



DIVISION OF INSPECTOR GENERAL
Grant Maloy, Clerk of the Circuit Court and Comptroller
Seminole County, Florida

May 22, 2023

Dear Mr. Maloy;

Attached for your review and approval is our recently completed audit of Inter-local 3rd generation tax allocation for the City of Winter Springs.

The audit was conducted in accordance with the International Standards for the Professional Practice of Internal Auditing and the Principles and Standards for the Offices of Inspector General.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Bill Carroll".

Bill Carroll, CPA, CFE, CIG, CIGA
Inspector General
Division of the Inspector General

Approved by:

A handwritten signature in blue ink, appearing to read "Grant Maloy".

Honorable Mr. Grant Maloy
Clerk of the Circuit Court and Comptroller
Seminole County



Audit of
Inter-local 3rd Generation 1 Cent Tax Allocation
City of Winter Springs Report No. 043023

HONORABLE GRANT MALOY
CLERK OF THE CIRCUIT COURT AND COMPTROLLER

Bill Carroll, CPA, CFE, CIG, CIGA
Inspector General

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Executive Summary

The following Executive Summary provides a high-level synopsis of: 1) why the audit was performed; 2) the audit objectives, and; 3) the results of the audit.

Why was the audit performed?

The audit was requested by a Seminole County Commissioner as the result of citizen complaints as to the spending by the City of Winter Springs (“CITY”) on Infrastructure projects per the 1 cent sales tax referendum.

As a result of this request, the audit was performed to determine if the revenue and expenses associated with the infrastructure (1 cent sales tax allocations) money agreed with the voter approved referendum, Florida Statutes, and, in accordance with the 2014 Inter-local Agreement.

What was the objective for the audit?

The objective of the audit was to determine compliance with voter approved referendum (1 cent sales tax 3rd generation), the Inter-local agreement, and the Florida Statutes.

What were the results of the audit?

It is our opinion that the referendum, the Inter-local agreement, and the Florida Statutes are designed as a contractual obligation. Part of this obligation is for the County, the School Board, and the Cities to follow the intent of the referendum. Voters were promised that money would be used on a specific list of road projects. Unlike previous sales tax programs implemented in 1984, 1991, and 2001, this ordinance and Inter-local agreement has no administrative related controls to ensure commitments made to the public are completed. A small portion of the funds were not spent in compliance with the law.

More internal administrative controls are needed to increase transparency and protect the citizens’ tax dollars.

History of the Tax Allocation

SEMINOLE COUNTY TEN YEAR SALES TAX TO FUND COUNTYWIDE GENERAL GOVERNMENT AND PUBLIC EDUCATION INFRASTRUCTURE

The Seminole County voters approved the referendum noted below by Special Election on May 20, 2014.

“The County, the seven cities in the County and the School Board require revenue for the construction and rehabilitation of roads and transportation facilities; bicycle and pedestrian trails, stormwater facilities; public education facilities; and other infrastructure uses authorized by law. Shall the County be authorized to levy a ten (10) year, one cent (1c) per dollar sales surtax on taxable transactions occurring within Seminole County to become effective on January 1, 2015.”

To support the referendum, Seminole County, the School Board, and the Cities each signed an Inter-local agreement as a plan on how the money would be spent.

The CITY proposed a group of projects that included: roadway improvements, new trails, new sidewalks, asphalt resurfacing, bridge replacement and repairs, stormwater water quality, and pipe realigning valued at \$19 million. This project list is included as Exhibit C and is included for illustration purposes.

The Inter-local agreement, the Florida Statutes, and the Ordinances allow both the County and municipalities to adjust the plan as long as the revisions are in accordance with the Inter-local Agreement, Florida Statute Section 212.055 (2), Seminole County Ordinance No. 2014-8, and the referendum approved by the taxpayers. CITY made two (2) amendments to the original plan.

The first amendment was approved by the CITY Commission on July 13, 2020. It revised priorities to include funding for the Bridge Repair/ Retrofit, reduced the budget for residential road construction, and proposed spending an additional \$3.5 million on projects related to the CITY'S Water and Sewer Utility. This amendment reallocated funds to include new police vehicles, white fleet vehicles, machinery and equipment, and various other capital needs for CITY facilities. It included purchasing 20 patrol vehicles over 2 years, and approximately 8 to 10 white fleet vehicles and heavy equipment.

