

**EAST FLAGLER
MOSQUITO CONTROL DISTRICT**



Sherrill F. Norman, CPA
Auditor General

Board of Commissioners and Director

During the period October 2016 through February 2018, Joseph Cash served as Director of the East Flagler Mosquito Control District through August 20, 2017, and Mark Positano served as Director from August 21, 2017. The following individuals served as the District's Board of Commissioners.

	<u>Seat No.</u>
Julius Kwiatkowski, Chairman	1
Barbara A. Sgroi, Vice Chairperson	2
Dr. Florence Fruehan, Treasurer from 1-17-17	3
Shawn Byrnes, Treasurer to 1-16-17	3

The team leader was James Cole, CPA, and the audit was supervised by Derek H. Noonan, CPA.

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

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EAST FLAGLER MOSQUITO CONTROL DISTRICT

SUMMARY

This operational audit of the East Flagler Mosquito Control District (District) focused on selected District processes and administrative activities. Our operational audit disclosed the following:

Finding 1: Contrary to State law, the District did not use a competitive selection process to obtain architectural services for the Consolidated Facility Construction Project.

Finding 2: The District did not maintain records evidencing professional liability insurance required by the Consolidated Facility Construction Project architect contract.

Finding 3: The Board had not established policies or procedures for evaluating the suitability of proposed construction sites prior to obligating District resources for site leases.

Finding 4: Contrary to State law, the District did not retain all records identified in the construction contract agreement.

Finding 5: Although the Consolidated Facility Construction Project was completed a year after the planned completion date, District records did not evidence consideration of damage assessments against the contractor for delays.

Finding 6: District procedures for monitoring construction project change orders could be improved.

Finding 7: The Board did not have policies and procedures for direct purchases of construction materials and the District did not take advantage of sales tax exemptions by making direct purchases of construction materials or document why such purchases would not result in cost savings to the District.

Finding 8: The Board had not established policies and procedures for budget development and monitoring.

Finding 9: The beginning fund balance for the 2016-17 fiscal year original budget was overstated by \$1.1 million because the estimates used by District personnel did not consider the most current available data.

Finding 10: District policies and procedures did not require and ensure that budget amendments that increase the budget are posted on the District Web site within 5 days after adoption and remain there for at least 2 years.

Finding 11: District records could be enhanced by using capital projects funds to separately account for construction projects.

Finding 12: The Board had not adopted policies and procedures establishing the minimum unrestricted fund balance for the General Fund.

Finding 13: As of March 2018, the District had not established any anti-fraud policies or procedures.

BACKGROUND

The Flagler County Board of County Commissioners created the East Flagler Mosquito Control District (District) in 1952 as an independent special district pursuant to Chapter 388, Florida Statutes. The District, whose sole function is to control mosquitos, is governed by a three-member Board of Commissioners, each elected on a nonpartisan basis by the electors of the District to serve a 4-year term. District operations are primarily funded through ad valorem taxes.

FINDINGS AND RECOMMENDATIONS

Finding 1: Architect Selection

Pursuant to State law,¹ the District is to comply with the competitive negotiation process for each occasion when professional services, including architectural services, are purchased for a project in which the basic construction cost is estimated to exceed \$325,000. The competitive negotiation process for such projects requires the District to:

- Provide public notice that includes a description of the project and how firms may apply for consideration.
- Obtain statements of qualifications and performance data from firms.
- First certify firms are fully qualified to render the required service. Among the factors to be considered in making a certification are the capabilities, adequacy of personnel, past record, and experience of the firm or individual.
- Conduct discussions with at least three firms and select the most qualified firm.
- Negotiate a contract with the most qualified firm or undertake negotiations with the second most qualified firm and so on.

We noted that the Board had not adopted design professional contracting policies and procedures to require and ensure compliance with the required competitive negotiation process and, as a result, the District did not utilize such a process when procuring a \$212,720 contract with an architectural firm for the District Consolidated Facility Construction Project. District records indicated that the Board approved the contract at the May 20, 2013, Board meeting. According to District personnel, the Board “piggybacked” a County continuing contract with the firm for services the County had received since 2010. The District contract was identical to the County contract, except that the District contract stated that all references in the contract to the County would instead apply to the District.

In response to our inquiry, the District Attorney indicated that piggybacking the County contract was allowable under State law² since the estimated construction cost of the District Consolidated Facility was below the \$2 million statutory limit for a continuing contract and the County followed a competitive negotiation process when contracting with the architectural firm. Notwithstanding this response, the

¹ Section 287.055(5), Florida Statutes.

² Section 287.055(2)(g), Florida Statutes.

County's use of a competitive negotiation process did not relieve the District of its responsibility to engage in competitive procurement for the architectural services.

Absent compliance with the required competitive negotiation process, there is an increased risk that the District may not select architects in a fair, equitable, and economical manner or obtain services at the lowest cost consistent with desired quality.

Recommendation: The Board should establish policies and procedures to require and ensure compliance with the required competitive negotiation process for design professional services and to demonstrate the District's fair, equitable, and economical selection of the service provider at the lowest cost consistent with desired quality.

Finding 2: Design Professionals – Liability Insurance

Insurance coverage for design professionals, such as architects and engineers, is essential to help protect the District's investment in construction projects and limit District costs associated with accidents that occur during or after construction. As discussed in Finding 1, the District contracted with an architectural firm to provide design services for the District Consolidated Facility.³ The contract required the firm to provide insurance for:

- Commercial general liability per occurrence minimum of \$1 million.
- Automobile liability per occurrence minimum of \$1 million.
- Professional liability per occurrence minimum of \$1 million.
- Workers' compensation and employers' liability of \$100,000 for each accident and each employee and a \$500,000 policy for disease.

