

**STATE OF FLORIDA AUDITOR GENERAL**

**Operational Audit**

Report No. 2021-056  
November 2020

**EAST FLAGLER  
MOSQUITO CONTROL DISTRICT**

Prior Audit Follow-up



**Sherrill F. Norman, CPA  
Auditor General**

## **Board of Commissioners and Director**

During the period October 2018 through July 2020, Mark Positano served as Director of the East Flagler Mosquito Control District and the following individuals served as the District's Board of Commissioners:

	<u>Seat No.</u>
Julius Kwiatkowi, Chairman	1
Barbara A. Sgroi, Vice Chairperson	2
Dr. Florence Fruehan, Treasurer <sup>a</sup>	3

<sup>a</sup> On January 28, 2019, the Governor signed Executive Order No. 19-21, which suspended Dr. Fruehan from public office. After that date, Seat No. 3 remained vacant.

The team leader was Walter K. Cunningham, 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](mailto:mikegomez@aud.state.fl.us) or by telephone at (850) 412-2881.

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# EAST FLAGLER MOSQUITO CONTROL DISTRICT

## Prior Audit Follow-up

### SUMMARY

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This operational audit of the East Flagler Mosquito Control District (District) focused on the progress that the District had made, or was in the process of making, in addressing the findings and recommendations in our operational audit report No. 2019-112.

Our audit disclosed that the District had:

- Corrected 10 findings (Findings 1, 2, 3, 4, 5, 6, 7, 8, 9, and 13).
- Partially corrected 2 findings (Findings 10 and 12).
- Not corrected 1 finding (Finding 11).

### BACKGROUND

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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

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#### Finding 1: Architect Selection

##### Previously Reported

Contrary to State law,<sup>1</sup> the District did not use a competitive negotiation process to obtain architectural services for the Consolidated Facility Construction Project.

We recommended that the Board 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.

##### Results of Follow-Up Procedures

***The District corrected this finding.*** In April 2019, Board purchasing policies were revised to require the District to solicit competitive proposals for professional services covered by the Consultants' Competitive Negotiations Act in accordance with State law. In addition, our examination of District

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<sup>1</sup> Section 287.055, Florida Statutes, also known as the "Consultants' Competitive Negotiation Act."

records and discussions with District personnel disclosed that, during the period June 2013 through August 2020, the Board did not enter into any design professional service contracts.

## **Finding 2: Design Professionals- Liability Insurance**

### **Previously Reported**

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

We recommended that the District implement procedures to ensure and document timely review of certificates of insurance evidencing that design professionals maintain the required insurance.

### **Results of Follow-Up Procedures**

***The District corrected this finding.*** In April 2019, Board purchasing policies were revised to require District personnel to timely obtain and review certificates of insurance to evidence that design professionals maintain the required insurance. In addition, as mentioned in Finding 1, the Board did not enter any design professional service contracts during the period June 2013 through August 2020 and, therefore, there was no need to monitor design professional insurance.

## **Finding 3: Construction Site Selection**

### **Previously Reported**

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

We recommended that the Board establish policies and procedures for evaluating the suitability of proposed construction sites prior to purchasing or leasing the land. Additionally, we recommended that the District 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.

### **Results of Follow-Up Procedures**

***The District corrected this finding.*** In April 2019, Board purchasing policies were revised to require District personnel to evaluate the suitability of proposed construction sites prior to purchasing or leasing land and to also require that 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. Our examination of District records and discussions with District personnel disclosed that, during the period July 2014 through August 2020, the Board did not purchase any land or enter any land leases.

## **Finding 4: Construction Contract Document Retention**

### **Previously Reported**

Contrary to State law,<sup>2</sup> the District did not retain all records identified in the construction contract agreement.

We recommended that the District require and ensure that all contract and construction project documents and records are retained in accordance with Department of State rules.<sup>3</sup> Additionally, we recommended that such documents and records be used by the District to manage the contracts and monitor the contracted services and construction projects.

### **Results of Follow-Up Procedures**

***The District corrected this finding.*** In April 2019, Board purchasing policies were revised to require District personnel to retain contracts, construction project documents, and records in accordance with the retention schedule and disposal process established by the Department of State rules. Our examination of District records and discussions with District personnel also disclosed that, during the period August 2015 through August 2020, the Board did not enter into any contracts, leases, or agreements related to capital improvement or real property.

## **Finding 5: Construction Contract - Damages for Delay Clause**

### **Previously Reported**

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.

We recommended that the Board 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, we recommended that the District improve contract management and 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.

