

STATE OF FLORIDA AUDITOR GENERAL

Operational Audit

Report No. 2016-189
April 2016

**HEALTH CARE DISTRICT OF
PALM BEACH COUNTY**



Sherrill F. Norman, CPA
Auditor General

Board of Commissioners and Chief Executive Officer

During the period October 1, 2013, through March 31, 2015, Dr. Ronald J. Wiewora served as the Chief Executive Officer of the Health Care District of Palm Beach County and the following individuals served as the District's Board of Commissioners:

Carol A. Roberts, Chair
Philip H. Ward III, Vice-Chair
Dr. Alina M. Alonso
Nancy C. Banner
Leslie B. Daniels
Angeleta Gray
Brian R. Lohmann

The team leader was Stefanie Johnson, CPA, and the audit was supervised by Derek H. Noonan, CPA.

Please address inquiries regarding this report to Michael J. Gomez, CPA, Audit Manager, by e-mail at mikegomez@aud.state.fl.us or by telephone at (850) 412-2881.

This report and other reports prepared by the Auditor General are available at:

www.myflorida.com/audgen

Printed copies of our reports may be requested by contacting us at:

State of Florida Auditor General

Claude Pepper Building, Suite G74 • 111 West Madison Street • Tallahassee, FL 32399-1450 • (850) 412-2722

HEALTH CARE DISTRICT OF PALM BEACH COUNTY

SUMMARY

This operational audit of the Health Care District of Palm Beach County (District) focused on selected District processes and administrative activities. Our operational audit disclosed the following:

Finding 1: The District needs to establish policies and procedures to ensure that land acquisitions are made at the best value for the District.

Finding 2: The organizational independence of the District's audit and compliance functions could be improved.

Finding 3: District procurement procedures could be enhanced.

Finding 4: To provide for the full recovery of helicopter air ambulance services costs, the District needs to establish and implement cooperative agreements with other applicable government authorities and public and private entities for helicopter services provided outside of Palm Beach County.

BACKGROUND

The Health Care District of Palm Beach County (District) was established as an independent special taxing district by referendum originally approved by the voters of Palm Beach County (County) on November 8, 1988, and subsequently codified in the Palm Beach County Health Care Act.¹ The District is governed by a seven-member Board of Commissioners (Board). Three members are appointed by the Palm Beach County Board of County Commissioners, three are appointed by the Governor, and one member is the Director of the State's Department of Health, Palm Beach County Health Department.

The District provides a source of funding for indigent and medically needy residents as well as comprehensive planning, funding, and coordination of general health care and trauma services delivered in the County. The District owns and operates primary care clinics in multiple locations throughout the County, the Lakeside Medical Center in the rural western part of the County, and the Edward J. Healey Rehabilitation and Nursing Center. The District also maintains two Trauma Hawk air ambulances that transport patients to various locations both within and outside the County. To carry out its purposes, the District Board has the authority to levy and assess an ad valorem tax not to exceed 2 mills on all taxable property in the County, the geographical boundaries of which correspond with those of the County.

For the 2013-14 fiscal year, the District reported revenue of \$257 million, consisting of \$136 million from property taxes, \$85 million from charges for services, \$25 million from operating grants, and \$11 million from miscellaneous revenues. During the same period, the District reported expenses of \$282 million.

¹ Chapter 2003-326, Laws of Florida.

FINDINGS AND RECOMMENDATIONS

Finding 1: Land Acquisition

As discussed in the **BACKGROUND** section, the District owned and operated the Edward J. Healey Rehabilitation and Nursing Center (Center) located in the City of West Palm Beach on County-owned land, which the District leased from the County for \$1 per year. Based on facility deficiencies cited in an October 2008 feasibility study for the Center, the Board decided in December 2009 to replace the facility.

