CITY OF MIAMI
OFFICE OF INDEPENDENT AUDITOR GENERAL

AUDIT TO DETERMINE WHETHER SELECTED RESTRICTED FUNDS WERE USED FOR THE INTENDED PURPOSES

AUDIT REPORT NO. 11-001

Prepared By
Office of Independent Auditor General

Victor I. Igwe, CPA, CIA
Independent Auditor General

LEWIS BLAKE, CPA, CIA, SENIOR STAFF AUDITOR
February 17, 2011

Honorable Members of the
City Commission
City of Miami
3500 Pan American Drive
Coconut Grove, FL 33133-5504

Re: Audit to Determine Whether Selected Restricted Funds Were Used for the Intended Purposes
Audit No. 011-001

Pursuant to the authority set forth in Section 48 of the City of Miami’s Charter, titled “Office of the Independent Auditor General,” and in accordance with the Fiscal Year 2010/2011 Audit Plan, we have conducted an audit to determine whether selected restricted funds were used for the intended purposes, and also other related financial transactions and operations. The audit objective includes determining whether appropriations of such revenues were for allowable expenditures as well as for allowable operating transfers to other City funds, as codified in Chapter 18, Article IX, Division 2, Section 18-542(3) of the City Code titled: Financial Integrity Principles, – Interfund Borrowing.

The audit covered the period October 1, 2008 through September 30, 2010, and selected financial transactions that were processed prior and subsequent to this period.

Sincerely,

Victor Igwe, CPA, CIA
Independent Auditor General
Office of Independent Auditor General

OFFICE OF THE INDEPENDENT AUDITOR GENERAL/444 S.W. 2ND AVENUE, SUITE 711/MIAMI, FLORIDA 33130-1910
C: The Honorable Mayor Tomas Regalado
   Tony Crapp, Jr., Chief Administrator/City Manager
   Members of the Audit Advisory Committee
   Johnny Martinez, Deputy City Manager/Chief of Infrastructure
   Larry M. Spring, Assistant City Manager/Chief Financial Officer
   Peter W. Korinis, Chief Information Officer, Information Technology Department
   Luis Cabrera Assistant City Manager
   Mirtha Dziedzic, Director, Budget Department
   Nzeribe Ihewaba, P.E., Ph.D., Director, Public Works Department
   Priscilla A. Thompson, City Clerk, City Clerk’s Office
   Julie Bru, City attorney
   Diana M. Gomez, CPA, Director, Finance Department
   John Renfrow, Director, Miami-Dade Water & Sewer Department
   Vladimir Murad, JD, CPA, Controller, Miami-Dade Water & Sewer Department
   Audit Documentation File
AUDIT TO DETERMINE WHETHER SELECTED RESTRICTED FUNDS WERE USED FOR THE INTENDED PURPOSES
OCTOBER 1, 2008 THROUGH SEPTEMBER 30, 2010

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INTRODUCTION

The City of Miami’s (City) Financial Integrity Principles (FIP) audits for the fiscal years ended September 30, 2008 (FY08) and September 30, 2009 (FY09) disclosed questionable transfers of restricted funds such as impact fees and local option fuel tax (LOFT) to the City General Fund (GF). The FY08 FIP audit disclosed a transfer of $8.2 million from the Impact Fee Capital Projects Fund (CPF) to the GF. According to City ordinance and State statute, impact fees are restricted revenues that must be accounted for in a restricted fund and only be expended for specific projects that off-set the “impact”, or need for increases in City services generated by new real estate development (i.e. public safety, public works). The said transfers of impact fee monies were part of transfers totaling $26.3 million that were performed during FY 2007 and FY 2008 which were used to increase GF reserves; however, the transfers depleted funds needed to commence/complete capital improvement projects, including the purchase of equipment listed in the Capital Plan budget.

The FY09 FIP audit disclosed that restricted local option fuel tax (LOFT) revenue, which are required to be used for transportation-related projects and accounted for in the LOFT Special Revenue Fund (SRF), were inappropriately transferred into the GF and used to pay for electricity service to existing City street lights and for electricity for decorative and outdoor lighting for City parks. The LOFT revenues totaling $10.4 million were transferred during FY 08 and FY 09 and like the impact fee transfers, depleted funds needed for existing capital projects such as the Health District Circulator Service project.

In our preparation of the annual audit plan for FY 2011, inappropriate transfer and use of restricted funds into the General fund was identified as a high audit risk area. Accordingly, we judgmentally selected and examined the assessment, collection and use of the restricted stormwater utility revenues and also followed up on the prior audit finding relative to the use of LOFT revenues as discussed above. The Stormwater Utility (SU) fees are required to be exclusively used by the City’s Public Works Department (PW) to pay for street improvements and maintenance/operation of the City’s storm drainage/sewer system. As such, the primary
objective of this audit is to determine whether the selected restricted funds were used for the intended purposes.
SCOPE AND OBJECTIVES

This audit was performed pursuant to the authority set forth in Section 48 of the City’s Charter titled, “Office of the Independent Auditor General”, and was conducted in accordance with the Fiscal Year 2010/2011 Audit Plan. The scope of this audit focused primarily on whether selected restricted funds were used for the intended purposes, and also other related financial transactions and operations. The audit objective includes determining whether appropriations of such revenues were for allowable expenditures as well as for allowable operating transfers to other City funds, as codified in Chapter 18, Article IX, Division 2, Section 18-542(3) of the City Code titled: Financial Integrity Principles, – Interfund Borrowing. In addition to obtaining a basic understanding of the system of internal controls and assessing control risk necessary for the audit, an evaluation of selected controls was made. The audit period was October 1, 2008 through September 30, 2010, and selected transactions prior and subsequent to this period.

In general, the audit focused on the following objectives:

- To determine if restricted funding sources, such as revenues flowing into the City’s Special Revenue Funds (SRF), are being used appropriately and lawfully as restricted. Such usage includes expenditures and operating transfers.
- To determine whether residential properties located in the City of Miami, for which Miami-Dade Water & Sewer Department (WASD) provided utility services, were billed the correct storm water utility (SU) fee in the WASD billing system (PCIS: PeopleSoft Customer Information System);
- To determine whether WASD remitted to the City the SU fees billed and collected from customers.
- To follow-up on whether additional local option fuel tax revenues were transferred to the City’s General fund.
- To recommend additional policies or actions to be considered.
- Other audit procedures as deemed necessary.
METHODOLOGY

We conducted this audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient and 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 conclusion based on our objectives. The audit methodology included the following:

- Reviewed applicable policies and procedures, agreements, and sections of the City Code/Charter and Florida Statutes relevant to the audit objectives.
- Prepared an audit plan and completed a preliminary survey of the related processes/departments.
- Obtained an understanding of internal controls by reading applicable internal control policies and procedures, interviewing employees and observing control procedures.
- Determined the effectiveness/weakness of internal controls, assessed control risk, and planned the nature, timing, and extent of substantive audit tests to be performed.
- Performed analytical review procedures for the purposes of both planning substantive testing and confirming the reasonableness of audit findings and conclusions.
- Performed substantive testing consistent with the audit objectives above. Examined, on a test basis, applicable controls, procedures, transactions, and records to determine whether the City complied with Financial Integrity Principles (FIP) number 3 and whether the City is collecting the correct amount of storm water utility (SU) fee revenue.
- Examined on a test basis, evidence supporting current transactions (as well as events and conditions) to determine if management has taken steps to correct deficiencies disclosed in an “Audit of Storm water Utility Systems” (Audit# 01-021).
- Upon evaluation of internal controls, identified potential reportable conditions, which in our judgment, could affect management’s assurance of the reliability of the financial operations, compliance with applicable laws, administrative rules, regulations, and any other applicable guidelines.
- Performed other procedures as deemed necessary.
• Confirmed our understanding of key findings with the auditees.
• Reported our conclusions, findings, and recommendations to the City Commission, Audit Advisory Committee, and Management through this audit report.
CONCLUSIONS AND SUMMARY OF AUDIT FINDINGS

