



**Office of Inspector General
Annual Report**

Fiscal Year 2013

Prepared by
Office of Inspector General

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



SOUTH FLORIDA WATER MANAGEMENT DISTRICT

December 18, 2013

Governing Board Members:

Mr. Daniel O'Keefe, Chair
Mr. Kevin Powers, Vice-Chair
Mr. Frederick Barber
Ms. Sandy Batchelor
Mr. Mitch Hutchcraft
Mr. James J. Moran
Mr. Juan M. Portuondo
Mr. Timothy Sargent
Mr. Glenn J. Waldman

Re: Annual Report for Fiscal Year 2013

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 2013. 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: Blake Guillory

TABLE OF CONTENTS

INTRODUCTION..... 2

OFFICE STAFF AND BUDGET3

PROFESSIONAL DEVELOPMENT4

INSPECTOR GENERAL ACTIVITIES5

AUDITS & REVIEWS6

Audit of CERP Cost Share Status6

Audit of Contract Monitoring.....8

Audit of Grants Monitoring.....10

Analysis of Computer & Equipment Replacement10

Audit of Employee Time Coding Process12

Follow-Up Audits.....13

Follow-Up Audit for 7/1/12 – 9/30/12.....13

Follow-Up Audit for 10/1/12 – 12/31/1214

Follow-Up Audit for 1/1/13 – 3/31/1314

Follow-Up Audit for 04/1/13 – 6/30/1315

INVESTIGATIONS.....16

Investigation of Complaint Regarding Easement Access to Pal Mar Area16

Investigation of Complaint Regarding Design-Build Firm Solicitation17

Investigation of Flooding on Okeechobee Ranch.....18

Investigation of Hiring of an Undocumented Foreigner Worker.....19

Investigation of a Flooding in Daniella Springs19

Investigation of IRL License Tag Invoices.....20

Investigation of Flooding in Palm Beach Plantation21

Investigation of Executive Director Actions Regarding Billboard Contracts22

Investigation of Former Employee Complaint Alleging
Improprieties Regarding FEMA Funds24

Investigation of Whistle-Blower Complaint Regarding
RFQ for Emergency Debris Removal.....25

OTHER PROJECTS 27

Administrative Projects.....27

Peer Review27

SPECIAL RECOGNITIONS.....27

Association of Local Government Auditors Knighton Award28

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, 2013.

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.

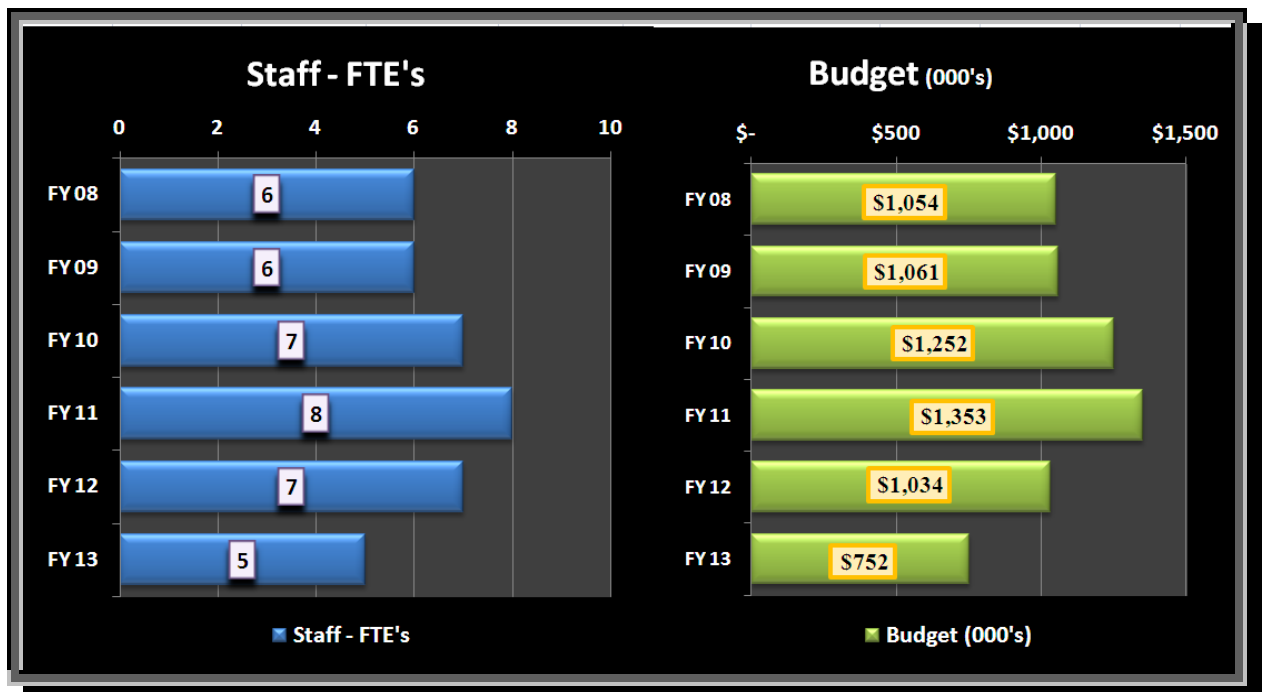
Pursuant to Sections 112.3187 through 112.31895 and Section 20.055, Florida Statutes, the Inspector General is also responsible for investigating Whistle-Blower Act complaints brought by District employees, former employees, agents, contractors, or citizens.

