



# MIAMIBEACH

BUDGET AND PERFORMANCE IMPROVEMENT  
Internal Audit Division

## INTERNAL AUDIT REPORT

TO: Kathie G. Brooks, Interim City Manager  
FROM: James J. Sutter, Internal Auditor   
DATE: November 20, 2012  
AUDIT: Special Master Operations  
PERIOD: October 01, 2007 through November 30, 2009

This report is the result of a scheduled audit to review the sufficiency of controls and documentation, accountability of assessed fees, the consistent application and adherence to procedures, the City Code, and applicable laws and regulations in the overall operations of the Special Master and the administration of this process under the direction of the City Clerk's Office.

### INTRODUCTION

Upon prior recommendation of the City Manager, the City Commission, by a majority vote, may appoint the Chief Special Master, who is authorized to hold hearings and impose fines, liens and other non-criminal penalties against violators of City or County Codes and Ordinances. Overall, the Special Master has the power to adopt rules for the conduct of its hearings, subpoena alleged violators and witnesses to its hearings, subpoena evidence, take testimony under oath, Issue orders having the force of law commanding whatever steps are necessary to bring a violation into compliance, and assess and order the payment of civil penalties. Cases are referred to the Special Master by Code Inspectors from the Code Compliance Division the Building Department, the Fire Department, and the Parking Department. Appeals to code violations issued can also be referred to the Special Master by the alleged violator if so desired by the same.

Upon request of a code inspector from the corresponding department or at such other times as may be necessary, the Special Master may call hearings at which a future hearing date may be set. Per City Code Section 30-72, hearings should be held no less frequently than once every month, but may meet more or less often as the demand necessitates. Minutes shall be kept of all hearings, and all hearings shall be open to the public. If the local governing body prevails in prosecuting a case before the Special Master, it shall be entitled to recover all costs incurred in prosecuting the case before the Special Master. Testimonies from the code inspector and the alleged violator shall be under oath and shall be recorded. According to City Code Section 30-72, formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern said proceedings.

At the conclusion of the hearing, the Special Master shall issue findings of fact based on evidence and conclusions of law. In addition, the Special Master shall issue an order affording the proper relief consistent with the powers granted. The order may include a notice that it must be complied with by a specified date, and that a fine may be imposed if the order is not complied with by that date, and, under the conditions specified in section 30-74 (Fine) of the City Code. The cost of remediation may be included along with the fine if the order is not complied with by the specified date. A certified copy of such order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, upon

any subsequent purchases, successors in interest, and or assigns. If an order is recorded in the public records and the order is complied with by the date specified in the order, the Special Master shall issue an order acknowledging compliance that shall be recorded in the public records. A hearing is not required to issue such an order acknowledging compliance. If the Special Master finds that a violator's conduct is habitual or flagrant or amounts to a refusal to comply with prior orders, the Special Master may suspend the violator's certificate of use and/or business tax receipt for a period not to exceed six months.

The Special Master is supported by the Special Master Clerks, administratively, reporting to the City Clerk's Office. Any customer service issues, as well as personnel, and operational issues are handled by the same. In addition, key intended outcomes and performance data for the Office of the Special Master is generated and prepared by the Special Master Clerks and reported through the City Clerk Office. Despite this inter-relation, Special Master Clerks operate mostly independently from any other supervision other than the City's Clerk concerning personnel and everyday issues, and the Special Chief Special Master's, with respect to conducting the hearings.

The following table helps to illustrate the total amounts of fines, fees and applicable accrued interest collected for each of the case categories:

Fiscal Year	Appealed Cases	Building Cases	Code Cases	Fire Cases	Total Cases
FY2008	\$ 5,873	\$ 260,690	\$ 206,369	\$ 135,731	\$ 608,663
FY2009	\$ 4,358	\$ 311,341	\$ 233,479	\$ 121,684	\$ 670,862
FY2010 (2 months)	\$ 603	\$ 142,886	\$ 311,893	\$ 55,427	\$ 510,809
<b>Total</b>	<b>\$ 10,834</b>	<b>\$ 714,917</b>	<b>\$ 751,741</b>	<b>\$ 312,842</b>	<b>\$1,790,334</b>

- Values reported represent amounts actually collected and reflected on the City's Financial System.
- Values reported for fiscal year 2010 considered amounts collected and recorded from 10/01/09 through 11/30/2009

An aggrieved party, including the City Administration, may appeal a final administrative order of a Special Master to the circuit court. However, such an appeal shall not be a hearing de novo (another hearing), but shall be limited to appellate review of the record created before the Special Master. An appeal shall be filed within thirty (30) days of the rendition of the order.

**OVERALL OPINION**

Resulting from testing, there were a number of shortfalls needing improvement identified impacting the Special Master's operations as follows:

1. Poor segregation of duties exists with respect to the Special Master Clerks.
2. Insufficient oversight was observed compromising controls over the reliability and proper accountability of all fines, administrative fees, and accrued interest, as well as their collection.
3. Internal control weaknesses were found with respect to the software system used by the Office of the Special Master, as well as with access privileges granted to Special Master Clerks.
4. Un-reconciled differences were observed between the Office Of The Special Master collection inflows reported on the City's Financial System (EDEN) and those reported from Permit's Plus.
5. Inadequate accountability of expenditures exists resulting in not being able to fully recovering cost associated with the overall enforcement of City Codes.
6. Administrative fees received in advance for appeal cases were not always deposited upon receipt.

