

PUBLIC UTILITIES BILLING AND CUSTOMER SERVICE AUDIT



WEST PALM BEACH

Internal Audit

Audit No. 20-03
May 6, 2021

**City of West Palm Beach
Internal Auditor's Office**

Beverly Mahaso Esq., CIA, CFE
Chief Internal Auditor

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Executive Summary

PUBLIC UTILITIES BILLING &
CUSTOMER SERVICE
AUDIT – AUD20-03
MAY 6, 2021



OVERVIEW

- The City of West Palm Beach Public Utilities provides water, wastewater, storm water, and sanitation to commercial and residential customers for the City of West Palm Beach, the Town of Palm Beach, and the Town of South Palm Beach.
- The City provides utilities to approximately 34,371 customers.
- Public Utilities revenues were about \$340 million from FY18 thru FY20.
- The City has an agreement with Florida Public Utilities (FPU) that requires a 6% tax revenue to be paid to the City of West Palm Beach for gas services provided within the City.

SUMMARY FINDINGS

1. **Incorrect Billing Rate:** For FY19, we found that a Unit of Water rate was incorrectly inputted that resulted in an overcharge to 1,863 customers accounts. The total overbilled was about \$13,807.
2. **Inadequate Security Over Customer Information:** We found that physical boxes containing protected customer information were stored in an unsecure, open area while waiting for transport to the City Clerk. Additionally, there were Customer Service employees who had inappropriate IT access roles and dormant generic accounts that remained active since a conversion occurred in 2012.
3. **Incorrect Tax Codes:** We found that customer accounts were set up with the incorrect tax codes for other municipalities that receive services from the City.
4. **Insufficient Oversight of Transactions:** We found that the Management review process to identify errors, inconsistencies, or inappropriate transactions was insufficient. In addition, Managements' review process was not formally documented, and the review did not incorporate in-depth analytical reviews of accounts and transactions.
5. **Undocumented Key Control Procedures and Training:** We found that policies and procedures were not documented for some processes.
6. **External Vendor Review - FPU Errors on Accounts & Tax Payments:** We found that FPU was not consistently following the privilege tax rules and regulations stipulated in the Ordinance or its own definitions and/or classifications when calculating taxes owed.
7. **External Vendor Review - Incorrect Revenue Calculation:** Our analysis of FPU's detailed revenue found that FPU established its own definitions outside of the agreement which decreased the amount of tax owed to the City. We noted that the documentation that FPU provided to support the tax payments were significantly inadequate to determine the basis of the payments.

SUMMARY RECOMMENDATIONS

1. Public Utilities should ensure that the rates are accurate by establishing procedures to review and test the rates prior to implementation. Further, management should determine an equitable resolution to correct the errors on customer accounts.
2. Public Utilities should secure boxes awaiting transport in a storage room/office. Dormant and unnecessary user roles should be disabled, and accounts should be reviewed.
3. Public Utilities should ensure that accounts are set up correctly, review the customer accounts that were impacted by the tax coding errors, and determine an equitable resolution to correct the errors.
4. Public Utilities should ensure that transactions are accurate and appropriate by creating and reviewing analytical reports.
5. Public Utilities Customer Service Division should ensure that all policies and procedures that provide guidance are fully documented and sufficient training on the policies and procedures should be provided.
6. The Finance Department should ensure that the City receives all appropriate revenues by obtaining a new agreement with additional data requirements and conducting reviews of data provided to support the payments.
7. The Finance Department, with assistance from the City Attorney's Office, should ensure that the City's interests are protected and ensure all revenues are received by reviewing the agreement to determine if there was a breach of contract and ensuring that the new agreement contains terms and conditions to ensure accurate payment that is fully supported with data.

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Internal Audit

Internal Auditor's Office

P.O. Box 3366

West Palm Beach, Florida 33402

Tel: 561-822-1380

Fax: 561-822-1424

May 6, 2021

Audit Committee
City of West Palm Beach
401 Clematis Street
West Palm Beach, Florida

RE: Public Utilities Billing and Customer Service Audit, AUD20-03

Dear Audit Committee Members:

Attached is the City of West Palm Beach's Internal Auditor's Office report on the Public Utilities Billing and Customer Service Audit.

We thank the management and staff of the Public Utilities Department for their time, assistance, and cooperation during this audit.

Respectfully Submitted,

/s/ Beverly Mahaso
Chief Internal Auditor

cc: Keith James, Mayor
Faye Johnson, City Administrator
Poonam Kalkat, Public Utilities Director
Mark Parks, Chief Finance Officer

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Background

The City of West Palm Beach's Public Utilities Billing and Customer Service Division (Division) operates under the direction of the Public Utilities Department and reports to the Director of Public Utilities. The Division is responsible for generating monthly utility bills (water, wastewater, storm water, sanitation) and providing customer service in areas such as billing/payment inquiries, claims, and on-premise support. For FY2018 through FY2020, there was an average of 34,371 utility customers who received services and they comprised of:

- West Palm Beach (30,671),
- Town of Palm Beach (3,629), and
- Town of South Palm Beach (71).

During FY2018 through FY2020, Public Utilities revenues totaled about \$340,149,141.

	FY2018	FY2019	FY2020
Water & Sewer Revenues	\$ 107,914,535	\$ 114,670,016	\$ 117,564,590

Management is responsible for ensuring that the operating structure achieves the departmental objectives which is to provide efficient, reliable, and economical water, wastewater, and storm water services to their customers. Utility Billing and Customer Service staff work to ensure monthly billings are accurate for the premises and provide transparency when assisting customers.