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</i> |
| Lead Consulting Auditor | <i>Certified Internal Auditor</i> |
| Chief Investigator | <i>Certified Public Accountant</i> <i>Certified Fraud Examiner</i> <i>Certified Inspector General Investigator</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. This amount was approximately \$157,000 for FY 2013.

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 2013 the staff received training in such topics as:

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

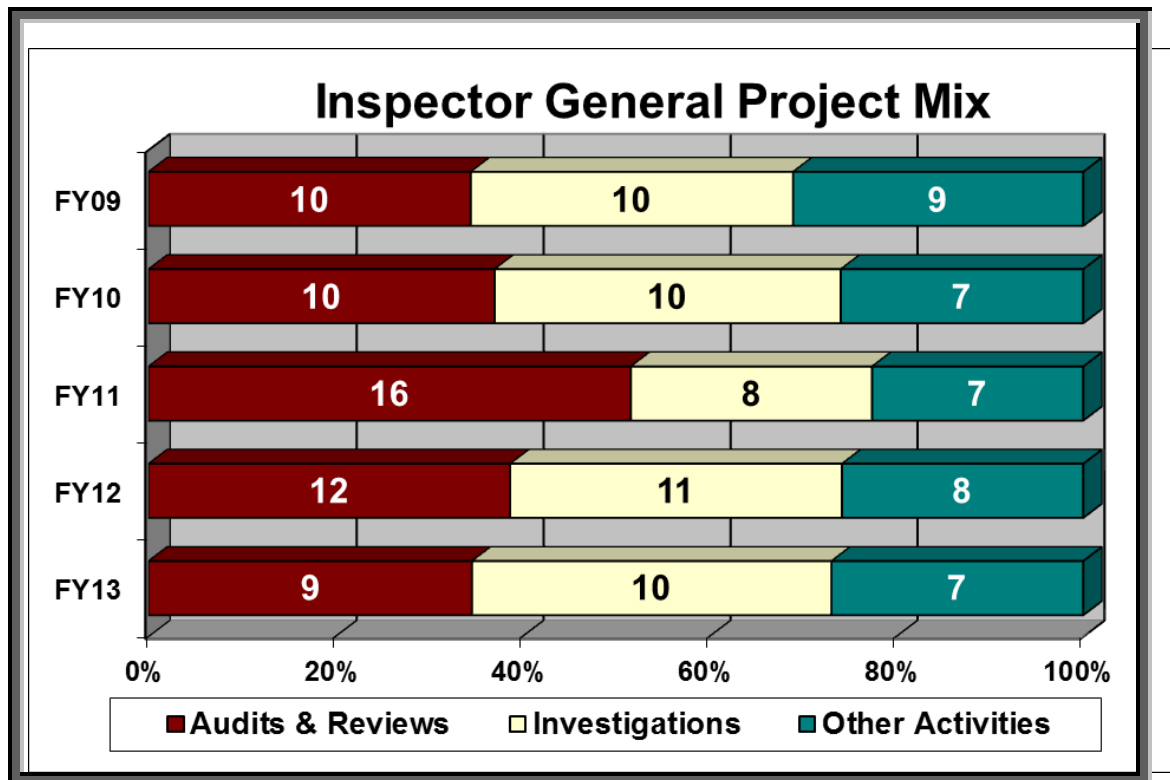
Professional development is provided through affiliations with several professional organizations, including the following:

- 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 advice in the development of performance measurements, standards, and procedures in assessing District program risks.

The number of projects completed in FY 2013 compared to previous fiscal years is illustrated in the following graph:



AUDITS & REVIEWS

In FY 2013, the Inspector General's Office focused on performance auditing and completed nine audits and review projects. Performance audits include comments on economy & efficiency, program compliance, and results. A summary of each report follows.

Audit of CERP Cost Share Status


Project No. 11-14

The overall objectives of this audit were to examine the CERP Cost-Share Balance Model to determine its sufficiency as an effective tool to manage and monitor the 50/50 cost share status; and to review CERP design, programmatic, construction, and land acquisition costs to determine whether the current process effectively captures all eligible CERP costs. Specifically, the audit scope included the following:

- Verified the numbers in the CERP Cost-Share Balance Model to determine that the amounts can be traced back to the District's financial systems, (i.e., SAP and the former LGFS system);
- Reviewed and documented the process for capturing programmatic, design, and construction costs;
- Reviewed and documented the process for capturing land costs to ensure that all eligible parcels are captured and that the costs are supportable by the District's information systems (SAP and IRIS); and,
- Determined that an adequate audit trail exists to support the costs.

