



Internal Audit Report

BOCC Lee Civic Center



Report Number: 2019.07

Date: September 6, 2019



BOCC Lee Civic Center



To: The Honorable Linda Doggett, Lee County Clerk of the Circuit Court & Comptroller

From: Tim Parks, Chief Internal Audit Officer/Inspector General

Date: September 6, 2019

Re: BOCC Lee Civic Center

Dear Ms. Doggett,

The Inspector General Department has completed an audit of Lee County Civic Center. Chris Stanisci, CPA, Internal Auditor and Lihong Xia, CPA, Senior Internal Auditor/Project Coordinator conducted this review.

This audit activity conforms to the Institute of Internal Auditor's (IIA) *International Standards for the Professional Practice of Internal Auditing (Red Book)* and the Association of Inspectors General (AIG) *Principles and Standards for Offices of Inspector General (Green Book)*.

The audit client's response is attached to this report. We wish to express our appreciation for the cooperation and assistance provided us by management and staff during this review.

This report will be posted to the Clerk of Courts website, www.leeclerk.org, under Inspector General, Audit Reports. A link to this report has been sent to the Lee County Board of County Commissioners and appropriate parties.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads "Tim Parks".

Tim Parks, CIA, CIG, CIGI
Chief Internal Audit Officer/Inspector General
Inspector General Department

TJP/GK



BOCC Lee Civic Center



Table of Contents

Executive Summary	1
Background	1
Objective, Scope, and Methodology	2
Observations and Recommendations	3



BOCC Lee Civic Center



Executive Summary

The BOCC Lee County Civic Center audit was included in the 2019 Lee County Board of County Commissioners (BOCC) Annual Audit Plan. A risk assessment project was completed for all BOCC business units prior to creating the audit plan. A request was made by the County Manager's Office to audit the contract between the BOCC and the Southwest Florida and Lee County Fair, Inc. (Fair Association).

An entrance conference was held with management to discuss the audit's objective and scope, and to solicit current information regarding risks.

Our conclusions are: the Fair Association is expending more for Civic Center maintenance than is allocated pursuant to the *First Amendment to Agreement for Management of Lee Civic Center Complex* contract addendum, dated May 16, 2007. The maintenance program was not sufficient to keep the complex in good condition solely with the funding allocated to maintenance. There is an opportunity in upcoming contract negotiations to better define the criteria and funding for necessary ongoing maintenance of the facilities. The Fair Association has purchased and sold the adjacent land appropriately.

We believe that enhancements can be made in terms of:

- Creating a written conflict of interest policy following the IRS website recommendations.
- Working with the Fair Association's external auditor to ensure the proper accounting for amortization of leasehold improvements
- Separating the individual who prepares the parking fees collection reports from the individual who enters the data into QuickBooks
- Creating a separate bank account for parking fee revenue and use the money in that account to pay for repairs and maintenance according to the contract.

Background

The Lee County BOCC entered into an *Agreement for Management of Lee Civic Center Complex* with the Southwest Florida and Lee County Fair Association, Inc. (Fair Association) on January 3, 1996. The Fair Association is a not-for-profit 501c (3) organization incorporated under Chapter 616, Florida Statutes, and chartered in 1960 by the Circuit Court in Lee County.

The BOCC and Fair Association signed an extension to continue the Agreement for an initial term of twenty (20) years beginning on October 1, 2000, and the contract may be renewed for successive terms of ten (10) years upon mutual agreement. The parties shall commence



BOCC Lee Civic Center



negotiations of a new agreement, if any, at least six (6) months prior to the end of the current term on October 1, 2020.

The County owns a 100-acre tract in North Fort Myers, Florida containing the Lee Civic Center and other buildings collectively known as the Lee Civic Center Complex, and the BOCC desired to have the Lee County Civic Center Complex managed by the Fair Association, and the Fair Association desired to manage the Civic Center Complex.

The contract was subsequently amended on June 12, 2007, to require the Association to deposit one-third of the Lee Civic Center parking proceeds into an interest-bearing bank account with the principal and interest to be used toward payment of future major improvement projects at the Civic Center building and grounds. In May, 2011, the County adopted Lee County Ordinance 11-02, amending Lee County Ordinance 06-02, to allow the sale, service, and consumption of alcoholic beverages on County property in compliance with certain conditions; and the contract was amended on June 21, 2011 to allow the sale, service, and consumption of alcoholic beverages within the Lee Civic Center Complex.

The BOCC Division of Parks and Recreation was assigned by the County to monitor this agreement.

