



Joseph M. Centorino, Inspector General

TO: Honorable Mayor and Members of the City Commission
FROM: Joseph Centorino, Inspector General

DATE: 05/16/2023
RE: OIG Comment on Proposed Reassignment of Internal Audit Function
OIG No. 23-09

SUMMARY

This report comments on the proposed ordinance pending before the Finance and Economic Resiliency Committee (FERC), which would amend Section 2-256 of the City Code by reassigning the Internal Audit Function of the Office of the Inspector General (OIG) to its previous placement under the Office of the City Manager. This proposed change would reduce the efficiency, independence and transparency of the City's Internal Audit Function, and would impair the OIG's ability to carry out its mission of conducting independent oversight of City affairs.

The proposed amendment stands to unwind the model of independent internal auditing that is common throughout municipal, state and federal levels of government. Within a short period of time, the placement of the City's Internal Audit function within the OIG has resulted in significant audits which have been impactful and transparent. The demand for OIG audits is further evidence of their integrity and effectiveness. OIG tax audits have led to increased enforcement of City Code provisions and increased revenues.

The OIG takes no position on the separate issue of what resources the Office of City Manager should be provided with in order to best serve the managerial policies of the City Administration. The OIG acknowledges that greater managerial oversight is in the City's best interest.

BACKGROUND

The City of Miami Beach has had an Internal Audit unit for more than 35 years, providing oversight and accountability for City departments, programs, contracts, and expenditures. The unit has had different incarnations and has been operated under the auspices of different City authorities, including the Office of Budget and Performance Improvement (OBPI), Office of the City Manager, and the OIG. OBPI also once included a Management Improvement Unit that employed Industrial Engineers, individuals with the professional background to assess efficiency in the operations of complex City operations. The latter function was terminated several years prior to the OIG's existence. Its absence has been noted by OIG staff who once worked with that unit, and who

believe that there has been an overreliance on auditors for managerial oversight that should occur at the managerial level.

The Internal Audit unit that exists today under the purview of the OIG is essentially the same as the unit that was assigned to the OIG at the time of the OIG's inception in 2019. It consists of the following personnel:

- 1) Two supervising auditors: Chief Auditor Mark Coolidge (previously Interim Internal Auditor) and Deputy Chief Auditor Norman Blaiotta (previously Senior Auditor)
- 2) Three Internal Auditors: Jessica Romero, Tomas Valdes, and one currently unfilled position
- 3) One Sanitation Tax Auditor: Juan Ospina
- 4) Four Resort Tax Auditors: John Benincasa, Yorney Sanchez, El Mostafa Achar, and Carlos "Enzo" Villaran
- 5) One support staff member servicing the entire OIG: Executive Assistant/Office Manager Elisa Alonso (previously Office Associate V with Internal Audit).

Of the above positions only one (an internal auditor) was not part of Internal Audit at the time of the OIG's assumption of that function. Of the above-listed personnel, Mark Coolidge, Norman Blaiotta, Jessica Romero, John Benincasa, Yorney Sanchez and Elisa Alonso worked for the previous Office of Internal Audit. The remaining personnel have been hired due to staff vacancies occurring since the OIG's inception.

Internal Audit unit staff is supervised directly by the Chief Auditor and Deputy Chief Auditor. The unit is supervised overall by the Inspector General, who is in daily communication with the supervisors and staff in setting audit priorities, reviewing and discussing pending audits, and in revising audit reports.

The remaining three positions in the OIG--Investigators Jani Singer and Dylan Hughes and Executive Assistant/Office Manager Elisa Alonso--are supervised solely by the Inspector General.

The Internal Auditors of the OIG has assumed all of the duties previously performed by the Office of Internal Audit. These duties include the performance of internal audits required by City Ordinances and contracts, which include operational and financial audits such as the audit of the State Beachfront Management Agreement, audit of Finance Department's compliance with selected BDO audit recommendations (stemming from the \$3.6 Million fraud that occurred during 2016), Miami Beach Cultural Arts Council Audit, and quarterly reviews of completed Finance Department Bank Account Reconciliations.