Overall, our examination disclosed that the District has developed a Cost-Share Balance Model that appears to be sufficient and effective as a tool to manage and monitor the 50/50 cost share status between the District and the Corps. We also found while verifying the numbers in the cost-share model, that there were differences between the model spreadsheets and the Corps' CERP Summary and Annual Expenditures Report spreadsheets. We also noted that certain future anticipated expenditures for land acquisition and relocations are included in historical costs for the District's credit. This includes \$28,300,000 for land to be purchased and \$45,200,000 for future relocation costs

for the Indian River Lagoon project. Subsequent to the date of the Baseline Master spreadsheet, approximately \$3,900,000 has been expended by the District for relocations, reducing this amount to \$41,300,000. Thus, \$69,600,000 was included on the District's side of the cost share balance calculation for land that has not yet been purchased and the estimated cost of relocations that have not been completed. However, it should be noted that the estimated value of land interests and relocations to be provided during the period of construction may be included in the annual cost-share balance monitoring review in accordance with the Master Agreement.

| Cost-Sharing | Agreement | Activity | Eligible Projects | Eligible Costs - 50/50 | |
|--|-------------------------|------------------|---|--|---|
| | | | |  | |
| | | | | Non-Federal | Federal |
| Shared Across Design & Authorized Projects | Design | Program & Design | All Projects – Authorized & Unauthorized | <ul style="list-style-type: none"> • Expenditures – Approved & not yet approved • Contractual obligations -not yet expended | <ul style="list-style-type: none"> • Expenditures • Contractual obligations- not yet expended |
| | Master Agreement & PPAs | Construction | Authorized Projects Only | <ul style="list-style-type: none"> • Expenditures Approved & not yet approved • Contractual obligation -not yet expended | <ul style="list-style-type: none"> • Expenditures • Contractual obligations- not yet expended |
| | | Land | Authorized Projects Only | <ul style="list-style-type: none"> • Estimated value of land interests – Approved & Not yet approved • Future Land Purchases -Estimated value of land interests to be provided during period of construction | <ul style="list-style-type: none"> • District Land Purchases with Federal Grants Funds - Actual costs paid by Federal government • Estimated value of land interests - provided by Federal agency |
| | | Cash | All Projects | <ul style="list-style-type: none"> • Cash Contributions – if needed to balance cost-share annually | Cash Reimbursement - upon completion of entire CERP program if necessary to balance cost-share. |

We also found that the processes for capturing and reporting design, programmatic, construction and land acquisition costs were sufficient. The audit trails and supporting documentation were, on the whole, adequate. We also found, however, follow up was needed on \$2,011,000 of design costs previously disallowed for cost share credit by the Corps, but appear to be eligible expenditures.

We were able to trace the land acquisition costs listed on the District's Land Resources Bureau's tract sheet to supporting documentation; however, we found that staff costs indicated on the tract sheets do not reflect the actual staff costs. Specifically our review of 34 tract sheets, revealed that 22 of 34 (65%) of the sheets did not reflect updated staff costs and needed to be updated to reflect actual staff costs incurred by the District to acquire CERP lands. As a result, the approximate \$70.8 million in associated cost listed on the *Summary of Lands Acquired under CERP Program - Purchase Price and Associated Costs* was understated. However, we could not determine how much it was understated due to the large number of tracts.

Audit of Contract Monitoring ***Project No. 12-29***

The objectives of this audit focused on determining whether the District's contract monitoring process is adequate. Overall, we found that the District's contract monitoring process is sufficient. Further, we concluded that the progress payments for construction contracts were sufficiently substantiated.



Before Construction



After Construction

We also reviewed 43 payments made against the 12 non-construction contracts/work orders and concluded that most of the payments were sufficiently substantiated, however, we noted issues with 9 of the 43 payments. Specifically, the 43 payments included five payments made to a contractor that was billing the District \$2.00 more per hour for laborer services than the contracted rate and District staff did not detect the discrepancy. As a result, we reviewed all payments made on the contact. We noted that the billing discrepancy began at the start of the contract and during the period October 2011 to September 2012 the District overpaid the contractor a total of \$97,371. Further, our review of two other payments disclosed that another contractor overcharged the District \$1,315 for herbicides. We also noted another two payments where there was insufficient documentation to adequately support payment for consultant inspection services totaling \$3,556.

Our audit also revealed that the District has to reimburse a contractor \$3,829 for sales tax on herbicides provided by the contractor to treat nuisance vegetation. The contractor invoiced the District for the cost of herbicides but not for the sales taxes. Based on Florida Statutes and tax regulations, the District is responsible for paying the sales taxes on the herbicides provided by the contractor.

We concluded that construction managers need to improve their understanding of the general terms and conditions detailed in construction contracts relating to change order costs and carefully review the itemized costs provided by contractors. Specifically, we reviewed four change orders and found that in all four instances the District paid for costs clearly indicated in the general terms and conditions as non-allowable and certain costs that should have been questioned and disallowed. The District's construction contracts' general terms and conditions specify that the District will pay for the cost for certain items; however, it will not pay a contractor's or subcontractor's fee (mark-up) for the items. For example, the District will not pay a fee on equipment, sales tax, and fuel. We found that the change order costs consistently included fees on non-allowable items and identified \$37,988 in change order costs for non-allowable costs.

Audit of Grants Monitoring
Project No. 12-30

The objective of this audit was to determine that the District's grant monitoring process is sufficient to ensure compliance with grant agreement terms and conditions and fulfillment of contractual obligations. The scope of our audit included an analysis of monitoring activities for fourteen grants with a value of \$10.5 million. These grants were judgmentally selected from 180 open and closed grant agreements with expiration dates after October 1, 2010, and included agreements with federal and state governments, cities, counties, utilities, special districts, and not-for-profits within District boundaries valued at \$55 million.

