



Ken Burke, CPA

CLERK OF THE CIRCUIT COURT AND COMPTROLLER
PINELLAS COUNTY, FLORIDA

Clerk of the County Court
Recorder of Deeds
Clerk and Accountant of the Board of County Commissioners
Custodian of County Funds
County Auditor

Division of Inspector General

510 Bay Avenue
Clearwater, FL 33756
Telephone: (727) 464-8371
Fax: (727) 464-8386
Fraud Hotline: (727) 45FRAUD (453-7283)
Clerk's website: www.mypinellasclerk.gov

Report No. 2024-01

TO: Joseph Lauro, Director, Department of Administrative Services

CC: The Honorable Chair and Members of the Board of County Commissioners
Barry Burton, County Administrator
Jill Silverboard, Deputy County Administrator and Chief of Staff
Ken Burke, CPA, Clerk of the Circuit Court and Comptroller

FROM: Melissa Dondero, Inspector General/Chief Audit Executive *md*

SUBJECT: Investigative Review of the District Cooling and Central Energy Plant Operations and Maintenance Service Agreement

DATE: January 25, 2024

The Division of Inspector General's Public Integrity Unit has completed an investigative review of the following allegations related to Pinellas County's (County) District Cooling and Central Energy Plant (CEP) Operations and Maintenance Service Agreement:

- A County contractor did not provide required services. **Substantiated**
- County management did not enforce its contract with a contractor. **Substantiated**

To determine whether the allegations were substantiated, we reviewed policies, procedures, and appropriate records. We also contacted and interviewed staff and other parties, as needed. Our investigative review 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.



An Accredited Office of
Inspector General

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

- **Substantiated** – An allegation is substantiated when there is sufficient evidence to justify a reasonable conclusion that the allegation is true.
- **Unsubstantiated** – An allegation is unsubstantiated when there is insufficient evidence to either prove or disprove the allegation.
- **Unfounded** – An allegation is unfounded when it is proved to be false or there is no credible evidence to support it.

The recommendations presented in this report may not be all-inclusive of areas where improvement may be needed; however, we believe implementation of the recommendations will strengthen the current internal controls.

We appreciate the cooperation shown by the staff of the Department of Administrative Services (DAS) during the course of this investigation.

A. Background and Allegations:

The Division of Inspector General (IG) initiated an investigative review after receiving a complaint that alleged that Tampa Bay System Sales, Inc. D/B/A Tampa Bay Trane (Contractor) neglected certain CEP cooling tower components and failed to timely replace a well pump, which resulted in significant water costs to the County. The Complainant alleged that this was a result of County management not effectively managing the contract.

On March 12, 2013, the Board of County Commissioners (BCC) approved an agreement for the Contractor to complete the design and construction of the CEP and piping distribution system through the streets of downtown Clearwater to six County-owned buildings. The Oaks of Clearwater, a local retirement community, is also connected to the system.

The establishment of the CEP and its ongoing delivery of chilled water has afforded the County continuous savings. There was also a \$4,000,000 cost avoidance component, where the County would not have to replace chilled water system components for 30 years. Using a simple payback method, the project has a payback of 12-13 years. The CEP was designed for a 30-year plant life, and the distribution piping has an estimated useful life of 50 years.

The plant and piping were completed, and the buildings have been connected to the system since May 20, 2015, which is also when the operations and maintenance service agreement with the Contractor went into effect.

B. Investigative Activity:

During the course of the investigation, we performed the following to obtain evidence to conclude on the allegations:

- Interviewed DAS personnel.
- Consulted with the County Attorney's Office (CAO) regarding contract requirements.
- Interviewed the Contractor to confirm events that occurred.
- Reviewed the contract, County Legistar records, purchase order records, photographs of CEP equipment, and e-mail communications between the County and the Contractor.

C. Investigative Conclusions:

During the course of the investigative review, we determined the following facts to conclude on the allegations:

- 1. A County contractor did not provide required services.**
- 2. County management did not enforce its contract with a contractor.**

The Complainant alleged that the Contractor neglected various cooling tower components and did not timely replace a leaking well pump, and County management did not effectively enforce the contract.

Cooling Tower Equipment

In April 2022, DAS Facilities & Real Property management (Facilities management) identified wear and tear with cooling tower equipment, specifically multiple motors and gearboxes, and escalated the matter to the Contractor. The IG obtained photos from April 2022 of CEP machinery that appeared rusted and corroded. The IG obtained email communications between Facilities management and the Contractor. Facilities management escalated the issues to the Contractor's regional manager, vice president, and president.

