



# OFFICE OF INSPECTOR GENERAL PALM BEACH COUNTY

## CONTRACT OVERSIGHT NOTIFICATION (2014-N-0086)

John A. Carey  
Inspector General

ISSUE DATE: JANUARY 13, 2015

*"Enhancing Public Trust in Government"*

### Professional Service Agreements – Marina Grants Project Manager

#### SUMMARY

##### What We Did

Pursuant to a citizen complaint, we reviewed documents relating to the City of Riviera Beach's (City) "Professional Service Agreements" (contracts) with JH Sprague Consulting L.L.C. (Sprague).

We reviewed seven resolutions that were approved by the City Council and the resulting contracts with Sprague. We reviewed the invoice/progress reports submitted by Sprague and the Riviera Beach Code of Ordinances.

##### What We Found

We found that, although the City Council approved resolutions authorizing contracts with Sprague; three resolutions required retroactive commencement dates to cover periods when services were provided by Sprague without proper authorization.

We found that Sprague submitted invoice/progress reports for services rendered; however, the submissions did not comply with contract requirements. Specifically, four of the six contracts required that Sprague submit **monthly** invoice/progress reports; however, Sprague combined multiple months of consulting services into a single progress report and invoice.

The lack of proper documentation results in **Questioned Costs<sup>1</sup> totaling \$189,000.**

In June 2013, the City removed contract language that required reports to be submitted each month; therefore, payments made pursuant to contracts entered into with Sprague after this date **are not** considered questioned costs.

##### What We Recommend

We issued two recommendations. First, that the City staff ensure that vendors do not continue to provide services after the contract has expired and the funds appropriated by its City Council have been expended. Second, that the City ensures its current contract with JH Sprague Consulting, L.L.C. is performed in accordance with established contract terms and conditions.

The City **agreed** with our findings and recommendations; however, it took "exception to the \$189,000 of Questionable Costs."

<sup>1</sup> Under Inspector General guidelines these costs are termed "questioned costs." Questioned costs can include costs incurred pursuant to a potential violation of a provision of law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds, and/or a finding that such costs are not supported by adequate documentation, and/or a finding that the expenditure of funds for the intended purpose is unnecessary or unreasonable in amount. As such, not all questioned costs, as in this case, are indicative of potential fraud or waste.

## BACKGROUND

On March 3, 2010, the City Council approved Resolution 25-10 authorizing the City Manager to submit a grant application to the Florida Inland Navigation District (FIND) for the “Municipal Marina Construction” project. This resolution also authorized Sprague to prepare the FIND grant application on behalf of the City.



In a series of six (6) subsequent resolutions, the City Council authorized the City Manager to contract with Sprague for professional consulting services to assist the City and its Community Redevelopment Agency with the development of the “Marina Renovation” project. The City entered into six contracts with Sprague to act in the capacity of a “Marina Grants Project Manager.” As the grants project manager, Sprague has been responsible for an array of activities, which include: ensuring that marina improvements are completed in accordance with funding requirements; identifying and applying for additional grant funding; monitoring grant administrative activities; assisting with grant reporting; and, implementing a coordinated strategy to optimize the use of existing and future grant funding for completion of the “Conceptual Development Plan.” Each contract specified the starting date, Sprague’s monthly fee, and the maximum amount to be paid, thereby including an implicit end date for the contract.

## FINDINGS

### FINDING (1):

**The City of Riviera Beach did not effectively perform contract administration activities for the JH Sprague Consulting, L.L.C. Professional Service Agreement(s). This required the City Council to later pass resolutions authorizing retroactive contracts for periods when Sprague had provided additional services after contracts had expired and the approved funds had been spent.**

#### OIG Review

We reviewed six contracts between the City and Sprague related to the “Marina Renovation” project (Attachment A). Our review identified three contracts where, after the funds appropriated by City Council were expended and the contracts had expired, City staff did not prohibit Sprague from continuing to provide consulting services. In each instance, City staff later provided the Council with a resolution that authorized a retroactive contract to provide payment to Sprague for services it had provided without Council appropriation or authorization. Those resolutions are as follows:

1. Resolution 146-10 authorized a contract that was entered into on November 3, 2010; this contract provided for Sprague to be paid for work performed without Council authorization after the previous contract expired on September 30, 2010;

2. Resolution 88-11<sup>2</sup> authorized a contract that was entered into on July 7, 2011; this contract provided for Sprague to be paid for work performed without Council authorization after the previous contract expired on March 31, 2011; and,
3. Resolution 64-13 authorized a contract that was entered into on June 5, 2013; this contract provided for Sprague to be paid for work performed without Council authorization after the previous contract expired on March 31, 2013

Chapter 16.5 of the City's Code of Ordinances contains the City's Procurement Code. Section 16.5-93, titled Contract Administration, states: "A contract administration system designed to insure that a contract is performing in accordance with the solicitation under which the contract was awarded, and the terms and conditions of the contract, should be maintained. For every contract a City contact person will be designated."

According to the National Institute of Governmental Purchasing, contract administration activities include payment, monitoring of progress, inspection and acceptance, quality assurance, monitoring and surveillance, modifications, negotiations, contract close out and many others. It requires the contract manager to remain focused on the program goals and objectives and includes the development of a Contract Administration Plan, performance monitoring, contract closeout, and analysis.<sup>3</sup>

An effective contract administration plan would have identified that the funds appropriated to the Sprague contract were fully expended; and, if the services were still needed, ensure that City Council was presented with timely contract renewals.

#### **FINDING (2):**

**The City of Riviera Beach did not ensure that JH Sprague Consulting, L.L.C. submitted monthly invoice/progress reports as required in its Professional Service Agreement(s).**

#### OIG Review

Four of the six contracts contain a "Fee for Services and Schedule of Payments" section requiring Sprague to "provide the City with monthly, written progress/status reports in support of the Project activities conducted during the month." We reviewed invoices and progress reports submitted by Sprague and the resulting payments from the City.

Despite the contract provision requiring monthly status reports, the **first** invoice/progress report submitted by Sprague is dated September 13, 2010 for services rendered during the **five-month period** of May 5 to September 30, 2010. The progress report is not specific to each month; rather it describes all services that were performed by Sprague during the five-month period. For example, the progress report includes the following headings but does not specify which month the services were performed:

- Coordinate present grant funding for marina construction;
- Submitted FIND construction grant for \$1,000,000;

<sup>2</sup> Resolution 88-11 provided a retroactive commencement date of April 1, 2011; however, the resulting Agreement has a commencement date of July 6, 2011. This is inconsistent with the Resolution.

<sup>3</sup> Wright, Ph.D., Elisabeth and William D. Davidson. 2011. *Contract Administration in the Public Sector*, 2<sup>nd</sup> ed. Herndon, Virginia: National Institute of Governmental Purchasing, Inc.

- Work with City/CRA staff consultants, developers on various conceptual plan elements other than the marina itself; and,
- State lands dedication issue

As provided in the contract, Sprague was compensated at a rate of \$3,000 per month; therefore, the first invoice submitted to the City was for \$15,000.

Similarly, the **second** invoice/progress report submitted by Sprague is for services rendered during the **six-month period** of October 1, 2010 through March 31, 2011. Although the second invoice is not dated, records maintained by the City demonstrate it was received on August 16, 2011; four months after services were rendered. Again, the progress report is not specific to each month; rather it describes all services that were performed by Sprague during the six-month period. Under this contract, Sprague was compensated at a rate of \$6,000.00 per month; therefore, the second invoice submitted to the City was for \$36,000.00. The City authorized an increase in the monthly payment for services from \$3,000 to \$6,000; however, we did not locate any documentation demonstrating that the City Council was provided a justification for the increased rate, or an explanation of an increased scope of work. Sprague continued the practice of combining multiple months of service into a single invoice/progress report from September 2011 to March 2013 (Attachment B).

