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Office of the Inspector General
Miami-Dade County

COVER MEMORANDUM & EXECUTIVE SUMMARY

To: George M. Burgess, County Manager

From: Christopher Mazzella, Inspector General

cc: See Distribution List

Date: September 29, 2005

Re: *OIG FINAL AUDIT REPORT of the Miami-Dade County Department of Solid Waste Management's Professional Services Agreement Retaining Brown and Caldwell as the Solid Waste System Bond Engineer*

Attached please find the Office of the Inspector General's (OIG) FINAL AUDIT REPORT on the above-captioned professional services agreement (the Agreement). A draft version of this report was distributed to the Department of Solid Waste Management (DSWM) and Brown and Caldwell (B&C) on June 8, 2005. We received very detailed responses from both. In consideration of the responses received and additional materials provided by B&C, the OIG made some changes to the report. Two of the audit findings have been restated, some of the questioned amounts have been adjusted, and other miscellaneous revisions were made.

This final report, therefore, consists of the OIG's revised final audit report, DSWM's response to the draft version of this report (Appendix A), B&C's response (Appendix B), and the OIG's rejoinder to both of these audit responses is contained in Appendix C. For convenience, the Executive Summary of the Audit Report follows this cover memorandum.

While DSWM disagrees with some of the OIG's major audit findings, we are pleased that the department has agreed to cease many of the past practices identified in this report. In response to some direct findings, DSWM advised that it would consult with the County Attorney's Office for guidance. We have also suggested that it seek the assistance of the Office of Capital Improvements in accessing the Equitable Distribution Pool (EDP) for smaller miscellaneous consulting engagements. The OIG will continue to monitor and inspect work order issuance under the recently approved Eighth Amendment. As such, the OIG may likely provide additional assessments and inspectional findings. Furthermore, the OIG will monitor any future proposed modifications to the agreement and we will provide input where appropriate.

While we will continue in our oversight of this Agreement, we do request that DSWM provide the OIG with a follow-up report in 90 days as to the status of some of these open concerns. **We would appreciate that this 90-day report be provided to the OIG sometime in the first week of January 2006. Therefore, the OIG is classifying this audit as "Closed but Unresolved."**

For convenience, the Executive Summary follows.

The OIG appreciates the cooperation and assistance shown by DSWM and Brown and Caldwell to the OIG during this audit.

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Brown and Caldwell (under separate cover)

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EXECUTIVE SUMMARY

By way of brief background, this professional services agreement was entered into in 1987, in connection with the County's indenture of bonds issued in 1985. The Bond Engineer's original primary role was to perform annual inspections of the County's solid waste system; prepare reports on its maintenance, repair and operational conditions and needs; prepare annual assessments on the adequacy of solid waste collections and disposal fees in relation to the system's operation costs and bond debt service obligations; certify completion of capital improvement projects financed with bond proceeds; and discharge any other duties required by the bond ordinance.

The professional services agreement was for twenty-two years, or the retirement of the bonds, depending on which occurred first. Those 1985 bonds have since been replaced with a 1996 issuance of revenue bonds, yet this Agreement continues. The Agreement called for the periodic adjustment of terms and the reallocation of funds by the Board of County Commissioners on a three-year basis. The Agreement, which is now on its Eighth Amendment, has had a total of approximately \$18 million allocated to it.

This audit, we believe, is the County's first outside review of the professional services agreement (PSA) between the Miami-Dade County Department of Solid Waste Management (DSWM) and the engineering firm Brown and Caldwell, Inc. (B&C) since the Agreement's inception in 1987. Serious issues and conditions exist under the PSA that demand immediate corrective action. There are eleven (11) findings and sixteen (16) recommendations to our report that are detailed in later sections.

The two most critical findings relate to what has become an unbalanced relationship between DSWM and B&C that adversely affects the desired level of independence required of a Bond Engineer and DSWM's questionable procurement practices that have provided B&C, over the past 18 years, with increasing funding for non-bond engineering services.

The original agreement laid out four Task areas. Task 4 originally called "Miscellaneous Engineering Services" had no monies allocated to it in the original agreement. Through the Seventh Amendment, Task 4, now referred to as "Special Engineering Services" has had over \$4.5 million in allocations. A new Task 5 for "Resource Recovery Facility Operations Support" was created during Amendment 6 and was budgeted at \$1.2 million. In Amendment 7, Task 5 was renamed "Special Information Technology Services" and was allocated \$300,000.

As it has turned out, these other miscellaneous services have become B&C's primary function. This is clearly evidenced by the fact that B&C has received almost three (3) times the compensation from DSWM for its other consulting services than it has for the bond-engineering services originally contemplated as the primary scope of services. (Report TABLES 2 and 3). This represents a role reversal and raises the specter of a conflict of interest between its responsibility and duty to the bondholders as an oversight function and its responsibility and duty to DSWM as its primary management consultant.

It is our contention that a Bond Engineer cannot perform an independent analysis of and prepare an objective report on issues that it is intimately involved with as a part of the management team responsible for dealing with those same issues. The Bond Engineer should make recommendations to DSWM management on rate revisions and system repairs, maintenance and improvements, and the like but there is a process preceding these recommendations that should be followed. For example, let us assume that some new technology appears that could enhance the economy and/or efficiency of DSWM operations. Management would instruct its operations staff to study the new technology and recommend whether or not to implement it. Management would then agree or disagree with the staff recommendation. The Bond Engineer would then have the responsibility to evaluate management's decision as to its impact on DSWM's ability to meet its obligations under the bond indenture.

DSWM and B&C are short-circuiting this three-step process. They are justifying what is essentially a one-step process whereby the Bond Engineer does all. Neither the department nor B&C has accepted the crucial distinction between the objectives and role of a Bond Engineer oversight function versus that of a consulting engineer's operations function. As structured, there is little need for DSWM management, other than to issue work orders to B&C and approve its billings.

DSWM sums up its position by stating: "[I]f the System fails, the Consultant fails and the Department fails." We do not believe this to be true. Maintaining system integrity for the bondholders and for Miami-Dade County is DSWM management's primary responsibility. The Bond Engineer is responsible for providing assurance that DSWM management is fulfilling that responsibility in a prudent, business-like manner. B&C, as Bond Engineer, should not itself be fulfilling DSWM's responsibility as *de facto* management. When the oversight function is co-mingled with providing management advisory services, operations support as an extension of staff or, at in its extreme, the alter ego of the department, then we strongly believe that the relationship must be restructured.

In addition to other consulting services provided by B&C, which as we maintain creates the appearance of a conflict of interest adversely affecting the independence of the Bond Engineer, it was readily apparent that this PSA became the vehicle through which DSWM could meet its various—non-engineering—consultancy needs. This included IT services, accounting services, reports on recycling computer equipment, fleet management studies, trash and zone-related collections pick-up studies, services related to grants, small business workshops, marketing, and other customer-relations studies and support. In short, DSWM sought to obtain these services through B&C rather than competitively bidding them. In some cases, B&C provided the service. In many others instances, certain vendors were selected (oftentimes by DSWM) to provide the services under the auspices of this Agreement. These arrangements, referred to as "pass throughs," were *de facto* bid waivers. Of the limited work orders audited by the OIG, our report lists twenty-two such work orders valued at approximately \$874,000. At times, B&C expressly disclaimed any responsibility over the work product of the subconsultant or stated that the subconsultant would be directly supervised by DSWM. Yet they enriched themselves with a 10 percent administrative fee for handling the transaction. We strongly believe that should DSWM be in dire need of the

specialized services of a particular consultant/vendor, it should procure the desired service as a bid waiver or sole source and expressly provide a justification for such. By obtaining these services through B&C, DSWM shielded external observers from its questionable procurement decision-making process. We are pleased with DSWM's response that it would immediately cease these types of pass-through arrangements.

Another finding relates to B&C recovering twice for its overhead costs. Under the PSA's current terms, B&C can apply a 2.85 multiplier to its time and materials (T&M) billed direct labor expenses to recover its overhead costs and operating margin (profit). However, beginning in February 2002, B&C began charging an "Associated Project Cost" (APC) to its T&M billed direct labor hours, at a rate of \$5.00 per billable hour, in addition to the 2.85 multiplier. B&C attempts to justify the APC to recover its local office costs that are reimbursable under the PSA. However, B&C's cost recovery using the APC goes beyond those otherwise reimbursable costs to include such costs related to company-wide computer network infrastructure and information systems support, as well as support labor costs and fringe benefits, depreciation, and many other non-reimbursable costs. Thus, most of the costs recovered by the APC are those same overhead costs covered by the 2.85 multiplier. Clearly, there are allowable reimbursable costs under the PSA, such as pre-authorized out-of-town travel, outside reproduction, and long-distance telephone calls outside of Miami-Dade County. But these costs are of the type that generally come with a receipt and whose amount can be verified and should not be commingled with non-reimbursable overhead costs. For the sixteen (16) T&M work orders that we reviewed, we found that DSWM paid B&C almost \$14,000 in APC charges.

Other findings relate to unreasonable lump-sum work order pricing, inadequate documentation provided by B&C supporting its billings and the lack of written authorizations preceding B&C initiating work. In Finding No. 6, the OIG questioned costs of \$145,297 resulting from improper payments to B&C based on uncertain billings and deliverables. We noted instances where there was no deliverable (at least one provided to the OIG) or where there was a duplicate billing of a subconsultant invoice, or where documentation was incomplete as to the services provided versus the billed amounts.

In Finding No. 7, we questioned costs totaling \$105,100 because there were alarming discontinuities in B&C's work process. We found instances wherein B&C's project accounting detail showed that all of the dates for labor hours charged to the project occurred after the deliverable was delivered. In another instance, we noted that these B&C records showed that 191.0 out 205.0 labor hours charged to the project occurred before B&C had prepared and submitted its work order proposal to DSWM. In addition, there was an instance where such records showed that B&C staff worked 159.0 labor hours outside of B&C's invoiced periods of performance. These instances reflect poorly on B&C's accounting and/or project management practices.

Additionally, in Finding No. 10, we questioned costs totaling \$116,471 because B&C's invoiced T&M amounts exceeded those amounts recorded in its project accounting detail. These two (2) amounts should be the same whether they both are less than or greater than the authorized work order amount. We noted several instances wherein B&C's invoiced

T&M amounts exactly equaled the authorized work order amounts—an improbable in our opinion.

Overall, we found that work orders were not being aggressively managed by the Department. All too often we found vague, open-ended descriptions of work scopes as requiring “additional services.” This was shorthand for attending unspecified meetings and providing unspecified support for as long as funds were available under the work order. In several other examples, work orders were issued for large sums of money where the work scopes were then later defined by sub-proposals within each work order. Work descriptions for sub-tasks among the various work orders sounded almost identical. Often, subsequent work orders were a continuation of the former, although pricing terms were different. In other instances, pricing terms were unstated. In other words, work order pricing terms could be for either lump sum/percentage of complete billing or billed on a time and materials basis, as eventually reflected in B&C’s invoices. Deliverable products were also vaguely defined. In some, instances it was completely unclear what the consultant was to do or provide as proof of performance. In other instances, work scopes and deliverables appeared identical to a previous work authorization. This led us to question several of the payments made for these problematic types of work orders as detailed in Finding Nos. 6, 7, and 10.

The practices of the past six years that are the subject of this audit’s scope (January 1999 through January 2005) show a co-dependence between the two entities. The relationship between the DSWM and B&C should be restructured to emphasize B&C’s essential function as the independent Bond Engineer. Accounting services, management advisory services, operational support and other non-bond engineering services should be procured separately. DSWM must recognize that the department can, and should, have more than one consultant to fulfill its needs. The term “DSWM consultant” should not be synonymous with the firm name of Brown and Caldwell.

On September 22, 2005, DSWM sought approval from the Board of County Commissioners (BCC) for an Eighth Amendment to the B&C Agreement. The resolution was approved (see R-1091-05) and, thus, the Eighth Amendment extended funding under the Agreement for one additional year through to April 28, 2006. The funding allocated under this Eighth Amendment totals \$1,190,000 and is broken into four task areas. These task areas, for the most part, are the same ones that are the subject of this audit report. The funding allocated to Task 4 for Special Engineering (also known as Miscellaneous Engineering) Services totals \$736,000 or 62 percent of the total funding allocated under this new amendment. Recognizing DSWM’s funding shortfall, the OIG did not interpose an objection to the Eighth Amendment subject to several conditions. Namely, we wanted the Amendment to be of short duration so that the County could have the benefit of this audit report prior to negotiating any additional amendments. We appreciate the County Manager’s Office favorably considering our suggestion. Nevertheless, we must reiterate our concerns with the Task Area terminology of the Eighth Amendment, and we still recommend substantial changes in the terms of future amendments.

