIG staff to Officers at Miami-Dade Schools Police Department and the Surfside Police Department.

Professional Development of Staff

The most highly skilled and experienced professionals in their fields are recruited for the OIG team. To maintain these levels, the Office has made a commitment to invest resources for specialized training and certifications. Continuing education, advanced training, and technology expertise are prerequisites for successful operations.

In accordance with fulfilling these goals, staff received specialized training at such courses as: *Ethics for Governmental CPAs in Florida*; *Governmental Accounting and Auditing; Non-profit Accounting; Individual Gross Income*; Jackson's *Advanced Clinical Knowledge System*–Cerner Learning Services; *INVISION Patient Accounting*; *Updates to the Ethics Ordinance*; *OIG Policies & Procedures*; *Anatomy & Illusiveness of Procurement Fraud* and *Fraud Schemes in Your Contracting Process*–the Association of Inspectors General; *Red Flags of Collusion*–USDOJ Antitrust Division; *Diversity Matters for Supervisors*; *Bisk CPE Network Accounting and Auditing*; *Compliance Auditing and Other Types of Engagements*; *Audit Evidence and Work Paper Documentation*; *Behavior Pattern Recognition*–Miami Dade Aviation Department; *Law Enforcement Training Seminar*–Palm Beach Economic Crime Unit Financial Institution; *Intelligence Analysis Training*–Michigan Intelligence Operations Center for Homeland Security; and *Financial Crimes and Fraud Investigations*–Financial Institutions Security Association.

OIG staff also attended a wide variety of educational seminars and conferences this year. These include: *Back to Basics* and *Compliance 101 for Certified Fraud Examiners*–Association for Certified

Fraud Examiners; the *2010 Fraud Conference*; the South Florida Inspector General Council; the *Criminal Justice Information Services Annual Training Symposium* by the Florida Department of Law Enforcement; the *Financial Institution/Law Enforcement Training Seminar* by the Palm Beach Police Department Economic Crime Unit; and monthly training seminars at FISA (Financial Institutions Security Association).

Administration staff furthered their office skills by completing classes such as *Advanced Excel, Business Writing for Professionals, Finance & Accounting for Non-Financial Managers*, and *Dreamweaver Advanced* website training. Staff also completed various County proprietary systems courses.

Miami-Dade Office of the Inspector General Achieved Accreditation

In July 2010, the Miami-Dade County Office of the Inspector General was accredited by the Commission for Florida Law Enforcement Accreditation (CFA). Accreditation is the certification that the Office of the Inspector General adheres to the highest level of professionally recognized best business standards and practices. Accreditation for Offices of the Inspector General is a relatively new process and the Miami-Dade County Office of the Inspector General is one of just a few OIGs in the State of Florida that have received this prestigious recognition.

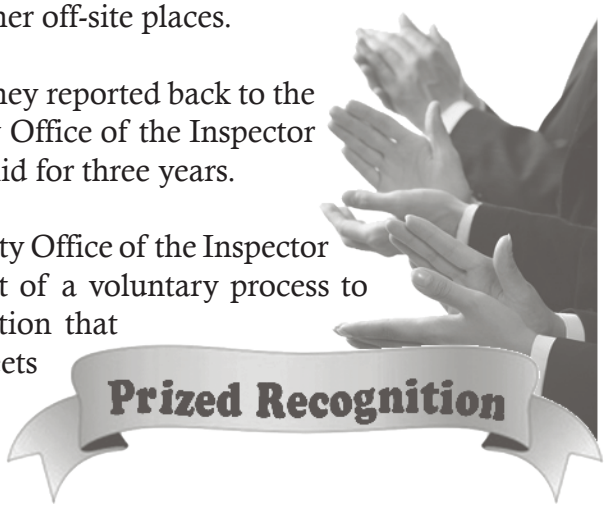
In 1993, the Commission for Florida Law Enforcement Accreditation was formed. Initially the accreditation process was just for law enforcement and correctional agencies. In 2009, the Commission for Florida Law Enforcement Accreditation expanded their program to include Offices of the Inspector General. An accreditation program has long been recognized as a means of maintaining the highest standards. Accreditation is the certification by an independent reviewing authority that an entity has met specific requirements and prescribed standards.

The CFA Board is comprised of four sheriffs, four chiefs, and one representative each from the Association of Counties, the League of Cities, the State Law Enforcement Chiefs' Association, the Judiciary, and in 2009, an Inspector General was added. The CFA worked closely with Florida's Inspectors General to develop professional standards for Florida Inspector General Investigative functions.

In May 2010, an assessment team from the CFA arrived to examine all aspects of the Miami-Dade County Office of the Inspector General's policies and procedures, management, and operations. The Miami-Dade County Office of the Inspector General had to comply with approximately 40 standards in order to receive accredited status. The CFA's assessment team was composed of law enforcement practitioners from similar agencies. The assessors reviewed written materials, interviewed individuals, and visited offices, and other off-site places.

Once the CFA's assessors completed their review, they reported back to the full Commission Board. The Miami-Dade County Office of the Inspector General received accreditation July 2010 that is valid for three years.

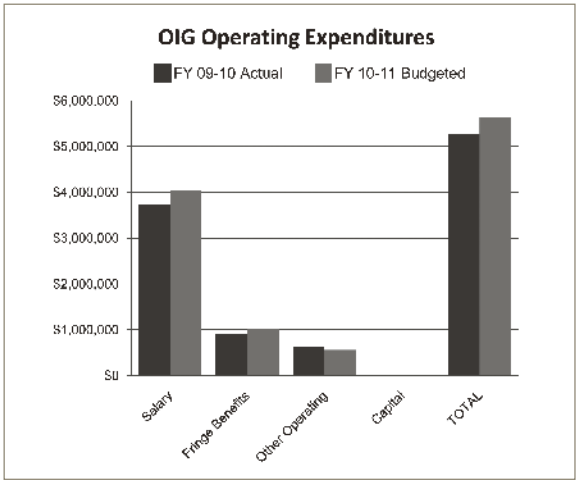
Verification by the team that the Miami-Dade County Office of the Inspector General meets the Commission's standards is part of a voluntary process to gain or maintain accreditation—a prized recognition that the Office's performance and investigative work meets high standards of excellence.

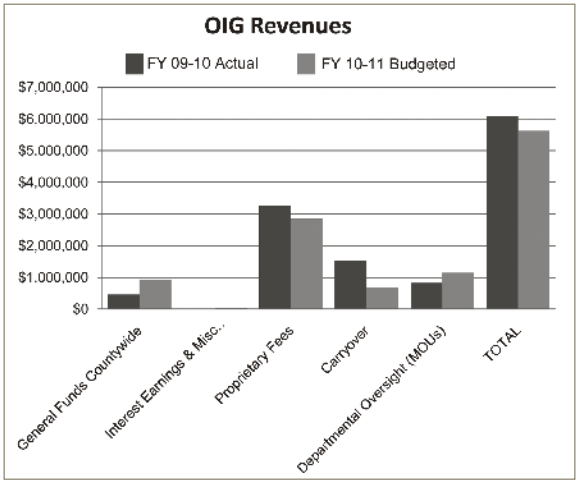


Our Financial Report

The OIG's budget is funded by three distinct sources. These include the IG proprietary fees assessed on County contracts, direct payments collected through memorandums of understanding contracted with various County departments, and general funds allocated through the County's budget process. A fourth category is OIG carryover (higher than expected returns on IG contract fees and unspent accumulated savings), which greatly offsets the OIG's need for general fund dollars.

For the fiscal year 2009-10, the OIG's budget was approved at $5,329,000 for 38 positions. The actual 09-10 expenditures came in much lower — at $274,000 below the budget. IG contract fees collected in 2009-10 combined with the IG's fiscal restraint resulted in a healthy carryover of over $1.5 million into the fiscal year budget of 2010-11, which the Board of County Commissioners approved at $5.6 million.





The impact of the Office of the Inspector General extends beyond just the financial considerations. We strive to create an atmosphere of credibility within government. The outcome of maintaining transparency and trust in local county government is invaluable, and public officials want the same thing. We continue to stay vigilant to ensure that, in the final analysis, County taxpayers receive a fair and honest accounting of their funds. We are a productive and cost efficient Office with an ultimate goal to prevent misconduct and abuse, and to seek appropriate remedies to recover public monies that would otherwise be lost to waste, fraud, or abuse.