To assist with the facility replacement process, the District formed a Construction Oversight Committee (Construction Committee) to provide recommendations to the Board for site selection and facility construction. The February 2, 2010, Construction Committee meeting minutes indicated that the District and County discussed available County-owned land, and the County offered to convey the land on which the existing Center was located to the District at no cost. However, District staff indicated that the land had drainage problems and believed other improvements would be required if the District chose to accept the land. District staff also indicated another hindrance to the land conveyance would be that the District would have to displace the Center's residents while rebuilding the current facility. Consequently, in July 2010, the Board selected a real estate broker to help the District identify various land options to consider as a site for constructing a new facility. To further help in the site selection process, a project team composed of the real estate broker, District Chief Medical Officer, and the design professionals and construction manager selected for the project, was formed.

The real estate broker identified 14 sites for potential purchase and the project team evaluated the sites and narrowed the options to 3 sites, including a site in which the real estate broker's spouse and other family members held a 46 percent ownership interest. In an effort to avoid a perceived conflict of interest, prior to obtaining proposals for the other 2 sites, the real estate broker submitted to the District's owner-representative a sale price proposal for the site in which the broker's family held an interest. The real estate broker subsequently contacted the owners of the other 2 sites to negotiate and obtain price proposals, and the project team provided the proposals for the 3 sites to the Construction Committee for consideration.

The Construction Committee ranked the 3 sites using a property matrix comparing the prices for the sites and each site's favorable and unfavorable features, such as location, zoning restrictions, and existing drainage conditions. The Construction Committee recommended to the Board for purchase the highest-ranked site proposal, which was for the site partially owned by the real estate broker's family. Based on the Construction Committee's recommendation, the Board purchased the recommended site for \$4 million.

Our review of District records and discussions with District staff about this land purchase and the acquisition process disclosed that the District had not established policies and procedures that ensure land acquisitions are made at the best value for the District. Specifically, we found that:

- The real estate broker may not have been the best advocate to negotiate the District's site acquisition cost given the broker's family's partial ownership in one of the sites considered for

purchase and the broker's knowledge of the sale price proposal for that site and negotiation of price proposals for the other 2 sites.

- The District did not document the preparation of a cost-benefit analysis showing that the decision to purchase land and construct a new facility would be less costly and more beneficial than accepting the County land, making necessary improvements, and rebuilding the current facility. In addition, while the Construction Committee evaluated the 3 sites by comparing the proposed prices and site features, the District did not document an analysis of anticipated costs related to necessary site improvements for the 14 sites initially considered for purchase.
- The District did not obtain appraisals to demonstrate the fair market value of the 3 sites selected by the project team. Given the partial ownership interest held by the real estate broker's family in the site purchased by the District, and the real estate broker's involvement in the site selection and negotiation process, an independent site appraisal was especially important to assure that the offered price was consistent with the site's fair market value.

Absent documentation of the independent consideration of respective land sale price proposals, cost-benefit analyses to evaluate the District's land acquisition options, and site appraisals, District records did not evidence that the site purchase was the best option for the District.

Recommendation: The District should establish policies and procedures to ensure that land acquisitions are made at the best value for the District. Such policies and procedures should prohibit individuals with ownership interests in any property being considered for acquisition from participating in the acquisition decision-making process, require documented cost-benefit analyses to evaluate the District's land acquisition options, and require independent site appraisals for consideration before land acquisitions are made.

Finding 2: Audit and Compliance Functions

Internal audit and related monitoring functions can provide assurance that internal controls are adequately designed and functioning effectively, and can verify compliance with Board-approved policies and procedures, State and Federal laws, regulations, and other guidelines. The effectiveness of internal audit and monitoring activities related to an organization's operations is enhanced when the individual conducting the auditing or monitoring activities is not supervised by, and does not report to, the management responsible for the activities under review.