**OFFICE OF THE INSPECTOR GENERAL
MIAMI-DADE COUNTY**

FINAL AUDIT REPORT

*Miami-Dade County Department of Solid Waste Management's
Professional Services Agreement Retaining
Brown and Caldwell as the Solid Waste System Bond Engineer*

September 29, 2005

**OFFICE OF THE INSPECTOR GENERAL
FINAL AUDIT REPORT**
*Miami-Dade County Department of Solid Waste Management's Professional Services Agreement
Retaining Brown and Caldwell as the Solid Waste System Bond Engineer*

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I. INTRODUCTION TO THE FINAL REPORT

The Office of the Inspector General's (OIG) draft audit report of the above-captioned agreement was provided to the Department of Solid Waste Management (DSWM) and Brown and Caldwell (B&C) on June 8, 2005. The OIG received detailed responses from both parties addressing our findings. DSWM's response is appended hereto as Appendix A and B&C's primary response is included as Appendix B. B&C also provided us with a voluminous binder of additional materials that we have reviewed in full but are not including as part of the appendix due to its bulk size.

Our detailed review of the responses have caused some restatements of the audit findings. In particular, draft report findings numbers 6 and 7 have been collapsed into a single finding and the questioned amounts thereunder have been adjusted after review of the responses and additional materials provided to the OIG. An adjustment was also made to the questioned amount in draft finding number 8 (see Finding 7 in the final report), and what was formerly draft finding number 11 has been restated and expanded providing more detail and characteristics of the work orders identified. This restated finding is now Finding No. 10. However, even given the restatement, the questioned amount remains the same. Other than some changes in wording and additional clarification, no other material changes than those previously described were made.

The OIG has prepared a detailed rejoinder to the responses received from DSWM and B&C. The OIG Rejoinder, which is attached as **Appendix C**, follows the enumerated format of the findings.

On September 22, 2005, DSWM sought approval from the Board of County Commissioners (BCC) for an Eighth Amendment to the B&C Agreement. The resolution was approved (see R-1091-05) and, thus, the Eighth Amendment extended funding under the Agreement for one additional year through to April 28, 2006. The funding allocated under this Eighth Amendment totals \$1,190,000 and is broken into four task areas. These task areas, for the most part, are the subject of this audit report. The funding allocated to Task 4 for Special Engineering (also known as Miscellaneous Engineering) Services totals \$736,000 or 62 percent of the total funding allocated under this new amendment.¹

¹ Recognizing DSWM's funding shortfall, the OIG did not interpose an objection to the Eighth Amendment subject to several conditions. Namely, we wanted the Amendment to be of short duration so that the County could have the benefit of this audit report prior to negotiating any additional amendments. We appreciate the County Manager's Office favorably considering our suggestion. Nevertheless, we must reiterate our concerns with the Task Area terminology of the Eighth Amendment, and we still recommend substantial changes in the terms of future amendments. See OIG Finding No. 11, corresponding Recommendation Number 15, and in particular the corresponding rejoinder to this finding, which is found on pages 15-16 of Appendix C, the OIG Rejoinder.

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The OIG will continue to monitor and inspect work order issuance under the Eighth Amendment, with particular attention to Task 4 work assignments. As such, the OIG may likely provide additional assessments and inspectional findings. Furthermore, the OIG will monitor any future proposed modifications to the agreement and we will provide input where appropriate.

II. RESULTS SUMMARY

This audit, we believe, is the County's first outside review of the professional services agreement (PSA) between the Miami-Dade County Department of Solid Waste Management (DSWM) and the engineering firm Brown and Caldwell, Inc. (B&C) since its inception in 1987 (the "Agreement"). Serious issues and conditions exist under the Agreement PSA that demand immediate corrective action. There are twelve (12) findings and seventeen (17) recommendations to our report that are detailed in later sections.

The two most critical findings relate to (1) what has become an unbalanced relationship between DSWM and B&C that adversely affects the desired level of independence required of a Bond Engineer and (2) DSWM's questionable procurement practices that have provided B&C, over the past 18 years, with increasing funding for non-Bond Engineer services.

Other findings relate to improper B&C invoicing for time and material (T&M) work orders, unreasonable lump-sum work order pricing, questioned amounts due to improper payments and over-billings, questionable B&C timekeeping/ payroll/accounting for work orders, and other questionable billing practices related to T&M work orders. In addition, DSWM should incorporate into this PSA the County's standard contract clauses, including those pertaining to the OIG.

III. INTRODUCTION OF AUDIT AND BACKGROUND OF THE PSA

DSWM and B&C entered into a professional services agreement on April 28, 1987. The Agreement was signed in connection with the County's Indenture of Trust for the 1985 Series A Solid Waste System Special Obligation Revenue Bonds and Solid Waste System Special Obligation Revenue Refunding Bonds. "This Agreement shall remain in full force and effect for a period of twenty-two (22) years after its date of execution *or until retirement of the Bonds, whichever occurs first*, unless terminated by mutual consent of the parties hereto or as provided in Section XV [Termination of Agreement] and Section XVII [Default] hereof." (Emphasis added.) The Bonds referred to in the Agreement, as described-above, were replaced by the \$150,000,000 Series 1996 Solid Waste System Revenue Refunding Bonds. Bond covenants require that the "Bond

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Engineer” provide bond engineering services to the County’s solid waste system. Article XVI of the PSA requires the parties to negotiate amendments to the PSA and submit them to the Board of County Commissioner for approval every three years in order to maintain an adequate level of compensation for professional services and to adjust Agreement terms as necessary.

B&C’s original primary role was to perform annual inspections of the Solid Waste System and prepare reports on its maintenance, repair and operational conditions and needs; prepare annual assessments on the adequacy of solid waste collection and disposal fees in relation to system operation costs and bond debt service obligations; certify completion of capital improvement projects financed with bond proceeds; and discharge any other duties required of the Consulting Engineer by the Bond indenture of 1985. County funding for these tasks was set at \$150,000 for the first three (3) years (\$50,000 annually) of the PSA. These duties were later labeled as “Task I” under Amendment 1 and successor amendments to the PSA.

B&C was also charged with “Other Consulting Engineering Duties” including monitoring the performance of the Resource Recovery Facility (RRF) operator and its implementation of the facility’s capital improvement program. The program consisted of various projects to be designed and constructed under the facility operator’s supervision. Monitoring services include review of capital improvement project requests submitted by the operator and preparation of recommendations to the County on each project’s concept, necessity, estimated cost, operational impacts, timetable and other factors; render opinions on each project’s eligibility for funding under Solid Waste System Special Obligation Revenue Bonds indenture requirements; and monitoring the progress of project construction. County funding for these tasks was set at \$600,000 for the first three (3) years of the PSA. These duties were later labeled as “Task III” under Amendment 1 and successor amendments to the PSA.

In addition to the above, B&C could be requested to provide “Miscellaneous Engineering Services” in connection with the operation, maintenance and improvement of facilities within the County’s solid waste system, design plans preparation and construction supervision services necessary for minor repairs and improvement projects; preparation of minor studies and reports; preparation of permit documents; and modification or update of previously designed projects to conform with current solid waste management standards. However, at that time in 1987 the County allocated no funding for these services. These duties were later labeled as “Task IV” under Amendment 1 and successor amendments to the PSA.

A separate notice to proceed (work order) outlining the scope, time for completion and maximum compensation for requested services should be issued on an as-needed basis to authorize performance of “Other Consulting Engineer Duties” and “Miscellaneous Engineering Services.” The PSA required no such separate authorization

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to be issued in connection with B&C's performance of the Annual Inspections and Reports.

Since 1987, the County has negotiated seven amendments to the PSA in order to maintain an adequate level of compensation for professional services and add to the original scope of services. Through Amendment 7, there are currently five (5) major task areas and a number of sub-task areas described. **OIG SCHEDULE A** (attached) shows the maximum funding by task area for the original PSA and seven (7) amendments.

Scope enhancements started occurring when the County made important additions to the PSA in the first amendment, dated July 10, 1990. This amendment expanded B&C's role into four (4) defined "Tasks":

<u>Task No./Title</u>	<u>Amendment No. 1 Budget Amounts</u>
Task I – Annual Inspections and Reports	\$150,000
Task II – Resource Recovery Annual Report	\$390,000
Task III – Capital Improvements Certifications	\$160,000
Task IV – Special Engineering Services	<u>\$275,000</u>
Total	<u>\$975,000</u>

The County Manager's Recommendation Memorandum described in some detail the need for the tasks described in this amendment and their respective scopes. Tasks I and III, as now defined under Amendment 1, were the two tasks provided for and funded under the original PSA.

Newly established, under Amendment 1, was Task II to provide for "the Annual Inspection Report of the Resource Recovery Facility," as well as data monitoring and evaluation, verification of contractual obligations, monitoring corrective actions and providing technical support for extraordinary occurrences." This task was to help assure "proper maintenance and operations" of the RRF.

The other new task, under Amendment 1, was Task IV to provide a budget amount for the previously unfunded "Miscellaneous Engineering Services" and to more fully describe authorized services. Such services would include "analysis, studies, reports, testing etc. to verify that the facilities and their operations are within the limits of the new requirements."

PSA Amendment 6, dated December 11, 1998, added a Task V, "Resources Recovery Facility Operations Support." The original budget for this task was set at \$1.2 million. This added task was deemed necessary to provide operational support services to enhance DSWM's management at the RRF. This Task V, however, was substantially

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altered under Amendment 7 (March 26, 2002). Under this amendment, the old Task V was stripped of its RRF-related scope and \$900,000 in funding, and renamed "Special Information Technology Services." The \$900,000 was, in large part, reallocated to Task IV, "Special Engineering Services." The services, however, were merged into Task III.

This audit focused on work orders issued under Amendments 6 and 7. The following **TABLE 1** lists the tasks and funding levels for these Amendments.

TABLE 1 – Amendments 6 and 7 Tasks and Funding Levels

Task	Task Description	Amendment 6	Amendment 7	Total
I	System Inspections and Annual Report	\$326,000	\$450,000	\$776,000
II	RRF Inspections and Annual Report	\$681,000	\$750,000	\$1,431,000
III	RRF Capital Expansion (Retrofit) / Environmental Improvements	\$1,000,000	N/A	\$1,000,000
III	RRF Operations Support and Construction Monitoring	N/A	\$600,000	\$600,000
IV	Special Engineering Services	\$1,055,000	\$1,900,000	\$2,955,000
V	RRF Operations Support	\$1,200,000	N/A	\$1,200,000
V	Special Information Technology Services	N/A	\$300,000	\$300,000
	Totals	\$4,262,000	\$4,000,000	\$8,262,000

N/A: Not Applicable

IV. GOVERNING AUTHORITY

In accordance with Section 2-1076 of the Code of Miami-Dade County, the Inspector General has the authority to make investigations of county affairs and the power to review past, present and proposed County and Public Health Trust programs, accounts, records, contracts and transactions. The Inspector General has the power to analyze the need for, and the reasonableness of, proposed change orders. The Inspector General is authorized to conduct any reviews, audits, inspections, investigations or analyses relating to departments, offices, boards, activities, programs and agencies of the County and the Public Health Trust.

The Inspector General may, on a random basis, perform audits, inspections and reviews of all County contracts. The Inspector General shall have the power to audit, investigate, monitor, oversee, inspect and review the operations, activities and performance and procurement process including, but not limited to, project design, establishment of bid specifications, bid submittals, activities of the contractor and its

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officers, agents and employees, lobbyists, and of County staff and elected officials in order to ensure compliance with contract specifications and detect corruption and fraud.

The Inspector General shall have the power to review and investigate any citizen's complaints regarding County or Public Health Trust projects, programs, contracts or transactions. The Inspector General may exercise any of the powers contained in Section 2-1076, upon his or her own initiative.

