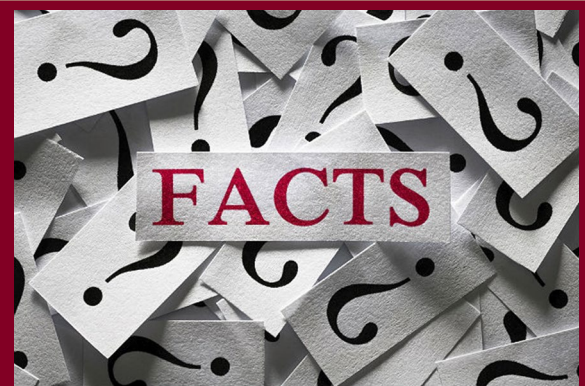




DIVISION OF INSPECTOR GENERAL
Ken Burke, CPA
Clerk of the Circuit Court and Comptroller
Pinellas County, Florida



FOLLOW-UP INVESTIGATION OF FORMER COUNTY EMPLOYEE

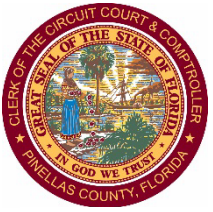


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REPORT NO. 2022-22
December 6, 2022



Ken Burke, CPA

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December 6, 2022

Joseph Lauro, Director, Department of Administrative Services

The Division of Inspector General has conducted a Follow-Up Investigation of Former County Employee. The objective of our review was to determine the implementation status of our previous recommendations. We obtained the investigative purpose, background information, findings, and recommendations from the original investigative report. We added the status of recommendation implementation to this follow-up investigative report.

Of the four recommendations contained in the original investigative report, we determined that all four have been implemented. The status of each recommendation is presented in this follow-up report.

We appreciate the cooperation shown by the staff of the Department of Administrative Services during the course of this review.

Respectfully Submitted,

Melissa Dondero
Inspector General/Chief Audit Executive

cc: The Honorable Chairman and Members of the Board of County Commissioners
Barry Burton, County Administrator
Kevin Knutson, Assistant County Administrator
Derek Weaver, Building Design & Construction Division Manager
Ken Burke, CPA, Clerk of the Circuit Court and Comptroller



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TABLE OF CONTENTS

INTRODUCTION	4
<i>Scope and Methodology</i>	4
<i>Overall Conclusion</i>	4
<i>Implementation Status Table</i>	5
<i>Background</i>	6
<i>Allegations</i>	7
<i>Investigative Activity</i>	7
INVESTIGATIVE CONCLUSIONS	8
STATUS OF RECOMMENDATIONS	12
1. <i>There Was A Perceived Conflict Of Interest Between County Staff And Contractor Staff.</i>	12
2. <i>A County-Owned Golf Cart Was Not Timely Recorded As An Asset.</i>	13
3. <i>There Are Access Control Weaknesses Related To The JOC Project Software.</i>	14

INTRODUCTION

Scope and Methodology

We conducted an investigative follow-up of a Former County Employee. The purpose of our follow-up review was to determine the status of previous recommendations for improvement.

The purpose of the original investigation was to determine if:

1. Steven Daniel falsified job order contract (JOC) records.
2. Steven Daniel received kickbacks from a JOC contractor.
3. Steven Daniel had a conflict of interest due to familial relationships with JOC contractor staff.
4. Steven Daniel misappropriated County equipment.

To determine the current status of our previous recommendations, we surveyed and/or interviewed management to determine the actual actions taken to implement recommendations for improvement. We performed limited testing to verify the implementation of the recommendations for improvement.

Our investigative follow-up was conducted in accordance with the *Principles and Standards for Offices of Inspector General* and *The Florida Inspectors General Standards Manual* from The Commission for Florida Law Enforcement Accreditation and, accordingly, included such tests of records and other investigative procedures, as we considered necessary in the circumstances. Our follow-up testing was performed during the months of August 2022 through October 2022. The original investigative period was June 29, 2020, through August 13, 2021. However, transactions and processes reviewed were not limited by the investigative period.

Overall Conclusion

Of the four recommendations in the original report, we determined that all four were implemented. We commend management for implementation of our recommendations.