The Director of Internal Audit (DIA) supervises the District's Internal Audit Department. The Internal Audit Department conducts audits of District operations including the business, clinical, financial, and administrative operations of the District, in accordance with *International Standards for the Professional Practice of Internal Auditing (IIA Standards)* published by The Institute of Internal Auditors. The *IIA Standards* require the DIA to report to a level within the organization that allows the internal audit activity to fulfill its responsibilities without interference in determining the scope of internal auditing, performing work, and communicating results.²

The Chief Compliance Officer (CCO) supervises the District's Compliance Department. Among other things, the Compliance Department monitors District compliance with Medicaid and Medicare program requirements and District procurement and related bidding policies. While the Compliance Department is not subject to the *IIA Standards*, it is important for the Compliance Department's monitoring activities

² *IIA Standards*, Section 1110.

to be free from management interference so that the Department can provide objective and unbiased information to the Board.

The Chief Executive Officer (CEO) oversees the DIA's and the CCO's daily activities and approves their time sheets and leave, travel reimbursements, and purchase requests. However, according to the District's *Performance Evaluation and Management Procedure (Procedure)*, the Audit and Compliance Committee (Committee) has responsibility for approving the audit and compliance plans prepared by the DIA and the CCO, and the Committee has sole discretion regarding the termination of the DIA and the CCO. The *Procedure* requires the CEO to prepare, for Committee approval, annual performance evaluations for the DIA and the CCO and requires that, if the DIA's or the CCO's performance falls below expectations, the CEO follow Committee-approved procedures to administer disciplinary actions against the DIA or the CCO.

Although the Committee has ultimate responsibility for the retention or termination of the DIA and the CCO, the CEO's responsibility to oversee the daily activities and evaluate the performance of the individuals in these positions could impair the DIA's and the CCO's independence. Requiring the DIA and the CCO to administratively report to the Committee or the Board would better demonstrate that the individuals in these positions are free from interference when determining the scope of the audit or compliance monitoring activities, performing the work, and communicating the results.

Recommendation: To enhance the organizational independence of the audit and compliance functions, the DIA and the CCO should administratively report to, and be evaluated by, the Committee or the Board.

Finding 3: Procurement Procedures

State law³ requires Board members, chief executive officers, and all employees with purchasing authority greater than \$20,000 to file statements of financial interests with the appropriate supervisor of elections. The Board adopted the *Conflict of Interest Policy and Procedure (Policy)* to ensure that all organizational decisions are made solely to promote the best interests of the District and its patients, members, and residents, without favor or preference based on prohibited personal considerations. The *Policy* is applicable to all Board members, committee members, officers, and employees of the District and its affiliated entities. In addition, the District required these individuals to complete a *Conflict of Interest Form (COI Form)* upon hire for the Human Resources and Compliance Departments' management review and approval.

The *Policy* requires Board and committee members to complete *COI Forms* annually and provides that employee or officer *COI Forms* be reviewed annually during their performance reviews. The applicable individuals are to update their *COI Forms* for any activity or personal interest that may lead to a conflict of interest within 10 days after the individual becomes aware of a potential conflict of interest. In addition to the *Policy*, the District's formal competitive bidding procedures for estimated purchases over \$50,000 annually require the respondent to complete a *Conflicts Disclosure Form (CD Form)* upon submission of proposal.

³ Section 112.3145, Florida Statutes.

Our review of District records and discussions with District staff disclosed that:

- The seven Board members, two District officers, and the CEO timely filed statements of financial interests pursuant to State law. However, neither the *Policy* nor any other District procedures required that copies of the statements of financial interests or *COI Forms* be provided to personnel responsible for procurement decisions. Providing statements of financial interests and *COI Forms* for routine review by the personnel responsible for procurement decisions would help identify potential conflicts of interest that should be considered when entering into procurement transactions or contractual obligations.
- Seven District employees were paid a total of \$19,289 through the District's vendor accounts payable system during the period October 2013 through March 2015. While most of the payments we reviewed were for travel reimbursements, payroll check reissues, and similar items not indicative of vendor relationships, we noted a \$5,000 payment for training curriculum development that was made to a vendor with an uncompensated officer/director who was also a District employee. The District employee did not disclose the vendor relationship on her most recent *COI Form*. District staff indicated that the employee was not involved in the purchase decision and, therefore, the \$5,000 payment was not prohibited. However, pursuant to State law,⁴ no employee, acting in a private capacity, shall sell any goods or services to the employee's own agency.