The Internal Auditors also perform discretionary audits as determined by OIG on its own initiative or upon suggestion of the City Manager, City Commission, Audit Committee or City departments. These audits have included, among others, three audits of the Building Department involving permit surcharge fee rates, expenditures pursuant to a State law mandating that all revenues generated from permit fees be spent for enforcement of the State Building Code, and an overview of the City's permitting process. Other internal audits have included an audit of the Miami Beach Garden Conservancy Management Agreement; three audits of the City's permitted public towing operations; audit of the Taste Bakery Agreement; and the audit of the Miami Beach Tennis Management, LLC management agreement.

The Internal Auditors have also assisted or supplemented the OIG's investigative staff in supplying audit services in connection with reports on some investigations or other reviews of City programs or processes, including, among others, the Palm and Hibiscus Island Stormwater

Project, the Indian Creek Improvement Project, the West Avenue Phase II Project, investigation of the usage of City take-home vehicles, and issues related to G.O Bond projects.

Due to the limited internal audit staff of only three auditors and the numbers of required audits, requested audits and its prioritization of discretionary audits in high-risk areas in the City government, the OIG faces significant challenges in meeting the City's audit needs

Resort Tax Auditors and the Sanitation Tax Auditor are restricted to audits of those respective functions. Revenues generated from tax audit assessments have usually exceeded the cost of salaries for these positions. The increased success of tax audit activities can be attributed to the OIG's subpoena authority that facilitates retrieval of records needed for tax audits or investigations of non-compliant contractors that resist audits by not providing all requested documentation. These include contractors that perform taxable construction debris removal but disregard City permitting or sanitation tax requirements.

The OIG's tax audit responsibility ends with the calculation of an assessment of the tax owed, which may be a final assessment or, in resort tax audits where the taxpayer has failed to provide sufficient records to complete an audit, an estimated assessment. Thereafter, the Finance Department may collect revenues, impose liens, or negotiate settlements with those private entities to collect the levied assessments.

The Inspector General, both OIG audit unit supervisors, current internal auditors, and the Sanitation Tax Auditor have all completed the training and passed the exam necessary to be certified as Inspector General Auditors by the Association of Inspectors General (AIG), the national organization that sets standards for, and trains and advises OIGs across the country at all levels of government. Additionally, Chief Auditor Mark Coolidge, and Investigators Jani Singer and Dylan Hughes have earned certification as Inspector General Inspector/Evaluators, a new certification created by the AIG for those functions. The OIG has made a substantial investment in staff training on the standards and techniques of these OIG functions. Lastly Sanitation Tax Auditor Juan Ospina has attained the certification of Inspector General Investigator.

PROPOSED AMENDMENT TO SECTION 2-256

Section 2-256 of the City Code is the enabling ordinance that specifies the process for selecting the Inspector General, the functions, duties, authority, and reporting procedures of the OIG. It follows the City Charter in establishing the agency as an independent body and provides that, "The organization and administration of the Office shall be sufficiently independent to assure that no interference or influence external to the Office adversely affects the independence and objectivity of the Inspector General." It also specifically provides that the Inspector General is to serve as the City's internal auditor, which led to the transfer of the former Internal Audit unit in its entirety to the OIG.

The proposed ordinance amendment would create a new City department under a new position titled, "Internal Auditor," similar to what was in existence prior to the OIG. This change would transfer to this new department all internal audit functions now under the auspices of the Inspector General, including all required City audits, parking-related audits, resort tax audits, audits of franchise waste fees and roll-off permit fees (sanitation tax audits), and likely also audits now requested by the City Manager, City Commission and department heads.

The proposed ordinance change does not specify what personnel would be transferred to the new department. However, based on the reassignment of the internal audit function now performed by the OIG, and the fact that 9 out of 10 of the OIG's current audit staff positions were originally based in the former Office of Internal Audit, it is clear that the ordinance as drafted would remove from the OIG nearly all of the current audit staff and a majority of its entire office personnel, as only one of the current OIG audit positions was not previously included in the former Office of Internal Audit.

