



John A. Carey
Inspector General

OFFICE OF INSPECTOR GENERAL PALM BEACH COUNTY



Inspector General
Accredited

Date: February 9, 2017

To: Ms. Verdenia Baker, County Administrator
Board of County Commissioners

CC: Inspector General Committee

From: John A. Carey, Inspector General

Subject: Office of Inspector General Funding Proposal

I appreciate the support the Office of Inspector General (OIG) has received from the Board of County Commissioners (BCC) and County leaders in the two and a half years that I have served as the County IG. Now that the lawsuit regarding the funding of the OIG is over, I look forward to working with the County in fully funding the OIG to provide sufficient OIG service to the citizens of Palm Beach County.

Overview

With the County's decision to not appeal the Fourth District Court of Appeal's decision of December 21, 2016, the OIG requests the BCC fund the OIG at a sufficient level of staffing required to provide adequate OIG oversight to the County, Solid Waste Authority (SWA), Children's Services Council (CSC), and the 39 Palm Beach County municipalities. While the BCC has approved a total of 40 positions (FTEs), currently only 23 positions are funded. I understand that the Court's ruling places an unexpected requirement. Consequently, we have reviewed our staffing requirements and determined that while 40 positions would provide optimal oversight for those organizations under our jurisdiction, 33 positions would provide a minimally acceptable amount of oversight. This is an additional 10 positions to the current staff of 23.

We propose a gradual staffing increase for the positions beginning in FY 2018 as follows: an increase of four (4) positions in FY 2018, and additional three (3) positions in FY 2019, and an additional three (3) positions in FY 2020.

"Enhancing Public Trust in Government"

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The following will provide the background, briefly describes the establishment of the OIG and subsequent lawsuit, followed by our justification for the funding. The attached enumerates some of our major accomplishments and return on investment to county taxpayers while functioning at just over half staffed. It presents a breakdown between work performed for the County, SWA, CSC, and the Palm Beach County municipalities. This breakdown further demonstrates the need for additional funded positions to provide adequate OIG coverage for the municipalities.

Background

The OIG was established after a grand jury report issued in early 2009 cited repeated incidences of corruption among several members of the Palm Beach County BCC and the West Palm Beach City Commission. In response to that report, the County and various community leaders began a comprehensive effort to develop an ethics initiative aimed at promoting public trust in government and establishing a more transparent operating model for its citizens. In December 2009, the BCC adopted an Ordinance that established the OIG to oversee County government.

In November 2010, 72% of the voters approved a countywide referendum to amend the County Charter and permanently establish the OIG. At the same time, a majority of voters of each of the 38 municipalities approved an expansion of OIG jurisdiction to cover all municipalities within the county. The ballot question posed to voters specified that the OIG would be, “funded by the County Commission and all other governmental entities subject to the authority of the Inspector General.”

On May 17, 2011 and December 20, 2011, the BCC recognized our requirements and approved a staffing/funding level of 40 positions for the OIG to provide oversight for the County, SWA, CSC, the Health Care District, and 38 Palm Beach County municipalities (prior to the establishment of the City of Westlake).

On November 14, 2011, fifteen municipalities filed a Complaint against the County disputing the mechanism for funding the OIG. On March 12, 2015, the trial court entered Final Judgment against the municipalities. On December 21, 2016, the Fourth District Court of Appeal issued an opinion reversing the trial court’s final judgment and concluded that the doctrine of sovereign immunity bans the County from charging municipalities to support the cost of maintaining the OIG. The Fourth District Court of Appeal did not consider the question of whether the charges constituted a valid user fee or regulatory fee. The County decided not to appeal this decision to the Florida Supreme Court.

The municipalities acknowledged and accepted jurisdiction and authorities of the OIG before both the trial and appellate courts. The only issue was *who* would fund the office.