The second amendment approved on March 13, 2023 required reallocating funds to repair a number of roads had been damaged as a result of Hurricane Ian. CITY staff recommended a reallocation of \$2,750,000 for these repairs. Both amendments were approved by Commission as Consent Agenda items.

Audit Objective

The objective of the audit is to determine compliance with voter approved referendum (1 cent sales tax -3rd generation), the Inter-local agreement, and the Florida Statutes.

Methodology and Scope

The scope of the audit included all of the revenue and expenses included in the Infrastructure Fund of the 3rd generation 1 cent sales tax. Our audit procedures included:

- The voter approved referendum held on May 20, 2014;
- The Inter-local agreement between Seminole County, School Board, and 7 cities;
- Florida Statute 212.054 regarding limitations, administration, and collection;
- The supporting documentation received from Florida Department of Revenue;
- Compliance with Inter-local agreement, Florida Statutes, and referendum;
- The reporting responsibilities of the County and the CITY; and,
- Other procedures considered necessary under the circumstances.

Overall Evaluation

It is our opinion that the referendum, the Inter-local agreement, and the Florida Statutes are a contractual obligation with the citizens of Seminole County. Part of this obligation is for the County, the School Board, and the Cities to follow the intent of the referendum.

Although we agree that the CITY is in compliance with the requirement of having a public meeting, and the CITY is in compliance with Florida Statutes, the CITY Commission, in our opinion, did not follow the intent of the referendum.

Seminole County, prior to the referendum being voted on, sent promotional material to the public with specific examples of what was considered Infrastructure. Nowhere in the promotional material were items like fleet vehicles, CITY Water and Sewer Projects, police vehicles, radios or fire extinguishers mentioned.

As the Inter-local agreement serves as a formal partnership among government leaders, more needs to be done to ensure adequate communication and transparency.

It deserves noting that Seminole County, as a whole, experienced significant road closure as a result of Hurricane Ian. Some of the planned projects may have been delayed as a result. The CITY leaders have made some adjustments to address the road damage and plans are to ask FEMA for reimbursement.

We have noted 8 areas of improvement which are presented for management consideration. Some require consent of the Seminole County Board of County Commissioners, School Board and the 7 cities.

Areas for Improvement

1. *Public discussion or comment, should be solicited before the plan is amended to include police vehicles, equipment, and utility vehicles.*

On July 13, 2020, CITY staff presented to the CITY Commission a revised project list. This list was presented as a consent agenda item and there was no discussion or public comment at the meeting. Consent agenda items are usually for normal routine approval that do not require discussion or public input.

Within the proposed agenda item, CITY staff referenced Section 3(c) of the Inter-local Agreement as the guideline that allowed them to add or delete projects from their initial list of projects and sets forth the manner in which the CITY'S Exhibit C projects may be deleted or added: Per section 3(c) of the agreement:

3(c) A project listed in Exhibit C may be deleted from these exhibits or a project may be added to the Exhibit C only after approval by the government authority controlling the project following a noticed public meeting

The CITY also makes the case that they are following the guidelines in Florida Statutes Section 212.54 1(d) which states in part:

1. *“For the purposes of this paragraph, the term “infrastructure” means: Any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of public facilities that have a life expectancy of 5 or more years and any related land acquisition, land improvement, design, and engineering costs.*

A fire department vehicle, an emergency medical service vehicle, a sheriff’s office vehicle, a police department vehicle, or any other vehicle, and the equipment necessary to outfit the vehicle for its official use or equipment that has a life expectancy of at least 5 years.

- a. *Any expenditure for the construction, lease, or maintenance of, or provision of utilities or security for, facilities, as defined in s. 29.008.*

City staff asked the Commission to allow them to add the following vehicles and equipment.

| | |
|----------------------|-----------------------|
| Patrol Vehicles | \$950,000.00 |
| White Fleet Vehicles | \$250,000.00 |
| Police Equipment | \$85,000.00 |
| Heavy Equipment | \$880,000.00 |
| | \$2,165,000.00 |

The total project cost remained at the initial \$19 million dollars. Some of the projects had to be realigned to account for the adjustment for the vehicles noted above. Some of the money set aside for the road projects were reallocated to pay for replenishment of the fleet.

We fully understand and appreciate that the CITY is in compliance with Florida Statutes and the amendment qualified as an official public hearing by including the amendment at a public CITY Commission meeting.

However, Seminole County, the Cities, and the School Board, in an effort to promote the 1 cent sales tax to the citizens, prepared a public document referred to as “One-cent Sales Tax for County Infrastructure Frequently Asked Questions.”