OIG POSITION ON PROPOSED TRANSFER OF INTERNAL AUDIT

The OIG opposes the pending ordinance amendment. The Miami Beach Audit Committee, consisting of seven City residents with professional backgrounds related to the audit function and which is appointed by the Mayor and City Commissioners and participates in the selection of the City's External Auditor as well as advising the OIG on audit-related matters, has voted unanimously to oppose the legislation.

There are three primary areas in which the OIG believes that adoption of the legislation or any legislation that would remove audit personnel from the OIG, would be both detrimental to the OIG's mission and values and diminish the efficiency, independence and transparency of the City's Internal Audit Function.

Efficiency

The transfer of the Internal Audit function to the OIG was an efficiency move. Most cities of the size of Miami Beach do not have an internal audit staff akin to that in Miami Beach. It would be even rarer and almost unheard of to find a City of its size having both an internal audit staff and an OIG in separate departments. Establishing a second audit unit with separate supervision and support staff involved in the same essential function of producing internal audits of City departments, programs and expenditures would be duplicative and wasteful.

The transfer to the OIG was also a bold, anti-bureaucratic move. Government expansion inevitably occurs when new functions are added. Turf protection produces duplication. The cost estimate for the OIG given to the voters at the time of the adoption of the Charter Amendment establishing the office, and prior to placing the Internal Audit function under the OIG, was based on an assumption that five new positions would be created for the OIG. But only four new positions were actually created for the office: those of the Inspector General, two investigators and one auditor. Consolidation with Internal Audit effected an immediate reduction in new positions for the newly-created office. With the gradual accretion of personnel that generally occurs within government, it is likely that maintaining separate audit units in the City would have produced future inefficiencies.

Contrary to the assertion in the preamble to the proposed ordinance, which states that it is "not customary for an OIG to assume the duties of an administrative internal audit function," the practice at all levels of government has tended toward consolidation of these functions.

At the federal level, the Inspector General Act of 1978 called for the transfer of internal audit functions in numerous federal agencies to newly-created Offices of Inspector General. Palm Beach County Inspector General John Carey, who retired from the federal government as Inspector General for the Defense Intelligence agency, served as one of 73 federal inspectors

general on the Council of the Inspectors General on Integrity and Efficiency (CIGIE) that operated under the Inspector General Act of 1978. He stated that, “almost all of these federal OIGs have the internal audit function as part of the OIG organization. This is largely the case for OIGs across the country at the state and local level.” (See Attachment #1.)

Melinda Miguel, Chief Inspector General for the State of Florida, stated that 33 out of 35 State of Florida OIGs also have consolidated the internal audit function within their agencies. (See Attachment #2.)

The OIG staff conducted an informal poll of 20 local OIGs, consisting of County, City, School District, Clerk of Court and special district OIGs within the State of Florida. It found that 16 out of 20 surveyed had the internal audit function consolidated within those offices. (See Attachment #3)

Independence

It has become well-established in the auditing profession, in both public and private sectors, that the independence of audit staff from any undue pressure that might compromise objectivity in audits has become the gold standard. (See, e.g., Yang, Lang (Kate), “Auditor or Adviser (In)Dependence and Its Impact on Financial Management,” *Public Administration Review*, Vol. 81, Issue 3, pp.475-487, The American Society for Public Administration (2020); Klimentchenko, Denis, “Myth of Auditor Independence,” *University of Illinois Law Review*, p. 1275 (2009). Indeed, the well-publicized scandals involving major accounting firms and audit teams in past decades have led to an increased movement toward elevating the criticality of independence in auditing.

