TO: The Honorable Chairman and Members of the Board of County Commissioners

FROM: Ken Burke, CPA
Clerk of the Circuit Court
Ex Officio County Auditor

SUBJECT: Follow-Up Audit of the Construction Licensing Board

DATE: September 15, 2011

For your review and filing in the Official Records, I am enclosing a copy of the follow-up audit dated September 15, 2011 on the above-referenced audit.

I hope you find this report helpful in ensuring Pinellas County government provides the best possible service to our citizens.

cc: Robert S. LaSala, County Administrator
Jim Bennett, County Attorney
Rodney S. Fischer, Executive Director, Construction Licensing Board
Claretha N. Harris, Chief Deputy Director, Finance Division
Ernst & Young
FOLLOW – UP AUDIT OF THE CONSTRUCTION LICENSING BOARD

Audit Services
Division of Inspector General

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Clerk of the Circuit Court
Ex Officio County Auditor

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SEPTEMBER 15, 2011
REPORT NO. 2011-11

*Regulated by the State of Florida
**Accredited Office of Inspector General
By the Commission of Florida Law Enforcement Accreditation
September 15, 2011

The Honorable Chairman and Members
of the Board of County Commissioners

We have conducted a Follow-Up Audit of the Construction Licensing Board. The objectives of our review were to determine the implementation status of our previous recommendations.

Of the three recommendations contained in the audit report, we determined that one has been partially implemented and two have not been implemented. The status of each recommendation is presented in this follow-up review.

We appreciate the cooperation shown by the staff of the Construction Licensing Board during the course of this review.

Respectfully Submitted,

Hector Collazo, Jr., Director
Division of Inspector General

Approved:

Ken Burke, CPA*
Clerk of the Circuit Court
Ex Officio County Auditor

*Regulated by the State of Florida
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INTRODUCTION

Scope and Methodology

We conducted a follow-up audit of the Construction Licensing Board. The purpose of our follow-up review is to determine the status of previous recommendations for improvement.

The purpose of the original audit was to:

1) Determine whether internal controls of cash receipts and licenses are adequate.
2) Determine whether internal controls of the evaluation process of license applicants’ qualifications are adequate.
3) Determine whether the fees and fines are reasonable and adequate.
4) Determine whether the enforcement process adequately protects the public.

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 process of the recommendations for improvement.

Our follow-up audit was conducted in accordance with the International Standards for the Professional Practice of Internal Auditing and the Standards for Offices of Inspector General, and, accordingly, included such tests of records and other auditing procedures, as we considered necessary in the circumstances. Our follow-up testing was performed during the month of June 2011. The original audit period was October 1, 2006 through June 30, 2008. However, transactions and processes reviewed were not limited by the audit period.

Overall Conclusion

Of the three recommendations in the report, we determined that one was partially implemented and two were not implemented. We encourage management to fully implement the remaining two recommendations.
### Status

<table>
<thead>
<tr>
<th>FINDING NUMBER</th>
<th>PREVIOUS RECOMMENDATION</th>
<th>IMPLEMENTATION STATUS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>The PCCLB Should Expand Their Efforts To Educate And Inform The Public.</strong></td>
<td>Implemented</td>
</tr>
<tr>
<td>1</td>
<td>Management consider the education of the public regarding the risks of using unlicensed contractors, and the need for written agreements with licensed contractors, as part of the PCCLB contractor regulation function. Management should consider the uncommitted funds being returned to the County as a possible funding source for the education program. (See Opportunity for Improvement No. 2).</td>
<td>✓</td>
</tr>
<tr>
<td></td>
<td><strong>PCCLB Funds Are Being Transferred To The County’s General Fund When They Should Remain With The PCCLB To Benefit The Consumers Of Pinellas County.</strong></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>The PCCLB work with the County to discontinue the practice of transferring PCCLB funds to the County’s General Fund and allow the PCCLB to commit $50,000 to other areas that will benefit the general public and licensed contractor industry in Pinellas County.</td>
<td>✓</td>
</tr>
<tr>
<td></td>
<td><strong>Advertisements Of Construction And Home Improvement Firms Contained Contractor Licensing-Related Problems That Could Adversely Affect Consumers Use Of The Contractors.</strong></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>PCCLB management continue its investigation and enforcement activities as it relates to contractor advertising in newspapers. However, based on the number of advertisements presented in so many different types of communications, the best prevention is education of the Pinellas County consumer related to doing business with contractors.</td>
<td>✓</td>
</tr>
</tbody>
</table>
Background

The Pinellas County Construction Licensing Board (PCCLB) was created in 1973 by a Special Act of the Florida Legislature to regulate the construction industry in Pinellas County. Since the Board was created by an Act of the Legislature, it operates as a separate and autonomous policy-making body. A function of the PCCLB is to regulate certain construction and home improvement contractors practicing in all Pinellas jurisdictions. In addition, the PCCLB adopts and amends the family of building codes for application and enforcement countywide to provide safe, economic, and sound buildings and structures throughout Pinellas County.