Our review of District records and discussions with District personnel indicated that, although the architectural services contract contained insurance requirements, District records did not evidence that the contract-required insurance coverages were in effect. Subsequent to our inquiries in July 2018, the District contacted the architectural firm for documentation of the required coverages, and the architect provided documentation evidencing that the insurance coverages were in effect for the duration of the project. In an e-mail to the District, the architectural firm explained that District personnel had not requested the insurance certificates when the Consolidated Facility was being designed or while the Facility was under construction.

Absent effective contract monitoring to verify that the required insurance coverages remain in effect, there is an increased risk that any potential losses will not be sufficiently mitigated.

Recommendation: The District should implement procedures to ensure and document timely review of certificates of insurance evidencing that design professionals maintain the required insurance.

³ Architectural services contract, section 10.8.

Finding 3: Construction Site Selection

Federal Government guidelines⁴ provide that geotechnical reports should be considered before proposed construction sites are selected. These reports are prepared by engineer professionals to assist governmental entities in investigating and evaluating the suitability of sites considered for construction projects, contrasting the disparity in proposed sites, and making design and construction recommendations. The reports are also useful for evaluating whether prospective design professionals and construction contractors have the capabilities, personnel, past record, and experience necessary for the project based on specific complexities associated with the proposed construction site. In addition, good business practices dictate that land leases should contain provisions allowing local governmental entities to exit or cancel a lease if unforeseen land-related issues arise or are identified during construction on the land.

Our examination of District records and discussions with District personnel disclosed that the Board had not established policies or procedures to require and ensure that District personnel timely evaluate and document the suitability of proposed construction sites. We also noted the following sequence of events concerning the District Consolidated Facility site selection and land lease process:

- In May 2013, the Board contracted with an architectural firm to design the Facility.
- In June 2014, the Board approved a 30-year lease agreement with the County for land at the airport upon which the District would construct the Facility.
- In October 2014, 4 months after the Board executed the lease agreement, an engineering firm hired by the architectural firm issued a geotechnical report regarding the land at the airport, and subsequently issued a revised report in February 2015. While District records did not include a copy of the October 2014 report, District records included the revised February 2015 report that recommended all foundation and pavement grade designs be based on seasonal high groundwater conditions and a deep foundation be used for the hangar.

Since the revised geotechnical report was issued 8 months after the Board entered into the 30-year lease, the Board could not consider the report findings when deciding where to locate the facility. In addition, the lease terms did not contain a provision that allowed the District to exit or cancel the lease without cost if some unforeseen land-related deficiency was cited, such as unfavorable conditions disclosed in a geotechnical report.

According to the District Director, architectural firm staff indicated that they had performed other work at the airport, were familiar with the terrain, and did not identify any impairments related to the property's intended use prior to completion of the geotechnical report. In addition, the recommendations in the geotechnical report did not increase the architectural firm costs and were incorporated into the contract cost of the Consolidated Facility Construction Project. Notwithstanding, without Board policies and procedures that require and ensure that District personnel timely evaluate and document the suitability of proposed construction sites, including consideration and use of a geotechnical report when selecting a construction site, there is an increased risk that the District may incur additional financial obligations for unsuitable land. In addition, absent lease provisions allowing the District to exit or cancel land leases

⁴ United States Department of Transportation Federal Highway Administration *Checklist and Guidelines for Review of Geotechnical Reports and Preliminary Plans and Specifications*, August 1988.

without cost if land is subsequently determined to be unsuitable for District use, there is an increased risk that the District may have little recourse in terminating such leases.

Recommendation: The Board should establish policies and procedures for evaluating the suitability of proposed construction sites prior to purchasing or leasing the land. Additionally, the District should ensure that any future land leases include provisions allowing the District to exit or cancel the lease without cost should the land be subsequently deemed unsuitable for District use.

Finding 4: Construction Contract Document Retention

As a custodian of public records, the District is required by State law⁵ to comply with the retention schedule and disposal process established by the Department of State, Division of Library and Information Services.⁶ The retention schedule requires records for contracts, leases, and agreements related to capital improvement and real property be retained for 10 years after project completion or termination of the contract, lease, or agreement.⁷ Additionally, it is essential for the District to maintain a complete set of construction contract documents to assist District personnel in effectively monitoring construction contractor performance.

In July 2015, the Board approved the Consolidated Facility Construction Project contract,⁸ which provided that the contract documents include, for example, the:

- Contractor's proposal (bid).
- Contractor's public performance, public payment, and warranty bonds.
- Notice of award and notice to proceed.
- General provisions and technical specifications.
- Addendum No. 1, dated April 29, 2015, and addendum No. 2, dated May 6, 2015.

As part of our evaluation of the District construction monitoring process, we requested for examination all construction contract documents relating to the Consolidated Facility Construction Project. While District personnel provided the contractor's bid, public performance and public payment bonds, notice of award, and addendum No. 1, we were not provided the warranty bonds to guarantee repairs of work defects found in the original construction during the warranty period or the notice to proceed to establish the contract start date for calculating damages for construction delays. In addition, District records did not identify, and District personnel were unaware of what was included in, the contract's general provisions, technical specifications, or addendum No. 2. These construction contract documents are important for understanding the responsibilities of each party and providing support for construction decisions. In response to our inquiries, the Director indicated that he did not know why the former Director did not retain these documents.

⁵ Section 119.021(2)(a) and (b), Florida Statutes.

⁶ Department of State Rule 1B-24.003(1)(a), Florida Administrative Code.

⁷ State of Florida General Records Schedule GS1-SL for State and Local Government Agencies, Item # 64.