After the County brought this to the Contractor's attention, the Contractor spent approximately \$220,000 in repairs over the course of 10 months (between April 2022 and January 2023). When the IG interviewed the Contractor, the Contractor acknowledged that the cooling tower at the CEP had been neglected prior to April 2022. The Contractor said the repairs were necessary after years of neglect and made the necessary repairs to keep the business relationship with the County. The IG confirmed with DAS management that the Contractor made the necessary repairs.

DAS management also indicated that if these neglected parts had failed, it could have caused a total shutdown with no backup for all the County's downtown facilities and The

Oaks of Clearwater. At that time, as a result of the neglect, two of the three cooling towers were inoperable. The one that was running also had worn-down components that were working but could have easily failed, which would have resulted in the entire CEP being inoperable.

Well Pump Leak

In May 2022, Facilities management identified a leak from a well pump at the CEP and immediately notified DAS management and the Contractor. Facilities management continued to follow up with the Contractor in June and July 2022. The Contractor was responsive via email during that time but was not able to address the leak. Per the Contractor, the delays were due to the Contractor's inability to secure a subcontractor that could meet its requirements. On July 15, 2022, the Contractor suggested that the County may want to secure another vendor for the well pump.

On August 30, 2022, Facilities management submitted an emergency purchase order for the purchase and replacement of the equipment necessary to restore the well pump. The justification for the emergency purchase order was the following:

“Facilities and Real Property Division is requesting an emergency purchase order for the purchase and replacement installation of a 5 HP sub-pump in a well that supplies water to the Central Energy Plant cooling towers. The existing pump is currently inoperable, and we are on city domestic water. The city water, bypasses the soft water system and uses 30,000 gallons+ cost from City of Clearwater per day cannot keep up with the demand for the cooling towers which is causing the chillers to operate less efficiently and potentially create excessive dissolved solids in the cooling tower which will continue to impact the heat removal process of the towers... The total estimate cost is \$11,447.73”

The purchase order was approved on October 13, 2022, and the well pump was installed on October 19, 2022.

During the period the well pump was not operable, from May 2022 through October 2022, the County paid the City of Clearwater (City) \$99,947 for water, which was \$90,947 greater than the budgeted amount. The table below illustrates the estimated water budget, the actual water cost, and the variance per the City's billing statements and CEP inspection reports.

Date	Water Budget	Water Actual	Variance
May 2022	\$ 1,500	\$ 4,938	\$ 3,438
June 2022	1,500	11,063	9,563
July 2022	1,500	22,910	21,410
August 2022	1,500	27,121	25,621
September 2022	1,500	21,573	20,073
October 2022	1,500	12,342	10,842
Totals	\$ 9,000	\$ 99,947	\$ 90,947

In addition to the cost of the City’s water, the County spent \$11,447.73 on the replacement well pump. Two Facilities management members working to resolve the well pump issue terminated employment with the County during the process. In August 2022, Facilities management hired a new manager, which replaced the two vacant positions. The new manager confirmed that the predecessors had attempted to have the Contractor pay for the well pump with no success. In order to fix the leak and stop excessive spending on water, the new manager made the decision to purchase the replacement part.

When the IG interviewed the Contractor, the Contractor stated it was not aware of any neglect that led to the well pump leak and acknowledged there had been delays in handling the issue. DAS management was also not aware of any negligence related to the well pump breakdown.

Facilities management acknowledged that during the same time period of May 2022 through October 2022, the County was trying to get the Contractor to respond to the cooling equipment that needed servicing, as described earlier in this report. There had been turnover issues within Facilities management that also caused delays. DAS management acknowledged difficulties getting the Contractor to respond to services over the years, which is why the County began descoping the Contractor’s services.

The IG asked DAS management if they planned to seek reimbursement for the well pump from the Contractor, and DAS management reviewed the agreement and planned to consult the CAO for an opinion.

It should be noted during the investigative review, that a history of civil litigation exists between the Contractor and the County. In 2018, the Contractor was the plaintiff in a lawsuit (18-005980-CI) against the County for “breach of contract and failure to indemnify arising out of efforts to procure an emergency generator during Hurricane Irma.”

We determined that both allegations were **substantiated**. The Contractor did not provide the required services per the agreement. The Contractor acknowledged years of neglect as it pertained to some cooling tower components, they were responsible for maintaining and made the necessary repairs. Regarding the well pump, the Contractor was obligated

to timely act on the service and repair of the well pump, which they did not fulfill. DAS management did not enforce its contract with the Contractor. As noted below, the Purchasing Procedure Manual required DAS to attempt to rectify the situation with the Contractor, maintain a written record of those attempts, and specify a time frame for the resolution of the issues involved. These written records should then have been provided to the Director of Purchasing. DAS did not keep written records or notify the Director of Purchasing of the lack of contract compliance.