7. There is a lack of follow up and/or sufficient due diligence from personnel involved in the Special Master operations.
8. Documented Policies and Procedures for the Office of the Chief Special Master should be updated to reflect new administrative guidelines.
9. Documentation and case file shortcomings were observed with respect to time stamping of received documentation and the completeness of the case file.
10. Shortfalls were noted on the reliability and accuracy of performance data reported on the City's Performance Management Software.

These finding should be addressed and corrected considering the recommendations provided on this report.

## **PURPOSE**

The purpose of this audit is to review the Special Master's operations as it relates to the enforcement and compliance with City and County Code Ordinances. Furthermore, to identify areas in need of improvements that could compromise the Special Master's ongoing operations and accountability, while providing recommendations and alternatives to address and correct them.

## **SCOPE**

1. Verify that proper controls are in place to ensure the integrity, reliability, and accuracy of records and data.
2. Verify that sufficient documentation is maintained and proper procedures are followed.
3. Verify compliance with enforcement procedure, as stipulated on Article III of the City Code.
4. Ensure that fees are properly and timely collected and accounted for.
5. Review Balance Sheet accounts reconciliation and ensure overall sufficiency of documentation and audit trails.

## **FINDINGS, RECOMMENDATIONS, AND MANAGEMENT RESPONSES**

1. Finding – *Poor segregation of duties exists with respect to the Special Master Clerks.*  
Special Master Clerks currently are responsible for receiving and reviewing all information regarding initiated Special Master cases. They also schedule all cases to be heard by the different Special Masters. In addition, they are responsible for all data entry, notes, documentation, and file maintenance of all Special Master cases for the assigned areas. Furthermore, they redact the Special Master's orders to be signed by the Special Master at a later time subsequent to the hearing. Moreover, they are responsible for recording liens with the Miami-Dade County public records, as well as releasing those liens once the violation ceases to exist, as documented by an affidavit of compliance received from the Code Enforcement Officer, and all outstanding amounts have been satisfied. Lastly, they are responsible for maintaining and updating payment information, as well as receiving and depositing payment for fines and/or administrative fees assessed with the City cashiers. This lack of segregation of responsibilities represents a weakness in internal controls and should be addressed as soon as possible.

### Recommendation(s)

- a) In order to address the lack of segregation of duties, the department should consider assigning the receipt of payments for amounts due to the Cashiering Division of the Finance Department. Once payment for outstanding amounts in a case is received by the cashier, then a receipt referencing the case number, amount paid, payer contact information, and

date received by the cashier should be presented to the Special Master Clerk as evidence of payment. Information regarding case number and contact information of the individual submitting payment should be provided to the cashier by the payer upon payment and should be included in the receipt.

- b) Concurrently, the responsibility of recording and releasing recorded liens should be assigned to other individual(s) different from the Special Master Clerks such as the Finance Department. This would create an internal control where payment information and/or compliance documents would be verified by a third party independent to the clerical work and collections prior to releasing a lien. Implementing this recommendation will help to create some extent of oversight in the process.

Implementing both components of this recommendation simultaneously should contribute to improved internal controls and efficiencies considering current level of resources available.

Management's Response(s)

City Clerk's Office

- a) Partially agree. To be clear, receipts of payment for amounts due are presently processed by the Cashiering Division of the Finance Department, when payment is made in person. The problem with the auditor's recommendation is that a person who wants to make a payment in person needs to go to the Special Master Clerk first and determine the case number, amount due, and the correct account number to post to before the customer can go to the cashier

As an alternative to the recommendation above, we will amend our process to prepare an MCR (Miscellaneous Cash Receipt) which gives the cashier the required information for posting to the Eden System. After payment is made, the customer must return the MCR to the Special Master Clerks, with proof that the MCR has been processed by the cashier. At that time, the Special Master Clerks will post the payment in Permits Plus and attach the MCR to the Permits Plus receipt. If the customer does not return the cashier's stamped MCR, the Permits Plus database will not reflect payment. This will serve as a check and balance system for the Clerks. The Clerks can reconcile the MCR payments against the Permits Plus database on a daily basis to ensure accuracy. For payments received through the mail, the Special Master Clerks will post the payment in Permits Plus and take the Permits Plus receipt to the cashier for depositing.

- b) We agree with the recommendation that the recording and releasing of liens should be assigned to a different group. It is extremely important that recording releases, partial releases, and liens are processed timely. Effective November 1, 2010, all Special Master liens have been recorded by the Finance Department.

Finance Department:

- a) Receipts of all payments for amounts due are now processed by the Cashiering Section of the Finance Department. Once payment for outstanding amounts in a case is received by the cashier, then a receipt referencing the case number, amount paid, payer contact information, and date received by the cashier is presented to the Special Master Clerk as evidence of payment. Information regarding case number and contact information of the individual submitting payment is provided to the cashier by the payer on each MCR upon payment and is included in the receipt.

