



**Office of Inspector General
Annual Report**

Fiscal Year 2012

Prepared by
Office of Inspector General

**J. Timothy Beirnes, CPA, Inspector General
Ann E. Haga, Executive Assistant**



SOUTH FLORIDA WATER MANAGEMENT DISTRICT

October 31, 2012

Governing Board Members:

Mr. Joe Collins, Chair
Mr. Kevin Powers, Vice-Chair
Ms. Sandy Batchelor
Mr. Daniel DeLisi
Mr. James J. Moran
Mr. Daniel O'Keefe
Mr. Juan M. Portuondo
Mr. Timothy Sargent
Mr. Glenn J. Waldman

Re: Annual Report for Fiscal Year 2012

In accordance with the Audit and Finance Committee Charter and Section 20.055, Florida Statutes, I am pleased to submit the Office of Inspector General's Annual Report for Fiscal Year 2012. This report was prepared by Ann Haga, Executive Assistant, and myself. It summarizes the audits and investigations performed, as well as other projects and activities accomplished during the year.

The Office of Inspector General will continue to promote effective controls, evaluate program effectiveness, and identify opportunities to improve efficiencies in operations. We will continue to provide you and District management with quality information to assist in decision making and fulfilling your duties and responsibilities.

We appreciate the support and encouragement of the Governing Board, the Audit and Finance Committee, and the cooperation of the District staff.

Sincerely,

A handwritten signature in blue ink that reads "J. Timothy Beirnes".

J. Timothy Beirnes, Inspector General
Office of Inspector General

C: Melissa Meeker
Bob Brown

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INTRODUCTION

In accordance with the Section 20.055, Florida Statutes, this report summarizes the activities of the South Florida Water Management District's (the "District") Office of Inspector General (the "OIG") for the fiscal year ended September 30, 2012.

The OIG serves as an independent appraisal unit within the District to examine and evaluate its activities. The Inspector General reports directly to the District's Governing Board (the "Board"), through the Board's Audit & Finance Committee, whose members are appointed by the Chairman of the Board. The Audit & Finance Committee operates under an Audit & Finance Committee Charter established by the Board.

The Internal Audit Charter adopted by the Governing Board established an internal audit function within the Office of Inspector General to provide a central point for coordination of activities that promote accountability, integrity, and efficiency in the operations of the District. The Office of Inspector General is accorded unrestricted access to District facilities, records, and documents and is not limited as to the scope of work.

The duties and responsibilities of the Inspector General, as defined by Sections 373.079 and 20.055, Florida Statutes, include:

- advising in the development of performance measures,
- assessing the validity and reliability of performance measures,
- reviewing action taken by the District to improve performance,
- conducting, supervising or coordinating other activities to promote economy and efficiency,
- preventing and detecting fraud and abuse,
- coordinating with other auditors to avoid duplication, and
- ensuring that an appropriate balance is maintained between audits, investigations, and other accountability activities.

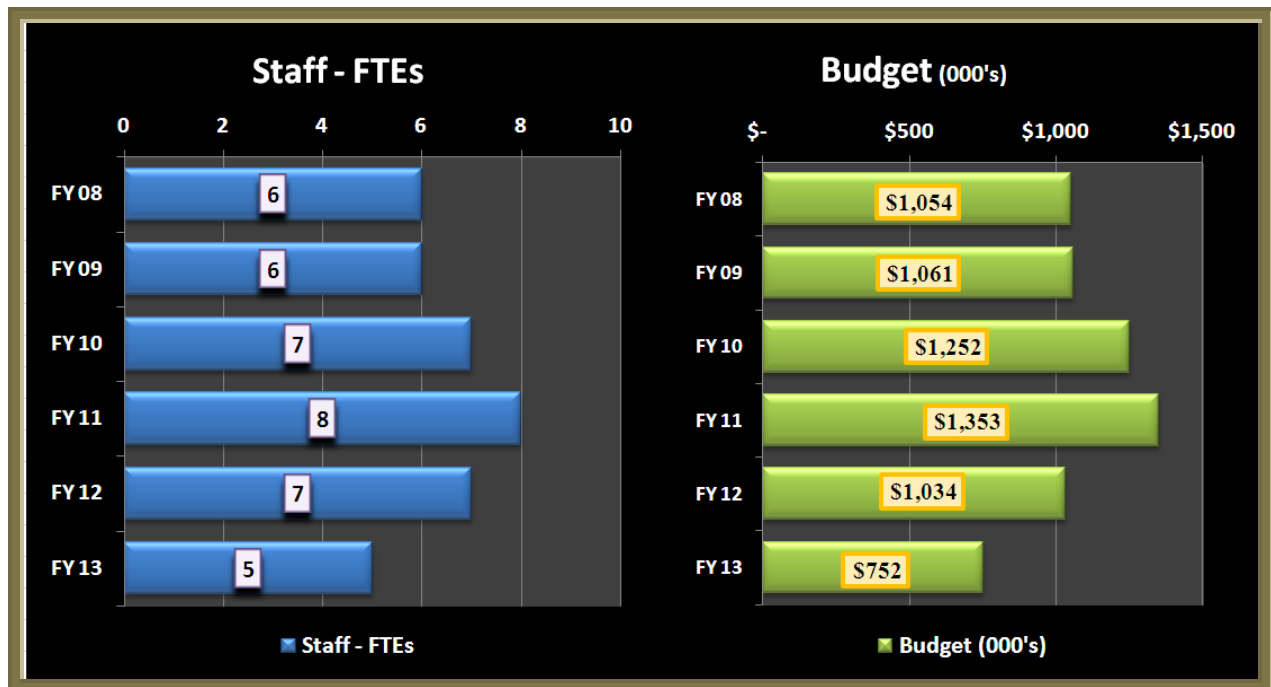
Pursuant to Sections 112.3187 through 112.31895 and Section 20.055, Florida Statutes, the Inspector General is also responsible for investigating Whistle-Blower Act complaints brought by District employees, former employees, agents, contractors, or citizens.

OFFICE STAFF and BUDGET

The Office of Inspector General currently consists of the following staff:

<u>Position</u>	<u>Certifications</u>
Inspector General	<i>Certified Public Accountant (CPA)</i> <i>Certified Management Accountant (CMA)</i> <i>Certified Information Systems Auditor (CISA)</i> <i>Certified Information Technology Professional (CITP)</i> <i>Certified Inspector General (CIG)</i>
Lead Consulting Auditor	<i>Certified Public Accountant (CPA)</i>
Lead Consulting Auditor	<i>Certified Internal Auditor (CIA)</i>
Chief Investigator	<i>Certified Public Accountant (CPA)</i> <i>Certified Fraud Examiner (CFE)</i> <i>Certified Inspector General Investigator (CIGI)</i>
Executive Assistant	

The following graphs show the trend in the number of full-time equivalent (FTE) staff and the Office of Inspector General's annual budget for the past several years.