### **Results of Follow-Up Procedures**

***The District corrected this finding.*** In April 2019, Board purchasing policies were revised to require that contracts and applicable contractual service contracts provide a damages-for-delay clause that specifies an anticipated completion date and any factors to consider when determining whether damages should be assessed. In addition, the policies require the District to document any authorized changes to preliminary start and completion dates and consider whether to assess damages, including determination of the portion of delays attributable to the contract and the amount of any resultant damages assessed.

<sup>2</sup> Section 119.021(2)(a) and (b), Florida Statutes.

<sup>3</sup> Department of State Rule 1B-24.003(1)(a), Florida Administrative Code.

Our examination of District records and discussions with District personnel disclosed that, during the period August 2015 through August 2020, the Board did not enter into any construction contracts.

## **Finding 6: Construction Contract - Change Orders**

### **Previously Reported**

District procedures for monitoring construction change orders could be improved.

We recommended that the Board enhance procedures for contract change orders to ensure that the District:

- Retains documentation for all change orders in accordance with Department of State rules.<sup>4</sup>
- 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.

We also recommended that District personnel 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.

### **Results of Follow-Up Procedures**

***The District corrected this finding.*** In April 2019, Board purchasing policies were revised to require District personnel to retain documentation for all change orders in accordance with Department of State rules, obtain board approval for change orders exceeding \$10,000, and document the basis for calculating the change order overhead and profit fee percentages and the reasonableness of those fees prior to payment. During the period October 2017 through August 2020, the District did not have any construction activities and, therefore, did not have any change orders.

Our examination of District records and discussions with District personnel disclosed that the Board consulted with the District Attorney and determined that pursuing reimbursement for the \$15,502 in damages from the contractor would not be economically feasible because the cost of litigation would exceed the cost of the damages. District personnel also determined that the damages were not recoverable under the District's property insurance policy because the deductible amount exceeded the amount of the damages.

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<sup>4</sup> State of Florida General Records Schedule GS1-SL for State and Local Government Agencies, Item #64, which 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.

## **Finding 7: Direct Purchase of Construction Materials**

### **Previously Reported**

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 procedures would not result in cost savings to the District.

We recommended that Board policy be established to require, for future construction projects, the District to 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.

### **Results of Follow-Up Procedures**

***The District corrected this finding.*** In April 2019, Board purchasing policies were revised to require the District to 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. Our examination of District records and discussion with District personnel disclosed that, as the District had no construction activities during the period October 2017 through August 2020, the District made no direct construction materials purchases.

## **Finding 8: Budget Policies and Procedures**

### **Previously Reported**

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

We recommended that the District develop and formally adopt comprehensive policies and procedures detailing the budget development, approval, and monitoring processes.

### **Results of Follow-Up Procedures**

***The District corrected this finding.*** In July 2019, the Board adopted comprehensive policies and procedures detailing the budget development, approval, and monitoring process, as further discussed in the results of our follow-up procedures for Findings 9 and 10.

## **Finding 9: Budget Preparation**

### **Previously Reported**

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.

We recommended that the Board 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.

## Results of Follow-Up Procedures

**The District corrected this finding.** In July 2019, the Board adopted policies and procedures that require District personnel to calculate and, as applicable, timely amend the District General Fund budgeted beginning fund balance using the most current information available in the accounting records.

Our examination of the District's 2019-20 fiscal year budget and related accounting records disclosed that the 2019-20 fiscal year original budget, adopted on September 26, 2019, included an October 1, 2019, budgeted beginning fund balance of \$918,186, which was the amount of fund balance reported in the District's accounting records as of June 30, 2019. In December 2019, when the District closed the accounting records for the 2018-19 fiscal year, the District increased the October 1, 2019, budgeted beginning fund balance by \$300,917. The amended October 1, 2019, beginning fund balance of \$1,219,103 materially agreed with the September 30, 2019, ending fund balance of \$1,206,585 reported on the District's 2018-19 fiscal year audited financial statements.

### **Finding 10: Budget Amendments**

#### Previously Reported

District policies and procedures did not require and ensure that budget amendments that increase the budget are posted on the District Web site with 5 days after adoption and remain there for at least 2 years, in accordance with State law.<sup>5</sup>

We recommended that the District 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.