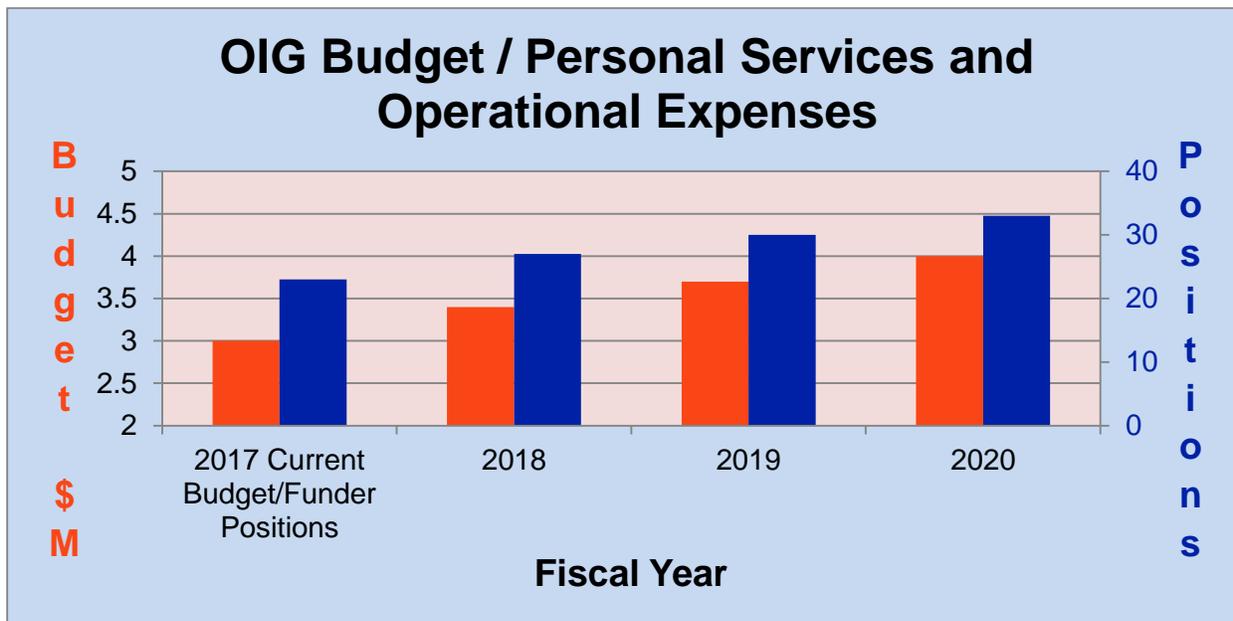
Analysis

The BCC previously recognized the staffing requirements and approved a staffing/funding level of 40 positions for the OIG to adequately provide oversight to the County and the municipalities. The County spent thousands of dollars and hundreds of hours in the litigation process to support adequate OIG funding, which the County and the OIG agreed at 40 funded positions. Therefore, it is our opinion that the County’s decision not to challenge the Fourth District Court’s decision regarding the contribution by the municipalities was a concession that the issue of who funds the OIG is settled: the County.

OIG Budget Increase Request for FY 2018, FY 2019, FY 2020

Although the County has agree that 40 positions are needed to fully staff the office, in order to help alleviate the unforeseen burden on the County, we propose an incremental increase to the OIG staff from its current 23 positions to a total of 33 over a three year period. Our proposal for a phased increased is as follows. The figures below estimate the costs to fund positions. A complete operating budget for FY 2018, which includes the additional funded positions will be provided for the County’s FY 2018 build.

FY 2018	FY 2019	FY 2020
4 additional positions	3 additional positions	3 additional positions
Estimated increase for these positions: \$403,725 ¹	Estimated increase for these positions: \$284,582	Estimated increase for these positions: \$310,250 ²



General Justification

The BCC has previously recognized our requirement to provide adequate oversight for

¹ The figures set forth in the charts represent salary plus benefits.

² Variances in the actual position pay levels account for the difference in costs for 3 positions in FY 2019 and FY 2020, as well as in the following funding estimates.

the entities under our jurisdiction by approving 40 positions on May 17, 2011 and December 20, 2011. With exception of three (3) fewer positions (as the Health Care District is no longer under OIG jurisdiction) the remaining 37 staffing requirements still exist for a full service OIG.

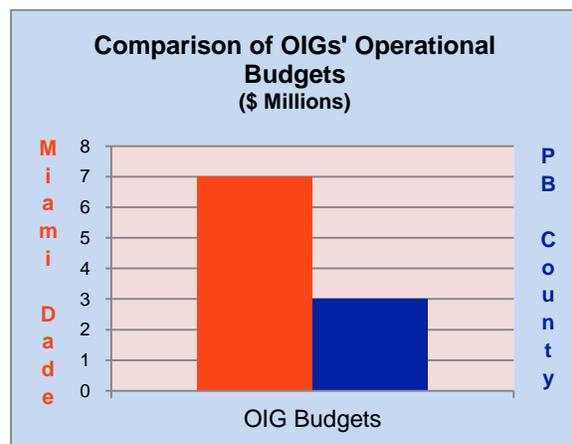
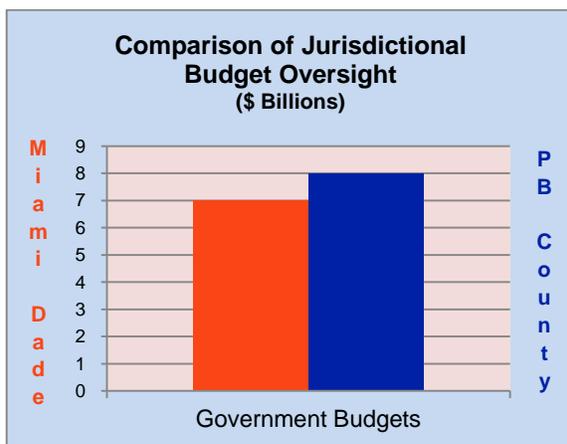
The OIG provides independent oversight service to the County’s population of 1.42 million citizens in guarding taxpayer dollars, promoting integrity, transparency, and accountability in government. This includes:

- PBC, Municipalities, SWA, and CSC annual budgets of approximately **\$7.5B**
- PBC, Municipalities, SWA, and CSC employ approximately **13,000** people (excluding part-time, seasonal, and contract employees)
- PBC, Municipalities, SWA, and CSC auditable units identified: **789**
- Oversight of **billions of dollars** of contracting activities

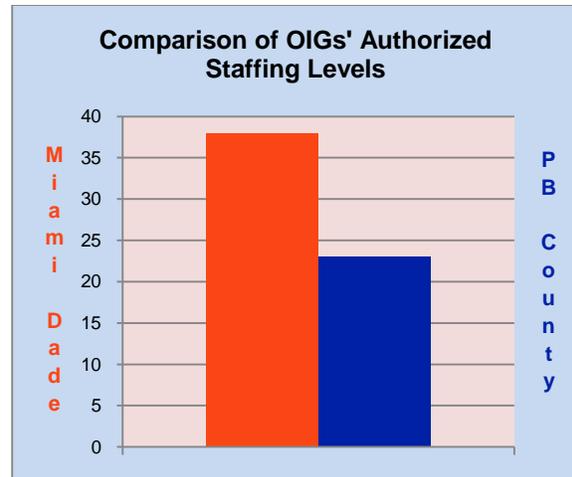
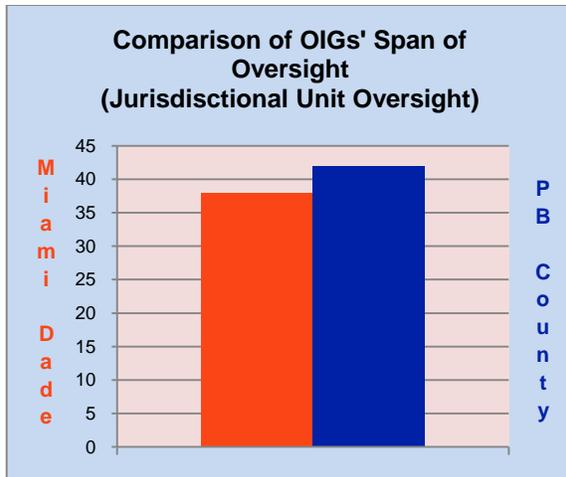
Comparison of the Palm Beach County OIG to Miami-Dade OIG

The Palm Beach County OIG was created largely after the model of the Miami-Dade OIG. Both offices were established to provide OIG oversight to their respective county governments. The 2010 voter referendum expanded the Palm Beach County OIG’s jurisdiction and responsibilities to the 38 (now 39) county municipalities. This wider span of organizational oversight is one of the major differences between the two offices and increases the need for additional staff and resources. Each Palm Beach County municipal entity has its own unique operations and processes which take additional staff time to review and evaluate, which increases the need for additional staff.

The following two charts demonstrate Palm Beach County OIG has jurisdiction over organizations with an overall higher budget than Miami-Dade OIG, yet has a lower operating budget to perform its mission.



The following two charts demonstrate Palm Beach County OIG has a larger span of jurisdictional oversight than Miami-Dade OIG, yet has a lower staffing level.



Specific Justification per OIG Operating Division of the 10 Positions

Investigations Division: 4 Investigators

FY 2018	FY 2019	FY 2020
2 additional positions	1 additional position	1 additional position
Estimated increase for these positions: \$201,583	Estimated increase for this position: \$76,304	Estimated increase for this position: \$100,792

Description of Item

The OIG is requesting four additional positions (FTEs) for the Investigations Division. The requested positions will be addressing areas of potential fraud and waste that affect taxpayers to the County, as well as the thirty-nine (39) municipalities, SWA and CSC.

