



Internal Audit Department

Audit Report 2015-2

Metropolitan Planning Organization (MPO)

REVIEW

Dwight E. Brock
Clerk of the Circuit Court
and Comptroller

3299 Tamiami Trail East
Suite #402
Naples, FL 34112-5746

www.collierclerk.com

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Prepared by: James D. Molenaar, Internal Audit Manager

Report Distribution: Jeff Klatzkow, County Attorney
Scott Teach, Deputy County Attorney

Cc: Dwight E. Brock, Clerk of the Circuit Court and Comptroller
Crystal K. Kinzel, Director of Finance & Accounting

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The files and draft versions of audit reports remain confidential and protected from public records requests during an active audit under *Nicolai v. Baldwin*, 715 S. 2d 1161 (Fla. 5th DCA 1998) and Florida Statute 119.0713 (2013). Work-papers supporting the observations noted within this report will become public record and can be made available upon request once the final audit report has been issued.

The draft audit report was reviewed with the County Attorney's Office (CAO) on February 4, 2015 and February 6, 2015.

Objectives

The objectives of the investigation were to review certain allegations made regarding the MPO Office.

Scope

The review consisted of, but was not limited to, the following tasks:

- Review of applicable Florida Statutes;
- Review of Federal Travel Regulations (FTR);
- Review of applicable Code of Federal Regulations (CFR);
- Review of applicable Case Law;
- Review of applicable Board of County Commissioners (BCC) Resolutions;
- Review of BCC and Metropolitan Planning Organization (MPO) Staff Services Agreement;
- Review of applicable MPO grant agreements;
- Review of MPO Bylaws;
- Review of MPO Public Involvement Plans
- Review of the MPO Executive Director's employment agreements;
- Review of applicable expenditure and payroll records;
- Review of applicable BCC documentation; and
- Interviews with BCC, Office of Management and Budget Compliance Office, Clerk's Finance Staff and MPO staff.

At the request of the County Attorney's Office and approval of the MPO Board, the scope of this review was limited to certain allegations made regarding the MPO Office.

Background

Prior to the December 12, 2014 meeting of the MPO Board, one MPO staff member reported concerns regarding the MPO Office to County Human Resources. Human Resources referred the information to the County Attorney's Office for review. The County Attorney advised the MPO Board of the need to investigate certain allegations regarding the MPO Office. The MPO Board approved the County Attorney to work with the Clerk of the Circuit Court's Internal Audit Department to complete an investigation of reported allegations. Additional allegations reported by this one MPO staff member were reported to Internal Audit on January 5, 2015.

Allegations

1) Alteration of Bylaws and Public Involvement Plan

It was alleged that the MPO Executive Director had instructed one MPO staff member to alter MPO Bylaws subsequent to legal review and prior to MPO Board approval. Internal Audit's review determined the County Attorney's Office stamp and the Deputy County Attorney's signature had been copied and electronically reproduced on the MPO Bylaws as submitted to the MPO Board for approval.

Internal Audit reviewed the "BYLAWS for Congestion Management System/Intelligent Transportation System Committee of COLLIER METROPOLITAN PLANNING ORGANIZATION" that had been reviewed, signed and stamped by the Deputy County Attorney on Monday, October 6, 2014. Internal Audit also reviewed the "BYLAWS for Congestion Management System/Intelligent Transportation System Committee of COLLIER METROPOLITAN PLANNING ORGANIZATION" as presented to and approved by the MPO Board on Friday, October 10, 2014.

Based upon Internal Audit's review of the two bylaw versions, inconsistencies included: (1) the County Attorney stamp marking on the bottom right-hand corner of each page of the Bylaws submitted to the MPO Board did not match the stamp location on the legally approved version; (2) on the version of the Bylaws submitted to the MPO Board, the title "CONGESTION MANAGEMENT SYSTEM/INTELLIGENT TRANSPORTATION SYSTEM COMMITTEE" had been moved from the bottom of one page to the top of the next page; and (3) the signature of the Deputy County Attorney had been electronically reproduced on the version submitted to and approved by the MPO Board. The Bylaws approved by the MPO Board were altered after the initial legal review; however, the Bylaws appear to only have been changed for form, the substance was not altered.

Internal Audit interviewed the MPO Executive Director and the MPO Administrative Secretary regarding these inconsistencies between the two Bylaw documents. The MPO Executive Director explained, *"I personally didn't do it. and then um um [sic] my secretary said 'Oh I can fix this it is just a matter of pagination.' I said 'go ahead,' just that's all there was, that was all my involvement."* During the MPO Administrative Secretary's interview, she was asked, by Internal Audit, if there were any other changes to the Bylaws. The MPO Administrative Secretary responded, *"No other changes; I was only asked to fix the pagination error from page six to page seven."*

Based upon the documentation reviewed and an attestation from the Deputy County Attorney, it is clear the signature was electronically reproduced without legal authorization on the final MPO Bylaws presented and subsequently approved by the MPO Board. Altering documents, including duplicating signatures, calls into question the integrity of public documents.