The Association of Inspectors General promotes its general standard of independence in its “Principles and Standards For Offices Of Inspector General,” known as the “Green Book,” as follows: “The inspector general and OIG staff involved in performing or supervising any assignment should be free from personal or external impairments to independence and should constantly maintain an independent attitude and appearance.” The Green Book includes the following list of external impairments that “can restrict the efforts or interfere with the OIG’s ability to form independent and objective opinions and conclusions”:

1. *Interference or undue influence in the selection, appointment, and employment of OIG Staff.*
2. *Restrictions on funds or other resources dedicated to the OIG, such as timely, independent legal counsel, that could prevent the OIG from performing essential work.*
3. *Interference or undue influence in the OIG’s selection of what is to be examined, determination of scope and timing of work or approach to be used, the appropriate content of any resulting report, or resolution of audit findings.*
4. *Influences that jeopardize continued employment of the inspector general or individual OIG staff for reasons other than competency or the need for OIG services.*
5. *Interference with OIG access to documents or individuals necessary to perform OIG work.*
6. *Improper political pressures that affect the selection of areas for review, the performance of those reviews, and the objective reporting of conclusions without fear of censure.*

In addition, the 2018 version of the Government Auditing Standards (Yellow Book) also strongly emphasizes the need for Internal Audit to be independent--both “independence of mind” and

“independence in appearance”--throughout the audit process. It contained changes in six specific areas, with one being an expanded independence standard.

It is for these reasons that the OIG cannot function as another department of the City or share its supervisory and staff resources with the City administration.

As current OIG Internal Audit staff who served under previous City Administrations can attest, the former Office of Internal Audit was frequently instructed what to audit by City management; verbiage in reports was occasionally revised or omitted based on management concerns; and some audit reports were never completed and/or issued. The office's lack of independence was compromised and so was its work product in terms of performing an independent audit function. An audit conducted under the direction of a CEO of a government entity may well have value for the purpose of providing managerial insights, but is not suited to providing unadulterated and unfiltered information to the primary City stakeholders—the general public and its elected representatives.

No question is raised here regarding the integrity of any past or present City Manager. The City of Miami Beach is fortunate to have had managers of integrity, even under difficult past circumstances when it experienced corrupt activity in some departments. It is the opinion of its current Inspector General that the City's superior ethics training program for its employees is the best in the County, due largely to the initiatives and commitments of its managers. Yet, common sense tells us that human nature leads almost any manager in any organization to put the best possible image on the performance of his or her administration.

Furthermore, the judgment of the auditor involved in reviewing a particularly problematic issue may easily be influenced by a concern that the audit report could prove embarrassing to a City Administration and to the Manager upon whose discretion the auditor's job depends. There is no way to avoid that problem when an audit staff is directly under the supervision of the administrator whose departmental personnel may be under scrutiny in any given engagement.

On a related issue, the proposed ordinance also includes a provision that the Inspector General may be removed from office upon a majority vote of the Commission. This provision is inconsistent with City Charter Section 9.01 that a 5/7 vote of the Commission is necessary to remove the Inspector General.

It should also be noted that the current ordinance, as well as the pending proposed amended ordinance, in providing for removal of the Inspector General without cause, is contrary to Section F of the AIG's "Principles and Standards for Offices of Inspector General," which provides that the statutory authority for an OIG should include a provision that the inspector general be removed only "for cause."

Transparency

Miami Beach residents provided the mandate for the establishment of an OIG in a 2018 referendum in which 81% of the votes approved a Charter Amendment creating the office, which cannot be abolished without the approval of the electorate. The explicit City Charter provision for an independent office implicitly carries with it an expectation that the office's activity will be sufficiently transparent for its oversight by the electorate.

An annual report is required of the office outlining its activities and has been completed for the 2020, 2021 and 2022 years. All completed audit reports are publicly displayed on the OIG website

and sent directly to the Mayor and Commissioners, City Manager and Audit Committee. The ordinance requirement that copies of draft OIG reports be provided to affected parties and that comments or criticisms made in response to the draft be included in final reports has been followed. No audit begun by the OIG has been discontinued or kept out of the public eye, as occasionally occurred prior to the OIG's inception.

