

STATE OF FLORIDA AUDITOR GENERAL

Operational Audit

Report No. 2019-011
August 2018

**HEALTH CARE DISTRICT OF
PALM BEACH COUNTY**

Prior Audit Follow Up



Sherrill F. Norman, CPA
Auditor General

Board of Commissioners and Chief Executive Officer

During the period May 2016 through September 2017, Darcy Davis served as Chief Executive Officer of the Health Care District of Palm Beach County and the following individuals served as the District's Board of Commissioners:

Philip H. Ward III, Chair
Brian R. Lohmann, Vice Chair
Nancy C. Banner, Esq., Secretary
Alina Alonso, MD
Leslie B. Daniels
Angeleta Gray through September 26, 2017^a
Carol A. Roberts through September 30, 2016^b
Sean O'Bannon from December 14, 2016

^a The Commissioner position was vacant from September 27, 2017, through September 30, 2017.

^b The Commissioner position was vacant from October 1, 2016, through December 13, 2016.

The team leader was Stefanie Johnson, CPA, and the audit was supervised by Derek H. Noonan, CPA.

Please address inquiries regarding this report to Michael J. Gomez, CPA, Audit Manager, by e-mail at mikegomez@aud.state.fl.us or by telephone at (850) 412-2881.

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HEALTH CARE DISTRICT OF PALM BEACH COUNTY

Prior Audit Follow Up

SUMMARY

This operational audit of the Health Care District of Palm Beach County (District) focused on the progress the District made, or was in the process of making, in addressing the findings and recommendations in our operational audit report No. 2016-189. Our audit disclosed that the District corrected Finding 1, partially corrected Findings 3 and 4, and did not correct Finding 2.

BACKGROUND

The Health Care District of Palm Beach County (District) was established as an independent special taxing district by referendum originally approved by the voters of Palm Beach County (County) on November 8, 1988, and subsequently codified in the Palm Beach County Health Care Act.¹ The District is governed by a seven-member Board of Commissioners (Board). Three members are appointed by the Palm Beach County Board of County Commissioners, three are appointed by the Governor, and one member is the Director of the State's Department of Health, Palm Beach County Health Department.

Pursuant to Section 11.45(3)(a), Florida Statutes, we conducted an operational audit of the District for the period October 2013 through March 2015, and selected actions taken prior and subsequent thereto, and issued our report No. 2016-189 in April 2016. In accordance with State law,² we performed follow-up procedures, as deemed necessary, to determine the District's progress in addressing the findings and recommendations contained within that report.

FINDINGS AND RECOMMENDATIONS

Finding 1: Land Acquisition

Previously Reported

The District needs to establish policies and procedures to ensure that land acquisitions are made at the best value for the District.

We recommended that the District establish policies and procedures to ensure that land acquisitions are made at the best value for the District. We also recommended that such policies and procedures prohibit individuals with ownership interests in any property being considered for acquisition from participating in the acquisition decision-making process, require documented cost-benefit analyses to evaluate the District's land acquisition options, and require independent site appraisals for consideration before land acquisitions are made.

¹ Chapter 2003-326, Laws of Florida.

² Section 11.45(2)(j), Florida Statutes.

Results of Follow-Up Procedures

District actions corrected this finding. Our examination of District records disclosed that the Board approved an updated land acquisition policy in May 2016 that:

- Prohibits individuals with ownership interests in any property being considered to participate in the acquisition decision-making process.
- Requires an appropriate needs study to support the acquisition and evaluation of the District's land acquisition options, taking into account all lead times and existing facilities and their major components.
- Requires consideration of independent site appraisals before land acquisitions are made.

During the period May 2016 through September 2017, the District did not purchase any land.

Finding 2: Audit and Compliance Functions

Previously Reported

The organizational independence of the District's audit and compliance functions could be improved.