Objective, Scope, and Methodology

The objective of the BOCC Lee County Civic Center audit was:

- Assess the Fair Association's ability to measure and monitor its internal objectives relative to property maintenance
- Determine that controls are in place to ensure compliance with applicable laws, regulations, and the contract agreement with the BOCC

The audit scope focused on operational activities including:

- Whether the Fair Association is collecting and disbursing funds in accordance with the contract and good business practices
- Whether the Fair Association is in compliance with the contract with the BOCC
- Whether the Fair Association appropriately purchased and sold land adjacent to the Civic Center

The audit methodology was comprised of four steps:

- Preliminary Risk Assessment: A meeting was held with management to discuss the audit objective and scope and to solicit information regarding risks



BOCC Lee Civic Center



- Planning: Audit procedures were developed based upon research, audit objective, scope, and the preliminary meeting
- Field Work: Managers and employees were interviewed for insights on the operations. Evaluations and tests were conducted on operations and procedures to address and complete the audit fieldwork
- Wrap-up: An Exit Conference was held with management to discuss the audit results

Observations and Recommendations

Related Party Transactions Disclosure

We noted that the Fair Association entered into business transactions with three board members in 2017 and 2018. The Fair Association did not have written conflict of interest policy. The Fair Associations IRS Form 990 of 2017 and 2018 incorrectly indicated that there was a written policy addressing related party transactions, and that they did not enter into any related party transactions.

We recommend that the Fair Association:

- Creates a written policy addressing related party transactions following the IRS recommended conflict of interest policy¹
- Discloses related party transaction on IRS Form 990 if applicable

Accounting for amortization of Leasehold Improvements

Civic Center complex related capital improvements were separately tracked from fair operation related leasehold improvements. The Fair Association spent more than the parking fee revenues in the prior two fiscal years, and they spent over half of total parking fee over the ten year span (2008-2018).

The amortization for the leasehold improvements was not correctly recorded. Pursuant to Generally Accepted Accounting Principles, if the tenant pays for leasehold improvements, the capital expenditure is recorded as an asset on the tenant's balance sheet. Then the expense is recorded on income statements as amortization over either the life of the lease or the useful life of the asset, whichever is shorter.

Recommendation

¹ (IRS, 2018) retrieved from: <https://www.irs.gov/charities-non-profits/form-1023-purpose-of-conflict-of-interest-policy>



BOCC Lee Civic Center



We recommend that the Fair Association work with the external auditor to ensure the proper presentation for amortization of leasehold improvements.

Separation of Duties

The Fair Association used a parking fee collection report to separately track activity by event, and the information reconciled with QuickBooks. However, the individual who prepared the parking fee collection reports also input the data into QuickBooks.

Best practices require that the individual who collects the cash and records activity per event must not be the same individual that processes data into QuickBooks:

“Separation of duties is an important control of cash receipts. No person should be able to initiate, record, authorize and reconcile a transaction. The separation of duties assures that mistakes, intentional or unintentional, cannot be made without being discovered by another person.”²

Recommendation

We recommend that the Fair Association separate the individual who prepares the parking fees collection reports from the individual who enters the data into QuickBooks.

Maintenance Account

We noted that the current operating agreement required the Fair Association to deposit one-third of parking fee revenue into an interest bearing bank account to be used for repairs and maintenance. However, there was no allocated fund account identified specifically for repairs and maintenance. Maintenance expenses were paid out of the main checking account. The Fair Association was in the process of finalizing the agreement with a bank to create a separate bank account.

Recommendation:

We recommend that the Fair Association finalize the agreement with the bank to create a separate bank account for the parking fee revenue to be utilized for repairs and maintenance.

² *University of Washington* (n.d.) retrieved from: <https://finance.uw.edu/fr/internal-controls/separation-of-duties>



MEMORANDUM

To: Tim Parks, Chief Internal Audit Officer/Inspector General
From: Fran Crone, Fair Manager, Southwest Florida and Lee County Fair Association, Inc.
Subject: Revised Response to Audit - Southwest Florida and Lee County Fair Association, Inc.
Date: August 28, 2019

Following review of the Audit of the Southwest Florida and Lee County Fair Association, Inc., and upon receiving further direction from the Inspector General’s Office, on the behalf of the Board of Trustees, please find responses to the following Observations and Recommendations:

Related Party Transactions Disclosure

- Recommendation # 1 – Create a policy addressing related party transactions following the IRS recommended Conflict of Interest Policy.

Response: The Fair Association has a Conflict of Interested Policy in its By-Laws. The Board has adopted an additional Conflict of Interest Policy. Implemented by attached Policy, Exhibit ‘A’.

- Recommendation # 2 - Discloses related party transaction on IRS Form 990, if applicable.

Response: Management will confer with the CPA regarding applicability’s. Will be implemented and discussed monthly – no written supporting documentation to provide.

Accounting for amortization of Leasehold Improvements

- Recommendation: That the Fair Association work with the external auditor to ensure the proper presentation for amortization of leasehold improvements.

Response: Management will continue to work with and confer with the CPA regarding the proper presentation for amortization of leasehold improvements. Will be implemented and discussed monthly – no written supporting documentation to provide.

Separation of Duties

- **Recommendation:** That the Fair Association separate the individual who prepares the parking fees collection reports from the individual who enters the data into QuickBooks.

Response: This procedure was not asked in a clear manner during the audit, to ensure a clear answer of the process. There are several layers currently in place. A Manager will (continue to) oversee and verify the preparation of the reports, and designation of the respective funds.

Maintenance Account

- **Recommendation:** We recommend that the Fair Association finalize the agreement with the bank to create a separate bank account for the parking fee revenue to be utilized for repairs and maintenance.