#### Results of Follow-Up Procedures

**The District partially corrected this finding.** In July 2019, the Board adopted policies and procedures requiring District personnel to post the budget amendments adopted by the Board on the District Web site within 5 days after adoption and for the budget amendments to remain on the Web site for at least 2 years. Our examination of the District Web site on September 10, 2020, disclosed that the four budget amendments adopted during the period October 2018 through July 2020 were on the District Web site as of that date. However, the budget amendment adopted on October 21, 2019,<sup>6</sup> was not posted on the District Web site within 5 days after adoption. Subsequent to our inquiries, on September 17, 2020, the District posted the budget amendment to the District Web site, which was 327 days after adoption or 322 days after the 5-day deadline.

In response to our inquiries, District personnel indicated that they forgot to post the budget amendment on the District Web site. Posting and maintaining of budget amendments on the District's Web site provides transparency and enhances citizen involvement and the ability to analyze, monitor, and evaluate budget outcomes.

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<sup>5</sup> Section 189.016(7), Florida Statutes.

<sup>6</sup> Budget Amendment No. 19-03.

**Recommendation:** We continue to recommend that the District ensure that all budget amendments are posted to the District Web site within 5 days after adoption.

## Finding 11: Capital Projects Budget and Accountability

### Previously Reported

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

We recommended that the District develop procedures to use either a capital projects fund or an alternate mechanism to establish separate accountability for significant capital projects.

### Results of Follow-Up Procedures

***The District did not correct this finding.*** Our examination of District records and discussions with District personnel disclosed that, during the period August 2015 through August 2020, the District had no construction activities. However, as of September 2020, the District had not developed procedures requiring the use of either a capital projects fund or an alternate mechanism to establish separate accountability for significant capital projects.

In response to our inquiries, District personnel indicated that they would add the requirement to either create a separate fund or use an alternate mechanism to establish separate accountability for significant capital projects to the Board's existing policies at the next annual policy review, which District personnel indicated will likely occur in early 2021 when a new Board is seated. Separating 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:** We continue to recommend that the District 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

### Previously Reported

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

We recommended that the Board adopt policies and procedures for establishing and monitoring the General Fund minimum unrestricted fund balances and replenishing the fund balance should a shortfall occur.

### Results of Follow-Up Procedures

***The District partially corrected this finding.*** In July 2019, the Board adopted a minimum fund balance policy, which established the minimum fund balance as 3 average months of expenditures or the sum of the 2 highest months of expenditures, whichever is greater. In response to our inquiry, District personnel explained that the minimum fund balance amount should be the greater of 3 average months of expenditures (i.e., the monthly expenditure average for the past several years multiplied by 3) or the sum

of the 2 highest months of expenditures for the same period. Notwithstanding District personnel's explanation, the policy did not establish the same period to use when calculating the minimum fund balance amount.

District personnel indicated that the minimum fund balance calculation of the 3 average months and the sum of the 2 highest months for the 2019-20 fiscal year considered the period October 2017 through May 2019 (20 months) and, for 2020-21 fiscal year, the period June 2018 through May 2020 (24 months). By this approach, District personnel believed that they used all available data to create a more accurate minimum fund balance calculation.

As part of our audit procedures, we recalculated the minimum fund balance, based on District personnel's interpretation of the policy, and confirmed that the District maintained a General Fund minimum fund balance amount in accordance with the policy for the 2019-20 fiscal year. However, an established period to use for the calculation would help provide a consistent calculation approach to monitor the unrestricted fund balance for the General Fund and a basis for replenishing the fund balance should a shortfall occur.

**Recommendation:** **The Board should enhance the minimum fund balance policy by establishing the time period to use for calculating the minimum fund balance amount.**

### **Finding 13: Anti-Fraud Policies and Procedures**

#### **Previously Reported**

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

We recommended that the Board develop and implement anti-fraud policies and procedures to aid in the mitigation, detection, and prevention of fraud.

#### **Results of Follow-Up Procedures**

***The District corrected this finding.*** In April 2018, the Board approved anti-fraud policies, which establish:

- Actions constituting fraud.
- Fraud reporting procedures that direct employees to report suspected fraud to the District Attorney.
- Responsibilities for investigating suspected fraud.
- Protections for the reputation of persons suspected but not found guilty of fraud.
- Consequences for fraudulent behavior.

## **OBJECTIVES, SCOPE, AND METHODOLOGY**

Pursuant to Section 11.45(3)(a), Florida Statutes, we conducted an operational audit of the East Flagler Mosquito Control District (District) and issued our report No. 2019-112 in February 2019. Pursuant to Section 11.45(2)(j), Florida Statutes, the objective of this audit was to perform, no later than 18 months after the release of that report, appropriate follow-up procedures to determine the District's progress in addressing the findings and recommendations contained within report No. 2019-112.