The office's budget also includes the fees for the annual financial statement audit performed by the District's accounting firm.

PROFESSIONAL DEVELOPMENT

In order for our office to comply with the General Accounting Office's *Government Auditing Standards*, the Inspector General ensures that mandatory training requirements are satisfied for the entire Office of Inspector General staff. The goal of the program is to cost effectively increase professional knowledge and proficiency, and ensure that staff meets continuing professional education requirements. During FY 2012 the staff received training in such topics as:

- Government Accounting Standards
- Government Auditing
- Risk Management
- Information Systems & Security
- Fraud Detection and Investigation
- Leadership

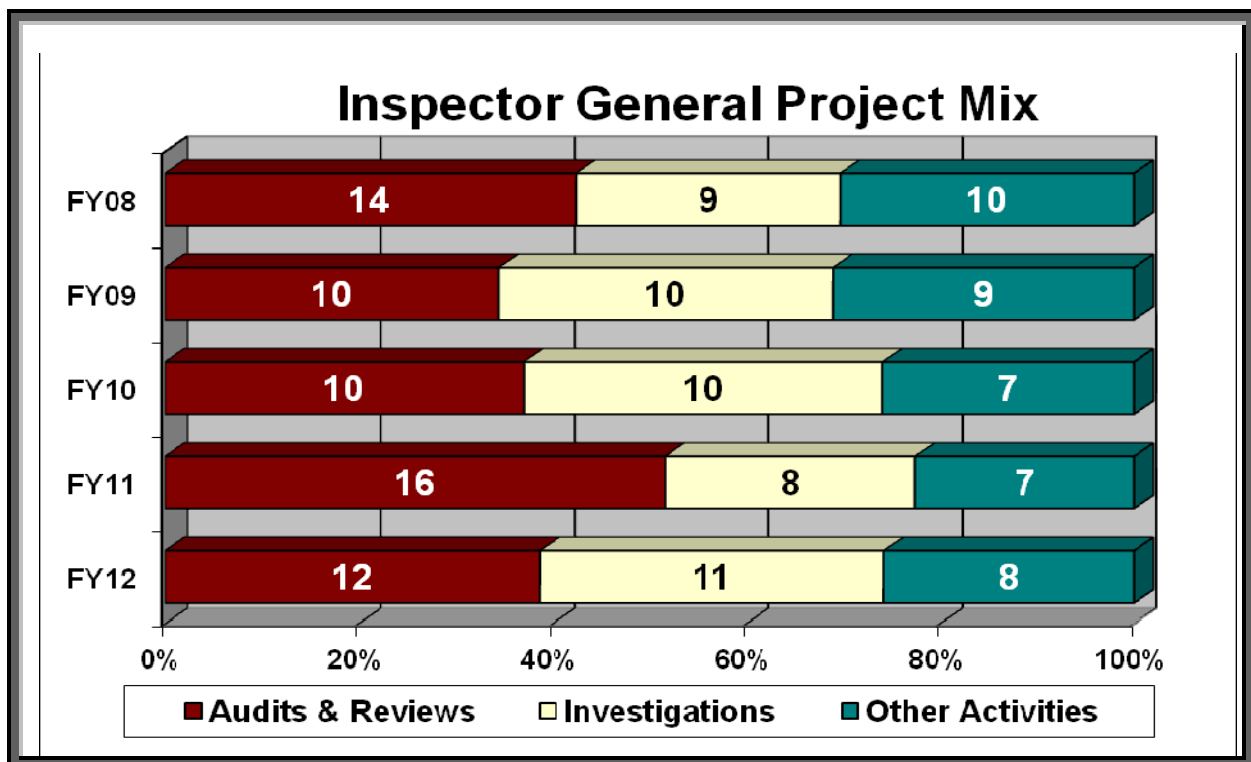
Professional development is provided through affiliations with several professional organizations, including the following:

- Association of Inspectors General
- American Institute of Certified Public Accountants
- Institute of Internal Auditors
- Association of Local Government Auditors
- Institute of Management Accountants
- Information Systems Audit and Control Association
- Association of Certified Fraud Examiners

INSPECTOR GENERAL ACTIVITIES

The Inspector General prepares an annual audit plan that lists the audits and other activities that will be undertaken during the ensuing fiscal year. The Inspector General relies on a review of the District's Strategic and Annual Work Plans, analysis of financial information, and input from the Audit & Finance Committee and District management, to aid in the development of this plan. The Office of Inspector General continues to identify those programs that pose the greatest challenge to the District, to assist in prioritizing audits, and to ensure the most effective use of staff resources. The Inspector General also considers the statutory responsibility to advise in the development of performance measurements, standards, and procedures in assessing District program risks.

The number of projects completed in FY 2012 compared to previous fiscal years is illustrated in the following graph:



AUDITS and REVIEWS

In FY 2012, the Inspector General’s Office focused on performance auditing and completed 11 audits and review projects. Performance audits include comments on economy and efficiency, program compliance, and results. All audits, unless otherwise noted in the report, are conducted in accordance with generally accepted government auditing standards promulgated by the Comptroller General of the United States, which is commonly referred to as the “Yellow Book”. Reviews and investigations, unless otherwise noted in the report, are conducted in accordance with Principles and Standards for Offices of Inspector General promulgated by the Association of Inspectors General, which is commonly referred to as the “Green Book”. A summary of each report follows.

Audit of the Disaster Recovery Plan *Project No. 11-05*

The overall objective of this audit was to determine whether the Disaster Recovery Plan is meeting its goals and operating efficiently and effectively. Specifically, our objectives focused on determining whether: 1) the District has a comprehensive up-to-date disaster recovery plan, 2) the District has defined locations where the disaster recovery plan could be executed, and 3) the District’s Disaster Recovery Plan was periodically tested and any necessary adjustments were incorporated into the plan.



Network Access Point of the Americas in Miami - Terremark Building. Alternative site for IT Infrastructure Systems.