Currently a new system (Accela) is being implemented with the expected completion within

the current fiscal year. The new enterprise system, through various approval queues, will ensure the Special Master processes include sufficient controls and documentation, accountability of assessed fees, and consistent application adherence to procedures. This new system has an interface with our EDEN Enterprise Financial System

- b) The responsibility of recording and releasing recorded liens has been assigned to the Finance Department in order to create an internal control where payment information and/or compliance documents would be verified by a third party independent to the clerical work and collections prior to releasing a lien. Implementing this recommendation has created oversight of the process.

2. Finding –*Insufficient oversight observed compromising controls over the reliability and proper accountability of all fines, administrative fees, and accrued interest, as well as their collection.*

Although Permit's Plus (the software system) is used by the Special Master Clerks to account for assessed fines, administrative fees, and interest accrued; weakness exists in this process, allowing a Special Master Clerk the ability to alter, cancel, and/or reflect as paid any outstanding amount for any Special Master Case, without any approvals, reconciliations, and/or proper form of payment required and/or verified by a third party/supervisor. Amounts reflected as paid by the violator on Permit's Plus (Special Master Software System) are not reconciled to amounts reflected in the City's Financial System (EDEN), considering that these two programs do not interface with each other

Recommendation(s)

Reconciliations of amounts received, reported on the Special Master system software, to amounts received, reported on the City's financial system should be performed monthly. Reconciling these amounts should help in identifying any discrepancies to be researched and corrected in a monthly basis, as well as ensuring the accuracy, reliability, and correlation of amounts reported on both, the Office of Special Master's software system and the City's Financial system.

Management's Response(s)

City Clerk's Office:

We strongly agree that reconciliation between Permits Plus and Eden needs to be done. At the request of the Budget Department, I.T. Department completed a "fee splitter" program for the Special Master Office. Fines imposed by the Special Master are deposited into the departments' account (Building, Code, or Fire), and all Court Costs and Recording fees are deposited into the Special Master Account. The Special Master office went live with this project on October 1, 2010, to coincide with the beginning of the fiscal year. However, reports are in the process of being designed by our office, based on the Permits Plus database that will show a daily intake of money deposited by the Special Master Office on behalf of the departments, in addition to what is deposited into the Special Master account. However, I.T. Department will have to assist us in finalizing these reports. Once these reports are finalized, a daily reconciliation between Permits Plus and Eden can be initiated. We believe that this will also assist us in achieving City Clerk's Recommendation 1 above.

Finance Department:

Currently a new system (Accela) is being implemented with the expected completion within the current fiscal year. The new enterprise system, through various approval queues, will ensure the Special Master processes include sufficient controls and documentation, accountability of assessed fees, and consistent application adherence to procedures. This new system has an

interface with our EDEN Enterprise Financial System with no reconciliation needed. Once Accela automation is operational and integrated with Eden, all payment transactions will be posted through the interface and there should not be any payment transactions posted directly to Accela.

Each department should be responsible and accountable for reconciling their area of responsibility. The Cashier's Section of the Finance Department reconciles their transactions on a daily basis.

3. Finding – *Internal control weaknesses were found with respect to the software system used by the Office of the Special Master, as well as with access privileges granted to Special Master Clerks.*

The following control weaknesses were observed during the course of our audit with respect to Permits Plus (the system software), and privileges granted for the same:

- a. As a result from inquiries and testing performed, Internal Audit learned that certain system configuration and programming access privileges have been granted to one of the Special Master Clerks. Among the privileges granted were accesses to the system as a composer, accesses to the inspection module, access live as a composer, access as an inspector. Collectively, these access privileges allow the Special Master Clerk to make changes and/or entries with little or no supervision and trails. Although granting these access privileges may help the office in expediting certain issues regarding the data, configurations, and compositions in their system software, it represents a control weakness considering that this access is being granted to an employee position involved in all aspects of the Special Master operations that has been experiencing lack of segregation of duties, as noted in finding number one (1) in this report. Access privileges granted allow the individual to perform changes in the compositions and configurations of the system software, as well as to grant other access privileges to the same.
- b. Multiple options are currently being provided to be selected by the Special Master Clerk with respect to the "Status" of cases on the system software. As a result, a Special Master Clerk could inadvertently or consciously select any of the available options in error. Consequently, the case could remain unnoticed and inconclusive indefinitely, unless revisited by the clerk, since reports from this system are often written to be generated from a system database using predetermined and specific criteria. Statuses not included and specified in those pre-determined criteria would not be considered and therefore not reported. This could have an effect on outstanding fines amounts reported, follow up on collection of outstanding fines and/or fees among other reporting challenges that could adversely impact results from the everyday operations.

Recommendation(s)

The following recommendations should be considered to address these findings:

- a. System configuration and programming access privileges should be immediately removed from the Special Master Clerk. This access privileges should be maintained by the City's Information Technology (I.T.) Department and granted to personnel from that department only with respect to the Special Master operations. Processes better suited to track changes and controls, currently in place by the City's Information Technology, will contribute to better audit trails, as well as provide additional segregation of duties to the Special Master Clerk position.
- b. System controls should be considered and implemented to prevent the usage of any case "status" on the Special Master's System Software other than those applicable to the

Special Master operations and used for reporting purposes. A listing identifying the applicable statuses to be used and when, should be documented as part of standard procedures to be distributed to all Special Master Personnel and to be consistently followed. Current reports and reporting criteria, as well as the nature of daily operations should be considered when identifying them. Any other Status not relevant to the Special Master Operations should be restricted. Implementing this recommendation should help to improve the reliability and accuracy of reported data from the Office of the Special Master.