⁸ Construction contract, Article 6.

Absent a complete set of construction contract documents, the District did not comply with statutory document retention requirements and it is not apparent, of record, how the District effectively monitored the construction project and demonstrated that the contractor satisfactorily performed all work specified by the contract.

Recommendation: The District should require and ensure that all contract and construction project documents and records are retained in accordance with Department of State rules. Such documents and records should be used by the District to manage the contracts and monitor the contracted services and construction projects.

Finding 5: Construction Contract - Damages for Delay Clause

Contract provisions may provide monetary remedies for injured contracting parties to collect as compensation for contractor late performance under certain circumstances. Such provisions help protect the contracting party's rights should contractual services not be timely performed or a construction project not be timely completed.

The District's Consolidated Facility Construction contract specifications document⁹ contained a "damages for delay" clause. The clause provided that \$1,500 per day could be deducted from money due to the contractor or its surety under certain circumstances if the contractor's work was not completed by the date specified in the contract. According to the contract's preliminary construction schedule, the project was to be completed by April 2016; however, an actual anticipated completion date was not specified in the contract documents provided by the District. The project was not completed until April 2017 and, according to District personnel, the delay was primarily due to the lack of road, power, water, sewer, and communications at the start of construction in December 2015; however, permitting delays and storm damage also contributed to the delay. Notwithstanding, District records did not evidence extension of the April 2016 project completion date or any monetary remedies made to the District due to the delayed project completion.

In response to our request for District records evidencing a determination of whether damages for project completion delays were applicable and, if so, the amount of damages to be assessed, the District Attorney indicated that the former District Director, the architectural firm, and the contractor had discussed the matter; however, the District Attorney did not recall the resolution.

Contract language specifying damages for delays in contractor performance provides a means for the District to compel timely contractor performance and to avoid any additional costs that may be incurred by the District due to contractor delays. While District personnel asserted that the District did not incur any significant additional construction or operational costs because of the Consolidated Facility Construction Project delay, absent approval of a project due date extension, the District's justification for not assessing damages pursuant to the damages for delay contract clause was not readily apparent.

Recommendation: The Board should ensure that all construction contracts and applicable contractual services contracts provide a damages-for-delay provision that specifies an anticipated completion date and any factors to consider when determining whether damages should be assessed. Additionally, the District should improve contract management and

⁹ Construction Contractor Addendum No. 1, Specifications, Section 001113.

monitoring procedures to document any authorized changes to preliminary start and completion dates and consideration of whether to assess damages, including determination of the portion of delays attributable to the contractor and the amount of any resultant damages assessed.

Finding 6: Construction Contract - Change Orders

Board policies¹⁰ require Director approval for purchases between \$750 and \$10,000 and Board approval for purchases exceeding \$10,000. These policies also govern changes made to contract amounts for scope of work changes (i.e., change orders) exceeding \$10,000.

Our examination of District records and discussions with District personnel disclosed that the Consolidated Facility Construction Project contained a total of 16 change orders that resulted in an overall increase in project costs of \$111,022.¹¹ To determine whether appropriate approval was obtained and documented for the change orders, we examined District records supporting all 16 change orders. We found that change orders were not always appropriately approved and change order documentation was not always retained. Specifically:

- A \$32,517 change order in April 2016 for electrical, plumbing, and other services was approved by the District Director rather than the Board. Absent Board approval of change orders exceeding \$10,000, the District cannot demonstrate that the Board agreed to receive and pay for these services.
- District records did not evidence approval by either the Board or District Director of a \$15,502 change order for storm damage and a \$3,177 change order for utility meters. According to the February 21, 2017, Board meeting minutes, the Board discussed and tabled the \$15,502 change order for storm damage; however, the change order was not subsequently approved by the Board. According to the March 20, 2017, Board meeting minutes, the damage and potential resolution of who was responsible for the damage was to be further negotiated; however, although we requested, District records were not provided to evidence the negotiation and resolution of these issues. Notwithstanding the lack of Board approval, the District inadvertently paid for the \$15,502 storm damage change order costs in March 2017. According to the District Director, the payment countered Board intentions, and the Board was unaware that the District had paid the \$15,502.

In addition, the District did not, of record, determine whether the \$15,502 change order for storm damage should have been submitted as a reimbursable claim to the contractor insurer or, if not subject to reimbursement by the contractor insurer, whether a claim should have been submitted to the District property insurance carrier.

- Overhead and profit fees for change orders totaled \$10,662, for 14 change order increases totaling \$86,406 with a 10 percent overhead and profit fee and 1 change order for \$32,517 with a 9.4 percent overhead and profit fee. According to the District Director, the District did not question the reasonableness of these fees because the architectural firm indicated that such fees were a standard industry practice and were at the standard industry rates; however, no District records were provided to evidence the basis for calculating the fee percentages or the reasonableness of the fees. Absent such records, there is an increased risk that the fees may be excessive.
- Although we requested, District records were not initially provided for 3 change orders. Subsequent to our inquiry, in July 2018 the District obtained the 3 change orders, ranging from \$592 to \$3,177 and totaling \$5,206, from the construction contractor and provided them to us. As

¹⁰ Purchasing Policy Summary.

¹¹ The 16 change orders included 14 change orders that ranged from \$552 to \$35,750 and increased the project cost by \$117,389, and 2 change orders that reduced the project cost by \$6,367.

discussed in Finding 4, the Department of State, Division of Library and Information Services requires the District to retain such records for 10 years after project completion.

