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INVESTIGATIVE FOLLOW-UP OF POTENTIAL CONFLICT OF INTEREST OF A MEMBER OF THE LOCAL COORDINATING BOARD OF THE MPO

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MAY 1, 2013
REPORT NO. 2013-14
TO: Metropolitan Planning Organization Board of Directors
Board of Directors, Local Coordinating Board, Metropolitan Planning Organization
Larry Arrington, Director, Strategic Planning and Initiatives Department

FROM: Hector Collazo, Jr., Director
Division of Inspector General

DIST: Ken Burke, Clerk of the Circuit Court and Comptroller
The Honorable Chairman and Members of the Board of County Commissioners
James L. Bennett, County Attorney

SUBJECT: Investigative Follow-Up of Potential Conflict of Interest of a Member of the Local Coordinating Board of the Metropolitan Planning Organization (MPO)

DATE: May 1, 2013

We have conducted an Investigative Follow-Up of the Potential Conflict of Interest of a Member of the Local Coordinating Board of the Metropolitan Planning Organization (MPO). The objectives of our follow-up were to determine the implementation status of our previous recommendations.

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

We appreciate the cooperation shown by the staff of the Pinellas County Planning Department during the course of this follow-up.
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INTRODUCTION

Scope and Methodology

We conducted an investigative follow-up of the Potential Conflict of Interest of a Member of the Local Coordinating Board (LCB) of the Metropolitan Planning Organization (MPO). The purpose of our follow-up is to determine the status of previous recommendations for improvement.

The purpose of the original investigation was to determine the validity of the allegations received from the Inspector General (IG) hotline complaint that:

- Mr. Doug Towne has a conflict of interest as a citizen member of the LCB, which regularly makes recommendations and votes on proposals related to Transportation Disadvantaged providers, because he receives compensation from some of these same providers, as well as from the firm hired to manage this program, for consulting services and solicits from the other providers.
- Mr. Towne tells these transportation providers that they would get favorable LCB treatment from him if they utilize some of his business services.
- Two transportation providers, Care Ride and Clearwater Yellow Cab, had complained to him that they are solicited by Mr. Towne on an ongoing basis to utilize his consulting services.

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 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 auditing procedures, as we considered necessary in the circumstances. Our follow-up testing was performed during the month of March 2013. The original investigative period was January 1, 2010 through October 31, 2011. However, transactions and processes reviewed were not limited by the investigative period.
Overall Conclusion

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

Background

The Pinellas County Metropolitan Planning Organization (MPO) was established in 1977 following the passage of the Federal Highway Act of 1974. The task of the MPO is to develop plans, policies, and priorities that guide local decision-making on transportation issues. The Pinellas County MPO is governed by an 11-member board of elected officials representing:

- Municipal governments
- Pinellas County Board of County Commissioners
- Pinellas Suncoast Transit Authority (PSTA)
- Florida Department of Transportation (FDOT) District 7 Office is represented on the Board by the District Secretary who is a non-voting member

The MPO has ten advisory committees and the members provide input to the MPO to help identify and address transportation planning issues. To achieve a broad representation of ideas and perspectives, members are drawn from three categories:

- Citizens
- Professionals (technical, social service, law enforcement, municipal agencies, etc.)
- Policy (elected officials)
One of the MPO’s ten advisory committees relates to the fact that the MPO has been designated as the Community Transportation Coordinator pursuant to Chapter 427 of the Florida Statutes to serve the Transportation Disadvantaged (TD). The Transportation Disadvantaged are residents, who because of physical or mental disability, income status, or age, are unable to transport themselves or purchase transportation. The MPO has been subcontracting the administration of this function for almost 20 years to Greater Pinellas Transportation Management Services (GPTMS). GPTMS is currently paid a $38,172 monthly fee or $458,064 annually, to coordinate the delivery of Transportation Disadvantaged clients program services (bus, taxicab, and wheelchair vans) from service Providers valued at $3,644,814 in Fiscal Year 2009.

The current GPTMS Management Entity contract expired June 30, 2011. The LCB had decided in early 2011 to split the two responsibilities of the GPTMS: 1) providing Medicaid NET Services, and 2) managing the Transportation Disadvantaged (TD) Program. The Transportation Disadvantaged (TD) Program would be absorbed by the PSTA. On March 4, 2011, the MPO issued a Request for Proposal (RFP) for a single entity to provide Medicaid NET Services for Pinellas County. Four proposals were received, with the top two scored as 88.90 points and the second as 88.20. The third rating was 83.14 and the fourth 46.68. The number two rated firm complained that: 1) their proposal was $1,000,000 less costly than the number one firm and that these savings were not taken into account in the rankings, and 2) two board members of the LCB represented a conflict of interest in regards to this matter. Although these two LCB board members recused themselves from the actual vote (Mr. Towne was one of these two board members identified), they both apparently participated in the discussions leading up to the voting. Some MPO board members stated on June 8, 2011 that they felt that the two LCB board members’ participation in the discussions "cast a cloud" over the committee’s recommendation. Therefore, the MPO did not award the contract at that time to the number one rated firm.