OVERALL AUDIT CONCLUSION

There is evidence to suggest that the City is not in compliance with the accounting, recording and use of restricted stormwater utility fees as provided in the Stormwater Utility Ordinance. There is also evidence of inappropriate use of restricted local option fuel tax (LOFT) revenue as provided in Section 336.025, Florida Statute. In addition, there are deficiencies in the process used to assess stormwater utility fees due and payable to the City. The evidence of lack of compliance with stormwater utility Ordinance, Section 336.025, Florida Statute, and deficiencies in the process of assessing stormwater utility fees are summarized below:

- **NON-COMPLIANCE WITH THE STORMWATER UTILITY ORDINANCE**
  
  **STORM WATER UTILITY FEES WERE COMMINGLED WITH GENERAL FUND MONIES**
  
  o Our review of the City’s FY09 Comprehensive Annual Financial Report (CAFR), FY10 financial records/reports, and other financial data recorded in the Oracle accounting system (Oracle), disclosed that restricted stormwater utility (SU) tax revenue were not recorded in a special revenue fund as required by Section 18-298 of the City Code, and the Florida Stormwater Association (FSA) training manual entitled “Establishing a Stormwater Utility in Florida.” Instead, we noted that the $10.08 million in FY09 and $10.44 million in FY10 SU tax revenues were recorded and reported as “Other Taxes” in the unrestricted General Fund (GF). As such, during FY09 and FY10, SU tax revenue totaling $20.5 million were commingled with unrestricted GF monies contrary to Section 18-298 of the City Code and the FSA training manual entitled “Establishing a Stormwater Utility in Florida.”

Refer to detailed audit findings and recommendations on pages 10 through 13.
STORM WATER UTILITY FEES WERE NOT USED EXCLUSIVELY TO FUND OPERATION AND MAINTENANCE OF THE STORMWATER MANAGEMENT SYSTEM AS CODIFIED IN ARTICLE VIII, SECTION 18-298 OF THE CITY CODE

Our audit determined that during FY09 and FY10, stormwater utilities (SU) tax revenue totaling $20.52 million ($10.08 million earned during FY09 plus $10.44 million earned during FY10) were not exclusively used for legitimate stormwater management system functions by the Public Works Department, and that $6.8 million of said restricted monies were inappropriately used by the General Fund for unauthorized purposes. As indicated in our independent analysis (see the schedule on page 15, a total of $6.85 million ($3.63 million for FY09 and $3.22 for FY10) of SU tax revenues that was accumulated (commingled with General Funds monies) cannot be attributed to any legitimate stormwater management system functions as codified in Article VIII, Section 18-298 of the City.

Refer to detailed audit findings and recommendations on pages 14 through 18.

• CONTINUOUS INAPPROPRIATE USE OF LOCAL OPTION FUEL TAX (LOFT) PROCEEDS AND THE COMMINGLING OF SAID FUNDS WITH THE GENERAL FUND

The FY09 Financial Integrity Principles (FIP) audit disclosed that restricted local option fuel tax (LOFT) revenue totaling $10.4 million were inappropriately transferred into the GF during FY 2008 and FY 2009 and used to pay for electricity service to existing City street lights and for electricity for decorative and outdoor lighting for City parks. Our current audit determined that LOFT revenues totaling $4,694,799 were again transferred from the City’s LOFT Special Revenue Fund (restricted monies) to the City’s General Fund (unrestricted monies). As shown on the schedule on page 21, $2,150,961.02 of LOFT monies (or 45.8%) were inappropriately used/commingled with the GF ($4,694,799 transfer of LOFT monies to the GF minus $2,543,837.98 of GF-PW expenditures and GF transfers). We also noted that $1,658,711 of the said
$2,150,916.02 was used to pay for electricity services that are not allowable expenditures according to Section 336.025, Florida Statutes and State Attorney General (SAG) opinion #AGO 2010-29, but were nevertheless paid subsequent to the August 13, 2010 issuance of the audit report # 010-015, which included the SAG opinion #AGO 2010-29.

Refer to detailed audit findings and recommendations on pages 19 through 27.

- **STORMWATER UTILITY FEE UNDER/OVER BILLING ERRORS**

  Our audit determined that as of January 26, 2011, 3,643 of the 65,543 active residential service accounts in the City of Miami were being billed less than the actual number of dwelling units in the residential properties. The 3,643 residential properties (service accounts) had billing errors in which 5,067.33 dwelling units were not billed. As such, the City is currently not collecting SU fees for 5,067.33 residential dwelling units or $17,735.66 monthly (5,067.33 dwelling units x $3.50) or $212,827.92 annually. Also, our audit determined that 2,882 of the 65,543 service accounts in the City of Miami were being billed for more than the actual number of dwelling units in the residential properties as of January 26, 2011. The 2,882 residential properties (service accounts) had billing errors in which 313.38 dwelling units were over-billed. As such, the City should not be currently collecting SU fees for 313.38 residential dwelling units or $1,096.83 monthly (313.38 dwelling units x $3.50) or $13,161.96 annually.

  Refer to detailed audit findings and recommendations on pages 28 through 36.
AUDIT FINDINGS AND RECOMMENDATIONS

FINANCE AND OFFICE OF STRATEGIC PLANNING, BUDGETING AND PERFORMANCE DEPARTMENTS

NON-COMPLIANCE WITH THE STORM WATER UTILITY ORDINANCE

The “State of Florida Municipal Separate Storm Sewer System Permit” (MS4) was issued pursuant to Section 403.0885, Florida Statutes (FS 403.0885) and rules promulgated there under. The Department of Environmental Protection (DEP) implemented the stormwater element of the Federal National Pollutant Discharge Elimination System (NPDES) as part of the DEP’s Wastewater Facility and Activities Permitting program. The stormwater element of the Federal NPDES program is mandated by Section 402(p) of the Clean Water Act (CWA), which is set out in the federal statutes at 33 U.S.C section 1342(p) and implemented through federal regulations including 40 Code of Federal Regulations 122.26 (40 CFR 122.26).


The Florida Stormwater Association’s (FSA) training manual entitled “Establishing a Stormwater Utility in Florida,” states that: “The second fundamental characteristic of a utility is its stand-alone accounting entity status. Consistent with Generally Accepted Accounting Practices (GAAP), the stormwater utility must be structured as either a special revenue fund or as an enterprise fund. Such a fund designation requires that revenues generated by or transferred to the utility be spent solely for legitimate stormwater management functions.” Said manual also states that: “Special revenue fund designation provides for the isolation of revenues and expenditures appropriate to the utility concept. Its accounting set up and reporting requirements are simple, hence its appeal as a funding mechanism.”

