



John A. Carey
Inspector General

OFFICE OF INSPECTOR GENERAL
PALM BEACH COUNTY



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“Enhancing Public Trust in Government”

Audit Report
2018-A-0007
Palm Beach Gardens
Economic Incentive /
Development Program
May 7, 2018

Insight – Oversight – Foresight



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AUDIT REPORT 2018-A-0007

DATE ISSUED: MAY 7, 2018



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PALM BEACH GARDENS ECONOMIC INCENTIVE / DEVELOPMENT PROGRAM

SUMMARY

WHAT WE DID

We conducted an audit of the City of Palm Beach Gardens (City) Economic Incentive/ Development Program operations. We performed this audit as part of the Office of Inspector General (OIG) Palm Beach County Fiscal Year (FY) 2018 Annual Audit Plan. We selected the City based on the results and responses to the Economic Incentive / Development Program Survey, Audit Report 2018-A-0005.

Our audit focused on Economic Incentive / Development Program (Program) activities or agreements that were active in FY 2017, including activities or agreements initiated during a prior period.

WHAT WE FOUND

We found generally adequate controls for the Program processes.

We found the language in City ordinances relating to certain tax-based economic incentives and direct financial incentives to business are consistent with applicable Florida Statutes. The ordinances provide

general guidance for determining a business' eligibility for funding and tax exemptions for the Program. However, there are no written policies and procedures relating to the operation of the Program, which help to reduce errors and enhance internal controls.

We found the City did not consistently monitor the Economic Development agreements to ensure that businesses reached milestones in the agreements. City funds remained earmarked for projects beyond the deadline to reach agreed upon milestones.

WHAT WE RECOMMEND

Our report contains one (1) finding and offers three (3) recommendations. Implementation of the recommendations will assist the City in strengthening internal controls.

The City concurred and accepted all the recommendations.

We have included the City's management response as Attachment 1.

BACKGROUND

The City, incorporated in 1959, is located approximately seven (7) miles north of West Palm Beach and 70 miles north of Miami. The City currently has land area of 56 square miles, making it one of the largest cities in Palm Beach County, and has an approximate population of 51,532. The City is empowered to levy a property tax on real property located within its boundaries.

Since its inception, the City has operated under the Council-Manager Plan form of government. The Council has policy-making and legislative authority and consists of five Council Members. The members of the City Council, by resolution, appoint one member a Mayor and another a Vice-Mayor for the City. The Council is responsible for passing ordinances, adopting the budget, appointing advisory committees, and hiring the City Manager and City Attorney. The City Manager is responsible for carrying out City policies and ordinances for overseeing the day-to-day operations of the City, and for appointing the heads of the City's departments.

The OIG 2018 Annual Audit Plan identified grant programs as a high-risk global area. We selected the City for audit based on our Economic Incentive / Development Program Survey, Audit Report 2018-A-0005. We selected the City because of the high dollar amount of funding issued under the City's Program in prior years. The total value of the City's largest three (3) program agreements currently in effect was \$1,483,000, with varying funding terms for each agreement. Additionally, based on the self-reported information, the City Manager oversees the Program, and the City does not have a separate function or department responsible for administering the Program.

OBJECTIVES, SCOPE, AND METHODOLOGY

Our overall objectives for the audit were to determine whether:

- Program was operating as intended;
- Adequate controls were in place for the Program over receipt and distribution of funds;
- Expenditures were eligible for payment; and
- Agreements for the Program were managed according to regulations and requirements.

The audit scope included current Program activities and agreements for FY 2017 and any prior periods associated with these activities and agreements.

The audit approach included, but was not limited to:

- Conducting a review of internal controls;
- Interviewing appropriate personnel;
- Reviewing reports, contracts, and agreements;
- Reviewing related policies, procedures, and requirements; and
- Performing detailed testing of selected transactions.

We gained an understanding of the Program activities and agreements by interviewing staff and documenting the process.

As part of the audit, we completed a data reliability assessment for the computer systems used by the City related to administering and reporting on the Program activities and agreements. We determined that the computer-processed data contained in these computer systems were sufficiently reliable for the purposes of the audit.

The Program appears to be operating as intended. Expenditures were generally eligible for payment under the Program and agreements; however, the expenditures tested had minor exceptions as a result of the City's lack of written policies and procedures providing guidance for the administering and monitoring of the Program, as noted in Finding 1.

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, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

FINDING AND RECOMMENDATIONS

Finding (1): The City lacks written policies and procedures for the Program.

The City does not have written policies and procedures to provide guidance for the administration of the Program or for monitoring performance and the Program milestones. During our process walkthrough we confirmed the process with City staff. As part of the audit testing, we compared the City's stated process with documentation.

We noted that the City does not have a consistent process for review and approval of Program activities. Minor inconsistencies included, the lack of support for legal review¹ of the payment request and documentation; the City has no written guidance as what supporting documentation is needed for approval of payment requests from Recipients; and a Recipient was paid an incorrect amount (later corrected). A lack of formal written policies and procedures increases the risk for errors and inconsistencies in the Program processes that can negatively impact the efficiency and effectiveness of the Program.