The OIG has established a hotline and website access for the confidential reporting of complaints or other information by the public, which may be utilized without fear of retribution for audit decisions or for any other OIG functions.

The OIG has initiated the issuance of semi-annual reports summarizing the activities of the Resort Tax Auditors and providing the number of completed annual and monthly audits and the amount of net assessments. Previously, this information was not shared with the City Commission and others. Furthermore, the OIG has begun issuing an annual activity report detailing the impact of the Sanitation Tax Auditor, which includes significant increases in (1) the issuance of business tax receipts to contractors; (2) the issuance to non-compliant contractors of Notices of Violations, many stemming from unannounced field observations by the Sanitation Tax Auditor outside the scope of usual audit activity; and (3) additional Sanitation revenues resulting from the completion of audits due to increased enforcement.

Based on the experience of members of the former Internal Audit Unit, if audit personnel are removed from the OIG and assigned elsewhere, it may be expected that less audit information would be available for consideration by the City Commission and the general public.

CONCLUSION

The OIG has reviewed the proposed ordinance calling for removal and transfer of the Internal Audit unit from the OIG to the Office of City Manager and concluded that the adoption of the amendment would diminish the efficiency, independence, and transparency of the City's internal audit function. This issue has also been discussed with other Inspectors General and staff from other OIG offices, both locally and nationally, and there is consensus among them that supports this conclusion.

Half of the current OIG audit staff is limited to the audit of resort tax or sanitation tax receipts, leaving only three auditors, aside from supervising auditors, to perform both required and discretionary internal audits. The removal or transfer of any current OIG audit personnel would unavoidably lead to a loss of productivity and diminish the OIG's capacity to respond to requests for independent audits or reviews of City programs or projects. The OIG cannot support an amendment that contravenes the basic purposes and mission of an OIG and undermines its ability to perform the functions delegated to it in the City of Miami Beach.

The relationship between the current OIG and the Office of the City Manager has been an amicable and collaborative one. The Commission may wish to consider adopting a provision that would encourage such a relationship for future administrations and the OIG by authorizing confidential updates by the Inspector General to the City Manager on pending audits, investigations and other matters, when deemed feasible and without compromising OIG independence, to minimize any ongoing consequences of wasteful, unethical, abusive, or fraudulent conduct. This would obviously need to be limited to situations where disclosure would not jeopardize a pending criminal investigation, as determined by the Inspector General in conjunction with a law enforcement official having joint authority over such investigation.

This conclusion in no way reflects negatively upon the current City Administration and makes no judgment regarding what staff may be appropriate to the Office of the City Manager.

Respectfully submitted,



Joseph M. Centorino, Inspector General

05/16/2023
Date



Mark Coolidge, Chief Auditor

05/16/2023
Date

cc: Alina Hudak, City Manager
Rafael Paz, City Attorney
City of Miami Beach Audit Committee Members
Nattaly Cuervo, Executive Office Associate II

OFFICE OF THE INSPECTOR GENERAL, City of Miami Beach
1130 Washington Avenue, 6th Floor, Miami Beach, FL 33139
Tel: 305.673.7020 • Fax: 305.206.5509 • **Hotline: 786.897.1111**
Email: CityofMiamiBeachOIG@miamibeachfl.gov
Website: www.mbinspectorgeneral.com

Alonso, Elisa

From: John Carey A. <JCarey@pbcgov.org>
Sent: Monday, January 9, 2023 4:29 PM
To: Centorino, Joseph
Subject: Internal auditors and IGs

[THIS MESSAGE COMES FROM AN EXTERNAL EMAIL - USE CAUTION WHEN REPLYING AND OPENING LINKS OR ATTACHMENTS]

Joe,

I want to follow up in regards to our conversation today about officers of inspectors general and internal auditors.