We recommended for the District to enhance the organizational independence of the audit and compliance functions by having the Director of Internal Audit (DIA) and the Chief Compliance Officer (CCO) administratively report to, and be evaluated by, the Audit and Compliance Committee or the Board.

Results of Follow-Up Procedures

The District had not corrected this finding. Our examination of District records and discussions with District personnel disclosed that, in February 2017, the District replaced the Audit and Compliance Committee, responsible for oversight of the internal audit and compliance functions, with the Finance and Audit Committee (FAC) and the Quality, Patient Safety, and Compliance Committee (QPSCC). According to District records, FAC responsibilities included monitoring the internal audit function, while QPSCC responsibilities included monitoring Federal, State, and local compliance work plans and working with the CCO to develop effective ongoing training.

In June 2017, based on the results of a consultant study and the District Chief Financial Officer (CFO) *Internal Audit Department Assessment and Recommendation Report*, the FAC Chair decided to outsource the internal audit function. As such, the DIA services were no longer warranted and in February 2018 the Board contracted with an audit firm to perform internal audit services for 3 years at a cost of \$480,000 for the first year with annual 3 percent cost increases for each of next 2 years.

The internal audit services contract requires the audit firm to follow *International Standards for the Professional Practice of Internal Auditing (IIA Standards)* published by The Institute of Internal Auditors. The *IIA Standards* require the top internal audit position to report to a level within the organization that allows the internal audit activity to fulfill its responsibilities without interference in determining the scope of internal auditing, performing work, and communicating results.³ However, the internal audit services contract did not require the audit firm to be free from management interference in determining the scope of internal auditing, performing work, and communicating results as the contract:

³ *IIA Standards*, Section 1110.

- Provided that the audit firm staff would include two full-time staff members who would report to the CFO, who would be subject to internal audit activities.
- Did not prohibit District management from canceling the contract.
- Did not require the FAC to be solely responsible for approval of the internal audit services plan and related scope.

In response to our inquiries, the CFO indicated that the FAC is to approve the services plan and that the services plan scope is to be a collaborative effort between District senior management, the audit firm, and the FAC based upon the internal auditor risk assessment. Notwithstanding, by such collaborative efforts, District management could participate in influencing internal audit services and the services did not appear to be organizationally independent of that influence.

In addition, according to the District organization chart, the CCO reports directly to the CEO and indirectly to the QPSCC. While the Compliance Department is not subject to the *IIA Standards*, it is important for the Compliance Department's monitoring activities to be free from management interference so that the Department can provide objective and unbiased information to the Board. Our inquiries with District personnel disclosed that the CEO oversees the CCO daily activities and is responsible for review and approval of the CCO time sheets, leave requests, travel reimbursements, and purchase requests. Additionally, our examination of the September 2017 CCO performance evaluation disclosed that the CEO performed the evaluation of the CCO. Consequently, responsibilities for monitoring and evaluating CCO activities did not appear to be organizationally independent of those activities.

In response to our inquiries to determine whether the CCO was organizationally independent of the internal audit and compliance functions, District personnel referenced a Federal publication,⁴ which indicated that a compliance officer may report directly to the CEO or the Board but should not report to the CFO or legal counsel. Notwithstanding this reference, requiring the CCO to administratively report to the QPSCC would better demonstrate that the CCO is free from interference when determining the scope of compliance monitoring activities, performing the work, and communicating the work results.

Recommendation: The District should:

- **Amend the internal audit services contract to require the audit staff to administratively report to, and be evaluated by, the FAC or the Board.**
- **Amend the internal audit services contract to specify that only the FAC or the Board has the authority to cancel the contract.**
- **Enhance the organizational independence of the compliance function by requiring the CCO to administratively report to, and be evaluated by, the QPSCC or Board.**

Finding 3: Procurement Procedures

Previously Reported

District procurement procedures could be enhanced.