Recommendation: The District should enhance procurement procedures by requiring personnel responsible for making procurement decisions to routinely review and consider the information reported on required statements of financial interests and completed *COI Forms*. In addition, the District should seek an advisory opinion from the Florida Commission on Ethics regarding whether the District violated State law by paying \$5,000 to a vendor with an uncompensated officer/director who is also a District employee.

Finding 4: Helicopter Air Ambulance Services

The Palm Beach County Health Care Act⁵ (Act) authorizes the District to plan, set policy for, and fund from its revenue sources the establishment and implementation of cooperative agreements with other government authorities and public and private entities within and outside of the County which promote the efficiencies of local and regional trauma agencies. The Act requires that any such agreement with an entity outside the County ensure that the costs associated with any trauma services are the responsibility of the entity for which the services were rendered.⁶

The County's trauma system, overseen by the District, provides rapid response care for traumatically injured patients using two helicopter air ambulances that can each transport up to two patients. The District's established air ambulance billing structure consists of a flat fee and a per-mile fee that are updated periodically to reflect the actual cost of operating the helicopter air ambulance service. Prior to January 1, 2015, the District charged a \$12,560 flat fee and a \$73.87 per-mile fee for the service. On January 1, 2015, the District began charging a \$16,524 flat fee and a \$135 per-mile fee. While the total fee amounts are billed, charges to insurance companies are typically reduced due to large contract adjustments noted on explanation of benefit forms and lesser charges that are the patients' responsibility.

⁴ Section 112.313(3), Florida Statutes.

⁵ Chapter 2003-326, Laws of Florida.

⁶ Chapter 2003-326, Section 6 (28), Laws of Florida.

Additionally, if the patient has no insurance and qualifies for District trauma insurance or is otherwise indigent, the flight fees are waived.

On occasion, the District provides helicopter services to transport patients from in-County providers to out-of-County providers when necessitated by a patient's special health care needs. Upon request, the District also provides out-of-County helicopter services to transport patients from a hospital or an incident site to an in-County or out-of-County health care facility.

While the District's practice is to charge the patient and the patient's insurance carrier for helicopter air ambulance services, the District had the following two cooperative agreements with out-of-County entities:

- An agreement with an out-of-County hospital to provide use of the helicopter when the hospital's helicopter is grounded for maintenance. The agreement gives the hospital the sole and exclusive right to bill patients, third-party providers, or other parties when the hospital uses a District helicopter and prohibits the District from billing those parties. The agreement does not establish a fee structure or require the hospital to fully reimburse the District for the services; rather, the agreement provides that fees are to be established verbally prior to each flight based on estimated flight time. The District invoices the hospital, which is required to pay within 30 days of the transport date. During the period October 2013 through March 2015, the District made three flights under this agreement and billed the hospital \$42,000.
- An agreement with the Glades County Sheriff for inmate transport. The agreement provides that the Sheriff will pay a base fee plus a per-mile fee for each inmate transported by the District. For non-inmates, the agreement specifies that the transport shall be "compensated for in accordance with the District's normal billing process." During the period October 2013 through March 2015, the District did not make any flights under this agreement.

In November 1999, the District mailed draft agreements to five other out-of-County medical facilities. Four of the entities refused to sign the agreements and one entity unacceptably revised the agreement and declined to further negotiate the agreement with the District.

During the period October 2013 through March 2015, the District collected a total of \$3.77 million for helicopter services. This amount is predominantly composed of payments from patients and their health insurance providers. During this same period, the District reduced billings by \$8.29 million, mainly due to required adjustments for reimbursement limits imposed by Medicare, Medicaid, and private health insurance providers, and wrote-off approximately \$310,000 of uncollectible patient billings. Also, during this period, the helicopter services logged 914 flights for transporting 937 patients. The District provided 39 of these flights at the request of out-of-County entities. The District used rates based on established flat and per-mile fees to bill \$677,350 for the flights for non-County entities. The District only collected \$224,844 of this amount from the patients and their insurance providers, leaving \$452,506 that the District funded with taxes levied on Palm Beach County residents and other revenues.