Management's Response(s)

City Clerk's Office:

- a. We agree; however, this type of access was granted based on a previous I.T. Department philosophy of a "power user." It is the City Clerk's belief that no access privileges should be granted at all. I.T. Department should be responsible for all system maintenance or enhancements and documentation. Note that currently, there is no "power user" in the City Clerk's Office, as the Clerk who had said privilege retired in March 2012. When read/write access is needed to make changes to the system, the Special master Clerk's requests access through I.T. and a change control is initiated. Once the changes are made and tested, the change control is completed and read/write access is removed. When the new Building Enterprise System is implemented, it is anticipated that only I.T. staff will have access to the system and the need for departmental "power users" will be eliminated.
- b. We partially disagree. We do not see where this will improve the reliability and accuracy of data. If a status is NOT assigned to a Special Master composition, then that status cannot be utilized by the Special Master Clerks unless that status is added to the composition. Since there are currently statuses used by other departments that may have the same meaning, for the purpose of consistency, utilizing these statuses in lieu of those currently used by Special Master could be explored.

4. Finding – *Un-reconciled differences were observed between the Office Of The Special Master collection inflows reported on the City's Financial System (EDEN) and those reported from Permit's Plus.*

As part of Internal Audit review, amounts reflected on the Special Master Software System (Permits Plus) as collected were compared to figures received and collected on the City's Financial System. The following variances were identified between amounts reported as collected on the City's Financial System Software (Eden) versus those reported on the Special Master System Software (Permits Plus):

FISCAL YEAR	NET VARIANCE – Eden System Over (Under) Permits Plus System				
	APPEALS	BUILDING	CODE	FIRE	OVERALL
2008	\$ (4,046.78)	\$ 4,005.40	\$ 11,090.00	\$ (7,220.95)	\$ 3,827.67
2009	\$ (1,644.70)	\$ (135,502.30)	\$ 1,879.05	\$ 269.22	\$ (134,998.73)
2010 as of 1/19/10	\$ (135.00)	\$ (3,982.32)	\$ (5,605.00)	\$ -	\$ (9,722.32)
					<u>\$ (140,893.38)</u>

1. Amounts within parenthesis represent lower amounts reflected on the City's Financial System than those reported on the Special Master System overall.
2. Amounts with no parenthesis represent higher amounts reported on the City's Financial System than those reported on the

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*Special Master System overall.*

3. *Amounts reported for Fiscal Year 2010 represent figures reported as of January 19<sup>th</sup>, 2010 (10/01/2009 – 01/19/2010).*
4. *Variances reflected under Fiscal Year 2010 may be the result of recording time differences and are preliminary and tentative, as the fiscal year is still in progress.*

Reasons for these variances could range from inadvertent clerical and/or posting errors, payments for outstanding fees with N.S.F. checks not reflected accordingly on the Special Master System, among others. However, no reconciliation between these two systems is currently done to identify and explain these variances.

Recommendation(s)

These variances should be researched to identify and document differences reflected for fiscal years 2008 and 2009. Once identified, appropriate steps should be taken to resolve them, depending on the outcome of the research. In the future, a monthly reconciliation of both systems should be considered. As an alternative, the Office of the Special Master, along with the Department of the City Clerk should explore the possibility of synchronizing these two systems to ensure concurrency with each other.

Management's Response(s)

City Clerk's Office:

Although we agree with the recommendation, it may be difficult and time consuming to try to balance FY 2008 and 2009 on the part of the Special Master Clerks and Finance. Synchronizing the Permits Plus and Eden systems is outside the scope of the Special Master Office. The Special Master Staff has previously recognized this issue and pointed out this concern. It should be noted that the City has selected a new Building Enterprise system. One of the requirements of the new Enterprise System is that it will interface with Eden. For the time being, it is our belief that with the implementation of City Clerk's Recommendation 1 and the daily reconciliation, this matter will be resolved.

Finance Department:

Currently a new system (Accela) is being implemented with the expected completion within the current fiscal year. The new enterprise system, through various approval queues, will ensure that the Special Master processes include sufficient controls and documentation, accountability of assessed fees, and consistent application adherence to procedures. This new system has an interface with our EDEN Enterprise Financial System. Until then, monthly reconciliations should be done by each department for areas they are responsible and accountable for.

5. Finding – *Inadequate accountability of incurred expenditures exists resulting in not being able to fully recovering cost associated with the overall enforcement of City Codes.*

Although City Departments, as well as the City Clerk's Office maintain accountability of expenditures at the overall department level, neither the City Clerk Office, nor each of the individual City Departments have a method to identify and account for costs incurred as a result of enforcement of the County and City code through the Special Master.