Overall, District project oversight staff was diligent in ensuring grantee compliance with agreement terms and conditions. Our review of selected grant agreements revealed that grantees complied with contract terms and conditions. The District has procedures for grants where the District is grantee; however, we recommend updating the procedures to add a section where the District is the grantor.

We also found that improvements to the grant contracting process could strengthen grantee compliance with agreement terms and conditions. We noted one agreement that was difficult to monitor due to the inherent limitations in verifying completion of the required deliverables. In these situations, we recommend using alternative contracting methods, such as cost reimbursement.

Analysis of Computer & Equipment Replacement
Project No. 12-34

Our Office conducted an analysis of the District's computer and costs. The Office Equipment analysis focuses primarily on copy machines and network printers, which entails a majority of the costs in this category. Desktop computers, copy machines, and network printers are procured under lease agreement. Our objectives focused on comparing the District's leasing cost to the cost for the District to purchase, service, and supply the equipment directly in order to determine if such method would be more cost efficient.

The District leases approximately 2,500 desktop/laptop computers on a 36 month replacement cycle at a monthly cost of approximately \$93,000 or \$1,116,000 annually. Our analysis focused on addressing the following two possibilities as to whether they would result in cost savings:

- purchasing the computers instead of leasing, and/or
- extending the replacement cycle beyond three years.

Our analysis revealed that the cost of leasing compared to buying personal computers over a three year replacement cycle is minimal – assuming that similar pricing can be obtained for future lease contracts. Extending the replacement cycle from three to five or six years provides some savings; however, the savings is minimal. Further, our analysis does not attempt to quantify the employee productivity factors due to equipment down time and the limitations of older technology. Continuing with leasing appears to be the favorable method for providing desktop computing for District staff.

Our analysis of copy machines showed the total five-year cost to own of \$1,705,447 compared to total leasing cost of \$1,695,500 for a difference of only about \$12,000 (0.70%). Thus, the cost of both methods is virtually equal. Several factors influencing this outcome are as follows:

- Our research revealed that a five year old copy machine has very little residual value. The supply of used copy machines is very large since many large corporations lease copiers similar to the District's leasing contract.
- Approximately two-thirds of the total cost is for ongoing maintenance and supplies – leaving only about one-third of the cost being the up-front capital outlay to purchase the machines.

Considering many other advantages of leasing, continuing a price-per-page lease appears to be the favorable option – provided a new contract could be executed at the same time, or better, prices.

Audit of Employee Time Coding Process
Project No. 13-13

The objectives of this audit primarily focused on determining whether there is an adequate process in place to ensure that employees' time charges reflect the activities they performed. Overall, we found that employees working on project related activities are charging their time to network and activity codes when completing their bi-weekly timesheets.

However, we found that further efforts are required to ensure that employees in certain areas of the District accurately charge their time to reflect the activities they work on. We found that some employees who primarily work on project related activities did not always charge their time to project network and activity codes as required. In addition, employees throughout different areas of the District who assist on projects did not always charge their time to project activities.

We also analyzed time charges of employees assigned to four sections across the District that assist with project activities to determine whether employees were charging time to projects when they worked on such activities and whether charges to cost centers were justifiable. Overall, the section leaders concluded that their staff's time charges were reasonable based on their overall job responsibilities. However, during our discussions with project managers we concluded that there were a few instances where employees of these sections worked on their projects and did not charge their time to project related activities as required. Thus, this appears to be an issue that requires section leaders to review timesheets more closely to ensure that time charges reflects the activities worked.

There are several effects if employees' time charges do not reflect the activities they actually worked on. For example, for cost share projects with the Army Corps of Engineers, the District may be eligible to receive in-kind credit for internal labor hours incurred for certain CERP related activities (for example, design and engineering costs) and credit can only be requested if the internal labor is charged to activities/orders. In addition, accurate time charges are essential for proper resource planning, budgeting, and performance evaluation. Correct time charges also indicate adequate controls over time and that supervisors responsible for approving time are aware of their staff's activities.

Further, the District does not currently have any formal change control process to document and justify changes to project data in Project System. Specifically, there is no structured process to ensure that changes to project information such as changes to a project's performance measurement baseline scope, schedule, resources, and costs are justified and authorized by designated staff. As a result, certain project data contained in project performance reports presented to management may not be representative of a project's true performance.

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 2013. Further, no recommendations fell into the "Not Implemented" category during the year. The following sections contain a brief summary of each quarterly follow-up report.

Follow-Up Audit for 7/1/12 – 9/30/12 Project No. 13-01

This report on the implementation status of audit recommendations was for the period July 1, 2012 through September 30, 2012 (the "Fourth Quarter of FY 2012

Reporting Period”). As of June 30, 2012 there were ten (10) recommendations that were not yet Fully Implemented, consisting of five (5) that were In-Process and five (5) that were Partially Implemented. During the Fourth Quarter of FY2012 Reporting Period, three (3) of these recommendations were Fully Implemented.