An additional allegation was raised regarding the Public Involvement Plan. An MPO staff member indicated that the MPO Executive Director changed the Public Involvement Plan document based upon initial public input and/or advisory committee meetings without tracking changes or reviewing changes with the committees. Staff indicated that the MPO Executive Director offered to review the changes with the committees through a PowerPoint presentation; however, the committees declined this offer to review. Internal Audit reviewed the PowerPoint slides that were made available for content and the presentation included details of the Public Involvement Plan document. The MPO Administrative Secretary confirmed that the PowerPoint was made available to the MPO Board.

2) Use of the MPO assigned vehicle for a personal benefit

One MPO staff member alleged that the MPO Executive Director uses the BCC County vehicle assigned to the MPO for personal use and benefit. The basis of the allegation stemmed from the MPO Executive Director's travel to her Valrico, Florida residence. The MPO Executive Director maintains an apartment in Naples, Florida and has a home in Valrico, Florida, which is located in Hillsborough County outside of Tampa. The staff member questioned the use of the County vehicle to travel to the Director's Valrico residence. The MPO Executive Director indicated when traveling to an MPO event that was greater than the distance between Naples and Tampa, she would frequently spend the night at her home in Valrico, Florida. The MPO Executive Director said she would not stay in a hotel the first evening to save the County/MPO money; rather she would stay at her home.

Resolution 2007-05 requires the MPO Executive Director to travel as part of her job duties and provides for per diem and mileage compensation. The MPO Executive Director's employment agreement states *"the MPO agrees to pay for reasonable and customary travel expenditures for employee travel and attendance at any meetings and conferences, which the MPO shall approve in advance."* The MPO Executive Director's employment agreement also states *"the MPO shall provide...access to a Collier County motor pool automobile for travel to MPO related functions."*

Internal Audit examined the MPO Executive Director's travel records. The Executive Director traveled both inside and outside of the state of Florida. Trips throughout the state of Florida included Orlando, Jacksonville, Tallahassee, and Tampa. The MPO Executive Director uses the County vehicle on a regular basis for travel. The MPO Executive Director's employment agreement does not prohibit the take-home of an assigned vehicle when used in conjunction with MPO activities. From review of travel and event documentation, it appears that when the MPO Executive Director has taken the official vehicle to Tampa or surrounding areas, it has been in conjunction with MPO functions.

MPO staff said the MPO Executive Director uses her personal vehicle within Collier County for business related activities. MPO staff, also, said that MPO staff were allowed to use the MPO assigned County vehicle for business related travel.

During an MPO Board meeting a general conversation occurred regarding upcoming events and travel. The MPO Executive Director's employment agreement states *"the MPO agrees to pay for reasonable and customary travel expenses (as set forth in MPO policy and Florida law) for the Employee travel and attendance at any meetings and conferences, which the MPO shall approve in advance."* The MPO Executive Director also had discussions with the MPO Board regarding future travel plans during MPO Board meetings during the review period. The April 13, 2012, MPO Board Meeting Minutes reflect the MPO Board members did unanimously approved a motion to *"approve the executive director to attend the MPOAC meetings."* However, there is no evidence of advance approval by the MPO Board, as required by the MPO's Executive Director's Employment Agreement, for non-MPOAC travel.

The MPO Executive Director's travel reimbursement requests are reviewed by the Growth Management Division (GMD) Administrator or Operation's Support Director. This financial review is an administrative function performed by GMD staff and is based upon the MPO Staff Services Agreement with the County; and the MPO Board is the approving body to whom *"the executive director reports directly."* This Agreement further states *"[t]he records and accounts of the MPO including receipts, expenditures and deposits shall be administered by the County in accordance with its ordinary procedures."*

Full compliance with the current travel policy is a management issue. The conduct described in this allegation does not appear to have violated any policy, ordinance, or law that has been identified by or shown to the Clerk; however, it appears the MPO Executive Director violated a provision of her employment agreement by failing to have *"the MPO [Board] . . . approve in advance"* her travel.

3) Fraudulent travel reimbursement requests by the MPO Executive Director

When the MPO Executive Director traveled a distance beyond her home in Valrico, Florida, she would leave her office in Naples, Florida the day before she was required to be at her final destination, such as, Orlando, Jacksonville, or Tallahassee and stay overnight at her Valrico home. The MPO Executive Director did not request reimbursement for hotel costs for this night; however, she did request reimbursement for dinner and breakfast per diem. Based on the destination and hours of the travel, it does not appear to violate any laws or policies. This appears to be an operational and management issue regarding travel times and not a regulatory or statutory violation.