The Local Coordinating Board (LCB) of the MPO is established pursuant to Rule 41-2, F.A.C. as the policy and oversight board for the MPO Transportation Disadvantaged Program. There are 15 members representing:

- Private and non-profit transportation providers
- PSTA
- Social service agencies
- Pinellas County School Board
- Private citizens

The purpose of the LCB is to develop local service needs and to provide information, advice, and direction to the community transportation coordinators on the coordination of services to be provided to the transportation disadvantaged. The members of each board are appointed by the MPO.
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. The recommendations contained herein are those of the investigative report, followed by the current status of the recommendations.

The Risk Of A Conflict Of Interest Exists On The Local Coordinating Board Of The Metropolitan Planning Organization.

Mr. Doug Towne, Vice Chairman of the Local Coordinating Board (LCB), receives compensation from providers for the Transportation Disadvantaged (TD) residents, as well as from the Greater Pinellas Transportation Management Services (GPTMS), the firm that the Metropolitan Planning Organization (MPO) has utilized for almost twenty years to manage the Pinellas TD Program. He also solicits all the TD providers for the sale of his firm’s consulting services. While Mr. Towne may recuse himself from some LCB votes, he participates in the discussions leading to those votes. The purpose of the LCB is to develop local service needs and to provide information, advice, and direction to these same community transportation coordinators for GPTMS and providers on the coordination of services to be provided to the transportation disadvantaged residents. Compounding the risk of a conflict of interest is the fact that the MPO staff and the LCB are not complying with the requirements noted on the State’s Form 8B "Memorandum of Voting Conflict for County, Municipal, And Other Local Public Officers."

We reviewed the November 30, 2010 published minutes of the LCB and noted that a Form 8B "Memorandum of Voting Conflict for County, Municipal, And Other Local Public Officers." for Mr. Doug Towne was attached as the last two pages of the minutes. We noted that the second page of the form states, "The form must be read publicly at the next meeting after the form is filed." We examined the minutes of the following meeting on January 18, 2011, but they did not indicate any public reading of the November 30, 2010 Form 8B.

On February 24, 2011, we contacted Sarah Ward, MPO Planning Manager, to ask if all members of the LCB are required to sign annual statements of having "No Conflicts Of Interest." She answered, "No," only when conflicts arise.

On March 3, 2011, in the MPO Secretary's email to the Division of Inspector General (IG) regarding Mr. Towne, she stated:

- "I am doing the January LCB Minutes at this time and noticed that he abstained from voting on at least one item so there will be a form for the January minutes."
Status of Recommendations
Investigative Follow-Up of Potential Conflict of Interest of a
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- “In December 2010, he indicated that he is under contract with GPTMS, Quality of Life Community Services, and United Taxi. He said that United Taxi was for sensitivity training and he is Vice President of Government Relations for Quality of Life Community Services and has provided inputs on grants, training and RFP responses to GPTMS.”

IG questions why Mr. Towne’s Form 8B was not completed at the time of the January 18, 2011 meeting, and still had not been received by the MPO Secretary by March 3, 2011. We also question how Mr. Towne could possibly serve as the Vice President of Governmental Relations of the Quality of Life Community Services firm while serving on the Board of the LCB.

On March 11, 2011, we contacted the MPO/LCB Secretary to determine if any other Form 8Bs were filed by Mr. Towne during the calendar year 2010, and if she would provide us with those copies, as well as any in 2011, of the conflict of interest statements. The dates and respective reasons noted were as follows:

- May 18, 2010 LCB meeting:
  - No organizations were noted
- November 30, 2010 LCB meeting:
  - United Taxi GPTMS
- January 18, 2011 LCB meeting:
  - Quality of Life Services
- January 18, 2011 LCB meeting:
  - United Taxi
  - GPTMS
- April 19, 2011 LCB Meeting:
  - United Taxi

GPTMS is the firm the MPO has hired to manage the Transportation Disadvantaged (TD) program, and United Taxi is one of the limited number of providers of service for the TD program. These firms have been noted on two of the four Form 8B memorandums filed by Mr. Towne. One of the owners of United Taxi is also an owner of GPTMS.

On March 11, 2011, we met with Doug Johnson, Administrator of Care Ride, one of the two firms identified by the Complainant, Mr. Johnson, who stated he:

- Has not noticed the copies of Form 8B when they are attached to the end of LCB meeting minutes.
- Stated that Mr. Towne has solicited business for his firm from Care Ride while Mr. Towne was a LCB member.
- Did not know if Mr. Towne ever signed a Form 8B related to these solicitations.
- Did not feel that Mr. Towne stated or implied that his position on the LCB could have an effect on LCB decisions regarding his firm.
On March 15, 2011, we met with Mike Dean, Vice President and General Manager of Clearwater Yellow Cab, the other firm mentioned by the Complainant, Mr. Dean, who stated he:

- Has not noticed the copies of Form 8B when they are attached to the end of LCB meeting minutes.