Here is some of the wording within the public document:

“The following items will govern expenditures of the extra penny: the Florida Statutes; the ordinance passed by the County on February 11, 2014; the language that will appear on the ballot; and the interlocal agreements between the county, the seven cities, and the school board. Furthermore, Seminole County has a track record with the One-Cent Sales Tax that reflects its on-going commitment to follow through with promised improvements. In 1991 and again in 2011, Seminole County collected over \$950 million through the extra penny, funding 860 new capital projects, including approximately 170 miles of new and reconstructed roadways, 75 miles of sidewalks, 30 intersection improvement, mast arm signal installations, roadway drainage projects, and county-wide fiber optic installations”

We do not question the need for the CITY to update their current fleet. However, we do question the staff presenting this to the CITY Commission as a Consent Agenda Item without advance notice for a separate public meeting for active discussion by the Commission and Seminole County residents as to the merit of the plan.

Formally asking the voters for their approval to add a tax for a list of certain projects is similar to having a contract that needs to be honored. In our opinion, money spent on behalf of the taxpayers should be spent according to the plan that was originally approved.

Recommendation

1. In the future, because reallocation of tax payer money can be controversial, it is recommended that CITY staff take appropriate action to notify citizens of a public hearing so that all parties can discuss revised plans.
2. Update the Inter-local agreement to spell out the specific procedures for notifying citizens and County leaders of all proposed changes. County leaders should be provided at a minimum 30 days to review, comment, and appeal which was required in the 2nd generation Sales Tax Referendums.

Management Response

Management concurs with the finding that the amendment to the City's project list related to fleet vehicles was in compliance with Florida Statutes and the public City Commission meeting requirements set forth in the Interlocal Agreement. However, Management disagrees that no public discussion and comments were solicited. Public discussion and comments were solicited, as they are for every City Commission meeting. These amendments were publicly noticed in our City agenda, and the agenda was posted in advance of the meeting on the City's website, via email, and via social media outlets. Further, at each City Commission meeting, there are two public input opportunities and the public has an opportunity to comment on consent items twice. In addition, the Mayor or any one City Commissioner has the ability to remove a consent item from the consent agenda for further discussion if deemed necessary. In this case, neither the Mayor nor a City Commissioner pulled the proposed project list amendment for discussion, but citizens still had two opportunities to comment and discuss the proposal under public input.

Nevertheless, Management concurs with the auditor's first recommendation and Management will continue to take appropriate steps to notify citizens of all City Commission meetings especially those meetings at which the City Commission will be considering amending the project list. Management will also take steps not to place such items on consent agenda, but regardless of where the items are placed on the agenda, the City Commission provides ample opportunities for its citizens to discuss any agenda item at City Commission meetings.

With respect to the auditor's second recommendation, this recommendation is outside the scope of the audit and outside the City's control. This recommendation should be removed. Although Management appreciates the auditor's critique of the Interlocal Agreement, the City cannot unilaterally amend the Interlocal Agreement. The auditor's critique and

recommendations should be addressed by separate correspondence to all of the parties for consideration: County, School Board and the seven cities.

Audit Comment

Thank you for your response above. We continue to recommend that the leaders from the government agencies work together to update the inter-local agreement to further define the requirements. This is a good business practice to continuously review for business improvements. We will continue to be available to help the government partners with establishing the requirements for operations and to offer an annual audit plan to complement the program.

2. The Inter-local agreement requires better communication.

There are references and requirements referenced within the Inter-local agreement that suggests complete and constant communication within the County, School Board, and 7 cities.

For discussion purposes, we are highlighting some references that deserve noting. Per the 2014 3rd Generation Inter-local agreement Section 2 (in part):

Distribution of Proceeds.

- a) It is the intent of the parties to improve the infrastructure of the Seminole County Public Schools and other public-school systems and other public infrastructure with County and municipalities.....

The parties recognize the need and agree to consistently communicate on an on-going basis with regard to the use of surtax revenue and as to the infrastructure needs and timing as set forth in Exhibit A, B, C.

Section 3 Project Lists

There are 3 Project lists identified in the Inter-local Agreement: Project List A includes the School Board Projects; Project list B is County managed road projects; and Project List C includes CITY and County Road Projects. As noted below, the internal management controls over the Project B listings are much more enhanced than the other project listings in A and C.

More specifically:

- a) *A project listed in Exhibit A may be deleted from this exhibit or a project may be added to Exhibit A only after approval by the*

governmental entity controlling the project following a noticed public meeting.