Although the City accepted, and subsequently paid, the combined invoice/progress reports submitted by Sprague, it did not ensure that Sprague submitted reports **monthly** as required in the contract. This resulted in questioned costs of **\$189,000**. Questioned costs can include costs incurred pursuant to a potential violation of a provision of law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds, and/or a finding that such costs are not supported by adequate documentation, and/or a finding that the expenditure of funds for the intended purpose is unnecessary or unreasonable in amount. As such, not all questioned costs, as in this case, are indicative of potential fraud or waste.

We noted that beginning with Resolution 64-13 (June 2013) the City removed the contract language that required Sprague to submit reports each month; however, Sprague must include a “progress/status” report with each invoice it submits to the City. Therefore, payments made pursuant to contracts entered into with Sprague after June 2013, **are not** considered questioned costs.

“Advancing Accountability – Best Practices in Contract and Grant Management”, published by the Florida Department of Financial Services, identifies seven crucial elements related to contract management. Two of the elements are particularly useful as it relates to the City’s monitoring of the Sprague contracts: Reporting and Monitoring.

*Reporting – All reports/documentation required to be submitted or maintained by the provider must be clearly outlined in the agreement. For example: Title, Frequency, Form, Due Date and Format. Considerations of reports and reporting include; the date that each report is due, a list of the specific information that each report is to contain, a standard report format, a requirement that the documentation used to support the report is maintained and made available upon request and financial consequences.*

*Monitoring – The purpose of monitoring is to ensure the provider’s performance and compliance with the requirements of the agreement. The two aspects of monitoring are programmatic and fiscal. Programmatic monitoring determines compliance with the terms and conditions, and service delivery related*

*requirements. Fiscal monitoring determines if funds have been accounted for and used appropriately by the service provider.*

## RECOMMENDATION

The City of Riviera Beach should:

1. Implement contract administration activities to ensure that vendors do not continue to provide services after the funds appropriated by its City Council have been expended.
2. Ensure that the current JH Sprague Consulting, L.L.C. contract is performed in accordance with established contract terms and conditions.

## RESPONSE FROM MANAGEMENT

On December 17, 2014, the City Manager of the City of Riviera Beach provided a response to the Notification (Attachment C).

In summary, the City concurs with both Findings in the report. However, the City takes exception to the manner in which the OIG has calculated the resulting Questioned Costs. We hold the costs were “questioned”, not because they were unnecessary, unreasonable, or indicative of potential fraud or waste. They were “questioned costs” since they were not paid in accordance with the City’s contract with Sprague.

The City’s response indicates that it is already implementing certain corrective actions. In a follow up conversation, the City Manager also affirmed that the City agrees with the Recommendations in this report.

## QUESTIONED COSTS

Questioned Costs Total = \$189,000

## ACKNOWLEDGEMENT

The Inspector General’s Contract Oversight staff would like to extend our appreciation to the City of Riviera Beach’s management for the cooperation and courtesies extended to us during the contract oversight process.

This report is available on the OIG website at: <http://www.pbcgov.com/OIG>. Please address inquiries regarding this report to Dennis L. Yeskey, Contract Oversight Manager, by email at [inspector@pbcgov.org](mailto:inspector@pbcgov.org) or by telephone at (561) 233-2350.

## Attachment A - Resolutions

Date Entered Into	Effective or Commencement Date	Consulting Fee
May 5, 2010	May 5, 2010	\$3,000 per month Not to Exceed \$15,000
November 3, 2010	October 1, 2010	\$6,000 per month Not to Exceed \$36,000
July 7, 2011	July 6, 2011	\$6,000 per month Not to Exceed \$72,000
March 7, 2012	April 1, 2012	\$6,000 per month Not to Exceed \$72,000
June 5, 2013	April 1, 2013	\$6,000 per month Not to Exceed \$72,000
April 1, 2014	April 1, 2014	\$4,000 per month Not to Exceed \$48,000