The Inspector General shall have the power to require reports from the Mayor, County Commissioners, County Manager, County agencies and instrumentalities, County officers and employees and the Public Health Trust and its officers and employees regarding any matter within the jurisdiction of the Inspector General.

V. TERMS USED IN THIS REPORT

APC	Associated Project Cost
B&C	Brown and Caldwell
County	Miami-Dade County
DSWM	Miami-Dade County Department of Solid Waste Management
NTE	Not-To-Exceed
OIG	Miami-Dade County Office of the Inspector General
PSA	DSWM Professional Services Agreement with B&C or the "Agreement" (used interchangeably)
RRF	Resource Recovery Facility
T&M	Time and Materials

VI. AUDIT APPROACH

The audit scope included all work orders issued under PSA Amendments 6 and 7, dated December 11, 1998 and March 26, 2002, respectively. Under these amendments, DSWM issued 133 work orders, numbered 65 to 200, for a total of \$8.2 million and has paid B&C approximately \$6.7 million for services rendered, under these work orders, through January 2005.²

Our audit consisted of listing all work orders issued to B&C, under Amendments 6 and 7, categorizing them by amendment and task number, and ensuring they were duly approved by DSWM. We captured all related invoices and payments to B&C. We examined B&C's proposals and identified whether work orders were authorized for T&M or for lump-sum amounts. We verified that invoicing from B&C was consistent with the work order terms. We also spent time obtaining and analyzing deliverables for selected

² Work order numbers 111 – 113 were voided.

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projects. We requested that B&C provide the deliverables that were either not available or could not be found at DSWM. We visited B&C's offices where we examined deliverables, sub-contractors invoices and payments to sub-consultants.

We selected 70 of the 133 work orders for additional testing, totaling \$5,898,654 and \$8,241,690, respectively. We examined B&C time-keeping, payroll and personnel records, and reconciled the hours worked and pay rates with the related invoices to DSWM. We also obtained and analyzed B&C's labor and other expense detail for these 70 work orders. We compared B&C's total cost for these projects with the amounts invoiced to DSWM to verify that the T&M work orders were billed accurately and to test the reasonableness of the lump-sum work order amounts.

In addition, we examined four (4) other work orders numbered 33, 47/60, and 63, valued at \$1,315,345 (\$25,345, \$1,200,000 and \$90,000, respectively), as part of this scope. We included these work orders during this phase of our audit because of their amounts or because it was effectively a companion work order to one awarded during our scope period. In total this audit examined 74 work orders, totaling about \$7.2 million, under which DSWM has paid approximately \$6.8 million.

VII. FINDINGS AND RECOMMENDATIONS

FINDING NO. 1 **The collective scope of the PSA requiring B&C to perform inspection and oversight of the Solid Waste System operations while also requiring operations support and management advisory services creates the appearance of a conflict of interest.**

INTRODUCTION TO FINDING

Many of the B&C work orders issued under Amendment 6 (December 11, 1998), Task III and V and Amendment 7 (March 26, 2002), Task III relate to operations support at the RRF. However, within the scope of Task II under both Amendments 6 and 7, B&C is also charged with RRF monitoring and inspections. These dual scopes put B&C in the position of being both an oversight function and a management/operations support function. We believe that this creates the appearance of a conflict of interest between these two functions. Similarly, there is the appearance of a conflict if interest between B&C oversight function under Task 1 and the various miscellaneous services under Task 4. See **Exhibits 1 and 2 (appendices from Amendment 6 and 7)** for a complete listing, per the PSA, of these tasks and sub-tasks.

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TASKS II, III AND V

Task II funding under Amendments 6 and 7 totaled \$681,000 and \$750,000 respectively, while Task III funding under Amendments 6 and 7 totaled \$1,000,000 and \$600,000 respectively, and Task V funding under Amendment 6 totaled \$1,200,000. Thus, under Amendments 6 and 7, DSWM has allocated almost twice the funding for B&C to provide management advisory services and operational support for the RRF than it has for B&C to perform the facility's annual inspections and reports (\$2,800,000 versus \$1,431,000, respectively). The following **TABLE 2** graphically shows this condition.

TABLE 2 – Amendments 6 & 7 Task Funding & Work Order Amounts for RRF Related Services

Amend. & Task	Task Description	Allocated Amounts	Work Order Amounts	Dollar Variance	% Variance
6/II	RRF Inspections and Annual Report	\$681,000	\$597,000	(\$84,000)	(12.33%)
7/II	RRF Inspections and Annual Report	\$750,000	\$722,583	(\$27,417)	(3.66%)
	Sub-totals	\$1,431,000	\$1,319,583	(\$111,417)	(7.79%)
6/III	RRF Capital Expansion (Retrofit) / Environmental Improvements	\$1,000,000	\$1,250,000	\$250,000	25.00%
6/V	RRF Operations Support	\$1,200,000	\$802,016	(\$397,984)	(33.17%)
7/III	RRF Operations Support and Construction Monitoring	\$600,000	\$379,719	(\$220,281)	(36.71%)
	Sub-totals	\$2,800,000	\$2,431,735	(\$368,265)	(13.15%)

TABLE 2 also shows that DSWM's spending for RRF operational support and management advisory services follows a similar pattern, as does the funding allocations. Under these two amendments, DSWM authorized over \$1,000,000 more in work orders for these Consulting Engineering services than it did for Bond Engineering services. Moreover, we note that the negative spending variance under these tasks helped to fund Task IV services, as discussed further below.

Task II scope descriptions state that B&C is to analyze operations data to verify contract compliance, conduct weekly inspections, monitor regulatory and performance requirements, evaluate proposed improvements, and prepare the RRF annual report. B&C's primary purpose as Bond Engineer is:

To make physical inspection of the System facilities annually, to include the County-owned resource recovery facility, and to render a detailed written report as to the state of condition and repair of such facilities,

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including therein recommendations as to repairs, replacements and improvements required for each facility of the System.³

As Bond Engineer pursuant to duties set for the in the bond indenture, B&C has a fiduciary responsibility to the bond holders to act as an independent monitor of and reporter on the County's solid waste system operations and financial condition, including the RRF. This role is not compatible with its functioning as an extension of DSWM staff providing operational support. As an oversight function, B&C is reviewing and passing judgment on its own decisions, recommendations and actions as an operating function.

Task III work scopes under Amendments 6 and 7 included reviewing and recommending capital improvement construction projects; evaluating permit and design documents, monitoring construction, certifying tests and project completion, and reviewing contractor invoices. We mention that accompanying this description, the County states that "Previously, it was anticipated that much of this work would be done in-house." Thus, under these work orders, B&C functions as an extension of DSWM staff.

The scope of B&C's management advisory and operational support roles are described in Task V under Amendment 6 (\$1,200,000), which was described as needed for RRF operations support. The County Manager's Recommendation Memo to the Board, dated November 8, 1998, stated, in part:

This added task is necessary to provide operations support services to enhance DSWM's management at RRF. . . Tasks which may be performed are:

- Conduct capital replacement and preventive maintenance monitoring.
- Provide management support services to assist on-site DSWM/RRF team.
- Conduct daily RRF inspections and prepare inspection reports.
- Implement subsequent phases of the Contract Management System (CMS).
- Provide other professional services requested by DSWM, which may include preparation / review of capital / environmental improvement projects, preparation/review of cost estimates, value analyses, review of housekeeping procedures, and comparison with other facilities.

³ Ordinance 96-168, Section 607

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The conflict relative to RRF monitoring versus operational support appears to have been somewhat mitigated under Amendment 7. Task V was re-scoped, eliminating RRF operations support, and these duties merged these duties with those previously enumerated in Task III. Funding for these duties was also reduced from \$2,200,000 (Task V) to \$600,000 (collectively new Task III and old Task V). Notwithstanding their "new" location and reduced funding, these RRF management advisory and operational duties should not be part of the same contract that provides for RRF oversight duties.

TASKS I AND IV

The above-described condition also appears under Tasks I and IV. Just how significant B&C's management and operational roles have become is demonstrated by the fact that DSWM has authorized over \$2.5 million in Task IV work orders under Amendment 7, or almost \$700,000 over the allocated funding. In contrast, DSWM has authorized about \$305,000 in work orders under Amendment 7, Task I, or about \$144,000 less than the allocated funding. Over both Amendments 6 and 7, DSWM has authorized over \$3.8 million for Task IV work orders. In total, this is about \$905,000 more than the amounts originally allocated for this task under the amendments. In addition, the \$3.8 million in Task IV work orders issued is over six (6) times the dollar value of Task I issued work orders, totaling about \$629,000, during that period. The following **TABLE 3** shows these conditions.

TABLE 3 – Amendments 6 & 7 Tasks I & IV and Funding & Work Order Amounts

Amend. & Task	Task Description	Allocated Amounts	Work Order Amounts	Dollar Variance	% Variance
6/I	System Inspections and Annual Report	\$326,000	\$324,000	(\$2,000)	(0.61%)
7/I	System Inspections and Annual Report	\$450,000	\$305,500	(\$144,500)	(32.11%)
	Sub-totals	\$776,000	\$629,500	(\$146,500)	(18.88%)
6/IV	Special Engineering Services	\$1,055,000	\$1,276,057	\$221,057	20.95%
7/IV	Special Engineering Services	\$1,900,000	\$2,584,815	\$684,815	36.04%
	Sub-totals	\$2,955,000	\$3,860,872	\$905,872	30.66%

Similar issues to those discussed previously also arise under work orders awarded under Task I and others awarded under Task IV. Under Amendment 7, B&C's Task IV work scope, in part, includes operational support, studies, and the like for: landfill closure and long-term care, implementation of a strategic plan for garbage and trash collection activities, and the evaluation of trash and recycling center operations. Allocated funding for Task IV was \$1,900,000, or over 400 percent more than the \$450,000 of allocated funding for Task I. These are the same operations, activities and

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issues that B&C must evaluate, inspect and prepare a report thereon annually as Bond Engineer, under Task I.

For instance, an example of this overlap between these Tasks—one as an oversight function and one as management and operational advisor—is exemplified by Work Order 154, totaling \$336,800, dated April 16, 2003, under Amendment 7, Task IV. The work order's stated purpose is "to provide Operational Program Management Support and Analysis services." B&C, in its work order proposal, states that it will "identify cost-effectiveness improvements." B&C, in its proposal, further states:

Deliverables from this effort shall consist of specific operational recommendations . . . Recommendations are anticipated to include design of pilot programs as well as design of final implementation programs. Program management of individual program implementations is also anticipated.

We mention that during its inspection and annual report preparation, under Task I, B&C is charged with evaluating and opining on these same "cost-effectiveness improvements" and implementation thereof. Thus, the overseer and the operator functions are closely tied to the same entity. We do not mean to say or imply that B&C is operating any County facility, including the RRF. We are saying that on occasion B&C is providing management/operational support on one issue, as an extension of DSWM staff, and assessing operational efficiencies and the like on the same issue, as Bond Engineer.

CONCLUSION

"Bond Engineer" is a term describing a defined function with defined objectives pursuant to a bond Indenture of Trust, local ordinance or contractual obligation. A "Consulting Engineer" is another defined term. "Brown and Caldwell" provides services compatible with both the Bond Engineer and Consulting Engineer functions. But the term "Bond Engineer" is not synonymous with the firm "Brown and Caldwell." Separate trust indentures, agreements and ordinances typically refer to the Bond Engineer or Consulting Engineer functions that can be held or fulfilled by any qualified engineering firm. Thus, the County/DSWM could have multiple Bond Engineers or Consulting Engineers, one for each authorizing source. Nevertheless, we believe that it is advisable that these distinct functions be held by different firms.

In furtherance of this concept, we believe it is inappropriate under good business practice among oversight service providers (whether they be external public accounting firms or bond engineers) to have an oversight role together with an important management/operating role. For that matter, this concept applies also to offices such as the OIG. The President's Council on Integrity and Efficiency and the Executive Council

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on Integrity and Efficiency endorse this concept to the extent that they have included it in their professional standards (January 2005)—guidance applicable to all Offices of the Inspector General.

Inspection organizations that provide other professional services should consider whether providing these services creates an independence impairment either in fact or appearance that adversely affects their independence for conducting inspections. Inspection organizations should not (1) provide noninspection services that involve performing management functions or making management decisions and (2) inspect their own work or provide noninspection services in situations where the noninspection services are significant/material to the subject matter of inspections.