The MPO is a separate government organization and not a BCC County Department. It should be noted County Manager Agency Policies and Procedures (CMA's) are not applicable to the MPO Executive Director. There are no requirements in the MPO Executive Director's employment agreement mandating compliance with CMA's. MPO

Resolution 2007-05 "RESOLUTION OF THE COLLIER METROPOLITAN PLANNING ORGANIZATION APPROVING THE APPLICATION OF FEDERAL GOVERNMENT PER DIEM AND MILEAGE RATES" approved that the "MPO establishes that the staff and its elected officials will be compensated for per diem and mileage consistent with the federal government rates." The MPO Staff Services Agreement with the County states "[r]eimbursement from Federal and State funds for per diem and millage expenses incurred by MPO staff and Board members for MPO business shall be consistent with the federal government rates."

The MPO Executive Director's employment agreement states "the MPO agrees to pay for reasonable and customary travel expenses (as set forth in MPO policy and Florida law) for the Employee travel and attendance at any meetings and conferences, which the MPO shall approve in advance."

This appears to be a policy issue for management to address regarding the MPO Executive Director's travel and employment agreement requirements for advanced approval of travel and not a violation of law.

4) MPO Executive Director compelled subordinates to allocate time improperly on timesheets

Based on interviews with MPO employees, the MPO Executive Director would not sign employee timesheets until revisions had been made by the MPO staff to time reported/allocated to a particular project (i.e. grants). Staff was concerned that changes did not accurately reflect time actually spent on projects. Employees stated they did not retain original documentation and could not identify a specific item or incident in which the MPO Executive Director caused a subordinate to make timesheet revisions. The MPO Executive Director indicated she suggested the employees revise timesheets to properly and more accurately reflect the hours worked for each project.

Internal Audit reviewed records, interviewed all MPO staff, the MPO Executive Director, and the Collier County Grants Compliance Manager. Documentation reviewed included: MPO timesheets, SAP (financial system) grant allocation entries, grant agreements and summaries of interviews with MPO staff. Based upon the review of these records and interviews, Internal Audit confirmed there was a formalized process for documenting the allocation of project work time. This process included MPO staff manually recording the time worked on a time-allocation template spreadsheet in an Excel workbook. These timesheets are completed by staff then subsequently submitted to the MPO Executive Director for approval.

In July 2014, the time allocation templates/timesheets were revised to capture in greater detail time worked on a particular project/grant. This change of the timesheet template allows for time allocations to be more specifically applied against grant funding sources. The MPO Executive Director indicated she had asked for changes to MPO staff timesheets to more accurately reflect the time allocated to tasks, to allocate tasks to multiple grants, and/or to allocate eligible costs to one or more grants.

There was no evidence that timesheet entries/changes were inappropriately allocated to any grants. Based on the information presented, the validity of the concern that MPO staff was being required to improperly allocate time could not be substantiated.

5) Additional allegations by one MPO staff member

Printer was purchased by the MPO Executive Director and not inventoried

Staff reported that the MPO Executive Director "purchased a printer for her house that never got inventoried." The purchase was processed by the Growth Management Division. The MPO Executive Director stated, in an interview, the purchase was for a printer to be used when she worked from home with the MPO purchased iPad, and that the printer was currently at her apartment in Naples, Florida.

The MPO Executive Director provided Internal Audit a hardcopy of the "Collier Metropolitan Planning Organization - Equipment Inventory List current through July 22, 2013" that had a record of this type of printer. Internal Audit examined this document and the computer records associated with this document. It was determined that this "Collier Metropolitan Planning Organization - Equipment Inventory List current through July 22, 2013" was modified on Wednesday, January 26, 2015 at 2:15 PM. After Internal Audit discovered this modification,

Internal Audit interviewed the Executive Director on Friday, February 6, 2015 about this change to the spreadsheet. The MPO Executive Director admitted that she alone added the printer to the spreadsheet on Wednesday, January 26, 2015 prior to giving the hardcopy of this document to Internal Audit.

Authorization for take home equipment is a management issue and does not violate any agreements. This is a policy issue for management to address and not a legal issue. Altering an official record, by adding data during a known ongoing investigation, without disclosing this material change appears to be an attempt by the Executive Director to mislead Internal Audit, and calls into question the integrity of MPO public documents.

MPO Executive Director's iPad was used for personal photos

This is a policy issue for management to address and is not a legal issue. The conduct described in this allegation does not appear to violate any policy, ordinance, or law that has been identified by or shown to the Clerk.

MPO Meetings scheduled at the convenience of the Executive Director

This is a policy issue for management to address and is not a legal issue. The conduct described in this allegation does not violate any policy, ordinance, or law that has been identified by or shown to the Clerk.

The MPO Executive Director instructed MPO Staff to park the County vehicle in an inconspicuous location

The conduct described in this allegation does not violate policy, ordinance, or law that has been identified by or shown to the Clerk.

The MPO Executive Director provided minimal instruction to MPO staff regarding forms and process

Employees identified in this allegation did not indicate a concern regarding the adequacy of their training.

The MPO Executive Director required the complainant to have a County cellular phone

This is a policy issue for management to address and is not a legal issue. The conduct described in this allegation does not violate any policy, ordinance, or law that has been identified by or shown to the Clerk.