The City's Utilities billing process is supported by two automated systems:

- Customer Care & Billing system (CC&B) – An Oracle application for all customer information and billing services; and
- Badger – A meter reading application used to capture water meter readings that are uploaded to CC&B.

The City is required to be in compliance with Chapter 90 of the City Ordinances regarding administration of Utilities which include rate approvals, discontinuance/termination of services, late payment assessments, and adjustments of charges.

The City has contractual agreements regarding utility services with the following municipalities:

- Town of South Palm Beach (TSPB) – the City forwards the 5% tax revenues levied for TSPB residents to the town;
- Town of Palm Beach (TPB) – the City forwards the 10% tax revenues levied for TPB residents to the town; and
- Riviera Beach – the City pays Riviera Beach half the utility revenue collected for the Costco Tract premise.

Finally, the City had an agreement through City Ordinance 2319-89 with Florida Public

Utilities (FPU), that required FPU to pay a 6% privilege tax for gas services provided to customers located in the City. However, the agreement between the City and FPU expired in 2019.

Statement of Scope

The audit scope period was from January 1, 2019 through June 30, 2020, however, in some instances, the scope period may have been adjusted based on what was identified and the availability of data.

Statement of Objectives

The objectives of this audit were:

1. To determine whether the billing process for public utility services was performed in accordance with City regulations, in a manner that promotes quality, integrity, and ensures account billing is calculated accurately;
2. To determine whether billing adjustments were reasonably supported and reviewed by management.
3. To determine if Utility systems utilized for billing were functioning and recording information accurately.
4. To determine if the collections and write off processes were performed appropriately to ensure all efforts to recover payments were exhausted and write-offs were accurately recorded.
5. To ensure credits issued back to other municipalities were performed in accordance with the agreements.
6. To determine if access to customer account information was appropriately secured both electronically and physically.
7. To determine if the FPU privilege tax was properly assessed, calculated, and all revenues were received.

Statement of Methodology

The methodologies used to meet the audit objectives included the following:

- Conducting extensive interviews and inquiries of personnel in Utilities Billing and Customer Service, Finance, other City departments, and external FPU Accounting Management;
- Reviews of relevant state laws, the City's Code of Ordinances, and internal policies and procedures;
- Performing data analyses of invoicing, adjustments, collection efforts, and FPU revenue data;
- Evaluating internal controls over utility customer set-up processes, management review of utility transactions, billing procedures, and customer service; and
- Other audit procedures deemed necessary.

Statement of Auditing Standards

We conducted this audit in accordance with Generally Accepted Government Auditing Standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Audit Conclusions and Summary of Findings

Overall, there are opportunities for the City to optimize the efficiency and effectiveness surrounding the Public Utilities Billing process. Specifically:

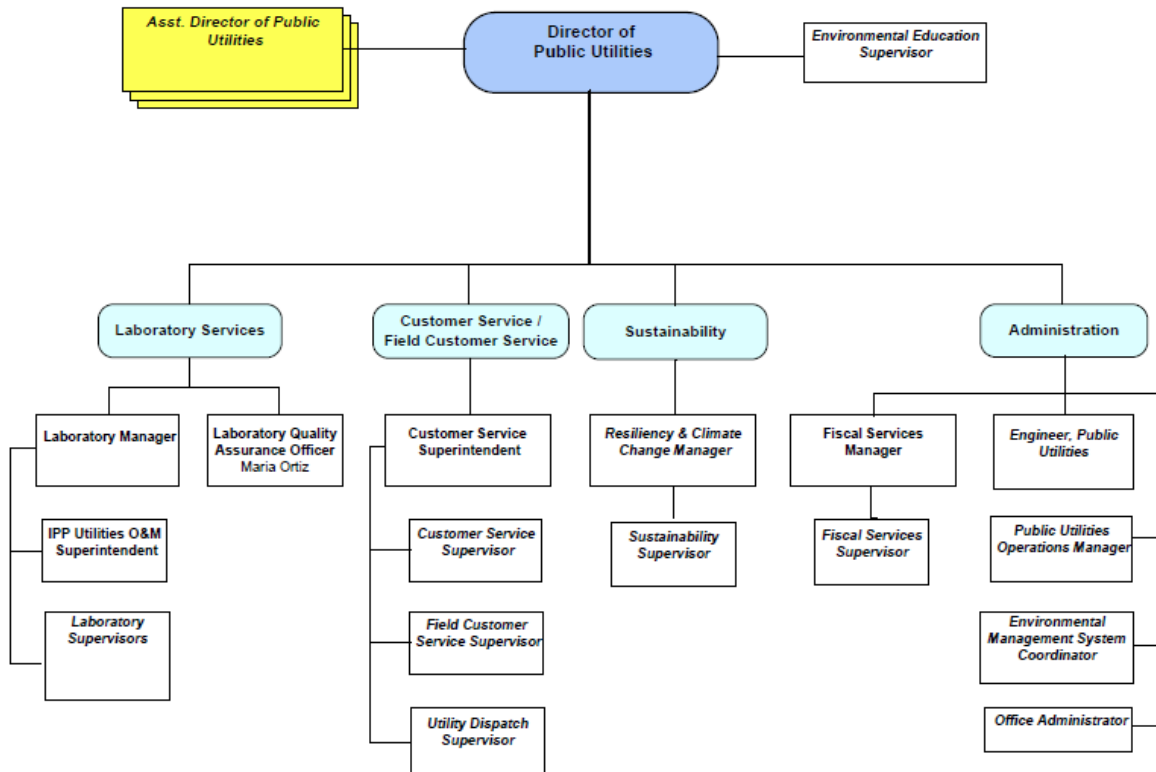
- Management has key control procedures that are verbally communicated and are not documented or acknowledged through training documents;
- The manner in which hard copies of customer information are stored, lacked adequate security measures. Additionally, generic and dormant accounts remained active and several non-IT employees had access to IT roles in CC&B;
- Managements' current review process does not provide adequate information for management to identify abuse, fraud, or inefficiencies;
- The customer set-up process did not include a process to ensure the correct municipality was identified for tax purposes;
- Customers were incorrectly billed due to an incorrect billing rate in the system; and
- Florida Public Utilities made errors in following the terms in the ordinance and incorrectly set up customer accounts.