Justification

The additional staff will be able to address the backload of complaints that have come into the OIG through its Hotline program. Additionally, several cases have been open, but have not been further investigated due to a lack of investigators. The current open investigations are significant and in other OIGs are usually investigated by teams of investigators in order to complete them in a timelier manner. These additional investigators will allow the OIG to adequately address all Hotline complaints in a timely manner.

Modern investigation units have seen that proactive data mining and data analysis is overall more efficient and effective in detecting fraud, waste, and abuse in organizations. The Investigations Division would use one of these investigator positions to use technology to more proactively identify potential fraud, waste, and abuse in government to find fraudsters, bring them to justice, and return taxpayer dollars.

The Investigations Division would proactively monitor red flag indicators including:

- Bid Rigging
- Price Fixing

- Customer or Market Allocation
- Repeated Awards to the Same Entity
- Competitive Bidder Complaints or Protests
- Complaints about Quality and Quantity
- Multiple Contracts Awarded Below the Competitive Threshold
- Abnormal Bid Patterns
- Awards to Bidders that are not the Lowest Bidder
- Contract Scope Changes, Change Orders, and Contract Amendments
- Numerous Post-Award Contract Change Orders
- Contractor Giving Money or Things of Value to a Government Employee or Elected Official
- Consulting Contracts or Vendors Which Have No Apparent Business Need or No Real Work to Show
- Payments to “Shell” Companies
- Employees or Vendors Having Similar Names to Government Officials
- Non Payment of Worker Compensation Insurance Premiums
- Non Payment of State Unemployment Tax
- Non Payment of Federal Employment Tax
- Use of Undocumented workers
- Non Compliance of the Living Wage Ordinance

When the voters approved the One-Penny Sales Surtax, the taxpayers also increased the need for OIG oversight. With over one billion dollars designated for capital investments, the level of potential fraud and waste increases significantly.

Audit Division: 4 Auditors

FY 2018	FY 2019	FY 2020
1 additional position	1 additional position	2 additional positions
Estimated increase for this position: \$107,486	Estimated increase for this position: \$107,486	Estimated increase for these positions: \$209,458

Description of Item

The OIG is requesting a total of four additional positions (FTEs), which includes three auditors and one Information Technologies (IT) auditor, to meet the needs of, and fulfill the purpose of, the audit function within the OIG.

Justification for three auditors

This request will allow the OIG to better fulfill its purpose of promoting economy, efficiency, and effectiveness in the administration of and, as its priority, to prevent and detect fraud and abuse in programs and operations administered or financed by the County or municipal agencies, through independent audits.

The current level of staffing in the Audit Division is not adequate to perform the responsibilities delineated in the IG Ordinance. The OIG jurisdiction currently includes the County, 39 municipalities, Solid Waste Authority, and Children Services Council, or 789 auditable units (divisions, departments, and functions currently identified). From 2011 through 2016, the small staff in the Audit Division has only been able to perform three audits involving the County, and 20 Audits involving municipalities. Although the Audit Division's small staff has issued 23 reports, made 343 recommendations, and found \$12.4 million in questioned costs, identified costs and cost avoidance since inception, six auditors is not adequate staffing to (1) provide audit coverage of all auditable units, or to (2) meet the needs of, and fulfill the purpose of, the audit function as established by Ordinance.

This is especially true in light of the recent additional one percent sales tax increase. The County and municipalities are forecasted to collect and expend more than \$1.3 billion over the next 10 years, for infrastructure capital projects. The County is expected to receive approximately \$810 million, and the 39 municipalities are expected to receive approximately \$540 million from the additional one percent sales tax. The County and municipalities plan to use the revenue to engage in a variety of construction projects. Construction contracts, especially involving large projects, are inherently risky. According to a 2014 Global Fraud Study by the Association of Certified Fraud Examiners, a typical organization loses approximately five percent of all revenue to fraud. The study also found that industries with relatively high proportions of corruption schemes included the construction sector, with a median loss of approximately \$245,000. Therefore, millions of dollars of additional taxpayer funds will be potentially at risk over the next 10 years. To fulfill the OIG responsibilities, the Audit Division plans to regularly perform audits of large and risky construction projects. Without additional auditors, these critical audits will not be able to be performed, and potential fraud, waste, and non-compliance will not be identified.

Description of Item

We are requesting one position (FTE) for an Information Technology (IT) Auditor to focus on audits to reduce cyber risks which will help protect taxpayer funds, sensitive information, and reduce the potential for security breaches.