Accordingly, the City’s Storm Water Utility Fees and Fund (SU) Ordinance as codified in Article VIII, Section 18-298 of the City Code states that: “There shall be established a stormwater utility trust fund for the deposit of all fees and charges collected and interest
accrued by the stormwater utility. These funds shall be for the exclusive use of the department of public works for the following expenditures:

1. Operation and maintenance of the stormwater management system.
2. Funding of pollution abatement devices constructed on stormwater systems discharging to Biscayne Bay and its tributaries.
3. Administrative costs associated with the management of the stormwater utility.
4. Debt service financing.
5. Expansion for the existing storm drainage system.
6. Annual fair share funding support for the Miami River Commission.
7. Compliance with federal, state and county regulations.”

**STORM WATER UTILITY FEES WERE COMMINGLED WITH GENERAL FUND MONIES**

According to the City’s Fiscal Year 2009 (FY09) Comprehensive Annual Financial Report (CAFR), page 88, a Stormwater Utility (SU) Special Revenue Fund (SRF) was created in order to “account for the fees and charges collected for the operation and maintenance of the stormwater management system and the funding of pollution abatement devices of said system.” The City generated SU tax revenue totaling $10.08 million and $10.44 million during FY09 and FY10 respectively (totaling $20.5 million during the two fiscal years). However, during our review of the City’s FY09 CAFR and other FY09 financial data recorded in the Oracle accounting system (Oracle), we noted that contrary to Section 18-298 of the City Code, and the FSA training manual entitled “Establishing a Stormwater Utility in Florida” as noted above, SU tax revenues was not accounted for and/or recorded in a special revenue fund, as required. Instead, we noted that the $10.08 million in FY09 SU restricted tax revenues were recorded and reported as “Other Taxes” in the unrestricted General Fund (GF). Likewise, our review of FY10 financial data in the Oracle accounting system, disclosed that restricted SU tax revenues was not accounted for and/or recorded in a special revenue fund, as required. The FY10 SU tax revenues totaling $10.44 million revenues were recorded and reported as “Other Taxes” in the unrestricted General Fund (GF). As such, during FY09 and FY10, restricted SU tax revenue totaling $20.5 million was commingled with unrestricted GF
monies contrary to Section 18-298 of the City Code and the FSA training manual entitled “Establishing a Stormwater Utility in Florida.”

The commingling of these restricted funds with unrestricted general fund monies appears to indicate a lack of financial reporting controls and procedures that would ensure the isolation of the SU revenues and expenditures as stipulated in Section 18-298 of the City Code and the FSA training manual entitled “Establishing a Stormwater Utility in Florida."

Upon audit inquiry, the Director of the Finance Department stated: that “Going forward, the Finance Department will meet with the Budget Department and the City Manager’s Office to discuss the need to record the revenues and expenditures of the Stormwater Utility dollars in the Special Revenue Fund in subsequent years.” Also, the Director stated that since FY03, “the revenues received from the County have been budgeted and appropriated directly in the General Fund…” S-10.2 However, Section 18-298 of the City Code, titled “Stormwater utility trust funds” mandates the deposit of all fees and charges collected and interest accrued by the stormwater utility into a special revenue fund. Accordingly, the current practice of recording restricted SU fees in the unrestricted General Fund contradicts the provisions of Section 18-298 of the City Code and the requirements of Florida Stormwater Association’s (FSA) training manual entitled “Establishing a Stormwater Utility in Florida. Also, the inappropriate recording of said funds in the General Fund:

(a) Overstates revenues recorded in the General Fund and reported in the Comprehensive Annual Financial Report.
(b) Does not facilitate reporting of the appropriate interest earned from the stormwater utility revenues deposited in the City’s treasury. As a result, such interest revenue is not being allocated to stormwater revenues and used for stormwater utility activities.
(c) Overstated General Fund balance by $3.63 million in FY09 and will overstate General Fund balance by $3.22 in FY10, as discussed on pages 14 thorough 17.
Recommendation

Management should create and implement financial reporting controls and procedures that would ensure that restricted revenues are appropriately classified and reported.

Auditee Response and Action Plan

See auditee’s complete response on page 13.
In response to your memorandum of understanding regarding Audit No. 011-001: Compliance with Restricted Funding Source Usage Requirements, please find the following responses:

The Stormwater Utility Special Revenue Fund has not been used to account for the Stormwater Utility dollars received from since Fiscal Year 2002. Since Fiscal Year 2003, the revenues received from the County have been budgeted and appropriated directly in the General Fund because the expenditures for which these funds are used were budgeted for and incurred in the General Fund. Even when the revenues were recorded in the Special Revenue Fund (prior to FY 2003), those revenues were budgeted as transfers out to the General Fund where the expenditures were recorded.

Going forward, the Finance Department will meet with the Budget Department and the City Manager’s Office to discuss the need to record the revenues and expenditures of the Stormwater Utility dollars in the Special Revenue Fund in subsequent years.

Should you need any additional information, please do not hesitate to contact me.

cc. Larry Spring, CFO
    Pete Chircut, Treasurer
    Mirtha Dzdiedzic, Budget Director
STORM WATER UTILITY FEES WERE NOT USED EXCLUSIVELY TO FUND OPERATION AND MAINTENANCE OF THE STORMWATER MANAGEMENT SYSTEM AS CODIFIED IN ARTICLE VIII, SECTION 18-298 OF THE CITY CODE

The key responsibilities of the Office of Strategic Planning, Budgeting and Performance (OSPBP) is to appropriate (budget) funds for expenditure that are generated from all funding sources, including restricted funds. Accordingly, OSPBP is responsible for ensuring that the correct expenditure codes are created and loaded into the City’s Oracle accounting system (Oracle) in order to facilitate the appropriate use of stormwater utility (SU) tax revenues which should be used solely for legitimate stormwater management system functions by the Public Works (PW) Department as codified in Article VIII, Section 18-298 of the City Code and the FSA training manual entitled “Establishing a Stormwater Utility in Florida.”

However, we noted that during FY09 and FY10, SU tax revenue totaling $20.52 million ($10.08 million earned during FY09 plus $10.44 million earned during FY10) were not exclusively used for legitimate stormwater management system functions by PW, and that $6.8 million of such restricted monies were inappropriately used by the General Fund for unauthorized purposes. As indicated in our independent analysis (see the schedule on page 15), a total of $6.85 million ($3.63 million for FY09 and $3.22 for FY10) of SU tax revenues that was accumulated (commingled with General Funds monies) cannot be attributed to any legitimate stormwater management system functions as codified in Article VIII, Section 18-298 of the City Code.
### Analysis: Stormwater Utility Revenue Over Expenditures - FY09 & FY10