Similar to a public accounting firm, or even an inspectors' general office, we believe that the B&C, as Bond Engineer, should not provide professional services that involve performing management functions or making management decisions, and inspect their own work or provide noninspection services in situations where the noninspection services are significant /material to the subject matter of inspections.

Recommendation No. 1

The OIG recommends to DSWM that it substantially reduce, if not eliminate its dependence on B&C to provide both Bond Engineer and Consulting Engineer services to enhance the differing nature of these two distinct services and maintain an appropriate independence between them.

FINDING NO. 2 **DSWM's over-reliance on this PSA limits competitive procurement opportunities for other firms on as much as \$5.5 million worth of services not requiring a Bond Engineer or that should have been the objectives of separate procurement actions.**

INTRODUCTION TO FINDING

The Department has expanded its use of the B&C PSA to the extent that it has limited its opportunities to competitively procure engineering services from other providers for services that do not require a Bond Engineer or that should be the objective of separate procurement actions. In doing so, many of the work orders issued under this PSA have a questionable basis under Florida Statutes Section 287.001, which states the legislative intent of this chapter:

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The Legislature recognizes that fair and open competition is a basic tenet of public procurement; that such competition reduces the appearance and opportunity for favoritism and inspires public confidence that contracts are awarded equitably and economically; and that documentation of the acts taken and effective monitoring mechanisms are important means of curbing any improprieties and establishing public confidence in the process by which commodities and contractual services are procured. It is essential to the effective and ethical procurement of commodities and contractual services that there be a system of uniform procedures to be utilized by state agencies in managing and procuring commodities and contractual services; that detailed justification of agency decisions in the procurement of commodities and contractual services be maintained; and that adherence by the agency and the vendor to specific ethical considerations be required.

Collectively, many of the services obtainable under Tasks III, IV and V comprise "Consulting Engineer" services that do not require a "Bond Engineer." In total, DSWM has issued 69 work orders valued at over \$5.5 million under Amendments 6 and 7 for these tasks. This is over 67 percent of the total amount of work orders issued under these two (2) amendments. The collective work order amounts issued and the increasing disparity between the work order amounts issued for bond engineering services versus the work order amounts for consulting engineering services (33% versus 67%) indicates that the nature of the PSA appears to be less for bond engineering services and more for consulting engineering services.

FLORIDA STATUTES SECTION 287.055 (2)(g), "CONTINUING CONTRACT"

DSWM has awarded 37 of the Task III, IV and V work orders, totaling over \$4.4 million, that are in direct contravention of current Florida Statute XIX 287.055 (2)(g) guidelines,⁴ which defines, in part, a continuing contract as:

[A] contract for professional services . . . whereby the firm provides professional services to the agency . . . for study activity when the fee for such professional service does not exceed \$50,000, or for work of a specified nature outlined in the contract required by the agency, with no time limitation except that the contract must provide a termination clause.

Task IV is for "Special Engineering Services" and originally was presented under Amendment 1 as a proactive way for the Department to assess and respond to new laws, codes and rules that were thought to be imminent. It was expressed to the Board of County Commissioners that:

⁴ The immediately preceding version set a \$25,000 threshold.

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[s]ince none of the studies are likely to cost more than \$50,000 it would not be reasonable to go out on a separate selection for each, and since the Bond Engineer is qualified and will most urgently need the results of the initial evaluation, it is recommended that he be given the responsibility to do this work. No monies were originally allocated for this task; the present funding request is for \$275,000 over the contract term. These funds will be used only as required on a task order basis.⁵ (Emphasis added).

Notwithstanding assurances that the individual work order amounts were not “likely” to exceed \$50,000, there were 23 Task IV work orders, totaling about \$2,200,000, issued under Amendments 6 and 7 that exceed \$50,000. Seven (7) of these work orders, totaling almost \$1,200,000 were in excess of \$100,000. Many of these larger dollar value work orders had no single defined service or deliverable. The work order scope of services listed multiple sub-tasks or activities that B&C could work on, as long as funding was available, without the need for any additional written DSWM authorization. The most egregious example of a work order exhibiting these traits is Work Order No. 154 for \$336,800 for “Operational Program Management Support and Analysis.” As with Work Order 154, these sub-tasks and activities often were not associated with any defined deliverables, specified amounts, periods of performance or agreed-upon prices.

Conversely, there were several other work orders above \$50,000 with defined scopes and deliverables that should have been procured competitively, separate and apart from this PSA, as shown below in **TABLE 4**. Utilizing B&C for all these miscellaneous consulting engineering projects closes the door to other engineering firms’ ability to seeking contracting opportunities with Miami-Dade County.

TABLE 4 – Task IV Work Orders

WO #	WO Amount	WO Description
WO#69	\$56,664	Information Technology Master Plan
WO#78	\$55,000	Revised proposal for developing efficiency-week program and materials
WO#79	\$141,894	Facilitation of DSWM efficiency workshops
WO#123	\$137,650	Electronic document management systems Phase I

⁵ County Manager’s Recommendation for Amendment 1, dated July 10, 1990, to the Board of County Commissioners.

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WO #	WO Amount	WO Description
WO#130	\$103,750	Evaluate alternatives for trash processing and disposal at the RRF
WO#137	\$77,000	Provide small business facilitation for DSWM
WO#153	\$226,194	Old South Dade Landfill environmental park conceptual design
WO#174	\$68,200	Fleet Route Software Implementation
WO#198	\$52,345	Fleet Route Software Implementation Phase 2

The above **TABLE 4** examples is by no means exhaustive of all the miscellaneous work orders exceeding \$50,000 where we believe that competition should have been afforded. In fact, we believe all Task IV and Task V projects are extraneous to the core bond engineering function and should have been open to competition among all other eligible firms. Since the inception of the PSA, the allocated amounts for special engineering services funded under Task IV that started at zero dollars in the original agreement have increased to \$1.9 million in Amendment 7 (See **OIG TABLE 3 and OIG SCHEDULE A**). Approximately 48 percent of Amendment 7 funding (\$1.9 million out of \$4.0 million) is dedicated to Task IV. Perhaps even more telling of how important Task IV has become is that DSWM has awarded work orders totaling over \$2.5 million under Amendment 7. This amount is almost \$700,000 more than the funding level established for this task under the terms of Amendment 7.

In part, this additional Task IV funding was taken from Task V, which had an allocated funding of \$300,000. There were no Task V work orders issued under Amendment 7. Assuming that funds will be spent as awarded, Task IV spending will comprise 65 percent of the total authorized Amendment 7 amount.

FLORIDA STATUTES SECTION 287.055 (3)(a), “CATEGORY TWO” PROCUREMENTS

Current Florida Statutes addressing the procurement of professional services exceeding \$25,000 require open competition.

Each agency shall publicly announce, in a uniform and consistent manner, each occasion when professional services must be purchased ... for a planning or study activity when the fee for professional services exceeds the threshold amount provided in s. 287.017 for CATEGORY TWO.⁶
 [Fla. Stat. Section 287.055(3)(a)]

⁶ Current Florida Statutes Title XIX Chapter 287.017 (1)(b), sets a purchase category 2 threshold amount of \$25,000. Preceding versions had a lower threshold.

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First, we believe, all nine Task IV work order examples listed in **TABLE 4** (above) are violative of this statute. All nine work orders had a defined scope of work, and were, by category, "miscellaneous" to the other types of services to be performed under the contract.

Second, DSWM has awarded 32 of the Task III, IV and V work orders, totaling over \$1.1 million, that may also be violative of this Florida statute. These work order ranges are within the \$25,000 to \$50,000 thresholds.

In addition, effective June 23, 2003, County Administrative Order No. 3-39, *Standard process for construction of Capital improvements, acquisition of professional services, construction contracting, change orders and reporting*, Section II, ACQUISITION OF PROFESSIONAL SERVICES, PURPOSE, states, in part:

Professional service requests that are below the threshold for continuing contracts as established by Florida Statutes, Section 287.055, shall be procured through the use of the Equitable Distribution Program (EDP), unless specifically granted exemption by CICC due to the unavailability of the required technical expertise within EDP or the existence of other consultant agreements established for a specific purpose.

We believe that many of the work orders that DSWM has awarded since June 2003 under the B&C PSA should have been procurements under the EDP. Again, it is the OIG's position that DSWM's over-reliance on B&C for these smaller miscellaneous work order and those larger discrete scope work orders, as identified in Table 4, closes the door to the ability of other engineering firms to have viable contracting opportunities with Miami-Dade County.

Recommendation No. 2

The OIG recommends to DSWM that it implement procurement practices consistent with the intent and guidance prescribed by Florida Statutes and County Administrative Orders, and that it seek to identify opportunities and then contract for engineering services using open competitive processes.

FINDING NO. 3 The B&C PSA has been used to "pass through" work assignments which were *de facto* bid waivers and which should have been procured via open competitive processes.

Many of the work orders included in the CATEGORY TWO procurements discussed above were also "pass through" work orders. The OIG noted 22 work orders that were either express or *de facto* pass through work orders given to sub-consultants,

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wherein B&C disclaimed any responsibility for the work product or were instances where B&C performed only administrative services or minimal technical support (i.e., B&C performed no “professional services”).⁷ In either case, other firms could have provided such services via open competitive procurement processes.

The impact of using this type of work order is that DSWM may be unnecessarily limiting competition to what, in effect, are pre-selected firms, for services that could be obtained, under open, competitive procurements. Should DSWM have felt that the services required by these select individual vendors were absolutely necessary, DSWM should have transparently procured the services as a sole source or bid waiver and provided a stated justification for such procurement.

Moreover, our review of these work orders revealed that for several projects listed in the following **TABLE 5**, B&C was not directly involved in performing the services. B&C played a limited role in providing contract administration only, which consisted of preparing and processing the work orders, invoices, etc. In addition, many of these pass throughs contained a clause in the B&C proposal and work order whereby B&C disclaimed responsibility for any work products or liability for any acts or omissions of the sub-consultant, yet charged a 10% administrative fee for the pass through. The fact that B&C did not manage the work and that they provided sub-consultant contract administration only, shows that the related work did not need to be performed by the Bond Engineer. It is our opinion that these type of services—pass throughs— should not be contracted under this Agreement at all.

Our review of the work orders and our discussions with DSWM and B&C personnel confirmed that the Task IV funds were used to process and pay other sub-consultants. Other such work orders also were awarded under Tasks III and V. As justification for this practice, DSWM personnel expressed their frustration with the lengthy procurement process and in several cases mentioned that it was just easier and faster to contract with the vendors through B&C. By doing so, the procurement process was circumvented and competitive bidding was waived, as the DSWM staff selected vendors of their choice and paid them through B&C. In addition to not obtaining competitive prices, DSWM paid an extra 10% administration fee to B&C for many of these work orders. Some of the more egregious examples of such work orders include five occasions when DSWM used the PSA to get B&C to award contracts totaling \$138,000 to former DSWM employees.

- ❖ Alison Heim, a former DSWM employee, was hired through a B&C work order and was paid \$17,600 for services related to grants.

⁷ Florida Statutes Title XIX Chapter 287.055 (2)(a) states, “Professional services means those services within the scope of the practice of architecture, professional engineering . . . as defined by the laws of the state, or those performed by any architect, professional engineer . . . in connection with his or her professional employment or practice.”

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- ❖ Charles Paschal, a former DSWM official, was awarded two work orders totaling \$89,600 for “automated waste and trash collection consulting services.” To date, \$66,518 has been paid to B&C for his services. The last invoice of \$12,116 was rejected for payment as no documentation or report on the work performed could be provided to DSWM. The two work orders for Mr. Paschal services have since been closed.
- ❖ Two work orders amounting to \$30,800 were opened through the B&C contract for Richard J. Meyers and Maria E. Lopez, both Certified Public Accountants and former DSWM Accounting Division employees. At the end of the audit’s field work, \$14,292.53 has been paid to B&C for their CPA professional services. Per the controller’s request, these two work orders remain open for future accounting needs.

The following **TABLE 5** consists of a list of 22 examples of this type of work order, totaling \$873,606, for which (1) B&C provided contract administration only or (2) B&C provided only minimal technical support.