During the Fourth Quarter of FY2012 Reporting Period, eighteen (18) recommendations were added from two (2) newly issued reports. As of September 30, 2012, seven (7) of these recommendations had been Fully Implemented. In total from all reports, eighteen (18) recommendations were In-Process of being implemented or had been Partially Implemented as of September 30, 2012.

***Follow-Up Audit for 10/1/12 – 12/31/12
Project No. 13-12***

This report on the implementation status of audit recommendations was for the period October 1, 2012 through December 31, 2012 (the “First Quarter Reporting Period”). As of September 30, 2012, eighteen (18) recommendations were not yet Fully Implemented, consisting of sixteen (16) that were In-Process and two (2) that were Partially Implemented. During the First Quarter Reporting Period three (3) of these recommendations were Fully Implemented.

During the Reporting Period, four (4) recommendations were added from one (1) newly issued report. As of December 31, 2012, eighteen (18) recommendations were In-Process of being implemented or had been Partially Implemented.

***Follow-Up Audit for 1/1/13 – 3/31/13
Project No. 13-15***

This report on the implementation status of audit recommendations was for the period January 1, 2013 through March 31, 2013 (the “Second Quarter Reporting Period”). As of December 31, 2012, eighteen (18) recommendations were not yet Fully Implemented, consisting of sixteen (16) that were In-Process and two (2) that were

Partially Implemented. During the Second Quarter Reporting Period, four (4) of these recommendations were Fully Implemented.

During the Reporting Period, no recommendations were added from newly issued reports. As of March 31, 2013, fourteen (14) recommendations were In-Process of being implemented or had been Partially Implemented.

***Follow-Up Audit for 4/1/13 – 6/30/13
Project No. 13-21***

This report on the implementation status of audit recommendations was for the period April 1, 2013 through June 30, 2012 (the “Third Quarter Reporting Period”). As of March 31, 2013, 14 recommendations were not yet Fully Implemented, consisting of 12 that were In-Process and two (2) that were Partially Implemented. During the Third Quarter Reporting Period, seven (7) of these recommendations were fully implemented.

During the Reporting Period, no recommendations were added from newly issued reports. As of March 31, 2013, seven (7) recommendations were In-Process of being implemented or had been Partially Implemented.

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 and other State agencies Inspectors General also referred certain cases to our office. During FY 2013 we received a total of 10 complaints from various sources. Investigations were opened for eight (8) of these complaints. 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 two (2) investigations that were commenced in the prior year that were still in progress at the beginning of FY 2013. Thus, in total, we issued 10 investigation reports during FY 2013. A short summary of each investigation follows.

Investigation of Complaint Regarding Easement Access to Pal Mar Area *Project 12-25*

We investigated a complaint that we received from a landowner concerning a permit that he is required to obtain in order to access his property in the Pal Mar area using his personal vehicle. The complainant claims that he should not have to obtain an annual special use permit from Florida Fish and Wildlife Conservation Commission (FWC) to drive to his 1¼ acre parcel in the Pal Mar section of Martin County because of a general public easement on the access route to his property, which crosses the John C. and Mariana Jones/Hungryland Wildlife Area (WEA). The FWC manages this property under a agreement with the District.

FWC requires a special use permit to allow certain activities on WEAs that would normally be prohibited. The WEA is designated as a wildlife and environmental area that FWC would normally prohibit vehicle use. However, in order to allow Pal Mar landowner's access to their land using personal vehicles, FWC requires a special use permit. The access route used by the complainant and other Pal Mar landowners to drive to their property is not open to the general public by vehicle and without a permit an individual would be subject to a citation.

We determined that the prerequisite requiring the complainant to obtain a special use permit from FWC to access his property in Pal Mar using his personal vehicle did not appear to interfere unreasonably with his right of passage. The permit is very easy to obtain and the FWC Regional Director added that there is no cost. Accordingly, the complainant should continue to obtain the annual special use permit required by FWC.

We conclude that this matter was a difference of opinion regarding legal property rights and recommend that if the complainant desires to pursue this matter further he should pursue it through a legal dispute resolution process.

**Investigation of Complaint Regarding
Design-Build Firm Solicitation
*Project 12-27***

We received a complaint through the Executive Office, alleging that the District's procurement process for the solicitation of firms to design-build the L-8 Reservoir, Pump Station and Inflow Structure (L-8 project) was not consistent with Florida Statutes and the District's Procurement Policy. The complainant is a Florida based company that is veteran and minority owned with regional capability for providing engineering, design/build, and program/project management services. The company is a District certified Small Business Enterprise (SBE).

The complainant questioned the process used by the Procurement Bureau to solicit for design-build firms and whether it complied with the Consultants' Competitive Negotiation Act. He identified inconsistencies with the District's SBE program and the certified Minority Business Enterprise (MBE) requirement in CCNA, *Competitive Selection*, Section 287.055(4)(b), Florida Statutes. According to the complainant, this section requires the District to select a minimum of three firms deemed most qualified by considering such factors as "the ability of professional personnel; whether a firm is a certified minority business enterprise; past performance; willingness to meet time and budget requirements; location; recent, current, and projected workloads of the firms; and the volume of work previously awarded to each firm by the agency, with the object of effecting an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firms."

In the complainant's viewpoint, because the District does not have a certified MBE program, this factor was not considered when determining the most qualified firm.