- b) *A project listed in Exhibit B may be deleted from this exhibit or a project may be added to Exhibit B only after approval by the governmental unit controlling following a noticed public hearing. The governmental unit proposing the changes shall notify the County Manager and all other parties to this Agreement no less than thirty (30) days before the public meeting. The other governmental entities that have received notice of the proposed addition or deletion shall have the right to propose comments to the local government entity proposing the change, and any such comments shall be duly considered. Within ten (10) business days following the action of the governmental entity proposing the changes, any of the commenting parties may file an appeal of that action with the Seminole County Board of County Commissioners. After reviewing the original comments, recommendations, and actions with the governmental entity proposing the change, COUNTY shall approve or reject the proposed revisions at a public meeting.*
- c) *A project listed in Exhibit C may be deleted from this exhibit or a project may be added to Exhibit A only after approval by the governmental entity controlling the project following a noticed public meeting.*

The requirement to communicate to other governmental entities is not included in the language for projects listed in Exhibit A or Exhibit C. The parties signing the agreement allowed the School Board and cities to have the ability to add or delete without notifying the other governmental entities for proper review, and comment prior to submittal to the CITY Commission.

The requirement for consistently communicating with County and CITY is in Section 2.

Section 2. Distribution of Proceeds.

2 (a) states in part:

“The parties recognize the need and agree to consistently communicate on an ongoing basis with regard to the use of surtax revenues an as to the infrastructure project needs and timing as set forth in Exhibits A, B, and C.”

The Cities, County, and School Board are required to each provide annual report. This reporting requirement is discussed in Section 3. Below is the language that is included in Section 3:

Section 3. Project Lists

3 (e) states in part:

“The MUNICIPALITIES and the SCHOOL BOARD shall each provide annual reports to COUNTY as soon as practicable after the close of their respective fiscal years, detailing the projects listed in Exhibits hereto that have either been initiated and ongoing or which have been completed during the immediately preceding fiscal year along with the amounts of Net Revenues applied thereto to include a brief description of the specific project cost items for such Net Revenues were applied. COUNTY shall provide an annual report to the MUNICIPALITIES and the SCHOOL BOARD as soon as practicable after the close of its fiscal year, detailing the projects listed in the Exhibits hereto that have either initiated and ongoing or which have been completed during the immediately preceding fiscal year along with the amounts of Net Revenues applied thereto to include a brief description of the specific project cost items for which such Net Revenues were applied.”

When we asked for the annual reports for the CITY and County, the reports were not readily available and some were missing. For compliance with the intent of this Inter-local agreement there needs to be a well-written procedure to ensure a consistent process.

Second generation (2nd) 1 cent sales tax

We reviewed and compared the second generation (2nd) infrastructure program with the 3rd generation and we found that the administrative controls for the 2nd were much more deliberate as all changes and payments for costs incurred were filtered through Seminole County.

Also, Section 3 of the 2001 2nd generation states the following:

Project Lists:

A governmental entity proposing changes to the plan had a responsibility to notify the COUNTY'S Manager and all other governmental entities that are parties to this Agreement no less than thirty (30) days before the public hearing. The other governmental entities that have received notice of the proposed addition or deletions shall have the right to propose comments to the local government entity proposing the change, and any such comments shall be duly considered. Within ten (10) business days following the action of the governmental entity proposing the change, any of the commenting parties may file an appeal of that action with the Seminole County Board of County Commissioners. After reviewing the original comments, recommendations and

action with the governmental entity proposing the change, the COUNTY shall approve or reject the proposed revision at a public meeting.

Section 4 (2nd Infrastructure Tax Program) also states the following:

(b) Any alterations, amendments, or waivers of the provisions of this agreement other than those matters addressed in Section 3 of this agreement, shall be valid only when expressed in writing and duly signed by the parties.

Recommendation

1. Going forward, Seminole County, the School Board and the Cities should develop a written policy and procedure to promote consistent communication and demonstrate transparency.
2. The Inter-local agreement should be updated and approved by local leaders to include enhanced internal controls and more management oversight similar to the internal controls in the 2nd generation sales tax Inter-local agreement.

Management Response

This area of improvement is outside the scope of the audit and outside the City's control. This area of improvement should be removed. Although Management appreciates the auditor's critique of the Interlocal Agreement, the City cannot unilaterally amend the Interlocal Agreement. The auditor's critique and recommendations should be addressed by separate correspondence to all of the parties for consideration: County, School Board and the seven cities.