Noteworthy Accomplishments

We found knowledgeable and dedicated employees that were receptive to our recommendations for improvement. We commend the Public Utilities Billing and Customer Service staff for being proactive in streamlining the processes and for taking immediate corrective action as issues were identified.

Public Utilities Organization Chart

PUBLIC UTILITIES DEPARTMENT Overview



Opportunities for Improvement

1. Incorrect Billing Rate

Condition

During our testing of customer account billings, a Unit of Water rate was incorrectly inputted for FY19. A water unit rate of \$5.32 was incorrectly entered as \$5.35 for some customer accounts, thereby producing an overcharge to the customers. Based on our review, there were about 1,863 customer accounts that were over billed at this rate during FY19. The total amount overbilled was about \$13,807.

Criteria

According to Florida Statute 180.13, the City Commission may establish just and equitable rates or charges to be paid to the City for the use of the water and wastewater system by each person, firm or corporation whose premises are served.

Cause

Prior to October 1st of each year, all rates that have changed are manually entered in the CC&B system by the Public Utilities Customer Information System (CIS) Coordinator. These rate changes are then reviewed by another Public Utilities manager. However, there is no process to test the rates prior to implementation.

Effect

Not exercising reviews and testing of rates prior to implementation may allow for inaccurate billing. Further, this increases the risk of financial loss to the City due to under charging and may erode the public's trust due to overcharging.

Recommendation 1

Public Utilities Management should ensure that rates are accurate by establishing procedures to review and test the rates prior to the official implementation date.

Public Utilities Management should review the customer accounts that were impacted by the rate error identified and determine an equitable resolution to correct the errors.

Management Response 1

Management agrees with the recommendation and has immediately corrected the issue and is working to credit those customers affected.

Target Implementation Date: April 30, 2021

2. Inadequate Security Over Customer Information

Condition

The security of customer information, both physical documents and system access rights, should be improved. We found physical documentation containing protected customer information being stored in boxes in an unsecured, open area prior to being sent to the City Clerk's Office for retention.

Further, the Oracle software utilized for Public Utilities billing, Customer Care & Billing (CC&B), had several user accounts with unnecessary rights such as: (a) three Customer Service employees had inappropriate IT access roles and (b) four generic accounts used during a conversion process in 2012 remained active. We note that Public Utilities advised us that the roles and accounts were immediately expired after discovery during the audit.

Criteria

FL. Stat. 60GG-2.003 states that each agency/municipality shall:

- Ensure that access to IT resources is limited to authorized users, processes, or devices, and to authorized activities and transactions 60GG-2.003(1), and
- Ensure IT access is removed when the IT resource is no longer required 60GG-2.003(8).

Payment Card Industry (PCI) Security Standards for those that accept payments from card companies, state that all media must be physically secured and that controls for physically securing media are intended to prevent unauthorized persons from gaining access to cardholder data on any type of media. The PCI Standards also note that cardholder data is susceptible to unauthorized viewing, copying, or scanning if it is unprotected while it is on removable or portable media, printed out, or left on someone's desk.

The City's IT General Security Policy 1-26.4.2.3, states that Departments that process confidential information should consider implementing, when necessary, a clear desk policy for paper, removal of storage media, and a clear screen policy, in order to minimize the risks of unauthorized access to and loss of such information, both during and after normal working hours. City users must be vigilant about logging off sessions, logging out or securing PC access, and keeping paper information properly filed.

Cause

The Customer Service Division did not timely request that the City Clerk's Office pick up the documents. As such, the boxes were stored in an unsecured location.

The system accounts that remained dormant but active, were not reviewed by management and the accounts which had unauthorized roles appear to be an oversight during the monthly review management performs.

Effect

Security of customer's personal identifiable information (PII), is of high priority and should be retained in a secure location to prevent misuse, tampering, and/or theft.

Dormant accounts and personnel who have inappropriate access to specific functions within the CC&B system weaken management controls and increase the risk of inappropriate access or use of information.

Recommendation 2

Public Utilities should ensure that protected information is adequately secured by:

- a. Establishing a storage room/office that can house boxes of customer files awaiting transport to the City Clerk's Office.
- b. Ensuring that the room is secured by either lock or badge entry and access is limited to authorized employees only.