According to Article III, § 30-72(a) of the City Code with respect to the conduct of Special Master hearings, ***"if the local governing body prevails in prosecuting a case before the Special Master, it shall be entitled to recover all costs incurred in prosecuting the case before the Special Master, including but not limited to costs for enforcement, inspections, preparation of enforcement reports, photographs, testing, monitoring, title search, postage, service of notice and or orders, translator, audio/video of proceeding, recording demonstrable administrative and or clerical costs, attributable Special Master fees, hearing facility costs; such costs may be included in the lien authorized under F.S. § 162.09(3)".***

However, due to the insufficient accountability of the actual costs incurred by the different departments enforcing the code and the Special Master, fines assessed and / or mitigated have not taken these costs incurred in consideration and have not been included as part of the fine and /or the administrative fee as applicable. In addition, it is appropriate to further mention that administrative fees assessed should consider the actual costs incurred by the City for the Office of the Special Master's operations, and the fines assessed, should consider the additional actual costs incurred by the City departments in prosecuting the case before the Special Master.

Consequently, it is difficult to determine whether administrative fees of \$75 per hearing, currently assessed on cases where the City's claim prevails, are sufficient to cover the operational costs incurred by the Special Master in pursuing code compliance and corrective action from violators. Also, costs incurred by the different departments are not considered by the Special Master when imposing or mitigating a fine resulting from non-compliance. Thus, costs incurred by the City from the overall enforcement of County and City Code Ordinances through the Special Master may not be recovered in full.

#### Recommendation(s)

City departments should accurately identify actual costs incurred as a result of prosecuting cases before the Special Master. Such costs should be considered by the Special Master when assessing a fine to the corresponding case. Concurrently, costs incurred by the Office of the Special Master, including but not limited to postage and delivery, office supplies, allocated labor costs, among others, should be identified in order to be assessed in those cases where the City prevails in prosecuting the case.

#### Management's Response(s)

##### City Clerk's Office:

The Special Master Clerks will provide the Special Master with a brief history of the case, such as: The number of times the case has been before the Special Master, whether or not the alleged violator attended the hearing(s). In addition, it is important that the Building, Code, and Fire Departments let the Special Master know their costs involved in prosecuting the case. It should be noted that the final decision rests with the Special Master.

Additionally, pursuant to Ordinance 2010-3696, the City Clerk's Office, in conjunction with the Office of Budget and Performance Improvement analyzed just the staffing costs to administer the Special Master program. The analysis determined that the fees should be increased from \$75 to \$150. Increasing the fee was discussed at the Finance and Citywide Projects Committee meeting held on August 25, 2010. After the discussion, a motion was made to increase the fee from \$75 to \$100, which the City Commission approved.

6. Finding – *Administrative fees received in advance for appeal cases were not always deposited upon receipt.*

During a Special Master hearing, on December 7<sup>th</sup>, 2009, Internal Audit observed how one of the appeal case files being heard had an undisclosed amount of cash inside. Once the Special Master opened the file he was surprised to see cash inside the file. It was then explained that this cash represented administrative fees that are required to be paid in advance for appeal cases. However, the amount had not been deposited with the cashier pending the outcome of the hearing, considering that if the appellant prevails in his/her dispute, then the money is returned in full to the successful appellant. Later inquiries with Special Master Clerks suggested that this course of action was not unusual in order to avoid the process of refunding amounts already deposited in the event that the appellant prevails. However most payments received for requests to appeal violations are received in methods other than cash. None the less, amounts

not deposited upon receipt could be held in the Clerk's drawers and or case files for days since multiple days, sometimes one to two months could pass between the day that a request for appeal is received by the Special Master Clerk and the date the case is heard.

Recommendation(s):

Implementing the recommendation in finding one (1) on this report, should help to address this finding. Nonetheless, all amounts paid received by appellants should be immediately processed and deposited. Policies and procedures should be created to incorporate language regarding this process.

Management's Response(s)

City Clerk's Office:

We agree. Under no circumstances will the Special Master Clerks accept cash for payment processing. This also relates back to City Clerk's Recommendation 1. Additionally, an email was sent on August 19, 2010 addressing this matter.

7. Finding – *There is a lack of follow up and/or due diligence from personnel.*

Results from internal audit testing and inquiries helped to identify the following areas where there is insufficient follow up and/or due diligence exercised with respect to the Special Master Operations:

- a. Upon request by a code inspector from the corresponding department the Special Master may schedule a hearing regarding County and/or City Code violations cited, but not corrected within a reasonable time. At such hearing, a date to comply by is set by the Special Master. If the violator(s) does not come to compliance by the specified date, as documented by an affidavit of non-compliance filled by the code enforcement officer, then an assessed fine would start to accrue and would continue to accrue until the violation ceases to exist or a judgment is rendered to foreclose. Therefore, it is imperative for the enforcement and success of the Special Master operations for the code officer to conduct an inspection of the violations to assess whether compliance have been achieved. However, results from a report titled "Pending and Overdue Affidavits" from Permits Plus showed that a total of four hundred forty-three (443) cases have been placed on hold and no action has been taken pending the results from inspection that should have been conducted, but no documentation substantiating whether compliance has been achieved or not has been received by the Special Master Clerks. Consequently, these cases remain inconclusive and no fines have been assessed. Out of the four hundred forty-three (443) cases, two hundred and fifty-four (254) belong to the Building Department, one hundred and sixty-three (163) belong to the Code Compliance Department, and twenty-six (26) belong to the Fire Department. Some of the cases observed pending would date back as far as 1992.
- b. Currently there are no collection efforts exercised by the Office of the Special Master, other than the recording of a lien, when appropriate, once fines are assessed in a case. As a result, fines assessed could remain outstanding for up to twenty years, term in which a lien remains enforceable, or until the City is approached by the violator, either to mitigate fines and/or to release the recorded lien so that the property can be sold.