Recommendation: The Board should enhance procedures for contract change orders to ensure that the District:

- **Retains documentation for all change orders in accordance with Department of State rules.**
- **Obtains Board approval for change orders exceeding \$10,000.**
- **Documents the basis for calculating change order overhead and profit fee percentages and the reasonableness of those fees prior to payment.**

District personnel should also consult with the District Attorney to evaluate whether the \$15,502 change order for storm damage incurred during construction should be reimbursed by the contractor insurance carrier and, if not, whether the amount is reimbursable by the District property insurance carrier.

Finding 7: Direct Purchase of Construction Materials

Pursuant to State law,¹² the District is exempt from paying sales tax on direct purchases and can take advantage of this exemption by directly purchasing certain goods (e.g., materials, equipment, and fixtures) for construction projects.

Our examination of District records and discussion with District personnel disclosed that the construction contract did not contain a provision for the District to take advantage of its sales tax exempt status by making direct purchases of construction materials and avoiding payment of sales taxes. Also, the District did not make any direct purchases related to the Consolidated Facility Construction Project. According to District personnel, the District decided not to make direct purchases so that the architectural firm and contractor would be fully responsible for the project. Although we requested, District records were not provided to document this decision or whether any cost savings were realized by this decision.

The last contractor payment application indicated that the District paid \$2,049,911 for the Consolidated Facility Construction Project, which included substantial materials purchases to construct, for example, a:

- 4,200 square foot hangar and a concrete ramp with the same dimensions.
- 3,948 square foot office area.
- 1,440 square foot garage area.
- 900 square foot chemical storage building.
- Canopy structure for 20 parking spaces.

We requested for examination District records supporting the values of the purchased materials; however, District records were unavailable since the contractor schedule of values and payment applications did not separately identify these costs. While it may not be feasible for the District to directly purchase all construction materials, the District could have directly purchased a portion of the required construction materials and benefited from the resulting sales tax savings. For example, for every

¹² Section 212.08(6), Florida Statutes.

\$100,000 of construction materials directly purchased, the District would have realized savings of approximately \$7,000, assuming a sales tax rate of 7 percent.

Recommendation: Board policy should be established to require, for future construction projects, the District take advantage of sales tax exemptions by making direct purchases of construction materials or document in District records how the contractor's purchase of the materials would result in greater savings.

Finding 8: Budget Policies and Procedures

A Government Finance Officers Association (GFOA) best practice¹³ recommends that governments formally adopt financial policies that describe essential features of the budget development process and form, as well as principles that guide budgetary decision making. The GFOA also recommends a framework¹⁴ that provides the context for development of budget practices for governments, consisting of activities that encompass the development, implementation, and evaluation of a plan for the provision of services.

Although we requested, District records were not provided to evidence that the Board had adopted policies and procedures for developing and monitoring the District budget. The lack of such policies and procedures contributed to the control deficiencies cited in Findings 9 through 11. In addition, the District's 2016-17 fiscal year financial audit report noted as a material weakness the District's need to implement and follow budget review procedures to oversee the budget process.

In March 2018, District management indicated that the District was developing a manual documenting District procedures, including financial and budgeting procedures. Absent formal budget policies and procedures, decision makers may not make the best financial and program decisions, improve governmental operations, promote stakeholder participation in the process, or comply with State laws governing budgetary compliance.

Recommendation: The District should develop and formally adopt comprehensive policies and procedures detailing the budget development, approval, and monitoring processes.

Finding 9: Budget Preparation

State law¹⁵ requires the governing body of each special district to adopt a budget by resolution each fiscal year and provides that the total amount available from taxation and other sources, including balances brought forward from prior fiscal years, must equal the total appropriations for expenditures and reserves. According to the GFOA,¹⁶ regular monitoring of budgetary performance provides an early warning of potential problems, gives decision makers time to consider actions that may be needed if major deviations in budget-to-actual results become evident, and is essential to demonstrate accountability.

Our examination of District records disclosed that the District prepared a detailed budget for the General Fund of all resources, including restricted capital outlay resources, using a standardized form that

¹³ GFOA Best Practice, *Adopting Financial Policies*.

¹⁴ GFOA publication, *Recommended Budget Practices of the National Advisory Council on State and Local Budgeting (1998)*.

¹⁵ Section 189.016(3), Florida Statutes.

¹⁶ GFOA publication, *Recommended Budget Practices of the National Advisory Council on State and Local Budgeting (1998)*.

included estimated beginning fund balance, anticipated revenues, projected future expenditures, and estimated ending fund balance. In response to our inquiry, District personnel indicated that they routinely develop the next fiscal year budget in June and July before the current fiscal year ends on September 30 and that the budgeted beginning fund balance for the next year must be estimated. To estimate the budgeted beginning fund balance, the actual ending fund balance from the second preceding fiscal year's audited financial statements is used.

As shown in the Table 1, the District's original 2016-17 fiscal year annual budget, adopted by the Board in September 2016, included a budgeted beginning fund balance of \$2.9 million at October 1, 2016, which was the September 30, 2015, audited ending fund balance. However, due to increased construction expenditures for the 2015-16 fiscal year compared to the 2014-15 fiscal year, the actual ending fund balance at September 30, 2016, was \$1.8 million, or \$1.1 million less than the October 1, 2016, budgeted beginning fund balance.

Table 1
General Fund
2014-15 and 2015-16 Fiscal Year Actual Activities
and 2016-17 Fiscal Year Original Budget
(In Millions)

Source	Actual 2014-15 FY	Actual 2015-16 FY	Original Budget 2016-17 FY
Beginning Fund Balance – October 1	\$3.1	\$2.9	\$2.9
Total Receipts	1.5	1.6	1.7
Total Receipts & Balances	<u>\$4.6</u>	<u>\$4.5</u>	<u>\$4.6</u>
Total Expenditures	1.7	2.7	4.2
Ending Fund Balance – September 30	<u>\$2.9</u>	<u>\$1.8</u>	<u>\$0.4</u>

Source: District records.