On December 4, 2014, the District adopted *Standard Operating Procedure AMPSOP-039*, which prohibits transports that both begin and end outside the County, except in cases of catastrophes. As of August 18, 2015, other than its agreement with the hospital and the Glades County Sheriff, the District

had no other agreements with out-of-County entities and the District neither requested nor received any reimbursement from any other out-of-County entity for which the District rendered helicopter services.

While the Act does not require cooperative agreements between the District and other entities for helicopter services, the Act clearly contemplates that the District will employ cooperative agreements to seek reimbursement from out-of-County entities for use of District resources. According to District staff, the Act contemplates reimbursements only for trauma services and only 7 of the 39 flights provided at the request of out-of-County entities were trauma-related. District staff also indicated that no cooperative agreements other than the agreements with the out-of-County hospital and the Glades County Sheriff had been established as other entities were reluctant to pay for the helicopter services. However, absent cooperative agreements requiring other entities to be responsible for paying for helicopter services provided by the District, the District will continue to subsidize the costs of services provided to residents of other counties using District resources, including tax revenues paid by Palm Beach County residents.

Recommendation: The District should establish cooperative agreements with other government authorities and public and private entities outside Palm Beach County, as contemplated by the Act, to ensure that the costs of flights provided for the benefit of those who do not contribute to the District's operations are fully recovered.

OBJECTIVES, SCOPE, AND METHODOLOGY

The Auditor General conducts audits of governmental entities to provide the Legislature, Florida's citizens, public entity management, and other stakeholders unbiased, timely, and relevant information for use in promoting government accountability and stewardship and improving government operations. At its February 16, 2015, meeting, the Legislative Auditing Committee, pursuant to State law,⁷ directed us to conduct this operational audit of the Health Care District of Palm Beach County.

We conducted this operational audit from April 2015 through August 2015 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.

The objectives of this operational audit were to:

- Evaluate management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse and in administering assigned responsibilities in accordance with applicable laws, rules, regulations, contracts, grant agreements, and other guidelines.
- Examine internal controls designed and placed in operation to promote and encourage the achievement of management's control objectives in the categories of compliance, economic and efficient operations, reliability of records and reports, and the safeguarding of assets, and identify weaknesses in those controls.
- Identify statutory and fiscal changes that may be recommended to the Legislature pursuant to Section 11.45(7)(h), Florida Statutes.

⁷ Section 11.45(3)(a), Florida Statutes.

This audit was designed to identify, for those programs, activities, or functions included within the scope of the audit, deficiencies in management's internal controls, instances of noncompliance with applicable laws, rules, regulations, contracts, grant agreements and other guidelines, and instances of inefficient or ineffective operational policies, procedures, or practices. The focus of this audit was to identify problems so that they may be corrected in such a way as to improve government accountability and efficiency and the stewardship of management. Professional judgment has been used in determining significance and audit risk and in selecting the particular transactions, legal compliance matters, records, and controls considered.

An audit by its nature does not include a review of all records and actions of agency management, staff, and vendors, and as a consequence, cannot be relied upon to identify all instances of noncompliance, fraud, waste, abuse, or inefficiency.

For those programs, activities, and functions included within the scope of our audit, our audit work included, but was not limited to, communicating to management and those charged with governance the scope, objectives, timing, overall methodology, and reporting of our audit; obtaining an understanding of the program, activity, or function; exercising professional judgment in considering significance and audit risk in the design and execution of research, interviews, tests, analyses, and other procedures included in the audit methodology; obtaining reasonable assurance of the overall sufficiency and appropriateness of the evidence gathered in support of our audit's findings and conclusions; and reporting on the results of the audit as required by governing laws and auditing standards.