OIG Achievements

Questionable Costs, Savings, and Restitutions

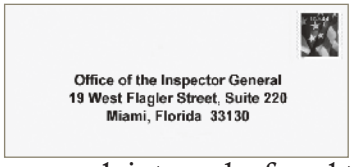
For the fiscal year 2009-2010, the OIG identified over $6.1 million in questionable costs, losses, damages, and lost revenues for the County. During this same reporting period, over $2.57 million in averted losses, projected savings, and financial recoveries have been achieved for the County.

The Office of the Inspector General was created in 1998, and since its inception has identified over $140 million dollars in questionable costs, losses and damages, and lost revenues.

Fraud Complaint Summary

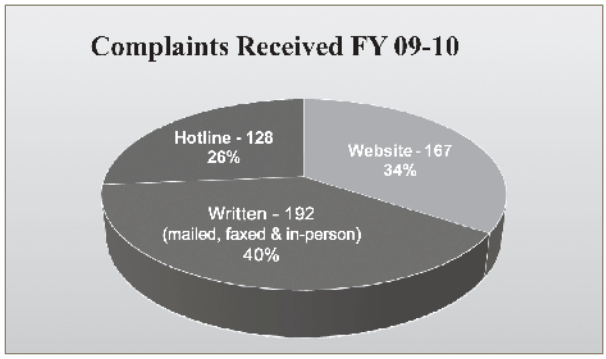
In accordance with our mission to promote ethics, honesty, and efficiency in government and to restore and promote the public's trust in government, the OIG continues to provide the public with access to register their concerns via the OIG Fraud Complaint Program. This program is an essential element in our efforts to combat fraud, as it provides an invaluable means in generating fraud leads from citizens, vendors, contractors, subcontractors, and employee sources throughout the County. These leads from the public are a key component in the continued development and productivity of the office.

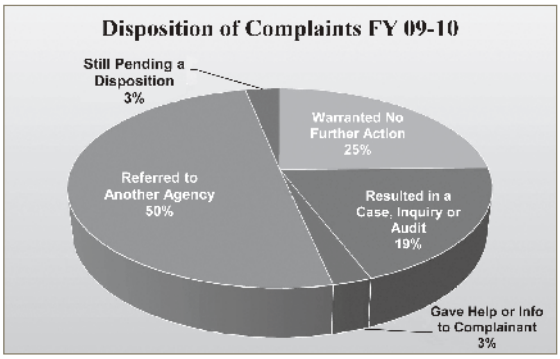
Our investigations are initiated upon the receipt of credible information alleging an act of fraud, waste, financial mismanagement, or corruption that falls within the OIG's jurisdiction. We encourage any person to contact us to report suspected instances of fraud or corruption involving the County. There are a variety of convenient methods available to register a fraud complaint. Written complaints can be mailed to us at 19 West Flagler Street, Suite 220, Miami, Florida 33130. Calls can be made to our dedicated Fraud Hotline at (305) 579-2593, or a complaint can be faxed to us at (305) 579-2656. The public may also visit our website to report fraud confidentially on-line at www.miamidadeig.org.



While you may remain anonymous if you wish, we do encourage you to identify yourself in case we need additional information that might prove helpful in our review of the matter. If you believe that making a report to the OIG will place you at risk of retaliation, you should inform the OIG of this concern. There are certain provisions under the Code of Miami-Dade County and Florida law that protects employees, independent vendors, or contractors under contract with the County or school district, from retaliation under certain circumstances.

The Office received 487 fraud complaints for the 2009-10 fiscal year: 167 complaints were received on-line; 192 complaints were mailed, faxed, or received in person; and 128 complaints came in on the dedicated fraud hotline. The majority of the complaints (50%) were referred to appropriate County departments or other governmental agencies that could directly address the complaints. It was determined that 25% did not warrant further action. However, 19% of the complaints received did lead to the initiation of a case, audit, or inquiry, or related to an investigation.





Some Examples of Reviews From Our Complaint Files

- An inquiry was opened on a anonymous fraud complaint alleging there was a problem with the manner that video equipment was purchased, inventoried, and stored at the Video Shop Services of the Miami-Dade Aviation Department. Despite repeated requests to remedy the problem, equipment was routinely purchased without a proper accounting of the existing equipment. The underlying complaint was substantiated. As a result, corrective measures were put into place in the form of standard operating procedures for inventory tracking of video shop equipment.

- A money order submitted to the Miami-Dade Tax Collector to pay the property taxes of a third-party was returned to the Finance Department from the Federal Reserve Bank, as it was drafted on an account that did not exist. An OIG investigation revealed that the perpetrator had prepared two fraudulent money orders, totaling $150,498.83, while he was an inmate in a U.S. Bureau of Prisons facility. The counterfeit money orders contained details similar to those used by the *Sovereign Citizen Movement,* a radical group that believes they are not subject to any statutes or proceedings at the federal, state, or municipal levels – and reject most forms of taxation as illegitimate. The case has been referred to the U.S Secret Service for possible criminal charges.

- An OIG review into the claims process from damage by excavators to Miami-Dade Water and Sewer Department underground water and sewer lines resulted in the implementation of a number of procedural changes aimed at improving the effectiveness of their damage assessment and collections. This included the reassignment of management personnel in the claims and collections department, improved review of the damage investigation process, and the timely referral of claims to the County Attorney's Office.

- U.S. Postal Inspectors requested OIG assistance in their investigation of an identity theft ring when a County employee, who was not the target of the investigation, was identified as a possible source of information related to individuals suspected of having involvement in this ring. Through the assistance of the OIG, the County employee was located and subsequently interviewed, resulting in information that enabled the Postal Inspectors to identify the individuals and serve a search warrant. The Postal Inspectors obtained additional information that was significant to their investigation and are currently awaiting prosecution approval.

Arrest Statistics Summary

Criminal Investigations — Arrests, Convictions and Guilty Verdicts

Since the formation of the Miami-Dade OIG in 1998, there have been 202 arrests and 11 companies indicted for crimes and frauds against the County.

OIG investigations resulted in a number of significant fraud-related arrests and convictions in 2010. A central theme that underscored the fraudulent misconduct uncovered by the OIG this fiscal year was the falsification by wrongdoers of documents and forms that are required to be filed with various Miami-Dade County, State of Florida, and federal governmental departments and agencies. Our investigations led to 5 arrests this year. The arrest charges included Grand Theft, Organized Scheme to Defraud, Forgery, and Uttering Forged Instruments.

Ten defendants pled or were found guilty this fiscal year for various crimes ranging from Organized Scheme to Defraud, White Collar Crime, Money Laundering, Grand Theft, Official Misconduct, to Forgery and Notary Fraud.

Former Judge and His Assistant Sentenced for Misuse of County and State Grants

Based on an OIG investigation, former Circuit Court Judge Phillip S. Davis was convicted and sentenced to 20 years in state prison followed by 10 years of probation. His assistant, Joan Marie Headley, was sentenced to 10 years in state prison followed by 10 years of probation. Davis and Headley were each found guilty of Organized Scheme to Defraud, Aggravated White Collar Crime, Grand Theft, and Money Laundering.

Davis and Headley, Director and Administrative Assistant of Miami-Dade Resident College (MDRC) respectively, were convicted of defrauding the County and the State of Florida of approximately $80,000. MDRC, a not-for-profit corporation established to provide disadvantaged juveniles or those within the criminal justice system with social work services, sought and received a variety of grants from the County and State. The frauds were committed against three grants awarded by Miami-Dade Housing Agency (now PHA) and one State grant that were meant to fund social work services and programs for disadvantaged youth.

Davis and Headley developed a sophisticated scheme through the use of a shell corporation, WorkForce Management, Inc., to provide MDHA and the State with invoices for employee payroll showing false wage rates. Once MDHA provided the grant monies to MDRC, the employees were paid at much lower rates. The invoices submitted also falsely stated the scope of work being done by some of the employees. Davis and Headley were also able to increase their own salaries above the amounts allowable by the grants for their alleged work.

