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REPORT NO. 2020-06

TO: Rahim Harji, Assistant County Administrator

CC: The Honorable Chairman and Members of the Board of County Commissioners
Barry Burton, County Administrator
Megan Ross, Utilities Director
Ken Burke, CPA, Clerk of the Circuit Court and Comptroller

FROM: Hector Collazo Jr., Inspector General/Chief Audit Executive
Melissa Dondero, Assistant Inspector General *M.D.*

SUBJECT: Investigation of Allegations Against Utilities Employees

DATE: March 12, 2020

The Division of Inspector General's Public Integrity Unit has completed an investigation of the following allegations against two Utilities employees. Respondent #1:

1. Failed to report an employee's work related injuries to Workers' Compensation. **Unfounded**
2. Accepted gifts from a potential County vendor. **Unfounded**
3. Violated Sunshine laws and purchasing policies by meeting with a potential vendor behind closed doors and providing inside information. **Unfounded**
4. Violated County policy by providing preferential treatment to a customer. **Unfounded**
5. Violated Family Medical Leave Act (FMLA) laws and regulations. **Unfounded**

Respondent #2:

6. Had a conflict of interest with a Utilities contractor. **Unfounded**
7. Violated the Electronic Media Use Policy by sharing their password with a temporary employee. **Unfounded**

To determine whether the allegations were substantiated, we reviewed policies, procedures, and appropriate records. We also interviewed staff and other parties, as needed. Our investigation was performed according to the *Principles and Standards for Offices of Inspector General* and *The Florida Inspectors General Standards Manual* from The Commission for Florida Law Enforcement Accreditation.



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We use the following terminology for the conclusion of fact/finding(s):

- **Unfounded** – An allegation is unfounded when it is proved to be false or there is no credible evidence to support it.

During the course of the investigation, we determined the following facts to conclude on the above allegations:

1. The complainant alleged respondent #1 did not report a work place injury following Hurricane Irma. We performed the following:
 - Reviewed applicable Florida Statutes, County policies and procedures, and emails
 - Interviewed the alleged injured individual, Risk Management, and Utilities staff
 - Conferred with County Attorney staff

Per applicable policies and procedures, in the event of a work place injury, it is both the employee's and supervisor's responsibility to complete a First Report of Injury and submit to Risk Management for review. The employee is also responsible for contacting Company Nurse to initiate a Workers' Compensation claim; the alleged injured employee did not contact Company Nurse. The incident in question was not a workplace accident resulting in an injury; the alleged injury resulted from stress causing a mental or nervous condition, which is not covered under Workers' Compensation. Respondent #1 did assist the employee by initiating medical leave following the reported absence. Our investigation of the allegation has determined it is **unfounded**, as evidence proved it to be false.

2. The complainant alleged respondent #1 accepted a gift from a potential County vendor during a business conference. We performed the following:
 - Reviewed applicable County policies, emails, conference information, and Purchasing Department records
 - Interviewed Utilities management
 - Conferred with County Attorney staff

Emails and interviews confirmed a conference vendor provided tickets for an event to all conference attendees, including respondent #1 and the complainant, who were present at a social gathering during the business related conference. Purchasing Department records confirmed the conference vendor company is not a current or former County vendor. After discussions with the County Attorney's Office, we determined the company is not considered a potential vendor, as the company has never done business nor has it tried to do business with the County. Thus, acceptance of the tickets was not a violation of any policies. Our investigation of the allegation has determined it is **unfounded**, as evidence proved it to be false.

3. The complainant alleged respondent #1 met with a potential vendor behind closed doors and gave it inside information for a bid. We reviewed applicable County policies, Purchasing Department records, and emails. We determined respondent #1 and other Utilities staff met with an existing vendor to discuss an upgrade to an existing platform in support of a non-competitive purchase. Utilities management operated within applicable procurement policies and procedures for an approved non-competitive purchase. Our investigation of the allegation has determined it is **unfounded**, as evidence proved it to be false.
4. The complainant alleged respondent #1 violated County policy by providing preferential treatment to a Utilities customer by accepting a partial payment on an outstanding balance. We performed the following:
 - Reviewed Utilities policies and procedures, emails, and details of the account in question
 - Interviewed Utilities management

We noted the only Utilities policy that requires full payment relates to the restoration of water services. We reviewed the account details and confirmed the customer's water had not been turned off, so restoration of water services did not apply. Additionally, Utilities management confirmed it is acceptable practice to accept partial payments to work with customers if the situation arises. Our investigation of the allegation has determined it is **unfounded**, as evidence proved it to be false.

5. The complainant alleged respondent #1 violated FMLA laws and regulations by requiring an employee on FMLA leave to come to work to be demoted. We performed the following:
 - Reviewed applicable County policies, rules, and regulations related to FMLA, emails, documentation from The Standard, personnel records, and timecard and absence records
 - Interviewed Human Resources and Utilities staff

We confirmed FMLA protects an employee's job from repercussions because of missing work but does not protect an employee from being demoted/transferred resulting from job performance that occurred prior to medical leave. The employee in question was on intermittent leave when they accepted a meeting request with respondent #1 and a Human Resources representative. When respondent #1 attempted to transfer/demote the employee due to job performance issues that occurred prior to the employee initiating intermittent medical leave, the employee declined the reassignment position and resigned from County employment. We also confirmed respondent #1 initiated the demotion/transfer request three weeks prior to the employee being on medical leave. Our investigation of the allegation has determined it is **unfounded**, as evidence proved it to be false.

6. The complainant alleged respondent #2 had a conflict of interest with a County contractor. We performed the following:

- Reviewed applicable County policies, the vendor contract, emails, and personnel records
- Interviewed Purchasing Department and Utilities staff

We confirmed respondent #2 properly disclosed their prior employment with the contractor. While respondent #2 notified management the contractor was capable of performing the necessary tasks required for the job, they were independent of the review and approval process for granting the contract. Our investigation of the allegation has determined it is **unfounded**, as we found no credible evidence to support it.

7. The complainant alleged respondent #2 violated the Electronic Media Use Policy by sharing their password with a temporary employee. While it is not best practice to share passwords with others, there is no policy or rule prohibiting the sharing of passwords. The Electronic Media Use Policy states County employees may not engage in activities such as, "Using other employees' IDs or passwords without expressed permission." The temporary employee had expressed permission to the password to assist with a work related task. Our investigation of the allegation has determined it is **unfounded**, as evidence proved it to be false.

We appreciate the cooperation shown by the staff of the Utilities Department during the course of this investigation.