Public Utilities should ensure that user access is appropriate by:

- c. Ensuring that dormant accounts and unnecessary roles are disabled, and
- d. Reviewing user access, roles, and all new accounts that have been created each month to ensure that it remains accurate.

Management Response 2

Management agrees with the audit recommendations.

Target Implementation Date: A & B March 15, 2021

C and D implemented 02/24/21

Auditor's Comment: We commend the Department for taking swift corrective action. However, we have not conducted the work necessary to independently confirm the implementation status of the recommendations in this report. This will be completed during the follow up review.

3. Incorrect Tax Codes

Criteria

Florida Statute 166.231 states that the seller of utilities shall remit the taxes collected to the municipality in a manner prescribed in the Ordinance. According to the Town of South Palm Beach's Ordinance letter dated October 15, 1997, the Town of South Palm Beach imposed a 5% tax levy effective April 1, 1998 that is charged to customers purchasing water from the City of West Palm Beach. Similarly, the Town of Palm Beach Ordinance 14-71 adopted a 10% tax levy effective July 13, 1971. The taxes are collected by the City of West Palm Beach and subsequently paid to the towns.

Condition

The City (WPB) has agreements with the Town of Palm Beach (TPB) and the Town of South Palm Beach (TSPB) to charge taxes for water treatment services. During our testing of customer account billing, we found customer accounts that were set up with the incorrect tax codes. The tax code identifies the taxes levied to the customer accounts and varies depending on the municipality (WPB-10%, TSPB-5%, and TPB-10%).

- Town of Palm Beach
 - 25 TPB accounts were set up with the tax code for the City of WPB and the tax revenues were allocated to the City of WPB instead of TPB.
 - 2 TPB accounts were set up with the tax code for the Town of South Palm Beach which resulted in a lower tax rate for these accounts and the tax revenues were sent to the Town of South Palm Beach instead of the Town of Palm Beach.
- Town of South Palm Beach
 - 2 TSPB accounts were set up with a City of West Palm Beach tax code. This resulted in overpayments from these accounts because the City of West Palm Beach tax rate is higher at 10% versus 5%.
 - The tax revenues from the 2 TSPB accounts were allocated to the City of West Palm Beach instead of the Town of South Palm Beach.

The following table is a summary of the results of the incorrect tax codes:

City/Town Recipient of Funds	# of Accounts Impacted	Approx. Amount	Issue(s)
City of West Palm Beach	25	\$5,750	1. Overpayment to the City of WPB from TPB customers coded as CWPB customers.
Town of South Palm Beach	2	\$1,150	1. Overpayment to the TSPB from TPB customers coded as TSPB customers. 2. Payments received by TSPB from customers of TPB were underpayments due to the higher tax rate for TPB.
City of West Palm Beach	2	\$200	1. Over payment to the CWPB from the Town of South Palm Beach customers who were coded as CWPB customers. 2. Over charge to the Town of South Palm Beach customers due to higher CWPB tax rate.

Cause

The process for setting up customer account tax codes is not specifically addressed during the employee training and there is no secondary review of accounts after setup to ensure that the tax codes are accurate for the location.

Effect

Insufficient training and oversight can increase the risk of incorrect account settings which affects the amount collected from the customers as well as the amounts paid to other municipalities. Accordingly, this puts the City at risk of non-compliance and may erode the public's trust due to overcharging/undercharging customers.

Recommendation 3

Public Utilities Management should review the customer accounts that were impacted by the tax coding errors and determine an equitable resolution to correct the errors to the accounts and the payments to the municipalities.

Public Utilities Management should ensure that accounts are set up correctly by:

- Ensuring that training is provided on how to set up the tax codes which should include steps to verify the customer tax codes entered or selected, and
- Reviewing and monitoring accounts to ensure that accounts are consistently set up accurately and rates charged after set up are accurate.

Management Response 3

Management agrees with the audit recommendation.

Target Implementation Date: February 24, 2021

Auditor's Comment: We commend the Department for taking swift corrective action. However, we have not conducted the work necessary to independently confirm the implementation status of the recommendations in this report. This will be completed during the follow up review.

4. Insufficient Oversight of Transactions

Condition

We found that the Management review process to identify errors, inconsistencies, or inappropriate transactions is insufficient to meet that objective. Managements' current review process is not formally documented, and the review does not incorporate in-depth analytical reviews of accounts and transactions.

We performed an analysis of adjustments/credits made to accounts from January 2019 – June 2020 and found that overall, there is insufficient documentation to justify adjustments made to accounts as indicated below:

- We found that 2 of 21 employees generated \$103,792 (66%) of the \$156,104 in credits made on accounts that originated from about 3,670 adjustments. Management does not analyze reports to identify these types of trends. As such, there is no procedure to ensure that all credits were appropriate and accurate.
- Courtesy Credits accounted for \$85,703 (55%) of all \$156,104 adjustments made during the period under review:
 - Courtesy Credits Pre-COVID (January 2019 - February 2020)
 - 23% (\$15,881 of \$68,202) of credits for charges were provided to customers without a reason noted.
 - Courtesy Credits during COVID (March 2020 – June 2020)
 - 34% (\$5,898 of \$17,501) of credits for charges were provided to customers without a reason noted.
 - One-Time Courtesy Credits (January 2019 – June 2020)
 - 5% (\$4,308) of the one-time courtesy credits were identified as having two or more “one-time courtesy” adjustments for the same amount within the same fiscal year without a reason noted.
- Other Account Credits
 - 2 accounts had credits provided but were not sufficiently documented to justify why the credits were provided.
 - 4 accounts were marked as “Adjustment Reversal” with no further explanation or justification.
 - 5 courtesy credits were made without justification.
 - 1 start/end date correction credit was made without clarification as to which date was in error.