TABLE 5 – “Pass Through” Work Orders

W/O #	W/O Amount	Amend #	Task #	Planned Provider	Description
66	\$24,200	6	4	PEG	Implementation of bulky waste dispatching program enhancements
72	\$22,000	6	4	PEG	Continued implementation of bulky waste dispatching program enhancements
74	\$22,000	6	4	PEG	Customer service interface program development and implementation.
92	\$17,600	6	4	Alison Heim	Special services related to grants
98	\$43,842	6	4	PEG	Review and develop trash dispatching, scheduling routing and performance
106	\$68,000	6	5	Juan Portuondo ⁸	Analysis of Inspection System, Miami-Dade County RRF

⁸ This particular pass through is very troubling because Mr. Juan Portuondo was a former official of (and more recently was the registered lobbyist for) the Montenay Power Corp., the operator and manager of the County’s Resource Recovery Facility (RRF). This work order was initiated in August 2001 to provide monitoring and inspection services at the RRF. Progress payments 1-3, totaling \$51,000, were paid by December 2002. The County’s Lobbyist Registration Database shows Mr. Portuondo’s registration dates as 9/12/03 and 2/11/04. Throughout the winter and spring of 2004, Mr. Portuondo was Montenay’s lead negotiator of the Second Amendment to the Third Amended and Restated Operations and Management Agreement between the County and

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W/O #	W/O Amount	Amend #	Task #	Planned Provider	Description
120	\$7,750	6	4	PEG	Additional support of Process Improvements Teams
135	\$19,800	7	4	PEG	Landfill disposal alternatives study
137	\$77,000	7	4	Tools for Change	Provide small business facilitation for Miami-Dade County DSWM
138	\$88,000	7	3	Dozier & Dozier	Monitoring and inspection services at Miami-Dade RRF
140	\$11,000	7	4	Richard J. Meyers, CPA	Comprehensive annual financial report (CAFR) support services
151	\$44,800	7	4	Charles Pascal	Automated waste collection and trash collection consulting services
160	\$47,500	7	4	Concord Financial Inc.	Development of a model for electronic recycling within the Miami-Dade DSWM
166	\$19,800	7	4	Maria Lopez	CPA professional accounting services
170	\$50,000	7	3	Dozier & Dozier	Monitoring and inspection services at Miami-Dade RRF
172	\$38,500	7	4	PEG	Trash collection support services
173	\$44,800	7	4	Charles Pascal	Support of zone pickup operations consulting services
175	\$110,940	7	4	Concord Financial Inc.	Development of a model for electronic recycling within the Miami-Dade DSWM
185	\$50,000	7	3	Dozier & Dozier	Monitoring and inspection services at Miami-Dade RRF
191	\$27,500	7	4	One source	Marketing and public relations of the roll-out for the automated waste collection service
197	\$15,400	7	4	PEG	Residential Recycling Services Procurement Support
199	\$23,174	7	4	PEG	Scheduled Trash Feasibility Analysis
22	\$873,606				

Recommendation No. 3

The OIG recommends to DSWM that it immediately cease issuing pass through work orders.

Montenay. This major amendment was finally approved in July 2004. Mr. Portuondo's fourth and fifth progress billing for the remaining balance of \$17,000 were submitted in July and September 2004 (one and half years later). The dates of service for progress payments nos. 4 and 5 respectively are: December 20, 2002 through June 25, 2004 and June 26 through September 16, 2004. These dates are within period when Mr. Portuondo represented Montenay. The relationship of Portuondo as a Montenay lobbyist creates a conflict of interest by his being hired to perform "independent" monitoring and inspection services of the RRF for DSWM.

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FINDING NO. 4 **B&C's charging of "Other Direct Costs" on T&M work orders is duplicative of its overhead recovery provided for by the PSA multiplier.**

Professional services should be initiated through the issuance of individual work orders that should contain the work scopes, times for completion, pricing terms, deliverables and maximum compensations. The fee for services rendered for T&M work orders is based on the direct salary cost for consultant personnel engaged directly in the work multiplied by a negotiated multiplier. This fee constitutes full compensation to B&C for costs incurred in the performance of the work such as salaries, overhead, fringe benefits, operating margin and all other costs not covered by reimbursable expenses. The negotiated multiplier was 3.20 from inception of the contract to Amendment 5 and 2.85 for Amendments 6 and 7. The County also had the option to negotiate lump-sum work orders. These work orders are discussed in the next section.

B&C routinely charges each DSWM work order for its incurred direct labor costs, including those payroll costs, for hours worked by its professional, technical and administrative staff. In addition, B&C applies the PSA multiplier (2.85) to the payroll costs to derive its total fee. As stated earlier, the product of this computation constitutes full compensation to B&C for its salaries and other costs, such as overhead, fringe benefits, operating margin and all other of its costs not covered by reimbursable expenses. Pursuant to the PSA:

[F]ee for services rendered by the ENGINEER'S personnel . . . computed based on the [Engineer's] direct salary cost . . . for the time said personnel engaged directly in the work, times a negotiated multiplier of 3.20. [The multiplier was reduced to 2.85 under Amendment 6, dated November 5, 1998] ***This fee shall constitute full compensation to the ENGINEER for costs incurred in the performance of the work such as overhead,*** fringe benefits, operating margin and all other costs not covered by reimbursable expenses.

Reimbursable expenses shall not include charges for overhead expenses of any kind, such as local telephone and utility charges, office and drafting supplies, depreciation of equipment, professional dues, books, subscriptions, mailing, stenographic, clerical, or other employees' time or travel and subsistence not directly related to the work. (Emphasis added).

Notwithstanding, B&C also charges DSWM, as *Other Direct Costs*, an *Associated Project Cost (APC)*, which represents an internal overhead rate that it applies to direct labor hours chargeable to its various projects, including DSWM work orders. The rate charged to DSWM work orders is \$5.00 per direct labor hour. This APC is

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meant to recover such costs as long-distance calls, cell phone costs, postage/freight, reproduction/facsimile/graphics, and the like.

For the T&M work orders, we were able to obtain and analyze B&C system-generated labor and expense reports by project for the sixteen (16) T&M work orders, totaling approximately \$1,655,000, that were part of the sample. B&C's accounting practice to charge the 2.85 PSA multiplier and its own \$5.00 per hour APC results in B&C recovering twice for overhead costs—recovered once by the 2.85 multiplier applied to direct labor dollars and recovered a second time by the \$5.00 rate applied to direct labor hours. DSWM paid B&C almost \$14,000 in “APC” charges, under the 16 T&M invoiced work orders that we examined.

In addition, under these work orders, B&C charged DSWM for \$918 of telephone costs and \$653 of freight and postage costs, which we believe also represent double billings of these costs. In total, for the sample of T&M work orders tested, over \$15,000 of overhead costs were recovered as other direct costs, as well as under the 2.85 multiplier applied to B&C's payroll expense.

Definition of labor multiplier for time and material work orders.

Moreover, B&C includes in the above-mentioned T&M work orders, billings for direct labor costs for administrative personnel, such as the office administrative/accounting manager and clerk/receptionist, to which it applies the 2.85 multiplier. The PSA is silent about who or what positions/functions are billable and instead, describes allowable salary cost as that incurred for “for the time of said personnel engaged directly in the work.”⁹ B&C charged DSWM, under T&M billings, for almost \$28,000 of administrative personnel salary cost, which when billed using the 2.85 multiplier, collectively totaled over \$79,600. Arguably, administrative personnel could directly support the work of a professional engineer but they could not be “engaged directly in the work” of a professional engineer.

Recommendations Nos. 4 and 5

- (4) The OIG recommends to DSWM that it consult with the Office of Capital Improvements and the County Attorney's Office regarding B&C's past billing practices and recoup overpaid amounts.
- (5) The OIG recommends to DSWM that it should re-evaluate the intent and content of the PSA multiplier in order to more precisely define what it does and does not cover and negotiate any resultant increases/decreases thereto with B&C. DSWM should familiarize itself with B&C accounting practices and obtain B&C cost data for work performed to-date prior to finalizing such negotiations.

⁹ B&C PSA, Section IV(2)(a).

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FINDING NO. 5 Unreasonable lump-sum work order prices.

The fee for professional services may, at the option of the County, be a lump-sum amount mutually agreed upon by the County and B&C and stated in the work order. Of the 74 projects analyzed for cost, 58 work orders totaling over \$5.5 million were awarded for lump-sum amounts. To date, DSWM has paid \$5.1 million to B&C, under these lump-sum work orders. During our audit, we compared B&C's cost reports for each project with the amounts proposed, mutually agreed upon and invoiced to DSWM. In addition, we restated B&C's project cost to eliminate administrative personnel time and other associated project costs and the like, that we believe are includable in the negotiated multiplier.

We conducted this analysis to determine if the agreed lump-sum amounts proposed and billed by B&C were reasonable in comparison to what they would have been had the projects been billed on a T&M basis. This comparison also determines whether DSWM benefited from having lump-sum instead of T&M agreements and measures how well and fairly the agreed prices were negotiated between the two parties.

Our analysis shows that, on average for unadjusted costs, B&C costs plus mark-up were about 14.5 percent less than the invoiced amounts for the 58 lump-sum work orders. This amounted to approximately \$745,000 of revenues over and above B&C's costs plus mark-up (i.e., "excess revenues"). Effectively, these amounts constitute additional profit to B&C because B&C's mark-up, as already noted, includes its "operating margin." Individually, excess revenue amounts ranged from almost \$245,000 to a low of about \$48. In five (5) instances, B&C "lost" money. These loss amounts ranged from about (\$129) to about (\$15,600). In 14 instances, B&C's excess revenues exceeded 20 percent. The cited largest dollar amount (\$245,000) was equal to a 37 percent added mark-up. The single largest percentage amount was almost 63 percent but amounted to only about \$9,500.

When we restate B&C's costs plus mark-up excluding its associated project costs, administrative costs (including mark-up) and its other project costs, which, as we stated earlier, we believe are recovered under B&C's multiplier, we calculated that B&C's excess revenues were approximately 21 percent higher than its costs. This amounted to over \$1,000,000. Under this scenario, excess revenue amounts ranged from almost \$275,000 to a low of about \$1,300. In four (4) instances, B&C "lost" money. These loss amounts ranged from about (\$7,700) to about (\$10,200). In 19 instances, B&C's excess revenues exceeded 20 percent. The cited largest dollar amount (\$275,000) was equal to about a 42 percent added mark-up. The single largest percentage amount was almost 72 percent but amounted to only about \$10,700.

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CONCLUSION TO FINDING

In large part, these results are due to the misapplication of the lump-sum pricing convention. Typically, lump-sum pricing is a desirable pricing convention when there is adequate competition or when the owner has pre-award access to the consultant's current, complete and accurate cost/pricing data. Neither of these conditions existed under the B&C contract. As a result, DSWM was at a disadvantage. This condition was exacerbated by the fact that DSWM was seemingly unable to see itself using any other firm besides B&C. As time progressed under this PSA, we believe that the DSWM and B&C became less than equal parties and had less than "arms length" negotiations for work order awards to the detriment to DSWM. In addition, we believe that to some degree, these results are a graphic presentation of the adverse financial impact resulting from the dysfunctional relationship that has developed between DSWM and B&C that we addressed in our **FINDING NO. 1**.

Recommendation No. 6

The OIG recommends to DSWM that it should limit its use of lump sum work orders to those discrete scopes of work with defined deliverables where DSWM is able to negotiate pricing for such work order proposal based on current, complete and accurate cost/price data from B&C.

FINDING NO. 6 Questioned costs of \$145,297 resulting from improper payments to B&C based on uncertain billings and deliverables.

The OIG is consolidating FINDING NO. 6 AND NO. 7 from the draft report into one finding to better present its concerns about the problematic issues noted during our review. The new presentation includes specific work order information that was not included in the original report. The questioned costs amount now stands at \$145,297.

B&C submits "lump-sum," "percentage of completion" or "time-and-materials" invoices to DSWM pursuant to their respective work order pricing terms.¹⁰ We examined invoices submitted under all 133 work orders to determine whether they were accurate, complete and supported by adequate documentation. For seventy-four (74) of these items, we performed some additional review to better establish the propriety of B&C billings. **TABLE 6** on the next page shows five instances, totaling \$145,297, wherein we believe that there is uncertain evidence regarding the propriety of the billings relative to the stated deliverables. Please take note that the list below is not meant to be an

¹⁰ See FINDING NO. 10 for OIG concerns about inconsistent pricing between the work order and corresponding billing methodologies.