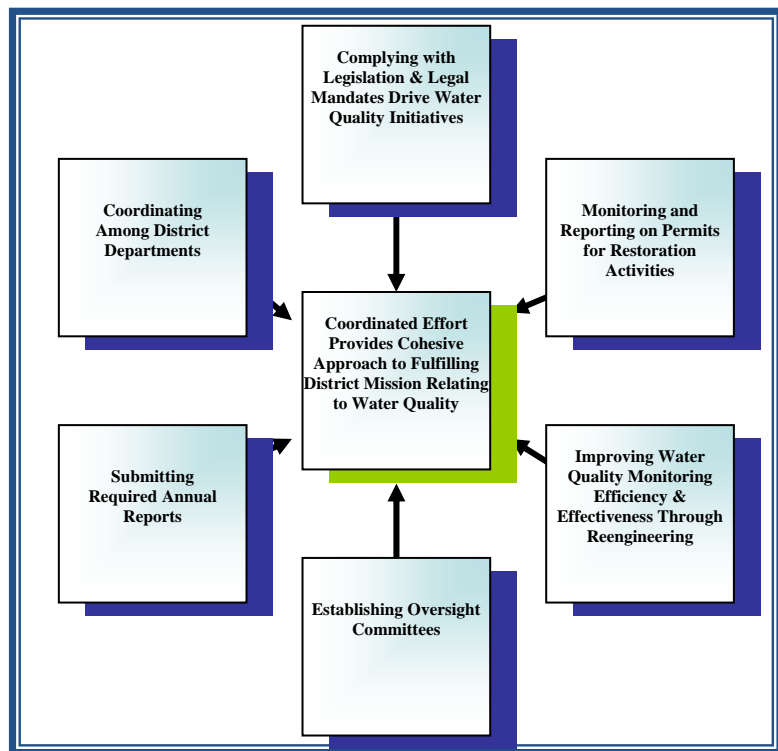
The audit revealed that the current Disaster Recovery Plans have improved significantly in comparison to previous plans. Sufficient planning, budgetary, and project management control processes are in place to ensure that the activities and applications support the District’s

business processes and meet the operational needs after a disaster. All three of the alternate facilities for disaster scenarios are sufficiently fulfilling the objectives of the plans. Mission critical system's data are adequately replicated in real-time with only seconds of delay. The Disaster Recovery Plans are designed to far exceed its current Recovery Time Objective and Recovery Point Objective goals. Several recommendations were made to further enhance the District's Recovery Plan.

Audit of the Water Quality Program
Project No. 11-09

This Audit focused on examining the District's methodology for fulfilling its mission as it relates to improving water quality by assessing whether it provides a cohesive approach to addressing water quality issues.

The audit results disclosed that there are adequate controls in place to ensure that the District's mission relating to water quality improvement is fulfilled and that water quality issues are addressed in a cohesive manner. Improving water quality is a core District mission that is driven primarily by complying with various water quality requirements specified in federal and state mandates, laws, regulations and permits; for



example, the Everglades Forever Act and the Northern Everglades and Estuaries Protection Program. In addition to ensuring compliance with specific mandated water quality requirements, the District performs certain activities to gather research, baseline, and other data; however, due to limited resources and funding constraints these activities are being reassessed. In certain instances, the District is required to collaborate with other agencies and stakeholders.

Several bureaus throughout the District are responsible for ensuring compliance with various requirements for implementing non-point source control programs utilizing Best Management Practices to reduce nutrients in runoff from agricultural and urban lands that ultimately discharge to the Everglades. In addition, the Water Quality Bureau's Water Quality Monitoring Section makes approximately 30,000 site visits each year to collect water quality and biological samples to support numerous projects. The sampling results are used to guide the District's operations, resource assessment, and environmental restoration initiatives.

Further, to ensure that water quality issues are addressed, the District is required to obtain and comply with State and/or Federal permits authorizing construction and operation of environmental restoration projects that include specific water quality monitoring requirements. In addition, there are several other reporting requirements and oversight in place. The District has also been reengineering water quality monitoring to ensure that monitoring activities are conducted effectively and efficiently while meeting legal and permit requirements.

Audit of Surplus Lands

Project No. 11-11

The primary objective of this audit focused on assessing the District's process for identifying surplus and leasable lands. We determined whether the process in place to identify potential surplus and leasable lands were adequate. We also determined whether there were adequate efforts in place to ensure surplus lands are disposed in a timely manner.

Audit results disclosed that the District's process for identifying potential surplus lands that are not needed for flood control infrastructure, water quality improvement, ecosystem restoration, and other mission-related activities could be enhanced. The current process was informal and not sufficiently documented. Our review revealed that a complete detailed and documented assessment of District-owned lands had not been conducted. Instead, the Real Estate Section relied on its staff's knowledge of District lands and justifications for retaining lands. This process was informal and insufficiently documented.

We also found that the District had only disposed of 7.85 of the 2,930 surplus acres approved for disposal by the Governing Board in June 2010 and December 2011 due to several factors. The stringent disposal requirements outlined in Chapter 373.089, Florida Statutes, and

current real estate market conditions were not conducive to disposing of surplus lands in a timely and efficient manner.

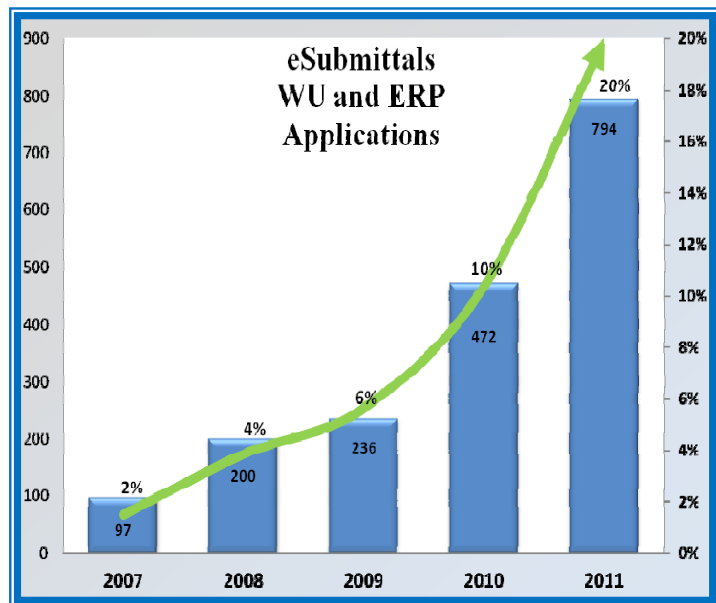
The audit also revealed that six tracts of land had been appraised before submitting them to the Florida Department of Environmental Protection for final surplus approval, resulting in having to reappraise the properties due to statutory time frames. A comprehensive review of all District lands had not been conducted to determine whether all potential leasable lands had been identified and analyzed.