Criteria

American Institute of Certified Public Accountants (AICPA) Internal Control Importance Advisory Guide suggests that parameters, thresholds, and specific types of transactions should be analyzed in order for management to identify deficiencies, inappropriate transactions, red flags, and training opportunities. Management reviews and the associated results should be documented to support management decisions. Analytical reports should include but are not limited to:

1. Analyses of adjustments by employee, type, amount, and premise;
2. Parameter/Threshold analysis for secondary approval requirements;
3. Analyses of Courtesy adjustments and supporting documentation/reasoning;

4. Analyses of adjustments made to City employees living in the City of West Palm Beach; and
5. Analyses of adjustments made to Confidential customer accounts.

Cause

Management advised that they had not considered conducting analytical reviews because they were focused on high dollar adjustment amounts and they did not have sufficient resources to expand on these reviews.

Effect

In the absence of analytical reviews, there is a risk that inappropriate transactions may occur undetected. Further, management may not be able to identify fraud or abuse that is occurring at lower dollar amounts.

Recommendation 4

The Public Utilities Department should ensure that transactions are accurate and appropriate by creating and reviewing analytical reports that:

1. Analyze adjustments by employee, type, amount, and premise
2. Analyze transactions that exceed set parameter/thresholds
3. Analyze courtesy adjustments and supporting documentation/reasoning
4. Analyze adjustments made to confidential customer accounts

Reviews should be conducted periodically, and corrective action should be taken as needed.

Management Response 4

Management agrees with the audit recommendations.

Target Implementation Date: April 30, 2021

5. Undocumented Key Control Procedures and Training

Condition

During the audit, we found that there were several control procedures in place that were not formally documented, and training on these procedures was not recorded. We were advised that the following policies or procedures were communicated informally either through email or verbally, but have not been incorporated as part of the official policies and procedures:

- Policy establishing adjustment thresholds requiring secondary approval or authorization
- Procedures regarding responsibilities and functions for when CC&B is offline
- Procedures for calculating Leak Credits
- Procedures for supervisors/management to review and acknowledge reports for possible red flags (i.e. abuse, corrections, unauthorized adjustments, etc.)
 - As indicated in Finding 4, our review of adjustment reports identified:
 - Adjustments without sufficient supporting justification for the adjustments, and
 - Excessive numbers of adjustments by employee.
- Policy regarding the utilization of Courtesy Adjustments
 - As indicated in Finding 4, our review of adjustments found:
 - Excessive use of Courtesy Adjustments
- Policy for approving special consideration adjustments (i.e. COVID-19 waiver)
 - As indicated in finding 1, our review of customer bills found:
 - One incorrect water commodity billing rate used for FY19 that resulted in overcharges to about 1,863 customers

Criteria

City Administrative Policies and Procedures, Scope of Applicability state that Departments are authorized and required to establish their own administrative and standard operating policies and procedures so long as they are not in conflict with the City Charter, Ordinances, collective bargaining agreements, Florida statutes and other approved City-Wide policies and procedures. Policies should be easy to read and understand.

Cause

According to Public Utilities management, many of these verbal/email style procedures are not daily concerns and therefore having formal written procedures was considered unnecessary. Additionally, management advised that they have not identified any concerns related to these procedures. However, we identified issues with some of these procedures during our review as noted in the condition above. Lastly, we were advised that management has not considered more formally documented supervisory review processes because management staff have been in their roles for many years.

Effect

Without well written, detailed policies and procedures, the department's functionality and duties of employees cannot be properly monitored and measured. Further, management

objectives for efficiency and effectiveness are weakened when key control policies and procedures are not documented. Policies and procedures set a standard of expectations, provide guidance for decision makers, and streamline internal processes. Not having formal policies and procedures documented decreases accountability.

Recommendation 5

Public Utilities Customer Service management should ensure that all policies and procedures that provide guidance are fully documented in detail and are incorporated into the formal policies and procedures. In addition, sufficient training of policies and procedures should be provided to staff and staff should acknowledge receipt of training.

Management Response 5

Management agrees with the audit recommendation.

Target Implementation Date February 24, 2021

Auditor's Comment: We commend the Department for taking swift corrective action. However, we have not conducted the work necessary to independently confirm the implementation status of the recommendations in this report. This will be completed during the follow up review.

6. External Vendor Review – FPU Errors on Accounts and Tax Payments

Condition

The City of West Palm Beach (WPB) established an Ordinance which stipulates that Florida Public Utilities (FPU) must pay a privilege tax to the City for gas services provided throughout the City. The amount owed to the City is subject to deductions for taxes, licenses, or other fees that the City charges FPU, as well as deductions for write off accounts or uncollectable accounts.

In prior years, the City's Finance Department, Legal Department, and the Internal Auditor's Office attempted to obtain supporting documentation for the tax revenue submitted by FPU but could not obtain it. However, some supporting documentation was obtained in 2019. For this audit, we requested and were able to obtain detailed revenue information of FPU's yearly revenues beginning November thru October, for years 2016 through 2020.