Our audit included selection and examinations of various records and transactions during the period October 2013 through March 2015, and selected actions taken prior and subsequent thereto. Unless otherwise indicated in this report, these records and transactions were not selected with the intent of statistically projecting the results, although we have presented for perspective, where practicable, information concerning relevant population value or size and quantifications relative to the items selected for examination. Specifically, we:

- Reviewed applicable laws, rules, regulations, and District policies and procedures, and interviewed District personnel to gain an understanding of District operations.
- Obtained an understanding of District internal controls and evaluated the effectiveness of selected District processes, policies, and procedures.
- Reviewed and evaluated District policies and procedures related to the provision of helicopter air ambulance services to or from out-of-County locations. Specifically, we reviewed records for all flights requested during the period December 2014 through March 2015 to determine whether the District received any Palm Beach County requests but could not respond because the helicopter was being used for out-of-County transports. In addition, we requested any cooperative agreements between the District and out-of-County healthcare providers.
- Reviewed and evaluated internal controls over the helicopter air ambulance billing and collection process and the write-off of related receivables. We also evaluated whether the accounting records were in sufficient detail to accurately accumulate the helicopter air ambulance operation revenues and expenses.
- Of 914 helicopter air ambulance flights made during the period October 2013 through March 2015, examined records supporting 30 selected flights to determine whether the billings and subsequent collections complied with the District's established policies and procedures.

- Determined whether the District billing practices were adequate to fully recover all air ambulance operating costs for out-of-County flights as required by Chapter 2003-326, Section 6 (28), Laws of Florida.
- Reviewed the District's two cooperative agreements with entities located outside of Palm Beach County.
- Reviewed meeting minutes and other District records relating to the Edward J. Healey Rehabilitation and Nursing Center land purchase to determine whether District records evidenced that purchasing land rather than accepting County land was in the District's best interest. Additionally, we interviewed District personnel and examined applicable records to determine whether the land purchase involved a related party and whether appraisals were obtained and considered during the land purchase process.
- Reviewed the placement of the Internal Audit and Compliance Departments in the District's organizational structure to determine whether the Departments could fulfill their responsibilities without interference when determining the scope of the audit or compliance monitoring activities, performing the work, and communicating the results. We also evaluated whether the Director of Internal Audit and Chief Compliance Officer positions were organizationally placed to be free from any undue influence from senior management.
- Reviewed internal audit reports, as well as external audit reports related to the District issued during the period October 1, 2013, through May 1, 2015, and considered any potential impact on the scope of our audit.
- Reviewed the reasonableness of the District's dual-employment policy, and officer and senior manager statements of financial interests and conflict of interest forms to determine whether any disclosures represented a potential conflict with the employees' duties and responsibilities.
- Reviewed Florida Department of State, Division of Corporation, records and District records for District Board Members, officers, and senior managers, to identify any relationships representing a potential conflict of interest. Also, to identify other potential conflicts of interests, we compared District vendor payments during the period October 2013 through March 2015 to personnel records to determine whether any employees were paid as vendors.
- Communicated on an interim basis with applicable officials to ensure the timely resolution of issues involving controls and noncompliance.
- Performed various other auditing procedures, including analytical procedures, as necessary, to accomplish objectives of the audit.
- Prepared and submitted for management response the findings and recommendations that are included in this report and which describe the matters requiring corrective actions. Management's response is included in this report under the heading **MANAGEMENT'S RESPONSE**.

AUTHORITY

Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.



Sherrill F. Norman, CPA
Auditor General

MANAGEMENT'S RESPONSE



Health Care District
PALM BEACH COUNTY

| DEDICATED TO THE HEALTH OF OUR
COMMUNITY | www.hcdpbc.org

April 19, 2016

Ms. Sherrill F. Norman
Auditor General
Claude Denson Pepper Building, Suite G74
111 West Madison Street
Tallahassee, FL 32399-1450

Dear Ms. Norman:

The Health Care District of Palm Beach County received your list of preliminary and tentative audit findings and recommendations, dated March 30, 2016. The District appreciates the efforts you and your team made to provide meaningful and constructive feedback. I firmly believe that it is incumbent upon us, the officers, employees and Board members of the District, as stewards of tax dollars to continually monitor our performance and provide assurance that we are above reproach.

