



Sheryl G. Steckler
Inspector General

OFFICE OF INSPECTOR GENERAL PALM BEACH COUNTY

“Enhancing Public Trust in Government”

Audit Report 2014-A-0003 February 5, 2014

*“Provide leadership in the promotion of accountability and
integrity of Government in Palm Beach County”*



**OFFICE OF INSPECTOR GENERAL
PALM BEACH COUNTY
TOWN OF BRINY BREEZES
REVIEW OF EXPENDITURES
AUDIT REPORT: 2014-A-0003**

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"Enhancing Public Trust in Government"

SUMMARY RESULTS AT A GLANCE

We conducted an audit of the Town of Briny Breezes (the "Town") that focused on controls¹ over expenditures. We selected a sample of payments across all major spending categories to test compliance with Town policies and procedures.

Overall, we found controls over expenditures were adequate. However, we identified the following findings with respect to procurement activities that can be improved, as well as the need to improve the completeness of documentation to support the validity of expenditures and transfers of funds:

Work Performed by Two Vendors On the Town's Water and Sewer System Have Not Been Competitively Procured and One of the Two Vendors Operates Without a Signed Contract

- The Town utilizes a vendor to perform maintenance, service, and repairs to the water and sewer system. The Town Council,

¹ Internal control (controls) is a means by which an organization's resources are directed, monitored, and measured. It plays an important role in detecting and preventing fraud and protecting the organization's resources, both physical and intangible.

through a Resolution passed in fiscal year 2011, exempted this vendor from its requirements for competitive bids on purchases over \$5,000. For fiscal year 2012 payments to this vendor totaled \$44,325.46. This vendor also operates without a signed contract.

- Another vendor performs utility flow monitoring on the water and sewer system. The Council has not exempted this vendor from the requirements for competitive procurement. However, the vendor performs work under a contract executed in 2009 which has not been competitively bid and therefore does not comply with the Town's procurement policy.

Documentation That Supports Expenditures and Transfers of Funds Was Lacking

- We noted two instances, or 7% of our sample of thirty expenditures, where documentation did not exist to substantiate the expenditures. The value of the two instances was small and totaled \$1,300 out of our total sample of \$181,666. We were able to ascertain the purpose

of the two expenditures through other means.

- We identified two transfers of \$50,000 each among Town bank accounts that were not formally documented and approved in advance by the Town Council. We were able to ascertain the purpose of the transfers with no exceptions noted.

Our audit report includes four recommendations to assist the Town in addressing the findings:

- 1) The Town should consider amending its procurement policy to eliminate exemptions for the specific vendor. In addition, the Town should execute a contract with the selected vendor to reduce the risk of engaging work on public utility systems without

the protections afforded by a signed contract.

- 2) The Town should follow their procurement policy and seek bids or proposals for all such services to compare services levels and costs.

- 3) The Town should obtain, review, and maintain supporting documentation for all expenditures, and retain the records pursuant to the requirements of Section 119.021, Florida Statutes.

- 4) With respect to transfers between Town bank accounts, the Town should document the purpose of such transfers and obtain approval in advance by the Town Council.

Management has proposed corrective action to address each of our recommendations.

BACKGROUND

The Town of Briny Breezes is located between the Intracoastal Waterway and the Atlantic Ocean. The Town Council consists of a Mayor and five Aldermen. Total expenditures across all funds were approximately \$877,000 for the fiscal year ended September 30, 2012.

OBJECTIVES, SCOPE AND METHODOLOGY

The objectives of this audit were to:

- Assess controls related to expenditures; and
- Review a sample of expenditures and related documentation.

All transactions tested occurred between October 1, 2011 and September 30, 2012. Our audit procedures included but were not limited to:

- Evaluating policies and procedures;
- Interviewing Town Council members (individually) and third party contractors;
- Evaluating compliance with applicable policies and procedures;
- Selecting various samples of expenditures from Town records; and,
- Reviewing supporting documentation.

This audit was conducted 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.

