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Office of the Inspector General
Miami-Dade County

Memorandum

To: George M. Burgess, County Manager

Received by

Date

From: Christopher Mazzella
Inspector General

Date: August 21, 2003

Re: OIG Final Audit Report of the Dade County Police Benevolent Association's
Administration of the Retirees Health Insurance Supplement Program

Please find attached the Office of the Inspector General's (OIG) Final Audit Report of the Dade County Police Benevolent Association's (PBA) Administration of the Retirees Health Insurance Supplement Program (the Program). The Program's establishment is embodied in the collective bargaining agreement between the County and the PBA. The Program is funded exclusively by County monies. As the name suggests, the Program is intended to distribute these county monies to retirees of the bargaining unit. The funds are a benefit, which was intended to assist retirees in the payment of their health insurance premiums.

This past year, the County gave the PBA \$350,000, in accordance with the present collective bargaining agreement, for the Retirees Health Insurance Supplement Program. In March of 2003, the PBA, instead of distributing the funds to Program participants, decided through its Board of Directors, to allocate the entire \$350,000 sum to the Nationwide Public Employees Trust (NPET), the PBA's self-insurance plan. At that time, NPET was undergoing severe financial instability. It has since been declared insolvent.

The OIG initiated this audit of county funds based on an anonymous complaint received from retired officers. The letter, which is attached, primarily addresses the complete re-allocation of County funds to NPET. The purpose of our audit was to determine whether County funds were distributed to bargaining unit retirees in accordance with the collective bargaining agreement's terms and conditions, or other approved policies and procedures. Essentially, we found that besides the actual name of the program "Retirees Health Insurance Program," there are no official approved policies and procedures. The PBA informally waives processing fees for union members, and in the last year, on its own, decided to allocate the County funds to NPET. Not all retirees belong to NPET. Thus, those retirees not enrolled in the NPET received no benefit at all this year.

Not mentioned in the anonymous letter, but revealed during the audit process, is that the PBA charges an annual processing fee for the distribution of Program funds. While officially the PBA assesses the fee to all participants, it has an unwritten policy to waive the fee for PBA retirees. For the years audited, the waiver applies to 96% of all program participants. In essence, the fee is only assessed against non-PBA retirees. It is the OIG's opinion that the application of these fees violates the collective bargaining agent's duty of fair representation. Additionally, since the funds are public monies allocated through the collective bargaining agreement, Miami-Dade County has a responsibility to ensure that the funds are distributed without regard to past or present union membership.

The Draft Audit Report was issued on August 5, 2003. The OIG has received a response from the PBA, which is attached. Predictably, our findings and recommendations were not embraced. Based on the PBA's response, the OIG added a supplement to the Final Report, which begins on page 6 and is printed in italics.

A copy of the Draft was also issued to the County's Employee Relations Department (ERD), as its Labor Management Division is the County's representative in the collective bargaining process and is responsible for monitoring the collective bargaining agreement. As of this date, the OIG has not received a response from ERD. The Audit Report contains two audit recommendations, which remain unchanged. However, in light of the lack of response from the County and the contentious response from the PBA, the OIG requires that County management report back to the OIG on the following issues:

1. That the Labor Management Division, in consultation with its attorneys as necessary, review the findings reported in the Audit and make its own determination regarding the de facto surcharge on non-union retirees. This review should assess the terms of the collective bargaining agreement, prevailing statutory and case law regarding labor practices and representation, and County policy and procedures. The report should also include corrective action that the County has taken or intends on taking to remedy any inequities. The OIG requests that this report be returned within 30 days.
2. That County management report back on any other collective bargaining agreements that contain a provision for supplement insurance benefits for retirees of the bargaining unit. The OIG suggests that County management's report include an accounting of these funds and an audit of how they are distributed. The OIG requests that this report be returned within 60 days.
3. That County management review the circumstances surrounding the complete re-allocation by the PBA of county tax dollars to the PBA's then financially strapped self-insurance plan, NPET. The OIG requests that the County make a determination of whether the PBA's allocation of the \$350,000 is consistent with the intent and purpose of the County funding of the Program under the terms of the collective bargaining agreement, and whether the PBA should be required to either repay the County or make monetary distributions to the retirees in the amount that they would have received but for the PBA's diversion of the funds. The OIG requests that this report be returned within 30 days.

The OIG believes that the County ultimately has the responsibility to ensure that county funds are utilized for their intended use regardless of whether another entity is entrusted with the administration of those funds. The funds provided to the PBA, as the administrator of the Retirees Health Insurance Supplement Program, were specifically intended to supplement the cost for health insurance of all retirees of the collective bargaining unit. Hence, each retiree whether a PBA member or not should have been treated equally. Further, the decision by the PBA to transfer \$350,000 to a collapsing insurance company, thus depriving all retirees of their benefits, raises serious concern not only about the fiscal judgment of the PBA, but also its unauthorized allocation of county tax dollars to a failing enterprise.

cc: Honorable Alex Penelas, Mayor

Honorable Chairperson Barbara Carey-Shuler, Ed.D.
And Members, Board of County Commissioners

Mr. Robert A. Ginsburg, County Attorney
Mr. Donald Allen, Director, Employee Relations Department
Ms. Cathy Jackson, Director, Audit and Management Services Department
Mr. John Rivera, President, Dade Police Benevolent Association

Clerk of the Board
(Copy filed)