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exhaustive list of all such instances, as the OIG's review was based on the sample selected.

TABLE 6 – Questionable Billings

WO #	WORK ORDER DESCRIPTION	WO AMOUNT	QUESTIONABLE BILLING	COMMENT
33/70	Miscellaneous services as requested by DSWM. (Reprogram of WO# 33 balance transferred to WO# 70.)	\$24,655.09	\$21,000.00	Lack of 2 nd deliverable—GSA Fleet Management Report (December 1998)—evidencing proof of invoiced services.
87	Scope of services and work order request for Task III from Amendment 6 to professional services agreement for bond engineer.	\$250,000.00	\$40,000.00	Work order amount included allowance of \$40K for additional services that was invoiced in full with no documentation of the use of services and for the need to expend allowance amount.
96/99	Proposal to prepare consulting engineer's report for series 2001 solid waste system revenue bonds and fulfill bond ordinance 96-168 requirements.	\$79,600.00	\$37,000.00	Allowance for expenses of \$20K invoiced under work order #96. Additional related costs of \$17K invoiced under work order #99. Lack of any documentation evidencing the types, frequency, etc. of "Additional meetings and support" services provided is problematic.
139	Task 3 Support services Resource Recovery Facility O&M agreement proposed changes by Montenay for MACT cost adjustment.	\$20,000.00	\$562.50	Invoice from ES invoiced twice for \$562.50
154	Task A (oral authorization) has no written scope	\$286,361.61	\$46,735.20	Progress Billing #1 (\$23,367.20) was to complete the WO 152 deliverable that was to be report payable as a lump-sum. Progress Billing #2 (\$23,368.00) was to prepare a report; however, a report substantiating the completion of the scope has not been provided.
Totals		\$660,616.70	\$145,297.70	

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One troublesome issue is that there appears to be some duplicative deliverables submitted to DSWM pursuant to individual work orders, resulting, in part, from the proliferation of new tasks and sub-tasks. We could not help noticing that there appears to be an overlap between and among B&C tasks/duties enumerated in the various scope statements for certain work orders. This weakness may allow B&C to transfer knowledge gained under one task to be applied to another with little or no additional effort but for which they are paid additional monies. Often, such work is performed originally under one of the larger lump-sum task orders and then is used to complete the scope of a second work order that could arguably be includable under the first.

This practice happens because at least one, if not both, of the work orders have vague descriptions of their respective scopes and required deliverables, thus making it virtually impossible to discriminate between what is required/provided under one task order versus what is later required/provided under a second task order.

Before awarding work orders to B&C under this Agreement, DSWM should request a proposal from B&C clearly stating the services required and specific deliverable(s) and then negotiate the proposed prices, and pricing conditions. Once these conditions are agreed upon, a work order would be issued and the work is then performed by B&C. B&C would then invoice DSWM as the work progresses and they should provide a deliverable on or before the date that the last invoice is submitted.

Currently, deliverables from B&C consist of analysis, reports, studies or specific operational recommendations on the waste collection and disposal systems but sometimes are less precisely described. At times, the deliverables are simply stated as to attend meetings and provide support. We selected initially forty (40) work orders (both lump-sum and T&M work orders) and requested related deliverables from DSWM. For the deliverables that could not immediately be found at DSWM or that could not directly be identified to the specific work orders, we requested them from B&C who keep a file for each work order with related work papers and deliverables.

The following provides additional discussion regarding the listed work orders in **TABLE 6:**

WO 33/70 The OIG was not provided with complete deliverables comprising two (2) reports for WO 70. The first report called the "Waste Conversion Factor Study" was originally invoiced under WO 33 as 100% complete for \$3,645; albeit this invoice was later paid under WO 70, which had a total authorized amount of \$24,655.09. Absent proof of the second deliverable, we find this to be an overbilling of about \$21,000. We have revised TABLE 6 to reflect this change.

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WO 87 The OIG issue is that there was “no documentation of the use of services and for the need to expend [WO 87] allowance amount.” The problem arises from nonspecific task scopes. Typically, the task scopes began with the words, “Additional services . . .” B&C was being directed to spend some staff time working on various DSWM issues until work order funding was expended. There were no defined deliverables required of or time limits (other than on total dollars) imposed on B&C for any of the named tasks. Even in its billings, B&C did not specifically attribute staff hours to any one project. B&C’s one major billing for Allowance Account funds (\$33,144 out of \$40,000) shows that over an approximate five (5) month period of performance (July 29, 2000 – January 8, 2001), B&C staff spent 174.75 hours on any one of six (6) tasks. Of the \$33,144, \$13,000 was a “Lump Sum adjustment to the Task 3 budget.”

The expenditure of the \$40,000 allowance account was accomplished through progress billing numbers 2, 5 and 7. The OIG is troubled that the allowance account was depleted prior to the expenditure of the other funds available under this work order.

WO 96/99 As with WO 87, B&C, under WO 96 was being directed to spend some staff time working on a DSWM issue until work order funding was expended. There was no defined deliverable required of or time limits (other than on total dollars) imposed on B&C. Apparently, B&C spent the \$20,000 allocated for it to provide “Additional Meetings and Support” under WO 96. It appears that this was not enough funding for this task, so that under WO 99, DSWM gave B&C another \$17,000 to provide “additional” meetings and support. B&C invoiced DSWM for both these amounts as lump-sums. The invoices do reflect different periods of performance—for WO 96, the period of performance was “Inception [November 7, 2000] through February 27, 2001” and for WO 99, the period of performance was “Inception [March 6, 2001] through March 28, 2001.”¹¹ Thus, it would seem that DSWM paid B&C \$17,000 to provide three weeks’ worth of what, in effect were “additional, additional meetings and support.”

WO 139 Both DSWM and B&C agree with OIG finding.

WO 154 To explain some of our concerns regarding WO 154, we must first look to WO 152. The WO 152 scope requires the preparation of two (2) financial scenarios: (1) [DSWM] “Base Case Operational Adjustments” and (2) “OMB Operational Adjustments.” B&C’s proposal states that “The DSWM scenario is being designed and quantified under other work order scopes.” The deliverable provided to the OIG attributable to WO 152 was various letters, tables and what appears to be an incomplete report, dated March 17, 2003, with a transmittal memo titled “Transmittal of Financial

¹¹ “Inception” is not a precise term and makes it difficult to determine the actual period of period of performance. However, for purposes of this report and as used by B&C in its response, the inception date is the date of B&C’s proposal.

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Projections – Base Case and OMB Scenario.” B&C invoice, for \$22,300 (lump-sum) was for “Development and iterations of Base Case and OMB Scenarios.”

B&C initiated Work Order 154/Task A based on an oral authorization. Thus, there was no written scope, deliverable requirement, price or pricing terms for this work. B&C Progress Billing #1, totaling \$23,367.20, was for “Development of ‘DSWM Scenarios’ budget and models and multiple iterations, including meetings with DSWM staff.” This description is a close match to those services required under WO 152.

The deliverable provided by B&C attributable to WO 154 was a complete report that included the above-mentioned transmittal memo, dated March 17, 2003. This report, in its entirety, matches exactly those services/deliverable required under WO 152. Accordingly, the OIG is unsure of what exactly DSWM paid for under WO 152 but it is clear that the report given to the OIG as the WO 154 deliverable was, in fact, prepared in fulfillment of WO 152. Thus, we attribute the \$22,300 paid under WO 152 to this report and considered it to be payment in full for the requested services/deliverable and question the propriety of the \$23,367.20 paid under WO 154 for what appears to be the same report.

In addition, B&C’s second invoice for Task A (Progress Billing #2), totaling \$23,368, describes the work performed as “Finalization of 5-year (FY2003 through FY2008) projections of revenues/expense/debt service coverage model as well as associated assumptions for the following cases and Household Fee combinations ...” This description does not match the aforementioned deliverable provided by B&C to the OIG. We acknowledge that there likely was a separate deliverable matching this invoice description; however, we were not provided with one during our audit. Thus, the invoiced amount of \$23,368 is also questioned cost.

Recommendations Nos. 7 and 8

- (7) The OIG recommends to DSWM that work order scopes and deliverable descriptions be more precisely defined so that scope of work descriptions tightly match against the type and content of the deliverable expected from the consultant.
- (8) The OIG recommends to DSWM and B&C that they examine the records and billings for the listed work orders to determine the appropriate amount of billing adjustments to be made, and for DSWM to present the OIG with its findings within 90 days of the issuance of this final report.

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FINDING NO. 7 Unreliable project management and documentation of four work orders resulting in \$105,100 of questionable payments.

B&C accounting records and other work order documents show that, at times, there was a discontinuity in the normal work order process. Typically, DSWM should request B&C to prepare a proposal for a stated scope of work. Ideally, this request should be in writing. Occasionally, however, this request was orally transmitted by DSWM to B&C. Next, B&C should prepare its cost proposal and submit same to DSWM for approval. DSWM should formally authorize this work via an approved work order. Once the work order is approved, B&C should begin its work. Depending upon the circumstances, B&C may submit periodic payment requests or it may elect to submit only one. Regardless, prior to final payment, B&C should provide DSWM with its final work product/deliverable. DSWM should review the deliverable for conformance to the work order terms and conditions and then make a final payment to B&C.

At times, however, this sequence did not follow the logical order. For example, B&C started work before DSWM issued a work order. Given the circumstances, this action may even have been a common practice. Notwithstanding, there still should be a reasonable time correlation between work start and performance and work order issuance. However, DSWM and B&C work order and accounting records show that, in a number of instances, the work order process went out of sequence in improbable manners. In some cases, not only was the deliverable dated/provided prior to the work order award but the period of work performance was shown as occurring after the deliverable date. There is clearly something wrong with B&C's performance on and/or accounting for these work orders.

This information was often self-evident by a cursory review of readily available data requiring only that somebody compare the date of deliverable with the information shown on the face of B&C's invoice. However, by nature of this audit and our review of additional project detail data, we were able to see behind the invoice to confirm our initial assessment. The following are three examples, totaling \$105,100 of this condition.

Work order number 158 – Evaluation (Phase 3) of Proposed Second Amendment to the Third Amended and Restated Operations and Management (\$35,800):

The deliverable provided for this work order is a report dated June 4, 2003 and the related work order was approved on June 19, 2003. The invoicing from B&C refers to work performed between June 19, 2003 and May 21, 2004.

Work order number 167 – Disposal Balancing Phase 1 (\$24,200):

The deliverable provided for this work order does not match the description on the invoices consisting of spreadsheets dated June 20, 2003 and August 18, 2003.

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The work order was approved on November 5, 2003 and the invoice from B&C refers to work performed between October 15, 2003 and October 31, 2003.

Work order number 168 – Disposal Balancing Phase 2 (\$45,100):

The deliverable provided for this work order is dated October 14, 2003. The work order was approved on November 5, 2003 and the invoices from B&C refer to work performed between November 5, 2003 and December 21, 2003.

Moreover, for the above-listed examples, B&C's project detail accounting records show that labor charges to these work orders were incurred during the work periods covered by the invoices. Given that the deliverable product had already been completed and submitted to DSWM, we have no idea what B&C personnel were spending their time on. This condition is exacerbated due to the lack of daily/weekly logs describing the work performed and/or activities of the engaged personnel. (See **FINDING NO. 8** below).

CONCLUSION TO FINDING

Such accounting and billing practices reflect poorly on both B&C's and DSWM's contract administration. One possible explanation is that B&C performed the work and prepared the deliverable, prior to work order authorization, while charging its time and costs to another work order. Later, when it realized it could separately bill for the product, B&C convinced DSWM to issue the second work order with new funding. The hours actually worked after work order award that were shown on the invoice were probably related to a third project for which B&C subsequently was awarded another work order with new funding. In such cases, the amounts invoiced and paid under these work orders could have already been paid elsewhere. This condition also maybe an example of an earlier discussed condition wherein we expressed the concern that B&C has the capability to practice inter-work order knowledge transfer (see **FINDING NO. 6**). Other explanations are that B&C's timekeeping/ payroll/ accounting system is flawed or that its project management is careless, if not negligent. In any event, these three examples amount to \$105,100 in questioned payments.