Post Implementation Review of the District's ePermitting System
Project No. 11-19



The overall objective of this review was to determine whether the District's ePermitting System had achieved its intended purpose. In addition, we assessed whether ePermitting's capabilities could be enhanced to more fully realize the District's investment.

Our review revealed that the ePermitting Project Team had sufficient planning, budgetary and project management control processes in place to ensure that ePermitting activities, projects, and applications support the Regulation Division's business processes and meet their operational needs. Usage reports show a continuous annual increase in the utilization of the eSubmittal features as shown in the above graph. A noteworthy achievement was awarded to the ePermitting Project as the 2007 Project Management Institute's Project of the Year Award.



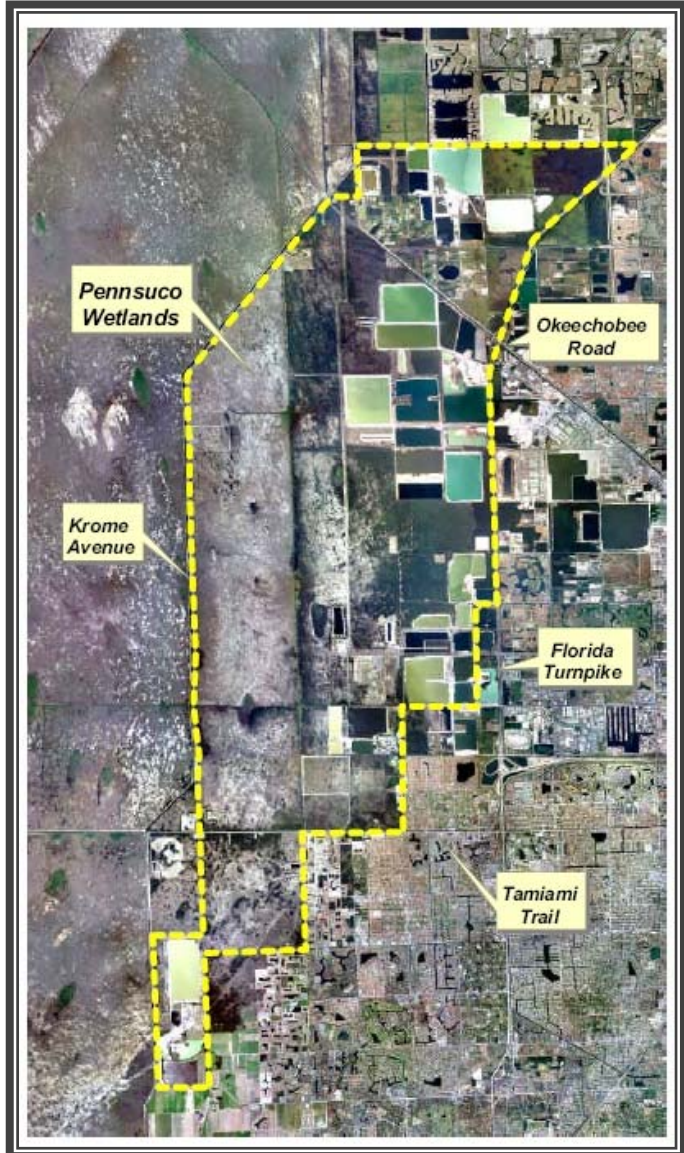
We identified a potential cost saving opportunity and recommended that management determine whether the existing contract worker's skill set would be needed on a permanent on-going basis, and if so, consider replacing the contract worker with a District staff at approximately half the contractor's \$200,000 annual cost.

Audit of the Lake Belt Mitigation Fund

Project No. 11-20

This audit focused on determining whether the Lake Belt Mitigation Fund's resources are expended in compliance with established legislative requirements. We also analyzed expenditures and reviewed supporting documentation to ensure expenditures were authorized by the Lake Belt Mitigation Committee and expended in accordance with Chapter 373.4149, Florida Statutes.

The audit disclosed that the Lake Belt Mitigation Fund's fees were used in accordance with Chapter 373.4149, Florida Statutes. We concluded that the Lake Belt Mitigation Committee approved the use of mitigation fees in accordance with the Statutes; for example, purchase, enhancement, restoration, and management of wetlands and uplands, and reimbursement of funding sources for land purchases that were acquired in areas appropriate for mitigation. In addition, we reviewed payments made by the Miami-Dade Limestone Products Association, Inc., and concluded that the payments were for services approved by the Lake Belt Mitigation Committee and were adequately tracked and approved by the District. However, we identified the following financial adjustments that were needed in the District's accounting records.



- Duplicate operating transfer totaling \$66,069 in September 2009 from the Lake Belt Mitigation Fund (Fund 219) to the Wetland Mitigation Fund (Fund 211).

- Funding source information in the Land Resources Section’s records did not always correspond to the Finance Bureau’s records.
- An amount of \$820,349, allocated for long-term management costs by the Lake Belt Mitigation Committee, needed to be transferred to the Wetland Mitigation Permanent Fund.

Some additional observations made were as follows:

- Although, all project costs are discussed and approved by the Lake Belt Mitigation Committee, the District should consider recommending that the Committee establish competitive processes for procurements exceeding certain dollar thresholds.



- There was insufficient documentation to justify the use of \$2,964,850 from the Wetland Mitigation Fund for the acquisition of C-111 project lands. However, we concluded that it appears innocuous to have used excess wetland mitigation funds for the C-111 project land purchase.

Comparison of the District’s Tuition Reimbursement Benefits Compared to Other Public Entities
Project No. 12-13



The objective of this analysis focused primarily on determining how the District’s tuition reimbursement benefits compare to those of the State and other governments in the District’s region. We selected larger counties and cities based on the population determined by the U.S. Census Bureau. To accomplish our objective, we obtained and reviewed the tuition reimbursement guidelines and policies of 11 counties and cities and compared the benefits they

provide their full-time employees to the benefits the District provides to its full-time employees. We also compared the District's reimbursement guidelines to the State of Florida Employee Educational Assistance Program (Section 1009.265, Florida Statutes).

Overall, our comparison disclosed that the District's tuition reimbursement guidelines are comparable to the 11 counties and cities in our sample. We found that the State of Florida's (the "State's") tuition waiver program's benefits are less restrictive than the District's; however, a disadvantage of the State's program is that it is based on space availability at public universities and colleges after other degree seeking students have registered for classes.