Additionally, the City does not have written policies and procedures with regard to the encumbrance of "earmarked funds." If the future use no longer exists, the funds should no longer be considered "earmarked funds" for Economic Development, and such funds should be made available for other uses, such as, for other prospective companies that may request Economic Development Funding in the case of these Program funds.

During the audited period, the City's financial records reflected "earmarked funds" for five (5) recipients under the Program. The disbursement of these funds is contingent on the recipient meeting certain conditions (milestones) by specific deadlines set forth in the agreements. We noted the City had not disbursed funds to recipients for accomplishing specified milestones, because submissions for request of funds had not been received by the City, although the deadlines for accomplishing the milestones had passed. Of the five (5) recipients, three (3) had not provided documentation to the City showing that milestones were met timely or that all contingencies for payment had been satisfied. The City's records do not reflect that the City sought the documentation needed for payment, evaluated whether milestones had been timely met so that the funds could be disbursed, or moved the monies from "earmarked funds" to the available balance so that the monies could be used for other purposes.

We also noted "earmarked funds" in the amount of \$80,000 for a conceptual project that never came to fruition that had been closed. As a result of our audit, the City moved the

¹ City staff stated in the process walkthrough that legal review was conducted for each payment request. In our audit testing, we determined this legal review was not documented.

\$80,000 from “earmarked funds” to the available balance to allow the funds to be used for other Program opportunities.

The City did not consistently monitor the Economic Development agreements for the achievement of the required milestones and does not have written policies and procedure to provide guidance for monitoring activities.

Written policies and procedures would provide the City with the necessary guidance to more effectively and efficiently manage the agreements and provide oversight of the upcoming project milestones and related payments. Oversight and monitoring processes would help to ensure milestone requirements are met in compliance with the agreements.

Recommendations:

- (1) The City develop and implement written policies and procedures for the Economic Incentive / Development Program.**
- (2) The City should establish oversight procedures to ensure continuous recipient eligibility by regular monitoring of milestone deadlines, earmarked funds, payment requests, and disbursement schedules.**
- (3) The City should perform, at a minimum, an annual review of the potential payment requests and milestone deadlines to ensure recipients are still eligible to receive the earmarked funds.**

Management Response Summary:

- (1) The City acknowledges that it does not have written policies and procedures for an economic development initiative; however, it has an internal process that is utilized for the Economic Development Program. The City has applied consistent methodology by which to evaluate the eligibility for business to receive economic development initiatives. The City concurs that written policies and procedures will assist in improving and strengthening its process.**
- (2) The City’s full management response can be found in Attachment 1. The City generally concurs with the recommendation and will include the process in written policies and procedures going forward, as deemed necessary.**
- (3) The City has an account dedicated for economic development initiatives which are reviewed annually and adopted by City Council during the budget process. The City acknowledges and concurs that this would be included in its written policies and procedures.**

ATTACHMENT

Attachment #1 – City of Palm Beach Gardens’ Management Response, page 7-10

ACKNOWLEDGEMENT

The Inspector General’s audit staff would like to extend our appreciation to the City of Palm Beach Gardens’ management and staff for their assistance and support in the completion of this audit.

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

**ATTACHMENT 1 – CITY OF PALM BEACH GARDEN'S
MANAGEMENT RESPONSE**

April 30, 2018

Megan Gaillard
Office of Inspector General
P.O. Box 16568
West Palm Beach, FL 33416-6568

Re: City of Palm Beach Gardens – Economic Incentive/Development Program- Draft
Audit Report Response

Dear Ms. Gaillard:

Please find the City of Palm Beach Gardens' response to the Economic Incentive/Development Program Draft Audit Report. The report included one finding with three recommendations. Please see the City's response to each of the recommendations below:

(1) The City develop and implement written policies and procedures for the Economic Incentive/Development Program.

Management response:

The City acknowledges that it does not have **written** policies and procedures for an economic development initiative; however, it has an internal process through its Targeted Expedited Permitting Process which is utilized with its Economic Development Program. The City has applied a consistent methodology by which to evaluate the eligibility for businesses to receive economic development initiatives. The City concurs that **written** policies and procedures will assist in improving and strengthening its process.

(2) The City should establish oversight procedures to ensure continuous recipient eligibility by regular monitoring of milestone deadlines, earmarked funds, payment requests and disbursement schedules.

Management response:

(A) Monitoring of milestone deadlines:

The City monitors the milestone deadlines of each of its incentive recipients. Some of the incentives are in conjunction with a State incentive program which require local support, such as the Qualified Targeted Industry (QTI), or the Governor's Quick Action Closing Fund (QACF). The QTI program has employment criteria for the company to submit directly to the State each year and the State requests payment from the Municipality. In order for any project to utilize State incentives (such as QTI or QACF), the project is evaluated for

CITY OF PALM BEACH GARDENS

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minimum qualifications and fiduciary qualifications. The City is not able to pay the State until an invoice has been provided; therefore, some funds that were committed to a company have not been paid as the State has not provided an invoice or notice that the agreement has been closed, even though a date has passed.