We recommended that the District enhance procurement procedures by requiring personnel responsible for making procurement decisions to routinely review and consider the information reported on required

⁴ *Measuring Compliance Program Effectiveness: A Resource Guide*, March 27, 2017.

statements of financial interests and completed District Conflict of Interest (COI) Forms. In addition, we recommended that the District seek an advisory opinion from the Florida Commission on Ethics (COE) regarding whether the District violated State law⁵ by paying \$5,000 to a vendor with an uncompensated officer/director who is also a District employee.

Results of Follow-Up Procedures

The District partially corrected this finding. Our examination of District records disclosed that the Board revised the *COI Policy and Procedure* in January 2018 to require the District personnel responsible for adding vendor names to the accounts payable system to review statements of financial interest and District COI Forms for potential conflicts of interest before vendor names are added and purchase orders are initiated.

Although procurement procedures were enhanced, discussions with District personnel disclosed that the District did not seek an advisory opinion from the COE regarding whether the District violated State law by paying \$5,000 to a vendor with an uncompensated officer/director who was also a District employee. According to District personnel, requesting a COE opinion was unnecessary because the employee no longer works for the District. Notwithstanding, seeking an advisory opinion from the Florida Commission on Ethics would provide useful information for handling similar situations in the future.

Recommendation: **We continue to recommend that the District seek an advisory opinion from the COE regarding the \$5,000 payment.**

Finding 4: Helicopter Air Ambulance Services

Previously Reported

To provide for the full recovery of helicopter air ambulance services costs, the District needs to establish and implement cooperative agreements with other applicable government authorities and public and private entities for helicopter services provided outside of Palm Beach County.

We recommended that the District establish cooperative agreements with other government authorities and public and private entities outside Palm Beach County, as contemplated by the Palm Beach County Health Care Act (Act),⁶ to ensure that the costs of flights provided for the benefit of those who do not contribute to the District's operations are fully recovered.

Results of Follow-Up Procedures

The District partially corrected this finding. Our review of District records and discussion with District personnel disclosed that, during the period May 2016 through September 2017, the District attempted to enter cooperative agreements with eight out-of-County governmental entities and one out-of-County private entity. The agreements included provisions to ensure that the costs of flights provided for those

⁵ Section 212.313(3), Florida Statutes.

⁶ Chapter 2003-326, Laws of Florida.

who did not contribute to District operations were fully recovered. Regarding the agreements, District records indicated that personnel at:

- One entity signed and returned the agreement, which commenced July 26, 2017, and automatically renews each year unless either party elects to terminate the agreement.
- Two entities refused to sign the agreements and responded in writing that they would not accept the financial responsibility for uninsured or underinsured patients.
- Six entities failed to respond in writing and, when subsequently contacted, verbally refused to sign an agreement that financially obligated the entities for unpaid patient costs.

According to District records, during the period May 2016 through September 2017, the District provided 38 flights at the request of out-of-County government authorities and public and private entities and issued helicopter service billings totaling \$899,249 for these services. As of January 2018, the District had collected \$267,825 for these billings, reduced billings by \$543,617 for insurance reimbursement limits, wrote off \$66,895 as uncollectible, and was attempting to collect the remaining \$20,912. While the District cannot compel applicable government authorities and public and private entities to enter into cooperative agreements, absent such agreements, there is an increased risk that the District will continue to subsidize the costs of services provided to residents of other counties using District resources, including tax revenues paid by Palm Beach County residents.

Recommendation: *The District should continue efforts to establish cooperative agreements with other government authorities and public and private entities outside Palm Beach County, as contemplated by the Act, to ensure that the costs of flights provided for the benefit of those who do not contribute to District operations are fully recovered. Absent such agreements, the District should seek legislation that requires the appropriate parties to establish cooperative agreements.*

OBJECTIVES, SCOPE, AND METHODOLOGY

Pursuant to Section 11.45(3)(a), Florida Statutes, we conducted an operational audit of the Health Care District of Palm Beach County (District) and issued our report No. 2016-189 in April 2016. Pursuant to Section 11.45(2)(j), Florida Statutes, no later than 18 months after the release of a report on the audit of a local government, we must perform appropriate follow-up procedures as we deem necessary to determine the audited entity's progress in addressing the findings and recommendations contained within our previous report. The objectives of this follow-up audit were to determine the progress the District had made, or was in the process of making, in addressing the findings and recommendations in our report No. 2016-189.