According to District management, because the 2015-16 fiscal year audited financial statements were not issued until June 2017, District management was initially unaware that the September 30, 2016, ending fund balance of \$1.8 million was \$1.1 million less than the October 1, 2016, \$2.9 million budgeted beginning fund balance. Notwithstanding, our examination of the District accounting records disclosed that, as of October 12, 2016, the records for the 2015-16 fiscal year were closed and the ending fund balance at September 30, 2016, was \$1.8 million, which agreed with the audit report ending fund balance for that date. Consequently, District personnel could have presented an amendment as early as October 2016 to the Board to adjust the 2016-17 fiscal year budget beginning fund balance to the correct amount of \$1.8 million. However, in June 2017, District personnel provided, and the Board approved, a budget amendment for the 2016-17 fiscal year that decreased beginning fund balance and budgeted expenditures by \$1.1 million each.

Because the District did not use the more current information to estimate the District-budgeted October 1, 2016, beginning fund balance, the budget provided to the Board showed that the District had significantly more resources available for expenditure than were actually available. As of June 30, 2017, the fund balance of the District General Fund had declined to \$542,188.

According to District personnel, the Board initially considered keeping and leasing the former administrative facility property to others, refurbishing the property as a workshop, or using it to store equipment. However, because of the Board's financial condition, the Board needed to replenish the fund balance to provide more liquidity and the District sold that property on December 28, 2017, for \$317,000.

Significant fluctuations in financial activity, like activities associated with the Consolidated Facility Construction Project, can cause the beginning fund balance estimate to be significantly overstated if not appropriately considered during the budget preparation process. If the beginning fund balance estimate is significantly overstated, the District is at risk of depleting available resources, which could culminate in an inability on the part of the District to meet current financial obligations. By not utilizing the most current financial information available to estimate and, as applicable, amend the budgeted beginning fund balance, the usefulness of the budget as a financial management tool is diminished and the risk that District expenditures may exceed available resources increases.

Recommendation: The Board should adopt policies and procedures to require and ensure that District personnel calculate and, as applicable, timely amend the District General Fund budgeted beginning fund balance using the most current information available in the District accounting records.

Finding 10: Budget Amendments

State law¹⁷ requires that special district budget amendments that increase expenditures of the fund to be posted on the special district's official Web site within 5 days after adoption and to remain on the Web site for at least 2 years.

Effective budget monitoring procedures include procedures for amending the budget periodically to reflect changes in revenue and expenditure estimates. As discussed in Finding 8, the Board had not adopted policies and procedures for developing and monitoring the District budget. However, according to District personnel, District personnel did monitor and amend the budget, as needed, for changes in revenue and expenditure estimates. For example, District personnel indicated that, at monthly Board meetings, budget amendments are presented to the Board, as needed, for review and approval and to assist with limiting expenditures to available resources.

To determine whether the Board appropriately approved the budget for increases in expenditures, we examined Board meeting minutes and found that the Board approved the six amendments for the 2015-16 fiscal year and the five amendments for the 2016-17 fiscal year and, as of May 31, 2018, had approved one budget amendment for the 2017-18 fiscal year. However, we also found that, while the first budget amendment of \$65,885 for the 2017-18 fiscal year was posted to the District Web site, the five 2015-16 fiscal year budget amendments totaling \$219,593 were not posted to the District Web site, contrary to State law. In response to our inquiries, the District Director indicated that he was unaware of the requirement to post certain budget amendments to the District Web site.

Posting and maintaining the required budget amendments on the District Web site provides transparency and enhances citizen involvement and the ability to analyze, monitor, and evaluate budget outcomes.

¹⁷ Section 189.016(7), Florida Statutes.

Recommendation: The Board should establish policies and procedures to require and ensure that budget amendments are posted on the District Web site within 5 days after adoption and remain on the Web site for at least 2 years.

Finding 11: Capital Projects Budget and Accountability

Capital projects funds are used to account for and report financial resources that are restricted, committed, or assigned to expenditures for capital outlays, including the acquisition or construction of capital facilities and other capital assets.¹⁸ Recording activities for significant capital projects in capital projects funds can be useful to separate accountability for construction projects from general operating activities. As indicated in Finding 9, the District used the General Fund to account for all District financial activity, including restricted capital outlay resources, instead of using a capital projects fund to account for the Consolidated Facility Construction Project activities.

For each of the 2011-12 through the 2017-18 fiscal years, the District’s annual budgets included a capital outlay appropriation line item, which combined the Consolidated Facility Construction Project expenditures, office furniture and equipment costs for that project, and other equipment and vehicles costs. Table 2 shows the percentage of the Consolidated Facility Construction Project budget to the District’s total budgeted expenditures and reserves, and the project’s significance to the General Fund.