Implementation Status Table

FINDING NO.	PREVIOUS RECOMMENDATION	IMPLEMENTATION STATUS				
		Implemented	Acceptable Alternative	Partially Implemented	Not Implemented	No Longer Applicable
1	<i>There Was A Perceived Conflict Of Interest Between County Staff And Contractor Staff.</i>					
	Develop a procedure for formally documenting conflicts of interest, whether in appearance or fact. The procedure should include ongoing attestations at the beginning of each project.	✓				
2	<i>A County-Owned Golf Cart Was Not Timely Recorded As An Asset.</i>					
A	Ensure assets are appropriately classified.	✓				
B	Ensure allegations of fraud, waste, and abuse are referred to the IG according to the County's fraud, waste, and abuse policy.	✓				
3	<i>There Are Access Control Weaknesses Related To The JOC Project Software.</i>					
	Create and implement a procedure for removing employees' user access from the project software upon employment termination.	✓				

Background

The Department of Administrative Services consists of the following divisions:

1. Building Design and Construction
2. Facilities and Real Property
3. Fleet Services
4. Purchasing & Risk Management

Building Design and Construction (BD&C) provides architectural, project management, and construction administration services to Pinellas County (County) departments, agencies, and constitutional officers for vertical construction and renovation projects. BD&C uses several construction delivery methods, including job order contracting (JOC), which was created by Gordian, a facility and construction cost data provider. Per Gordian, JOC can be described as follows:

“Job Order Contracting is a unique, indefinite delivery, indefinite quantity (IDIQ) procurement process that helps facility and infrastructure owners complete a large number of repair, maintenance, renovation and straightforward new construction projects with a single, competitively awarded contract. Unlike traditional bidding where each project is identified, designed and then put out to bid, Job Order Contracting establishes competitively-bid prices up front and eliminates the need to separately bid each project.”

The County currently has a job order contract with five firms:

- Caladesi Construction Company
- GEC Associates, Inc.
- Gibraltar Construction Company, Inc.
- J.O. DeLotto & Sons, Inc.
- New Vista Builders Group LLC

Each of the five firms has an open purchase order for \$4 million. The County recently provided an increase of \$1.5 million to each contractor except GEC Associates, Inc. (GEC), as the company is planning to dissolve.

Allegations

The Division of Inspector General initiated an investigation after receiving a complaint from County management. The complaint alleged that Steven Daniel, prior Construction Administrator:

- Falsified JOC records.
- Received kickbacks from a JOC contractor.
- Had a conflict of interest due to familial relationships with JOC contractor staff.
- Misappropriated County equipment.

Investigative Activity

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

- Reviewed County and Administrative Services policies
- Interviewed current and former County staff from Finance, HR, OMB, and Administrative Services
- Interviewed contractor staff
- Reviewed and analyzed JOC documents and invoices, County emails, HR records, SunBiz records, and property records
- Reviewed and analyzed reports from the Pinellas County Sheriff's Office (PCSO) and LexisNexis

We were unable to interview Mr. Daniel as he did not respond to our requests for an interview.

INVESTIGATIVE CONCLUSIONS

The Division of Inspector General uses 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.

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

1. The complaint alleged Mr. Daniel falsified JOC records. We performed the following:

- Reviewed contract documents
- Interviewed current and former Administrative Services staff
- Interviewed contractor staff

County management referred this complaint to our office after Mr. Daniel indicated in an exit interview upon his resignation that the JOC program did not provide sufficient profit for contractors and therefore, project proposals were overstated. We obtained access to eGordian; the software Gordian provided to the County for tracking JOC projects.

We reviewed all five JOC contractors in eGordian and isolated the projects Mr. Daniel managed under the current contract, which totaled 25. We isolated from the list four of the highest dollar amount projects and corresponding change orders. We provided the list to Administrative Services management to review to determine if there were any issues with the jobs. Management indicated the jobs were reasonably documented. We interviewed contractor staff to determine if there were concerns with earning profit and staff indicated there were none.

Our investigation of the allegation determined it was **unfounded**.