We conducted this follow-up audit from January 2018 to March 2018 in accordance with applicable generally accepted government auditing standards. Those standards require that we plan and perform the follow-up audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

This audit was designed to identify, for those programs, activities, or functions included within the scope of the follow-up audit, weaknesses in management's internal controls; instances of noncompliance with applicable laws, rules, regulations, contracts, grant agreements, and other guidelines; and instances of inefficient or ineffective operational policies, procedures, or practices. The focus of this audit was to

identify problems so that they may be corrected in such a way as to improve government accountability and efficiency and the stewardship of management. Professional judgment has been used in determining significance and audit risk and in selecting the particular transactions, legal compliance matters, records, and controls considered.

As described in more detail below, for those programs, activities, and functions included within the scope of our follow-up audit, our audit work included, but was not limited to, communicating to management and those charged with governance the scope, objectives, timing, overall methodology, and reporting of our audit; obtaining an understanding of the program, activity, or function; exercising professional judgment in considering significance and audit risk in the design and execution of the research, interviews, tests, analyses, and other procedures included in the audit methodology; obtaining reasonable assurance of the overall sufficiency and appropriateness of the evidence gathered in support of our audit findings and conclusions; and reporting on the results of the audit as required by governing laws and auditing standards.

Our audit included transactions, as well as events and conditions, occurring during the audit period May 2016 through September 2017, and selected District actions taken prior and subsequent thereto. Our audit included the examination of pertinent District records and transactions, inquiry of District personnel, observation of procedures in practice, and additional follow-up procedures as appropriate. Unless otherwise indicated in this report, records and transactions were not selected with the intent of projecting the results, although we have presented for perspective, where practicable, information concerning relevant population value or size and quantifications relative to the items selected for examination.

In conducting our audit we:

- Reviewed applicable laws, rules, regulations, contracts, and District policies and procedures, and interviewed District personnel to gain an understanding of the District's processes related to the scope of the audit.
- Reviewed the updated land acquisition policy to determine if the policy:
 - Prohibited individuals with ownership interests in any property being considered for acquisition from participating in the acquisition decision-making process.
 - Required documented cost-benefit analyses to evaluate the District's land acquisition options.
 - Required independent site appraisals for consideration before land acquisitions are made.
- Inquired of the Chief Executive Officer (CEO) and examined the District's meeting minutes for the audit period, and the minutes of selected meetings prior and subsequent to the audit period, to determine if the District purchased or discussed any plans to purchase land since our prior audit.
- Reviewed the Finance and Audit Committee (FAC) and the Quality, Patient Safety, and Compliance Committee charters to evaluate the organizational independence of their functions regarding the Director of Internal Audit and the Chief Compliance Officer (CCO) duties and contracted internal audit services.
- Interviewed the FAC Chair and evaluated the reasonableness of a cost-benefit analysis and other documentation supporting the District's decision to outsource the internal audit functions.
- Interviewed District personnel and evaluated the internal audit services contract to determine whether the contract provided for the audit firm to be free from any undue influence of senior management. In addition, we evaluated the organizational independence of the Compliance Department in the District's organizational structure and inquired of the CCO regarding the level

of involvement of the CEO in her planning and completion of compliance audits to determine whether the CCO was free from any undue influence of senior management.