Arrest of County Employee Who Stole County Grant Funds to Repay Stolen City Grant Funds

The arrest of County grant recipient Charles Leon Cutler was a result of a joint investigation by the OIG and the Miami-Dade State Attorney's Office. Cutler headed the non-profit Veteran's Employment Transition Services, Inc. (VETS) and was charged with Grand Theft for misappropriating grant funds.

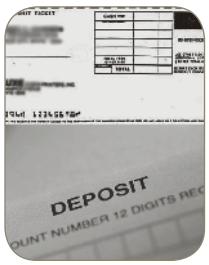
Cutler received County monies to fund job training programs and an educational and informational summit for military veterans residing in the County. He also received City of Miami funds for a separate job training and placement program. The investigation uncovered that Cutler misappropriated funds from the City of Miami grant and then misappropriated County grant funds to repay the city theft. When the city grant was assigned to Miami-Dade College, VETS was required to return any unused funds. Cutler wrote several checks to himself, totaling $4,000, instead of transferring the funds. Cutler's theft was uncovered by Miami officials who advised that they would notify law enforcement. The very next day, Cutler repaid Miami-Dade College by diverting funds from the County grant funds by falsely certifying the amounts of employee salaries. Additionally, he diverted $1,000 for his personal use, and paid his daughter $2,500 and his ex-wife $2,000 for summit coordination and catering services. The investigation determined that the summit was actually organized by the Liberty City Trust, held on city property, and catered with city funds—with no financial support from VETS.

Water & Sewer Department (WASD) Employee Arrested for Stealing County Tools

Donald L. Richard was charged with Organized Scheme to Defraud and Grand Theft when an investigation by the OIG and the State Attorney's Office uncovered his scheme to steal tools that he purchased for the WASD Interama Electrical Shop. Richard was a 33-year WASD employee and a Plant Electrical Supervisor at the shop for almost two decades. Richard manipulated an intemal control log, reusing inventory numbers on the log to keep purchases for his personal use. Richard admitted to OIG Special Agents that two tool chests were at his home, which the Agents found to be full of unused, name brand tools. The OIG was later advised that Richard returned a pressure washer to the plant. To date, an additional 48 tools have mysteriously appeared at the Interama Electrical Shop that Richard supervised. The value of the tools first recovered exceeds $2,000; the value of the additional returned tools has not yet been determined.

Arrest of Former Jackson Health System (JHS) Employee for Theft

Based on information received from JHS, the OIG conducted a joint investigation with the State Attorney's Office that resulted in the arrest of Michael R. Clarke on charges of Organized Scheme to Defraud, Grand Theft, and Petit Theft. The investigation found that Clarke, a Patient Care Assistant at the Batchelor Urology Center, deposited 17 patient checks into his personal credit union account after telling patients or their relatives to leave the payee line of the check blank or to make the checks out to cash. The checks were written between June 2008 and July 2009 and totaled $7,781. He then manipulated the JHS computer system to ensure that no bill would be generated for the services provided. His scheme unraveled when a patient and her husband complained to JHS that their billing statement did not reflect the payments they had made to the Batchelor Center.



Tax Collector Employee Arrested for Defrauding the Florida Housing Finance Corp.

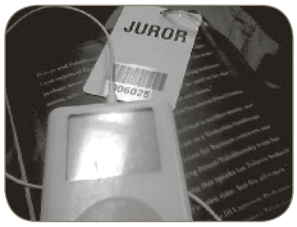
Kenneth Arthur Ferguson of the County Finance Department's Tax Collector's Office was arrested on charges of Organized Scheme to Defraud, Forgery, and Uttering Forged Instruments. Departmental officials suspected forgery and alerted the OIG. The investigation uncovered his scheme to fraudulently obtain reduced rent housing through the Florida Housing Finance Corporation's low-income rent program. Ferguson's salary as a Tax Records Specialist II was higher than the qualifying limits for rental reduction at Villas Del Lago Apartments, so he forged his supervisor's signature on employment verification forms and altered payroll statements as proof of income in order to qualify. The OIG found that Ferguson had submitted fraudulent forms since 2005 to receive over $37,000 in reduced rent housing benefits.

OCED Grant Recipient Sentenced on Uttering Forged Instruments and Notary Fraud

The President of Rezkitna Corporation, Abdallah Masoud Mustafa, pled guilty to Notary Fraud and Forgery. Rezkitna Corporation owns the M&M Supermarket in Homestead, a recipient of a community redevelopment grant with the Office of Housing and Community Development. An OIG investigation uncovered that Mustafa forged required insurance certificates to obtain the grant, and also notarized his own signature on documents submitted to the County. The County paid various companies over $49,000 for improvements to the M&M Supermarket. At his sentencing he was ordered to repay the costs of investigation to the OIG and the costs of prosecution to the SAO. Rezkitna Corporation will also be debarred from contracting with the County for five years.

Former Transit Employee Pleads Guilty to Jury Duty Fraud

Anna Maria Doleman was arrested after an OIG investigation uncovered that she falsified documents as proof of jury duty to excuse her from a week of work. The OIG found that Doleman had not been summoned to jury duty and the documentation submitted was completely fabricated–down to the fake person whose signature was on the fake Clerk of the Courts memorandum. Doleman, a five-year Rail Vehicle Mechanic for Miami-Dade Transit, pled guilty to Forgery, Uttering a Forged Instrument, Grand Theft, and Official Misconduct.



Property Tax Exemption Case Concluded

Four criminal cases were concluded this fiscal year from an investigation reported in 2008, identifying 42 properties where a Total & Permanent Exemption for disabilities was erroneously continued. The 42 properties had a cumulative assessed value of over $6 million. The criminal cases resulted in restitution to the County of $77,957 and repayment of $10,000 in investigative costs to the OIG. Remedial measures were also implemented by the Property Appraiser's Office.

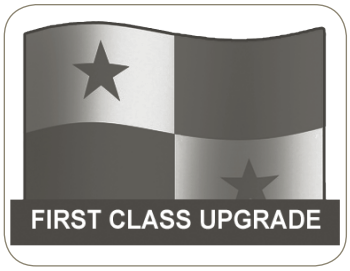
Acquisition of Scheduling Consulting Services for the Miami-Dade Fire Rescue Department (MDFR) Training Facility Construction Project

This investigation involved reviewing the MDFR acquisition process for professional services of an "Owner Scheduling Independent Consultant" via a pass-through arrangement with the general contractor, MCM Corporation. The scheduling consultant was paid by the general contractor with funds from the construction contract's contingency allowance account, which the OIG found to be against sound contract administration principles. It subverts the qualification

and selection process and creates a conflict of interest. An owner's consultant should not be paid by the entity it is overseeing. County procurement processes were circumvented and construction contingency funds were used for non-conforming expenses. The means and methods employed by MDFR put the department's reputation at risk in managing and overseeing its own construction projects.

Review of Miami-Dade Transit's (MDT) Credit Card Payment Security Features

An OIG investigation into the MDT Fare Collection System—which allows riders to purchase an "Easy Card" to pay when using Metrorail, Metro Buses, and STS vehicles—was initiated when a rider reported observing two men offering to sell Easy Card passes at a discounted amount to other MDT patrons. The investigation determined that Cubic Transportation System, Inc. failed to install anti-fraud features into ticket vending machines as contractually required, allowing credit card thieves to routinely purchase Easy Cards and sell them at a discount. MDT failed to fully monitor Cubic's installation efforts, failed to conduct a final inspection of the ticket system, failed to ensure contractual compliance and operational security, and failed to take other measures within its control to minimize losses. Cubic is now working with MDT to install the required security features that allow for the identification of suspicious credit card activity and has agreed to perform the repairs at no cost. Substantial losses were incurred by MDT in a one year period—in part as a result of the use of stolen credit cards at ticket vending machines. The OIG recommended referral of this matter to the County Attorney's Office to seek monetary recoupment caused by the failure to implement contractually required credit card security features, and to seek liquidated damages for untimely performance of its contractual obligations.



Abuse of Miami-Dade County Restrictions on Outside Employment by the Mayor's Former Chief of Staff and Miami-Dade Police Department Officials

The OIG investigation determined that the former Chief of Staff to the Mayor's Office and several Miami-Dade County Police Department (MDPD) officials violated County restrictions on outside employment, engaged in questionable leave usage, and improperly obtained first-class airplane ticket upgrades while traveling to Panama as paid consultants for a private company.