Analysis of Fleet Replacement Lifecycle ***Project No. 12-14***



Our objectives focused on comparing the District's equipment replacement criteria and practices to current industry standards and practices. We also focused on determining the point at which it is more cost efficient to replace vehicles and equipment rather than repairing. Our methodology entailed researching available public information regarding how companies manage their fleets and the average life at time of replacement. We also researched current trends in fleet lifecycles.

We found that vehicle manufacturers' improved engineering, technological advancements, and improved workmanship have led to increased vehicle quality and longer useful lives. Consequently, individuals and companies are keeping vehicles longer. The average age of passenger vehicles on the road has increased approximately 2 years over the last decade to 10.8 years in 2011. Three options are typically used in determining a vehicle's replacement point:

- 1) Replacement is determined based on established intervals of age and mileage. This method is simple to implement but may not result in the most economical cost because it does not consider variability among vehicles.
- 2) Replacement is made when repairing exceeds the value of the vehicle. This method is often referred to as the "drive it till it dies" approach, which typically occurs when a major component fails, such as a transmission or engine.

-
- 3) Replacement is based on lifecycle costing analysis. This method considers the point in the vehicle or equipment's life when the sum of all ownership and operating costs reaches a minimum.

Among the three methods, the lifecycle costing method is preferred because it results in the most economical cost. However, the method is also the most complex to implement and is often as much an art as science. Therefore, judgment is needed in interpreting the results and sensitivity analyses should be made to evaluate the impact of changes in assumptions. The optimal replacement time is rarely a precise moment, but more closely resembles a window.

One study concluded that the optimum life cycle results in the range of 9 to 12 years based on various simulation models; however, the tendency was in the 10 to 11 year range. The study also showed that total annual costs tend to decline only marginally after 9 years. Based on the results of this study, extending the District's target life beyond 9 years may only provide marginal cost savings. Vehicle life cycle tends to follow the economic concept of marginal utility. Such minimal saving should be weighed against the many "soft cost" factors such as obsolescence, downtime cost, and employee morale. We made several suggestions for management's consideration.

Comparison of the District's Fleet Maintenance Practices to Other Organizations *Project No. 12-15*



The analyses of the District's Fleet Maintenance practices objective entailed comparing the District's preventive maintenance program to those of other governments and businesses. We focused on determining how maintenance components as well as the maintenance intervals compared. Our methodology entailed researching available public information regarding how companies and other governments maintain their fleets.

The District's Preventive Maintenance Standard Operating Procedures (SOP) are comparable to those of other organizations'. The SOP provides for three levels of service for light vehicles. These service intervals are within the range of others in terms of time and mileage. The District's vehicle inspection checklists for the various service intervals are similar to those of other organizations.

Follow-Up Audits

Audit recommendations target the economy and efficiency of District operations and compliance with our policies and statutory responsibilities. Our recommendations also focus on providing District management with suggestions that facilitate their achievement of program goals and objectives. To be effective, audit recommendations must be implemented. Additionally, *Government Auditing Standards* require following up on audit recommendations in previously issued audit reports. Accordingly, every quarter our office surveys departments to determine the implementation status of recommendations and to encourage their completion. This information is maintained in the Inspector General's audit recommendation tracking database. The system allows each audit staff member to update the recommendation's "status" after reviewing information provided by the divisions, bureaus, and offices.

The follow-up reports revealed that management has done a good job of implementing audit recommendation during FY 2012. Further, no recommendations fell into the "Not Implemented" category during the year. The following sections contain a brief a summary of each quarterly follow-up report.

Follow-Up Audit for 7/1/11 – 9/30/11 Project No. 12-01

This report on the implementation status of audit recommendations was for the period July 1, 2011 through September 30, 2011 (the "Fourth Quarter of FY 2011 Reporting Period"). As of June 30, 2011 there were nine (9) recommendations that were not yet Fully Implemented, consisting of five (5) that were In-Process and four (4) that were Partially Implemented. The status of these recommendations remained the same as the previous period although progress had been made towards implementation.

During the Fourth Quarter of FY2011 Reporting Period, 11 recommendations were added from two (2) newly issued reports. As of September 30, 2011, eight (8) of these recommendations had been Fully Implemented. In total from all reports, there were currently 12 recommendations that were In-Process of being implemented or had been Partially Implemented as of September 30, 2011.

Follow-Up Audit for 10/1/11 – 12/31/11
Project No. 12-11

This report on the implementation status of audit recommendations was for the period October 1, 2011 through December 31, 2011 (the “First Quarter Reporting Period”). As of September 30, 2011, 12 recommendations were not yet Fully Implemented, consisting of eight (8) that were In-Process and four (4) that were Partially Implemented. During the First Quarter Reporting Period three (3) of these recommendations were Fully Implemented.

During the Reporting Period, no recommendations were added from newly issued reports. As of December 31, 2011, nine (9) recommendations were In-Process of being implemented or had been Partially Implemented.

Follow-Up Audit for 1/1/12 – 3/31/12
Project No. 12-17

This report on the implementation status of audit recommendations was for the period January 1, 2012 through March 31, 2012 (the “Second Quarter Reporting Period”). As of December 31, 2011, nine (9) recommendations were not yet Fully Implemented, consisting of five (5) that were In-Process and four (4) that were Partially Implemented. During the Second Quarter Reporting Period, three (3) of these recommendations were Fully Implemented.

During the Reporting Period, no recommendations were added from newly issued reports. As of March 31, 2012, six (6) recommendations were In-Process of being implemented or had been Partially Implemented.

Follow-Up Audit for 4/1/12 – 6/30/12
Project No. 12-24

This report on the implementation status of audit recommendations was for the period April 1, 2012 through June 30, 2012 (the “Third Quarter Reporting Period”). As of March 31, 2012, six (6) recommendations were not yet Fully Implemented, consisting of four (4) that were In-Process and two (2) that were Partially Implemented. During the Third Quarter

Reporting Period, one (1) of the recommendations was fully implemented and three (3) were Partially Implemented.

During the Third Quarter Reporting Period, nine (9) recommendations were added from three (3) newly issued reports. As of June 30, 2012, four (4) of these recommendations had been Fully Implemented. In total from all reports, 10 recommendations were In-Process of being implemented or had been Partially Implemented as of June 30, 2012.