We performed a detailed analysis of years 2016 through 2020 of the financial data used for the calculation of the tax revenue payment and found that separate from the Ordinance, FPU created its own definitions consisting of 3 customer types, 19 gas rate schedules, and 17 bill classifications. We analyzed the data to determine whether the accounts were consistent with FPU's definitions and/or the Ordinance and found the following errors:

1. FPU incorrectly coded some properties from other municipalities as part of the City's gas tax area, which contributed to an overpayment to the City. The other municipalities that were included were Debary, Lake Worth, Palm Beach, Palm Beach Gardens, North Palm Beach, unincorporated Palm Beach, Riviera Beach, Sanford, Deltona, Ft. Lauderdale, Gainesville, Atlanta, Houston, Birmingham, Dallas, and Dover.
2. Based on FPU's definitions and classifications, FPU incorrectly set up many of its customer accounts. Examples include:
 - a. Residential customer accounts were set-up under the incorrect rate schedule General Service-1 and General Service-2;
 - b. Public Authority customer accounts were set-up under the incorrect rate schedule Large Volume Service which is not taxable and decreases the payment to the City;
 - c. Small Commercial Transportation customer accounts were set-up under the incorrect rate schedule of General Service-2 which is taxable and increases the payment to the City.
 - d. The General Services rate schedules were incorrectly set-up as non-taxable for customers with bill classes: Industrial Commercial Small and Commercial Large which decreases the payment to the City;
 - e. Commercial and Residential Generator Service customers were incorrectly set-up as taxable which increases the payment to the City;

- f. Commercial Small customer accounts from the municipality of Debarry were incorrectly set-up as taxable under the Pool Manager Service which increases the payment to the City; and
3. FPU used incorrect Ad Valorem amounts which were lower than the actual Ad Valorem amounts that they paid to the county, thereby increasing the payment to the City (According to the Ordinance, Ad Valorem is deducted from the amounts that FPU is required to pay for the gas tax and it is a driver for lowering the taxable revenue.).

Based on the above, FPU was not consistently following the Ordinance or its own definitions and/or classifications in order to properly calculate the taxes owed. We discuss this further in the following finding.

Criteria

It should be noted that the governing Ordinance for the FPU gas tax was established in 1989 and expired around October 2019. However, it appears that both parties have continued to operate under the same terms of the Ordinance.

City of West Palm Beach Ordinance 2319-89, Florida Public Utilities Gas Franchise, Section 7 states in relevant part:

“Within thirty (30) days after the first anniversary date of this grant and within thirty (30) days after each succeeding anniversary date during the existence of this grant, the GRANTEE, its successors and assigns, shall pay to the GRANTOR or its successors a privilege tax equal to the amount by which six percent (6%) of its gross revenues from the sale of gas to residential and general service commercial customers within the corporate limits of GRANTOR for the twelve calendar months preceding the applicable anniversary date. This shall exceed the amount of any other taxes, licenses or other impositions levied or imposed by GRANTOR against GRANTEE'S property, business or operations for the tax year preceding the beginning of the applicable privilege tax year. Payment shall be made quarterly on or before the final day of each three calendar month period based upon one-fourth (1/4) of the total payments made in the preceding fiscal year. At the close of each fiscal year, an accounting shall be made to determine whether GRANTEE owes additional monies, which shall be paid not less than thirty (30) days after the close of said fiscal year, or whether GRANTEE is owed a refund, which shall be collected by offsetting the total amount of the refund from the next succeeding quarterly payment made to the GRANTOR.”

Section 15 states, “The GRANTEE shall maintain its records in sufficient detail that revenues within the corporate limits of the GRANTOR are readily discernible from other revenues for auditing purposes.”

Cause

The conditions above were due to FPU's errors and inconsistencies when applying their various terms to the customer accounts as well as creating definitions separate from the Ordinance. Errors were made when establishing which properties were within the City limits and subject to the gas tax. Further, FPU made gas tax payments based on incorrect financial data. In addition, FPU did not maintain its records in sufficient detail to support the payments made.

The Finance Department noted that the payments made by FPU lacked sufficient information to determine the accuracy of the payments. Finance, Legal, and Internal Audit made numerous requests for supporting documentation from FPU that were a challenge to obtain.

We also note that allowing FPU to deduct various items from the gas taxes owed, such as Ad Valorem, negatively impacted the gas tax revenues owed to the City. We found that deducting gas taxes for write off accounts or uncollectable accounts as stated in the Ordinance appears reasonable, however, deducting Ad Valorem - Tangible Personal Property may need to be re-evaluated.

Effect

There is a risk of substantial loss of revenue to the City whether through underpayments or overpayments. As written, the Ordinance was designed to not only ensure that City residents could obtain gas, but to also generate some revenue for the City. However, the last tax revenue payment received by the City from FPU was in 2018.