Audit Comment

Thank you for the comments above. To facilitate management's goal of being transparent, the Office of Inspector General is in the process of developing an audit plan that will cover the County, the School Board, and all of the cities. Included with this we requesting all of the government agencies to submit their recommended changes to the Inter-local Agreement. We commend the City of Winter Springs commitment to an annual audit plan and willingness to consider updating the Inter-local Agreement with its governmental partners.

3. Operational supplies were included as Infrastructure expense.

Florida Statute Section 212.55(2)(d)2 defines infrastructure to mean any fixed capital expenditures or fixed capital costs associated with construction, reconstruction, or improvement of public facilities which have a life expectancy of 5 or more years and any land acquisition, land improvement, design, and engineering costs related thereto.

Operational expenditures are costs incurred to keep the business operational. This would include maintenance and maintenance costs that are routine and occur periodically. Florida Statute Section 212.054(2)(d) states in part:

“The proceeds and any interest may not be used for operational expenses of infrastructure....”

The following is a list of expenses that do not appear to meet the Florida Statutes requirements for the use of the Infrastructure sales revenue.

| Date | Descriptions | Amount |
|-----------|----------------------|-------------|
| 8/12/2021 | Finish Cut Mower | \$2,250.00 |
| 2/22/2021 | HD – Supplies | \$21.96 |
| 1/31/2021 | Vehicle Registration | \$588.77 |
| 9/30/2021 | Excavator parts | \$613.00 |
| 4/30/2021 | Transmission Repair | \$32,228.36 |
| 6/24/2021 | HD Supplies | \$83.47 |
| 1/27/2021 | Extension Cords | \$16.96 |
| 1/27/2021 | Parts for Excavator | \$829.40 |
| 4/7/2021 | Duke Energy - Elect | \$470.31 |
| 4/8/2021 | Fire Extinguishers | \$53.19 |

Infrastructure Costs would include any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of public facilities that have a life expectancy of 5 or more years and any related land acquisition, land improvement, design, and engineering costs.

Recommendation

1. Going forward, operational costs should not be expensed in the Infrastructure Fund.
2. Written procedures should be developed to ensure proper recording.
3. Expenses made on operational costs should be reclassified and paid from CITY General Fund.

Management Response

Management concurs that the expenditure of infrastructure sales tax revenue on operating expenses is currently prohibited by Florida Statutes. However, Management disagrees with the finding that the City improperly expended infrastructure sales tax revenue on the Exhibit F list of operating expenses enumerated in the draft audit report on Page 13. This finding and the Exhibit F list of expenses should be removed from the audit report.

Audit Comment

Thank you for the summary above. After reconciling with the CITY the expenses noted, we have included the remaining operational expenses in the body of the report. Exhibit F has been removed from the final report as recommended by management. A follow up audit will be scheduled to ensure that expenses are being properly recorded going forward with the fund. Management has made a commitment to ensuring that operational expenses are properly recorded and are open to an annual audit for all of the government parties to the inter-local agreement.

4. Revisions to the project list should be submitted to various government partners for pre-approval prior to amendment.

At the July 13th, 2020 CITY Commission meeting some revisions were submitted to the Schedule C Infrastructure Project list. CITY Staff, with consultants, identified some critical initiatives relating to the CITY'S water, waste water and reclaimed systems that needed top priority.

Making changes is allowed per Section 2(a) of the Inter-local Agreement which states,

"It is the intent of the parties to improve the infrastructure of the Seminole County public school system and other public infrastructure within COUNTY and its MUNICIPALITIES so as to provide acceptable levels of services to the residents thereof. Infrastructure shall mean those capital expenditures defined in Section 212.055(2)(d), Florida Statutes (2013) and more particularly described in Exhibits A, B, and C to this Agreement and incorporated herein by reference."

Section 3(c) of the Agreement sets forth the manner in which the CITY'S Exhibit C projects may be

deleted or added:

3(c) A project listed in Exhibit C may be deleted from these exhibits or a project may be added to the Exhibit C only after approval by the government authority controlling the project following a noticed public meeting the project list that was initially set forth for the City of Winter Springs can be found on pdf pages 40-41 of the interlocal Agreement. The proposed revisions are enumerated in Attachment 3 and in the Proposed column of sub-groups that follow. If approved, Attachment 3 of this agenda would become Exhibit C of the interlocal agreement.

CITY staff submitted an agenda item seeking to revise the Exhibit C project list in order to better reflect the CITY'S revised infrastructure priorities. The revised total remained unchanged from the original \$19M value.