Recommendations No. 9, 10, and 11

- (9) The OIG recommends to DSWM that it should carefully review performance and billing data for reasonableness and logical continuity prior to paying B&C for its services.

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- (10) The OIG recommends to B&C that it should take steps to ensure that work performed, billings and deliverables be appropriately sequenced, accurately accounted for and completely invoiced.
- (11) The OIG recommends to DSWM and B&C that they examine the records and billings for the listed work orders to determine the appropriate amount of billing adjustments to be made, and for DSWM to present the OIG with its findings within 90 days of the issuance of this final report.

FINDING NO. 8 B&C invoices lack adequate support.

B&C typically provides no supporting detail or documentation when invoicing DSWM for its services, whether under T&M or lump-sum work orders. Such detail at a minimum should include the name of the individual providing services, dates of service, and number of hours performed (e.g., John Doe, Sr. Engineer, June 8-9, 16 hours). B&C's billing detail should also include its employees' rates of pay. Other essential documentation would include daily/weekly work activity logs prepared by the individuals performing the work, sub-consultant invoices (including daily/weekly work activity logs), and vendor invoices for other project costs. Weekly activity logs would provide specific data about the dates and times of meetings attended, other attendees, agenda/discussion/action items, responsible party for item follow-up and confirmations of DSWM verbal requests for or directions to B&C to perform enumerated services. This does not necessarily always have to be an hour-by-hour listing or total time expended per activity detail, although for T&M services this would be desirable, if not required information. The need for such records is unquestionable. That DSWM has not required this documentation is unthinkable. That B&C does not provide this documentation is unacceptable.

B&C personnel providing services should provide individual logs showing the dates, hours and services that they worked. This information is important regardless of whether it is a T&M or lump-sum work order. DSWM would be able to better monitor B&C's performance and evaluate whether there has been value received/services provided relative to the funds expended. Similar activity logs from sub-consultants should also be provided, as well as supplier invoices for all other reimbursable project costs. The inclusion of this data would help DSWM assess the reasonableness of costs under the work orders, monitor progress and evaluate the effectiveness of B&C's performance.

Recommendation No. 12

The OIG recommends to DSWM that it should require B&C to provide complete documentation in support of the amounts shown on its invoices.

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FINDING NO. 9 Notices to proceed based on verbal authorizations and no documentation of agreed price.

The PSA requires that DSWM issue individual “notices to proceed” or work orders authorizing B&C to perform the described services. A number of work orders, however, contravene this requirement and allow B&C to work on any one of many listed sub-tasks covered by the one authorizing work order and to do so without prior DSWM authorization to proceed. The work order acts as a general authorization for B&C to perform on various sub-tasks so long as funding is available and without the need for any additional written DSWM authorization. B&C’s proposal for these work orders may show some estimated hours and consultant costs but there are no real constraints—other than funding—on B&C’s work to ensure that it will perform as indicated by its proposal. Moreover, these sub-tasks and activities often were not associated with any defined deliverables, specified amounts or periods of performance, or agreed-upon prices. Examples of these types of work order and their primary work scope descriptions are shown in the following **TABLE 7**.

TABLE 7 – Work Orders Without Written Authorizations

WO #	WO Amount	WO Description
WO#97	\$120,000	To perform out-of-scope additional support services at the RRF.
WO#126	\$20,000	To perform out-of-scope additional support services at the RRF.
WO#131	\$50,000	To perform out-of-scope additional support services at the RRF.
WO#148	\$50,000	To perform additional support services at the RRF.
WO#154	\$336,800	To provide Operational Program Management Support and Analysis services to the Garbage and Trash Divisions.

We acknowledge that each of these work orders had supplemental sub-task work scopes but the fact remains that B&C could work as little or as much as it wanted and whenever it wanted, without noticing DSWM and until such time as the main work funding was depleted. There were no defined periods of performance, deliverables, or agreed-upon prices, for the various sub-tasks covered by these work orders. In design and effect, these work orders gave B&C carte blanche ability to generate fees.

Also noted is that these work orders all fall under the category of operational support and/or management advisory services discussed in **FINDING NO. 1**. In light of the conditions revealed in this finding, it becomes even more apparent that these operational/management services, and the fees generated from them, are the real “bread and butter” of the professional engagement.

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Recommendation No. 13

The OIG recommends to DSWM that it should require separate cost proposals, defined deliverables, periods of performance, and pricing terms when contracting for discrete scopes of work. In other words, DSWM should immediately cease issuing the open-ended, undefined work orders described in this finding.

FINDING NO. 10 Questioned costs totaling \$116,471 under T&M work orders with inconsistent pricing terms when compared to B&C invoicing practices.

The OIG reviewed both DSWM and B&C responses to this original draft finding and believes that it erred in combining all the listed work orders under one heading without completely describing the circumstances specific to each work order and why they were classified together. We believe that both DSWM and B&C during their analysis of these work orders would have identified the concerns specific to the work orders and addressed them in kind. But this did not happen. Most often, the respondents choose not the work order specific concern but, instead, picked a concern and applied it to work order even when it clearly was not applicable to that work order. This allowed both respondents to rebut the inclusion of some of the individual work orders (DSWM response) without addressing why the OIG included them in this finding or to rebut their collective inclusion (B&C response) with a few broad, dismissive statements. Thus, the OIG is restating this finding to better present its concerns about the inconsistent pricing terms. The new presentation includes specific work order information that was not included in the original report. Notwithstanding the finding restatement, the questioned costs amount remains the same at \$116,471.

We identified 26 work orders, out of the 74 work orders that were the subject of additional testing, containing T&M pricing terms. These work orders were valued at \$2,296,742. B&C invoiced (and was paid) \$2,218,345 under these work orders. There is an unbilled balance of \$78,397 remaining. Notwithstanding the invoiced amounts, B&C's project detail accounting records show that B&C's project costs, which includes the 2.85 multiplier and APC charges (see **FINDING NO. 4**) totaled only \$2,101,874. This amount is \$116,471 less than the invoiced costs.

Most of the of questioned amount results from the inconsistent pricing terms contained in the B&C proposal and/or DSWM work order when compared to B&C's invoicing practices. Either the proposal or work order stated that the pricing terms were T&M. In addition, notwithstanding the low probability that authorized work order amounts would equal B&C invoiced T&M amounts, we noted that there were 11 such instances. As a result, we analyzed B&C accounting records for all 26 work orders to

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determine what B&C's recorded costs were for the subject projects. TABLE 8 below presents the results of this analysis, as well as referencing a specific OIG concern relative to the listed work order.

TABLE 8 – T&M Work Orders

WO #	WO Amount	Total Project Cost	DSWM Invoice Amount	BC Invoice to Project Cost Variance	Comments
94	\$20,000	\$23,270.35	\$20,000.00	(\$3,270.35)	3, 4
95	\$8,800	\$8,063.33	\$8,800.00	\$736.67	1, 3, 4
97	\$120,000	\$110,848.48	\$119,999.35	\$9,150.87	5
98	\$43,842	\$43,735.79	\$43,842.00	\$106.21	3, 4
103	\$10,000	\$12,653.63	\$10,000.00	(\$2,653.63)	3, 4
108	\$23,000	\$23,148.50	\$23,000.00	(\$148.50)	3, 4
126	\$20,000	\$19,027.46	\$20,000.00	\$972.54	5
125	\$28,000	\$28,157.29	\$28,000.00	(\$157.29)	3, 4
131	\$50,000	\$48,036.87	\$50,000.00	\$1,963.13	5
132	\$45,000	\$41,460.83	\$43,243.24	\$1,782.41	4
133	\$50,000	\$49,713.71	\$50,000.00	\$286.29	1, 3, 4
136	\$55,000	\$52,938.25	\$55,000.00	\$2,061.75	1
139	\$20,000	\$19,659.50	\$19,684.60	\$25.10	4
144	\$35,000	\$21,005.40	\$25,151.20	\$4,145.80	4
145	\$25,000	\$9,095.12	\$8,963.13	(\$131.99)	4
143	\$15,000	\$5,573.01	\$15,000.00	\$9,426.99	1, 3, 4
148	\$50,000	\$38,757.47	\$50,000.00	\$11,242.53	1, 3, 4
154	\$336,800	\$275,913.62	\$286,361.61	\$10,447.99	1, 4
96/99	\$79,600	\$63,931.32	\$79,600.00	\$15,668.68	5 (96), 2 (99)
66/72	\$46,200	\$43,933.73	\$46,200.00	\$2,266.27	1 (66, 72), 3
47/60	\$1,200,000	\$1,160,112.55	\$1,200,000.00	\$39,887.45	2 (47, 60), 3
114/121	\$15,500	\$2,837.61	\$15,500.00	\$12,662.39	2 (114, 121)
26	\$2,296,742	\$2,101,873.82	\$2,218,345.13	\$116,471.31	

Comments Legend:

1. Inconsistent pricing terms
2. No authorized pricing terms
3. B&C T&M invoiced amounts equal to DSWM WO authorized costs
4. B&C T&M invoiced amounts not equal to B&C recorded costs
5. Either LS or T&M pricing allowable

Note: WO#s 96/99, 66/72, 47/60 and 114/121 are closely related, often continuing work orders for the same scope and for which B&C may or may not have maintained separate

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cost records. Thus, they were consolidated for our comparison of authorized amounts to invoiced amounts to cost record amounts; however, the companion work orders may not have always had the same pricing terms.

We qualify our statement by stating that “most” of the questioned costs had a common cause. Most but not all. There were four (4) work orders (#s 97, 136, 131 and 96) that allowed for either lump-sum or T&M pricing. Additionally, there were five (5) work orders that had no pricing terms stated in the work order or in B&C’s proposal. As discussed earlier, a number of the work orders listed various sub-tasks but failed to prescribe any specific deliverables, prices and pricing terms for the sub-tasks. As a result, B&C could choose either method (lump sum or T&M) when billing under those work orders. This practice, in effect, guaranteed that it would bill for the entire amount regardless of its actual costs.

Inconsistent or non-existent pricing terms

There were discrepancies between four separate but related records—the DSWM work order, the B&C proposal, its attachment (when available) and the B&C invoice. At times, B&C’s proposal contained lump-sum terms, the DSWM work order contained T&M terms, and B&C’s invoices were percentage-of-completion/lump-sum. At other times, both the proposal and work order contained T&M terms but B&C invoices, nonetheless, were percentage-of-completion/lump-sums.

Thus, there were inconsistent pricing terms stated in the various source documents. These documents, listed in order of what we believe to be their ranking (highest to lowest) as the authoritative source of pricing terms, are: DSWM work orders, B&C proposals, B&C attachments to the proposals, and B&C invoices. The following **TABLE 9** shows in detail the pricing terms inconsistencies referred to in the finding.

TABLE 9 -- Pricing Terms

(T&M: Time & Material LS: Lump-sum)

Item #	WO #	DSWM WO	B&C Proposal	B&C Proposal Attachment	B&C Invoice
1.	94	T&M	T&M	N/A	T&M
2.	132	T&M	T&M	N/A	T&M
3.	139	T&M	T&M	N/A	T&M
4.	144	T&M	T&M	Unstated	T&M
5.	145	T&M	T&M	N/A	T&M
6.	95	T&M	LS	LS	LS - Completion
7.	133	T&M	LS	LS	LS - Completion
8.	148	T&M	LS	N/A	LS - % Completion
9.	143	T&M	Unstated	LS	LS - Completion

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Item #	WO #	DSWM WO	B&C Proposal	B&C Proposal Attachment	B&C Invoice
10.	154	T&M	Unstated	N/A	LS - % Completion
11.	72	Unstated	T&M	T&M	LS - % Completion
12.	103	Unstated	T&M	N/A	T&M
13.	108	Unstated	T&M	T&M	T&M
14.	125	Unstated	T&M	Unstated	T&M
15.	136	Unstated	LS	T&M	LS - Completion
16.	98	Unstated	Unstated	T&M	T&M
17.	66	Unstated	Unstated	T&M	LS - Completion
18.	47	Unstated	Unstated	N/A	T&M
19.	60	Unstated	Unstated	N/A	T&M
20.	121	Unstated	Unstated	N/A	T&M
21.	99	Unstated	Unstated	N/A	LS - Completion
22.	114	Unstated	Unstated	N/A	LS - Completion
23.	96	Unstated	LS or T&M	N/A	LS - Completion
24.	97	LS or T&M	LS or T&M	N/A	LS - Completion LS - % Completion T&M
25.	126	LS or T&M	LS or T&M	N/A	LS - Completion T&M
26.	131	LS or T&M	LS or T&M	N/A	LS - Completion LS - % Completion T&M

The above data shows the multiple combinations of pricing terms among the source documents. For example, there were five (5) instances (WO#s 95, 133, 148, 143 and 154) when the work order required T&M pricing but B&C's invoices reflected another pricing method. In thirteen (13) other instances, DSWM left the pricing terms unstated in its work orders defaulting to whatever B&C had stated in its proposals, proposal attachments and, in five (5) of those instances (WO#s 47, 60, 121, 99 and 114), to whatever method B&C choose to use for billing purposes.