As you know, I was appointed as the Chief Executive Officer on February 24, 2016. In my new role, I am looking at all functions of the District for opportunities to adjust policies and/or processes that would further protect the taxpayers' investment and make the most efficient use of tax dollars. The District continues to be the health care safety net for Palm Beach County, providing valuable services each day for its residents. The District is in substantial agreement with each of your findings and is providing the attached response to each which specifically details our follow up actions.

If there is any additional information that is needed to resolve this audit, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Darcy J. Davis".

Darcy J. Davis
Chief Executive Officer

Health Care District of Palm Beach County | 2601 10th Ave. North, Suite 100, Palm Springs, FL 33461-3133 | 561-659-1270

Management's response to Findings 1 and 2 refer to attachments that are not included in this report but may be obtained from the District.

Finding 1: The District needs to establish policies and procedures to ensure that land acquisitions are made at the best value for the District.

Recommendation: The District should establish policies and procedures to ensure that land acquisitions are made at the best value for the District. Such policies and procedures should prohibit individuals with ownership interests in any property being considered for acquisition from participating in the acquisition decision-making process, require documented cost-benefit analyses to evaluate the District's land acquisition options, and require independent site appraisals for consideration before land acquisitions are made.

Management Response:

On January 16, 2016, the District Board of Commissioners approved its Real Property Sale and/or Acquisition policy which mandates heightened due diligence when the District seeks to sell or acquire (by purchase or lease) real property. Highlights of this policy include:

- a. Requiring any sale or acquisition (through purchase or lease) of real property to be approved by the District Board;
- b. Requiring District Management to obtain a space need assessment and programing as part of the due diligence process;
- c. Requiring District Management to provide or obtain an analysis of build out time-lines and costs as part of the due diligence process;
- d. Mandating enhanced due diligence including compulsory appraisals for properties valued in excess of \$1 Million; and,
- e. Requiring corporate sellers or lessors to provide the public disclosure affidavit required by section 286.23, Florida Statutes (as amended from time to time).

After reviewing the March 30, 2016 Auditor General's preliminary and audit findings and recommendations, District Management is recommending to the District Board that the policy be amended to address the potential conflict of interest noted in the recommendation to Finding 1. Specifically, at the Board's May 2016 regular meeting, District Management is presenting the District Board with an amendment to the policy which adds the following provision:

All District employees, Finance Committee members, Board members and/or independent contractors/consultants of the District who have an ownership interest in any property being considered for acquisition by the District are prohibited from participating in the acquisition decision-making process on behalf of the District.

A copy of the proposed amended policy is attached as Exhibit "A". The foregoing provision should help to ensure the District sells and acquires real property at the best value for the District with a transparent and conflict-free process. A copy of the amended policy will be provided upon adoption.

Finding 2: The organizational independence of the District’s audit and compliance functions could be improved.

Recommendation: To enhance the organizational independence of the audit and compliance functions, the DIA and the CCO should administratively report to, and be evaluated by, the Committee or the Board.

Management Response:

The Health Care District of Palm Beach County agrees with the audit finding and is dedicated to maintaining the appropriate governance structure to ensure independence and appropriate oversight of the District’s Compliance and Internal Audit functions.

The International Standards for the Professional Practice of Internal Auditing Standard 1110 states that “the chief audit executive must report to a level within the organization that allows the internal audit activity to fulfill its responsibilities.” The interpretation of that standard states that organizational independence is effectively achieved when the chief audit executive reports functionally to the board. Examples of functional reporting to the board involve the board:

- Approving the internal audit charter;
- Approving the risk based internal audit plan;
- Approving the internal audit budget and resources plan;
- Receiving communications from the chief audit executive on the internal audit activity’s performance relative to its plan and other matters;
- Approving decisions regarding the appointment and removal of the chief audit executive;
- Approving the remuneration of the chief audit executive; and
- Making appropriate inquiries of management and the chief audit executive to determine whether there are inappropriate scope or resource limitations.