Although the CITY adhered to the Inter-local Agreement regarding having a government authority approve changes to the projects, the revisions do not appear to be within the spirit of the referendum and Inter-local agreement approved by the taxpayers. By not following through with promised commitments, the CITY is not serving the citizens in accordance with public policy.

Recommendation

1. Reevaluate original plans to use Infrastructure funds on Road Projects and submit a revised plan to the citizens for their review and comments.
2. Update Inter-local Agreement with similar Internal administrative controls identified in 2nd generation 1 cent tax as previously noted on page 11 of this report.

Management Response

Management concurs with the finding that the City adhered to the Interlocal Agreement when it made changes to the City's project list. Management also appreciates the auditor's opinion on the "spirit" of the agreement and referendum, and therefore, concurs in the sense that expenditures of infrastructure sales tax revenue must be made in accordance Florida Statutes, the 2014 Interlocal Agreement, and in accordance with the general description contained in the ballot approved by the voters.

With respect to recommendation 1, there is no requirement in the language of the ballot referendum, Interlocal agreement, or Florida States to "reevaluate original plans" and "submit a revised plan to the citizens for their review and comments." Therefore, the recommendation is outside the scope of the audit. However, if the auditor meant that the City must continue to

periodically reevaluate the City's project list to meet the City's infrastructure needs and proposed revised project lists must be presented to the citizens at a public meeting of the City Commission for citizen review and comment, Management concurs with that meaning.

Regarding Recommendation 2, this area of improvement is outside the scope of the audit and outside the City's control. This area of improvement should be removed. Although Management appreciates the auditor's recommendation to update the Interlocal Agreement, the City cannot unilaterally amend the Interlocal Agreement.

The auditor's recommendation should be addressed by separate correspondence to all of the parties for consideration: County, School Board and the seven cities.

Audit Comment

The Office of Inspector General is committed to serving the community and working with all of the governmental partners in making a completely transparent process. One such step is for the partners to update the agreement.

5. Infrastructure Sales Tax Revenue should not be transferred to Enterprise Fund.

The Water and Sewer Utility Fund is an enterprise fund. The fund is used to account for the operations of the CITY'S water and wastewater systems, which are financed in a manner similar to a business enterprise. The costs of providing services to the general public on an on-going basis come from user charges. For definition purposes, an enterprise fund is a self-supporting government fund.

The CITY transferred a certain amount of money from the Infrastructure Fund into the Water and Sewer fund for the purpose of improving the Infrastructure of the Water and Sewer facilities. Initially there was \$2 million transfer, and, on July 13th 2020 through Consent Agenda Item the CITY staff recommended an additional \$3.5 million be spent for the purpose of improving the CITY'S Water and Sewer Utility.

Under the guidelines of Florida Statutes (FS 212.054), a municipality may use discretionary tax money to support infrastructure projects if the projects are in compliance with the voter referendum. The Inter-local agreement with the government partners (Seminole County, School Board, and 7 Cities) requires a public meeting and approval from the CITY'S governing body.

Allowing the proceeds from a county-wide sales tax to be used on a municipal water and sewer utility means Seminole County taxpayers are subsidizing costs of local utility users. Utility customers are benefiting from lower utility bills, as the costs of repairs are being paid from the Infrastructure Fund. Nowhere in the Seminole County promotional materials did it say that the sales tax is to be used in the CITY Water and Sewer Utility enterprise.

The 3rd generation sales tax revenue was specifically earmarked for Roads and Public Facilities, Money transferred from the Infrastructure Fund to the Water and Sewer Utility Fund should be considered a loan and a repayment schedule should be established.

Having funds properly allocated ensures proper accounting treatment and ensures money earmarked for a specific purpose is honored.

Recommendation

Sales tax money allocated to Water and Sewer Fund should be repaid to the Infrastructure Fund based on a repayment schedule and related interest charges should be included with the repayment.

Management Response

As explained in the Applicable Authorities section of this response, infrastructure sales tax revenue can be expended by law on the construction, reconstruction, or improvement of public facilities including sanitary sewer and potable water facilities.