**Attachment B – Professional Service Agreements**

<b>Invoice Date</b>	<b>Invoice Amount</b>	<b>Invoice Period</b>	<b>Paid with Check Number</b>
September 13, 2010	\$15,000	May – September, 2010	317660
August 16, 2011	\$36,000	October – March, 2011	324851
September 15, 2011	\$30,000	April – August, 2011	325813
January 6, 2012	\$24,000	September – December, 2011	402407
Not Dated	\$36,000	January – June, 2012	407331
November 5, 2012	\$18,000	August – October, 2012	409995
January 22, 2013	\$12,000	November and December, 2012	412118
June 20, 2013	\$18,000	January – March, 2013	415977
<b>Total</b>	<b><u>\$189,000</u></b>		

## Attachment C – City of Riviera Beach Response – Page 1

OFFICE OF  
CITY MANAGER

## CITY OF RIVIERA BEACH

600 WEST BLUE HERON BLVD. • RIVIERA BEACH, FLORIDA 33404  
(561) 845-4010 FAX (561) 840-3353

December 17, 2014

Mr. Hank K. Nagel, Contract Oversight Manager  
Office of the Inspector General, Palm Beach County  
100 Australian Avenue, Fourth Floor  
West Palm Beach, FL 33406

RE: Contract Oversight Notification 2014-N-0086

Dear Mr. Nagel:

The City of Riviera Beach is in receipt of Contract Oversight Notification 2014-N-0086, Professional Service Agreements – Marina Grants Project Manager. Notification 2014-N-0086, as the City understands it, is the result of a citizen complaint as to procedures the City undertook in contracting with JH Sprague Consulting LLC. The City is proud to note that the OIG concurred with the City that the process and procedures utilized by the City to contract with JH Sprague were in accordance with the City's procurement code. Mr. Sprague has brought \$16M in grants to the City's marina, an unheard of return for \$267,000 in professional services.

Before addressing the two specific Findings presented within the Notification, I would first like to take this opportunity to thank the staff of the Office of the Inspector General (OIG) for their efforts and professional manner in which this review was undertaken. The elected officials and city staff embrace the ongoing efforts of the OIG and look forward to a continued cooperative relationship.

Secondly, I would like to take this opportunity to advise the OIG of recent undertakings within the City that will not only strengthen the City's contract administration, but overall internal controls.

1. In August 2014, the City hired its first ever Internal Auditor (CIA). This additional resource will perform risk assessments, conduct audits, and provide ongoing support in areas critical to the City's success, including contract administration.
2. The City has hired its first ever Contract Administrator. The Contract Administrator is in the process of reviewing our current processes, procurements, and anticipated procurements in order to initiate the following:



## Attachment C – City of Riviera Beach Response – Page 2

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- a. Establish a Master Procurement Status Tracking Log to track the status of contracts, purchase orders, check requests, and anticipated procurements. This log will include the following fields: Contractor; Vendor Number; Resolution Number; Procurement Award/Solicitation Number Department/Code; Title/Description; Solicitation Type, Date, and Due Date; Council Approval Date; Procurement Estimate; Requestor; Award Begin and End Dates; Value; Dollars Spent; Variance; Buyer;

Comments. This Master Procurement Status Tracking Log will be maintained and updated on an ongoing basis to assist the City as a tool in monitoring the spending and term remaining on procurements.

- b. Review the information in the current Procurement Code, Electronic Requisition Manual, and Senior Procurement Specialist Desk Manual for identification of conflicting instructions and possible revisions, and consolidate into a Procurement Policy & Procedure Manual for guidance and training purposes.
- c. Conduct training with appropriate staff in all departments to ensure compliance with Procurement Policies & Procedures and to clearly define roles and responsibilities regarding procurements.
- d. The City is in the process of implementing Bidsync, an industry leader in end-to-end procurement solutions for the public sector.

Finding (1): The City concurs with the finding. As noted above, the City is implementing a procurement solution that will assist staff in monitoring contract terms, including expiration dates, making the City more pro-active in its contracting function. In addition, the Contract Administrator will have the responsibility to monitor and track contracts in order to prevent gaps in service resulting in retroactive contracting.