We conclude that the District complied with the Procurement Policy and CCNA for the L-8 project solicitation. While the complainant believed that a better process would have been to consider SBE participation at the RFQ phase, our detailed review of the two-step solicitation process used to contract with a firm to design and build the L-8 project indicated a transparent and fair process. We noted that the Procurement Bureau competitively solicited the work and firm qualifications and experience were evaluated by independent evaluation committees.

We found that the District complied with the spirit and intent of the certified minority business condition in the CCNA. The crux of programs for disadvantaged, minority and small businesses is to support and provide opportunities for such businesses. The District accomplishes this objective through its SBE program. In fact, through its SBE incentive program, the firm awarded the L-8 project work committed to 25% SBE participation or more than \$15 million.

Investigation of Flooding on Okeechobee Ranch ***Project No. 13-03***

We received a complaint from a landowner who owns an approximately 500 acre ranch in Okeechobee County. The complainant contends that the surface water management works constructed by adjacent landowners interrupted the natural flow of water, which resulted in the flooding of large sections of his ranch while neighboring properties appeared relatively dry. He claimed that a dirt access road constructed by a neighboring landowner, also functions as a levee and causes water to stagnate on the southeast quadrant of his ranch that would ordinarily drain off. He also pointed out that no culverts run underneath the dirt access road and the levee prevents his ranch from naturally draining to Fish Slough. He believes that the installation of culverts under the dirt access road would relieve disproportionate flooding on his ranch. In addition, widening and leveling some of the existing culverts leading from the ranch to the Coquina water management system would also improve drainage on his ranch.

We found that the dirt access road, which is used for access to the neighboring ranch is permitted. We also found that the complainant had an opportunity to dispute the District's approval of adjacent landowner surface water management systems, which included the dirt access road, but elected to not dispute it.

The complainant would have to work through the District's permit process and also obtain the cooperation of his neighboring landowners to modify their permitted water management system works in order to improve drainage on his ranch. Moreover, any modifications that might be contemplated must consider potential adverse impacts to the conservation easement.

Investigation of the Hiring of an Undocumented Foreigner Worker *Report No. 13-06*

We received a complaint alleging that a certain employee violated conditions of her H1B Visa in October 2007. The complainant claims that starting in February 2010 he made numerous requests of the Human Resources Bureau (HR Bureau) to conduct a H1B Visa verification of such employee, who was a contract worker at the time. He contends that no H1B Visa verification was ever conducted but, had it been done, the alleged H1B Visa violations would have been uncovered.

The allegation that the employee violated the terms of her H1B Visa was unfounded. Our examination indicated that the HR Bureau obtained the appropriate documents to verify that the employee was eligible to work and live in the United States while employed with the District.

Investigation of Flooding in Daniella Springs *Report No. 13-07*

We received a request to investigate a permit modification issued to Paragon Homes of Coral Springs, LLC, for changes made to its Daniela Springs project. The complainant's home is in close proximity to the Daniela Springs project.

The complainants believed that this project would overwhelm the existing drainage system and result in flooding. According to the complainants, the permit letter modification was signed and approved two business days after it was posted on the South Florida Water Management District's ePermitting web site, which in their opinion, was not sufficient time for the District to conduct a proper permit review and not enough time for their review as an interested party.

We responded to the complainants through an e-mail, to inform them that according to the Notice of Rights, which was included in the permit application and backup materials, a person whose substantial interest may be affected by the District action has the right to request an administrative hearing and shall file a petition with the District Clerk within 21 days of receipt of the written notice of the decision. We found that the complainants did not file a petition within the established timeline.

Subsequently, the complainants asked our office to provide a written report of the results of our investigation into the District's process used to issue the permit modification. The complainants contended that District's permitting procedures were not followed for the issuance of this permit modification to Paragon Homes of Coral Springs, LLC, and that as an interested party they were not given enough time to conduct a complete review of the permit modification.

We found that the allegation contending that District permitting procedures were not adhered to is unfounded. Our review of the process indicated that the District complied with applicable rules and regulations and that the complainants were informed of their right to contest the permit letter modification but elected not to pursue this opportunity.

Investigation of IRL License Tag Invoices ***Report No. 13-08***

We conducted an investigation into invoice irregularities related to the District's funding agreements with a not-for-profit tax exempt organization.

In April 2012, the organization entered into three funding agreements with the District totaling \$88,020 to assess, chart, schedule and remove marine debris including

derelict fishing gear and marine trash from the Indian River Lagoon and the Loxahatchee River habitats in Palm Beach, Martin and St. Lucie counties.

Anecdotal and other media evidence appears to indicate that the organization directed and managed cleanup activities in the St. Lucie County section of the Indian River Lagoon during the funding agreements period. We found no substantive evidence of any debris removal in Martin or Palm Beach Counties. Nevertheless, the organizations records were inadequate to provide verifiable evidence to substantiate the pounds of debris removed and the limited documentation provided appears to be fabricated. Thus, we could not determine the quantity of debris that was removed and consequently could not determine the amount of payment owed to the organization, if any.