2. The complaint alleged Mr. Daniel received kickbacks from a JOC contractor. Since this allegation was directly related to the results of allegation 1, we did not obtain credible evidence to support the allegation. Our investigation of the allegation determined it was **unfounded**.

3. The complaint alleged Mr. Daniel's familial relationship with a JOC contractor employee may have created a conflict of interest for the County. We performed the following:

- Reviewed County and Administrative Services policies
- Reviewed contract documents
- Interviewed Administrative Services management
- Interviewed contractor staff
- Interviewed HR staff

During an interview with the former Director of Real Estate Management (REM – a former County department in which Mr. Daniel worked and that has since merged with Administrative Services), they indicated Mr. Daniel's father worked for GEC, and had for many years. The familial relationship was known to management since approximately 2009 when the father and son worked on a project together. When Administrative Services merged with REM, the new director became aware of the relationship and reported it to the IG as a concern.

We interviewed GEC management to determine the dates Mr. Daniel's father was employed and which projects he worked on. We compared the dates and projects to the projects Mr. Daniel managed for the County. The list included three projects that the father and son worked on together. Contractor management indicated the list may not be comprehensive as they did not have all of their historical records available.

We noted the County's Ethics Statement indicates employees must disclose or report any actual or perceived conflicts of interest. We interviewed Human Resources (HR) staff to determine how and when the conflict must be reported. HR staff indicated that since each County department performs different functions, departments should implement policies that address conflicts or potential conflicts according to their standard practices. Administrative Services management indicated they do not have a specific policy regarding disclosing conflicts of interest.

Our investigation of the allegation determined it was **substantiated**.

4. The complaint alleged Mr. Daniel misappropriated County equipment. We performed the following:

- Interviewed current and former County staff from Finance, HR, and Administrative Services
- Interviewed contractor staff
- Reviewed and analyzed JOC documents and invoices, County emails, HR records, SunBiz records, and property records
- Reviewed and analyzed reports from the PCSO and LexisNexis

County management reported that Mr. Daniel had stolen a golf cart that belonged to the County, which led to an internal investigation followed by a referral and subsequent investigation by the PCSO. The investigation resulted in Mr. Daniel resigning from his position with the County on June 2, 2020. Mr. Daniel was arrested by the PCSO for grand theft auto on June 9, 2020. After his resignation, Mr. Daniel turned in a drone and two-way radios, which the department was not aware he had. In addition, Mr. Daniel had been disciplined in 2018 for taking his County vehicle to one of his rental properties to transport items. Mr. Daniel reported during his exit interview

that he had 12 rental properties. County management was concerned Mr. Daniel may have misappropriated other materials from the County for possible use at his rental properties.

Golf Cart

The golf cart was an asset used during a project at the Pinellas County Jail Campus (Infrastructure Phase 2). As part of the contract, the contractor purchased and used the golf cart during the project, and when the project was completed, transferred the golf cart to the County. A letter documenting the transfer of the golf cart from the contractor to the County was signed by Mr. Daniel and a former County employee that worked with Mr. Daniel. Both individuals signed the transfer letter on May 29, 2019. A REM manager that was aware of the golf cart asked Mr. Daniel about the golf cart shortly before his resignation. Mr. Daniel's answers were not clear, and therefore, the manager reported the situation to department management.

Administrative Services management conducted an internal investigation and met with Mr. Daniel on June 1, 2020. Mr. Daniel initially indicated the golf cart was not a County asset, and that he had taken it to a repair shop that did not charge Mr. Daniel as a personal favor to Mr. Daniel and the County. Mr. Daniel indicated he was unaware the golf cart belonged to the County and was not properly recorded in inventory. After the meeting, Administrative Services management learned Mr. Daniel had signed the letter transferring ownership of the golf cart. Management also called the repair shop and was told Mr. Daniel used personal funds to pay for the repairs.

Management planned to interview Mr. Daniel again, but Mr. Daniel resigned on June 2, 2020, before there was an opportunity to do so. On June 5, 2020, Administrative Services reported the theft to the PCSO for investigation. After the PCSO investigated the incident, they arrested Mr. Daniel for grand theft on June 9, 2020.

