




# Memorandum



Miami-Dade County Office of the Inspector General  
A State of Florida Commission on Law Enforcement Accredited Agency  
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To: Gary T. Hartfield, Director  
Office of Small Business Development

From: Felix Jimenez, Inspector General 

Date: January 5, 2024

Subject: Report of Investigation – *Underpayment of Employees by MDAD Contractor and Demand of Cash Payments by Contractor’s Supervisor*, Ref. IG21-0012-I

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Attached please find the Office of the Inspector General’s (OIG’s) final Report of Investigation regarding Marvi Builders LLC and its work on two Miami-Dade Aviation Department contracts. Your office referred this matter to the OIG when it was learned that a Marvi supervisor may have been requiring Marvi employees to pay him a weekly cash fee as a condition of employment. The OIG substantiated the allegation; however, due to witness availability and other issues, the State Attorney’s Office declined prosecution.

The OIG provided Marvi Builders and the subject supervisor with draft copies of this report pursuant to Section 2-1076(f) of the Code of Miami-Dade County for each’s review and the opportunity to provide a written response. No response was received from the subject supervisor. A response was received on behalf of Marvi Builders, which is incorporated into this final report.

Attachment

cc: Ralph Cutié, Director, Miami-Dade Aviation Department (MDAD)  
Evelyn Campos, Division Director, Professional Compliance, MDAD  
Jose A. Rodriguez, Esq., attorney for Marvi Builders, LLC (under separate cover)



**MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL**  
**REPORT OF INVESTIGATION**  
***Underpayment of Employees by MDAD Contractor and***  
***Demand of Cash Payments by Contractor's Supervisor***  
**IG21-0012-I**

**INTRODUCTION & SYNOPSIS**

On May 24, 2021, the Miami-Dade County (County) Office of the Inspector General (OIG) initiated an investigation predicated on a referral from the Office of Small Business Development (SBD).<sup>1</sup> Four employees of County contractor Marvi Builders LLC (Marvi) advised that their employer misclassified their positions to pay them lower wages, and a Marvi supervisor, Jorge Rodriguez, required employees to pay him a \$100 weekly cash fee to remain employed. The employees advised that Mr. Rodriguez had made threats that a failure to pay this unauthorized fee would result in termination of employment.

The investigation confirmed that Marvi misclassified the employee positions resulting in the underpayment of wages, and that Mr. Rodriguez was improperly charging employees a weekly cash fee as a condition of employment. These allegations were substantiated and presented to the Miami-Dade State Attorney's Office (SAO), which declined to file charges.

**OIG JURISDICTIONAL AUTHORITY**

In accordance with Section 2-1076 of the Code of Miami-Dade County, the Inspector General has the authority to make investigations of County affairs; audit, inspect and review past, present and proposed County and Public Health Trust programs, accounts, records, contracts, and transactions; conduct reviews, audits, inspections, and investigations of County and Public Health Trust departments, offices, agencies, and boards; and require reports from County and Public Health Trust officials and employees, including the Mayor, regarding any matter within the jurisdiction of the Inspector General.

**GOVERNING AUTHORITIES**

Implementing Order (IO) No. 3-24, *Responsible Wages and Benefits for County Construction Contracts*, establishes that a responsible bidder on County contracts must pay all of its employees performing work on the project no less than the hourly rates specified in accordance with Section 2-11.16 of the Code of Miami-Dade County. IO 3-24 establishes the administrative procedure to resolve complaints against contractors regarding underpayment of wages and requires that SBD perform the necessary worksite

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<sup>1</sup> SBD was formerly a division in the Miami-Dade County Internal Services Department.

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inspections and worker interviews to assure that employees are being paid the proper wages according to those classifications.

**INVESTIGATIVE FINDINGS**

Marvi was awarded two Miscellaneous Construction Contracts (MCC) under MCC 7040.<sup>2</sup> Contract No. Y086B – 700 Building Expansion Joints and Cracks Restoration valued at \$1,884,000.00 was awarded in November 2019; Contract No. Y086E – 706 Building Expansion Joints and Cracks Restoration valued at \$3,627,690.22 was awarded September 2020.