The OIG investigation revealed that between 2007 and 2009 the officials repeatedly failed to properly complete and submit County-mandated outside employment forms. During that time, the Mayor's former Chief of Staff and the MDPD officials were paid approximately $418,363 in outside income from their Panamanian consulting work. One MDPD official, the former Director of the MDPD Police Institute who was directly responsible for the training of police recruits—never obtained authorization for outside employment for 2007-2009, yet made over $250,000 in outside income. Second, the OIG investigation determined that the Mayor's former Chief of Staff and the MDPD officials used over 128 hours of paid administrative leave related to their outside employment. Some of the officials, while traveling in Panama, were not charged any leave for being away. Further, an MDPD policy prohibiting more than 20 hours of outside employment per payroll week was routinely ignored by the MDPD officials. Third, we

determined that between 2007-2009, the Mayor's former Chief of Staff and two other officials obtained a total of at least 10 first-class ticket upgrades for travel to Panama. In October 2009, they were upgraded after a uniformed MDPD sergeant made a request on their behalf to an American Airlines gate agent, despite an MDPD policy directive issued a month beforehand that specifically prohibited such solicitations. Although the County Code requires such upgrades to be disclosed as gifts if valued over $100, there was only one instance where such a disclosure was made, and that was after the October 2009 trip.

The investigation concluded that these abuses could have been detected by routine scrutiny of the information contained on the forms that were filed, as well as timely scrutiny into the fact that many required forms were not filed at all. Instead, the outside work obligations of the officials could reasonably be perceived as having hampered performance of their official duties, a situation that could have been detected and prevented by MDPD. As such, several recommendations were offered by the OIG to remedy these deficiencies.

Monitoring/Oversight of Major Projects

In addition to its mission to investigate fraud, waste, and abuse, the OIG also has contract oversight specialists that monitor and review major projects. For instance, the OIG has an engineer on-site at the Florida Marlins Stadium Project.

Audits, Reviews, and Contract Oversight

The purpose of the OIG's Audit Unit is to support the mission of the OIG by detecting and preventing fraud, waste, mismanagement, and abuse of power in County projects, programs, and contracts, and, where possible, to recover public monies. This is achieved through the performing of audits, reviews, inspections, and other audit-related activities. Most OIG audits involve one or more of the following reviews:

Type I Procurement and contracting evaluations where we look at process transparency and integrity surrounding individual activities throughout the procurement cycle or at the complete cycle itself, beginning with planning stages, and going through solicitation and award, administration, goods/services delivery, payment, and, lastly, close-out.

Type II Expenditure analyses where we test spent monies for propriety, reasonableness, and necessity.

Type III Revenue verifications where we substantiate that County permittees are accurately, completely, and promptly reporting their revenues earned under County permits and remitting to the County its portion thereof.

Type IV Procedural reviews where we evaluate an entity's processes and practices looking for weaknesses or deviations from the norm or a failure to meet standards or noncompliances with authorizing legislation or other regulatory guidance.

In addition, OIG Auditors have been reporting on concerns that certain activities, processes, conditions, etc., observed during their audits pose a reputational risk to the audited entity specifically and to the County overall. Common risks that the OIG auditors have encountered in the past that contribute to an entity's reputational risk include unacceptable accounting, excessive costs, unachieved objectives and goals, undocumented deviations from standard practices, erroneous management decisions, and loss of assets.

Audit of Zoo Miami's Commodity Purchases (Metro Zoo)

An OIG audit found three conditions warranting management's attention. First, two resolutions provided Zoo Miami with continuous bid waiver authorizations for specified purchases along with a funding allocation. However, Zoo Miami only acknowledged one of those resolutions and its funding—the one with blanket bid waiver authority for specified purchases and a not-to-exceed annual funding allocation of $800,000, in perpetuity. The other resolution provided limited bid waiver authority and a not-to-exceed one-time funding allocation of $800,000, for a period up to six years. The audit found that the first resolution's bid waiver authority and funding allocation, in perpetuity, was a nonstandard, undesirable condition incompatible with good governance. This nearly decade old resolution no longer reflected current procurement best practices and should be replaced.

In addition, this resolution's blanket bid waiver authority for the acquisition of animals and their transportation costs was too broad of an authorization when purchasing commodity items. Second, the audit found that Zoo Miami's purchasing activities for animal foods and pharmaceutical products was completed singlehandedly without adequate compensating controls for the lack of duty segregation. Good business practice dictates that the responsibilities for asset custody, asset dispensing, asset ordering, asset receiving, and payment approval should be divided among staff to reduce the risk of undetected errors or inappropriate actions. Smaller organizations may have to task one individual with incompatible duties and responsibilities; however, even small organizations can institute compensating controls. While the audit found no evidence of wrongdoing (e.g., missing inventory), that does not lessen the risk inherent in the observed conditions.

The third condition found was that Zoo Miami could make greater efforts to document that purchases of specialty foods and pharmaceutical products are at fair and reasonable prices. Infrequent need and limited vendor selection may subject some of these goods and services to varying market conditions that prevent guaranteed prices for any length of time. The audit found that some vendors had been consistently providing goods and services for several years and recommended that Zoo Miami negotiate pricing provisions with these vendors to secure agreed upon terms for how prices will be set, ensuring some mitigating effect on the otherwise limited or sole source conditions influencing some of the Zoo Miami' s specialty purchases.

As a result of the audit recommendations, Procurement is establishing competitive solicitations for the award of pharmaceutical products used by veterinary staff and a new contract was awarded for zoo specialty food items. The procurement of these commodities is moving away from bid waivers to open and competitive procurement awards and in establishing a limited bid waiver for the acquisition and transportation of animals.

Comprehensive Review of Architectural & Engineering and Construction Contracts Administered by Jackson Health System (JHS)

This audit was initiated after the OIG received complaints alleging favoritism in the procurement of architectural and engineering (A&E) services. The audit was part of a comprehensive review of A&E and construction contracts administered by JHS, including those awarded under the County's Miscellaneous Construction Contract Program (MCC) and the Equitable Distribution Program (EDP).

Part I — PHT/JHS' Equitable Distribution Program

Preparing and maintaining complete records is essential as equitable distribution programs and architectural & engineering services are procured based on which A&E firm is the most qualified. The determination of a firm's qualifications and its selection to perform work must be based on reasonable, objective criteria and should not be influenced by bias or favoritism. Complete selection process documentation helps minimize the business risk to JHS that it might award an EDP assignment to a less qualified firm that may result in added project costs and time delays. In addition, it helps to minimize any reputational risk to JHS if its documented EDP selections can be shown to be free from project manager bias and contractor favoritism.

Our first two audit findings described deficient record keeping by JHS project managers that raised red flags about their EDP procurements. Of ten project files inspected for documentation of selection factors, we found no evidence for five projects that the firms provided to JHS, in accordance with EDP protocols, were even contacted. These project files contained no criteria documenting how the firms were selected, which lent credence to the OIG complaints alleging favoritism and bid steering. The OIG concluded that JHS must repair any reputational damage by ensuring that contract selection processes are transparent, based on objective factors, and free from bias. Documentation of these selection processes should provide the extrinsic evidence of such transparency. Three recommendations were made related to the County's Office of Capital Improvement (OCI) that they should update EDP procedures to specifically define scope deviations/modifications, establish dollar thresholds for reporting deviations, and establish corresponding higher-level approvals for larger deviations with designated authorized personnel to approve scope deviations and price modifications. Also recommended was that OCI, with JHS input, formalize a technical trade category in OCI's information system (CIIS) to list firms with hospital experience, and establish objective criteria for discerning a firm's eligibility for inclusion on the list. The third recommendation addressed how one project's design plan was not reviewed nor approved by the Florida Agency for Health Care Administration until the project was nearly complete, although State law requires design plan approval prior to construction starting.