Justification:

Cyber risk is the risk of financial or physical loss, disruption of service, or damage to an organization's assets or reputation from some sort of failure of its information technology systems. Cyber threat and breaches pose some of the most serious economic and security challenges with technology improvements and limited budgets. Based on a 2016 IBM Report, the average total cost of a data breach is over \$7,000,000 with an average

cost of \$221 per lost or stolen record. Government information systems, and the information they hold, are increasingly becoming targets of cyber-attacks with an estimated 7% increase for breach attempts. As the attacks increase, the security incidents have resulted in loss of sensitive data such as the 2015 IRS breach that compromised 700,000 taxpayer accounts and the U.S. Office of Personnel Management data breach that compromised 22 million current and former government employees. This resulted in system shut downs, failure of websites and computer systems, disruption of operations, and penalties for each record stolen.

The recent data and cyber breaches at several government agencies underscore the importance of securing government systems and protecting sensitive information. The County and other government entities in Palm Beach County rely heavily on complex information systems and network servers (infrastructure) to carry out their daily operations and support government programs. As a result of the increased risk and sensitive nature of the information maintained in the government environment, the OIG is requesting one additional full-time employee to conduct audits, evaluations, and inspections of the various government entities IT programs and cyber risks to include, but not be limited to, the assessment of:

- Security of IT physical assets that operate critical cyber infrastructure and networks;
- Effectiveness of the IT security programs by conducting technical vulnerability assessments and tests of information systems and computer networks;
- Security of mobile devices;
- Security and privacy of information managed by cloud-computing providers;
- Capability to detect, respond to, and recover from IT security incidents;
- Proper collection or disposal of digital data; and,
- Governance model for IT assets and programs to determine if the model promotes effective IT security and the efficient use of public funds.

Contract Oversight Division: 2 Contract Oversight Specialists

FY 2018	FY 2019	FY 2020
1 additional position	1 additional position	0 additional positions
Estimated increase for this position: \$94,656	Estimated increase for this position: \$100,792	

Description of Item

The Contract Oversight Division is requesting two additional Contract Oversight Specialist positions (FTEs) to meet the needs of, and fulfill the purpose of, the contract oversight function within the OIG.

Justification

Anytime taxpayer funds are distributed to third parties, such as grantees and contractors, there is an inherent risk of fraud, mismanagement, and abuse. Since its inception the Contract Oversight Division has identified nearly \$20 million in funds as Questioned, Avoidable, or Identified Costs. This has been with a skeletal staff attending some contract selection committees and responding to citizen complaints. Additional staff would facilitate a larger presence in contract selection committees and a more timely review of complaints. This is critical in determining fraud and/or internal control recommendations to promote efficiency and effectiveness.