Investigation of Flooding in Palm Beach Plantation ***Report No. 13-09***

We received a complaint from a homeowner regarding flooding in the Diamond “C” Ranch community from Hurricane Isaac. According to the complainant, the community’s drainage is limited to one 18 inch pipe that discharges into the C-51 Canal. In his opinion, the drainage system is inadequate and should not have been approved and permitted. He believes that the Palm Beach County government; the Lake Worth Drainage District and/or South Florida Water Management District were negligent for approving and permitting the system and should be financially responsible for increasing system drainage capacity.

The allegation of District negligence related to Diamond “C” Ranch community flooding from Hurricane Isaac is unfounded. We found no evidence indicating District culpability in Diamond “C” Ranch community drainage issues. As such, we also found no basis for District responsibility to pay for Diamond “C” Ranch’s infrastructure improvements. The PB Plantation HOA has applied for a permit modification with the District to improve drainage.

**Investigation of Executive Director
Actions Regarding Billboard Contracts
Report No. 13-10**

We received a request from the South Florida Water Management District's Executive Director, Melissa Meeker (Ms. Meeker) to conduct an investigation into the Outdoor Public Information System Request for Proposal solicitation (OPIS solicitation). An article in the Palm Beach Post and an online media site questioned the Executive Director's ethics related to the District's OPIS solicitation and implied that she was inappropriately involved in the selection of Florida Communication Advisors, LLC (FCA) as one of the two OPIS management company providers. The Palm Beach Post reported that Ms. Meeker had a previous business relationship with Harkley Thornton, a former District Governing Board member and a current officer of FCA. According to the Florida Department of State filings, Ms. Meeker and Mr. Thornton were business associates in Hesperides Federal LLC from August 20, 2007 through April 5, 2011, when the company was voluntarily dissolved. Shortly thereafter, Ms. Meeker was appointed as the District Executive Director on June 11, 2011. The Palm Beach Post article also reported that Ms. Meeker and Mr. Thornton's Governing Board appointments overlapped during Fiscal Years 2007-2008. The Palm Beach Post inferred that Mr. Thornton's prior business relationship with the Executive Director and their concurrent Governing Board service was beneficial to FCA and led to the company's selection as an OPIS vendor.

Recently passed legislation authorized water management districts to build and maintain public information systems on their property. The District viewed this as an opportunity to obtain funding for its land management program and issued a Request for Proposal titled, *Outdoor Public Information System*, on October 1, 2012 to solicit technical and cost proposals from qualified respondents to implement and operate public information systems. The OPIS solicitation was advertised on the District's website and other published media. Five respondents remitted proposals, of which two were selected for negotiation: the Lamar Company, LLC; and Florida Communication Advisors, LLC. On December 28, 2012, the Lamar Company, LLC formally protested the District intent to negotiate with FCA, but seven days later on January 4, 2013, voluntarily dismissed its protest.

On February 5, 2013, the District decided to reject all proposals related to the OPIS solicitation. Up to that point, the District had evaluated the respondent's written proposals and oral presentations and was negotiating with Lamar Company, LLC and Florida Communication Advisors, LLC to build and maintain an OPIS on District property before deciding to reject all proposals. Pursuant to Rule 40E-7.30, Florida Administrative Code, the District reserves the right to reject all proposals. However, since our objective was to examine the procurement process related to the OPIS solicitation and determine whether the Executive Director or any other District staff violated State of Florida or District Code of Ethics, we completed our investigation of the process, even though all proposals were rejected and no award was made.

We conclude that the allegation inferring that the District's Executive Director misused her position and attempted to influence vendor selection is unfounded. We found no evidence of Executive Director collusion with any District staff or external parties or coercion regarding the OPIS solicitation. Further, our review of the OPIS procurement documents indicated staff complied with prescribed policies and procedures. Accordingly, we found no violations of any State of Florida or District Code of Ethics by either Ms. Meeker or other District staff.

We also found no ethics violations relating to the Executive Director's previous business relationship with Mr. Thornton in a company named Hesperides Federal LLC, which was voluntarily dissolved on April 5, 2011, approximately 1½ years before the OPIS solicitation. We found that this former business relationship had no influence on vendor ranking or selection for the OPIS solicitation. Our review of the written and oral presentation scoring by Technical Evaluation Committee members found nothing unusual. The ranking of the two top-rated respondents, Lamar Company, LLC and FCA, remained unchanged for both the written proposal and oral presentation evaluations, although the scores were only one point apart after evaluation of the orals. Because of the close scores, Procurement staff in collaboration with the Project Manager, recommended awards to both contractors, which is not unusual or unprecedented under such circumstances.

**Investigation of Former Employee Complaint Alleging
Improprieties Regarding FEMA Funds**
Report No. 13-14

We received a complaint 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 was previously employed by the District for approximately two years as a Deputy Engineering Department Director. Based on the District’s termination letter, he was dismissed for unprofessional conduct on September 15, 2008.

He alleged that the District fraudulently claimed Federal Emergency Management Agency (FEMA) public assistance funding to repair damage to its flood control facilities from Hurricanes Charley, Frances, Jeanne and Wilma that in his opinion were ineligible for assistance. In total, the Complainant alleged that the District defrauded the federal government of approximately \$25 million and the State of Florida \$1.2 million, which represents the local match of the FEMA grant. The complainant filed a Qui Tam¹ suit with the United States Attorney Office but the federal court granted the District’s motion to dismiss.