- Under Resolution 34, 2015, passed and adopted November 5, 2015, the project known as Project Bruin (Zimmer Inc.) listed a milestone in the Agreement for Economic Development Incentives of a Capital investment of \$1,895,000 by **December 31, 2016**. Funds earmarked for Zimmer were \$350,000 and had not been paid to date. The Capital Investment was a commitment to the State, it was not a requirement by the City; therefore, local monitoring is not applicable. The City only referenced it in a whereas clause of the agreement to be used as a measure of the economic impact for the City due to the company's expansion. The agreement was strictly an employee incentive grant where the funds were directly tied to the number of employees and average salary of those employees. Per the agreement, the company has until December 31, 2018 to hire the employees after which it may request payment from the City.
- Another milestone allegedly missed was for the project known as Project Diamond (Carrier). The milestone referenced a date certain of 3/13/15 for Carrier to retain 70 Base Jobs. Base Jobs were defined as the 70 employment positions located at UTC's Palm Beach County Campus, located at 17900 Beeline Highway, Jupiter, Florida. The report indicated that support has not been provided to show that the 70 jobs have been retained. The milestones for Carrier are to retain the 70 base jobs and move them to the campus in Palm Beach Gardens. The facility just received its Certificate of Occupancy at the end of February; therefore, Carrier could not have met the milestone yet. The City anticipates that as soon as the employees that were retained are moved from the Beeline facility to the PBG facility, Carrier will request payment and the City will verify that the 70 employees were retained and moved to the PBG facility, as well as honor the new jobs that were hired from March 13, 2015 to date.

(B) Earmarked Funds:

The City has policies and procedures which follow GASB 54 for committed funds. The City has an account dedicated for economic development initiatives which are reviewed annually and adopted by City Council during the budget process. Once the City Council conceptually approves a company for an economic development initiative, the funds are then "committed funds" for that company from the economic development account. Some of the City's early economic incentives did not have time certain dates, but employment milestones, associated with the Company, therefore the money remains

committed until the City receives notice that the company could not or does not plan to meet the milestone for the employment.

(C) Payment requests:

Payment requests are reviewed against Resolution and Agreement milestones and then remitted to the City's Legal and Finance Departments for review. The City concurs that this process can be memorialized in formal written procedures.

When a company requests disbursement of money, staff and the City Attorney review the Resolution and/or the Economic Development Agreement to verify the Company has met the criteria which was adopted for the payment requested. The City's attorney reviews the criteria under the terms of each agreement. Once this has been completed, an internal check request is generated. This process is consistent with all City agreements for purchasing and procurement. The City will include this process in written policies and procedures going forward.

(D) Disbursement schedules:

Chromalloy (Project Foil), was the company referenced that did not meet the milestones associated with its QTI payments to the State, therefore the City did not pay the required local match to the State by a date certain and never received a request by the State to remit payment. In 2011, Chromalloy was the City's first State matching grant for the QTI program. The City Council approved the QTI local match as well as an additional employee incentive grant via Resolution 22, 2011. The City has yet to receive correspondence from the State or the Company that the State agreement has expired and is no longer applicable. Also, under the additional employment grant by the City, the employment milestones are directly linked to the number of new employees, not dates. Because the Resolution did not contain dates certain for that employment to occur, the City continued to " earmark the funds". The Company remains in the City of Palm Beach Gardens, and the City continues to honor the commitment of the Resolution should the company request the funds and the employment milestones have been met. Under this method, the City does not front load incentive money; rather provides payment to the company when evidence of the jobs have been provided.

Since the first approval of a QTI match and first incentive grant, the City has become more sophisticated and now requires companies to enter into an Economic Development Agreement which contains dates certain and criteria for the company and the City to abide by, including a three-year minimum period for monitoring of the new jobs after final payment is paid. Therefore, the City concurs that oversight procedures to ensure continuous recipient eligibility are important but argues that these measures have been in place for all projects beginning with TBC Corporation (Project Gold - 2012) and have included specific term and dates for purposes of earmarking funds and monitoring.

- (3) The City should perform, at a minimum, an annual review of the potential payment request and milestone deadlines to ensure recipients are still eligible to receive earmarked funds.**

Management response:

The City has an account dedicated for economic development initiatives which are reviewed annually and adopted by City Council during the budget process. The City acknowledges and concurs that this would be included in its written policies and procedures.

If you have any questions please feel free to contact myself at (561) 799-4110.

Sincerely,



Ron Ferris
City Manager

CC: Max Lohman, City Attorney
Allan Owens, Finance Administrator
Natalie Crowley, AICP, Director of Planning and Zoning