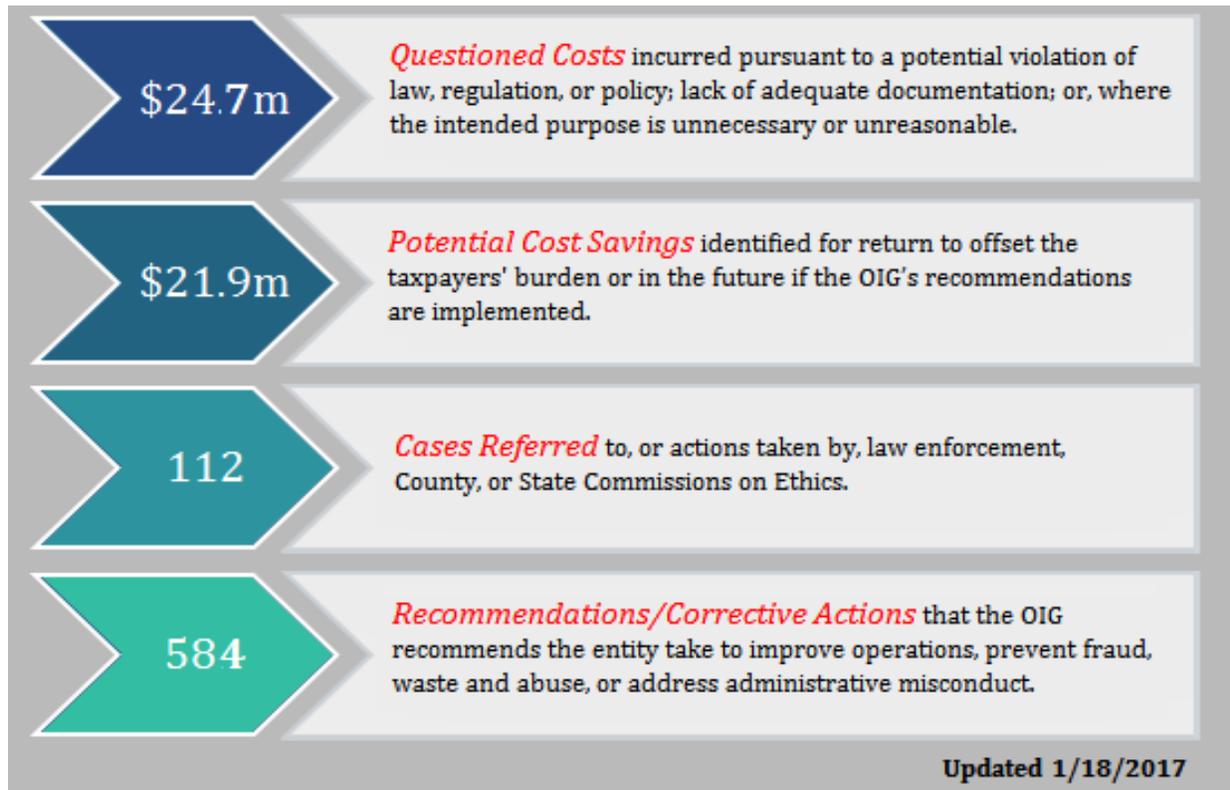
These additional positions would increase oversight of contracts and projects identified as high-risk. A recent study by the Contract Oversight Division has found that a number of contracting entities lack written guidelines and procedures in the area of Procurement. And in another OIG review, we found a significant number of contracting entities have no policy and procedures for contract monitoring, no tool or mechanisms to measure a contract's risk, and no training of staff in the area of contract management. This is exposing these entities to increased risk of fraud and waste. Existing Contract Oversight staff divide their time among the 39 municipalities, the various County departments and the two contracted entities. Further, the Contract Oversight staff provides limited oversight in the award phase of contracting and the post award phase in which contracts are monitored and managed.

The recent approval of the Penny Sales Tax initiative in Palm Beach County represents an approximate increase of \$1.35 Billion over the course of the next ten years. A majority of this spending will be for projects which will be contracted and thereby requiring oversight. Funding of these requested positions will allow a much more rigorous oversight of the procurement and contract management activities within the municipalities, the County.

ATTACHMENT: SUCCESSES AND RETURN ON INVESTMENT ON A PARTIALLY FUNDED OIG

Return on Investment for Partial Funding the OIG

The following chart demonstrates the return on investment the County and the municipalities receive from a partially funded OIG.