On April 19, 2011, we attended the LCB meeting to determine if Mr. Towne's two Form 8Bs that were filed related to the January 18, 2011 LCB meeting were read publicly at the April 19th meeting. We left the meeting about five minutes after the prior meeting's minutes were approved, but the two Form 8Bs were not read publicly by that time.

On May 12, 2011, we asked MPO's Sarah Ward, Planning Manager, what the LCB protocol was for the Form 8B, Memorandum of Voting Conflict for County, Municipal, and Other Local Public Officers. Our questions were:

1. Is the Memorandum filed with the Secretary prior to the beginning of the meetings, or during the meetings?
2. If the Memorandum is filed prior to, or during the meeting, is it immediately provided to the other Board members?
3. Are Memorandums read publicly at the next meeting held subsequent to the filing of the written Memorandum?

Questions number 2 and 3 are stated as requirements and printed on the Form 8B.

In summary, Management stated that they do not comply with the requirements noted on Form 8B. Management’s response to our May 12, 2011 questions stated, “We do require them to disclose orally the conflict prior to participating, and we have them file the form within 15 days.” Management addressed our question that if a Memorandum is filed prior or during a meeting, is it immediately provided to the other Board members by asking themselves, did IG mean the LCB or the staff. Then they suggested that they could email it once they receive the form. Management also stated that they could begin the practice of publicly reading any Memorandums at the next meeting.

**Investigative Conclusions**

Mr. Towne was appointed as a Citizen category LCB board member. However, he is not an ordinary citizen with typical citizen interests, concerns, or agendas (Professional category due to technical knowledge). Mr. Towne is an entrepreneur whose business interests have dealt directly with the firms involved with the Pinellas County Transportation Disadvantaged Program based on witness statements and the Form 8Bs that he has filed.

IG has statements from Management for three firms that the LCB regularly deals with (Care Ride, Clearwater Yellow Cab, and the PSTA) that Mr. Towne solicits business from for his
Disability Relations Group, Inc. business. The MPO Secretary stated that Mr. Towne did not file a Form 8B for any of these three firms during calendar years 2010 and 2011 to date.

The LCB does not comply with the various legal procedures related to the utilization of the Form 8B, Memorandum of Voting Conflict for County, Municipal, and Other Local Public Officers. Florida Statute 112.3143(4) states:

“No appointed official shall participate in any manner which would inure to the officer’s special private gain or loss...”

In our opinion, this means that, besides not being allowed to vote, a board member should not even be discussing LCB business related matters that might affect his special private gain or loss.

We recommended the MPO Board:

A. Remove Mr. Towne from the MPO’s Local Coordinating Board (LCB).

B. Require the LCB to commence complying with all of the legal requirements related to the utilization of Form 8B, Memorandum of Voting Conflict for County, Municipal, And Other Local Public Officers, and Florida Statute 112.3143(4).

C. Implement a policy that states, if a LCB member needs to recuse himself or herself from voting on an issue, they shall not be allowed to participate in any discussions leading to the voting.

Management Response:

The MPO management accepts your report and provides the following management response to the recommendations contained in the report.

A. Due to his ongoing conflict of interest as a citizen member of the Local Coordinating Board (LCB), you have recommended that Doug Towne not continue as a member of that Board. The MPO staff agrees to bring this recommendation to the attention of Mr. Towne for him to consider resigning from the position. If he does not take that action, we will then take the matter to the MPO for a determination.

B. With respect to members of the LCB declaring a conflict of interest, we have in place the procedure where the member fills out Form 8B once a conflict is declared. We have included the filled out form attached to the minutes of the following meeting. We will also now make sure that the form is identified and read at the follow-up meeting.
C. Concerning the recommendation of members recusing themselves and not participating in discussions when a conflict is declared, the MPO Board has established a policy in that regard. The MPO approved policy directs that, when a conflict is declared, the individual cannot participate, in the discussion and action on that matter. This policy applies to the MPO members and all of the committee members. Related to this, the MPO also established a policy that there is no lobbying permitted of the MPO members or its committee members regarding Request for Proposals, Request for Qualifications, bids, or contracts before the decision is made by the MPO.

Status:

A. Implemented. The Pinellas County Planning Department’s management stated that Mr. Doug Towne resigned from the Local Coordinating Board (LCB).

B. Implemented. The Pinellas County Planning Department’s management stated that the LCB complies with all the legal requirements related to the utilization of Form 8B, Memorandum of Voting Conflict for County, Municipal, and Other Local Public Officers, and Florida Statute 112.3143(4).

The MPO has implemented a procedure requiring LCB members to fill out Form 8B once a conflict is declared. The completed form is then attached to the minutes of the following meeting. The procedure also calls for the form to be identified and read into the record at the follow-up meeting.

C. Implemented. The MPO has developed a policy that provides for when a conflict of interest is declared that the individual cannot participate in the discussion and action on that matter. The policy applies to MPO board members as well as its advisory committee members. The MPO also adopted a policy prohibiting lobbying of board or advisory committee members concerning active Requests for Proposals, Requests for Qualifications, bids, or contracts before the decision is made by the MPO.
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