Furthermore, not following up regarding how long have outstanding fines and accrued interest been outstanding diminishes the ability to make time sensitive decisions. These time sensitive decisions include the execution and levy against personal property of the violator upon petition to a circuit court, particularly in those cases where the violator is a

tenant and/or a corporation that can choose to liquidate and/or dispose of the assets leaving the City with little recourse if any. Liens on tenant violators are usually not recorded considering that the tenant does not own the real estate in which they operate therefore the City's only recourse would be to levy against personal property. At the same time, not following up with outstanding fines would allow for the outstanding balances to continue increasing, in some cases to excessive levels beyond available equity on the property to which the lien was attached.

- c. Part of the Special Master Clerk's current responsibilities includes ensuring that sufficient, accurate, and required information is submitted by the City Departments when requesting to prosecute a case before the Special Master. As a result from this process, any discrepancies, or shortfalls found on the documents submitted are returned to the corresponding department for verification and/or revision. However, no information regarding how many cases are returned to the departments is maintained. Consequently, Internal Audit was unable to verify how frequent are irregularities found on the documentation submitted by the prosecuting departments.

Inquiries conducted with personnel from the Office of the Special Master, as well as testing performed suggested that some of the most seen irregularities include wrong violators identified and cited, wrong sections of the code cited, discrepancies of information within documents submitted to the Special Master (Example: Different names, addresses, code sections, etc.), documents submitted without proof of service to the alleged violator, documents not notarized, among others. Particularly with the Code Compliance Division, some of these irregularities are observed despite being reviewed and signed off by division supervisors prior to submitting the documentation to the Special Master Clerk.

#### Recommendation(s)

In order to address the above stated findings, the Office of the Special Master should consider implementing the following recommendations:

- a. City Departments prosecuting cases before the Special Master should ensure that an inspection is performed by the predetermined compliance date. Required documentation and affidavit referencing the date and time of the inspection, the name of the code enforcement officer conducting it, and whether or not compliance has been achieved should be submitted timely to the Special Master Clerk for further action. Furthermore, all pending cases should be reviewed and possibly re-inspected to verify if compliance have been achieved. Affidavits showing compliance status should be submitted to the Special Master Clerk as early as possible in order to resolve all of the four hundred forty-three inconclusive cases. Reports showing the pending and overdue affidavits (If any) should continue to be provided to the corresponding City Departments and/or divisions. In addition, some consideration should be exercised by the City Departments in order to determine whether additional action to foreclose or levy personal property would be appropriate, in a case by case, in order to avoid liens and violations from remaining long periods of time accumulating fines and interest without reaching full compliance.
- b. Going forward, the Office of the Special Master should improve in the follow up of outstanding assessed fines and corresponding accrued interest. As part of the improvement, a thirty (30), sixty (60) and ninety (90) days follow up letter after achieving compliance, as documented by an affidavit of compliance by the Code Enforcement

Officer, should be considered as part of the process. Such collection letters should include a disclaimer advising the violator that the value of outstanding fines including accrued interest, and administrative fees will be higher if paid after a specific date and time.

- c. City Departments prosecuting a case before the Special Master should exercise additional due diligence by reviewing and ensuring the accuracy, reliability, consistency, and sufficiency of documents presented to the Special Master Clerks in order to document the petition to prosecute alleged violators before the Special Master. Steps taken should include developing review and approval processes to be documented and consistently followed by all personnel within the department. In addition, these processes should incorporate steps to be taken in order to identify the correct property owner(s) and/or alleged violator(s) and to include consideration for title search before liens are recorded on cases with merits to do so. Lastly, in helping to simplify the review and approval processes, some standardization in the format of documents, forms, and communication instruments should be implemented to be consistently used by all Code Enforcement Officers in their corresponding departments.

#### Management's Response(s)

##### City Clerk's Office:

- a. Partially agree and will continue to provide these reports. These issues have been addressed under the "Special Master Order on Procedure," and the "Administrative Guidelines" Approved by the City Commission in October, 2009. However, the Special Master does not have the authority to initiate any foreclosure action. The Building, Code, and Fire Departments are responsible for meeting with the City Attorney's office to determine if any foreclosure action can be taken against a property owner.
- b. More clarification is needed as to whether this is a function to be performed by the Special Master Clerks or Finance Department. Please refer to Audit's Finding 1 and City Clerk's Recommendation 2. It is our belief that once we turn over the liens to the Finance Department, it is their responsibility to follow up. It should be noted that the assumption is being made that that the violator wants to pay the fine and settle the lien. However, it has been our experience over the years that a significant amount of the violators are not interested in resolving their liens until they try to sell their property, refinance, or obtain a loan.
- c. We agree that the City Departments prosecuting a case before the Special Master should exercise additional due diligence by reviewing and ensuring the accuracy, reliability, consistency, and sufficiency of documents presented to the Special Master Clerks in order to document the petition to prosecute alleged violators before the Special Master. It should also be noted that this is required pursuant to the "Administrative Guidelines".