INVESTIGATIONS

Investigation issues arise from many different sources including: District management, District staff members, vendors, and citizens. The Chief Inspector General for the Office of the Governor also referred certain cases to our office. During FY 2012 we received a total of 17 complaints from various sources. Investigations were opened for nine (9) of these complaints, of which seven (7) were completed and two (2) were still in progress at year end. The remaining complaints did not contain information of the nature that required an investigation by our office. Many such complaints were referred to the Ombudsman. We also completed work on four (4) investigations that were commenced in the prior year that were still in progress. Thus, in total, we issued eleven (11) investigation reports during FY 2012. A short summary of each investigation follows.



Investigation of Alleged Unpermitted Pumping and Discharge Activities *Project No. 11-06*

A landowner in Collier County alleged that an adjacent property owner and other property owners to the north engaged in unpermitted pumping, discharging and dredging activities and that such activities have had an adverse effect on his property and other neighboring properties. The adjacent properties are agricultural operations in which the primary crops are tomatoes and citrus. The operations are regulated through District Environmental Resource Permits (ERP) and have been modified over the years for changes in acreage, operations, and ownership.



East/West Trench

The complainant contended that regulatory oversight at the District's Lower West Coast Service Center, whether intentional or in error, has for a number of years failed to enforce permit

conditions resulting in the unpermitted discharges of contaminated farm runoff onto his property. According to the complainant, adjoining landowners dredged miles of canals/trenches, on and through, the complainant's and other land owner's property without permission, permits or easements from the complainant, other landowners or government agencies as required. Moreover, he contended that these landowners were discharging water through the series of dredged canals, ditches, trenches, culverts and pumps to draw off the excess water of their commercial agriculture businesses; disregarding law, rule, permits and legal easements.

Our investigation found that the adjoining land owner had engaged in unpermitted activities. After the complainant reported these permit non-compliance activities to our office, corrective action was initiated and the neighboring land owner brought their operations into full compliance with the permits by removing unpermitted pumps and facilities, as well as repairing and replacing control structures. Staff from the Lower West Coast Regulatory team and Office of Inspector General staff conducted an inspection of the property and verified that the appropriate changes had been made and that the complainant's and other adjoining property owners were in compliance.

We found no evidence to implicate that the adjoining land owners constructed the alleged trenches. We also found through aerial inspections that the trenches did not appear to have surface water conveyance features. We also observed that water covered areas on both sides of the trench lines indicating what appears to be a sheet flow pattern rather than a conveyance system. We noted no berms or spoil material that are common for constructed water conveyance systems.

Investigation of Alleged Small Business Enterprise (SBE) Utilization Misrepresentation *Project No. 11-16*

We received a request from the Procurement Bureau (Procurement) to investigate allegations of misrepresentations made in reporting Small Business Enterprise (SBE) subcontractor utilization to the District by a Prime Contractor, who was performing work on the C-111 Spreader Canal project (Contract number 4600001893 valued at \$10.8 million). The Prime Contractor committed to a 28% SBE participation for this project. Procurement was

alerted by a District certified SBE subcontractor, that the Prime Contractor was overstating their SBE participation in the C-111 Spreader Canal project to the District.

The allegation that Prime Contractor intentionally misrepresented information on its SBE Subcontractor Utilization reports was sustained. We found that the evidence clearly indicates that Prime Contractor issued payments to the SBE Subcontractor but then demanded repayment or for the Subcontractor to endorse the checks over to a related third party. These payments were recorded as SBE participation by the Prime Contractor which clearly demonstrated the company's intention to submit false SBE Utilization reports to the District.

The Prime Contractor also violated other requirements of the District's SBE Contracting Rule. The Prime Contractor failed to comply with the signed Statement of Intent to Perform as a SBE Subcontractor by failing to execute a formal agreement with the Subcontractor upon execution of their contract with the District. They also failed to report the change in the SBE subcontractor utilization plan to the District in a timely manner. Further, they did not fully comply with our document request as required by their contract with the District and the SBE Contracting Rule. The 28% SBE participation target was only met because the volume of the work performed by other SBE subcontractors was greater than originally projected.

We recommended that Procurement take appropriate disciplinary action for the Prime Contractor's non-compliance with the SBE Contracting Rule.

Investigation of Alleged Contractor Performance Fraud ***Project No. 11-24***

We investigated an anonymous complaint concerning the C-41A Bank Stabilization Contract #4600002252, which was received from an individual who identified himself as a private citizen and a contractor. The complainant appeared familiar with the bank stabilization process and disclosed that he had done work for the District and the United States Army Corps of Engineers. He added that he had bid on this project but was not awarded the work.

The C-41A Bank Stabilization contract was awarded through a bid solicitation process; however, it was not awarded to the lowest respondent. The lowest bidder was disqualified for submitting a qualified bid and accordingly was deemed non-responsive and thus was awarded to the next lowest bidder.

The complainant alleged that the contractor was defrauding the District by using substandard methods that are not in compliance with canal bank construction specifications. He stated that he watched the contractor and noted that, while constructing the canal bank slope, the contractor was not compacting the material in accordance with specifications.

We found that the anonymous complainant's allegations contending that the contractor defrauded the District through substandard performance were unfounded. Compaction tests were performed by an independent engineering firm and these tests confirmed compliance with canal bank compaction specifications. We also concluded that internal controls over the C-41A project appeared adequate to ensure compliance with all project specifications.

Investigation of Alleged Unfair Hiring Practices ***Report No. 11-25***

At the request of the Executive Office, we conducted an investigation into allegations made by a job applicant concerning the District's hiring practices. He believed that the hiring process was flawed and unfair for a Stationary Diesel Engine Operator/Mechanic position at the Homestead Field Station/Pump Station. The complainant obtained and reviewed the recruitment documents related to the position and believed that he, along with other applicants, were much more qualified than the candidate that was selected. He added that the candidate selected was not qualified at all.

We found that the allegation contending that the District's hiring process was unfair and flawed was unfounded. Our review of the hiring process used to recruit and hire a Stationary Diesel Engine Operator/Mechanic at the Homestead Field Station/Pump Station indicated that the District complied with the District's Recruitment policy. However, all necessary, desired and preferred skills, such as SCADA operating and monitoring, were not identified and posted in the advertisement for the Stationary Diesel Engine Operator/Mechanic position. Going forward, in order to attract the best possible applicants, we recommended that these skills be incorporated into the District's advertisements and thus communicated to the pool of candidates.

The complainant also expressed concerns over the alleged hiring of the Homestead Field Station Field Operations Director's son to the position of Heavy Equipment Harvester Operator at the Miami Field Station without any job posting or competition. We found that the Director's

son was hired through a competitive recruitment process that was consistent with the District's Nepotism and Recruitment Policies and accordingly did not have an unfair hiring advantage.