**Table 2
Budgeted Capital Outlay Appropriations
For the 2010-11 Through 2017-18 Fiscal Years**

Item Description	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
Consolidated Facility	\$ -	\$1,298,560	\$1,312,544	\$1,826,236	\$2,167,806	\$1,950,000	\$ 629,398	\$ 20,000
Office Furniture and Equipment for Consolidated Facility	-	-	-	-	-	50,000	131,500	5,000
Reserve for Future Capital Outlay	1,200,000	-	-	-	-	-	-	-
Total Consolidated Facility Budget	\$1,200,000	\$1,298,560	\$1,312,544	\$1,826,236	\$2,167,806	\$2,000,000	\$760,898	\$25,000
Other Capital Outlay:								
Equipment	16,000	34,000	16,000	16,000	32,000	-	163,000	20,000
Vehicles	18,000	-	-	-	-	54,370	280,000	70,000
Total Capital Outlay Budget and Reserve for Capital Outlay	\$1,234,000	\$1,332,560	\$1,328,544	\$1,842,236	\$2,199,806	\$2,054,370	\$1,203,898	\$ 115,000
Budgeted Operating Expenditures	\$1,853,827	\$3,276,876	\$3,732,446	\$3,982,320	\$4,151,997	\$4,096,360	\$3,294,281	\$2,213,838
Total Budgeted Expenditures and Reserves	\$3,403,827	\$3,626,876	\$4,082,446	\$4,332,320	\$4,551,997	\$4,496,360	\$3,494,281	\$2,665,049
Consolidated Facility Budget as a Percentage of Total Budgeted Expenditures and Reserves	35.3%	35.8%	32.2%	42.2%	47.6%	44.5%	21.8%	.9%

Source: District records.

From May 2015 through October 2015 and from June 2016 through July 2017, District personnel provided financial reports to the Board showing the District’s fiscal year-to-date financial activity as of the prior

¹⁸ Section 1300.106, *Codification of Governmental Accounting and Financial Reporting Standards*.

month's end and the percentage of expenditures to date compared to the budgeted revenues. Eight monthly reports between September 2015 and July 2017 showed total actual fiscal year-to-date expenditures exceeding budgeted revenues by 103 to 143 percent in amounts ranging from \$59,108 to \$754,508. The monthly financial reports each included a note explaining that the expenditures percentage exceeding budgeted revenues amounts was due to funds being spent on the Consolidated Facility Construction Project.

For example, the May 2017 financial report provided to the Board during the Board's June 2017 meeting showed fiscal year-to-date expenditures of \$2,144,300, which was \$386,775 more than the budgeted revenues of \$1,757,525. The financial report contained a corresponding note that 122 percent of the budgeted revenues had been expended even though only 67 percent of the fiscal year had passed. A footnote to the financial report states that "if the capital outlay for the new building is taken out of the calculation, the 'percentage of budget expended to date' is more in line with the 'percentage of fiscal year that has passed' at 72%." Notwithstanding the partial explanations on the financial reports provided to the Board disclosing the Consolidated Facility Construction Project's impact on the General Fund financial position, recording the construction project's activity in a capital projects fund would have presented the construction project activity separate from the remaining General Fund activity and provided the Board with a clearer picture of the District's unrestricted operating activities.

In response to our inquiry, the District Director indicated that the District did not consider using a capital projects fund to account for the Consolidated Facility Construction Project because the District's standardized budget worksheet did not provide for budgeted funds other than the General Fund. However, the District Director indicated that he would consider distinctly presenting capital project budgets for future construction projects.

Separating the capital projects budgeted sources and uses would provide increased transparency and, therefore, enhance the usefulness of the budget as a financial management tool and improve reporting of financial activities to stakeholders.

Recommendation: The District should develop procedures to use either a capital projects fund or an alternate mechanism to establish separate accountability for significant capital projects.

Finding 12: Minimum Fund Balance Policy

The GFOA¹⁹ recommends that governments establish a formal policy on the level of unrestricted fund balance that should be maintained in the General Fund. Additionally, the GFOA recommends, at a minimum, that a local government, regardless of size, maintain an unrestricted fund balance in the General Fund of no less than 2 months of regular operating revenues or operating expenditures.

Our review of District records and discussions with District personnel disclosed that the Board had not adopted policies or procedures addressing a minimum General Fund unrestricted fund balance. In addition, as shown in Table 3, the District's audited financial statements for the 2014-15 through

¹⁹ GFOA Best Practices, *Fund Balance Guidelines for the General Fund*.

2016-17 fiscal years indicated that the fund balance of the General Fund declined from \$2.9 million at the end of the 2014-15 fiscal year to \$542,188 at the end of the 2016-17 fiscal year.

Table 3
General Fund Ending Fund Balance
For the 2014-15 through 2016-17 Fiscal Years

Source	2014-15	2015-16	2016-17
Beginning Fund Balance	\$3,071,414	\$2,891,358	\$1,785,978
Revenues	1,480,583	1,548,875	1,708,303
Expenditures	1,660,639	2,654,255	2,952,093
Ending Fund Balance	<u>\$2,891,358</u>	<u>\$1,785,978</u>	<u>\$ 542,188</u>
2 Months of Revenues	\$246,764	\$258,146	\$284,717
2 Months of Expenditures	\$276,773	\$442,376	\$492,016

Source: District audit reports and auditor calculations.

Our examination of District records also disclosed that, according to the September 30, 2018, financial report provided to the Board, the fund balance increased by \$452,193 from \$542,188 to \$994,381. While recent efforts by the District evidenced financial condition improvements that exceeded the GFOA recommended minimums, this does not negate the Board’s need to adopt policies and procedures addressing a minimum fund balance. By not establishing a formal policy on the level of unrestricted fund balance that should be maintained in the General Fund, the District may not be able to mitigate current and future risks (e.g., revenue shortfalls and unanticipated expenditures) and ensure stable tax rates.

Recommendation: The Board should adopt policies and procedures for establishing and monitoring the General Fund minimum unrestricted fund balances and replenishing the fund balance should a shortfall occur.

Finding 13: Anti-Fraud Policies and Procedures

Appropriate policies and procedures for communicating and reporting known or suspected fraud are essential to aid in the mitigation, detection, and prevention of fraud. Such policies and procedures identify actions constituting fraud and establish incident reporting procedures, responsibility for fraud investigation, and consequences for fraudulent behavior. Effective incident reporting policies and procedures allow individuals to anonymously report known or suspected fraud and provide an appropriate process for communicating and reporting known or suspected management fraud directly to those charged with governance or to an entity’s legal counsel.