B&C invoiced costs exactly equal to authorized amounts and/or not equal to recorded costs

We stated earlier that we believe that there is a low probability that authorized work order amounts with T&M pricing would exactly equal B&C invoiced T&M amounts; however, we noted that there were 11 such instances. These instances led us to analyze B&C cost accounting records and to make another observation regarding a second problematic issue. This second issue is that B&C invoiced T&M costs do not

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equal the costs shown in B&C's cost accounting records for fourteen (14) T&M work orders, including 9 out of the 11 previously mentioned work orders.

There should be no difference between these cost amounts. Even in those instances when B&C costs were greater than the authorized amount, B&C would have been smart to show on its invoices these additional costs. This action would have served as basis for requesting another work order under which all costs would have been recovered. There were two (2) instances (WO#s 94 and 103) when B&C overspent anywhere from 15 to 20 percent of the authorized work order value and did not seek to recover these funds. Perhaps B&C did not do this because in nine (9) of fourteen (14) instances, its invoiced T&M costs exceed its recorded costs.

Either LS or T&M pricing allowable

This practice is a direct result of DSWM issuing one (1) work order with multiple scopes and allowing for either LS or T&M pricing. We believe that some of scopes are better priced as LS, while others should be T&M; however, we believe that separate scopes should be separate work orders. DSWM's practice almost guarantees that B&C will bill for the entire authorized amount regardless of its actual costs. **TABLE 8** shows that this happened under the four (4) identified work orders. As a result, DSWM may end up spending one work order's entire authorized amount when it may be less costly to issue separate work orders.

Recommendations No. 14 and 15

- (14) The OIG recommends to DSWM that it should carefully review all B&C T&M invoices for compliance with the work order pricing terms and should question all such invoices wherein the total amounts equals to the authorized amounts. In addition, DSWM should not pay any such invoices without adequate documentation supporting the charges (see **FINDING NO. 8**).
- (15) The OIG recommends to DSWM and B&C that they examine the records and billings for the listed work orders to determine the appropriate amount of billing adjustments to be made, and for DSWM to present the OIG with its findings within 90 days of the issuance of this final report.

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**FINDING NO. 11 Standard County contract boilerplate language, including the
OIG provisions and OIG contract fee have not been
incorporated into the Agreement.**

Even though it has been amended seven times since its inception in 1987, this PSA still lacks the standard contractual boilerplate language found in all contemporary contracts. New provisions include reference to the County's False Claims ordinance and Code of Business Ethics. Additionally, standard language regarding the Office of the Inspector General and the OIG contract fee have not been incorporated into the PSA.

Pursuant to Section 2-1076 of the Code of Miami-Dade County, as currently in effect and as amended, the County has established the OIG, which may perform random audits on all County agreements throughout the duration of each agreement. The cost of any such audit shall be incorporated into the contract price and shall be one quarter (1/4) of one percent (1%) of the contract price. The audit fee is to be deducted by the County from payments to the Consultant. The County has also developed boilerplate language for inclusion in County contracts referencing the OIG's authority and this fee.

We noted, however, that the OIG clause and fee have not been incorporated into the Agreement nor has it been part of any subsequent amendments to the Agreement.¹² Although the original contract was signed before Ordinance No. 97-215, the Sixth and Seventh Amendments were approved after the Ordinance and totaled \$4,262,000 and \$4,000,000 respectively.

Recommendation No. 16

The OIG recommends to DSWM that should it decide to continue its arrangement with B&C under this PSQA that it should incorporate all new contract boilerplate clauses, including the OIG provisions, into the Agreement via Amendment 8, which is currently under negotiation by the parties. Future payments to B&C must have the appropriate OIG contract fee amount (1/4 of 1% of the invoice total) deducted from each invoice.

VIII. CONCLUSION

In conclusion, we strongly believe that the audit of the B&C PSA was long overdue. Over eighteen years DSWM and its bond engineer forged a close relationship. As DSWM characterized it: "[I]f the System fails, the Consultant fails and the Department fails." We especially recognize the importance of independent inspections and oversight as contributing to the overall success of any project. When the oversight

¹² The OIG does acknowledge that a paragraph was added to the interim Eighth Amendment that addresses the OIG jurisdiction and the applicability of the OIG contract fee. Furthermore, we have been advised by DSWM that it would begin collecting the OIG fee from each B&C payment.

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function is co-mingled with providing management advisory services, operations support as an extension of staff or, at in its extreme, the alter ego of the department, then we believe that the relationship is no longer a healthy one.

Work orders were not being aggressively managed by the department. All too often we found vague, open-ended descriptions of work scopes as requiring "additional services." In several other examples, work orders were issued for large sums of money where the work scopes were then later defined by sub-proposals within each work order. Work descriptions for sub-tasks among the various work orders sounded almost identical. Often, subsequent work orders were a continuation of the former, although pricing originally may have been based on lump sum terms. In other instances pricing terms were unstated. In other words, work order pricing terms could be for either lump sum/percentage of complete billing or billed on a time and materials basis. It was left to B&C.

It was readily apparent that this PSA became the vehicle through DSWM could meet its various—non-engineering—consultancy needs. This included IT services, reports on recycling computer equipment, accounting services, fleet management studies, trash and zone-related collections pick-up studies, marketing, and other customer-relations studies and support. In short, DSWM sought to receive these services through B&C rather than competitively bidding them. In some cases B&C provided the service. In many others instances, certain vendors were selected (oftentimes by DSWM) to provide the services under the auspices of this Agreement, and for this convenience to DSWM, B&C received a 10 percent administrative fee while disclaiming any responsibility for the vendor's work product. And while we are pleased with DSWM's response that it would immediately cease these types of pass-through arrangements, the OIG still believes that the entire contractual arrangement between DSWM and B&C needs to be dramatically changed to eliminate future shortcomings that place the County at a disadvantage.

The practices of the past six years that are the subject of this audit's scope (January 1999 through January 2005) show a co-dependence between the two entities. The relationship between the DSWM and B&C should be restructured to emphasize B&C essential function as the independent Bond Engineer. Accounting services, management advisory services, operational support and other non-bond engineering services should be procured separately. DSWM must recognize that the department can, and should, have more than one consultant to fulfill its needs. The term "DSWM consultant" should not be synonymous with the firm name of Brown and Caldwell.

SCHEDULE A
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DRAFT AUDIT REPORT

Miami-Dade County Department of Solid Waste Mangement

Professional Services Agreement Retaining Brown and Caldwell as Solid Waste System Bond Engineer

	Original Agreement 04/28/87		First Amendment 07/10/90	Second Amendment 07/23/91	Third Amendment 06/17/93	Fourth Amendment 06/21/94	Fifth Amendment 12/05/95	Sixth Amendment 12/11/98	Seventh Amendment 03/26/02	Totals
From To Resolution #	04/28/87 04/27/90 R-473-87	Task	04/28/90 04/27/93		04/28/93 04/27/96		04/28/96 04/27/99	04/28/99 04/27/02	04/28/02 04/27/05	
			R-670-90	R-902-91	R-742-93	R-968-94	R-1659-95	R-1263-98	R-312-02	
Annual inspections and reports.	\$150,000	I	\$150,000		\$186,000		\$225,000	\$326,000	\$450,000	\$1,487,000
Resource recovery annual report.		II	\$390,000		\$436,000		\$660,000	\$681,000	\$750,000	\$2,917,000
Monitor/ Oversee RRF CIP Projects	\$600,000	III	\$160,000	\$534,827						
(RRF) Environmental/ Additional Improvements		III			\$668,000	\$500,000	\$2,200,000			\$3,368,000
(RRF) Capital Expansion (Retrofit/ Environmental Improvements)		III						\$1,000,000		\$1,000,000
RRF Operations Support and Construction Monitoring		III							\$600,000	\$600,000
Miscellaneous Engineering Services	\$ - 0 -									
Special engineering services.		IV	\$275,000		\$210,000		\$1,150,000	\$1,055,000	\$1,900,000	\$4,590,000
Resource Recovery Facility (RRF) operations support.		V						\$1,200,000		\$1,200,000
Special Information Technology Services.		V							\$300,000	\$300,000
Totals	\$750,000		\$975,000	\$534,827	\$1,500,000	\$500,000	\$4,235,000	\$4,262,000	\$4,000,000	\$16,756,827

TASK IV - Special Engineering Services

Upon request, Brown and Caldwell will perform Special Engineering Services relative to DSWM's solid waste management system. These services, which are not specifically defined at this time, may be necessary during the evaluation, permitting, design, procurement, construction, start-up, testing, and/or operation of components of the solid waste management system, and may include:

- Recommending specific physical, operational and/or fiscal aspects of solid waste management system
- Providing professional services in connection with operation, maintenance and improvement of facilities within the system
- Performing studies on impacts of changes in law, regulations, or contracts
- Providing Special Engineering Services on a task order basis, such as determination of hazard pay, landfill closure and long term care, and value analysis collection/disposal

TASK V - Resources Recovery Facility (RRF) Operations Support -

This added task is necessary to provide operations support services to enhance DSWM's management at RRF. RRF is a critical element of the County's solid waste management system. Approximately 1 million tons of municipal solid waste are disposed at RRF annually, which is greater than half of the solid waste managed by DSWM. Revenues generated by electric power sales from RRF amount to about \$6 million annually.

Tasks which may be performed are:

- Conduct capital replacement and preventive maintenance monitoring
- Provide management support services to assist the on-site DSWM/RRF team
- Conduct daily RRF inspections and prepare inspection reports
- Implement subsequent phases of the Contract Management System (CMS)
- Provide other professional services requested by DSWM, which may include preparation/review of capital/environmental improvement projects, preparation/review of cost estimates, value analyses, review of housekeeping procedures, and comparison with other facilities

EXHIBIT 3
SELECTED SEVENTH AMENDMENT PROPOSED SERVICES

Task No.	Description
1,2, and 3	See description for Sixth Amendment (Exhibit 2)
4	Series 2003 Solid Waste Bonds Consulting Engineers Report – Prepare reports for the Official Statements including projections of tonnages, revenues, and expenses based on various scenarios. Update financial model to project debt service coverage ratios as required by the Bond Ordinance. Assess impacts of current and proposed interlocal, hauler, and disposal agreements. Report on facility condition and environmental compliance.
4	Landfill Closure and Long Term Care – Prepare closure and long-term care cost estimates for 3 active plus 3 closed landfill sites for DSWM capital and operations budgeting and determining financial liability. Develop and certify estimates for financial assurance in accordance with Florida Administrative Code.
4	Implementation of Strategic Plan for Garbage and Trash Collection– Implement recommendations from the collections strategic plan that reduce costs, increase revenues, improve customer service, integrate new technologies, or improve performance or efficiency. Support, monitor, and assess changes and recommend further improvements.
4	Evaluation of Trash and Recycling Center Operations – Evaluate existing and future needs of trash and recycling centers to improve efficiency of overall operations. Assess and prioritize number, location, size, and type of facilities. Recommend changes to permitting, operations, and revenue structuring.
5	Scalehouse Software Additional Services – Completion of the Department's upgrade to its scalehouse software system and accounts receivable system.

Amendment 6 Task 3
 and Task 5 are
 combined into a
 single Amendment 7
 Task 3.