Part II — PHT/JHS' Use of the County's Miscellaneous Construction Program

This audit was the second in a series and focused on JHS' use of the County's Miscellaneous Construction Contract (MCC) Program. The audit found at least one condition identical to a condition noted in the first audit of JHS' use of the County's EDP—a lack of documentation plaguing project procurement and status reporting. JHS project managers often lacked complete files documenting the project cycle from Request for Price Quotation through project closeout. In addition, JHS project managers did not take steps to ensure that project information was entered into CIIS. The MCC relies on CIIS to store MCC project files and forms. Prospective contractors solicited for the projects were not drawn from the MCC contractor rotational pool. Also, subsequent award and payment amounts were not entered into CIIS. As a result, contractor standings in the rotational pool were based on incomplete data. This affects later MCC awards, as a contractor's prospective eligibility to submit proposals for future work is based on its ranking in the rotational pool, which is based on past award and payment amounts. A rotational pool is used to equitably distribute work among the participants based on their respective standings. Standings based on incomplete award totals and payment data would result in improper contractor selections—defeating the purpose of the rotational pool.

Another problematic condition found during our review of JHS' Strategic Sourcing and Procurement Department Relocation project was questionable judgment and poor management on the part of JHS project management staff when they continued a procurement—knowing that the described advertised project work scope was materially different from that shown on the project's drawings. This also reinforces the perception that JHS project management is not following the rules or using good judgment when operating in non-standard conditions.

In summary, the OIG continues to highlight risk areas in JHS construction contracting and

project management activities that, by their existence, lend credence to the complaints received alleging favoritism in JHS construction and related procurements. In response to the audit, JHS actions are on the right track to make these activities more efficient and effective, and with a documented objectivity and transparency that will serve to reassure process participants that contractor selections are free from project manager bias and contractor favoritism.

Review of the Jackson Health System Business Plan for the Proposed Civica Tower

This review involved examining the circumstances in which this Business Plan was prepared, authored, and distributed. The Civica Tower Project was proposed by the Swerdlow Development Company, LLC (Swerdlow) as a mixed-use office tower to be occupied by multiple JHS administrative divisions. The OIG's report revealed serious concerns about the integrity and objectiveness of the Business Plan. Two specific findings cast a cloud over the transparency of the proposed project. First, the PHT executive tasked with developing the Business Plan disavowed any involvement with development, writing, and production of the Business Plan. He did not know who prepared it or where it came from, but had no problem distributing it as a product of the PHT. Second, the PHT Board Chairperson collaborated with Swerdlow representatives to prepare and produce this Business Plan during the time the proposed Civica project was an official item under consideration by the PHT Board of Trustees that, as the Board's Chairperson, he would ultimately vote on its approval.

The OIG also questioned certain projections in the Business Plan, such as failing to account for principal repayment in its pro forma statement of annual debt service; funding for debt service payments during construction; funding for debt service reserve funds; additional costs to build out vacated hospital space, etc. Additionally, the two pro forma financials for third-party space, at 95% and 50% occupancy, had no basis for its occupancy projections. There was no study on the ability to fill these spaces with new doctors and no study showing that existing physicians would want to move their offices to Civica because it would be more economical, more conveniently located, or because it would be a new facility. There was no study addressing the loss of revenue to the PHT by tenants vacating its facilities in favor of Civica and no study to show the cost of renovating space left vacant by functions/departments moving to Civica. There was no study of the PHT's true square footage needs. Before any advancement of the Civica or any similar project is made, objective data must be analyzed by unbiased professionals to justify such a large JHS financial commitment.

Environmental Task Force Trust Funds Administered by the Miami-Dade Police Department (MDPD)

In this audit of the South Florida Environmental Task Force (SFETF) Trust Fund and the Florida Environmental Task Force (FETF) Trust Fund (collectively "Trust Funds"), OIG Auditors evaluated expenditures from the Trust Funds to determine if they were: allowable under the terms and conditions of their governing authorities and agreements; reasonable and necessary; adequately supported by authoritative documentation; approved for payment by authorized personnel; and if equipment purchased with Trust Fund monies was properly safeguarded.

OIG Auditors found significant questionable business practices surrounding MDPD's administration of the Trust Funds. MDPD had unilaterally expanded the expenditure authority

granted to it by the Board of County Commissioners (BCC). Without seeking authorization from the BCC, MDPD expanded the authorized uses of the SFETF monies to non-environmental related purposes, heavily skewed in favor of supplying itself with vehicles, phones, and equipment instead of following its commitment to provide other Task Force member agencies with education, technology, and training. OIG Auditors also documented purchases where the stated justification for the purchase did not match the actual use of the equipment. Additionally, only about $1.4 million of the $4.1 million of FETF Trust Fund expenditures were approved by way of expenditure requests that included a stated amount.

It was also evident that purchases were excessive, unreasonable, and unnecessary for the Environmental Task Force. An example of both unreasonable and excessive expenditures was the purchase of 23 sports utility vehicles and trucks for over $714,000 from the FETF Trust Fund during fiscal years 2000 through 2009. In addition, MDPD approved expenditures over this same timeframe (totaling over $292,000) for up to 14 vehicle rentals per month; $135,000 for motor fuel; and over $25,000 for vehicle accessories, such as police sirens and lights. Notably, most of these vehicle related expenditures—totaling over $1.1 million—were spent on MDPD personnel who were not members of the Environmental Task Force. No such vehicle expenditures were made for other FETF member agencies. MDPD also spent $330,000 on computers, and another $25,000 was spent on three Segways—two of which were found unused in a warehouse. The third Segway was located at MDPD Headquarters and used periodically for security patrol of the premises. Three Sharp 52" flat screen televisions that cost nearly $6,000 were purchased from the SFETF Trust Fund. The justification documented on the request form states "the 52" televisions will be mounted with the Intergovernmental Bureau (IB) North Office Command Post…" OIG personnel observed two of the televisions at the IB North Office Command Post; however, the third television was observed by the OIG unused and in its original box at the Critical Incident Logistics Unit (CILU) warehouse. Moreover, MDPD also purchased three motorized flat screen TV mounts for $3,334 using Trust Fund monies. Only one mount was being used; the other two mounts were found in storage at the CILU warehouse.

MDPD purchased a texture and paint sprayer that cost over $4,000 using SFETF Trust Fund monies that was found in unopened packaging two years later. A review of phone services found that of 125 cell phone lines charged to the Trust Fund, only 19 were given to Task Force members. On one phone provider's invoice for monthly service fees and usage, MDPD paid for 12 cellular phone lines and 26 connection card plans that had no usage.

In another troubling instance, MDPD misrepresented the status of the funding source in order to expedite the procurement process by waiving County requirements. In the case of six sport utility vehicles, the funds were misrepresented as deriving from grants that were about to expire. The trust fund monies do not expire, and thus had no need to be used quickly. Six hybrid Chevy Tahoe SUVs that cost over $293,000 were purchased with FETF funds and assigned to MDPD command staff and the Mayor, although the justification memo stated the SUVs were needed to investigate local environmental crimes activity in rural hard-to-access areas that were void of paved roads and overgrown with vegetation. More issues included that MDPD overstated $351,588 of FETF Trust Fund expenditures to federal oversight agencies; a $250,000 settlement amount was incorrectly credited to the SFETF Trust Fund; and auditors observed instances

when the same expenditure request was attached to multiple invoices. For example, OIG auditors identified 42 payments totaling $153,743 that were charged against two expenditure requests.

Another problematic area specifically involved the FETF, where MDPD and the United States Environmental Protection Agency signed an agreement stipulating certain protocols and uses of the funds. Accounting transactions show that MDPD spent on itself about $3.6 million (or 87%) of the $4.1 million collected—and other Task Force member agencies did not have an opportunity to use these funds. Futhermore, most of the MDPD expenditures were unrelated to investigating environmental crimes. We found that 50% of fund expenditures were made for vehicles, vehicle-related expenses, and mobile communications devices. Yet according to the agreement, task force members would supply their own cars and communications equipment.

Lastly, OIG Auditors assessed that MDPD did not maintain sufficient control over equipment purchased with Trust Funds. All such equipment was intended for use by Task Force members, but MDPD co-mingled this equipment with its own. Until the MDPD performed a physical inventory of these assets, which it began at the time of our audit, the MDPD did not have a central log, or other method, to track items purchased with SFETF and FETF funds. Several pieces of equipment were not located and other equipment was located in places where it blatantly should not have been. For example, a MDPD detective had in his possession—at his personal residence—a $2,600 portable air conditioning unit. To date, a $3,000 generator is stilll missing. In addition to the generator, over $70,000 worth of cameras and GPS devices are missing.