FINDINGS AND RECOMMENDATIONS

Finding (1): UTILITY MAINTENANCE, SERVICE AND REPAIR WORK PERFORMED BY A PRIVATE COMPANY IS EXEMPT FROM COMPETITIVE BID BY TOWN COUNCIL AND THE COMPANY HAS BEEN OPERATING FOR MULTIPLE YEARS WITHOUT AN EXECUTED CONTRACT

The Town utilizes a private company to perform maintenance, service, and repairs to the water and sewer system. The Town Council, in approving the Accounting Policy during the fiscal year ended September 30, 2011 (Resolution 2011-15), exempted the long-standing vendor from the Town's policy requiring competitive procurement. That policy requires formal competitive bids for all services when the estimated cost exceeds \$5,000. Instead, on an annual basis, the Council reauthorizes the vendor, in the form of a Motion, to perform work that may be required. We also found that there is no signed contract in place.

For fiscal year 2012, payments to the vendor totaled \$44,325.46. We sampled seven invoices, totaling \$34,967 without exception. Rates charged by the vendor were consistent with a rate schedule contained in a draft (unexecuted) contract.

While the Town Council voted² to exempt these services from competitive bid, we believe the Town would benefit from a competitive procurement process. Florida law encourages use of competitive procurements. Florida Statute, §287.001 in describing legislative intent, states in part, "The Legislature recognizes that fair and open competition is a basic tenet of public procurement; that such competition reduces the appearance of favoritism and inspires public confidence that contracts are awarded equitably and economically...". Also, allowing the vendor to perform services without a signed contract increases the Town's risks should any disputes or problems arise related to the work performed by the vendor.

Recommendations

- (1) The Town should consider amending its procurement policy (contained within the Accounting Policy) to eliminate exemptions for specific vendors and seek bids or proposals for all such services in order to compare service levels and costs. In addition, the Town should execute a contract with the selected vendor to reduce the risk of engaging work on public utility systems without the protections afforded by a signed contract.**

Management Response

- (1) The Town does not believe that the competitive bidding process was applicable to this specific vendor. However, the Town's attorney will bring this issue to the Town Council to see what action, if any they want to take on this matter. The Town states that there is a written contract between the Town and this vendor but acknowledges that it is not signed. The Town will work with this vendor to obtain a signed contract.**

Finding (2): UTILITY MONITORING AND MINOR MAINTENANCE SERVICES PERFORMED BY A TOWN RESIDENT UNDER CONTRACT WERE NOT COMPETITIVELY BID IN COMPLIANCE WITH THE TOWN'S PROCUREMENT POLICY

An individual who is a resident of the Town performs utility flow monitoring and minor maintenance for the Town's water and sewer system, as well as maintenance of the Town Hall premises. During the audit period, payments to the individual totaled approximately \$6,690. The Town Council has not exempted these services from their policy requiring competitive bids. However, the services have not been subjected to the bid/proposal process and therefore this contract is not in compliance with the Town's

² Resolution No. 2011-15 Adopting Policies and Procedures for the Town's Accounting, Investing, Budgeting, Building Permits and Record Keeping, adopted November 17, 2011.

current policy. A Resolution³ and contract were initially created in 2009, prior to the establishment of the current policy. On an annual basis, the Town Council has passed a Motion to renew the existing agreement.

Recommendation

(2) The Town should follow its procurement policy and seek bids or proposals for all such services to compare service levels and costs.

Management Response

(2) The Town has reviewed the information related to this contract. As a result of this review, the Town will comply with their Accounting Policy on this matter.