**Investigation of a Whistle-Blower
Complaint Alleging Retaliation
*Report No. 12-02***

We received a complaint through an e-mail, dated October 23, 2011, from a former employee alleging that he was retaliated against for disclosing information protected under the Whistle-Blower statute, Sections 112.3187 – 112.31895 Florida Statutes (the “Whistle-Blower’s Act”). The complainant had been employed by the District as a Senior Land Manager in the Upper Chain of Lakes Management Region for the Land Stewardship Section and was responsible for managing District land in the Kissimmee area, which included developing field operations plans, monitoring land restoration activities, and prescribed burns. His allegations were as follows:

- The complainant alleged that he was discharged and was retaliated against by the District and FDACS for disclosures related to two fires, one that originated on property neighboring District land in the Kissimmee area in 2001 and the other disclosure was related to a DOF control burn on State property near Interstate 4 (I-4) in 2008, which resulted in numerous deaths and injuries from smoke that created extremely low visibility.
- The complainant alleged that District management was grossly negligent for failing to act on his workplace violence complaint that was filed in February 2011, in which a Department of Forestry employee used profanity.
- The complainant contends that his constitutional rights had been violated. He claimed he was exercising his First Amendment Right to Freedom of Speech as a United States Citizen on his official day off, September 23, 2011, when he made a Public Records Request to FDACS and DOF.
- The complainant alleged that District management broke many Standards of Conduct when they terminated him. According to the complainant, management provided false and misleading information and falsified District records.

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- The complainant alleged that the District's response to his Public Records Request was so incomplete that it was intentional. The complainant alleged that the District was covering up evidence he needed to defend himself in an upcoming Conflict Resolution Board meeting.
 - The complainant alleged that a District manager violated District and Florida Fish and Wildlife Conservation Commission rules by having beer on the premise of the DuPuis Reserve.
 - The complainant alleged that a District manager illegally obtained District bio-control insects for use on his property.
 - The complainant alleged unequal application of the District Standards of Conduct.

We concluded that all of the complainant's allegations were unfounded or that the information disclosed was not of the nature delineated in the Whistle-blower Act. We also concluded that none of the information was disclosed by the complainant in writing to the appropriate authority or through a Whistle-blower hotline prior to his termination. All of the information disclosed was submitted to our office subsequent to the complainant's termination and therefore we concluded that his termination was not a retaliatory action by management for any of the complainant's disclosures. We concluded that his termination was due to his insubordination and disregard of a reasonable directive given to him by management and was not entitled to any protection or remedies under the Whistle-blower Act.

Investigation of a District Employee's Alleged Ethics Violations *Report No. 12-04*

We investigated a complaint that was received from a vendor alleging that his company provided a District employee with free or greatly discounted rates for auto body work on the employee's personally owned vehicles. The employee is a Professional Supervisor assigned to the West Palm Beach Field Station. His responsibilities included fleet maintenance.

We found that the allegation claiming that the District employee violated State of Florida ethics laws and District policies, by soliciting and accepting auto body services on his personal

vehicles for free or greatly discounted rates was unfounded. Conversely, the business records that were provided to our office by the owner were insufficient to substantiate his allegations.

**Investigation of Alleged Unnecessary
HDM Contract Work
*Report No. 12-07***

We received an anonymous complaint dated November 29, 2011, alleging that a former District Hydro Data Management (HDM) Section Director improperly influenced an engineering firm to hire his friend or relative (the complainant was unsure of the relationship) as a contractor and then compelled the District Project Manager, who worked under the Section Director, to hire the friend or relative through the firms contract (#4600002178), despite her lack of required qualifications.

We found no evidence to support the allegations. The anonymous complainant provided no evidence to support his contentions of hiring intimidation, useless contract deliverables, and the hiring of an unqualified contractor because of her relationship with a former HDM Section Director. The Project Manager stated that there was no attempt at intimidation by the Section Director, the onsite contractor had appropriate qualifications and the project would result in considerable savings to the District when completed. However, since the complainant was anonymous and thus, unavailable to request further details, we could not conclusively rule out the possibility that the allegation may have occurred. Accordingly, we concluded that the allegation was not sustained.

**Investigation of Alleged Vendor Favoritism
Related to the Aerial Spraying Request for Proposal
*Report No. 12-12***

We received a request from the District's General Counsel to investigate allegations of employee improprieties relating to a Request for Proposal (RFP) number 6000000453, dated April 4, 2011, for aerial spraying services. A respondent filed a formal written bid protest and petition on October 10, 2011, after receiving a notice of the District's intent to reject all proposals. The petition contained allegations that the incumbent vendor, attempted to influence District staff with gifts and favors. The complainant further claimed that the District has unfairly excluded his and other companies from providing aerial spraying by using a RFP with proprietary and restrictive specifications which benefit the incumbent contractor and assigning staff allegedly friendly with the incumbent vendor to the District's RFP evaluation panel. The District has been contracting with incumbent firm for approximately 20 years for its aerial spraying applications.

The allegations of District staff receiving gifts and favors from the incumbent contractor were unfounded. Other allegations concerning Procurement staff misconduct during previously issued aerial application solicitations were also unfounded. The allegation that the aerial spraying RFP contained restrictive and biased specifications that favor the incumbent contractor was sustained.

Vendor proposals in response to the District solicitations for aerial application services over a 20-year period have been very limited; the RFP issued in April 2011 attracted only two proposals. We found that specifications relating to the bundling of aerial services, pilot experience, equipment, insurance and safety, limited competition. We recommended changes to these specifications to help promote more competition, provide cost savings, and eliminate the perception of bias towards the incumbent firm.

**Investigation of Alleged Ethics Violations and
Landowner Favoritism**
Report No. 12-18

The Executive Director requested that the Office of Inspector General conduct a complete review of the Assistant Executive Director's (Mr. Brown) responses to inquiries made by The Palm Beach Post in order to confirm strict adherence to the District's ethics policies. Concurrent with this review, we also conducted an investigation into allegations made by Mr. Greg Isbell (Mr. Isbell), an Okeechobee landowner, claiming that prior to Hurricane Frances' landfall in September 2004 he gave Mr. Brown a generator valued between \$1,500 and \$2,000 and a crossbow valued at \$650. Mr. Isbell alleged that Mr. Brown hunted on properties that are regulated by the District, which he contended violated District ethics policies. Mr. Isbell also contended that these property owners received preferential treatment and favors from Mr. Brown which resulted in substantial benefits to the owners.