As required by IO 3-24, SBD performed regular worksite inspections and interviewed Marvi employees regarding Project Y086B and the type of work they were assigned to perform. SBD was advised that between February 8, 2020, and October 17, 2020, four Marvi employees were misclassified as laborers instead of painters, resulting in underpayment of wages. Consequently, on November 23, 2020, SBD issued a Notice of Violation to Marvi for Contract No. Y086B.

The notice of violation required Marvi to compensate its employees in the amount of \$9,406.80 for underpaid wages in accordance with the County Responsible Wages and Benefits Schedule for year 2020 and pay a penalty of \$1,881.36 to MDAD. After further review, the underpayment amount due was reduced to \$3,541.26 for four employees with a penalty of \$708.25. SBD confirmed in a letter dated April 13, 2021, that Marvi had compensated the affected employees, paid the fine to MDAD, and was now in compliance. SBD closed the matter regarding Project Y086B.

On April 22, 2021, SBD conducted additional onsite employee interviews followed by payroll analysis of both contracts for the period beginning November 2020 through April 2021. This analysis resulted in the issuance of additional notices of violations to Marvi for both contracts, and referral of this matter to the OIG. As part of the investigation, OIG Special Agents interviewed Marvi, MDAD, and SBD personnel; reviewed the applicable ordinances and Implementing Order, construction contracts, Weekly Certified Payroll Reporting Forms, employee affidavits, and records obtained via subpoena.

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<sup>2</sup> The MCC 7040 Plan is 100% set aside for certified Small Business Enterprise Construction (SBE-CON) Contractors. Small Business Enterprise (SBE) means a business entity certified by SBD, providing goods or services, which has a valid business tax receipt issued by Miami-Dade County at least one (1) year prior to certification, an actual place of business in Miami-Dade County, not a Virtual Office, and whose three-year average gross revenues does not exceed certain contracting participation levels.

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**Allegation 1: Marvi Employees were misclassified and underpaid.**

The Notice of Violation issued on May 3, 2021, for Contract No. Y086B required that Marvi compensate four employees \$10,930.56 for underpaid wages due to misclassification and improper cash compulsion. The company was also ordered to pay MDAD a 40% penalty totaling \$4,372.23. A separate Notice of Violation issued on May 3, 2021, for Contract No. Y086E also required that Marvi compensate four employees \$9,380.43 for underpaid wages and improper cash compulsion and pay MDAD a 60% penalty totaling \$5,628.26.

In a letter dated August 19, 2021, SBD confirmed that Marvi compensated four employees \$10,758.56 in aggregate and paid the imposed penalty to MDAD totaling \$4,303.43 in response to the violations issued for Contract No. Y086B. The \$10,758.56 was reduced from \$10,930.56 after Marvi provided documentation that reduced the underpayment due. In a letter dated August 11, 2021, SBD confirmed that in response to the violations issued for Contract No. Y086E, Marvi compensated four employees \$9,380.43 in underpaid wages and paid a \$5,628.26 fine.

**Allegation 2: A Marvi supervisor, Jorge Rodriguez, improperly charged employees a fee to maintain employment.**

On the morning of April 19, 2021, SBD received a call from four Marvi employees requesting to meet. Later that morning, they met with Contract Compliance Officer Angel Oliva at the SBD office. Employees Xuri Martin Gonzalez, Yojander Gutierrez Morel, Wilder Mahecha, and Jairo Lorenzo Martin told Mr. Oliva that they were forced to pay Supervisor Rodriguez \$100.00 weekly fee for the right to work at the airport. Mr. Rodriguez collected the money in cash at the beginning of every week. The Marvi employees told SBD that they would meet with Mr. Rodriguez individually at a warehouse or a place where they were alone to pay the fee.