As a result of this audit, a number of OIG recommendations aimed at curtailing the inappropriate expenditures of Trust Fund monies were implemented by the MDPD.

PARTNERSHIPS WITH OTHER AGENCIES

American Express Corporate Security
Association of Inspectors General
Association of Certified Fraud Examiners
Bank of America, Corporate Security
Broward County Clerk of Courts
Broward County Property Appraiser
Broward County State Attorney's Office
Citibank Security
City National Bank
City of Chicago OIG
City of Doral Building Department
City of Key West Citizen Review Board
City of Miami Building Department
City of Miami Police Department
City of Miami Civilian Investigative Unit
City of Miami Beach Building Department
City of Miami Beach Police Department
City of Miami Office of Internal Audits
Commission for FL Law Enforcement Accreditation
Dade County Federal Credit Union
District of Columbia OIG
District of Columbia, Office of Integrity & Oversight
Federal Bureau of Investigation
Financial Institutions Security Association
FL Agency for Health Care Administration
FL Agency for Workforce Innovation OIG
FL Attorney General's Office OIG
FL Chapter of the Association of Inspectors General
FL Dept. of Agriculture and Consumer Services
FL Dept. of Business & Professional Regulation
FL Dept. of Children & Families OIG
FL Dept. of Corrections OIG
FL Dept. of Environmental Protection OIG
FL Dept. of Financial Services OIG
FL Dept. of Health Office of Vital Statistics
FL Dept. of Health OIG
FL Dept. of Juvenile Justice
FL Division of Insurance Fraud
FL Dept. of Law Enforcement
FL Dept. of Revenue
FL Dept. of State – Division of Corporations
FL Dept. of State – Licensing Division
FL Dept. of State – Notary Section
FL Dept. of Transportation OIG
FL Highway Patrol
FL Medicaid Fraud Control Unit
FL Office of the Chief Inspector General
FL Office of Statewide Prosecution
FL Police Accreditation Coalition
Florida Bar Association
Florida International University
Institute of Internal Auditors
Internal Revenue Service
Interpol
Los Angeles County MTA OIG
Los Angeles Unified School District OIG
Louisiana State OIG
MDC Commission Auditor
MDC Commission on Ethics and Public Trust
Miami-Dade Clerk of the Board
Miami-Dade County Public Schools OIG
Miami Dade Dept. of Procurement Management
Miami-Dade Police Department
Miami-Dade Property Appraiser's Office
Miami-Dade Schools Police Department
Miami-Dade State Attorney's Office
Miami-Dade Tax Collector's Office
Miami-Dade Transit Department
Miami-Lakes Rotary Club
Miramar Police Department
Monroe County State Attorney's Office
NASA OIG
National Reconnaissance OIG
Ohio State OIG
Palm Beach County Clerk of Courts OIG
Palm Beach OIG
Palm Beach State Attorney's Office
Pinellas County Clerk of the Circuit Court OIG
Port Authority of NY & NJ OIG
Regions Bank
Social Security Administration OIG
South Florida IG Council
Surfside Police Department
SunTrust Bank Corporate Security
Texas Department of Criminal Justice OIG
University of Miami School of Law's Center for Ethics & Public Trust
U.S. Attorney's Office, Southern District of FL
U.S. Bureau of Prisons
U.S. Dept. of Health & Human Services
U.S. Dept. of Homeland Security
U.S. Dept. of Housing & Urban Development
U.S. Department of Labor
U.S. Dept. of State
U.S. Dept. of Transportation OIG
U.S. Environmental Protection Agency OIG
U.S. Immigration and Customs Enforcement
U.S. Justice Department
U.S. Marshals Service
U.S. Postal Services Inspector General
U.S. Probation and Pretrial Services
U.S. Secret Service
Wachovia Bank Security
Washington Mutual Bank

APPENDIX
Sec. 2-1076 Office of the Inspector General

(a) Created and established. There is hereby created and established the Office of Miami-Dade County Inspector General. The Inspector General shall head the Office. The organization and administration of the Office of the Inspector General shall be sufficiently independent to assure that no interference or influence external to the Office adversely affects the independence and objectivity of the Inspector General.

(b) Minimum Qualifications, Appointment and Term of Office.

(1) Minimum qualifications. The Inspector General shall be a person who:

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

(i) as a Federal, State or local Law Enforcement Officer;

(ii) as a Federal or State court judge;

(iii) as a Federal, State or local government attorney;

(iv) progressive supervisory experience in an investigative public agency similar to an inspector general's office;

(b) Has managed and completed complex investigations involving allegations of fraud, theft, deception and conspiracy;

(c) Has demonstrated the ability to work with local, state and federal law enforcement agencies and the judiciary; and

(d) Has a four-year degree from an accredited institution of higher learning.

(2) Appointment. The Inspector General shall be appointed by the Ad Hoc Inspector General Selection Committee ("Selection Committee"), except that before any appointment shall become effective, the appointment must be approved by a majority of the whole number of members of the Board of County Commissioners at the next regularly scheduled County Commission meeting after the appointment. In the event that the appointment is disapproved by the County Commission, the appointment shall become null and void, and the Selection Committee shall make a new appointment, which shall likewise be submitted for approval by the County Commission. The Selection Committee shall be composed of five members selected as follows:

(a) The State Attorney of the Eleventh Judicial Circuit for Miami-Dade County;

(b) The Public Defender of the Eleventh Judicial Circuit for Miami-Dade County;

(c) The Chairperson of the Miami-Dade Commission on Ethics and Public Trust;

(d) The President of the Miami-Dade Police Chief's Association; and

(e) The Special Agent in charge of the Miami Field Office of the Florida Department of Law Enforcement.

The members of the Selection Committee shall elect a chairperson who shall serve as chairperson until the Inspector General is appointed. The Selection Committee shall select the Inspector General from a list of qualified candidates submitted by the Miami-Dade County Employee Relations Department.

(3) Term. The Inspector General shall be appointed for a term of four (4) years. In case of a vacancy in the position of Inspector General, the Chairperson of the Board of County Commissioners may appoint the deputy inspector general, assistant inspector general, or other Inspector General's office management personnel as interim Inspector General until such time as a successor Inspector General is appointed in the same manner as described in subsection (b)(2) above. The Commission may by majority vote of members present disapprove of the interim appointment made by the Chairperson at the next regularly scheduled County Commission meeting after the appointment. In the event such appointment shall be disapproved by the County Commission, the appointment shall become null and void and, prior to the next regularly scheduled Commission meeting, the Chairperson shall make a new appointment which shall likewise be subject to disapproval as provided in this subsection (3). Any successor appointment made by the Selection Committee as provided in subsection (b)(2) shall be for the full four-year term.

Upon expiration of the term, the Board of County Commissioners may by majority vote of members present reappoint the Inspector General to another term. In lieu of reappointment, the Board of County Commissioners may reconvene the Selection Committee to appoint the new Inspector General in the same manner as described in subsection (b)(2). The incumbent Inspector General may submit his or her name as a candidate to be considered for selection and appointment.

(4) Staffing of Selection Committee. The Miami-Dade County Employee Relations Department shall provide staffing to the Selection Committee and as necessary will advertise the acceptance of resumes for the position of Inspector General and shall provide the Selection Committee with a list of qualified candidates. The County Employee Relations Department shall also be responsible for ensuring that background checks are conducted on the slate of candidates selected for interview by the Selection Committee. The County Employee Relations Department may refer the background checks to another agency or department. The results of the background checks shall be provided to the Selection Committee prior to the interview of candidates.

(c) Contract. The Director of the Employee Relations Department shall, in consultation with the County Attorney, negotiate a contract of employment with the Inspector General, except that before any contract shall become effective, the contract must be approved by a majority of Commissioners present at a regularly scheduled Commission meeting.

(d) Functions, authority and powers.

(1) The Office shall have the authority to make investigations of county affairs and the power to review past, present and proposed County and Public Health Trust programs, accounts, records, contracts and transactions.