<table>
<thead>
<tr>
<th>Category</th>
<th>FY09</th>
<th>FY10 ***</th>
</tr>
</thead>
<tbody>
<tr>
<td>Other Taxes (Per GF)/Stormwater Utility Tax Revenue</td>
<td>$ 10,081,801.80</td>
<td>$ 10,437,716.92</td>
</tr>
<tr>
<td>PW-Stormwater Utility Admin</td>
<td>258,844.93</td>
<td>210,273.32</td>
</tr>
<tr>
<td>PW-Stormwater Utility Maintenance</td>
<td>968,074.11</td>
<td>981,404.25</td>
</tr>
<tr>
<td>PW-Stormwater Utility NPDES</td>
<td>2,450,363.21</td>
<td>2,132,929.80</td>
</tr>
<tr>
<td><strong>Total PW-Stormwater Expenditures</strong></td>
<td>3,677,282.25</td>
<td>3,324,607.37</td>
</tr>
<tr>
<td>Excess (Deficiency) of Revenue Over Expenditures</td>
<td>6,404,519.55</td>
<td>7,113,109.55</td>
</tr>
<tr>
<td>Less: Transfers to the Stormwater Utility Capital Proj Fund (38000)</td>
<td>1,545,256.67</td>
<td>2,641,885.00</td>
</tr>
<tr>
<td></td>
<td>4,859,262.88</td>
<td>4,471,224.55</td>
</tr>
<tr>
<td>Litter Collection (Roadways):</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Street Sweeper Salaries (Day Shift - SW Dept)</td>
<td>324,534.81</td>
<td>329,767.03</td>
</tr>
<tr>
<td>Street Sweeper Salaries (Night Shift - SW Dept)</td>
<td>643,749.35</td>
<td>695,505.15</td>
</tr>
<tr>
<td>Street Sweeping Expenditures - Water (SW Dept)</td>
<td>4,037.26</td>
<td>3,891.12</td>
</tr>
<tr>
<td>Litter Collection (Canal/Waterways)</td>
<td>186,800.00</td>
<td>156,000.00</td>
</tr>
<tr>
<td>Litter Collection (Derelict Boats)</td>
<td>44,200.00</td>
<td>40,866.00</td>
</tr>
<tr>
<td>Contributions to Miami River Commission Per SU Ordinance</td>
<td>25,000.00</td>
<td>25,000.00</td>
</tr>
<tr>
<td><strong>Total Litter Collection Costs</strong></td>
<td>1,228,321.42</td>
<td>1,251,029.30</td>
</tr>
<tr>
<td><strong>Total Stormwater Utility Revenue Used by Gen Fund Used</strong></td>
<td>3,630,941.46</td>
<td>3,220,195.25</td>
</tr>
</tbody>
</table>
Upon audit inquiry, PWs management stated that stormwater utility tax revenue was used by the Miami Fire Rescue Department (MFR) to pay for hazardous materials (HAZMAT) clean-up expenditures and also by other City departments for stormwater related expenditures (some of which are not included in the above analysis). However, upon audit inquiry, we were informed by the Miami Fire Rescue Department (MFR) that HAZMAT clean-up expenditures (if any) incurred during the period were not tracked. Also, there were no known or publicized substantive hazardous material spillages that occurred in the City during fiscal years 2009 and 2010 which may have required material HAZMAT expenditures.

Also, upon audit inquiry, the Director of the Office of Strategic Planning, Budgeting and Performance (OSPB), agreed (see page 18) that the current accounting structure does not easily demonstrate the use of these (SU Fee) funds and (OSPB) has requested that the Finance Department create new organization strings for GSA and Solid Waste. Our audit determined that specific accounting codes had already been created to account for SU-related expenditures incurred by the City’s Solid Waste (SW) and General Services Administration (GSA) Departments; however, there was no evidence that said codes were used to record such expenditures, or that the codes were used to record SU-related expenditures in any of the other City funds. In fact, three items listed in the schedule on page 15 which total $3.68 million and $3.32 million for FY09 and FY10 respectively provided the only evidence of account codes that clearly accounted for the usage of SU revenues. The other items in the schedule had to be painstakingly compiled. As such, current budgeting and accounting procedures do not facilitate transparency or accountability in reporting SU fee usage.

The OSPB Director also stated that stormwater utility funds were not used exclusively by the Public Works Department because: the City does not budget on a full cost basis; that stormwater activities are performed by other departments including Fire Rescue (HAZMAT cleanup), Solid Waste (street sweeping), and General Service (maintenance of stormwater utility and street sweeping vehicles) departments; and that stormwater tax revenues are also used to pay for vehicle/group insurance, pension, funding for the Miami River Commission, and other indirect cost to other City departments such as the Purchasing Department, Finance department,
and Office of the Independent Auditor General. However, it would be inappropriate to use restricted SU fees to pay for indirect costs such as charges to the Office of the Independent Auditor General (OIAG), Purchasing, Finance, Pensions, and Health Insurance unless these costs can be directly attributed to SU-related activities. For instance, OIAG costs can only be validly charged if said office performed an SU audit; however, for the audit period, no such audits were performed.

Based on the records reviewed and information provided, it is evident that General Fund inappropriately used $3.63 million and $3.22 million of restricted SU revenues during FY09 and FY10 respectively that should have been appropriated and used to offset the $94 million funding shortage for storm sewer projects listed in the City's FY09 Capital Improvement Plan.

There is clear evidence of inadequate budgeting controls and procedures that would ensure appropriate use of that SU revenues as stipulated in Section 18-298 of the City Code and the FSA training manual entitled “Establishing a Stormwater Utility in Florida.”

**Recommendation**

Management should create and implement budgeting controls and procedures that would ensure restricted revenues are appropriately budgeted, classified and reported.

**Auditee Response and Action Plan:**

See auditee’s complete response below.
CITY OF MIAMI, FLORIDA
INTER-OFFICE MEMORANDUM

TO: Victor I. Igwe
Independent Auditor General

FROM: Mirtha Deledic
Director
Management and Budget

DATE: December 27, 2010

SUBJECT: Compliance with Restricted Funding Source Usage Requirement

REFERENCES:
Audit No. 011-001

ENCLOSURES:

Storm Water Utility Funds were not exclusively used by the Department of Public Works because the City does not budget on a full cost basis and Storm Water activity is performed by: Fire Department for Haz Mat; Solid Waste for Street Sweeping; GSA for the maintenance of Storm Water vehicles which include the street sweepers; Risk for the insurance costs of vehicles as well as the group benefits made available to the employees that work in the Storm Water activities; Pension for the pension costs incurred by the City on behalf of the same employees; NOAA for the annual funding support of the Miami River Commission and all other indirect costs incurred by other departments budgeted in the General Fund such as Purchasing, Finance, Office of Independent Auditor General and Budget.

We do agree the current accounting structure does not easily demonstrate the use of these funds and have asked Finance to create new organization strings for GSA and Solid Waste. We will be meeting with Finance to make any other necessary modifications to clearly identify all costs and revenue related to Storm Water Utilities.

Please feel free to contact me should you need any additional information.

Cc: Larry Spring, CFO
Diana Gomez, Finance Director
Pete Chircut, Treasurer
CONTINUOUS INAPPROPRIATE USE OF LOCAL OPTION FUEL (LOFT) TAX PROCEEDS AND THE COMINGLING OF SAID FUNDS WITH GENERAL FUNDS

Pages 84 through 105 of audit report #010-015, titled: “Audit of Compliance with the Financial Integrity Principles” issued on August 13, 2010, disclosed that $4,519,980 (or 87.4%) of the $5,171,822 transferred from the LOFT Special Revenue Fund (restricted monies) to the General Fund (unrestricted monies) in FY 2008, and also $4,950,392 (or 94.4%) of the $5,243,106 transferred in 2009, were inappropriately used to pay for FPL electricity service to City street lights, which are ongoing/daily cost of operations that are not authorized by the enabling legislation (Section 336.025, Florida Statutes).

As part of the audit field work for audit report # 010-015, we sought further legal clarification and obtained a legal opinion from the State of Florida Attorney General (SAG) pertaining to whether it is appropriate to use LOFT revenues to pay for operational expenditures relating to storm drainage, street lighting, and traffic signalization. As part of our request for legal opinion we forwarded the legal opinion issued by the City’s Office of the City Attorney, as well as Attorney General Opinion (AGO) 2002-02, which cites AGO 99-70 as a reference, other pertinent documents, and requested further clarification and guidance. The State of Florida Attorney General concluded that:

“Local option fuel tax revenues levied pursuant to section 336.025, Florida Statutes, may not be used to pay operational expenditures for storm drainage, street lighting, and traffic signalization.”

