



Joseph M. Centorino, Inspector General

TO: Honorable Mayor and Members of the City Commission
FROM: Joseph Centorino, Inspector General

DATE: December 8, 2020
PROJECT: OIG Contract Allocation Fee Report
OIG Audit No. 21-10

The residents of Miami Beach overwhelmingly approved an amendment to the City Charter in November 2018, creating Article IX, which created the City of Miami Beach Office of the Inspector General (OIG); established the functions of the office; provided the Inspector General with the power to subpoena witnesses, administer oaths, and require production of records, in order to conduct its investigations; and provided that the Inspector General's appointment, term, functions, authority, and powers shall be further established by Ordinance. As a result, Ordinance No. 2019-4239 was adopted on February 23, 2019, which implemented the provisions of the newly created Article IX of the City Charter.

In addition, the Mayor and City Commission desired to establish a dedicated fund for the activities and operations of the Office of the Inspector General with allocations to the OIG fund consisting of a specified percentage of the contract expenditures made under all applicable contracts. In response, the Mayor and City Commission of the City passed and adopted Ordinance No. 2020-4325 on January 15, 2019 creating City Code Section 2-378, which among other provisions, included the following:

- After taking into account both historical and anticipated estimates of expenditures, the amount allocated to the OIG fund was lowered from 1.5% to one half of one percent (.5%) of the contract amounts expended by the City pursuant to all City contracts, including contract amendments or change orders except revenue-generating contracts, auditing contracts and others.
- The total amount allocated to the OIG fund for any individual City contract shall be capped and shall not exceed \$50,000.
- Monies placed in the OIG fund shall be exclusively dedicated for the operations and activities of the OIG and for no other purposes provided the monies are expended in accordance with Florida law and City Code Section 2-256(i).

- The provisions of City Code Section 2-378 shall not apply to any contract entered into prior to April 1, 2020, or to any competitive solicitation issued prior to April 1, 2020.

These terms differ from the original intent expressed, which was to more closely follow Miami-Dade County OIG's dedicated funding source which receives their funding from a surcharge that is paid by the vendor. Although the Inspector General prefers the Miami-Dade County model because it directly involves the City contractors in the process and ensures their awareness of the OIG's oversight, the Finance Department stated that it cannot be implemented by the City due to technical considerations. Consequently, the OIG is funded by the .5% contract allocation fee paid by the applicable City departments and not by the vendors with the General Fund used to pay for any shortages.

The City's Office of Management and Budget (OMB) staff initially presented information to the other departments concerning the OIG's funding at the January 15, 2020 Budget Kick-Off meeting. This initial notice was followed up with a February 18, 2020 email sent to all City departments requesting that the applicable funds be set aside no later than February 24, 2020. OMB staff worked with each department to identify applicable contracts and to estimate the potential fee revenue, which was moved to an internal service charge account as a budgeted amount. These internal projections were knowingly overstated as they were based on all known expenditures at the time and did not consider that only those where the competitive solicitation and/or the contracts were entered into prior to April 1, 2020 were to be included. Also, no one could have foreseen the devastating impact of the Covid-19 virus and the upcoming reduction in contract expenditures.

As the fiscal year was winding down and an accurate OIG contract allocation fee was desired, OIG staff met with the Office of Budget and Performance Improvement Director and the City's Financial Officer on August 12 and 18, 2020, as they requested assistance in reviewing the department submissions (templates and backup) for accuracy and to identify any necessary follow-up with the corresponding departments. As a result, the Budget and Performance Improvement Director sent an August 19, 2020 email to all City departments instructing them to review their figures and update the actual amount spent for the 2019/20 fiscal year and to calculate their final OIG fee and to send all the supporting documentation to the OIG. OMB staff sent out several subsequent reminder emails as the designated October 9, 2020 due date approached.

OMB and OIG staff both received numerous phone calls and emails from departments asking for clarification related to the requirements of Section 2-378. A total of 18 departments provided the information requested to OIG staff by October 23, 2020 as the remaining City departments did not respond.

The information received from each of these 18 responding City departments was then compared to the listing of all known applicable contracts that satisfy City Code Section 2-378's criteria as prepared by the Procurement Department. Any noted differences were then reviewed with the affected City department(s) until a final determination was reached as to their eligibility.

For the remaining City departments that did not respond to any of OMB's emails, OIG staff based their calculations on the Procurement Department's contract listing. If none were present in the listing, then it was assumed that they did not have any applicable amounts subject to the OIG contract allocation fee.