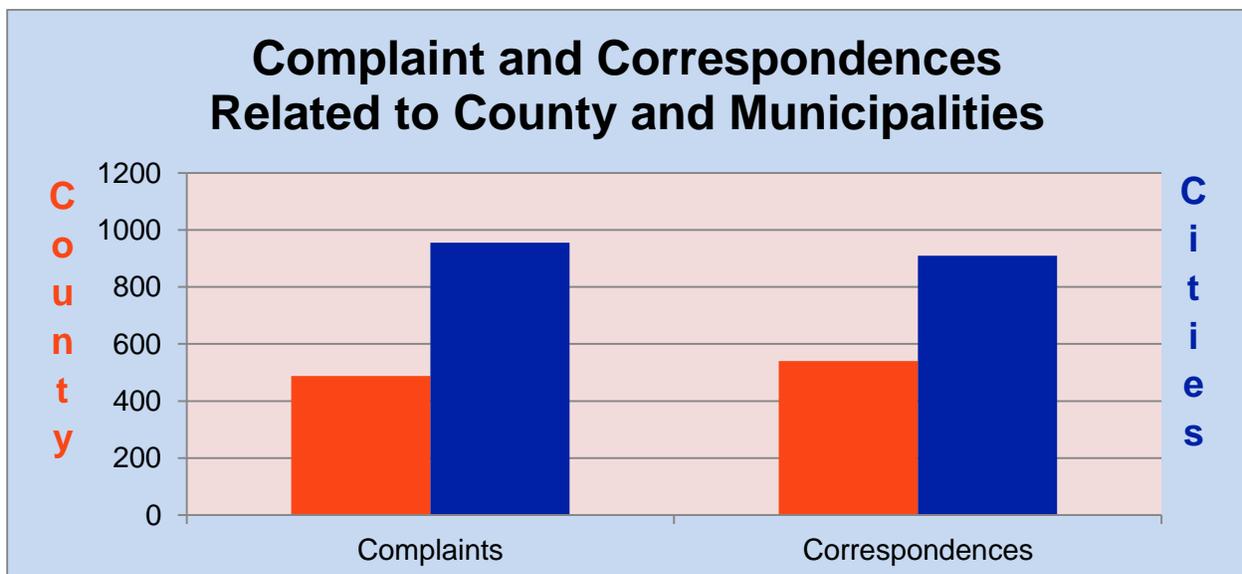
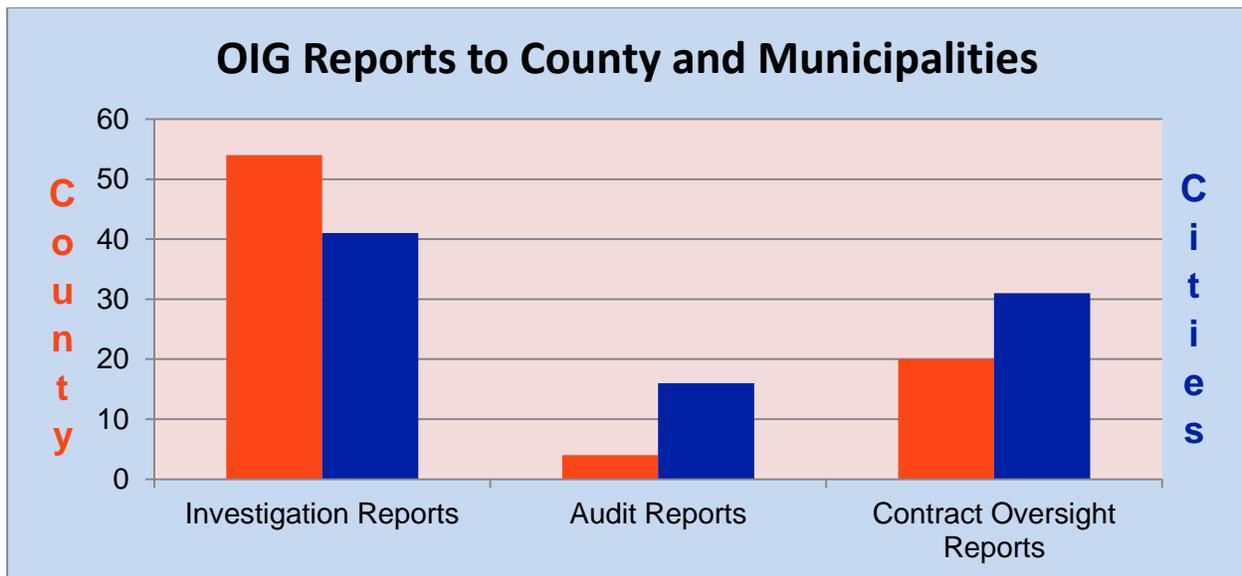


Additionally, metrics are difficult to measure for fraud, waste, abuse, and misconduct prevention. The fact that Palm Beach County has not seen the type of corruption in senior public officials that was experienced prior to the establishment of the OIG, and the Commission on Ethics may be a partial result of these organizations' work (including findings and implemented recommendations, community outreach and education as to what constitutes unethical behavior, and mere presence as a watch dog. The citizens want our leaders to be held accountable, so it is imperative that our office has all the tools it needs to detect, deter, prevent and eradicate fraud, waste, and abuse. A county that promotes ethics, transparency, and accountability in government creates a healthy business environment for local companies, creates an atmosphere that benefits the tourism industry, and enhances public confidence in government.