“Until legislatively or judicially determined otherwise, therefore, it is my opinion that local option fuel tax revenues levied pursuant to section 336.025, Florida Statutes, may not be used to pay for the operational cost for street lighting, traffic signals, and storm drainage.”
The City’s Chief Financial Officer (CFO) in a written response to our inquiry stated that: “We disagree with the IAG’s assertion regarding the allowable use of the LOFT for street lighting. To support our position we have included Legal Opinion from Florida Attorney General Number AGO 2002-02, which contradicts the IAG’s conclusion (Exhibit1).” In fact, The CFO failed to acknowledge in his written response that the SAG clearly considered AGO 2002-02 (an earlier opinion that addressed bicycle paths and AGO 99-70 that addressed dredging of canals and retention ponds used in roadway drainage systems) before concluding that LOFT monies may not be used for daily operational expenditures relative to electricity service to street lighting. Furthermore, the SAG stated: “Had the Legislature wished to include the operational cost of street lighting, traffic signalization, and storm drainage, it could have done so, as it has for bridges and public transportation....” Also, the CFO’s assertion is misleading and seems to imply that the SAG’s earlier opinion (AGO 99-70, which was cited as a reference in AGO 2002-02) contradicted the SAG’s opinion that was issued to the City’s Office of the Independent Auditor General.

At the audit exit conference held on August 11, 2010 that was attended by the Independent Auditor General and a Senior Staff Auditor, the CFO stated that for the Fiscal Year 2011 budget, LOFT monies will not be budgeted for FPL street lighting utility service charges until the City’s Office of the City Attorney provides him with further clarification.

However, in connection with this current audit field work, we noted that the City’s Public Works Department’s (PW) FY10 budget appropriated LOFT monies totaling $5,000,000 for design and electricity services. In addition, our audit of FY10 financial records indicated that LOFT proceeds totaling $4,694,799 were in fact transferred from the City’s LOFT Special Revenue Fund (restricted monies) to the City’s General Fund (unrestricted monies). As such, we examined how much of the $4,694,799 was used for allowable purposes in accordance with Section 336.025, Florida Statutes. However, as listed in the table on page 21, we noted that the GF only expended and transferred $2,543,837.98 of the $4,694,799, or 54.2%, for allowable uses in accordance with Section 336.025, Florida Statutes. As a result, $2,150,961.02 in LOFT monies (or 45.8%) were inappropriately used/commingled with the GF ($4,694,799 transfer of LOFT monies to the GF minus $2,543,837.98 of GF-PW expenditures and GF transfers). We also noted that $1,658,711 of the said $2,150,916.02 was used to pay for electricity services that.
are not allowable expenditures according to Section 336.025, Florida Statutes and SAG opinion #AGO 2010-29, but were nevertheless paid subsequent to the August 13, 2010 issuance of the audit report #010-015, which included the SAG opinion #AGO 2010-29.

<table>
<thead>
<tr>
<th>Analysis: Usage of FY10 LOFT Monies Transferred to the General Fund (GF)</th>
</tr>
</thead>
<tbody>
<tr>
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</tr>
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</tr>
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<td>Total LOFT Revenue Inappropriately Used by General Fund</td>
</tr>
</tbody>
</table>

**Note:** $1,658,711 of the $2,150,961 was used to pay for electricity service subsequent to the August 13, 2010 issuance of the FY10 FIP Audit Report.

Upon audit inquiry, the City’s CFO disagreed with our findings and provided no status update regarding the clarification that he had sought from the City’s Office of the City Attorney as to whether FY11 LOFT monies could be budgeted for electricity service for street lights. As such, we continue to be concerned that LOFT monies are not being used as required to address City’s acute funding shortage for street and sidewalk project estimated in excess of $220 million, according to the City’s 2008-2009 Capital Budget and 5-Year Capital Improvement Plan (CIP). The CIP also lists the Health District Circulator Service as a mass transit project that could also be funded with LOFT monies. Section 336.025, Florida Statutes, authorized the levy of local option fuel taxes on motor fuel and diesel fuel strictly for the purpose of funding
local transportation system projects that will increase the City’s transportation capacity, such as those listed on the City’s CIP Plan, that are not being funded as a result of funding shortages.

**Recommendation**

We recommend that management adopt and adhere to a policy which requires that all transfers of the City’s restricted funds to the General Fund be subject to supervisory and legal review and approval before they are presented to the City Commission for final authorization. The supervisory and legal review and approval should be performed by personnel knowledgeable of all applicable laws, restrictions, regulations, in order to appropriately assess the validity and/or legal use of the proposed resources. Also, we recommend that the $2.15 million of LOFT monies that were inappropriately used by the GF be replenished.

**Auditee Response and Action Plan**

See auditee’s complete response on page 27.
Date: December 21, 2010

To: Mirtha Dziedzic, Director
   Office of Strategic Planning, Budgeting, and Performance
   Larry Spring, Chief Financial Officer

From: Lewis R. Blake, CPA, CIA, and Senior Staff Auditor
   Office of the Independent Auditor General

Subject: Audit Compliance with Restricted Funding Source Usage Requirements
         Audit No. 011-001

Pursuant to our audit of compliance with usage requirements for restricted funding sources for the period October 1, 2008 through September 30, 2010, and selected transactions prior and subsequent to this period, please confirm our understanding by: reviewing this memorandum (memo); mark whether you agree or disagree with its contents and provide your initials in the spaces provided; and, return this memo to us by December 28, 2010. In the event that you disagree with any of the items listed below, please provide your explanation and attach all supporting documents/records by the indicated date (December 28, 2010).

CONTINUOUS INAPPROPRIATE USE OF LOCAL OPTION FUEL (LOFT) TAX PROCEEDS AND THE COMMINGLING OF SAID FUNDS WITH GENERAL FUNDS

Audit report #010-015, pages 84 through 105, issued on August 13, 2010, disclosed that $4,519,980 (or 87.4%) of the $5,171,822 transferred from the LOFT Special Revenue Fund (restricted monies) to the General Fund (unrestricted monies) in FY 2008, and also $4,950,392 (or 94.4%) of the $5,243,106 transferred in 2009, were inappropriately used to pay for FPL.
electricity service to City street lights, which are ongoing/daily cost of operations that are not authorized by the enabling legislation (Section 336.025, Florida Statutes).

As part of the audit field work for audit report # 010-015, we sought further legal clarification and obtained a legal opinion from the State of Florida Attorney General (SAG) pertaining to whether it is appropriate to the use LOFT revenues to pay for operational expenditures relating to storm drainage, street lighting, and traffic signalization. As part of our request for legal opinion we forwarded the legal opinion issued by the City’s Office of the City Attorney, as well as Attorney General Opinion (AGO) 2002-02, which cites AGO 99-70 as a reference, other pertinent documents, and requested further clarification and guidance. The State of Florida Attorney General concluded that:

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The City’s Chief Financial Officer (CFO) in a written response to our inquiry stated that: “We disagree with the IAG’s assertion regarding the allowable use of the LOFT for street lighting. To support our position we have included Legal Opinion from Florida Attorney General Number AGO 2002-02, which contradicts the IAG’s conclusion (Exhibit 1).” In fact, The CFO failed to acknowledge in his written response that the SAG clearly considered earlier opinions (AGO 2002-02 that addressed bicycle paths and AGO 99-70 that addressed dredging of canals and retention ponds used in roadway drainage systems) before concluding that LOFT monies may not be used for daily operational expenditures relative to electricity service to street lighting. Furthermore, the SAG stated: “Had the Legislature wished to include the operational cost of street lighting, traffic signalization, and storm drainage, it could have done so, as it has for
bridges and public transportation...." Also, the CFO's assertion seems to imply that the SAG's earlier opinion (AGO 99-70, which was cited as a reference in AGO 2002-02) contradicted the SAG's opinion that was issued to the City's Office of the Independent Auditor General.