Response: A separate Money Market Account has been established and is dedicated to the 1/3 parking fee revenue. Implemented by establishing the Money Market Account at First 1 Bank – see attached letter from First Bank, Exhibit 'B'.

**SOUTHWEST FLORIDA AND LEE COUNTY FAIR ASSOCIATION, INC.
Confidentiality and Conflict of Interest Policy and Disclosure Form**

Confidentiality

As a member of the Board, I recognize that I owe a fiduciary duty of care to the Southwest Florida and Lee County Fair Association, Inc. This includes a duty of confidentiality. All information and documentation that I receive from the Southwest Florida and Lee County Fair Association, Inc. and others in connection with my service on the Board will be treated with strict confidentiality. Neither the contents nor the existence of this information or documentation will be shared with anyone other than the officers, directors, employees, and authorized agents of the Southwest Florida and Lee County Fair Association, Inc. I will direct any questions regarding my confidentiality obligations to the Southwest Florida and Lee County Fair Association, Inc. President of the Board.

Conflicts of Interest

As a member of the Board, I recognize that I owe a fiduciary duty of loyalty to the Southwest Florida and Lee County Fair Association, Inc. This duty requires me to avoid conflicts of interest and to act at all times in the best interests of the Southwest Florida and Lee County Fair Association, Inc. The purpose of the conflicts of interest policy (set forth below) is to help inform the Board about what constitutes a conflict of interest, assist the Board in identifying and disclosing conflicts, and help ensure the avoidance of conflicts of interest where necessary. This policy may be enforced against individual Board members as described below:

1. Board members have a fiduciary duty to conduct themselves without conflict to the interests of the Southwest Florida and Lee County Fair Association, Inc. In their capacity as Board members, they must subordinate personal, individual business, third-party, and other interests to the welfare and best interests of the Southwest Florida and Lee County Fair Association, Inc.
2. A conflict of interest is conduct, a transaction or relationship that presents or might conflict with a Board member's obligations owed to the Southwest Florida and Lee County Fair Association, Inc. and the Board member's personal, business or other interests.
3. Conflicts of interest are not necessarily prohibited or harmful to the Southwest Florida and Lee County Fair Association, Inc. However, full disclosure of all conflicts, and a determination by the disinterested Board (or Southwest Florida and Lee County Fair Association, Inc. Executive Committee) members – with the interested Board member(s) recused from participating in debates and voting on the matter – are required.
4. All conflicts of interests shall be disclosed by Board members to the Southwest Florida and Lee County Fair Association, Inc. Executive Committee through the annual disclosure form and/or to the Board whenever a conflict arises. Disinterested members of the Southwest Florida and Lee County Fair Association, Inc. Executive Committee shall make a determination as to whether a prohibited conflict exists and what subsequent action is appropriate (if any). The Southwest Florida and Lee County Fair Association, Inc. Executive Committee shall inform the Board of such determination and action. The Board shall retain the right to modify or reverse such determination and action, and shall retain the ultimate enforcement authority with respect to the interpretation and application of this policy.
5. On an annual basis, all Board members shall be provided with a copy of this policy and required to complete and sign the acknowledgment and disclosure form below. All completed forms shall be provided to and reviewed by the Southwest Florida and Lee County Fair Association, Inc. Executive Committee, as well as all other conflict information, if any, provided by Board members.

SOUTHWEST FLORIDA AND LEE COUNTY FAIR ASSOCIATION, INC.
CONFLICTS OF INTEREST ACKNOWLEDGMENT AND DISLOSURE FORM

I have read the conflicts of interest policy set forth above and agree to comply fully with its terms and conditions at all times during my service as a Southwest Florida and Lee County Fair Association, Inc. Board member. If at any time following the submission of this form I become aware of any conflict(s) of interest, or if the information provided below becomes inaccurate or incomplete, I will promptly notify the Southwest Florida and Lee County Fair Association, Inc. Board of Directors in writing.

Disclosure of Conflicts of Interest:
(write "NONE" if none exist)

I acknowledge and agree that my selection for service on the Board and the opportunities made available to me by serving on the Board constitute good and valuable consideration for entering into this agreement, the receipt and sufficiency of which I hereby acknowledge.

In my individual capacity:

Signature: _____

Printed Name: _____

Exhibit 'B' to response to Audit

First 1 Bank

MEMBER F.D.I.C.

Since 1922

8/28/19

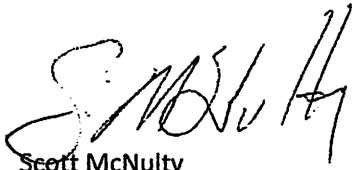
11741 Palm Beach Blvd., Suite 100, Ft. Myers, Florida 33905

Phone: (239) 437-8191 Fax: (239) 437-8192

Toll Free: (866) 946-1757

To whom it may concern,

The intent of this letter is to acknowledge the recent opening of a Money Market account at First Bank of Clewiston, in the name of Southwest Florida & Lee County Fair Association Inc, account ending in [REDACTED].



Scott McNulty

Branch Manager