Mr. Martin informed SBD that Mr. Rodriguez would go to the bank with him and force him to withdraw the \$100.00. It was also disclosed that Mr. Morel recommended one of his friends, Mandiel Vinas, to Marvi. Mr. Rodriguez offered Mr. Vinas a position at the company but also informed Mr. Vinas that he would be required to pay \$100.00 per week for the opportunity to work at the airport. Mr. Vinas declined the position. During the meeting, the SBD obtained sworn affidavits from the Marvi employees. OIG Special Agents made multiple attempts to contact Mr. Martin, Mr. Vinas, and Mr. Rodriguez, but all efforts were unsuccessful.

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OIG Special Agents obtained copies of two Wells Fargo withdrawal receipts in the amount of \$100.00 from SBD, which Mr. Martin had provided as evidence. ATM video footage was obtained from Wells Fargo Bank that evidenced Mr. Martin making ATM withdrawals from the Wells Fargo ATM on dates and times identified on the receipts.

On August 4, 2021, Marcelo Arnedo, owner of Marvi, confirmed to OIG Special Agents that Mr. Rodriguez served as the project manager and on-site supervisor for Marvi, which gave him the authority to hire and terminate employees. Mr. Arnedo stated that in April 2021, employees Xuri Martin Gonzalez, Yojander Gutierrez Morel, Wilder Yohany Garcia Mahecha, and Jairo Lorenzo Martin visited him at his home office where they notified him that, since November 2020, each of them was required to pay Mr. Rodriguez a \$100 weekly cash fee to work at the airport. The employees had only recently discovered that their fellow employees were also paying a fee to Mr. Rodriguez.

Mr. Arnedo confronted Mr. Rodriguez on the telephone, at which time Mr. Rodriguez admitted to taking money from Mr. Martin but denied taking cash payments from the other employees. Following this admission, Mr. Arnedo terminated Mr. Rodriguez and advised SBD of the scheme.

A few weeks later Mr. Arnedo received two Notices of Violations from SBD. Following these revelations, Marvi conducted its own internal review and concluded that additional compensation was due to the employees.

OIG Special Agents confirmed that affected Marvi employees were reimbursed. Tables 1 and 2 below show the payments made by Marvi to its employees for each contract:

**Table 1 - Marvi Payments to Employees on Contract No. Y086B**

<b>Marvi Employees</b>	<b>Back Wages Paid</b>	<b>Refunded Unlawful Cash Fee</b>	<b>Total Reimbursed to Employees by Marvi</b>
Yosniel Horta Sobrino	\$531.28	0	\$531.28
Xuri Martin Gonzalez	\$1,081.89	\$850.00	\$1,931.89
Yojander Gutierrez Morel	\$1,471.21	\$1,200.00	\$2,671.21
Wilder Garcia Mahecha	\$5,076.92	\$1,050.00	\$6,126.92
<b>Totals</b>	<b>\$8,161.30</b>	<b>\$3,100.00</b>	<b>\$11,261.30</b>

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**Table 2 – Marvi Payments to Employees on Contract No. Y086E**

Marvi Employees	Back Wages Paid	Refunded Unlawful Cash Fee	Total Reimbursed to Employees by Marvi
Xuri Martin Gonzalez	\$1,639.92	\$1,450.00	\$3,089.92
Yojander Gutierrez Morel	\$542.86	\$800.00	\$1,342.86
Wilder Garcia Mahecha	\$2,343.61	\$1,350.00	\$3,693.61
Jairo Lorenzo Martin	\$1,324.21	\$600.00	\$1,924.21
<b>Total</b>	<b>\$5,850.60</b>	<b>\$4,200.00</b>	<b>\$10,050.60</b>

**RESPONSES TO THE DRAFT REPORT**

This report, as a draft, was provided to former Marvi supervisor Jorge Rodriguez and Marvi Builders LLC for each's review and submission of discretionary written responses. Jorge Rodriguez did not provide a response to the draft report.