We conducted this follow-up audit from August 2020 to September 2020 in accordance with applicable 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 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 October 2018 through July 2020, and selected District actions taken prior and subsequent thereto. Our audit included the examination of pertinent District records and transactions, inquiry of District personnel, 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 the relevant population value or size and quantifications relative to the items selected for examination.

Specifically, 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 during the period February 2019 through July 2020, 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 and whether the Board entered into any construction contracts or land leases.
- Examined District records to determine whether the Board established construction policies and District enhanced procedures to address recommendations in Findings 1 through 7 in our report No. 2019-112. Specifically, we determined whether policies required and procedures were sufficient to ensure that the District will:

- Conduct a competitive selection and negotiation process for design professional services.
  - Timely review of certificates of insurance evidencing that design professionals maintain the required insurance.
  - Evaluate the suitability of proposed construction sites prior to purchasing or leasing land.
  - Include provisions in any land lease allowing the District to exit or cancel the lease without cost should the land be subsequently deemed unsuitable for District use.
  - Retain all contract and construction project records in accordance with Department of State rules.
  - Include in all construction contracts and applicable contractual service contracts a damage-for-delay provision that specifies an anticipated completion date and any factors to consider when determining whether damages should be assessed.
  - Retain documentation for any authorized changes to construction preliminary start and completion dates and consider whether to assess damages, including a determination of the portion of delays attributable to the contractor and the amount of any resultant damages assessed.
  - Retain documentation for all change orders, including records evidencing Board approval of those exceeding \$10,000, the basis for calculating change order overhead and profit fee percentages, and the reasonableness of those fees prior to payment.
  - Take advantage of sales tax exemptions by making direct purchases of construction materials or documenting in District records how the contractor's purchase of materials would result in greater savings.
- Examined District records to determine whether the Board had adopted budget policies and procedures to address recommendations in Findings 8 through 12 in our report No. 2019-112. Specifically, we determined whether policies required and procedures were sufficient to ensure that the District will:
    - Properly develop, approve, and monitor the District budget.
    - Use the most recent accounting information available to calculate the District's General Fund budgeted beginning fund balance.
    - Post budget amendments on the District Web site within 5 days after adoption and retain the amendments on the District Web site for at least 2 years.
    - Either use a capital projects fund or an alternate mechanism to establish separate accountability for significant capital projects.
    - Establish and monitor the General Fund minimum unrestricted fund balance and replenish the fund balance should a shortfall occur.
  - Examined budget amendments for the 2018-19 and 2019-20 fiscal years to determine whether they were posted to the District Web site within 5 days and remained on the Web site in compliance with Section 189.016, Florida Statutes.
  - Obtained the Board-approved budget for the 2019-20 fiscal year and compared the beginning fund balance amounts to fund balance amounts available during the budget adoption process to determine whether budgeted beginning fund balance amounts were reasonable and incorporated known facts and circumstances. In addition, we determined whether the Board subsequently amended the 2019-20 budgeted beginning fund balances to materially agree with actual ending fund balance according to the 2018-19 fiscal year audited financial statements.
  - Determined that the Board had adopted a minimum fund balance policy.

- Examined District accounting records for the period July 2019 through July 2020 to determine whether the fund balance of the General Fund was maintained at the minimum level required by the Board's policies.
- 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.
- 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**

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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 fluid and cursive, with "Sherrill" on the first line and "F. Norman" on the second line.

Sherrill F. Norman, CPA  
Auditor General

# MANAGEMENT'S RESPONSE



## Board of Commissioners

Julius Kwiatkowski  
Barbara Sgroi  
Florence Fruehan

Chair  
Vice-Chair  
Treasurer

November 10, 2020

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](mailto: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

# Responses to Preliminary and Tentative Audit Findings November 5, 2020



Finding 10: Updating the website, including posting budget amendments promptly, will be delegated to an employee that can prioritize the task in their workflow to comply with the requirement.

Communicating with and informing the public is important, to that end the Board intends to create a separate position this fiscal year specifically for public relations, which is typical for mosquito control programs.

Finding 11: The District will add the requirement to either create a separate fund or use an alternate mechanism to establish separate accountability for significant capital projects to the Board's existing policies at the next annual policy review, which will likely occur in early 2021. The Board will also consider establishing a capital outlay fund for the specific need of replacing the now 16-year-old helicopter which is our main treatment vehicle.

Finding 12: The District will enhance the minimum fund balance policy by establishing the time period to use for calculating the minimum fund balance amount.