

MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMITTEE MEMORANDUM

TO: Honorable Chair and Members of the Finance and Economic Resiliency Committee

FROM: Alina T. Hudak, City Manager

DATE: July 28, 2023

SUBJECT: Discussion Regarding Internal Audit Function

BACKGROUND

This item was referred to the Finance & Economic Resiliency Committee (FERC) at the March 1, 2023, Special Commission Meeting. The purpose of the referral is to explore, whether the function should remain within the purview of the Office of the Inspector General (OIG), or transfer back to the Administration as had previously been, or some variation thereof.

Effective Fiscal Year (FY) 2018, in accordance with Letter to the Commission (LTC) 321-2017, the Office of Internal Audit became a stand-alone department reporting directly to the City Manager. The internal audit function was previously a division of the Office of Budget and Performance Improvement. In November 2018, City voters approved an amendment to the City Charter, creating Article IX and the Office of Inspector General; establishing the functions of the office; providing the Inspector General with the power to subpoena witnesses, administer oaths, and require production of records, to conduct its investigations; and providing that the term, functions, authority, and power be further established by ordinance.

Establishing City of Miami Beach Office of Inspector General

Shall City Charter be amended to create the Office of Inspector General, which shall be independent and empowered to: • investigate, audit, review, and oversee municipal matters including City contracts, programs, projects, and expenditures, in order to identify efficiencies, and detect, investigate, and prevent fraud, waste, mismanagement, misconduct, and abuse of power; and • subpoena witnesses, administer oaths, and require production of records; provided such Office's appointment, term, functions, and powers shall be further established by ordinance?

Additional Information was provided in the Miami Beach Election 2018 Voter's Guide (see Attachment 1), which clarified that the purpose was to to identify efficiencies, and to detect, investigate, and prevent fraud, waste, mismanagement, misconduct, and abuse of power in City government. The budget impact was estimated as \$484,000 for year 1 and \$1,100,000 for year 2. This budget impact was based on five (5) full-time employees, including the Inspector General, an attorney, an investigator, and two (2) clerical employees. From the nature of the specific positions listed, it is reasonable to deduce that the focus of the new office would be investigations.

In anticipation of the November 2018 referendum question, the City's FY 2019 Adopted Operating Budget, approved on September 26, 2018, included five (5) full-time equivalent (FTE) positions for the OIG with a budget of \$484,000. The then Office of Internal Audit, under the oversight of the City Manager, had 10.6 FTE positions with a budget of \$1,613,000, including five (5) auditors for Sanitation and Resort Tax revenue collections.

The implementing Ordinance (Attachment 2: Ordinance 2019-4239) was approved on second reading at the February 13, 2019, City Commission meeting. The Ordinance clarified that the Inspector General shall serve as the City's internal auditor but provided limitations and guidelines on those functions to ensure that the needs of the Commission and the City Manager were met.

The FY 2020 Adopted Operating Budget reflected the merger of the Office of Internal Audit with the OIG with a combined fourteen (14) FTE positions for a budget of \$2,233,000.

The OIG budget for FY 2023 is \$2,411,000 including fourteen (14) FTE positions which include five (5) auditors for Sanitation and Resort Tax revenue collections. The OIG is requesting an enhancement of an additional four (4) staff auditors (tax audit) for an additional budget impact of \$326,000 for FY 2024 and \$409,000 for FY 2025.

On March 1, 2023, the Commission held a Special Commission Meeting to discuss and act, if necessary, regarding the Inspector General and the operations of the OIG. At the meeting, the item was referred to the FERC and City Manager and the Inspector General were directed to separately prepare recommendations regarding the internal audit function.

ANALYSIS

Many administrative decisions involve assessing and managing risk and evaluating the costs and benefits of alternative courses of action. Appropriate risk management policies and practices minimize the City's exposure to the consequences of a range of possible adverse events.

Transfer of the internal audit function to the Administration would allow the Administration to identify and develop mitigation controls for risk. Further, this would allow the OIG to concentrate on the core tasks as outlined in the 2018 ballot question, specifically related to investigating and preventing fraud, waste, mismanagement, misconduct, and abuse of power.

An element of "risk" occurs in all City functions and activities and can result from both internal and external sources. Risks can include issues such as cost overruns on construction projects and consulting fees, uncollected taxes and fees, decreased resident and/or customer satisfaction, equipment or computer failure, legal and contractual matters, adverse publicity, negative credit ratings, and fraud. Some of these risks, such as adverse publicity, negative credit ratings, and fraud, may be beyond the control of the City, however, the City must prepare for such contingencies. Others risk possibilities can be directly controlled by the City's Administration.

Regardless of which approach selected by the Commission, it is recommended that a Fraud Risk Assessment and associated Enterprise Risk Management (ERM) plan be

developed; providing a systematic management of activities that involve a meaningful degree of risk, including risk identification, assessment, and prevention to develop the management oversight and processes of the City. The Government Finance Officers Association (GFOA) has adopted a best practice endorsing ERM and its implementation.

Per the Institute of Internal Auditors (IIA) position paper: “The Role of Internal Auditing on ERM” (see Attachment 3), the responsibility for ERM, in practice, is delegated to management. The role of internal audit regarding ERM is to provide objective assurance on the effectiveness of risk management with activities including but not limited to facilitating identification and evaluation of risks and developing and maintaining the ERM plan. Based on this linkage, it is appropriate to conclude that the internal audit function should be located under the direction of the City Manager.

RECOMMENDATION

The Administration is tasked with identifying and developing mitigation controls for risk and internal audit functions are key to that process. Therefore, the Administration recommends that all internal audit functions including tax audit resources, be returned under the administration of the City Manager with direction to develop an annual internal audit work plan based on a to be developed Fraud Risk Assessment and associated Enterprise Risk Management (ERM) plan. As part of this reorganization, the OIG can request that there is adequate contractual capacity in the budget to be able to conduct investigations and other functions as originally envisioned.

If the internal audit function remains located under the OIG, it is requested that the Commission reaffirm that the annual workplan is developed, reviewed, and approved in conjunction with the City Manager. This was envisioned in the Ordinance 2019-4239 under Sec. 2-276 (d) (14) listed below:

With the exception of the internal audit functions enumerated in subsection (e), and the General Obligation Bond Program functions enumerated in subsection (f), both of which must be performed, the Inspector General may exercise any of the powers set forth in this section upon the Inspector General's own initiative. However, the Inspector General shall utilize best efforts to perform its investigations, audits, reviews, and oversight in accordance with the following order of precedence: (i) referrals from the City Commission, (ii) requests by the City Manager, (iii) complaints submitted by members of the public, and (iv) matters initiated by the Inspector General.

Attachments

1. 2018 Miami Beach Voter's Guide
2. Ordinance 2019-4239
3. The IIA position paper: “The Role of Internal Auditing on ERM”