##### Finance Department:

The responsibility of recording and releasing recorded liens has been assigned to the Finance Department in order to create an internal control where payment information and/or compliance documents would be verified by a third party independent to the clerical work and collections prior to releasing a lien. Implementing this recommendation has created oversight of the process.

Currently a new system (Accela) is being implemented with the expected completion within the

current fiscal year. The new enterprise system, through various approval queues, will ensure that the Special Master processes include sufficient controls and documentation, accountability of assessed fees, and consistent application adherence to procedures. This new system has an interface with our EDEN Enterprise Financial System.

8. Finding – *Documented Policies and Procedures for the Office of the Chief Special Master have not been updated since June 27, 2002.*

Documented policies and procedures from the Office of the Chief Special Master have not been updated since June of 2002. As a result, new administrative guidelines have not been taken into account, and there is no updated and defined process in how to conduct a hearing or any other process to be consistently followed by the Special Masters and the Special Master Clerks, as well as the public, before, during, and/or after a hearing. In addition, procedures are not being followed consistently by any of the Special Masters.

Recommendation(s):

Revised and updated policies and procedures should be documented, implemented, and distributed to all personnel to be consistently applied and followed as early as possible.

Management's Response(s)

City Clerk's Office:

We believe that customer service has been enhanced by making a significant portion of Special Master information available via the web, thereby enhancing E-Government. Additionally, the Chief Special Master is currently working on updating the Special Master procedures. He has circulated the procedures and the "Administrative Guidelines" to all of the Special Masters and will be updating in the near future.

9. Finding – *Documentation and case file shortcomings were observed with respect to time stamping of received documentation and the completeness of the case file.*

As part of Internal Audit testing, a sample of seventy-five (75) cases was randomly selected to verify their completeness. From this sample, Internal Audit found that a total of fifteen (15) cases included documents that were not stamped with the date and time received by the Special Master Clerk. Considering the nature of the Special Master operations, not properly documenting when documents are received could negatively affect the enforcement and compliance process of cited code violations.

Also from this sample of seventy-five (75) case files, three (3) case files were not found and one case file was provided in error after being pulled from storage. Possible causes for providing the wrong case file could include an inadvertent error when referencing the documents and/or storage box number either by the filing clerk or at the storage location. As well, twenty-nine (29) of the reviewed case files were missing either a copy of the violation issued, a copy of the notice of violation, hearing date extension request, or any other document. However, it is recognized that completeness of case files would also depend on documents submitted by the departments and the alleged violators since there is only a limited number of documents generated by the Special Master such as: imposed Special Master Orders, copies of recorded liens, notices to appear, and case synopsis. To address the completeness of the case file, new administrative guidelines have been recently implemented by the administration along with the Office of the Special Master and the City Clerk that should resolve it.

Recommendation(s):

Although the Office of the Special Master does a very good job with storing and maintaining files

and records for closed cases, additional care should be exercised when sending and/or requesting documents and files from storage to ensure accurate box referencing and file numbers. Such care and record tracking should also be exercised in the maintenance of open files maintained in house. In addition, due to the sensitivity of time constrains in their operations, it should be considered to use electronic automatic date and time stamp for documents received in relation to Special Master Cases.

**Management's Response(s)**

**City Clerk's Office:**

The Office of the Special Master does a very good job with storing and maintaining files and records for cases. We agree that due to the sensitivity of time constraints, in the future, all documents received by the Special Master will be manually date stamped.

10. **Finding** – *Shortfalls were noted on the reliability and accuracy of performance data reported on the City's Performance Management Software.*

The City Clerk currently report Special Master Performance data for seven (7) departmental measures on the City's Performance Management System Software. As part of this audit, Internal Audit completed a performance measurement verification review with the objective to verify the integrity, reliability, and accuracy of processes related to the calculations and reporting of performance data on City's Performance Management System for these measures.

Performance data reported on the seven departmental measures by the Office of the Special Master were as follows:

<b>Department Measure</b>	<b>Reporting Frequency</b>	<b>Reported</b>	<b>Period</b>
% of cases at Special Master that are upheld or denied	Weekly	N/A	N/A
# of Special Master Meetings scheduled and held	Monthly	317	October 2009
# of Special Master Cases Heard	Annually	3,042	FY09
% of Special Master cases resolved	Annually	1,376.0%	FY09
Average # of cases scheduled for Special Master Hearing within 90 days of receipt of request	Quarterly	47	4 <sup>th</sup> Qtr. FY09
Average # of days from initiation to lien placed	Quarterly	345	4 <sup>th</sup> Qtr. FY09
Average # of days from initiation to compliance	Quarterly	164	4 <sup>th</sup> Qtr. FY09

After completing our review of the process to calculate and report performance data in reference to the department performance measures, the following assessment categories were assessed to the corresponding measure:

<b>Department Measure</b>	<b>Assessment Category</b>
# of Special Master Meetings scheduled and held	Factors Prevented Certification
# of Special Master Cases Heard	Factors Prevented Certification
% of Special Master cases resolved	Factors Prevented Certification
Average # of cases scheduled for Special Master Hearing within 90 days of receipt of request	Factors Prevented Certification
Average # of days from initiation to lien placed	Factors Prevented Certification
Average # of days from initiation to compliance	Factors Prevented Certification

No data is being reported for the “% of cases at Special Master that are upheld or denied”. As a

result no assessment category was assigned to this measure.