Recommendation 6

The Finance Department should ensure that the City receives all appropriate revenues by:

- a) Implementing a review and analysis process to include:
 - i) Periodically obtaining supporting data from the vendor and verifying that:
 - (1) Ad Valorem taxes paid are accurate, and
 - (2) Detailed Tax Revenues paid include City addresses only.
 - ii) Periodically reviewing property addresses to ensure that they are included in the tax payments made by the vendor.
- b) Working with the City Attorney's Office to establish a new Ordinance that includes specific requirements for the vendor to include:
 - i) Ensuring that all payments are made with the detailed supporting documentation attached including detailed documentation of what is or is not taxable revenue, the property location for FPU owned properties and FPU customers, at the time payments are made,
 - ii) Ensuring that the detailed, supporting documentation is available for at least 3 to 5 years which should include verification that all properties are within the City limits at the time payments are made, and
 - iii) Establishing a penalty for not providing or adhering to, requests for supporting documentation to substantiate the payments. This could include forfeiture of overpayments or penalty fees for underpayments;
- c) Negotiating with the vendor or stipulating that tax payments are 1. not subject to deductions for Ad Valorem payments or 2. only a percentage of the Ad Valorem payments may be deducted from the tax payment. If a percentage is selected, then analyses should be performed to ensure that the City will receive revenues under various scenarios.

Finance Department Management Response 6:

Management agrees. In addition to the above recommendations:

- i. The **contract** should require FPU to submit copies of the receipts from the Constitutional Tax Collector evidencing the payment of the ad valorem taxes deducted. Cash Management does not have the resources to do the review and analysis contemplated. Further, such analysis would be based exclusively on information supplied by the vendor. Given the findings of this audit, the contract should mandate an audit to validate information submitted to the City at least every three years.
- ii. Asking Finance to verify addresses is onerous, it is more pragmatic to contractually ask FPU to supply a GIS file to be validated by the information technology department. In any event, this verification would more appropriately be addressed in the audit which based on the above recommendation would be mandated at least every three years.

Target Implementation Date: October 2022

Auditor's Comment: We are in agreement with the additional recommendations that management added. Further, Finance should ensure that it has the resources to periodically conduct the audits.

7. External Vendor Review- Incorrect Revenue Calculation

Condition

Based on the discrepancies and errors identified, we conducted additional reviews into the calculation of the taxable revenue and identified the following concerns.

- **FPU's Definitions:** As mentioned previously, we found that FPU created its own definitions consisting of 3 customer types, 19 gas rate schedules, and 17 bill classifications. Based on FPU's definitions, FPU determined how to classify the customers. We were advised that around 2009, FPU reclassified customers, which in effect decreased its financial obligations under the Ordinance.

We did not identify support in the Ordinance that FPU had the authority to unilaterally define and/or reclassify customers. Rather, Section 14 of the Ordinance states that minor changes may be made by written agreement of the parties and it states that this does not give the authority to make changes or modifications that would be repugnant or inconsistent with the basic grant, factors, or principles underlying the terms and conditions. Based on our discussions with the Finance Department and Legal Department, the decrease in revenues caused by FPU's classifications/reclassifications was inconsistent with the underlying terms and conditions. Based on our review of the data, FPU's classifications decreased its financial obligation to the City which does not appear to be consistent with the basic principles underlying the terms in the Ordinance.

- **FPU's Application of Definitions:** Our analysis of FPU's detailed revenue found that the critical component rests on definitions established by FPU and this has a direct impact on taxes owed to the City. For example, one of the key definitions we found was Large Volume Users. Based on FPU's definition, customers whose use exceeds 500 British Thermal Units every month are not included in FPU's gross revenue to calculate the taxes owed to the City. We noted that the Ordinance did not provide an exemption to the tax based on the volume of gas used, thus it appears that FPU's definition and classification were not appropriate. Our analysis indicated that excluding FPU's revenue from the Large Volume Users category, reduces the amount that FPU owes the City and results in the City owing credits to FPU in 2019 and 2020, while including revenue from these customers results in FPU owing taxes to the City in 2019 and 2020.
- **FPU's Supporting Documentation:** We noted that the documentation that FPU provided to the City to support its payments was significantly inadequate to determine the basis of the payment. Further, due to the many rate schedules and bill classifications that FPU established, a significant amount of detail would be needed to validate FPU's payments as well as in-depth understanding of FPU's rate schedules and bill classifications, and whether the rate schedules and classifications unilaterally modify the terms of the parties' franchise agreement.

FPU Taxable Revenue Calculation

FPU executive management advised that its revenue calculation consisted of those customers that FPU deemed as taxable in the Residential, General Service-1, and General Service-2 gas rate schedules. This method excludes revenues from customers in the remaining 16 gas rate schedules. Utilizing this methodology, FPU provided its

revenue data used to support payments made to the City during the 5 years reviewed, which included the errors we identified in the previous finding. We analyzed the data in order to determine how FPU applies its definitions and arrives at its gross revenue that is subject to the tax. Based on the revenue details provided by FPU, we found that 16% to 52% of FPU's total gross revenue was deemed not taxable for the calculation of the tax payment to the City and averaged out to about 29% of FPU's gross revenues. Excluding large amounts of FPU's gross revenues does not appear to be consistent with the basic principles or terms of the Ordinance. The following table provides a breakdown per year of the gross revenue deemed not taxable by FPU.

FPU's DETERMINATION OF TAXABLE REVENUE					
	2016	2017	2018	2019	2020
Total Gross Revenue	\$6,268,421	\$7,021,270	\$10,327,467	\$5,990,152	\$6,188,517
Not Taxable Revenue	\$(1,977,003)	\$(1,600,614)	\$(5,336,694)	\$(1,299,052)	\$(1,010,581)
% of Not Taxable Revenue	32%	23%	52%	22%	16%

Under FPU's methodology and their calculation of payments made to the City, their results were that FPU overpaid the City and they were owed a credit totaling \$133,613 from 2018. However, it should be noted that the calculation included all the errors we identified in the previous finding. FPU has not made any payments to the City since 2018, based on the credit that they calculated.