Conclusion

After reviewing all the information received prior to October 23, 2020, it was determined that 11 contracts were subject to the OIG contract allocation fee for the 2019/20 fiscal year and that the OIG fund is due \$3,475 as shown in the table below.

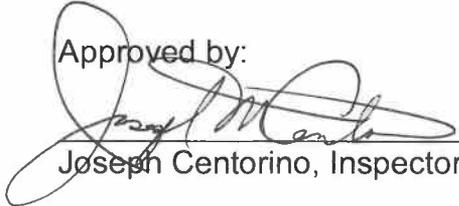
Vendor Name	Department	Full Munis Account	Fund	Center	Object	FY 2020 Actual Expenditures	OIG Surcharge	FY 2020 OIG Surcharge (\$50 K Cap)
{528} HYDRA SERVICE (S) INC	Public Works	427-0427-000674-29-422-000-00-00-00	427	0427	000674	97,973	0.5%	490
{660} XYLEM WATER SOLUTIONS U.S.A., INC.	Public Works	427-0427-000674-29-422-000-00-00-00	427	0427	000674	259,504	0.5%	1,298
{660} XYLEM WATER SOLUTIONS U.S.A., INC.	Public Works	425-0420-000343-29-421-513-00-00-00	425	0420	000343	43,039	0.5%	215
{1727} FLOTECH ENVIRONMENTAL, LLC	Public Works	427-0427-000325-29-413-517-00-00-00	427	0427	000325	183,920	0.5%	920
{1508} ASTERIA EDUCATION, INC	Organizational Development Performance Initiatives	177-6881-000343-16-400-592-00-00-00	177	6881	000343	12,500	0.5%	63
{1541} MUSEUM OF SCIENCE	Organizational Development Performance Initiatives	177-6881-000343-16-400-592-00-00-00	177	6881	000343	12,000	0.5%	60
{14534} ACCELA INC	Information Technology	550-0630-000325-14-413-582-00-00-00	550	0630	000325	6,060	0.5%	30
{ DECON ENVIRONMENTAL & ENGINEERING, INC.	Property Management	520-1720-000342-29-413-592-00-00-00	520	1720	000342	14,631	0.5%	73
{52850} LINCOLN ROAD BUSINESS IMPROVEMENT D	Property Management	168-1124-000349-20-401-595-00-00-00	168	1124	000349	48,667	0.5%	243
{51177} EQUAL LEVEL INC	Procurement	011-0620-000358-17-400-582-00-00-00	011	0620	000358	10,750	0.5%	54
{3081} CSA SERVICE SOLUTIONS, LLC	{1220} FIRE RESCUE	011-1220-000342-19-401-505-00-00-00	011	1220	000342	6,015	0.5%	30
								3,475

There may have been additional contracts that were excluded, in which the OIG fee is applicable, but no information was received from either the corresponding City department or it did not appear on the Procurement Department's provided listing. However, the OIG believes that any additional amounts due would be minimal and would not justify the additional work required.

Because the OIG allocation fee was implemented mid-year during FY 2020 and the impact was limited to applicable contracts entered into after April 1, 2020, it only generated \$3,475. This amount, while low, is not problematic because the FY 2020 Budget did not include any revenue to the new OIG Fund from the allocation fee. The goal was to put the allocation fee mechanism in place to hopefully realize \$550,000 of allocation fees in the FY 2021 Budget. As a result of the analysis in FY 2020, it appears that much of the current City annual spending is from contracts negotiated prior to April 1, 2020. Also, the low amount collected and the amount of administrative work necessary has led to several discussions between the OIG and the Administration regarding the efficiency of the allocation fee. At this point in time, we will likely continue with the current allocation fee mechanism through the end of FY 2021 and consider other options for the FY 2022

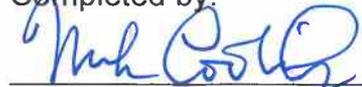
budget development process such as terminating the contract allocation fee, replacing the revenue from the fee with a transfer from the General Fund as originally budgeted when the OIG was created, or explore the creation of an internal service fund similar to other internal services such as IT, Fleet, Central Services, Property Management, and Risk Management.

Approved by:


Joseph Centorino, Inspector General

12/08/2020
Date

Completed by:


Mark Coolidge, Chief Auditor

12-08-2020
Date

- cc: Jimmy L. Morales, City Manager
John Woodruff, Chief Financial Officer
Tameka Otto Stewart, Budget and Performance Improvement Director
Alex Denis, Procurement Department Director