D. Investigative Finding and Recommendations:

1. Management Did Not Enforce Contract Provisions.

The Contractor neglected various cooling tower equipment for several years, leading to rust and corrosion of certain parts. In addition, when a well pump began leaking in May 2022, the Contractor did not fix the leak as required by the contract. DAS management made attempts to get the Contractor to rectify the leak for approximately five months before purchasing the replacement part and getting the leak fixed in October 2022. However, the DAS did not seek reimbursement for the replacement part (\$11,447) or the additional cost for City water from May through October 2022 (\$90,947). When the IG interviewed DAS management, they indicated they would attempt to recoup the funds.

The Contractor was not responsive to the County's needs, even though DAS management was in constant communication requesting service. When DAS Facilities management changed, new management made the decision to fix the issue internally rather than rely on the Contractor.

DAS Management should monitor its contracts to ensure contractors are providing the required level of service to the County. Per the Purchasing Procedure Manual, Section 9 Contracts, 11. Administration:

"It is the responsibility of the originating department to take the necessary steps to ensure implementation of the contracts with which they are involved. These contracts should be continually monitored for compliance with contract terms and conditions. Questions of interpretation and resolution of perceived potential or present problems in such contracts will be referred to the appropriate reviewing authorities for consideration...."

Departments shall follow-up and expedite the handling of discrepancies and deficiencies and maintain a written record of the vendor's performance relating to contract requirements.

In cases where the vendor does not adhere to delivery and specifications or is in technical breach of a contract, the department must attempt to rectify the situation with the vendor and maintain a written record of these attempts. A written record should contain specific instances of non-compliance with contract requirements and a time frame for resolution of

the issues involved. The department shall provide copies of all correspondence and records to the Director of Purchasing. The department should utilize the County Vendor Performance Evaluation Form and/or a written report to accompany records.

In cases where the department is unable to rectify a breach of contract with the vendor, the matter shall be turned over to the Director of Purchasing along with all documents for resolution which may include, but are not limited to, a recommendation to cancel the contract, suspend or disqualify the vendor.”

Related to the CEP agreement, the Contractor was required to perform specific duties to maintain the equipment and systems.

Section 3.1 states:

“Contractor shall solely be responsible for the operation and maintenance of all equipment and systems (including the fire alarm, water softener, and security systems) required for a functioning district cooling system.”

In addition, Section 3.3 states:

“Contractor shall be responsible for proper, efficient, and cost effective operation and maintenance of the District Cooling System on a 365 days a year, 7 days a week, 24 hours a day basis.”

The neglected cooling tower equipment was eventually replaced, with no significant impacts to the County. However, the well pump leak resulted in \$90,947 in additional water usage to the County plus \$11,447.73 to replace the pump, for a total of \$102,394 in losses to the County.

We Recommend Management:

- A. Consult with the CAO to determine if the County can seek reimbursement for the replacement part and the additional City water cost incurred.
- B. Ensure management effectively monitors its contracts and follows dispute resolution processes as needed.

Management Response:

- A. **Management Concur.** Management will meet with CAO to determine its position on reimbursement for the part as well as the estimated cost of water consumption.
- B. **Management Concur.** Trane had recently transitioned from franchisee-owned to corporate ownership, which the business model was much less service-oriented

than that of the franchisee. Trane met with the County to provide the following two options; 1) de-scope the current contract or 2) Trane would immediately provide notice to terminate the contract.

As outlined in the report, Facilities and DAS made every attempt to enforce Trane's obligations under the contract to affect the necessary repairs to the well pump, but Trane was unresponsive.

When it was evident that Trane corporate couldn't provide the necessary repair (admittedly, they were not set up for this level of service), DAS ordered the necessary materials to make the repair.

The vendor had already admitted they cannot uphold the terms of the contract and were willing to terminate the contract themselves, so turning the matter over *"to the Director of Purchasing along with all documents for resolution which may include, but are not limited to, a recommendation to cancel the contract, suspend or disqualify the vendor"* as recommended, would not have resulted in a different outcome. In fact, in our opinion, antagonizing Trane with the vendor non-compliance process may have resulted in their termination.

Facilities was not prepared to take over the entire maintenance contract for the CEP internally; as well, the termination notice provided by Trane was not long enough to bid and procure an alternative vendor for the CEP. Therefore, the decision was made to work with Trane on the basic services they could provide while the County procured individual vendors for the de-scoped services.