At an audit exit conference held on August 11, 2010 that was attended by the Independent Auditor General and a Senior Staff Auditor, the CFO stated that for the Fiscal Year 2011 budget, LOFT monies will not be budgeted for FPL street lighting utility service charges until the City's Office of the City Attorney provides him with further clarification.

However, in connection with this current audit field work, we noted that that the City's Public Works Department's (PW) FY10 budget appropriated LOFT monies totaling $5,000,000 for design and electricity services T-181.1, T-181.2. In addition, our audit of FY10 financial records indicated that LOFT proceeds totaling $4,694,799 T-174 were in fact transferred from the City's LOFT Special Revenue Fund (restricted monies) to the City's General Fund (unrestricted monies). As such, we examined how much of the $4,694,799 was used for allowable purposes in accordance with Section 336.025, Florida Statutes. However, as listed in the table below, we noted that the GF only expended and transferred $2,543,837.98 T-174 of the $4,694,799, or 54.2%, for allowable uses in accordance with 336.025, Florida Statutes. As a result, $2,150,961.02 T-174 in LOFT monies (or 45.8%) were inappropriately used and commingled with the GF ($4,694,799 transfer of LOFT monies to the GF minus $2,543,837.98 of GF-PW expenditures and GF transfers). We also noted that $1,658,711 T-174 of the said $2,150,916.02 was used to pay for electricity services that are not allowable expenditures according to Section 336.025, Florida Statutes and SAG opinion #AGO 2010-29, but were nevertheless paid subsequent to the August 13, 2010 issuance of the Audit report # 010-015, which included the SAG opinion #AGO 2010-29 T-188.
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<tr>
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<tr>
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</table>

Note: $1,658,711 of the $2,150,961 was used to pay for electricity service subsequent to the August 13, 2010 issuance of the FY10 FIP Audit Report.

T-174

As indicated above, the said LOFT monies were used to pay for $1,260,013.98 T-181.4 in PW design services expenditures T-181.3 pursuant to its FY10 budget described above T-181.1, and to facilitate a transfer of $1,283,824 T-178.2 to the Streets & Sidewalk capital projects fund (CPF) ($2,543,837.98 = $1,260,013.98 + $1,283,824). However, it seems that the $1,283 million transfer could have been made directly from the LOFT SRF into the Streets & Sidewalk CPF, which would have facilitated more accountability and transparency regarding the usage of LOFT proceeds.

We continue to be concerned that the City’s 2008-2009 Capital Budget and 5-Year Capital Improvement Plan (CIP) lists streets and sidewalk project needs totaling $414 million. However, the said CIP projected a funding shortage of approximately $222.5 million. T-181.6 The CIP

OFFICE OF INDEPENDENT AUDITOR GENERAL
444 S.W. 2nd Avenue, Suite 710 Miami, FL 33131
also lists the **Health District Circulator Service** as a mass transit project that could also be funded with LOFT monies. Section 336.025, Florida Statutes, authorized the levy of local option fuel taxes on motor fuel and diesel fuel for the purpose of funding local transportation system projects that will increase the City’s transportation capacity, such as those listed on the City’s CIP Plan, that are not being funded as a result of funding shortages.

**Recommendation**

We recommend that management adopt and adhere to a policy which requires that all transfers of the City’s restricted funds to the General Fund be subject to supervisory and legal review and approval before they are presented to the City Commission for final authorization. The supervisory and legal review and approval should be performed by personnel knowledgeable of all applicable laws, restrictions, regulations, in order to appropriately assess the validity and/or legal use of the proposed resources. Also, we recommend that the $2.15 million of LOFT monies that were inappropriately used by the GF be replenished.

**Auditee Response and Action Plan:**

☐ I agree; ☑ I disagree. Please initial:

Explanation: Based on my previous response to the IA.

As requested above, please confirm our understanding by marking whether you agree or disagree, initialing in the spaces provided and returning this memorandum to us. In the event

**OFFICE OF INDEPENDENT AUDITOR GENERAL**

414 S.W. 2nd Avenue, Suite 715/Mand, FL 33129
Sections 18-293(b)(1) and 18-294(1) of the City of Miami Code requires the assessment of a storm water utility (SU) fee for each dwelling unit. The fee is currently based on a rate of $3.50 monthly and is usually billed quarterly for residential properties (i.e. $3.50 x 3 months = $10.50 per unit). In 1988, the City of Miami (City) entered into an agreement with the Miami Dade County Water and Sewer Department (WASD) in order for WASD to bill and collect SU fees for the City. The said agreement requires WASD to remit gross SU billings to the City (monthly) as opposed to actual SU fees collected; however, said agreement allows WASD to deduct any account that was billed but was uncollectible or written-off from subsequent remittance to the City. Also, the agreement was amended in 1992 so as to allow WASD to deduct from such remittances an eighty-seven cents ($0.87) service charge for each account billed.

Our test of a sample of 113 statistically selected residential properties from a population of 65,427 residential properties located within the City of Miami that were serviced by WASD (as of September 28, 2010), disclosed that 5 (or 4.42%) of the 113 service accounts tested were billed less than the actual number of dwelling units in the residential properties. All SU amounts billed in the sample tested were traced to the City’s treasury without exception. However, as indicated in the schedule below, instead of billing/charging $52.50, which is the correct SU fee based on the 15 dwelling units ($3.50 x 15 = $52.50) tested, WASD billed/charged $21 ($3.50 x 6), which is $31.50 less than the amount required.
Test Results: Miami-Dade WASD Stormwater Utility Fee Billing

<table>
<thead>
<tr>
<th>Property</th>
<th>Billing /DU Per PCIS</th>
<th>SU Rate ($3.50/mo)</th>
<th>SU Fee Due to City (Rate x DU)</th>
<th>SU Billing Units Per PCIS</th>
<th>SU Rate ($3.50/mo)</th>
<th>SU Fee Paid to City (Rate x DU)</th>
<th>Diff. Owed To City</th>
</tr>
</thead>
<tbody>
<tr>
<td>1541 SW 4th Street</td>
<td>4</td>
<td>3.50</td>
<td>14.00</td>
<td>1</td>
<td>3.50</td>
<td>3.50</td>
<td>10.50</td>
</tr>
<tr>
<td>6900 NW 3rd Ave</td>
<td>2</td>
<td>3.50</td>
<td>7.00</td>
<td>1</td>
<td>3.50</td>
<td>3.50</td>
<td>3.50</td>
</tr>
<tr>
<td>2029 NW 29th Street</td>
<td>4</td>
<td>3.50</td>
<td>14.00</td>
<td>1</td>
<td>3.50</td>
<td>3.50</td>
<td>10.50</td>
</tr>
<tr>
<td>811 NW 40th Ave</td>
<td>2</td>
<td>3.50</td>
<td>7.00</td>
<td>1</td>
<td>3.50</td>
<td>3.50</td>
<td>3.50</td>
</tr>
<tr>
<td>1860 NW 24th Ave</td>
<td>3</td>
<td>3.50</td>
<td>10.50</td>
<td>2</td>
<td>3.50</td>
<td>7.00</td>
<td>3.50</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>15</strong></td>
<td><strong>3.50</strong></td>
<td><strong>52.50</strong></td>
<td><strong>6</strong></td>
<td><strong>3.50</strong></td>
<td><strong>21.00</strong></td>
<td><strong>31.50</strong></td>
</tr>
</tbody>
</table>