(2) The Office shall have the power to require reports from the Mayor, County Commissioners, Manager, County agencies and instrumentalities, County officers and employees and the Public Health Trust and its officers and employees regarding any matter within the jurisdiction of the Inspector General.

(3) The Office shall have the power to subpoena witnesses, administer oaths and require the production of records. In the case of a refusal to obey a subpoena issued to any person, the Inspector General may make application to any circuit court of this State which shall have jurisdiction to order the witness to appear before the Inspector General and to produce evidence if so ordered, or to give testimony touching on the matter in question. Prior to issuing a subpoena, the Inspector General shall notify the State Attorney and the U.S. Attorney for the Southern District of Florida. The Inspector General shall not interfere with any ongoing criminal investigation of the State Attorney or the U.S. Attorney for the Southern District of Florida where the State Attorney or the U.S. Attorney for the Southern District of Florida has explicitly notified the Inspector General in writing that the Inspector General's investigation is interfering with an ongoing criminal investigation.

(4) The Office shall have the power to report and/or recommend to the Board of County Commissioners whether a particular project, program, contract or transaction is or was necessary and, if deemed necessary, whether the method used for implementing the project or program is or was efficient both

financially and operationally. Any review of a proposed project or program shall be performed in such a manner as to assist the Board of County Commissioners in determining whether the project or program is the most feasible solution to a particular need or problem. Monitoring of an existing project or program may include reporting whether the project is on time, within budget and in conformity with plans, specifications and applicable law.

(5) The Office shall have the power to analyze the need for, and the reasonableness of, proposed change orders. The Inspector General shall also be authorized to conduct any reviews, audits, inspections, investigations or analyses relating to departments, offices, boards, activities, programs and agencies of the County and the Public Health Trust.

(6) The Inspector General may, on a random basis, perform audits, inspections and reviews of all County contracts. The cost of random audits, inspections and reviews shall, except as provided in (a)-(n) in this subsection (6), be incorporated into the contract price of all contracts and shall be one quarter (1/4) of one (1) percent of the contract price (hereinafter "IG contract fee"). The IG contract fee shall not apply to the following contracts:

(a) IPSIG contracts;

(b) Contracts for legal services;

(c) Contracts for financial advisory services;

(d) Auditing contracts;

(e) Facility rentals and lease agreements;

(f) Concessions and other rental agreements;

(g) Insurance contracts;

(h) Revenue-generating contracts;

(i) Contracts where an IPSIG is assigned at the time the contract is approved by the Commission;

(j) Professional service agreements under one thousand dollars ($1,000);

(k) Management agreements;

(1) Small purchase orders as defined in Administrative Order 3-2;

(m) Federal, state and local government-funded grants; and

(n) Interlocal agreements.

(o) Grant Agreements granting not-for-profit organizations Building Better Communities General Obligation Bond Program funds.

Notwithstanding the foregoing, the Commission may by resolution specifically authorize the inclusion of the IG contract fee in any contract. Nothing contained in this Subsection (c)(6) shall in any way limit the powers of the Inspector General provided for in this Section to perform audits, inspections, reviews and investigations on all county contracts including, but not limited to, those contracts specifically exempted from the IG contract fee.

(7) Where the Inspector General detects corruption or fraud, he or she shall notify the appropriate law enforcement agencies. Subsequent to notifying the appropriate law enforcement agency, the Inspector General may assist the law enforcement agency in concluding the investigation. When the Inspector General detects a violation of one (1) of the ordinances within the jurisdiction of the Ethics Commission,

he or she may file a complaint with the Ethics Commission or refer the matter to the Advocate.

(8) The Inspector General shall have the power to audit, investigate, monitor, oversee, inspect and review the operations, activities and performance and procurement process including, but not limited to, project design, establishment of bid specifications, bid submittals, activities of the contractor, its officers, agents and employees, lobbyists, County staff and elected officials in order to ensure compliance with contract specifications and detect corruption and fraud.

(9) The Inspector General shall have the power to review and investigate any citizen's complaints regarding County or Public Health Trust projects, programs, contracts or transactions.

(10) The Inspector General may exercise any of the powers contained in Section 2-1076 upon his or her own initiative.

(11) The Inspector General shall be notified in writing prior to any meeting of a selection or negotiation committee where any matter relating to the procurement of goods or services by the County is to be discussed. The notice required by this subsection (11) shall be given to the Inspector General as soon as possible after a meeting has been scheduled, but in no event later than twenty-four (24) hours prior to the scheduled meeting. The Inspector General may, at his or her discretion, attend all duly noticed County meetings relating to the procurement of goods or services as provided herein, and, in addition to the exercise of all powers conferred by Section 2-1076, may pose questions and raise concerns consistent with the functions, authority and powers of the Inspector General. An audio tape recorder shall be utilized to record all selection and negotiation committee meetings.

(12) The Inspector General shall have the authority to retain and coordinate the services of Independent Private Sector Inspectors General (IPSIG) or other professional services, as required, when in the Inspector General's discretion he or she concludes that such services are needed to perform the duties and functions enumerated in subsection (d) herein.

(e) Physical facilities and staff.

(1) The County shall provide the Office of the Inspector General with appropriately located office space and sufficient physical facilities together with necessary office supplies, equipment and furnishings to enable the Office to perform its functions.

(2) The Inspector General shall have, subject to budgetary allocation by the Board of County Commissioners, the power to appoint, employ, and remove such assistants, employees and personnel and establish personnel procedures as deemed necessary for the efficient and effective administration of the activities of the Office.

(f) Procedure for finalization of reports and recommendations which make findings as to the person or entity being reviewed or inspected. Not withstanding any other provisions of this Code, whenever the Inspector General concludes a report or recommendation which contains findings as to the person or entity being reported on or who is the subject of the recommendation, the Inspector General shall provide the affected person or entity a copy of the report or recommendation and such person or entity shall have 10 working days to submit a written explanation or rebuttal of the findings before the report or recommendation is finalized, and such timely submitted written explanation or rebuttal shall be attached to the finalized report or recommendation. The requirements of this subsection (f) shall not apply when the Inspector General, in conjunction with the State Attorney, determines that supplying the affected person or entity with such report will jeopardize a pending criminal investigation.

(g) Reporting. The Inspector General shall annually prepare and submit to the Mayor and Board of County Commissioners a written report concerning the work and activities of the Office including, but not limited to, statistical information regarding the disposition of closed investigations, audits and other reviews.

(h) Removal. The Inspector General may be removed from Office upon the affirmative vote of two-thirds (2/3) of the whole number of members of the Board of County Commissioners.

(i) Abolition of the Office. The Office of the Inspector General shall only be abolished upon the affirmative vote of two-thirds (2/3) of the whole number of members of the Board of County Commissioners.

(j) Retention of current Inspector General. Notwithstanding any provision to the contrary, the incumbent Inspector General, Christopher R. Mazzella, shall serve a four year term of office commencing on December 20, 2009, as provided in the Memorandum of Understanding approved by Resolution No. R-1394-05, and shall not be subject to the appointment process provided for in Section 2-1076(b)(2).

(Ord. No. 97-215, § 1, 12-16-97; Ord. No. 99-63, § 1, 6-8-99; Ord. No. 99-149,§ 1, 10-19-99; Ord. No. 00-105, § 1, 7-25-00; Ord. No. 01-114, § 1, 7-10-01; Ord. No. 05-51, § 1, 3-1-05; Ord. No. 06-88, § 2, 6-6-06, Ord. No. 07-165; § 1, 11-6-07)

Miami-Dade County
Office of the Inspector General

19 West Flagler Street
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Miami, Florida 33130

Phone: (305) 375-1946
Fax: (305) 579-2656

Report Fraud on Our Hotline: (305) 579-2593
or at www. miamidadeig.org

THE MIAMI-DADE OIG IS AN ACCREDITED AGENCY

This item was introduced and approved by the Charter Review Task Force on May 30, 2012.

Move responsibility for Intergovernmental Affairs from the County Commission to the Mayor

Concept:

Create a new Subsection (H) of Section 2.02 to provide that Intergovernmental Affairs is a responsibility of the Mayor, rather than the County Commission. Intergovernmental Affairs currently reports to the County Commission pursuant to an ordinance passed in 2004.