- Examined the CCO's September 2017 performance evaluation to identify who evaluated the CCO and to determine whether the person responsible for evaluating CCO activities was organizationally independent of those activities.
- Reviewed Florida Department of State, Division of Corporation; Florida Commission on Ethics; and District records for District Commissioners, officers, and senior managers, to identify any relationships representing a potential conflict of interest. Also, to identify other potential conflicts of interests, we compared District vendor payments during the period May 2016 through September 2017 to identify any conflicts of interest not identified and resolved by the District.
- Determined whether the District sought an advisory opinion from the Florida Commission on Ethics regarding the \$5,000 payment, noted in our prior audit, to a vendor with an uncompensated officer/director who was also a District employee.
- Evaluated District efforts to fully recover all air ambulance operating costs for out-of-County flights as required by Chapter 2003-326, Section 6(28), Laws of Florida, by:
 - Reviewing copies of correspondence sent by the District to nine public and private entities located outside of Palm Beach County that had previously requested helicopter services.
 - Examining cooperative agreements executed with applicable entities.
- Communicated on an interim basis with applicable officials to ensure the timely resolution of issues involving controls and noncompliance.
- Performed various other auditing procedures, including analytical procedures, as necessary, to accomplish the objectives of the audit.
- Prepared and submitted for management response the findings and recommendations that are included in this report and which describe the matters requiring corrective actions. Management's response is included in this report under the heading **MANAGEMENT'S RESPONSE**.

AUTHORITY

Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our follow-up procedures designed to determine the District's progress in addressing the findings and recommendations included in our operational audit of the Health Care District of Palm Beach County, report No. 2016-189.



Sherrill F. Norman, CPA
Auditor General

MANAGEMENT'S RESPONSE



DEDICATED TO THE HEALTH OF OUR COMMUNITY | www.hcdpbc.org

August 2, 2018

Sherrill F. Norman, CPA
Florida Auditor General
Claude Pepper Building
Suite G74
111 West Madison St
Tallahassee, FL 32399-1450

Dear Ms. Norman:

We are in receipt of your list of preliminary and tentative audit findings from the July 16, 2018 operational audit of The Health Care District of Palm Beach County, Prior Audit Follow Up. Please find the corrective action responses attached.

If you require any additional information, please do not hesitate to contact me.

Thank you.

Sincerely,

A handwritten signature in blue ink that reads "Darcy J. Davis".
Darcy J. Davis
Chief Executive Officer

Finding 1: Land Acquisition

Recommendation:

District actions corrected this finding.

Management Response to the Recommendation:

No action required.

Finding 2: Audit and Compliance Functions

Recommendation:

1. The District should amend the Internal Audit Services contract to require the audit staff to administratively report to and be evaluated by the FAC or the Board.
2. Amend the Internal Audit Services contract to specify that only the FAC or the Board has authority to cancel the contract.
3. Enhance the organizational independence of the compliance function by requiring the CCO to administratively report to and be evaluated by the QPSCC or Board.

Management Response to the Recommendation:

1. The District will develop a Board approved policy to address the recommendation.
2. The District will develop a Board approved policy to address the recommendation.
3. All Compliance work product is approved by the QPSCC and Board and the Charter will be revised regarding evaluation of the CCO.

Finding 3: Procurement Procedures

Recommendation:

We continue to recommend that the District seek an advisory opinion from the COE regarding the \$5000.00 payment.

Management Response to the Recommendation:

The District sought to go beyond getting an opinion and implemented Policy for prohibition of similar situations in the future.

Finding 4: Helicopter Air Ambulance Service

Recommendation:

The District should continue efforts to establish cooperative agreement with other governmental authorities and public and private entities outside of Palm Beach County, as contemplated by the Act, to ensure that the cost of flights provided for the benefit of those who do not contribute to the District operations are fully recovered. Absent such agreements, the District should seek legislation that requires that appropriate parties to establish cooperative agreements.

Management Response to the Recommendation:

The District will continue to seek cooperative agreements and seek guidance from legislative consultants to pursue legislation.