The Department of Health and Human Services Office of Inspector General (“OIG”) has published several tools that describe the elements required for a comprehensive compliance program. One of those tools, the OIG Compliance Program for Hospitals, states that a comprehensive compliance program should include the “designation of a chief compliance officer and other appropriate bodies, e.g., a corporate compliance committee, charged with the responsibility of operating and monitoring the compliance program, and who report directly to the CEO and the governing body.”¹

An enforcement tool utilized by the OIG, Corporate Integrity Agreements (“CIA”), are used to negotiate with health care providers and other entities as part of the settlement of Federal health care program investigations arising under a variety of civil false claims statutes. CIAs require that a provider establish an effective compliance program. Several recent CIAs specifically address the preferred reporting structure of a compliance officer stating that “the Compliance Officer shall be

¹ Department of Health and Human Services Office of Inspector General. “Compliance Program Guidance for Hospitals”, (63 Fed. Reg. 8987; February 23, 1998).

an employee and a member of senior management of Provider, shall report directly to the Chief Executive Officer of Provider, and shall not be or be subordinate to the General Counsel or Chief Financial Officer or have any responsibilities that involve acting in any capacity as legal counsel or supervising legal counsel functions for Provider.”² Additionally, the Board of Directors responsibilities include oversight of the Provider’s Compliance Program, including but not limited to the performance of the Compliance Officer.

The District will ensure its policies and procedures, specifically the “Recruitment and Selection of the Chief Compliance Officer and Director of Internal Audit” and the “Performance Evaluation and Management of the Chief Compliance Officer and Director of Internal Audit”, are updated to reflect the “functional” reporting to the District’s Audit and Compliance Committee, including the preparation of evaluations, as described above by the IIA Standards. In order to practically administer day-to-day operations and remain aligned with OIG guidance, clerical responsibilities such as time keeping, will remain with the Chief Executive Officer. A copy of the proposed updated policies are attached as Exhibit “B”.

Finding 3: District procurement procedures could be enhanced.

Recommendation: The District should enhance procurement procedures by requiring personnel responsible for making procurement decisions to routinely review and consider the information reported on required statements of financial interests and completed *COI Forms*. In addition, the District should seek an advisory opinion from the Florida Commission on Ethics regarding whether the District violated State law by paying \$5,000 to a vendor with an uncompensated officer/director who is also a District employee.

Management Response:

The District agrees with the finding and is committed to taking all reasonable steps to identify, review, and manage conflicts of interest. The District will update its conflict of interest procedures to ensure that personnel responsible for making procurement decisions will have access to conflict of interest disclosure forms and financial interest forms.

On January 15, 2016, District Management met with the employee mentioned in the above recommendation to obtain more information regarding her relationship with the District vendor. On January 15, 2016, the employee notified the District that she had resigned her position with the vendor and updated her conflict of interest disclosure form to accurately reflect all of her outside interests. The District provided further education to the employee on the conflict of interest policy and all employees’ responsibility to update their disclosure form with any changes.

By resigning her position with the vendor, the potential, prohibited conflict no longer exists. The District will continue to provide education to its officers, employees and Board members to ensure future conflicts are avoided.

Finding 4: To provide for the full recovery of helicopter air ambulance service costs, the District needs to establish and implement cooperative agreements with other applicable government

² Nacogdoches Memorial Hospital Corporate Integrity Agreement, published February 11, 2016.

authorities and public and private entities for helicopter services provided outside of Palm Beach County.

Recommendation: The District should establish cooperative agreements with other government authorities and public and private entities outside Palm Beach County, as contemplated by the Act, to ensure that the costs of flights provided for the benefit of those who do not contribute to the District's operations are fully recovered.

Management Response:

The District agrees with the audit finding and is dedicated to ensuring compliance with its enabling legislation. Renewed efforts will be made to enter into cooperative agreements with other entities within and outside of Palm Beach County, and with whom there is a high probability of interaction. Specifically, these agreements will ensure that entities outside of Palm Beach County acknowledge and agree that the costs associated with the District's trauma services are the responsibility of that outside entity.