Finding (3): DOCUMENTATION THAT SUPPORTED EXPENDITURES AND THE PURPOSE AND APPROVAL FOR CASH TRANSFERS BETWEEN BANK ACCOUNTS IN AMOUNTS SIGNIFICANT TO THE CITY WAS NOT COMPLETE OR DID NOT EXIST

Among our sample of 30 expenditures and related documentation, we noted the following:

- The Town was unable to locate supporting documentation for one payment, (check date January 5, 2012), totaling \$1,250 related to services performed by the former Bookkeeper. For a second payment, (check date May 23, 2012), totaling \$50, the Town did not require an invoice. The payment was for an incidental computer-related service performed at Town Hall. Our understanding of the purpose of the expenditures was gained through discussion with Town personnel.
- There were two transfers of \$50,000 each between Town bank accounts occurring on October 6, 2011 and January 10, 2012, respectively. However, the purposes and approvals of these transfers were not documented. We examined the relevant bank statements and verified the receipt of the funds to and from the Town's bank accounts. The first transfer was made to cover operating expenses with cash transferred from a money market fund until tax receipts were available. The second transfer was made to subsequently reinvest the funds back into the money market in order to earn interest on those funds. The transfers were allowable as they occurred between accounts within the same fund. However, given the nature and size of the transaction, the purposes of the transfers should have been documented and approval obtained in advance from the Town Council.

³ Resolution No.2009-3, adopted March 26, 2009, to enter into an agreement with a town resident appointed as an independent contractor to provide meter reader and maintenance services for the Town of Briny Breezes.

Recommendations

- (3) The Town should obtain, review, and maintain supporting documentation for all expenditures, and retain the records pursuant to the requirements of Section 119.021, Florida Statutes.
- (4) With respect to transfers between Town bank accounts, the Town should document the purpose of such transfers and obtain approval in advance from the Town Council.

Management Response

- (3) It is the Town's policy to have written statements, invoices, or receipts to document the expenditure of all public funds. The Town will endeavor to be more vigilant in this aspect of their record keeping.
- (4) This type of bank account transfer was most recently initiated in late 2013 and the repayment of funds transfer occurred in January 2014. These transfers were authorized by Town Council resolution and the resolution was approved at a public meeting. In the future, this is how the Council intends to handle these transactions.

ATTACHMENTS

Attachment 1 - Initial Management Response

Attachment 2 - Final Management Response

This report is available on the OIG website at: [http:// www.pbcgov.com/OIG](http://www.pbcgov.com/OIG). Please address inquiries regarding this report to Dennis Schindel, Director of Audit, by email at inspector@pbcgov.org or by telephone at (561) 233-2350.

ATTACHMENT 1 - INITIAL MANAGEMENT RESPONSE

THE LAW OFFICES OF
JEROME F. SKRANDEL, P.L.

JOHN J. R. SKRANDEL

Dennis Schindel
PBC Office of Inspector General
P.O. Box 16568
West Palm Beach, FL 33416-6568

January 27, 2014

By Email inspector@pbcgov.org

Re: Audit Report of the Town of Briny Breezes dated 12/23/2013

Mr. Schindel:

Per our discussion last week, this letter will serve as the Town's partial response to the findings of your above referenced Audit Report for the Town of Briny Breezes. As noted in this letter, and pursuant to any follow-up correspondence from your office in response, I anticipate a further response when the Town completes the review of its records.

1. Competitive bids and signed contract for Harvel Utility Construction, Inc., who performed work for the Town in excess of \$25,000.00 in the fiscal year 2011-2012.
By way of background, Briny Breezes is a small community which found Mr. Harvel to be a hard working and competent business owner responsive to the Town's needs. Because of the long history of good relations between the two, the agreement with Harvel Utilities was exempted from the Town's competitive bidding requirement for purchases over \$5,000.00, as you noted.

Mr. Harvel and his company primarily provide routine inspection of the Town's water and sewer utility systems and maintenance of those systems. Mr. Havel also handles emergency situations relating to the water and sewer utility systems on an "on call" or "as needed" basis. According to Mr. Harvel, his duties during the subject time period did not involve new construction or extension of any existing systems. Although the total cost of his maintenance work to the sewer system in the fiscal year 2011-2012 may have exceeded \$25,000.00, the maintenance was not a single project, nor was it broken down into smaller subparts to avoid exceeding any particular dollar amount. The work involved many different activities, at varying times, at varying places, and to varying parts of the system with no part of the work exceeding \$25,000.00. Due to these facts, the Town does not believe that the statutory competitive bidding process was applicable to his work.