Due to FPU's inconsistencies with the terms in the Ordinance and FPU's errors in applying its definitions we could not rely on its methodology to calculate the gross revenue that is subject to the tax. Therefore, we conducted our own research and determined the gross revenue by including residential and commercial customers regardless of volume of use. We did not include customers who were classified by FPU for other services such as streetlighting services or industrial use services. This methodology takes into consideration a). all residential and commercial customers, b). the correct Ad Valorem deductions in all five years, and c). excludes municipalities that were included incorrectly as well as streetlighting and industrial services. The result was that the not taxable revenue decreased to an average of about 13% of FPU's total gross revenue and FPU owed the City approximately \$82,735 and \$166,165 in 2019 and 2020 respectively.

Considering that the first known FPU reclassification of customers occurred around 2009, it is likely that the payments made by FPU to the City prior to the audit period (2016 - 2020) were not accurate and/or were inconsistent with the basic principles underlying the terms in the Ordinance.

RECALCULATION OF TAXABLE REVENUE					
	2016	2017	2018	2019	2020
Total Gross Revenue	\$6,757,421	\$7,073,557	\$10,381,755	\$6,179,349	\$6,222,490
Calculated Not Taxable Revenue	\$(286,100)	\$(444,231)	\$(4,178,307)	\$(293,426)	\$(601,233)
% of Not Taxable Revenue	4%	6%	40%	5%	10%

Criteria

City Ordinance 2319-89, Florida Public Utilities Gas Franchise, Section 7 states in relevant part that: “the GRANTEE, its successors and assigns, shall pay to the GRANTOR or its successors a privilege tax equal to the amount by which six percent (6%) of its gross revenues from the sale of gas to residential and general service commercial customers within the corporate limits of GRANTOR for the twelve calendar months preceding the applicable anniversary date.” We note that there is no tax exemption based on volume.

Section 14 of the Ordinance states, “Minor changes in the terms and conditions hereof may be made by written agreement between the GRANTOR and GRANTEE, provided, however, that this section shall not be construed as conferring authority to make changes in or modification of the provisions of this ordinance which would be repugnant to or inconsistent with the basic grant, factors or principles underlying the terms and conditions hereof.”

Section 15 of the Ordinance states, “The GRANTEE shall maintain its records in sufficient detail that revenues within the corporate limits of the GRANTOR are readily discernible from other revenues for auditing purposes.”

Cause

The conditions identified above were the result of the following:

- The Ordinance was established over 30 years ago and it permitted FPU to establish rates for gas and rules and regulations to govern customers. However, the Ordinance did not permit FPU to make changes that would in effect change its obligations under the Ordinance.
- FPU executive management advised that they believed that they defined and identified the applicable customers associated with the Ordinance and if the City had concerns with the definitions, then the City could have raised those concerns. We note that during discussions with FPU executive management, we were advised that since the Ordinance has expired, the City could negotiate the terms and definitions with FPU.

- FPU's system, as related to calculating the taxes owed, caused errors due to the many rate schedules and bill classifications. FPU acknowledged that it made errors when setting up customer accounts.
- The City was not able to obtain sufficient documentation from FPU to validate the tax payments made by FPU.

Effect

Unilateral vendor changes to definitions or terms agreed upon could lead to unnecessary revenue losses or inappropriate revenue gains from the different stakeholders.

Recommendation 7

The Finance Department, with assistance from the City Attorney's Office, should ensure that the City's interests are protected and ensure that all revenues are received by:

- a) Reviewing the Ordinance and determining whether there was a breach of contract and taking the appropriate action.
- b) Ensuring that the new ordinance/agreement:
 1. States the terms and definitions to include provisions where the vendor is required to notify the City of any changes that would impact the tax revenue owed to the City.
 2. Utilizes broad categories to determine what is considered gross revenue that is taxable, such that the vendor's rate schedules, bill classifications, rules and regulations etc. are irrelevant and do not impact the calculation of gross revenue. For example, commercial customers could include all commercial customers regardless of the volume of gas they use or whether they use a pool manager. This would simplify the process and make it more efficient to validate the tax payments.
 3. Prohibits the vendor from updating or changing its terms and/or definitions, without the written consent of the City.
 4. Requires the vendor to provide examples of how the terms and definitions would be applied. An example using historical data of the gas provided within the City should be used to demonstrate the impact of how the terms will be applied before agreeing to the terms.
 5. Obligates the vendor to timely provide supporting documentation and that the documentation provided contains sufficient detail to validate the tax payment amount. Penalties should be implemented to ensure that documentation is provided timely and is accurate.
- c) Determining whether it is in the City's best interest if high volume accounts are or are not taxable and documenting the basis for the determination.
- d) Ensuring that there are written procedures and training for staff.

Finance Department's Management Response 7:

Management agrees. In addition to the above recommendation:

- 1) There should be a mandatory audit of the information provided to the City at least once every three (3) years at the City's election.

- 2) The City should also define the ad valorem taxes contemplated by the agreement and this should be restricted to real estate taxes.
- 3) The City should also establish a minimum annual payment to the City eliminating any scenario whereby the City is indebted to FPU.

Target Implementation Date: October 2022

Auditor's Comment: We are in agreement with the additional recommendations that management added. Further, Finance should ensure that it has the resources to periodically conduct the audits.