




**OFFICE OF INSPECTOR GENERAL
PALM BEACH COUNTY**

Sheryl G. Steckler
Inspector General

Date: September 10, 2013

To: Mark Hammond
Executive Director
Solid Waste Authority

From: Donald Balberchak 
Director of Investigations
Office of Inspector General

Subject: OIG Closing Memorandum Re: Solid Waste Authority Contract #03-240

This memorandum is to advise you that the Office of Inspector General (OIG) has concluded its Whistle-blower (WB) Investigation into issues concerning the Solid Waste Authority's (SWA) Contract #03-240 (the Contract¹) with The Tower Group, Inc.² (Tower). The OIG received a complaint alleging gross mismanagement of the Contract, which resulted in monetary losses to SWA. The complaint further alleged that despite Tower's initial termination during Phase I of the Contract for "failure to perform," the newly restructured Tower (Tower-OHL Group, Inc.) was reinstated for Phase II of the Contract.

The OIG obtained 33 witness statements and reviewed all related documents (e-mails, memorandums, building plans/designs, invoices, agreements, correspondences, meeting minutes, etc.) throughout the Contract's history (a period of approximately 10 years), which revealed the following:

- Tower agreed to have Phase I "substantially completed" by December 16, 2005 and "ready for final payment" by February 14, 2006. As of October 16, 2007 (termination of Contract), the project was approximately 20 months overdue.

¹ On April 5, 2003, SWA released Invitation to Bid #03-240/JMD, which included the construction of the Central County Transfer Station (CTS), referred to as Phase I, while Phase II included the refurbishment of a former transfer station (at the same site) into a new Recycling Facility.

² Sometime in the summer of 2006 (according to its website), The Tower Group, Inc. was purchased by an international company and its name was changed to Tower-OHL Group, Inc. For purposes of this report, the Tower Group, Inc. and Tower-OHL Group, Inc. will be referred to as Tower.

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- SWA made efforts to keep the project on track (i.e., meetings, schedule revisions, warnings, assessing liquidated damages); however, Tower was ultimately terminated for their “failure to perform.”
- When Tower was subsequently restructured by its new management, Tower petitioned SWA to complete Phase II of the Contract. SWA entered into Change Order #13 to reinstate Tower. Tower agreed to various performance provisions and in exchange, SWA believed that it would realize certain benefits including avoiding the costs and “inherent risks of litigation” and lowering the cost of completion compared with having to re-bid the entire Contract, as well as the fact that SWA would receive an upgraded wind resistant building valued over \$250,000.00 at no cost. It is noted that both URS Corporation³ and SWA reported satisfactory performance by Tower in Phase II of the Contract.

Although there were deficiencies by Tower in Phase I of the Contract, those deficiencies were not attributed to gross mismanagement by SWA. While a report is not being issued,⁴ based on our review of statements and pertinent documentation, the OIG makes the following corrective action recommendations:

1. Determine whether any additional safeguards are necessary to minimize financial losses when a contractor is unable to fulfill its contractual obligations.
2. Continue to seek recoupment of all allowable costs.

The OIG was advised that SWA is currently in the process of implementing the OIG’s recommendation.

Cc: Vice Mayor Priscilla Taylor, Solid Waste Authority Board Chair
 Commissioner Paulette Burdick, Solid Waste Authority Board Vice Chair
 Commissioner Mary Lou Berger, Solid Waste Authority Board Secretary
 Commissioner Hal R. Valeche, Solid Waste Authority Board
 Commissioner Shelley Vana, Solid Waste Authority Board
 Commissioner Steven L. Abrams, Solid Waste Authority Board
 Commissioner Jess R. Santamaria, Solid Waste Authority Board

³ According to URS Corporation Vice President of Facilities Robert Cooper, URS Corporation was responsible for documenting all additional expenses incurred by SWA to complete the project in the event of litigation.

⁴ Pursuant to § 112.3189(5)(a)(3), F.S.