The Construction Licensing Board regulates the construction and home improvement industry in Pinellas County through uniform contractor competency licensing, code adoption and code interpretations. There are twenty-one members on the Construction Licensing Board. The Building Directors of Pinellas County, and the Cities of Clearwater and St. Petersburg, are permanent members. The remaining eighteen members are appointed by the Board of County Commissioners to serve two year terms. Fiscal Year 2008 budgeted revenue and expenditures is $1,709,510, with eleven total permanent positions. The PCCLB is funded and operates solely upon revenue derived from license fees and fines paid by contractors. The Board is authorized to establish reasonable fees for certification, registration, examination, hearings and any fees deemed necessary to accomplish the purpose of this division. Any funds received by the PCCLB from fees which remain uncommitted and unexpended at the end of each biennium shall be paid into the County General Revenue Fund. The total number of active licenses on file at the PCCLB as of July 31, 2008 was 8,944, as follows:

<table>
<thead>
<tr>
<th>TYPE OF ACTIVE LICENSES</th>
<th>No. of Licenses</th>
</tr>
</thead>
<tbody>
<tr>
<td>State certified contractors registered to operate in Pinellas County</td>
<td>5,216</td>
</tr>
<tr>
<td>Pinellas County certified contractors</td>
<td>2,492</td>
</tr>
<tr>
<td>Pinellas County certified Journeymen (certified to do manual work, but not certified to operate as a contractor)</td>
<td>1,236</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>8,944</strong></td>
</tr>
</tbody>
</table>
STATUS OF RECOMMENDATIONS

This section reports our follow-up on actions taken by management on the Recommendations for Improvement in our original audit of the Construction Licensing Board. The recommendations contained herein are those of the original audit, followed by the current status of the recommendations.

1. The PCCLB Should Expand Their Efforts To Educate And Inform The Public.

The PCCLB does not have a formal program for educating the consumer on the risks of using unlicensed contractors, as well as a need for written detailed contracts with contractors. Consumer education is not a requirement of PCCLB, or a formal objective for the current operations. Management stated that they have spoken to civic or neighborhood organizations about the risks of using unlicensed contractors, as well as the lack of written documents related to their construction and home improvement projects. In addition, there had been some articles in the newspaper and local weekly newspapers displayed a consumer’s warning in the classified section to always use licensed contractors. All of the examples given to us by management for educating/warning the public were occasional or sporadic, and generally to very limited audiences.

The PCCLB website states that, "The function of the Pinellas County Construction Licensing Board is to regulate certain construction and home improvement contractors practicing in all Pinellas jurisdictions." Proactive, ongoing education for the public regarding the risks of using unlicensed contractors, or of not obtaining written agreements with licensed contractors, should be considered part of the PCCLB regulation function. In addition to the benefits of helping protect the consumers, this education should assist the PCCLB in overseeing the contractors; especially those that are unlicensed.

PCCLB management stated that not having a more formal ongoing proactive educational warning program in place for the public was a result of lack of agency funds for advertising. All Pinellas County licensed contractors have taken competency tests, completed background screening, and are required to take continuing education to maintain their licenses. Licensees must provide proof of having sufficient current Liability and Worker's Comprehensive insurance coverage. Consumers who utilize an unlicensed contractor run the risk of hiring someone who is not competent for that particular project, who might not have successfully passed a background test, and/or who might not have adequate insurance. Potential effects include the consumer eventually having to spend substantial amounts of additional money for a licensed contractor to remedy and complete a project that had been started by an unlicensed contractor. The public could run the risk of the unlicensed contractor’s work not passing County Code inspections. Also, a property owner could potentially be held legally liable if an unlicensed contractor with no insurance gets hurt working on his property. If the property owner does not get bids, cost estimates, work agreements and change orders documented in writing, the property owner does not have the information documented to resolve any potential
disputes. The current education program is not adequate to be a positive action to support the licensed contractors' business in Pinellas County, which is being adversely affected by unlicensed contractors' work.

**Recommendation:**

Management consider the education of the public regarding the risks of using unlicensed contractors, and the need for written agreements with licensed contractors, as part of the PCCLB contractor regulation function. Management should consider the uncommitted funds being returned to the County as a possible funding source for the education program. (See Opportunity for Improvement No. 2).

**Status:**

**Partially Implemented.**

The PCCLB is an independent Special District created by the State Legislature. The PCCLB is self-supporting and derives no funding from taxes and is therefore limited on funds available for expansion of consumer education. The PCCLB staff has pursued increased public awareness and expanded speaking engagement when possible. PCCLB regularly speaks to:

- Construction trade associations,
- Homeowner associations,
- Civic groups, and
- Business groups.

Creating a marketing effort beyond the PCCLB investigative functions would take funding, and take limited personnel away from their current duties. Without a more formal ongoing proactive educational warning program in place for the public, the risk is still present that uneducated consumers may utilize unlicensed contractors.

### 2. PCCLB Funds Are Being Transferred To The County’s General Fund When They Should Remain With The PCCLB To Benefit The Consumers Of Pinellas County.