While there is a written contract between the Town and Harvel Utility Construction, Inc., a copy of which you attached to your previous correspondence, you noted that the copy you obtained was not signed. At this time, we have not been able to locate a signed copy of the contract and there may not be one. While under ideal circumstances the written arrangement with Harvel Utilities would be signed, whether or not it is signed the agreement is a written expression of the terms of the contractual agreement between the

ATTACHMENT 1 (Continued) - INITIAL MANAGEMENT RESPONSE

Town and Harvel Utilities. In reviewing chapter 180, F.S., I noted several instances where written agreements are required but I did not see any requirement for it to be signed. In particular, F.S. §180.23, specifically addresses this issue and does not require the agreement to be signed, only that it be written.

If you are aware of a requirement that the agreement be signed, please provide my office with the citation. Regardless of the legal requirements, the Town will work with Mr. Harvel and his company to obtain a signed contract.

2. Payments to Jim Phillippi exceeding \$5,000.00 for fiscal year 2011-2012
I have not received documentation from the Town on this matter. I will respond as soon as I have the necessary information.
3. Inadequate documentation of payments totaling \$1,300.00.
The Town is still reviewing its records for any supporting documentation of the payments to Shari Canada and Jason Bray. However, it is the Town's policy to have written statements, invoices, or receipts to document the expenditure of all public funds and they will endeavor to be more vigilant in this aspect of their record keeping in the future.
4. \$50,000.00 transfer between Town accounts on 10/6/2011 and 1/10/2012.
The Town transfers money between accounts as needed to pay Town expenses while they wait for the receipt of payments from the PBC Tax Collector's Office from each year's collected property taxes. The Tax Collector generally starts payments to the Town in December or January, which is when the Town returns the money to the account from which it was borrowed.

I am still waiting for confirmation from the Town as to when the resolution process was first used so I cannot confirm what occurred in 2011 or 2012. However, at least the last borrowing, in late 2013, and the last repayment, in January 2014, were authorized by Town Council resolution passed at a properly noticed public meeting, which is how the Council intends to handle these transactions in the future as the need arises.

I hope the specific responses in this letter have adequately addressed the OIG's concerns. As noted, I will be providing a further response on certain items when more information becomes available. Please provide me with your office's response at your convenience. If you need anything further on this matter, please advise.

Sincerely,

/s/ John J.R. Skrandel, Town Attorney
Briny Breezes, Florida

CC: BB

ATTACHMENT 2 - FINAL MANAGEMENT RESPONSE



THE LAW OFFICES OF
JEROME F. SKRANDEL, P.L.
JOHN J. R. SKRANDEL

Dennis Schindel
PBC Office of Inspector General
P.O. Box 16568
West Palm Beach, FL 33416-6568

January 31, 2014

By Email inspector@pbcgov.org

Re: Audit Report of the Town of Briny Breezes dated 12/23/2013

Mr. Schindel:

Per your email of 1/28/2014, I have provided the following response to your above referenced Audit Report for the Town of Briny Breezes. Unless you have any further comment, I expect this to be the final response.

1. **Elimination of Exemption to Competitive Bidding Requirements in the BB Accounting Policy for Harvel Utility Construction, Inc.**

Thank-you for your clarification of this issue. I know the previous Town Council members have all expressed their great satisfaction for the hard work Mr. Harvel and his company have provided to the Town over the years. While I am sure both parties are interested in continuing the relationship, I understand the issue your office has raised. As the makeup of the Town Council has recently changed and will likely endure further changes with the upcoming elections, I will bring this issue to their attention when the new council is seated to see what action, if any, they want to take on this matter.

2. **Jim Phillippi**

I was awaiting confirmation from the Town of Mr. Phillippi's duties, the amounts paid, the actual work performed, the time periods, and any other information they had on this issue. After review of the information, the Town will comply with their Accounting Policy on this matter.

I hope this last response has adequately and fully addressed all of the OIG's concerns. If you need anything further on this matter, please advise.

Sincerely,

/s/ John J.R. Skrandel, Town Attorney
Briny Breezes, Florida

CC: BB