Anti-fraud policies and procedures are also necessary to educate employees about proper conduct, create an environment that deters dishonesty, and maintain internal controls that provide reasonable assurance of achieving management objectives and detecting dishonest acts. In addition, such policies and procedures serve to establish the actions for investigating potential fraud, reporting evidence of such actions to the appropriate authorities, and avoiding damaging the reputations of persons suspected of fraud but subsequently found innocent.

Our review of District policies and procedures and discussions with District personnel disclosed that, as of March 2018, the District had not established anti-fraud policies or procedures. Absent an anti-fraud policy, there is an increased risk that known or suspected fraud may not be reported to the appropriate authority for resolution.

Recommendation: The Board should develop and implement anti-fraud policies and procedures to aid in the mitigation, detection, and prevention of fraud.

OBJECTIVES, SCOPE, AND METHODOLOGY

The Auditor General conducts operational audits of governmental entities to provide the Legislature, Florida's citizens, public entity management, and other stakeholders unbiased, timely, and relevant information for use in promoting government accountability and stewardship and improving government operations. Pursuant to Section 11.45(3)(a), Florida Statutes, the Legislative Auditing Committee, at its December 7, 2017, meeting, directed us to conduct this operational audit of the East Flagler Mosquito Control District (District).

We conducted this operational audit from April 2018 through September 2018 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the 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 operational audit of the District focused on the District's budgeting and construction operations. The overall objectives of the audit were to:

- Evaluate management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities in accordance with applicable laws, rules, regulations, contracts, grant agreements, and other guidelines.
- Examine internal controls designed and placed in operation to promote and encourage the achievement of management's control objectives in the categories of compliance, economic and efficient operations, reliability of records and reports, and safeguarding of assets, and identify weaknesses in those controls.
- Identify statutory and fiscal changes that may be recommended to the Legislature pursuant to Section 11.45(7)(h), Florida Statutes.

This audit was designed to identify, for those programs, activities, or functions included within the scope of the 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 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 of October 2016 through February 2018, and selected District actions taken prior and subsequent thereto. Unless otherwise indicated in this report, these records and transactions were not selected with the intent of statistically 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.

An audit by its nature does not include a review of all records and actions of agency management, staff, and vendors, and as a consequence, cannot be relied upon to identify all instances of noncompliance, fraud, waste, abuse, or inefficiency.

In conducting our audit, we:

- Reviewed applicable laws, rules, regulations, contracts, and Board policies and procedures, and interviewed District personnel to gain an understanding of District processes related to the scope of the audit.
- Examined Board meeting minutes for the audit period, and the minutes of selected meetings prior and subsequent to the audit period, to determine the propriety and sufficiency of actions taken related to the scope of the audit.
- Examined District records to determine whether the Board had adopted anti-fraud policies and procedures to provide guidance to employees for communicating known or suspected fraud to appropriate individuals.
- Examined Board-adopted budgets and related amendments for the 2015-16, 2016-17, and 2017-18 fiscal years to determine compliance with Section 189.016, Florida Statutes.
- Obtained Board-approved final budgets for the 2015-16 and 2016-17 fiscal years and compared the beginning fund balance amounts to ending fund balance amounts from the respective prior fiscal year audit reports and to other accounting records available during the budget adoption process to determine whether budgeted beginning fund balance amounts were reasonable and incorporated known facts and circumstances regarding District capital outlay expenditures.
- Compared the 2014-15 through 2016-17 fiscal year final budget to actual expenditures to identify whether any over expenditures existed for the respective reporting periods.
- Determined whether the Board had adopted a minimum fund balance policy.
- Evaluated the District's financial position for the 2014-15 through 2016-17 fiscal years for adequate fund balance levels.

- Evaluated District construction administration procedures and records related to the District Consolidated Facility Construction Project costing \$2.3 million and completed in April 2017. Specifically, we:
 - Examined District records to determine whether construction project plans and specifications were properly reviewed and approved by the Board.
 - Evaluated whether the District accounting records provided for separate accountability for the project's funding sources and uses.
 - Determined whether the Board properly selected the architectural firm in accordance with Section 287.055, Florida Statutes, and whether the District verified that the firm had procured and maintained all insurance coverages required by the contract.
 - Determined whether the Board evaluated the suitability of land before leasing the land to be used for the Consolidated Facility and before contracting for design and construction services for the Facility.
 - Determined whether the Board competitively selected the construction contractor pursuant to Section 255.0525, Florida Statutes.
 - Determined whether the District obtained payment and performance bonds from the construction contractor as required by Section 255.05, Florida Statutes.
 - Examined the construction contractor's contract and related District records to determine whether the District included penalty clauses related to completion dates in the contract and whether the District appropriately considered assessing penalties for construction delays.
 - Determined whether the construction contractor and subcontractors were properly licensed.
 - Determined whether the District obtained all required permits, inspections, and a certificate of occupancy for the Project.
 - Examined District records for all 19 payments totaling \$2,049,911 to the contractor to determine whether the payments were properly supported by an invoice and approved by the architectural firm and District personnel.
 - Examined District records to determine whether the District took advantage of the sales-tax exemption for owner direct purchases of construction materials.
 - Reviewed all 16 project change orders with net project cost increases totaling \$111,022 to determine whether the change orders were reasonable and approved in accordance with Board policies and procedures.
- 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 operational audit.

A handwritten signature in blue ink that reads "Sherrill F. Norman". The signature is written in a cursive style with a large initial 'S'.