Comparison of OIG Service to County and Municipalities

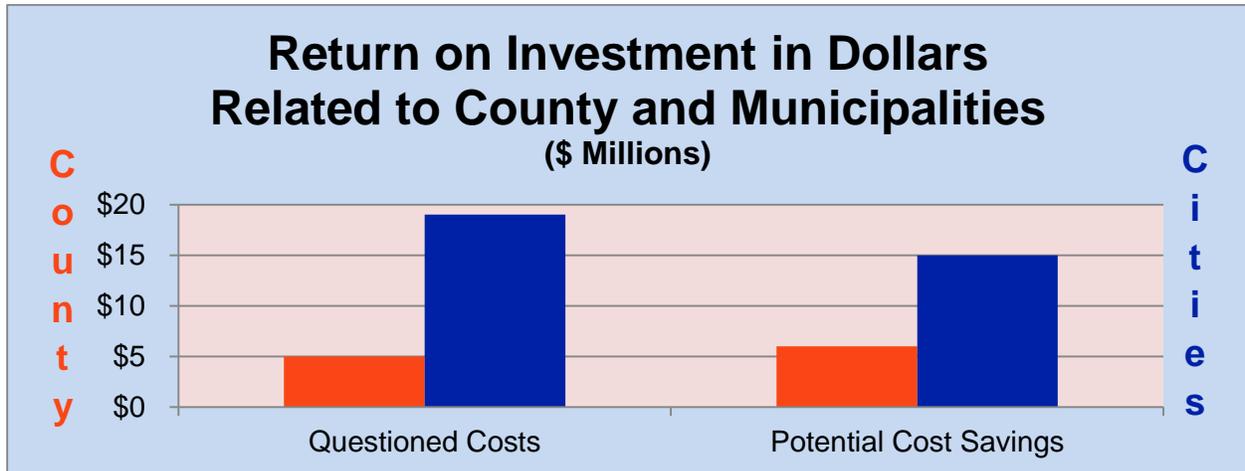
County government, SWA, and CSC	The 38 municipalities (now 39)
Investigation Reports: 54 (57%)	Investigation Reports: 41 (43%)
Complaints Received: 488 (34%)	Complaints Received: 955 (66%)
Correspondences Received: 540 (37%)	Correspondences Received: 910 (63%)
Audit Reports: 9 (38%)	Audit Reports: 15 (62%)
Contract Oversight Reports: 20 (39%)	Contract Oversight Reports: 31 (61%)

When the OIG was established in 2010, investigations were the first activities conducted by the OIG, and only for the County until after the implementation of the November 2010 voter referendum that brought OIG jurisdiction to the municipalities. Audits began in 2011. These two facts account for the higher number of investigation reports for the County.

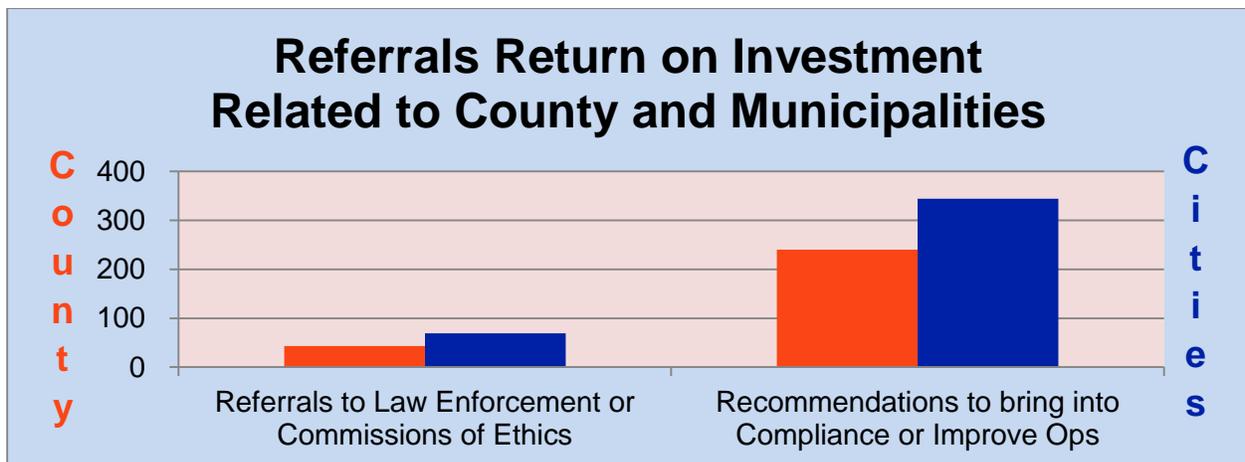


Comparison of OIG Return on Investment for the County and Municipalities

County government, SWA, and CSC	The 38 municipalities (now 39)
Questioned Costs: \$5,262,987 (21%)	Questioned Costs: \$19,494,994 (79%)
Potential Cost Savings: \$6,087,227 (28 %)	Potential Cost Savings: \$15,878,957 (72%)



County government, SWA, and CSC	The 38 municipalities (now 39)
Cases Referred to, or actions taken by, law enforcement, County, or State Commissions on Ethics: 43 (38%)	Cases Referred to, or actions taken by, law enforcement, County, or State Commissions on Ethics: 69 (62%)
Recommendations to bring into compliance with laws/policies; address misconduct, improve operations; or prevent fraud, waste, and abuse: 240 (41%)	Recommendations to bring into compliance with laws/policies; address misconduct, improve operations; or prevent fraud, waste, and abuse: 344 (59%)



At the end of the day, the OIG is the citizens' independent champion promoting accountability, transparency, and integrity in government. It enhances trust in government.