We interviewed Finance to determine when the golf cart should have been recorded as an asset. Finance management indicated the proper time for asset recording is when the County pays the contractor for the asset. Therefore, when the County paid the invoice during the project which listed the golf cart, steps should have been taken to record the asset. Administrative Services management began the asset recording process after they learned of the theft of the golf cart and regained possession of it.

Drone/Two-Way Radios

During an interview with Mr. Daniel on June 1, 2020, Mr. Daniel disclosed to Administrative Services management that he had a drone in his County vehicle and turned it in. The drone had been purchased during the Public Safety Complex project but was never recorded as an asset. Within a couple of weeks of the interview, Mr. Daniel brought two-way radios he had acquired from various contractors during construction projects to the REM office.

The threshold for recording assets is \$1,000. Items with a value less than \$1,000 should be tracked internally by the department, but do not need to be recorded with Finance as an asset. We performed market research and determined the drone had an estimated value of \$1,700.

Finance indicated they are in the process of changing the asset threshold from \$1,000 to \$5,000 and therefore, did not recommend recording it as an asset. We interviewed Administrative Services staff to determine the value of the radios. Staff indicated the value was approximately \$600. Therefore, the radios did not need to be recorded as assets.

Rental Properties

Since Mr. Daniel indicated to Administrative Services management that he owned several rental properties and there was a concern he may have misappropriated materials for personal use at his rental properties, we reviewed several records to determine how many rental properties he may own. A search of LexisNexis and Pinellas, Pasco, and Hillsborough property records did not reveal any properties listed in Mr. Daniel's name, other than the address he has listed as his home address in County employment records.

We also reviewed Sunbiz records and noted no businesses registered with the Florida Division of Corporations by Mr. Daniel. Likewise, Mr. Daniel was not listed as an officer or registered agent for any business on the Sunbiz website. It is possible the rental properties are held in a trust, which would protect the name of the owner from our search.

Our investigation of the allegation determined it was **substantiated**.

STATUS OF RECOMMENDATIONS

This section reports our investigative follow-up on actions taken by management on the recommendations for improvement in our original investigative report of the Former County Employee. The recommendations contained herein are those of the original investigative report, followed by the current status of the recommendations.

1. There Was A Perceived Conflict Of Interest Between County Staff And Contractor Staff.

The respondent, Steven Daniel, was a Construction Administrator, serving as a project manager for the County from January 5, 2009, through June 2, 2020. His father, James Daniel, worked for GEC Associates, Inc., during this time frame. We verified Mr. Daniel and his father worked on three projects together. While County management was aware of the father's employment, and had been since approximately 2009, the potential conflict was not formally documented. In addition, repeated assessments were not completed at the start of each project.

The Pinellas County Statement of Ethics states employees of the County will “*Disclose or report any actual or perceived conflicts of interest.*” A conflict of interest occurs when an individual has two competing interests. Even if an individual does not intend to take advantage of their position, the perception of a conflict can create enough doubt to compromise the public's trust. The Statement of Ethics requires a disclosure of any actual or perceived conflict. Departments should create specific guidelines for disclosure related to department-specific activities. Since Administrative Services staff work with many contractors on various County projects, the specific procedures should include a requirement to assess potential conflicts of interest at the beginning of each project.

Department management did not formally document the potential conflict of interest or assess it on an ongoing basis. The department did not have a specific policy for documenting disclosures. The potential perceived conflict of interest may give the impression of inappropriate relationships between a County employee in a position of authority and a company contracted by the County.

We Recommended Management:

Develop a procedure for formally documenting conflicts of interest, whether in appearance or fact. The procedure should include ongoing attestations at the beginning of each project.

Management Response:

Management Concur. Management will develop a procedure/disclosure to document a potential conflict which includes an honest and open dialogue with project managers and training as to what constitutes a “conflict” either real or perceived. In this specific instance pertaining to former employee Steven Daniel, management knew of this conflict for quite some time and nothing was done to remedy the conflict. Regardless of procedure/disclosure in place, management must play the role of “honest broker” and stop/prevent such an obvious conflict from occurring.