Factors preventing the certification of the measures included the following:

- a) Sufficient supporting documentation is not maintained and available in order to reproduce and/or substantiate data reported.
- b) There was no measure description established.
- c) There was deviation from intended measure definition and the correct result of the measure could not be determined.
- d) No review process is currently in place to ensure accuracy and reliability of data reported.

Further references regarding the types of assessment categories are included in Exhibit 1 at the end of this report.

Recommendation(s):

A process should be established to generate and maintain documents, reports, and calculation schedules to substantiate performance data reported on the City's Performance Management System Software. Performance data reported should be verifiable and should be able to be reproduced from scratch, using the same supporting documents considered. Additionally, all performance measures should include a description of the same. Measure description should include the following:

1. Concise description of the measure
2. Data sources used to generate reported data
3. Calculation methodology
4. Data limitations (if any)

Furthermore, data sources and calculations should be verified for accuracy and reliability prior to uploading it to the City's Performance Management System Software.

Management's Response(s)

City Clerk's Office:

- % of cases at Special Master that are upheld or denied was completely removed from Active Strategy over a year ago.
- # of Special Master Meetings scheduled and held, # of Special Master Cases Heard and # of Special Master Cases Resolved refers to information we provide on our monthly report to the City Clerk. It is not part of Active Strategy or the Environmental Scan.
- Average # of cases scheduled for Special Master Hearing within 90 days of receipt of request, Average # of days from initiation to lien placed, and Average # of days from initiation to compliance is part of Active Strategy.

I.T. Department has created a program which this office utilizes to obtain the stats needed for Active Strategy. We trust that the program was properly written by the I.T. Department and the information is reliable. The Special Master Clerks can only enter a date range for the purpose of extracting data. The I.T. Department has complete control over the performance and maintenance of this system. The Special Master Clerks do not have access or the ability to alter or delete information. In the future, a copy of the I.T. Department generated report for Active Strategy will be attached to the City Clerk's Monthly report. Please note that Active Strategy data is reported quarterly, so the City Clerk's reports will only show these measures on a quarterly basis.

## EXIT CONFERENCE

An exit meeting was held to discuss the audit report and to solicit management responses noted above. Attendees were Robert Parcher, City Clerk, Lisa Martinez Code Violation Clerk, Cynthia Neves, Code Violation Clerk, Georgie Echert, Assistant Finance Director, Jimmy McMillion, Finance Special Project Coordinator, James Sutter, Internal Auditor and Fidel Miranda, Auditor. Management responses were received thereafter. All were in agreement with the contents of this report.

Audit performed by Fidel Miranda, Auditor

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cc: Rafael Granado, City Clerk  
Jose Smith, City Attorney  
Patricia Walker, Chief Financial Officer  
Georgie Echert, Assistant Finance Director  
Jorge Gomez, Assistant City Manager  
Stephen Scott, Building Director  
Hernan Cardeno, Code Compliance Division Commander  
Robert Santos-Alborna, Code Compliance Director  
Javier Otero, Fire Chief  
Sonia Flores Machen, Fire Marshall

**EXHIBIT: 1 – Assessment Categories for Performance Measures Verification**

Assessment Category	Criteria
<b>Certified</b>	If reported performance is 100% accurate and if it appears that controls are in place to ensure accuracy for collecting and reporting performance data. Measurement data is supported by source documents.
<b>Certified with Qualifications</b>	This category is assigned under either one of two conditions: 1. <i>Reported performance is within +/- 3%, but the controls over data collection and reporting are not adequate to ensure continued accuracy.</i> 2. <i>The department's calculation of actual performance deviates from the measure definition, but was still within an acceptable range.</i>
<b>Factors Prevented Certification</b>	Documentation is unavailable or incomplete and controls are not adequate to ensure accuracy. This category is also assigned when there is a deviation from the measure definition and the reviewer cannot determine the correct measure result.
<b>Inaccurate</b>	Actual performance is not within 3% of reported performance, or there is a greater than 5% error in the sample of documents tested.

**EXHIBIT: 2 - Additional References for ASE Description of Measure**

- 1) **Measure Name:** Should list the name of the measure for which data is being collected and reported.
- 2) **Measure Type:** Should recognize whether the measure is an "Input", "Output", or "Outcome" measure. One must consider whether results are measured through input (Ex: Customer surveys), output (Ex: Number of Special Master Cases resolved within a reasonable time), or outcome (Ex: % of Special Master Cases resolved within a reasonable time).
- 3) **Measure Description:** Should describe the measure. Some measures are self explanatory and some may not; however, a description should always be included (Ex: The measure considers the % of Special Master Cases resolved and in compliance within 90 days. It excludes Special Master Cases that although in compliance, were not resolved and/or did not comply within 90 days of first hearing).
- 4) **Measure Frequency:** Describes how often performance data is reported (Ex: Quarterly).
- 5) **Data Sources:** Should list sources used to collect performance data (Ex: System Software Names, Report Names, Schedules, etc.)
- 6) **Calculation Methodology:** Should explain how data reported was calculated (Ex: Number of Special Master Cases resolved and in compliance within 90 days of first hearing, divided by the total number of cases heard for the first time).