**SU** = Stormwater Utility
**DU** = Dwelling Unit
**PCIS** = Peoplesoft Customer Information System (WASD billing system)

If the 4.42% error rate in the sample tested is statistically projected into the total population of 65,427 City residential properties receiving WASD service, there is a 95% possibility that the SU billing for at least 2,892 service accounts in the City of Miami (or 4.42% of 65,427 properties) are billed for less than the actual number of dwelling units in the residential properties. However, in an attempt to determine the actual number of service accounts with billing errors, we requested and received a report generated by WASD’s billing system (PCIS: PeopleSoft Customer Information System report dated January 26, 2011) that indicated that as of January 26, 2011, 3,643 of the 65,543 active residential service accounts in the City of Miami were being billed less than the actual number of dwelling units in the residential properties. The 3,643 residential properties (service accounts) had billing errors in which 5,067.33 dwelling units were not billed. As such, the City is currently not collecting SU fees for 5,067.33 residential dwelling units or $17,735.66 monthly (5,067.33 dwelling units x $3.50) or $212,827.92 annually. Also, the said report indicated that 2,882 of the 65,543 service accounts in the City of Miami were being billed for more than the actual number of dwelling units in the residential properties as of January 26, 2011. The 2,882 residential properties (service accounts) had billing errors in which 313.38 dwelling units were over-billed. As such,
the City should not be currently collecting SU fees for 313.38 residential dwelling units or $1,096.83 monthly (313.38 dwelling units x $3.50) or $13,161.96 annually.

The number of dwelling unit (DU) and stormwater utility billing (SUB) errors is summarized by residential property in the table below.

<table>
<thead>
<tr>
<th>Residential Property (Premise) Type</th>
<th>Dwelling Units under billed</th>
<th>Dwelling Units over billed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Apartment (Front, Lower, Plus, Rear, Upper)</td>
<td>4,392.89</td>
<td></td>
</tr>
<tr>
<td>Church Housing</td>
<td>2.1</td>
<td></td>
</tr>
<tr>
<td>Duplex (Both, East, Front, Half, Lower, North, Plus, Rear, South, Upper, West)</td>
<td>268.60</td>
<td></td>
</tr>
<tr>
<td>Residence (Front, Plus, Rear)</td>
<td>311.28</td>
<td></td>
</tr>
<tr>
<td>Rooming House &amp; (Apartment, Office, Residence, Store, Vehicle Repair)</td>
<td>313.48</td>
<td></td>
</tr>
<tr>
<td>Townhouse</td>
<td>20.00</td>
<td></td>
</tr>
<tr>
<td>Trailer</td>
<td>72.36</td>
<td></td>
</tr>
<tr>
<td><strong>Total under/over Billing Errors</strong></td>
<td><strong>5067.33</strong></td>
<td><strong>313.38</strong></td>
</tr>
</tbody>
</table>

In a written response, the Controller of WASD concurred with the audit findings. However, he stated that: “In review of the methodology used to determine over and under billings in the City’s Audit Report we refer the City to its Stormwater Code of Ordinances and processes established per the Agreement, citing that all updates to the Stormwater billing units are to be calculated and subsequently provided (to the Miami-Dade Water & sewer Department) by the City. The Miami-Dade Water & Sewer Department’s process is that changes are to be provided by the City’s Department of Public Works. When an account is noted as not having stormwater billing units or, is in need of review of the stormwater billing units, Miami-Dade Water &
Sewer Department codes the account so that it shows up on the monthly report forwarded to the City for them to review and provide the appropriate stormwater billing units.”

**Recommendation**

We recommend reconciliation be prepared in order to identify and bill the 3,643 City of Miami WASD accounts in which residential property dwelling units exceed SU billing units (by 5,067.33 units). Such billing should be for amounts due and payable to the City within the statute of limitation. Also, we recommend that the appropriate credit be applied to the 2,882 City of Miami WASD accounts in which SU billing units were greater than the actual number of residential property dwelling units (by 313.38 units).

In order to ensure the accuracy of SU billings and remittances, both WASD and City Public Works staff should consider using the report described above in making changes to affected accounts.

**Auditee Response and Action Plan**

See auditee’s complete response on pages 32 through 36.
February 14, 2011

Lewis R. Blake, CPA, CFA
Senior Staff Auditor
Office of the Independent Auditor General
444 S.W. 2nd Avenue, Suite 711
Miami, FL 33130

Ref: City of Miami, Office of Independent Auditor General, Audit Compliance with Restricted Funding Source Usage Requirements Audit No. 811-001

Dear Mr. Blake:

Miami-Dade Water & Sewer Department (WASD) agrees, with exceptions, to the audit report referenced above. Miami-Dade Water and Sewer Department would like to thank the City of Miami Office of Independent Auditor General for review of its Stormwater Utility Fee billing processes. In addition, we thank the City for extending the deadline for our written response from February 5, 2011 to February 16, 2011.

Stormwater Utility Fee Discrepancies

Audit Report (pg. 2):

"Also, the agreement was amended in 1992 so as to allow WASD to deduct from such remitters an eighty-seven cents ($0.87) service charge for each account billed. R-14."

Miami-Dade Water and Sewer Department's Response:

The May 17, 1988 Agreement between the City of Miami (City) and Miami-Dade Water & Sewer Department (the Agreement), originally called for payment of the "Net Amount" defined as monthly gross billings plus minor adjustments and a monthly statement "shall be provided by the County not less than twenty (20) days after the end of each monthly period." Therefore, beginning March 2011, Miami-Dade Water and Sewer Department will make stormwater remittances within 60 days after the end of each monthly billing.

Audit Report (pgs. 2 and 3):

The audit report states that sample testing of selected properties disclosed as "5 (4.4%) of 113 service accounts tested were billed less than the actual number of dwelling units", resulting in a total of $31.50 owed to the City. Therefore, upon request, a report was provided to the City that compared the quantity of Stormwater Units to the quantity of the Billing/Dwelling Units for the City's customer accounts. This report is the source for the cited 4,752.95 Stormwater Unit billing errors (net under-billings) noted as follows:
Under billings – (pg. 3):
The audit report states that "we requested and received a report generated by WASD’s billing system that indicated that as of January 26, 2011, 3,643 of the 65,543 service accounts in the City of Miami were being billed less than the actual number of dwelling units." Of the 3,643 "billing errors" the report cites that "3,065 dwelling units were not billed" resulting in $77,736.66 not billed monthly or $212,827.92 annually."

(Over billings) – (pg. 3):
The audit report cites "the said report indicated that 2,882 of the 65,543 service accounts in the City of Miami were being billed for more than the actual number of dwelling units" and "the 2,882 residential properties had billing errors in which 313.38 dwelling units were over-billed." Therefore, the City believes that "the City should not be currently collecting SU fees for 313.38 residential dwelling units or, $1,096.83 monthly ($33,161.96 annually)."