Finding (2): The City concurs with this finding, however, the City takes exception to the \$189,000 of Questionable Costs. The City entered into five contracts with JH Sprague Consulting for a total of \$267,000. To-date, the City has paid \$261,000 under the terms of the contract. During the OIG review, the City provided a detailed listing of each contract and associated payments (Copy attached). Each monthly payment requirement was paid appropriately, matching monthly fees with dates of service provided. Payments were processed only upon receipt of an invoice and progress reports. The City does not believe that the failure of the vendor to submit timely invoices should result in the OIG labeling the payments associated with all multiple-month billings as questionable.

## Attachment C – City of Riviera Beach Response – Page 3

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In closing, again I would like to thank the OIG for the opportunity to respond to the findings of Notification 2014-N-0086. The City is committed to make the appropriate corrections to process and procedures so that the findings are not repeated in the future.

Sincerely,



Ruth C. Jones  
City Manager

C: City Council  
Danny Jones, Deputy City Manager  
Randy M Sherman, Director of Finance & Administrative Services  
William Brown, Internal Auditor  
John A. Carey, Inspector General

JH SPRAGUE CONSULTING SERVICES

Resolution #	Contract period	Contract amount	Resolution	YEAR	Month	PAYMENTS	CHECK #	DATE	AMOUNT	INV DATE
47-10	MAY 2010 - SEPT 2010	15,000.00	47-10	2010	may	3,000				
146-10	Oct 2010- March 2011	36,000.00	47-10	2010	jun	3,000				
88-11	July 2011-June 2012	72,000.00	47-10	2010	jul	3,000	317660	10/8/2010	15,000	May-September 2010
34-12	April 2012-March 2013	72,000.00	47-10	2010	aug	3,000				9/13/2010
64-13	April 2013-March 2014	72,000.00	47-10	2010	sept	3,000				
287,000.00										
88-11			146-10	2010	oct	6,000				
88-11			146-10	2010	nov	6,000				
88-11			146-10	2010	dec	6,000				
88-11			146-10	2011	jan	6,000				
88-11			146-10	2011	feb	6,000				
88-11			146-10	2011	mar	6,000	324851	8/19/2011	36,000	October 2010-March 2011
88-11			146-10	2011	april	6,000				8/16/2011
88-11			146-10	2011	may	6,000				
88-11			146-10	2011	jun	6,000				
88-11			146-10	2011	aug	6,000				
88-11			146-10	2011	sept	6,000				
88-11			146-10	2011	oct	6,000				
88-11			146-10	2011	nov	6,000				
88-11			146-10	2011	dec	6,000				
88-11			146-10	2012	jan	6,000				
88-11			146-10	2012	feb	6,000				
88-11			146-10	2012	mar	6,000				
88-11/34-12			146-10	2012	april	6,000				
88-11/34-12			146-10	2012	may	6,000				
88-11/34-12			146-10	2012	jun	6,000	407331	8/6/2012	36,000	January-June 2012
34-12			146-10	2012	aug	6,000	407518	8/10/2012	6,000	July 2012
34-12			146-10	2012	sept	6,000				8/7/2012
34-12			146-10	2012	oct	6,000				
34-12			146-10	2012	nov	6,000				
34-12			146-10	2012	dec	6,000				
34-12			146-10	2013	jan	6,000				
34-12			146-10	2013	feb	6,000				
34-12			146-10	2013	mar	6,000				
64-13			146-13	2013	april	6,000				
64-13			146-13	2013	may	6,000				
64-13			146-13	2013	jun	6,000				
64-13			146-13	2013	aug	6,000	415977	7/29/2013	36,000	January-June 2013
64-13			146-13	2013	sept	6,000	416811	8/20/2013	6,000	July 2013
64-13			146-13	2013	oct	6,000	417492	8/27/2013	6,000	August 2013
64-13			146-13	2013	nov	6,000	418078	10/18/2013	6,000	September 2013
64-13			146-13	2013	dec	6,000				
64-13			146-13	2014	jan	6,000	418380	12/13/2013	12,000	October-November 2013
64-13			146-13	2014	mar	6,000	420075	1/17/2014	6,000	December 2013
64-13			146-13	2014	jan	6,000	421203	3/6/2014	6,000	January 2014
64-13			146-13	2014	mar	6,000	422529	4/25/2014	6,000	March 2014
281,000										
281,000										