Status:

Implemented. Department management implemented the use of Administrative Directive 2-14, “Conflict of Interest Disclosure Requirement.” The conflict of interest statement is signed by each employee and kept on file.

2. A County-Owned Golf Cart Was Not Timely Recorded As An Asset.

During a project at the Pinellas County Jail Campus, a golf cart was purchased by a contractor and part of the contract required the golf cart be transferred to the County at the end of the project. The contractor documented the transfer and as the Construction Administrator, Mr. Daniel signed the transfer document to indicate it was received. Mr. Daniel did not appropriately classify the item as an asset when it was paid or upon transfer of the asset to the County.

Per the Clerk of the Circuit Court and Comptroller’s Finance Division, the project manager (Mr. Daniel) or designee should record assets when the County reimburses the contractor for the items. The golf cart would have been listed on one of the invoices the County received.

Mr. Daniel did not appropriately record the asset when it was paid for. Mr. Daniel was able to steal the golf cart in part because it was not being tracked. Mr. Daniel’s supervisor happened to recall that there was a golf cart assigned to the project and inquired with Mr. Daniel about where it was, which resulted in REM conducting an internal investigation and determining that Mr. Daniel stole the golf cart.

REM referred the matter to the PCSO after performing an internal investigation. PCSO charged and arrested Mr. Daniel with the theft of the golf cart.

In addition, the County's Fraud, Waste, and Abuse policy states:

“A supervisor or higher authority receiving a fraud allegation should:

- a. Compile all information related by the reporting individual.*

- b. *Contact the Division of Inspector General with all compiled information.*
- c. *Cooperate with the investigative process.”*

In the future, the IG should be made aware of the allegations when known.

We Recommended Management:

- A. Ensure assets are appropriately classified.
- B. Ensure allegations of fraud, waste, and abuse are referred to the IG according to the County’s fraud, waste, and abuse policy.

Management Response:

Management Concurs. Management will ensure all assets are recorded as required. Typically, County assets are recorded and classified; this is part of the process developed years ago between the BCC Purchasing Division and Clerk of Court Finance. Steven Daniel purposely did not record this asset as he intended to keep the asset for personal gain. All future allegations of fraud, waste, and abuse will be first referred to the Inspector General’s office as per policy; in this instance, the Sheriff’s office was notified first.

Status:

- A. Implemented.** Assets are recorded in accordance with policies administered by the Office of Management & Budget.
- B. Implemented.** Department management reported allegations of fraud, waste, and abuse to the IG in accordance with County policy.

3. There Are Access Control Weaknesses Related To The JOC Project Software.

While reviewing eGordian, the job order contracting software, we noted Mr. Daniel was still listed as a user in the system. Upon our inquiry, REM contacted eGordian to remove the user’s access. Mr. Daniel terminated employment with the County on June 2, 2020, and was removed from eGordian on July 22, 2020. At that time, REM performed a review of all current users and determined an additional six users should have been removed as they no longer worked for the County. We verified that all six users had not accessed the system since their termination dates.

In order to control who has access to various systems the County uses, it is important to have a mechanism for removing terminated employees’ access. REM did not have a formal procedure

in place for removing users' eGordian access upon employment termination. In this instance, eGordian staff confirmed Mr. Daniel had not logged into the system since prior to terminating employment with the County. However, terminated individuals with malicious intentions could access the system and make changes to contract information.

We Recommended Management:

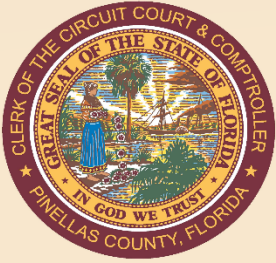
Create and implement a procedure for removing employees' user access from the project software upon employment termination.

Management Response:

Management Concur. Management has removed all former employees from access to the JOC software and in addition, will ensure in the future, all former employees who had access are removed from the JOC software upon termination from County employment.

Status:

Implemented. Department management coordinates with the eGordian representative to remove access to eGordian when an employee separates employment from the County. Department management also conducts periodic audits of eGordian user access to ensure former employees do not have access.



DIVISION OF INSPECTOR GENERAL

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