1. Before I came to Palm Beach County, I was one of the 73 federal inspectors general on the Council of the Inspectors General on Integrity and Efficiency (CIGIE) that operated under the IG Act of 1978 as amended. I believe almost all of these federal OIGs have the internal audit function as part of the OIG organization. This is largely the case for OIGs across the country at the state and local level. On occasion, organizations have some sort of internal audit function in addition to that of the OIG. Where these do exist, it does not limit the jurisdiction of the OIG audit mission.
2. While there are few OIGs that only have an investigative function or only an audit functions, the vast majority have both. The Association of Inspectors General, IG Institute® teaches that audits and inspections are two sides of the same coin in a model OIG. On one side of this oversight coin, the investigative function is reactive in investigation complaints of fraud, waste and abuse. On the proactive side of the coin, audits provides independent oversight that promotes compliance, best practices, and prevents fraud, waste and abuse. Audits can also uncover fraud, waste and abuse that is turned over to the investigative side of the OIG.
3. Finally, in my experience, successful IGs come from a wide range of backgrounds. The Association of Inspectors General guidance on qualifications of an inspector general is similar to that of the IG Act of 1978 as amended, "The inspector general should be selected without regard to political affiliation on the basis of integrity, capability for strong leadership, and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, investigation, or criminal justice administration or other appropriate fields."

Regards,
John

John Carey
Inspector General
Palm Beach County
P.O. Box 16568
West Palm Beach, FL 33416
Office: 561-233-2350
Hotline: 877-283-7068

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Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

Alonso, Elisa

From: Miguel, Melinda M. <Melinda.M.Miguel@eog.myflorida.com>
Sent: Tuesday, November 15, 2022 4:50 PM
To: Centorino, Joseph

[THIS MESSAGE COMES FROM AN EXTERNAL EMAIL - USE CAUTION WHEN REPLYING AND OPENING LINKS OR ATTACHMENTS]

Please go to www.floridaoig.com to see the number of the state agency IGs.

Based on my historical perspective in Florida government, we have 33 of the 35 agency IGs that have both internal audit and investigative responsibilities within their statutory mandate as outlined in s. 20.055, Florida Statutes. The Florida IG Act passed in 1994 and added the investigative piece to these office's jurisdictions. I served on the Council of State Agency IGs in 2006 to make recommendations about the Florida IG Act. I also worked with the Florida Legislature to enhance the independence of agency IGs in those agencies under the purview of the Governor.

I have served in Florida government since October 1989 and went to work for the IG in December 1993 that was brought down to Florida by Senator Chiles who signed the Florida IG Act into law.

I hope this is helpful.

Respectfully,

Melinda M. Miguel
Chief Inspector General
Executive Office of the Governor
State of Florida

Please note that under Florida law correspondence sent to the Governor's Office, which is not confidential or exempt pursuant to chapter 119 of the Florida Statutes, is a public record made available upon request.

MIAMI BEACH OIG SURVEY OF LOCAL GOVERNMENT OIG INTERNAL AUDIT UNITS

This informal survey was conducted by OIG Staff during January/February 2023 to determine whether the Internal Audit functions in local governments in Florida have been consolidated into OIG units or remain separate.

| <u>OIG</u> | <u>Consolidated</u> | <u>Separate</u> |
|-------------------------------------|---------------------|-----------------|
| Bay County | X | |
| Broward County | | X |
| Clay County Clerk | X | |
| Collier County Clerk | X | |
| City of Jacksonville (Duval County) | | X |
| Lake County Clerk | X | |
| Lee County Clerk | X | |
| Manatee County Clerk | X | |
| City of Miami Beach | X | |
| Miami-Dade County | | X |
| Palm Beach County | | X |
| Palm Beach County Clerk | X | |
| Palm Beach County School District | X | |
| Pasco County Clerk | X | |
| Pinellas County Clerk | X | |
| Polk County Clerk | X | |
| Okaloosa County Clerk | X | |
| Sarasota County Clerk | X | |
| Seminole County Clerk | X | |
| St. John's River Water Mgt. Dist. | X | |
| City of Tallahassee | X | |