Sherrill F. Norman, CPA
Auditor General

MANAGEMENT'S RESPONSE



Board of Commissioners

Julius Kwiatkowski
Barbara Sgroi
Florence Fruehan

Chair
Vice-Chair
Treasurer

January 30, 2019

Ms. Sherrill F. Norman, CPA
Auditor General, State of Florida
Claude Denson Pepper Building, Suite G74
111 West Madison Street
Tallahassee, Florida 32399-1450

VIA EMAIL: flaudgen_audrpt_lg@aud.state.fl.us

Dear Ms. Norman:

We appreciate the opportunity afforded us to work with your staff and receive these findings and recommendations. Their assistance has already allowed us to make improvements in our operations. We commend your staff for their diligence and genuine interest in improvement.

Per your request, the required responses are being submitted electronically. If you have any questions, please contact our Director, Mark Positano, at 386-437-0002.

Sincerely,

Julius Kwiatkowski
Chairman, Board of Commissioners
East Flagler Mosquito Control District

210 Airport Executive Drive | Palm Coast | Florida | 32164 | Phone: 386-437-0002 | Fax: 386-437-0200 | flaglermosquito.com

Finding 1: Architect Selection

MANAGEMENT'S RESPONSE:

As stated in the Auditor's findings, the District utilized the "piggy back" method of contract procurement when soliciting the services of the design firm. "Piggy backing" is a common practice utilized by local governments when the selection process has already been undertaken by another agency, in this case, Flagler County. The District will develop policies and procedures before considering any such projects in the future.

Finding 2: Design Professional Liability Insurance

Management's Response:

The District concurs with the finding. Proper contract management by a qualified project manager should have included a procedure for verification of insurance coverage. The District will develop policies and procedures before considering any such projects in the future.

Finding 3: Construction Site Selection

Management's Response:

The District concurs with the finding. The Lease with the County Airport should have included a clause for cancellation had the site not been suitable for the project. The District will develop policies and procedures before considering any such projects in the future.

Finding 4: Construction Contract Document Retention

Management's Response:

The District agrees with the recommendation. The former Director should have retained and catalogued all documents related to the project. The District will develop policies and procedures before considering any such projects in the future.

Finding 5: Construction Contract Damages for Delay Clause

Management's Response:

The District agrees with the recommendation. Many circumstances delayed construction, as mentioned in the Auditor's findings. Determining if the contractor bore any responsibility for delays would have required legal action. The building was completed, with a reasonable delay because of change orders and Hurricane Matthew without additional cost related to delays. The District will develop policies and procedures before considering any such projects in the future.

Finding 6: Construction Contract Change Orders

Management's Response:

The District agrees with the recommendation. Again, the former Director should have retained and catalogued all documents related to the project. The former Director should have also followed the District's purchasing policy for approving purchases and properly informed the Board when required. The District Attorney will provide an evaluation for construction damages reimbursement.

Finding 7: Direct Purchase of Construction Materials

Management's Response:

The District agrees with the recommendations. Options for the direct purchase of materials should have been formally documented and cost savings from sales tax exemption for supplying materials should have been weighed against the assumed risk of directly supplying materials to determine if there was any economic feasibility to this option.

Finding 8: Budget Policies and Procedures

Management's Response:

In the past the District had followed a simple manual provided by the Florida Department of Agriculture and Consumer Services to prepare and track the budget, just as many mosquito control programs around the State do. The District has in the intervening time researched and prepared an anti-fraud policy, 5-year capital outlay plan, Capital assets policy, revised purchasing policy, purchased and implemented new accounting software, enhanced financial reporting so that the Board has better information with which to make decisions, and retained the services of a CPA to serve as a part-time CFO and is another check on financial monitoring and process improvement. We will continue to strengthen our policies and procedures in this area.

Finding 9: Budget Preparation

Management's Response:

The Auditors' findings are consistent with what our independent auditor initially reported. Specifically, that \$1.1 million was not misspent but was a budgeting error that should have been found and corrected by previous staff early on. Consequently, incorrect information was reported to the Board. The District now uses only Reserve and untapped contingency funds to estimate the beginning fund balance for the following year, which is a far more conservative method than the previous. The District will continue to improve its' policies and procedures on budget preparation and monitoring.

Finding 10: Budget Amendments

Management's Response:

Previously, only the current year's Budget documents were posted to the District's website. Budget materials will remain on the website for at least two years.

Finding 11: Capital Projects Budget and Accountability

Management's Response:

The way in which the expenditures for the capital projects were reported may have been cumbersome but did not negatively affect the tracking of expenditures, as this is a separate issue from the incorrectly stated estimate for the beginning fund balance. As stated, earlier in this report, budget preparation was the critical component for error. The use of separate funds will be further considered for capital outlay projects.

Finding 12: Minimum Fund Balance Policy

Management's Response:

The District concurs with the recommendation. The GFOA recommendation may not be sufficient since the fiscal year begins October 1 and the intervening months until December when ad valorem revenue is collected to fund the current year's budget are prime hurricane months. This potential for extreme storm events, as has happened in the past two years in a row, necessitates a greater fund balance to ensure services.

A policy for replenishing funds is possible. As long as a policy for maintaining fund balances is in place as part of an overall budget policy, the Board can make decisions as to how to address replenishing funds as they see fit based on current circumstances as raising funds is the sole discretion of the Board at that time.

Finding 13: Anti-Fraud Policy and Procedures

Management's Response:

Anti-fraud policy was adopted on April 16, 2018 and is based on the model policy available from the Association of Certified Fraud Examiners. Staff will receive training on this annually. To be clear, no fraud has been detected or reported.