The complainant contends that he is entitled to Whistle-blower protection for reporting what he described as fraudulent claims and intentional misrepresentations made by the District, which eventually led to retaliation and his wrongful termination. However, the complainant waited approximately 4½ years to report this alleged fraud to our office. As a result of the undue period of time that has elapsed, we question the complainant’s motives but conducted an investigation of the complainant’s Whistle-blower and fraud allegations.

We found the complainant’s allegation that the District engaged in fraud related to FEMA public assistance funding requests is unfounded. We found no intentional misrepresentations by District staff and found no evidence that the District engaged in deception or other unfair means related to the application process for FEMA public assistance and damage eligibility. The FEMA public assistance funding process was a collaborative effort. District and FEMA staff had numerous meetings to discuss public

¹ A writ whereby a private individual assists a prosecution and can receive all or part of any penalty imposed.

assistance eligibility issues and went to District sites together to inspect and assess damage.

We also found that the Complainant is not eligible for Whistle-blower Act protection. The Complainant was required to disclose the information in a written signed Whistle-blower complaint with the appropriate authorities within 60 days after the action prohibited (e.g., dismissal or discipline). However, the complainant filed the Whistle-blower complaint with the Governor's Office on March 3, 2013, approximately 4½ years after the date of his dismissal. Moreover, the allegation of District fraud is without merit.

Further, we found that the complainant's termination was not due to a retaliatory motive by management. The complainant has also filed a similar Whistle-blower action in Florida state court.

**Whistle-Blower Complaint Regarding RFQ for
Emergency Debris Removal
*Report No. 13-18***

We received a complaint alleging that a construction company, remitted a proposal that contained intentional material misrepresentations in response to a District solicitation (Request for Qualifications No.6000000527, titled *Pre-Qualified Emergency Vendor List*) for prequalifying contractors to provide emergency response debris clearance services.

The solicitation requested contractors to provide equipment lists that would be available to the District for emergency debris removal and contractor experience information. The proposal remitted by the company indicated that they owned 215 pieces of various types of equipment including dump trucks. In addition, they claimed in the proposal that trucking contractors and other vendors would supplement its fleet, if necessary. However, according to the complainant, who was a former employee of the company, the company owned only one truck at the time the company proposed on the solicitation. He stated that many of the company's trucks that were included in the proposal had been sold at auction well before the solicitation.

We confirmed through the Richie Brothers Auction website that the company sold a significant portion of its dump truck fleet at the August 2012 and February 2013

auctions, which were prior to remitting its proposal to the District's solicitation. The company's President also acknowledged that the proposal's equipment listing included dump trucks that were sold at auction, which he asserted was caused by mistakes made under the pressure of meeting the RFQ deadline, however our discussion with the complainant revealed a significantly different account. The complainant contends that the company knowingly misrepresented its equipment fleet in the proposal. He maintains that the company's President was fully aware that much of the equipment listed in the proposal was sold at auction and he met with the company's management to discourage them from remitting the proposal.

The company's President stated that he is confident that the trucking contractor currently providing all of the company's hauling needs would also provide the necessary resources for emergency debris removal services in the future. The trucking contractor has provided trucking resources to the company in the past, even during major storm events. Our review of the trucking contractor's website indicated that the company also provides debris removal services more specifically; the company manages the transportation logistics of debris removal operations.

We found the complainant was credible and the information he provided appears accurate. The company's disposal of most of its dump truck fleet prior to the solicitation's due date was a strategic business decision that would have been communicated companywide including the department that prepared the proposal. Accordingly, we find it highly unlikely that the misrepresented and overstated equipment listing in the company proposal was unintentional.

OTHER PROJECTS

Administrative Projects

During FY 2013 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, 2012.
- The Inspector General serviced as a team leader in performing peer review for the City of West Palm Beach, Florida, Comptroller's Audit Division. The review was performed under the Association of Local Government Auditor Peer Review Program.
- Coordinated an audit performed by the Florida Auditor General's Office

Peer Review

The peer review for our Office was completed on March 28, 2013 covering the three year period ended December 31, 2012. Florida State statutes require inspector generals to perform audits in accordance with *Government Auditing Standards* promulgated by the Comptroller General of the United States. One of those standards requires an external independent peer review once every three years to assess the audit organization's conformance with applicable professional standards.

The review was performed through the Association of Local Government Auditors peer review program. Our peer review team members were; Craig Schroder, Senior Auditor, City of Charlotte, North Carolina; and Vivian Walker, Senior Auditor, City of Tampa, Florida.

The peer review process can result in one of three levels of compliance: Full, Satisfactory, or Noncompliance. Our Office received a Full Compliance report, which

means that in the reviewers opinion our quality control system was suitably designed and operating effectively to provide reasonable assurance of compliance with applicable *Government Auditing Standards*.

SPECIAL RECOGNITIONS

Association of Local Government Auditors Knighton Award

The Association of Local Government Auditors (ALGA) Awards Committee selected our *Audit of Surplus Land* as the Bronze winner for the 2012 Knighton Award in the small audit organization category. The award recognizes audits that demonstrated that they are among the best of local government audit organizations.