Nothing in Florida Statutes or the 2014 Interlocal Agreement prohibits the transfer of infrastructure sales tax revenue into a sewer and water utility fund for expenditures related to the construction, reconstruction, or improvement of public facilities including sanitary sewer and potable water facilities. Further, such a prohibition, if it existed, would not make sense because from a general accounting standpoint, capital assets of a utility are accounted for in the utility's enterprise fund. Here, the City only transferred \$2 million from Fund 121 to the utilities enterprise fund to be expended solely and exclusively on two sewer and water infrastructure improvements which were necessary to upgrade or extend the useful life of two capital assets booked in the utility's enterprise fund. The first expenditure was related to a new suction pipe for water treatment plant #1 in the amount of \$942,809.98. The second expenditure was related to priority emergency upgrades to the wastewater treatment plant in the amount of \$1,198,160.23.

Further, the statement in the draft audit claiming that the City transferred an additional \$3.5 million to the enterprise fund is factually incorrect. Therefore, Management respectfully disagrees with the findings and recommendation under this area of improvement. (please see audit comment to follow for clarification)

Audit Comment

Thank you for your comments. The report did not state that the City transferred \$3.5 million to the Water and Sewer Fund. Just for clarification purposes: the draft audit report stated that staff recommended an additional \$3.5 million is to be spent for the purpose of improving the CITY'S Water and Sewer Utility. This was included in the July 13th 2020 Consent Agenda Item presented to the City Council. The plans submitted at the July 13th 2020 meeting recommended that \$3.5 million would be better utilized for the City's utility infrastructure needs. Here is the exact language from the consent agenda from page 317.

Greenway Interchange District

"The capital list for this surtax was developed in 2013. At that time, there was indication that GID development was unspent. This did not prove to be the case and many years later as we develop the FY2021 budget this \$3.5 M would be better utilized for the City's utility infrastructure needs."

Also, on page 320 there is an exhibit that has a revision for Public Safety, Building Infrastructure, W&S Utility. The original estimate was \$0 and the Proposed allocation is \$3,155,000. We will include as part of our annual audit plan, the process for updating the Water and Sewer Utility Fund and reconcile any outstanding issues with the cost center. The consent agenda submitted to the Commission on July 13, 2020 had very limited details.

6. *Inter-local agreement needs added internal controls.*

The Inter-local agreement was drafted in March 2014. At that time, the government leaders provided a preliminary estimate of the planned projects for the next 10 years. Since this time there has been new technology advances and management has more tools to assess and prioritize projects.

Because the money belongs to the citizens of Seminole County, the Inter-local agreement needs to address management's responsibilities with how the management team is going to manage and report on-going projects on a regular basis.

A standard management report needs to be added to the Inter-local agreement to ensure each government office is consistent with all of the reporting requirements. The current Inter-local agreement is very open-ended and municipalities have an open 10-year window to schedule projects.

From an audit perspective, the Inter-local agreement should provide a requirement for each government partner to submit an annual plan to all of the partners for discussion, comment, appeal, and approval. This will ensure that the team is supporting the intent of the voter-approved referendum.

The Inter-local agreement needs to address in writing what the process is to address residual revenue collected by the municipality after the expiration of the fund agreement. Government leaders as partners should have a say in the overall surplus as an official business practice.

Moreover, there needs to be an official audit clause added to ensure that government partners support the objective of continuing to be transparent and consistent with daily operations.

Recommendation

Representatives from each government agency should develop an updated Inter-local agreement that includes:

- a) a standard management report to ensure each government office is consistent with all of the reporting requirements;
- b) a requirement to submit an annual plan to all of the partners for discussion, comment, appeal, and approval; and,
- c) written policy and procedure for what to do with residual revenue.

Management Response

This area of improvement is outside the scope of the audit and outside the City's control. This area of improvement should be removed. Although Management appreciates the auditor's critique of the Interlocal Agreement, the City cannot unilaterally amend the Interlocal Agreement. The auditor's critique and recommendations should be addressed by separate correspondence to all of the parties for consideration: County, School Board and the seven cities.

Audit Comment

Thank you for your response. The Office of Inspector General is recommending that representatives from each government agency work together to develop an updated inter-local agreement that includes requirements for: (1) a standard management report to ensure each government office is consistent with all of the reporting requirements; (2) a requirement for each agency to submit an annual plan to all of the partners for discussion, comment, appeal, and approval; (3) a requirement for a formal written policy and procedure for what to do with residual revenue; and, (4) coordinate plans for a scheduled annual audit. The objective is to make the process more well defined and an efficient and professional process.

7. There needs to be a formal plan for the allocation of surplus funds.

The 3rd generation of the tax assessment is scheduled to expire on January 1, 2025 without a formal plan for how Seminole County and its municipal partners will allocate the remaining surplus funds.