Text of Change:

MIAMI-DADE COUNTY HOME RULE CHARTER

ARTICLE-2[1]

MAYOR

* * *

SECTION 2.02. **RESPONSIBILITIES OF THE MAYOR.**

* * *

>>H. The Mayor, or such other persons who may be designated by the Mayor, shall be responsible for the management of the County's intergovernmental affairs at the federal, state, regional and local level and shall carry out the policies adopted by the Commission. Unless authorized by the Mayor, the provisions of section 5.09(B) shall apply.<<

[1]Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

This item was introduced and approved with amendments on May 30, 2012. Final approved item listed on the June 6, 2012 Charter Review Task Force meeting agenda.

Improving Citizen Bill of Rights Remedies Proposal

Concept:

Amend Subsection (C) of the Citizen's Bill of Rights to have the Ethics Commission impose penalties, as authorized by the Code (with the exception of any sanctions that are subject to collective bargaining), for the violation of the Bill of Rights rather than a private suit and amend Section 7.03 to still permit a private cause of action to enforce Article VII of the Charter.

Text of Change:

MIAMI-DADE COUNTY HOME RULE CHARTER

CITIZEN'S BILL OF RIGHTS[1]

* * *

(C). **Remedies for Violations.** [[~~In any suit by a citizen alleging a violation of this Article filed in the Dade County Circuit Court pursuant to its general equity jurisdiction, the plaintiff, if successful, shall be entitled to recover costs as fixed by the Court. Any public official or employee who is found by the Court to have willfully violated this Article shall forthwith forfeit his office or employment.~~]] >>The Commission on Ethics and Public Trust shall enforce the provisions of this Article and may impose any penalty authorized by the County's Code, and not otherwise prohibited by a collective bargaining agreement, for a violation of this Article.<<

* * *

ARTICLE VII

PARKS, AQUATIC PRESERVES AND PRESERVATION LANDS

[1]Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

* * *

SECTION 7.03. - ENFORCEMENT AND CONSTRUCTION.

All elections required by this Article shall be held either in conjunction with state primary or general elections or as part of bond issue elections. The provisions of this Article may be enforced [[~~in the same manner as provided in Section (C) of the Citizens' Bill of Rights of this Charter~~]]>> by a citizen alleging a violation of this Article filed in the Dade County Circuit Court pursuant to its general equity jurisdiction, the plaintiff, if successful, shall be entitled to recover costs as fixed by the Court.<<. The provisions of this Article shall be liberally construed in favor of the preservation of all park lands, aquatic preserves, and preservation lands. If any provision of this Article shall be declared invalid it shall not affect the validity of the remaining provisions of this Article. This Article shall not be construed to illegally impair any previously existing valid written contractual commitments or bids or bonded indebtedness.

This item was introduced and approved with amendments on May 30, 2012. Final approved item listed on the June 20, 2012 Charter Review Task Force meeting agenda.

Annexing Cities Retain Municipal Franchise Fee and Utility Tax Revenues, Except for Amounts Needed to Pay Debt Service on Bonds which Pledged These Revenues:

Concept: Section 6.07 of the Home Rule Charter should be amended to require that the portions of revenue from franchise fees or utility taxes attributable to areas annexed into a municipality shall be used first to pay the annexed area's pro-rata share of debt service payments secured by such franchise fees and/or utility taxes, with the balance to be used by the annexed area for municipal purposes.

Text of Proposed Charter Amendment:

ARTICLE - 6
MUNICIPALITIES

SECTION 6.01. **CONTINUANCE OF MUNICIPALITIES.**

The municipalities in the county shall remain in existence so long as their electors desire. No municipality in the county shall be abolished without approval of a majority of its electors voting in an election called for that purpose. Notwithstanding any provision of the Charter, the Board of County Commissioners shall have the authority to abolish a municipality by ordinance where such municipality has twenty or fewer electors at the time of adoption of the ordinance abolishing the municipality. The right of self determination in local affairs is reserved and reserved to the municipalities except as otherwise provided in this Charter.

SECTION 6.02. **MUNICIPAL POWERS.**

Each municipality shall have the authority to exercise all powers relating to its local affairs not inconsistent with this Charter. Each municipality may provide for higher standards of zoning, service, and regulation than those provided by the Board of County Commissioners in order that its individual character and standards may be preserved for its citizens.

SECTION 6.03. **MUNICIPAL CHARTERS.**

A. Except as provided in Section 5.04, any municipality in the county may adopt, amend, or revoke a charter for its own government or abolish its existence in the following manner. Its governing body shall, within 120 days after adopting a resolution or after the certification of a petition of ten percent of the qualified electors of the municipality, draft or have drafted by a method determined by municipal ordinance a proposed charter amendment, revocation, or abolition which shall be submitted to the electors of the municipalities. Unless an election occurs not less than 60 nor more than 120 days after the draft is submitted, the proposal shall be submitted at a special election within that time. The governing body shall make copies of the proposal available to the electors not less than 30 days before the election. Alternative

proposals may be submitted. Each proposal approved by a majority of the electors voting on such proposal shall become effective at the time fixed in the proposal.

B. All municipal charters, amendments thereto, and repeals thereof shall be filed with the Clerk of the Circuit Court.

SECTION 6.04. **CHANGES IN MUNICIPAL BOUNDARIES.**

A. The planning director shall study municipal boundaries with a view to recommending their orderly adjustment, improvement, and establishment. Proposed boundary changes may be initiated by the Planning Advisory Board, the Board of County Commissioners, the governing body of a municipality, or by a petition of any person or group concerned.

B. The Board of County Commissioners, after obtaining the approval of the municipal governing bodies concerned, after hearing the recommendations of the Planning Advisory Board, and after a public hearing, may by ordinance effect boundary changes, unless the change involves the annexation or separation of an area of which more than 250 residents are electors, in which case an affirmative vote of a majority of those electors voting shall also be required. Upon any such boundary change any conflicting boundaries set forth in the charter of such municipality shall be considered amended.

C. No municipal boundary shall be altered except as provided by this Section.

SECTION 6.05. **CREATION OF NEW MUNICIPALITIES.**

The Board of County Commissioners and only the Board may authorize the creation of new municipalities in the unincorporated areas of the county after hearing the recommendations of the Planning Advisory Board, after a public hearing, and after an affirmative vote of a majority of the electors voting and residing within the proposed boundaries. The Board of County Commissioners shall appoint a charter commission, consisting of five electors residing within the proposed boundaries, who shall propose a charter to be submitted to the electors in the manner provided in Section 5.03. The new municipality shall have all the powers and rights granted to or not withheld from municipalities by this Charter and the Constitution and general laws of the State of Florida. Notwithstanding any provision of this Charter to the contrary, with regard to any municipality created after September 1, 2000, the pre-agreed conditions between the County and the prospective municipality which are included in the municipal charter can only be changed if approved by an affirmative vote of two-thirds (2/3) of the members of the Board of County Commissioners then in office, prior to a vote of qualified municipal electors.

SECTION 6.06. **CONTRACTS WITH OTHER UNITS OF GOVERNMENT.**

Every municipality in this county shall have the power to enter into contracts with other governmental units within or outside the boundaries of the municipality or the county for the joint performance or performance by one unit in behalf of the other of any municipal function.

SECTION 6.07. **FRANCHISE AND UTILITY TAXES.**

Revenues realized from franchise and utility taxes imposed by municipalities shall belong to municipalities. >>Franchise and utility tax revenues imposed by the County which are attributable to areas annexed into a municipality shall first be used to pay the annexed area's pro-rata share of debt service payments or refunding of such debt service secured by such franchise fee or utility tax revenues at the time of the annexation, with the balance to be paid to the municipality to be used for municipal services.

The municipality's annual pro-rata share of debt service for the annexed area shall be determined by multiplying the total debt service on the outstanding debt in the fiscal year prior to the annexation by the municipality's percentage share of pledged revenues in such fiscal year (revenues pledged by the County to the repayment of the debt).

Once the County's debt service obligations have been retired, no future debt can be issued unless the debt is issued for purposes of refunding bonds for which franchise fees and utility taxes attributable to the annexed area were pledged as security, so long as such refunding will realize an interest cost savings and will not extend the original term of the bonds being refunded.<<