We concluded that Mr. Brown did not violate the District's Ethics Policy when he occasionally hunted on private citizen's land. The overarching principal of the Ethics Policy is to ensure that District employees conduct themselves independently and to ensure no undue intent to influence an official act. Thus, the crux of the value of hunting privileges on citizens' land is whether the value is significant enough to influence the employee to use their public position to return special favors that would not be afforded to the general public under a similar set of circumstances. The evidence gathered during this investigation indicated that Mr. Brown carried out his regulatory duties and did not show special favors to landowners that granted him occasional access to their property for hunting purposes. Further, nothing came to our attention to indicate that the landowners intended to influence Mr. Brown's official actions by allowing him to hunt on their property.

We found that the hunting privilege may have created a perception of favoritism and special treatment. The Executive Office of the Governor Code of Ethics, dated January 4, 2011, established a provision requiring employees to avoid the appearance of impropriety. Employees should avoid any conduct (whether in the context of business, financial or social relationships) that might undermine the public trust, whether that conduct is unethical or lends itself to the appearance of ethical impropriety. We recommended that District management

consider incorporating similar provisions into the District's Ethics Policy regarding avoiding the appearance of ethical impropriety, resembling Governor Scott's Executive Order 11-03.

We concluded that allegations contending that Mr. Brown was involved in the District's purchase of property from Mr. Goodbread and Mr. Brady were unfounded. Our review of the District's acquisition of Mr. Goodbread's property and the Brady Ranch revealed that Mr. Brown was not involved in the decision to pursue the purchase of these properties, was not involved in negotiating the acquisition price, and did not recommend the purchases to the Governing Board.

We concluded that the allegation that the complainant gave Mr. Brown a generator and crossbow were unfounded. We also found that Mr. Brown did not violate the Ethics Policy relating to real estate transactions with Mr. Goodbread.

Information provided by Mr. Brown to The Palm Beach Post was accurate except for the response to the question regarding financial disclosure. We found that although state statutes do not contain any provisions requiring Assistant Executive Directors of water management districts to file periodic financial disclosures with the State, the District's Ethics Policy exceeds the State's statutory requirements and requires financial disclosures by District employees other than the Executive Director. Mr. Brown was unaware of this requirement at the time he responded to The Palm Beach Post's question. We recommended that the District management should ensure that all District employees required to file financial disclosures in accordance with the District's Ethics Policy have filed such disclosures.

Investigation of Citizen's Complaint Regarding Palm Beach Aggregates Acquisition *Report No. 12-20*

We investigated a complaint from a private citizen alleging that the District's acquisition of water storage rights from Palm Beach Aggregates was based on fraudulent and misleading information. In 2003, the District purchased water storage rights from the owners of Palm Beach Aggregates with the intent to store water in excavated cells. He alleged that outside consultants misled the District into believing that the reservoir was water tight. He further alleged that Palm Beach County Commissioners, District Governing Board members and State of Florida officials

fraudulently conspired to purchase this property. He also alleged that the salt content in the reservoir precludes the District from using the stored water for its intended purpose.

We concluded that the reservoir seepage rate was at an acceptable level, as verified by an independent consulting firm. We also concluded that chloride content in the reservoir was not an issue that will preclude the District from using the reservoir for water storage and flow equalization for STA-1East and STA-1West. Accordingly, we concluded that the complainant's allegation that the Palm Beach Aggregates reservoir cannot be used for its intended purpose was unfounded.

Corruption issues regarding Palm Beach County Commissioners had previously been addressed by appropriate law enforcement officials.

Investigation of Complaint Regarding Easement Access on C-18 Canal *Report No. 12-26*

We investigated a complaint that was received from a citizen concerning easement access on a C-18 canal right-of-way. He leased the property from the fee title owners. The District also holds a perpetual easement that provides broad rights and exclusive use of the C-18 canal.

The complainant also requested permission from the District to access the property with his vehicle. In accordance with District Rule 40E-61 *Works or Lands of the District*, the District required him to obtain a permit and, in accordance with District policy, also retain \$500,000 liability insurance, naming the District as an additional insured. He questioned whether Rule 40E-6 applies to this property and requested our office to assess its applicability.

The complainant also expressed concern with the District's Rule 40E-6, *Works or Lands of the District*, Florida Administrative Code, ensures that any use of the rights-of-way is compatible with the construction, operation and maintenance of the canal. The complainant also questioned a permit that was issued to the Florida Game and Fresh Water Fish Commission back in 1960 on this property that is still in effect. The permit was for the general public to use the C-18 canal right-of-way to access the Corbett Youth Camp. He stated that the C-18 canal right-of-way is private property and is currently gated and locked. He requested that the District rescind this permit.

We found that Rule 40E-6, and other relevant statutes and rules are applicable to the C-18 canal right-of-way and that staff had communicated this information to the complainant. Thus, we concluded that this matter was a difference of opinion regarding legal property rights and advised the complainant if he desired to pursue this matter further he should pursue it through a legal dispute resolution process.

District Right-of-Way Section staff worked with the complainant to obtain the appropriate permits. Staff also reviewed the 1960 permit with Florida Game and Fresh Water Fish Commission (former agency name) to determine if any modifications are needed.

OTHER PROJECTS

Assistance to Management

The Office of Inspector General periodically receives requests from District departments to consult with, and provide advice, on various projects. Such projects may entail examination, investigation or analysis of specific matters. This support may involve financial analysis, performance reviews, information systems reviews, review of rule or policy changes, contract pricing verification, or serving in an advisory capacity to assist in the decision making process regarding specific projects. Our Office assisted with one such request during FY 2012, which entailed assisting the Office of Counsel as an expert witness in a contempt hearing regarding a wetland destruction violation. The hearing resulted in a favorable ruling for the District.

Administrative Projects

During FY 2012 our office completed the following administrative projects:

- Developed the annual audit plan.
- Completed the Office of Inspector General Annual Report.
- Maintained and updated the Office of Inspector General Web Site.
- Managed the contract with McGladrey & Pullen, LLP, for External Independent Auditing Services. The District received an unqualified opinion on its financial statements for the year ended September 30, 2011.
- The Inspector General serviced as a team leader in performing peer review for the Orange County [Florida] Comptroller's Audit Division. The review was performed under the Association of Local Government Auditor Peer Review Program.
- Coordinated an audit of the District's Federal Emergency Management Agency (FEMA) assistance received regarding hurricane events in 2004 and 2005.
- Coordinated an audit commenced by the Florida Auditor General's Office. This audit is still in progress.
- Performed an administrative review of the District's Whistle-Blower Policies & Procedures.