By not having a plan, the government entities could end up having money set aside as a reserve that does not have a designated purpose and would be available to be used for expenses outside the intent of the voter referendum. To ensure that citizens' money is safeguarded and utilized in the best interest of the taxpayers, the partners need to communicate and establish a written policy, plan, and procedures for allocation of surplus funds.

One option for consideration might be provide some form of property tax relief. It deserves noting that in 1984, the Seminole County Commission placed on the ballot a requirement that excess proceeds would provide property tax relief which read; "Any excess proceeds would provide property tax relief."

Another option would be to have CITY and County leaders make a proposal and solicit public input as to other capital related projects that would benefit the community.

Having a formal plan and accounting of surplus funds enables government leaders to adequately address the proper use for future taxpayer consideration of new discretionary taxes.

Recommendation

Government leaders should develop a written plan for allocation of surplus funds. County and CITY staff should make recommendations as to an equitable use of residual funds.

Management Response

A formal plan for allocation and expenditures of surplus funds is already provided pursuant to Section 245-197, Seminole County Code, which provides: "[n]otwithstanding the provisions of subsection (a) for the expiration and repeal of this Part, so long as any sales surtax proceeds shall remain unspent, the restrictions hereby imposed and in the interlocal agreements concerning the distribution and use of sales surtax proceeds as well as the proceeds of any borrowings payable from sales surtax proceeds, and all interest and other investment earnings on either of them shall survive such expiration and repeal and shall be fully enforceable in a court of competent jurisdiction." Additionally, Section 1 of the Interlocal Agreement provides "[t]his Agreement shall remain in effect for the life of the surtax imposed pursuant to Seminole County Ordinance No. 2014-8 and until all Net Revenue, as defined in Section 2 below, are expended by the respective parties." Therefore, there is a plan for the parties to expend surplus funds after the expiration of the 3rd Gen infrastructure sales tax: to wit; comply with the same terms and conditions that exist under the Interlocal Agreement and Florida Statutes while the tax is still

effective. To the extent that the auditor is suggesting something more than that, this area of improvement is outside the scope of the audit and outside the City's control. This area of improvement should be removed. Although Management appreciates the auditor's critique of the Interlocal Agreement, the City cannot unilaterally amend the Interlocal Agreement. The auditor's critique and recommendations should be addressed by separate correspondence to all of the parties for consideration: County, School Board and the seven cities.

Audit Comment

We appreciate management's comments regarding Section 245-197 of the Code and we understand the intent of the regulation. To support and complement this regulation, government leaders should further define in a formal written plan for the allocation of surplus funds. If the County and CITY already have a written plan for the residual and all partners agree, this plan should be published for review and evaluation by the public. The County and CITY should provide complete transparency for the taxpayers. Please continue to work with your governmental partners to develop a written plan as part of an updated Inter-local Agreement.

8. Periodic internal audits of the municipalities should be scheduled.

Based on conditions noted from the audit, and as a safeguard to the citizens of Seminole County, periodic audits should be performed of the Cities and School Board to ensure compliance with the commitments made to the citizens of Seminole County.

The Office of Inspector General should initiate periodic audits to support compliance with referendums, inter-local agreement, Florida Statutes, and generally accepted accounting principles.

By conducting periodic audits of the local government partners ensures on going compliance and complete transparency to the citizens.

Recommendation

The Office of Inspector General should prepare for approval a list of planned audits of the municipalities for Clerk of Court and Comptroller approval.

Management Response

This area of improvement is outside the scope of the audit and outside the City's control. This area of improvement should be removed. The auditor's recommendations should be addressed by separate correspondence to all of the parties: County, School Board and the seven cities. Nonetheless, Management has no objections with the auditor periodically auditing each of the parties (County, School Board and the seven cities) to identify areas of improvement and ensuring that the revenue and expenses associated with the local option infrastructure sales surtax for each party are in compliance with the ballot language in the voter approved referendum, 2014 Interlocal agreement, and Florida Statutes. However, those audits should be conducted fairly, under the same standards for obtaining consistency and uniformity among the parties to the Interlocal Agreement, and in compliance with Florida law.

Audit Comment

The Office of Inspector General will include a plan for auditing the County, the School Board, and the Cities. We appreciate managements comments above and we will use due diligence that all governmental partners are being audited fairly and consistently.

We appreciate management's comment about that the audits should be conducted fairly, under the same standards for obtaining consistently and uniformity among the parties to the Inter-local Agreement, and in compliance with Florida law.