PCCLB revenue is being transferred to the County General Fund as "Uncommitted" as a standard procedure without adequate written authority. Transfers averaging $50,000 per year, or about 5% of the PCCLB total annual revenues, are made from the PCCLB funds to the County's General Fund. These transfers are made by the County's Office of Management and Budget (OMB) department based on its interpretation of County Code, Section 26, Subsection 126, page 9, which states that, "Any funds received by the (PCCLB) board from fees which remain uncommitted and unexpended at the end of each biennium shall be paid into the county general revenue fund." This PCCLB fund transfer amount is budgeted, and therefore, is not available for PCCLB use in their operations. PCCLB management stated, with the current
process, these funds could be made available for their usage if special permission is obtained due to a funding emergency. Since the PCCLB is self-funded through their fee and fine revenues, the County's requirement imposed through the budget to transfer PCCLB funds to the County is not proper.

The funds being transferred from the PCCLB to the County's General Fund are about 5% of the revenue generated from PCCLB fees and fines. The funds do not represent County funds given to the PCCLB at one time that were never expended or committed, and are now being returned to the County. The County does not fund the PCCLB. The PCCLB was created in 1973 by a Special Act of the Florida Legislature to regulate the construction industry in Pinellas County. Since the Board was created by an Act of the Legislature, it operates as a separate and autonomous policy-making body. The PCCLB is funded and operates solely upon revenue derived from license fees and fines paid by contractors. The PCCLB Board is authorized to establish reasonable fees for certification, registration, examination, hearings and any fees deemed necessary to accomplish the purpose of this division. Also, the PCCLB is charged by the County and pays for all services rendered to the PCCLB.

The funds transferred to the County are viewed as uncommitted by the County's OMB prior to the start of the fiscal year. Therefore, they are viewed by the PCCLB as "committed" in their budget; to be transferred to the County's General Fund. Therefore, they go unexpended by the PCCLB.

The PCCLB is missing the opportunity to utilize $50,000, or approximately 5%, of their revenues each year to expand their investigative services, or to increase the public's awareness of the risks of using unlicensed contractors because these funds are being transferred to the County. This effect is compounded because the PCCLB does not have any contingency reserves of their funds.

Recommendation:

The PCCLB work with the County to discontinue the practice of transferring PCCLB funds to the County's General Fund and allow the PCCLB to commit $50,000 to other areas that will benefit the general public and licensed contractor industry in Pinellas County.

Status:

Not Implemented.

Management disagrees with diverting funds from the PCCLB and transferring them to the County particularly given that this diversion is in addition to payment for services the County provides under the existing inter-local agreement. However, the transfer of funds is a condition of the Inter-local Agreement between the PCCLB and Pinellas County and would necessitate an agreement on the part of the County which has not been pursued. The risk is still present that the PCCLB does not have the opportunity to utilize approximately 5% of their revenues each year to expand services or keep in reserves for unforeseen expenses. We continue to encourage management to implement our recommendation.
3. Advertisements Of Construction And Home Improvement Firms Contained Contractor Licensing-Related Problems That Could Adversely Affect Consumers Use Of The Contractors.

Twenty-five percent of the advertisements of construction and home improvement firms contained contractor licensing-related problems. We reviewed 112 advertisements for professional services that appeared in some of the small local newspapers and coupon books to determine if the contractors are properly licensed.

We determined that 28, or 25%, of the 112 advertisements we had reviewed represented one of the following problems:

<table>
<thead>
<tr>
<th>PROBLEM</th>
<th>NUMBER OF ADS</th>
</tr>
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<tbody>
<tr>
<td>No license number shown in the ad, and the firm could not be found in the PCCLB website files via a name search.</td>
<td>11</td>
</tr>
<tr>
<td>A license number was shown in the ad, but neither the license nor the firm name could be found via PCCLB website searches.</td>
<td>8</td>
</tr>
<tr>
<td>A license number was shown in the ad, but a different contractor name for that license was found in the PCCLB website files.</td>
<td>5</td>
</tr>
<tr>
<td>A license number was shown in the ad, but a different license number was found in the PCCLB website files via a name search.</td>
<td>2</td>
</tr>
<tr>
<td>No license number shown in the ad, but the firm and its license was found via a PCCLB website search via a name search.</td>
<td>2</td>
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There is a limited process in place to protect the public from consumer advertisements for construction and home improvement contractors not properly presenting their services and being properly licensed in the construction area being offered.

The effect of having a substantial portion of the advertisements for construction and home improvement firms representing some type of license problem is that the public cannot rely on the advertisements to determine if a firm is properly licensed to conduct business in the County. Our review indicated that unlicensed contractors may be advertising to the public.
Recommendation:

PCCLB management continue its investigation and enforcement activities as it relates to contractor advertising in newspapers. However, based on the number of advertisements presented in so many different types of communications, the best prevention is education of the Pinellas County consumer related to doing business with contractors.

Status:

Not Implemented.

The PCCLB does not have the funds to start an advertising campaign for construction related problems that adversely affect consumers. The risk is still present that construction and home improvement contractors are improperly advertising license information and uneducated consumers may be relying on this erroneous information. We continue to encourage management to implement our recommendation.
DIVISION OF INSPECTOR GENERAL

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PINELLAS COUNTY, FLORIDA

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