**Miami-Dade Water and Sewer Department’s Response:**

Miami-Dade Water & Sewer Department has consistently followed the procedures established when the agreement was signed, which is the same as that detailed in the City Code of Ordinances Section 28-1 through 28-4. The agreement states "the City shall also be responsible for identifying stormwater utility customers to the [Miami-Dade Water and Sewer Department], specifying the amount of charge to the customer and responding to customer inquiries regarding stormwater utility services and fees." The City Code of Ordinances states "the City manager or his designee is directed to prepare a list of lots and parcels within the city and assign a classification of residential or nonresidential to each lot or parcel. These parcels to be classified as either residential or nonresidential with an "Equivalent Residential Unit" (ERU) established based on the total "impervious area" calculated for each property type. The impervious area consists of areas covered by structures and impervious amenities such as rooftops, patios, porches and driveways. Rates charged to City customers are established by the City rate multiplied by the number of ERUs and the ordinance requires that "the billing amount shall be updated by the department of public works based on any additions to the impervious area."

In review of the methodology used to determine over and under billings in the City’s Audit Report we refer the City to its Stormwater Code of Ordinances and processes established under the Agreement, noting that all updates to the stormwater billing units are to be calculated and subsequently provided (to the Miami-Dade Water & Sewer Department) by the City. The Miami-Dade Water & Sewer Department’s process is that changes are to be provided by the City’s Department of Public Works. When an account is added as not having stormwater billing units or, is in need of review of the stormwater billing unit, Miami-Dade Water & Sewer Department codes the account so that it is shown up on the monthly report forwarded to the City for them to review and provide the appropriate stormwater billing units.

In this case, the audit report compared the CIS billable line item titled “Billing/Dwelling Units”, which is representative only of the units served by WASD’s meter to bill the water and sewer charges, to the City’s "Stormwater Billing Units" which is only used to calculate the City’s stormwater fee for the account. A report typically prepared for representatives of the City’s Department of Public Works Environmental section was modified to include the Miami-Dade Water & Sewer Department’s billable line item titled “Billing/Dwelling Units” upon request from the City’s Auditor. Based on the review of the City’s Stormwater Code of Ordinances and the Agreement, Miami-Dade Water & Sewer Department believes a more appropriate comparison is to obtain the stormwater billing unit calculated by the City’s Department of Public Works and compare that to the “Stormwater Billing Units” contained within the Miami-Dade Water & Sewer Department’s CIS system. It is important to note that Miami-Dade Water & Sewer Department receives charges to City customer accounts for stormwater billing units via fax from representatives of the Environmental Section of the City’s Department of
Public Works. Copies of the fixed requests titled "City of Miami Stormwater Adjustment" are filed in the Miami-Dade Water & Sewer Department's Customer Service Division.

Nevertheless, Miami-Dade Water & Sewer Department review of the 12 accounts listed in the report disclosed that 10 (83%) of the 12 accounts have had the same stormwater billing units prior to 2001. The stormwater billing units for the remaining 2 accounts were established upon request from the City.

Discussions with Miami-Dade Water & Sewer Department's Business Process Unit have affirmed that monthly reports are provided to the City that contain accounts in which there are no stormwater billing units or, have been identified by Miami-Dade Water & Sewer Department staff as requiring review by the City. Also, an electronic version of the report provided to the Auditor is periodically provided to representatives of the City's Public Works Environmental section. In addition, the City has unlimited viewing access to the Miami-Dade Water & Sewer Department CBS billing system.

**Audit Report Recommendation (pg. 5):**

The City recommends a "reconciliation be prepared in order to identify and bill the 3,643 City of Miami WASD accounts in which residential property dwelling units exceed SU billing units (by 5,067.33 units). Such billing should be for amounts due and payable to the City within the statute of limitation. Also, we recommend that the appropriate credit be applied to the 2,882 City of Miami WASD accounts in which SU billing units were greater than the actual number of residential property units (by 313.36 units)."

**Miami-Dade Water and Sewer Department's Response:**

Miami-Dade Water & Sewer Department is agreeable to billing City customers for unbilled stormwater fees and providing credits for accounts overbilled that fall within the statute of limitations. The City must provide support for corrected calculations from the City's Public Works Department. In addition, the City must provide the total amount to be billed or credited for each customer.

If you need further assistance, please do not hesitate to contact me.

Sincerely,

Vladimir Murad, CPA
Controller

cc: Miami-Dade Water & Sewer Department:
Frances C. Morris, Assistant Director - Finance
Harold Concepcion, Chief, Retail Customer Service Division
Timothy Cunningham, Chief, Business Process Section
Fea Rodriguez, Manager, Controller Division
Angelo D. Morris-Stringer, Supervisor, Controller Division
Blake, Lewis

From: Morris-Butler, Angela D. (WASD) [AMORRI@miamidade.gov]
Sent: Friday, January 21, 2011 9:59 AM
To: Blake, Lewis
Cc: Rodríguez, Eva A. (WASD)
Subject: RE: SU Billing Test Results

Good Morning Lewis,

We have reviewed the information that you sent in regards to some discrepancies in stormwater billings. Please keep in mind that all stormwater billing for a customer is provided by the City of Miami. If the information that we have on file is incorrect it is very important that the City provide WASD with updated information. We only bill the customers the billing units and/or stormwater charges in which we are provided. I spoke with Tim Cummings in regards to this matter he informed me that last year he provided you with a detailed listing of the stormwater customers that we bill on the City of Miami’s behalf. I am not sure if you had the opportunity to review it or not. However, if there are any corrections that are needed please contact Susan Deitado at (786) 552-8776 in Customer Service and she will assist you with this matter.

Please feel free to contact us if you need additional information.

Angela Morris-Butler, MSM,

Miami-Dade Water & Sewer

(786) 552-8418 Phone  (786) 552-8521 Fax

www.miamidade.gov

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From: Blake, Lewis [mailto:blake@miamigov.com]
Sent: Tuesday, January 18, 2011 11:55 AM
To: Rodríguez, Eva A. (WASD)
Cc: Morris-Butler, Angela D. (WASD)
Subject: SU Billing Test Results
Importance: High

Eva,

As discussed, please review and comment on the attached results. If you can give us your feedback by Thursday/Friday that would be great....

Thanks.

Lewis R. Blake, CPA, CIA
Recommendation

We recommend reconciliation be prepared in order to identify and bill the 3,643 City of Miami WASD accounts in which residential property dwelling units exceed SU billing units (by 5,067.33 units). Such billing should be for amounts due and payable to the City within the statute of limitation. Also, we recommend that the appropriate credit be applied to the 2,882 City of Miami WASD accounts in which SU billing units were greater than the actual number of residential property dwelling units (by 313.38 units).

In order to ensure the accuracy of SU billings and remittances, both WASD and City Public Works staff should consider using the report described above in making changes to affected accounts.

Auditee Response and Action Plan:

☑️ I agree; ☐ I disagree. Please initial: [Initial]

Explanation: PW is working on this & will coordinate with City Finance Dept & MDWASD.

As requested above, please confirm our understanding by marking whether you agree or disagree, initializing in the spaces provided and returning this memorandum to us. In the event that you disagree with any of the items listed above, please provide your explanation and attach all supporting documents/records by February 9, 2011.

If you have any questions, please feel free to contact me at 305-416-2173 or by email.

Cc: Victor Igwe, CPA, CIA, Independent Auditor General
Audit Documentation File