The OIG received a response from Marvi's legal counsel, Jose A. Rodriguez, Esq., consisting of two main points: 1) Marvi asserts that they detrimentally relied on employee classification recommendations from the County, and 2) that they were not aware of the actions of Mr. Jorge Rodriguez. The entire response is included herein as Appendix A.

In response to Marvi's assertion that Marvi relied—to their detriment—on County employee recommendations in classifying its employees, the OIG notes that the County's Responsible Wage & Benefits for Construction Contractors document, found on the County's website,<sup>3</sup> clearly enumerates the requirements for the positions at issue in this case. The webpage states that SBD should be contacted for a determination in the event that the wages and benefits schedule does not list a classification that matches the description of the work actually being done.

The OIG also conducted a follow-up interview of former SBD Manager, Dayron Perez. Mr. Perez denied that he gave Marvi instructions regarding how to classify its employees. He confirmed that the County made no recommendations to Marvi regarding how its employees should be classified. Mr. Perez explained that SBD, consistent with IO 3-24, interviewed Marvi's employees regarding the duties they performed on the job site. Based on the interviews, the County required Marvi to compensate employees for the work

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<sup>3</sup> See: <https://www.miamidade.gov/global/business/smallbusiness/responsible-wages-benefits.page>.

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performed. Employee interviews confirmed that Marvi employees were performing tasks as painters but were only compensated as laborers. Consequently, the County instructed Marvi to pay the laborers as painters for the period that they performed such tasks.

**CONCLUSION**

The OIG investigation confirmed that Marvi misclassified employees' positions and paid them at a lower rate than required by its contract. Further, the investigation unveiled an unlawful compensation scheme in which a Marvi supervisory employee, Mr. Rodriguez, required cash payments from employees to maintain their jobs.

Marvi has since reimbursed underpayments to all affected employees and terminated Mr. Rodriguez's employment. In addition to correcting the underpayments due to the misclassification, Marvi has reimbursed the affected employees for all funds unlawfully obtained by Mr. Rodriguez. The OIG presented the acts of Mr. Rodriguez to the SAO, which declined to file criminal charges.

**This investigation was conducted in accordance with the *Principles and Standards for Offices of Inspector General* as promulgated by the Association of Inspectors General.**

# **Miami-Dade County Office of the Inspector General**



## **Appendix A**

**Marvi Builders LLC Response to OIG Draft Report  
November 30, 2023**

(1 page)

**OIG Case No. 21-0012-I**



**From:** Jose Rodriguez <[Jose@sotolawgroup.com](mailto:Jose@sotolawgroup.com)>  
**Sent:** Thursday, November 30, 2023 5:21 PM  
**To:** Jimenez, Felix (OIG) <[felix.jimenez@miamidade.gov](mailto:felix.jimenez@miamidade.gov)>  
**Cc:** marcelo marvibuilders.com <[marcelo@marvibuilders.com](mailto:marcelo@marvibuilders.com)>; Jose Rodriguez <[Jose@sotolawgroup.com](mailto:Jose@sotolawgroup.com)>  
**Subject:** RE: Report from the Office of the Inspector General.

**EMAIL RECEIVED FROM EXTERNAL SOURCE**

Mr. Jimenez-

Marvi Builders wishes to note and respond to your report with the following corrections and comments:

1. The settlement and amends that were made by my client should not be interpreted as an admission that Marvi misclassified employees. In fact, the assessments that Marvi had misclassified were levied against them despite our continual communication with the county regarding proper methods of classification. Moreover, classifications by Marvi were specifically made based on recommendations by the County. It is our position that the County changed their mind to the detriment of Marvi.
2. Lastly, it is of utmost importance to note that Marvi was not aware of the actions of Mr. Jorge Rodriguez. Marvi played no role in those actions and they were done solely of Mr. Rodriguez' own malice. As your report correctly noted, he was terminated once it was discovered what he was doing. We want to make clear we had no part in it and were not aware of it.

Upon receipt kindly confirm this will be annexed to your final report. Thank you.

Jose A. Rodriguez, Esq.  
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**All the best to you and yours.**

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